

PLANNING COMMITTEE
TUESDAY 18 AUGUST 2020

DOCUMENT PACK



MINUTES OF THE MEETING OF THE PLANNING COMMITTEE

WEDNESDAY 24 JUNE 2020
VIA VIDEO CONFERENCE FACILITIES

1

Committee Members Present:

Councillor N Hampshire (Convener)
Councillor L Bruce
Councillor J Findlay
Councillor N Gilbert
Councillor W Innes
Councillor S Kempson
Councillor K Mackie
Councillor C McGinn
Councillor K McLeod
Councillor J McMillan
Councillor J Williamson

Other Councillors Present:

Councillor P McLennan

Council Officials Present:

Mr K Dingwall, Service Manager – Planning
Mr C Grilli, Service Manager – Legal
Ms E Taylor, Manager Planning Delivery
Ms C McMonagle, Planner
Mr D Taylor, Planning Officer
Mr D Irving, Planning Officer
Ms M Haddow, Transportation Planning Officer
Mr G McLeod, Transportation Planning Officer
Mr D Sillence, Projects Officer – Engineer
Ms F Currie, Committees Officer
Ms P Gray, Communications Adviser

Clerk:

Ms A Smith

Visitors Present/Addressing the Committee:

Item 2 – Mr J Murphy, Mr A Sneddon, Mr C Stocks, Ms J Matteucci, Ms J Bell, Mr P Beveridge,
Item 3 – Mr M Walker, Mr N Arnott
Item 4 – Ms R Hodges, Mr M Dickson, Mr A Smith
Item 5 – Ms N Woodward
Item 6 – Mr J Fraser
Item 7 – Mr R Finc
Item 8 – Mr G Fairbairn, Ms V Brunton

Apologies:

Councillor F O'Donnell

Declarations of Interest:

Item 4 – Councillor Williamson declared an interest due to a personal connection with the applicant, he would not take part in the debate or vote for this item.

1. MINUTES FOR APPROVAL – PLANNING COMMITTEE 19 MAY 2020

Before seeking approval of the minute the Convener announced that the Service Manager for Planning had an issue he wished to raise in respect of the Dolphinstone application that had been approved last month. Keith Dingwall informed Members that the agent had subsequently requested that a direction (*detailed below*) be issued to extend the timescale for submitting approval of matters applications from 3 years to 10 years. Mr Dingwall advised that officers had no objection to this.

A direction to substitute the period of 3 years referred to in Section 59(2)(a)(i) and (3) of the Town and Country Planning (Scotland) Act 1997 (as amended) with a period of 10 years

Members agreed, subject to this amendment, to approve the minutes of the meeting of the Planning Committee of 19 May.

2. PLANNING APPLICATION NO. 19/00796/AMM: APPROVAL OF MATTERS SPECIFIED IN CONDITIONS OF PLANNING PERMISSION IN PRINCIPLE 17/00020/PPM - ERECTION OF 115 HOUSES AND ASSOCIATED WORKS AT LAND AT NEWTONLEES FARM, DUNBAR

A report was submitted in relation to Planning Application No. 19/00796/AMM. Daryth Irving, Planning Officer, presented the report, summarising the key points. The report recommendation was to grant consent.

John Murphy of Robertson Homes, the applicant, informed Members that this new site would be regarded as an extension to the site they were currently working on in Dunbar and workers would be transferred as and when required. There would be a 25% affordable housing provision. Alan Sneddon, also representing the applicant, gave details of pre-application meetings and public consultation events. He drew attention to amendments made to the original application. He highlighted the safe routes to school. This would be an excellent opportunity for a high quality residential development with good landscape features.

Callum Stocks spoke against the application. He highlighted several concerns. He queried how conditions brought forward would be addressed. The applicant had said they were committed to the local community however sewage and drainage to several properties had been damaged and not repaired. Newtonlees was not in the original Local Development Plan (LDP). The Council did not allow refuse vehicles to use the road as it was unsafe. He had concerns about the impact on infrastructure, particularly schools and health services. Local residents would be living within two building sites. There were health and air quality issues.

Jone Matteucci spoke against the application raising numerous issues. She referred to the impact of this development on her partner's health and wellbeing and on their quality of life. She made reference to the way the original application had been dealt with. She stressed that sewage was a major factor and highlighted issues with the current Robertson Homes development which had still not been resolved. She outlined the impact of this development

on the environment. She queried if the farmer had given permission for the use of his lane. She detailed several other concerns which should be given serious consideration.

Jacquie Bell, on behalf of Dunbar Community Council, referred to concerns expressed from the outset; these 115 houses were not needed and were not in the draft LDP. The report referred to a number of details that were still to be sorted. As regards the Green Travel Plan, there was no public transport. There were major issues with the proposed safe routes to school. The transport issues, including emissions from all the additional vehicles, did not accord with the Council's Climate Change Strategy. There were serious drainage and sewage issues. There were also issues with the design, layout and landscaping. Given all the many concerns, serious consideration of the consequences of granting approval had to be taken.

Paul Beveridge spoke against the application. He raised a number of concerns including lack of a bus service, increased traffic, pressure on the A1 junction and added pressure on infrastructure especially the medical service. As regards safe routes to school, the path across the farm track, which the owner said could not be used, was also not safe. The route under the railway line remained a mud track. He highlighted serious drainage and sewage issues. The once rural Newtonlees would be no more; his property would be obliterated. In 2017 there had been much emphasis on the need for the new cemetery; it was only now getting started.

Mr Dingwall responded to questions from Members. On controls for levels of dust he advised that submission of a Construction Method Statement was a condition on larger developments; condition 14 referred. It did not specifically mention the issue of dust but this could be added; this was agreed. On points raised about enforcing planning conditions he indicated that the Scottish Government was bringing in legislation to make it mandatory for all local authorities to have monitoring arrangements in place. He added that the Council should hopefully have a new Condition Compliance Officer in post shortly who would undertake this task.

The Convener, a Local Member, said this was an important site for the Dunbar community. He appreciated it had taken some time for work to start on the cemetery but this was now being progressed. He noted the concerns about drainage and the assurances from Robertson Homes to try and resolve this issue. He referred to the number of older properties that had a SUDS system, stating it would have been helpful if the applicant had allowed these properties to get a connection to the mains system. Regarding the route under the rail bridge he indicated that the Council was making progress in its negotiations with Network Rail. The proposed safe routes to school from this new development would not be hazardous. The growth of the population was positive. The affordable housing units were especially welcomed.

Local Member Councillor Kempson expressed support for many of the Convener's comments but was aware however of the objections to this application. She noted that the developer was trying to create a lot of green space and a sympathetic design of the houses.

Local Member Councillor McLennan, not a member of the Planning Committee, echoed many of his colleagues' comments. He referred to SUDS and drainage matters, still an ongoing issue, and urged the applicant to find a solution. He supported the Convener's comments regarding safe routes to school.

Councillor McMillan hoped that the applicant would liaise with local residents regarding the SUDS issues and find a permanent solution. He noted the points made about local employment opportunities. He would be supporting the report recommendation.

The Convener moved to the vote on the report recommendation (to grant consent):

For: 11

Against: 0

Abstentions: 0

Decision

The Committee agreed that approval of matters specified in conditions of permission in principle 17/00020/PPM for the proposed housing development be granted subject to the following conditions:

- 1 No development shall take place on site unless and until final site setting out details have been submitted to and approved by the Planning Authority.

The above mentioned details shall include a final site setting-out drawing to a scale of not less than 1:200, giving:

- a. the position within the application site of all elements of the proposed development and position of adjoining land and buildings;
- b. finished ground and floor levels of the development relative to existing ground levels of the site and of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and
- c. the ridge height of the proposed buildings shown in relation to the finished ground and floor levels on the site.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the amenity of the area.

- 2 Notwithstanding that which is stated on the drawings docketed to this approval of matters specified in conditions, the external finishes of the houses and flats shall be in accordance with a co-ordinated scheme of materials and colours that shall be submitted to and approved in advance by the Planning Authority. This co-ordinated scheme shall in detail promote render as the predominant finish to the walls of the houses and flats, with a use of more than one render colour and with a strongly contrasting difference in the colours such that they will not each be of a light colour. All such materials used in the construction of the houses and flats shall conform to the details so approved.

Reason:

To ensure the development is of a satisfactory appearance in the interest of the amenity of the locality.

- 3 Prior to the occupation of the last house or flat hereby approved, the proposed access roads, parking spaces and footpaths shall have been constructed on site in accordance with the docketed drawings.

Those areas of land shall not thereafter be used for any other purpose than for accessing and for the parking of vehicles in connection with the residential use of the houses and flats and shall not be adapted or used for other purposes without the prior written approval of the Planning Authority.

Reason:

To ensure that adequate and satisfactory provision is made for access and for off-street parking in the interests of road safety.

- 4 Prior to the commencement of development, the section of the dedicated safe route to school for future residents of the development to Dunbar Primary Lochend Campus that is located within the underpass of the East Coast Main Line (the safe route to school as shown on docketed drawing no. NLD-ARC-009 Rev C) shall be surfaced in tarmac, brought up to an adoptable standard and shall be lit. Details of the tarmac surfacing, adoptable standard construction and lighting, including a timetable for its implementation shall be submitted to and approved in writing by the Planning Authority and thereafter those works shall be implemented as so approved unless otherwise agreed in writing by the Planning Authority.

Reason:

To ensure appropriate pedestrian and cycle links to and from the site.

- 5 Prior to the commencement of development, the section of the dedicated safe route to school taken from the footpath link formed into the site from its north boundary and where it crosses over the open space of the adjacent development site to the north (the safe route to school as shown on docketed drawing no. NLD-ARC-009 Rev C) shall be surfaced in tarmac, brought up to an adoptable standard and shall be lit. Details of the tarmac surfacing, adoptable standard construction and lighting, including a timetable for its implementation, shall be submitted to and approved in writing by the Planning Authority and thereafter those works shall be implemented as so approved unless otherwise agreed in writing by the Planning Authority.

Reason:

To ensure appropriate pedestrian and cycle links to and from the site.

- 6 Prior to the commencement of development, the section of the dedicated safe route to school from the site to the Lochend Campus Primary School where it crosses the vehicular access to Dunbar Garden Centre shall have drop kerbs and tactile paving. Details of the provision of the drop kerbs and tactile paving, including a timetable for their installation, shall be submitted to and approved in writing by the Planning Authority and thereafter those works shall be implemented as so approved unless otherwise agreed in writing by the Planning Authority.

Reason:

To ensure appropriate and safe pedestrian and cycle links to and from the site.

- 7 A timetable for the provision of all boundary treatments, including the erection of the 1.8 metre high boundary enclosures for the rear gardens of the houses hereby approved, shall be submitted to and approved in advance by the Planning Authority and development shall thereafter be carried out in full accordance with the timetable so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure the satisfactory provision of the boundary enclosures in the interest of safeguarding the privacy and amenity of future residents of the development.

- 8 All the open space recreation areas indicated on the docketed drawings shall be available for use prior to the occupation of the last house or flat on the site. The open space recreation areas, when provided, shall be used for such purposes at all times thereafter unless agreed in writing by the Planning Authority.

Reason:

To ensure the satisfactory laying out of all areas of open space in the interest of the amenity of the future occupants of the dwellings hereby approved.

- 9 A play area with equipment suitable for children aged 0 - 8 years shall be provided on the area shown for it on docketed planning layout drawing no. NLD-ARC-004 Rev D. Prior to the commencement of the development hereby approved the details of the play equipment and surfacing materials to be installed in the play area shall be submitted to and approved in advance by the Planning Authority. The details to be submitted shall include a timetable for its installation.

The play equipment and surfacing materials shall thereafter be installed in accordance with the details so approved. The equipped play area, when provided, shall be used for such purposes at all times thereafter unless agreed in writing by the Planning Authority.

Reason:

To ensure the satisfactory provision of a play area in the interest of the amenity of the future occupants of the residential units hereby approved.

- 10 1.8m high acoustic barriers shall be provided in the positions shown for them in Appendix A of the docketed Noise Impact Assessment report, prior to the occupation of the residential properties which gardens they will enclose. Where the 1.8m high barrier will be fencing, the fencing shall be of a close boarded form with no holes or gaps and shall have a minimum density of 12kg/m², typically 18mm boards and have no holes or gaps at the base.

The glazing specification for the glazing units of the residential properties as shown in Appendix C of the submitted Noise Impact Assessment shall be in accordance with that shown and as specified in Appendix C of the submitted Noise Impact Assessment report.

Thereafter such form of attenuation shall be retained in place unless otherwise approved by the Planning Authority.

Reason:

In the interest of safeguarding the residential amenity of future occupiers of the proposed residential development.

- 11 No development shall take place on the site until the applicant has undertaken and reported upon a programme of archaeological work (Metal Detecting Survey and Evaluation) in accordance with a written scheme of investigation which has been submitted by the applicant (or their agent) and approved by the Planning Authority.

Reason:

In the interests of archaeological and natural heritage.

- 12 Prior to the commencement of development a revised detailed scheme of landscaping shall be submitted to and approved by the Planning Authority. This shall include details of:

i) all trees and shrubs on site and denote those to be retained and those to be removed and the root protection areas in accordance with BS5837: 2012;

ii) tree protection measures in accordance with BS5837: 2012 and construction method statements for all works encroaching on root protection areas, including that any such work shall be supervised by a qualified arboriculturalist;

iii) new tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting, including for the SUDS pond with existing and proposed levels;

iv) a planting schedule, specification and maintenance programme, including details of maintenance access where required;

v) details of the landscape planting/boundary treatment to all semi private and defensible spaces in front of or to the side of dwellings and to the side of parking courtyards, showing them to be enclosed by walls/hedges/fences/ or railings, to define areas of private space from public space.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the completion of the development or occupation of any house hereby approved, whichever is the sooner. Any trees or plants which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar species and final size, unless the Planning Authority gives written consent to any variation. No trees or shrubs, detailed in the approved landscaping plans to be retained on the site, shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the previous written consent of the Planning Authority.

Reason:

In the interests of achieving an appropriate landscaped setting for the housing development.

- 13 Prior to commencement of development full details of the proposed Sustainable Drainage System scheme and a Drainage Assessment for the site, which both must meet the vesting requirements of Scottish Water and be in accordance with the Council's Supplementary Planning Guidance 'Sustainable Drainage Systems (SuDS)', shall be submitted to and approved by the Planning Authority. The development shall thereafter be carried out in strict accordance with the details and Drainage Assessment so approved, unless otherwise agreed in writing with the Planning Authority.

Reason:

To ensure that development is not at risk from flooding, there is no increase in flood risk elsewhere and appropriate long-term maintenance arrangements are in place.

- 14 A Construction Method Statement to minimise the impact of construction activity on the amenity of the area and on the burial ground the subject of planning permission 18/01147/PCL shall be submitted to and approved by the Planning Authority prior to the commencement of development. The Construction Method Statement shall recommend mitigation measures to control both construction traffic and dust from construction activities on the site, shall include hours of construction work and shall include measures to ensure that noise generating activities cease for the duration of funerals taking place on the burial ground the subject of planning permission 18/01147/PCL. The Construction Method Statement shall also include details of wheel washing facilities to be provided, and that these facilities shall be maintained in working order during the period of operation of the site. All vehicles must use the wheel washing facilities to prevent deleterious materials being carried onto the public road on vehicle tyres.

Thereafter, the Construction Method Statement shall be implemented and complied with in accordance with the approved details for the period of construction of the development hereby approved.

Reason:

To minimise the impact of construction activity in the interests of the amenity of the area.

- 15 Prior to the commencement of development, a report on the actions to be taken to reduce the Carbon Emissions from the build and from the completed development shall be submitted to and approved in writing by the Planning Authority. This shall include the provision of renewable technology for all new buildings, where feasible and appropriate in design terms, and new car charging points and infrastructure

for them, where feasible and appropriate in design terms. The details shall include a timetable for implementation. Development shall thereafter be carried out in accordance with the report so approved.

Reason:

To minimise the environmental impact of the development.

3. PLANNING APPLICATION NO. 18/01086/PM: ERECTION OF 122 HOUSES, 20 FLATS AND ASSOCIATED WORKS AT MAIN ROAD, MACMERRY

A report was submitted in relation to Planning Application No. 18/01086/PM. Emma Taylor, Manager for Planning Delivery, presented the report. She informed Members of amendments to conditions 9 and 16 and of an additional condition, 21.

9. Prior to the commencement of development full details of the new junction into the site from the A199 incorporating the pedestrian/cycle as shown on docketed drawing 760/002 REV W shall be submitted to and approved in writing by the Planning Authority.

Thereafter, the junction shall be formed in accordance with the approved drawings prior to the occupation of any dwelling on the application site.

Reason:

To ensure measures are implemented to control traffic at this junction in the interest of road safety.

16. Prior to commencement of development a phasing plan for the site including the number of completions each year shall be submitted to and agreed by the Planning Authority. Thereafter, and unless otherwise agreed by the Planning Authority, development of the site will be in accordance with the agreed phasing plan.

Reason:

To ensure that the completion rate of residential development within the application site accords with the provision of education capacity.

21. Prior to commencement of development measures shall be implemented on the A199 to the west side of the junction into the site hereby approved to reduce traffic speeds of vehicles entering Macmerry from the west. Measures shall include road narrowing and the introduction of a gateway "Welcome to Macmerry" feature all to be submitted to and agreed in advance by the Planning Authority. Thereafter the measures to reduce the speed of traffic shall be implemented in accordance with the details so approved unless otherwise agreed by the Planning Authority.

Reason:

In the interests of Road Safety.

She then summarised the key points of the report. The recommendation was to grant consent.

Questions were asked on why there would not be signals at the new junction and, in relation to the active travel corridor, concerns expressed about cyclists using the footway in front of Main Road. Graeme McLeod, Transportation Planning Officer, said that a new junction would not automatically require signal controls, the default was for a priority junction and this junction would have visibility splays. Incorporating speed reducing features would be an appropriate treatment for this junction, there would be a gateway system to slow traffic down and a cycleway provision to allow cyclists through; the A199 would be reduced in width. Responding to further queries Ms Taylor clarified that some of the £50,184 would go towards the Segregated Active Travel Corridor. As regards the financial contribution towards sporting provision she indicated this would be used to upgrade the sports pavilion.

Michael Walker of Balfour Beatty, the applicant, stated they were working with the Council to deliver an attractive, sustainable scheme, with the aim to reduce car emissions and increase core path use. This site would link in with the Taylor Wimpey site at the northeast corner. Safe routes to school would be provided. He gave details of the mix of properties which would include 36 affordable housing units and 6 bungalows. There would be an attractive landscape feature at the entrance. Work was being carried out with the Council and consultants to devise

a traffic calming scheme appropriate to the entrance to Macmerry; there would be segregation for pedestrians and cyclists. He confirmed that the new condition was acceptable.

Several queries were raised by Members regarding consideration of a signalised junction, the active travel corridor and cycle path. Mr Walker reiterated that work was ongoing to devise a traffic calming scheme agreeable to the Council. Responding to the Convener, Ms Taylor confirmed that Local Members would be included in these discussions. On the housing association provider, Mr Walker indicated that there was no partner yet, work continued with the Council's Housing Service regarding a suitable appointment.

Neil Arnott, local resident, spoke against the application. He expressed concern about capacity at the local primary school and at GP and Dental practices. The village only had two shops, better provision would be needed. Traffic from the A199 was heavy and only likely to increase, something had to be done to moderate traffic speed. He queried why traffic from the new development could not go to/from the back of the development onto the A1 instead.

Local Member Councillor McGinn welcomed the opportunity to engage with officers and the developer as work progressed but stressed there was only one chance to do this properly. He welcomed the safe routes to school. He hoped that the cycle path and the active travel corridor would be implemented as soon as possible. He stressed that cyclists could not go past the fronts of the cottages. He would be supporting the recommendation.

Local Member Councillor McLeod agreed with his colleague. He did have some concerns about capacity for schools and medical facilities. He welcomed the affordable housing. He would be supporting the application.

The Convener hoped that a solution could be found regarding access from the A199 to the village and was glad that Local Members would be involved.

He moved to the vote on the report recommendation (to grant consent):

For: 11
Against: 0
Abstentions: 0

Decision

The Committee agreed that planning permission be granted subject to:

1. The undernoted conditions.
2. The satisfactory conclusion of an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997, or some other legal agreement designed to secure from the applicant:
 - (i) a financial contribution to the Council of £671,944 towards the provision of additional accommodation at Ross High School
 - (ii) a financial contribution to the Council of £500,266 towards the provision of additional accommodation at Macmerry Primary School;
 - (ii) 36 affordable residential units within the application site
 - (iii) a financial contribution to the Council of £ £53,832.20 towards the off site provision of sporting provision in Macmerry

(iv) secure a financial contribution to the Council of £26,538 for transport improvements. (Comprised of £1,651 for road improvements to Old Cragihall Junction, £1,274 for Salters Road Interchange, £6,164 for Bankton Interchange, £1,928 for Musselburgh town centre improvements and £15,521 for Tranent Town Centre improvements).

(v) secure a financial contribution to the Council of £69,864 towards a Segregated Active Travel Corridor

3. That in accordance with the Council's policy on time limits for completion of planning agreements it is recommended that the decision should also be that in the event of the Section 75 Agreement not having been executed by the applicant, the landowner and any other relevant party within six months of the decision taken on this application, the application shall then be refused for the reason that without the developer contributions to be secured by the Agreement the proposed development is unacceptable due to a lack of sufficient school capacity at Macmerry Primary and Ross High School, a lack of provision of affordable housing, sports provision, a lack of roads and transport infrastructure improvements contrary to, as applicable, Policies INF3, H4 and C2 of the adopted East Lothian Local Plan 2008 and ED4, DEL1, HOU3, OS4, T3 and T32 of the East Lothian Local Development Plan.

- 1 No works shall commence on site unless and until a vehicular crossing is provided across the core path from the application site hereby approved to connect to the road on the adjoining site on the east side of the core path in accordance with the positioning of it shown on site layout drawing 760/002 Rev W. Details of the crossing point including how it will integrate with the core path shall be submitted to and approved by the Planning Authority prior to its installation and thereafter, unless otherwise agreed by the Planning Authority shall be installed on the core path in accordance with those approved details.

Reason;
In the interests of road safety.

- 2 Prior to the commencement of development hereby approved a continuous footpath route of adoptable standards with lighting shall be provided on the core path no. 455 adjacent to the east boundary of the site. The continuous length of footpath will run from a point adjacent to the new footpath to be formed between plots 85 and 86/87 within the site and shall run southwards into Mountfair Gardens and shall include the provision of dropped kerbs within Mountfair Gardens all in accordance with East Lothian Council's Standards for Development Roads. The details and timetable for the provision of the footpath shall be submitted to and approved by the Planning Authority prior to the commencement of development on the site to form the path.

Thereafter, the continuous footpath route shall be provided and delivered in accordance with the details so approved.

Reason:
To provide a safe pedestrian access from the east side of the site to Main Street and a safe route to Macmerry Primary school, in the interests of road safety.

- 3 Prior to the commencement of development, final site setting out details shall be submitted to and approved in writing by the Planning Authority.

The above mentioned details shall include a final site setting-out drawing to a scale of not less than 1:200, giving:

a. the position within the application site of all elements of the proposed development and the position of adjoining roads, land and buildings;

b. finished ground levels and finished floor levels of the development relative to existing ground levels of the site and existing ground and road levels of adjoining land. The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and

c. the ridge height of the proposed buildings hereby approved, shown in relation to the finished ground and finished floor levels on the site.

Thereafter, the details shall be implemented as approved.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the amenity of the area.

- 4 Notwithstanding that which is stated on the drawings docketed to this planning permission, a detailed specification of all external finishes of the houses and cottage flats of the proposed development shall be submitted to and approved by the Planning Authority prior to the use of the finishes in the development. The external finishes of the houses and cottage flats shall be in accordance with a co-ordinated scheme of materials and colours that shall be submitted to and approved in advance by the Planning Authority. This co-ordinated scheme shall in detail promote render as the predominant finish to the walls of the houses, with a use of more than one render colour and with a strongly contrasting difference in the colours such that they will not each be of a light colour. However, some use of a contrasting wall finish (i.e. reconstituted stone or facing brick) would be acceptable providing it is limited to a distinctively complete feature of the houses and flats and respectful of their design integrity. All such materials used in the construction of the houses shall conform to the details so approved.

Reason:

To ensure the development is of a satisfactory appearance in the interest of the amenity of the locality.

- 5 Other than in exceptional circumstances where the layout or particular building type does not permit, the residential units shall be orientated to face the street Notwithstanding that shown on the docketed site plan where a building is located on a corner of more than one street, it shall have enhanced gable(s) to ensure it has an active elevation to each street it faces;

Reason:

In the interests of ensuring active frontages and to enhance character and appearance of the area.

- 6 Notwithstanding that shown on the drawings docketed to this approval of matters, all semi private and defensible spaces in front of or to the side of dwellings and to the side of parking courtyards shall be enclosed by walls/hedges/fences/ or railings to define areas of private space from public space.

Notwithstanding that shown on the drawings docketed to this planning permission, the boundary enclosures shown on those drawings are not hereby approved. Instead, and prior to the commencement of development, revised details of all boundary enclosures to be erected on the application site, and the timescales for their provision, shall be submitted to and approved in advance by the Planning Authority. Those details shall show 1.8 metre high solid enclosures around rear gardens of the houses hereby approved except where those boundaries are adjacent to a road or pathway where they shall be some other form of enclosure such as feature walls or hedges to heights and finishes to be approved in advance by the Planning Authority.

Details submitted shall also include the design, construction and materials of the entrance feature walls at the main accesses to the site.

Reason:

To ensure the satisfactory provision of the boundary enclosures in the interest of safeguarding the visual amenity of the area and to safeguard the privacy and amenity of residential properties nearby.

- 7 A play area with equipment suitable for children aged 5 to 12 years shall be provided on the area of open space of the application site which is to the east of plots 122 to 126 and to the west of plots 25 to 29, as shown on approved Development Layout 760/002 Rev W.

Prior to the commencement of development on site details of the play equipment and surfacing materials to be installed in the play area and a timetable for its installation shall be submitted to and approved in writing by the Planning Authority.

Thereafter, the play equipment shall be installed in accordance with the details so approved. The equipped play area shall thereafter be retained in perpetuity and kept available for use.

Reason:

To ensure that suitable play equipment is installed and thereafter retained.

- 8 Prior to any use being made of the junction onto the A199 visibility splays of 4.5 metres by 160 metres must be provided and maintained on the western side of the proposed access junction with the A199 and 4.5m by 70 metres on the eastern side of the junction with the A199 such that there shall be no obstruction to visibility above a height of 1.05 metres measured from the adjacent carriageway level within the area defined below:-

- a) A line 4.5 metres long measured along the access road from the nearside edge of the main road carriageway.
- b) A line 160m long for the west side and 70m long for the east side measured along the nearside edge of the main road carriageway from the centre of the access road in both directions.
- c) A straight line joining the termination of the above two lines.

The development shall also comply with the following transportation requirements:

- (i) All roads and paths shall conform to East Lothian Council Standards for Development Roads;
- (ii) driveways shall have minimum dimensions of 6 metres by 3 metres. Double driveways shall have minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11 m length. Pedestrian ramps to houses may encroach by up to 300mm on the width (but not the length) provided they are no greater than 150mm in height above the adjacent driveway surface;
- (iii) Vehicle accesses to private parking areas (i.e. other than driveways) shall be via a reinforced footway crossing. Within private parking areas, the minimum dimensions of a single parking space shall be 2.5 metres by 5 metres;
- (iv) All prospectively adoptable parking bays (i.e. that will form part of the public road) shall have minimum dimensions of 2.5 metres by 6 metres;
- (v) Cycle parking for dwellings without private back garden with a gate (e.g. flats/mid-terraces), shall be included at a rate of 1 space per dwelling. This shall be in the form of a lockable room or shed.

Reason:

In the interests of road safety.

- 9 Prior to the commencement of development full details of the new junction into the site from the A199 incorporating the pedestrian/cycle as shown on docketed drawing 760/002 REV W shall be submitted to and approved in writing by the Planning Authority.

Thereafter, the junction shall be formed in accordance with the approved drawings prior to the occupation of any dwelling on the application site.

Reason:

To ensure measures are implemented to control traffic at this junction in the interest of road safety.

- 10 Prior to the occupation of any dwelling hereby approved, details of a Green Travel Plan shall be submitted to and approved in writing by the Planning Authority. This should seek to encourage the minimisation of private car trips and increased use of active means of travel and the use of public transport.

The Green Travel Plan shall have particular regard to provision for walking, cycling and public transport access to and within the site, and will include a timetable for its implementation, details of the measures to be provided, the system of management, monitoring, review, reporting and duration of the Plan.

Thereafter, the Green Travel Plan shall be implemented as per the approved details.

Reason:

To encourage sustainable and active travel in the interests of environmental and residential amenity.

- 11 Prior to the commencement of development, a Construction Method Statement which sets out how the impact of construction activity on the safety and amenity of the area will be mitigated shall be submitted to and approved by the Planning Authority.

The Construction Method Statement shall include details of:

- * Mitigation measures to control noise, dust, construction traffic (including routes to/from site).
- * Hours of construction work
- * Temporary measures to be put in place to control surface water drainage during the construction works
- * Routes for construction traffic
- * Wheel washing facilities.

Thereafter, the Construction Method Statement shall be implemented and complied with in accordance with the approved details for the period of construction of the development hereby approved.

Reason:

To retain control of the operation of construction in the interest of environmental and residential amenity.

- 12 Prior to the commencement of development a timetable for the submission of a Road Safety Audit shall be submitted and approved by the Planning Authority. Thereafter, in accordance with that agreed timetable, the Road Safety Audit will shall be submitted for the site (internal) and A199 (external) roadworks. This process must be completed through Stages 1, 2, 3 & 4 which are Preliminary Design, Completion of Detailed Design, Completion of Construction & Post Opening Monitoring using 12 months of validated post scheme opening road traffic collision data - all in accordance with GG119 Road Safety Audit Rev1. The Road Safety Audit to include; the proposed access junction to A199, junction with adjoining housing development site to east, new footways/cyclepaths, pedestrian crossings and double 'D' islands where provided

After each Stage of Road Safety Audit/Assessment, the approved measures shall be implemented as approved.

Reason:

In the interests of road safety.

- 13 A plan clearly detailing all communal areas to be maintained by a Factor or Residents Association shall be submitted to and approved by the Planning Authority prior to the occupation of any residential units hereby approved. The maintenance of all communal landscape areas and hedges to private front gardens as detailed on the approved details of landscaping shall be adopted and maintained by a Factor or a Residents Association. All communal areas detailed on this drawing shall be retained as communal open space in perpetuity.

Reasons:

To ensure the retention and maintenance of open space and landscaping on the site in the interest of amenity.

- 14 A scheme of landscaping shall be submitted to and approved in writing by the Planning Authority prior to the commencement of development. The scheme shall provide details of: the height and slopes of any mounding on or re-contouring of the site including SUDS basin/ponds details; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. Non-thorn shrub species should be located adjacent to pedestrian areas. The scheme shall include indications of all existing trees and hedgerows on the land, details of any to be retained, and measures for their protection in the course of development.

In particular the scheme shall include:

- o A landscape feature framing the village entrance to the west of plot 2 to include large species, standard sized trees and shrub planting.
- o A mixed species hedge the complete length of the west/north/northwest boundary.
- o Regular small groups of small and medium sized species standard trees to the open space adjacent to the west/north/northwest boundary such as birch, whitebeam, field maple and cherry.
- o Medium sized standard trees between plots 8 and 9.
- o A large species standard tree in the open space west of plot 128.
- o A feature group of medium sized species standard trees such as birch in the open space west of plots 123/124.
- o Central open space to be designed with groups of large species standard trees, such as horse chestnut, sweet chestnut, oak and lime; multi stem birch trees; mounds; seating; and formal and natural play.
- o Medium sized species standard trees such as whitebeam, birch and field maple to the open space to the southern boundary outwith the sewer wayleave.
- o Medium sized standard trees to the parking courts south of plot 57 and at plots 58, 63, 68, 71, 87 and 101, and 101 and 102.
- o Groups of standard trees and shrub planting around the SUDS basins in the northeast corner.
- o Hedges to front gardens of plots 17-21, 29, 30, 50, 51, 52, 62-67, 81-92, 111-115, 120, 121.
- o Hedges to south and east of parking court east of plot 54.
- o Hedges to open space side of drives to plots 122-125 and 27-28.

Thereafter, and unless otherwise agreed by the Planning Authority the landscape scheme shall be carried out in accordance with the details so approved.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the completion of the development or occupation of any house hereby approved, whichever is the sooner. Any trees or plants which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar species and final size, unless the Planning Authority gives written consent to any variation. No trees, hedges or shrubs, detailed in the approved landscaping plans shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the previous written consent of the Planning Authority.

Reason:

In the interests of achieving an attractive development.

- 15 Prior to the commencement of development on site full details of the proposed bin presentation areas within the application site shall be submitted to and approved in writing by the Planning Authority. These details shall include ground finishes, boundary treatments and the design and position of signage to identify which dwellings are to use each area.

Thereafter, the details shall be implemented as approved.

Reason:

To allow the consideration of details yet to be submitted and in the interests of residential amenity.

- 16 Prior to commencement of development a phasing plan for the site including the number of completions each year shall be submitted to and agreed by the Planning Authority. Thereafter, and unless otherwise agreed by the Planning Authority, development of the site will be in accordance with the agreed phasing plan.

Reason:

To ensure that the completion rate of residential development within the application site accords with the provision of education capacity.

- 17 Prior to the commencement of development on site the implementation of stabilisation works as identified within the Ground Investigation Report prepared by Johnson Poole and Bloomer Ltd (ref: RG606-52/MAK January 2018) shall be undertaken and confirmation of the completion of these works submitted to and approved in writing by the planning authority in consultation with The Coal Authority.

Reason:

To ensure that the stabilisation works proposed are carried out in the interest of health and safety and environmental protection.

- 18 Prior to the commencement of development a Remedial Strategy detailing gas prevention measures to be installed and procedures to verify these measures shall be submitted to and approved in writing by the Planning Authority. Thereafter, the gas prevention measures and verification procedures shall be implemented as approved.

Prior to the occupation of any dwelling hereby approved, a Validation Report, detailing the satisfactory completion of the remedial works, shall be submitted to and approved in writing by the Planning Authority.

Gas monitoring wells should be established at the boundaries of the site during the ground stabilisation works, with a suitable period of monitoring being carried out. Upon completion of the monitoring, a Gas Risk Assessment should be submitted to the Planning Authority detailing the potential for off-site gas migration.

Reason:

To allow the consideration of details to be submitted and ensuring that the installations are fit for purpose in the interests of environmental protection.

- 19 Prior to commencement of development on site, full details of the proposed Sustainable Drainage System (SuDS) shall be submitted to and approved in writing by the Planning Authority.

The details shall include confirmation of Scottish Water's technical approval of the SuDS proposals.

Thereafter, the approved details shall be implemented as approved.

Reason:

To ensure that the final SuDS design complies with Sewers for Scotland 3 and can be vested by Scottish Water in the interest of flood prevention, environmental protection and the long term amenity of the area.

- 20 Prior to the commencement of development, a report on the actions to be taken to reduce the Carbon Emissions from the build and from the completed development shall be submitted to and approved in writing by the Planning Authority. This shall include the provision of renewable technology for all new buildings, where feasible and appropriate in design terms, and new car charging points and infrastructure for them, where feasible and appropriate in design terms. The details shall include a timetable for implementation. Development shall thereafter be carried out in accordance with the report so approved.

Reason:

To minimise the environmental impact of the development.

- 21 Prior to commencement of development measures shall be implemented on the A199 to the west side of the junction into the site hereby approved to reduce traffic speeds of vehicles entering Macmerry from the west. Measures shall include road narrowing and the introduction of a gateway “Welcome to Macmerry” feature all to be submitted to and agreed in advance by the Planning Authority. Thereafter the measures to reduce the speed of traffic shall be implemented in accordance with the details so approved unless otherwise agreed by the Planning Authority.

Reason:

In the interests of Road Safety.

Sederunt – Councillor Williamson left the meeting.

4. PLANNING APPLICATION NO. 19/01208/P: ERECTION OF CHALET, SHED AND ASSOCIATED WORKS (RETROSPECTIVE) AT HODGES FARM, THE BOGGS, PENCAITLAND

A report was submitted in relation to Planning Application No. 19/01208/P. David Taylor, Planning Officer, presented the report, summarising the key points. The report recommendation was for refusal of the application.

Responding to questions Mr Taylor clarified the criteria for rural dwellings. He reiterated that this chalet was deemed to be a new, permanent structure in the countryside, and that a direct business operational requirement for it had not been met.

Rachel Hodges, the applicant, outlined the history of their tenancy and subsequent ownership of the site. She also gave details of advice previously provided by their agent. As regards the tree felling, she said this had been done as sympathetically as possible for minimal impact. She gave details of the multiple types of businesses operated from the site. She stressed that many of the operational needs of the business depended on the involvement of her parents. If permission was not granted her parents would become homeless. In response to a query, Ian Hodges clarified that the farm was 72 acres in total, which included the steading.

Michael Dickson, local resident, spoke against the application. He referred to planning policy against erecting a new house in the countryside unless justified by operational requirement; this had not been demonstrated. Felling of the trees was troubling especially given heightened environmental awareness; he noted that Scottish Forestry did not support the application. Given the coal mining legacy a coal report should have been submitted but had not been. The applicants had been told by the Council not to do this but had gone ahead anyway.

Alistair Smith of AMS Associates spoke against the application on behalf of a number of concerned residents. The application was contrary to a number of LDP policies. As regards the tree felling no licence had been obtained for this. Should this application be approved it would set a precedent for building in the countryside. This was a Coal Authority high risk area.

Local Member Councillor McMillan felt that Mrs Hodges had given a good account of their desire to create a sustainable business and he had sympathy for their situation. He noted from the report that officers had tried to explore operational issues with the applicants but insufficient information had been provided. The chalet however looked like an incongruent, ill-thought out development. Policy DC1 had to be protected for the future. On balance, he felt that the officer’s recommendation for refusal was correct, no operational need had been met.

Councillor McLeod stated the building was in permanent use which was against policy; he supported the report recommendation for refusal of this application.

The Convener expressed some sympathy for the applicants who were trying to develop a business. However he stressed the importance of adhering to Policy DC1; this application went against this policy and he therefore agreed with the officer’s recommendation for refusal.

The Convener moved to the vote on the report recommendation (for refusal):

For: 10

Against: 0

Abstentions: 0

Decision

The Committee agreed to refuse planning permission for the following reasons:

- 1 The erection of a residential chalet on the application site would be new build housing development in the countryside of East Lothian for which a need to meet the requirements of the operation of an agricultural, horticultural, forestry, countryside recreation, or other business, leisure or tourism use has not been demonstrated, and which is not proposed as affordable housing development of an existing rural settlement. The proposal is therefore contrary to Policies DC1 and DC4 of the adopted East Lothian Local Development Plan 2018.
- 2 The erection of a residential chalet on the application site would be new build housing development in the countryside of East Lothian for which a desirable primary use supported in principle by criterion b of Policy DC1 and with benefits that outweigh the normal presumption against new build housing in the countryside has not been demonstrated; and which is not promoted to fund the restoration of a listed building, building of recognised heritage value or significant designated feature of the built or natural environment, the retention of which is desirable. The proposal is therefore contrary to Policy DC5 of the adopted East Lothian Local Development Plan 2018.
- 3 The removal of the woodland was not required to achieve additional public benefits and is contrary to the guidance within The Scottish Government's Policy on Control of Woodland and Policy NH8 of the adopted East Lothian Local Development Plan 2018.
- 4 The site is within a Coal Authority Development High Risk Area and a Coal Mining Risk Assessment Report has not been submitted by the applicant. Consequently the applicant has failed to demonstrate that the proposed development would not place buildings or persons at risk from past mining related activities.
- 5 If approved the proposed development would set an undesirable precedent for the development of new houses in the countryside of East Lothian, the cumulative effect of which would be the suburbanisation of the countryside to the detriment of its character and amenity.

Sederunt – Councillor Williamson re-joined the meeting.

5. PLANNING APPLICATION NO. 20/00251/PM: VARIATION OF CONDITION 2 (IN RESPECT OF THE FOOTPATH) OF PLANNING PERMISSION 17/01185/PM AT SETON SANDS HOLIDAY VILLAGE

A report was submitted in relation to Planning Application No. 20/00251/PM. Mr Taylor presented the report, informing Members that the new condition had been further amended to:

A new controlled Puffin pedestrian crossing shall be formed on the B1348 road (Links Road) as a replacement for the Double D islands to the west of the existing Holiday Village access junction. The new controlled Puffin pedestrian crossing will be formed in accordance with the details shown on approved drawing ref 10140 Rev C docketed to this planning permission.

Within two months from the date of grant of this planning permission a timetable for the formation of the controlled Puffin pedestrian crossing shall be submitted to, and thereafter approved by the Planning Authority.

The new crossing shall thereafter be formed in accordance with the timescale and the detail so approved unless otherwise approved in writing by the planning authority.

Reason:

In the interests of road safety.

He then summarised the key points. The report recommendation was to grant consent.

Nicola Woodward of Lichfields, agent for the applicant Bourne Leisure, said her client was supportive of this proposal and delighted to have a suitable solution. It was hoped that SSHV

would open in July; she was sure Members would appreciate that this was a difficult time for the leisure industry.

Councillor McMillan wished Bourne Leisure well; it was important to be mindful of safety especially in these current times, he would encourage safe tourism to East Lothian.

Local Member Councillor Innes agreed. Bourne Leisure was important economically to East Lothian and to Port Seton in particular; keeping the public safe was vital so the improvement proposed was welcomed.

The Convener moved to the vote on the report recommendation (to grant consent):

For: 11

Against: 0

Abstentions: 0

Decision

The Committee agreed to grant planning permission subject to the following condition:

A new controlled Puffin pedestrian crossing shall be formed on the B1348 road (Links Road) as a replacement for the Double D islands to the west of the existing Holiday Village access junction. The new controlled Puffin pedestrian crossing will be formed in accordance with the details shown on approved drawing ref 10140 Rev C docketed to this planning permission.

Within two months from the date of grant of this planning permission a timetable for the formation of the controlled Puffin pedestrian crossing shall be submitted to, and thereafter approved by the Planning Authority.

The new crossing shall thereafter be formed in accordance with the timescale and the detail so approved unless otherwise approved in writing by the planning authority.

Reason:

In the interests of road safety.

6. PLANNING APPLICATION NO. 19/01068/AMM: APPROVAL OF MATTERS SPECIFIED IN CONDITIONS OF PLANNING PERMISSION IN PRINCIPLE 14/00768/PPM - ERECTION OF 32 HOUSES, 28 FLATS AND ASSOCIATED WORKS AT BLINDWELLS

A report was submitted in relation to Planning Application No. 19/01068/AMM. Mr Taylor presented the report, summarising the key points. The report recommendation was to grant consent.

Responding to questions about the speed limit review, agreed at the previous Committee in May, Morag Hadow, Transportation Planning Officer, said that discussions were ongoing with the applicant, a further study had been done but the results had not yet been submitted.

James Fraser of EMA Architecture + Design, agent for the applicant, indicated he had nothing to add to the officer's presentation. The Convener asked, given the ambitious nature of this high profile development that special care be taken in the design of the buildings in this development and future phases of development to ensure the highest quality. Mr Fraser stated that he shared this view and gave an assurance that the design would be aspirational and of high quality.

Councillor Innes stated that a new settlement in East Lothian was an historic event; this was an extremely important site. He was delighted to note that the affordable housing would be delivered first. He was reassured by the agent's comments regarding design. He would be supporting the recommendation in the report.

Councillor Bruce expressed his support for this application. He also welcomed early delivery of the affordable housing and also felt that the development's design standards for the development and future phases of development should be high. He asked, given there seemed to be some dubiety that for clarification for Local Members, if officers could double check which Ward this development was situated in.

Councillor McLeod welcomed the progress and particularly welcomed the affordable housing element. He would be supporting the recommendation in the report.

Councillor McMillan welcomed the excellent potential this development would bring to East Lothian during the Covid-19 recovery period. He agreed it was important this development reached the highest standards; it was a tremendous opportunity, the developers had to get it right. He would be supporting the report recommendation.

Councillor McGinn echoed earlier comments. He stressed, coming out of this health crisis, the importance of looking after the county's young people and providing opportunities for them. He supported the application.

The Convener stressed this was a very important site; the greater Blindwells site would be of national importance. He hoped all the developers would try to provide the highest possible standards in architectural design.

He moved to the vote on the report recommendation (to grant consent):

For: 11

Against: 0

Abstentions: 0

Decision

The Committee agreed that approval of matters specified in conditions for the proposed residential development be granted subject to the following conditions:

- 1 No development shall take place on site unless and until final site setting out details have been submitted to and approved by the Planning Authority.

The above mentioned details shall include a final site setting-out drawing to a scale of not less than 1:200, giving:

- a. the position within the application site of all elements of the proposed development and position of adjoining land and buildings;
- b. finished ground and floor levels of the development relative to existing ground levels of the site and of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and
- c. the ridge height of the proposed buildings shown in relation to the finished ground and floor levels on the site.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the amenity of the area.

- 2 Other than in exceptional circumstances where the layout or particular building type does not permit, the residential units shall be orientated to face the street. Notwithstanding that shown on the docketed site plan the houses denoted with an asterisk shall have dual frontages. Otherwise where a building is located on a corner of more than one street, it shall have enhanced gable(s) to ensure it has an active elevation to each street it faces.

Reason:

In the interests of safeguarding the character and appearance of the development.

- 3 Notwithstanding that shown on the drawings docketed to this approval of matters, all semi private and defensible spaces in front of or to the side of dwellings and to the side of parking courtyards shall be enclosed by walls/hedges/fences/ or railings to define areas of private space from public space.

Details of the form and appearance of all boundary treatments, including the 1.8m high fences within the rear gardens of the houses and flatted blocks, shall be submitted to and approved by the Planning Authority prior to the occupation of the first house.

A timetable for the provision of those boundary treatments shall be submitted to and approved in advance by the Planning Authority and shall thereafter be carried out in full accordance with the timetable so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure the satisfactory provision of appropriate boundary enclosures and in the interest of safeguarding the privacy and amenity of future residents of the development

- 4 Landscaping of the site shall be carried out in accordance with that shown on drawing numbers 374.17.01b, 374.17.02b and 374.17.03b docketed to this planning permission. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation or completion of any part of the development hereby approved, whichever is the sooner.

Any trees or plants which within a period of 10 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar species and final size, unless the Planning Authority gives written consent to any variation.

Reason

In order to ensure the implementation of a landscaping scheme to enhance the appearance of the development in the interests of amenity.

- 5 The details to be submitted pursuant to condition 1 above shall include full details of all noise mitigation measures. The mitigation measures shall include, but may not be limited to, final heights and locations of any acoustic bunds and/ or barriers, upgraded glazing/ ventilation specification within specific properties and possible re-orientation of residential properties. These mitigation measures shall be such that the following design criteria shall be met:

1. Daytime garden noise levels should not exceed 55 dB (A);
2. Daytime internal noise levels should not exceed 35 dB (A) and night-time internal noise levels should not exceed 30 dB (A); and
3. The Rating Level, LA_{rTr}, of noise emanating from any proposed commercial unit (when measured 3.5m from the façade of any existing or proposed residential property shall be no more than 5 dB (A) above the background noise level, LA_{90T}.

The details to be submitted shall also include a further noise report to demonstrate the noise mitigation measures required to ensure compliance with this design criteria, together with a timetable for the implementation of all of the proposed noise mitigation measures.

Development shall thereafter be carried out in accordance with the details so approved.

Reason:

To ensure an appropriate level of acoustic screening in the interests of the amenity of the future occupants of the site.

- 6 Prior to the commencement of development, details, including a timetable for their implementation, showing compliance with the following transportation requirements shall be submitted to and approved in writing in advance by the Planning Authority.

i) All roads and paths shall conform to ELC Standards for Development Roads.

ii) All prospectively adoptable parking bays (i.e. that will form part of the public road) shall have minimum dimensions of 2.5 metres by 6 metres.

iii) Prior to the commencement of development details of all electric vehicle charging points and required infrastructure, along with a timetable for provision, shall be submitted to and approved in writing by the Planning Authority.

iv) Prior to commencement of development, a Factoring Plan should be submitted clearly indicating the different responsibilities for long term maintenance including: private and shared private areas, factored areas, and prospectively adoptable roads.

v) Prior to commencement of development, a Quality Audit to independently assess walking, cycling, access and road safety aspects within and around the development should be submitted and approved by the planning authority. This will be reviewed after construction is substantially complete and the developer required to make good any issues.

vi) A Travel Information Pack with information for residents to encourage use of sustainable modes of transport such as trains, buses, cycling and walking shall be submitted to and approved by the Planning Authority prior to construction commencing. The Travel Information Pack will include local bus and train timetables, local cycling and walking maps, information on bike hire / car sharing, and shall include details of how it will be distributed to residents.

vii) A Construction Method Statement to minimise the impact of construction activity on the safety and amenity of the area shall be submitted to and approved by the Planning Authority prior to the commencement of development. The Construction Method Statement shall recommend mitigation measures to control noise, dust, construction traffic (including parking, routes to/from site and delivery times) and shall include hours of construction work. Temporary measures shall be put in place to control surface water drainage during the construction of the SuDS.

viii) Wheel washing facilities must be provided and maintained in working order during the period of operation of the site. All vehicles must use the wheel washing facilities to prevent deleterious materials being carried onto the public road on vehicle tyres.

The housing development shall thereafter be carried out in accordance with the details so approved unless otherwise agreed in writing with the Planning Authority.

Reason:

In the interests of road and pedestrian safety.

- 7 Prior to the commencement of development, a report on the actions to be taken to reduce the Carbon Emissions from the build and from the completed development shall be submitted to and approved in writing by the Planning Authority. This shall include the provision of renewable technology for all new buildings, where feasible and appropriate in design terms, and new car charging points and infrastructure for them, where feasible and appropriate in design terms. The details shall include a timetable for implementation. Development shall thereafter be carried out in accordance with the report so approved.

Reason:

To minimise the environmental impact of the development

- 8 Notwithstanding that which is stated on the drawings docketed to this approval of matters specified in conditions, a detailed specification of all external finishes of the houses and flats of the proposed development shall be submitted to and approved by the Planning Authority prior to the use of the finishes in the development. The external finishes of the houses and flats shall be in accordance with a co-ordinated scheme of materials and colours that shall be submitted to and approved in advance by the Planning Authority. This co-ordinated scheme shall in detail promote render as the predominant finish to the walls of the houses, with a use of more than one render colour and with a strongly contrasting difference in the colours such that they will not each be of a light colour. All such materials used in the construction of the houses and flats shall conform to the details so approved.

Reason:

To ensure the development is of a satisfactory appearance in the interest of the amenity of the locality.

- 9 Prior to the commencement of development details of the bin storage facilities for the flatted properties hereby approved shall be submitted to and approved in advance by the Planning Authority. Prior to the occupation of any of the flats the bin storage facilities shall have been formed in accordance with the approved details and made available for use. Thereafter, the storage facilities shall be retained in use solely as bin storage areas.

Reason:

To ensure the provision of adequate bin storage in the interest of the residential amenity of the future occupants of the flats hereby approved and the visual amenity of the locality.

- 10 Prior to the commencement of development confirmation from Scottish Water shall be provided that demonstrates that there is an available connection to the public sewer and that Scottish Water will accept waste from this development. If Scottish Water cannot accept foul drainage from this site, proposals for

alternative arrangements should be provided, prior to the commencement of development and SEPA should be re-consulted.

Reason:

In the interests of ensuring that foul drainage from the site can be accommodated.

- 11 Unless otherwise agreed by the Planning Authority, no house shall be occupied unless and until the amended Phase 1 Drainage Strategy (Waterman) June 2019 has been implemented to the satisfaction of the Planning Authority.

Prior to the commencement of development a Surface Water Management Plan for the housing site hereby approved, with details of all SuDS features/structures to be constructed on the site shall be submitted to and approved by the Planning Authority. This Surface Water Management Plan must demonstrate how onsite SuDS features will integrate with the Blindwells Phase 1 Drainage Strategy (Waterman) June 2019 (as amended on 6 February 2020) and should include technical approval of the Surface Water Management Plan by Scottish Water. Development shall thereafter be carried out in accordance with the details so approved.

Reason:

To ensure adequate protection of the water environment from surface water run-off.

- 12 Prior to the commencement of development, to ensure that the site is clear of contamination, a Geo-Environmental Assessment shall be carried out and the following information shall be submitted to and approved by the Planning Authority:

o Phase I - A preliminary investigation incorporating a desk study, site reconnaissance, development of a conceptual model and an initial risk assessment.

o Phase II - Incorporating a site survey (ground investigation and sample analysis) and risk evaluation. It is required if the Phase I investigation has indicated that the site is potentially contaminated and the degree and nature of the contamination warrants further investigation.

o Phase III - Where risks are identified, a Remediation Strategy should be produced detailing and quantifying any works which must be undertaken in order to reduce the risks to acceptable levels.

Should remedial works be required then, prior to any residential units being occupied, a Validation Report shall be submitted to and be approved by the Planning Authority confirming that the works have been carried out in accordance with the Remediation Strategy.

The presence of any previously unsuspected or unforeseen contamination that becomes evident during the development of the site shall be brought to the attention of the Planning Authority. At this stage, further investigations may have to be carried out to determine if any additional remedial measures are required.

Reason:

To ensure that the site is clear of contamination and that remediation works are acceptable prior to the occupation of any of the residential units.

- 13 Prior to the commencement of development a detailed condition survey of the construction access route from the Bankton interchange shall be jointly undertaken by the developer and East Lothian Council Roads Services. During the period of construction of the development a similar joint inspection shall be carried out to assess the condition of the route on each anniversary of the commencement of development. Any damage identified as a result of construction activities shall be repaired or resurfaced by the developer in compliance with the Council's specifications and requirements at no cost to the Council as Roads Authority.

Reason:

In the interests of road safety.

- 14 No development shall be commenced on site unless and until written evidence that a contract has been entered into for the provision as affordable housing of all of the 60 residential units hereby approved has been submitted to and agreed by the Planning Authority.

Reason:

In order to ensure the development is operated as affordable housing and is therefore compliant with Policy HOU3 of the adopted East Lothian Local Development Plan 2018.

- 15 Prior to the commencement of development details shall be submitted to and approved by the Planning Authority of overlying subsoil/topsoil to be provided to the front and back gardens of the houses hereby approved on a plot by plot basis and on all soft landscaping areas to ensure the provision of a layer of subsoil/topsoil of at least 600 mm in thickness. Thereafter the subsoil/topsoil shall be provided in accordance with the details so approved unless otherwise agreed in writing by the Planning Authority.

Confirmatory testing for both subsoil and topsoil materials is to be included within the Remediation Strategies being produced for the development site, with validation of these results being included within subsequent Verification Reports.

Reason

To ensure the provision of a suitable growing medium for garden areas and other areas of soft landscaping.

7. PLANNING APPLICATION NO. 20/00169/P: ERECTION OF ONE HOUSE, TRIPLE GARAGE AND ASSOCIATED WORKS AT SITE OF THE FORMER OLD SCHOOL MASTER'S HOUSE, WHITTINGEHAME

A report was submitted in relation to Planning Application No. 19/01201/P. Caoilfhionn McMonagle, Planner, presented the report, summarising the key points. The proposed decision set out in the report was for refusal of the application.

In response to questions Ms McMonagle clarified, as detailed in the report, that a new dwelling house would not be supported as it did not accord with relevant policies of the LDP. She confirmed that a previous application had been granted in 2009, for extensions to the then existing house.

Rick Finc of Rick Finc Associates, agent for the applicant, informed Members that the land and property had been kept in good condition by his client after years of neglect. The Planning Act said that applications should be dealt with under the LDP unless otherwise, i.e. material considerations to grant existed. The LDP sought to accommodate rural development. Policies were to prevent illegal development not to frustrate previously approved applications; the principle of development and established use existed here. The development would be good for Whittingehame. There was a lack of material objections. There were special circumstances here and he hoped that Members would support the application.

Mr Finc responded to questions. Regarding an email sent to Members asserting agreement from neighbours he said it had not been his intention to circumvent the process and that this had been dealt with in the applicant's submission. He did not dispute that the deterioration of the building meant that the previous planning permission could not be implemented but stressed that, following advice, a new application had been submitted. On whether the specific needs within Policy DC1 for development had been demonstrated he reiterated that the principle of development already existed. He added that none of the policies mentioned neatly covered this application.

Mr Dingwall responded to Mr Finc's points. He advised Members that legislation stated that an application should be determined in accordance with the LDP unless material considerations indicated otherwise; there was nothing in Mr Finc's submission to substantiate this. His main point referred to the previous planning permission however there was a clear distinction between that application and this one. The previous application was granted for alterations and extensions to an existing house, that permission was extinguished by its demolition. This application had to be considered separately. Mr Finc reiterated that none of the policies stated in the reasons for refusal covered the complex issues around this application. The applicant had taken the Case Officer's advice and submitted a new application. He added that in regard to access rights, this was an opportunity for a planning consent to make good a previous decision.

Local Member Councillor McLennan, not a member of the Planning Committee, referred to the long history of this site. He highlighted the permission given in 2009. This application was a chance to move on; the design was suitable for the area. He felt the objections were not material. On balance, if he had a vote, he would be supporting the application.

Local Member Councillor Kempson felt that granting permission would set an unfortunate precedent. Policy DC1 had to be supported. There had been objections from neighbours despite indications otherwise. She agreed with the officer's recommendation for refusal.

Councillor McLeod referred to the site visit, stating that what was proposed was better than the existing structure. There was a previous planning permission in place. He would be going against the officer's recommendation; he proposed an amendment to support the application.

Councillor Findlay agreed, he felt that a new building would improve the site. He would second Councillor McLeod's proposal.

Councillor McMillan stressed that the Council's policies had to be adhered to. There was no good reason to go against the officer's recommendation for refusal.

Councillor Williamson remarked that there had previously been a house on this site. He felt, given those circumstances, that the application was acceptable so he would not be supporting the officer's recommendation.

The Convener, a Local Member, stressed the need to comply with relevant policies of the Development Plan. He would be supporting the officer's recommendation.

The Convener moved to the vote. He asked Members to vote for the amendment, proposed by Councillor McLeod and seconded by Councillor Findlay, to grant consent.

For: 3
Against: 8
Abstentions: 0

The amendment fell. The report recommendation for refusal was therefore carried.

Decision

The Committee agreed to refuse planning permission for the following reasons:

- 1 The erection of a house on the application site would be new build housing development in the countryside of East Lothian for which a need to meet the requirements of the operation of an agricultural, horticultural, forestry, countryside recreation, or other business, leisure or tourism use has not been demonstrated, and which is not proposed as affordable housing development of an existing rural settlement. The proposal is therefore contrary to Policies DC1 and DC4 of the adopted East Lothian Local Development Plan 2018.
- 2 Given the length of time (10 years) since the house that had previously existed on this site substantially collapsed and the remains removed from site, then it cannot be argued that the house was rendered uninhabitable recently. Therefore, and as what remains on site is the shell of part of that former house which can no longer be regarded as being a habitable house with lawful use rights, then there is no house on the site that is capable of being replaced. Therefore, the proposal does not comply with either criteria (i) or (ii) of Policy DC3 of the adopted East Lothian Local Development Plan 2018.
- 3 The erection of a house on the application site would be new build housing development in the countryside of East Lothian for which a desirable primary use supported in principle by criterion b of Policy DC1 and with benefits that outweigh the normal presumption against new build housing in the countryside has not been demonstrated; and which is not promoted to fund the restoration of a listed building, building of recognised heritage value or significant designated feature of the built or natural environment, the retention of which is desirable. The proposal is therefore contrary to Policy DC5 of the adopted East Lothian Local Development Plan 2018.

8. PLANNING APPLICATION NO. 19/01201/P: ERECTION OF ONE DWELLING HOUSE AT LAND WEST OF 1 MANOR GARDENS, BELHAVEN

A report was submitted in relation to Planning Application No. 19/01201/P. Ms McMonagle presented the report, summarising the key points. The proposed decision set out in the report was for refusal of the application.

David Sillence, Projects Officer – Engineer, responded to questions. The Convener asked, given that this site had 2 previous applications approved, for larger houses, how officers could now say that potential damage to trees meant this application was unacceptable. This had put the Council in a difficult position. Mr Sillence took Members through all the issues in relation to the trees and this site. He explained that inaccuracies in earlier drawings had since come to light. He outlined Policy NH8 of the LDP and the relevant British Standard. The whole site had been excavated, which was a concern and it would be a risk to build on this site due to the proximity of tree roots; the longer term consequences had to be considered. He clarified that the British Standard was not open to interpretation, it was a recommendation to be followed.

Further discussion took place between Members and Mr Sillence. Mr Dingwall gave additional clarification. This was an unfortunate situation. Regarding the previous applications, the decision to grant consent had been taken in good faith, based on inaccurate drawings. Officers had worked very hard to see if there was any possibility of a solution but could not find one.

Gary Fairbairn of Blueprint (Dunbar) Ltd, agent for the applicant, took Members through the timeline of the site's planning history. His clients had purchased the site in 2018. It was at this point it was realised that the previous architect had used a wrongly scaled plan. A new building permit was applied for with the same footprint as approved beforehand. A new Arboriculturalist was brought in and in April 2019 the site was excavated and plotted correctly. Three Arboriculturalists had now indicated that building works could go ahead.

Veronica Brunton, the applicant, stressed they had bought the plot in good faith. They had been working with the Council for 2 years and at no time had there been any indication that they could not build on this site. This process had been very stressful and confusing; their life savings had been used. Neighbours were very supportive of their proposal. She asked Members to go with the professional Arboricultural report and grant consent.

Mr Fairbairn responded to questions. Regarding the trial pits and why contractors had not contacted the Council he stated that there was already planning permission for this site and it was not a condition to inform the Council. The original arboricultural report had been done by a different Arboriculturalist and in 2018 a new survey had been carried out. In 2019 corrected information had been provided to the Council along with a set of drawings. It was not until March 2020 they were told that the Landscape Officer had an issue with the application.

The Convener, a Local Member, stated that the applicant had, in good faith, bought this site. He reiterated his earlier points about advice provided previously by officers and the granting of previous planning permissions. He drew attention to the three arboricultural reports; the amount of encroachment of tree roots was minimal. In his view consent should be granted along with a condition regarding protection of the trees.

Local Member Councillor McLennan, not a member of the Planning Committee, agreed.

Local Member Councillor Kempson remarked that this had been a very difficult application to determine but after considerable deliberation she would support granting consent.

Councillor McGinn endorsed the Convener's view, he felt that the applicants had taken all reasonable steps so he would be supporting the application.

Councillor McMillan agreed. If measures could be put in place to protect the tree roots then he would be prepared to support the application.

Councillor Innes noted that three Arboriculturalists said the development could go ahead, however the British Standard indicated otherwise; there was conflict. If the Committee was minded to support this application then there had to be conditions in place to protect the trees.

The Convener proposed an amendment to support the application with a condition to ensure no disturbance of any tree roots on site; Councillor Kempson seconded this proposal.

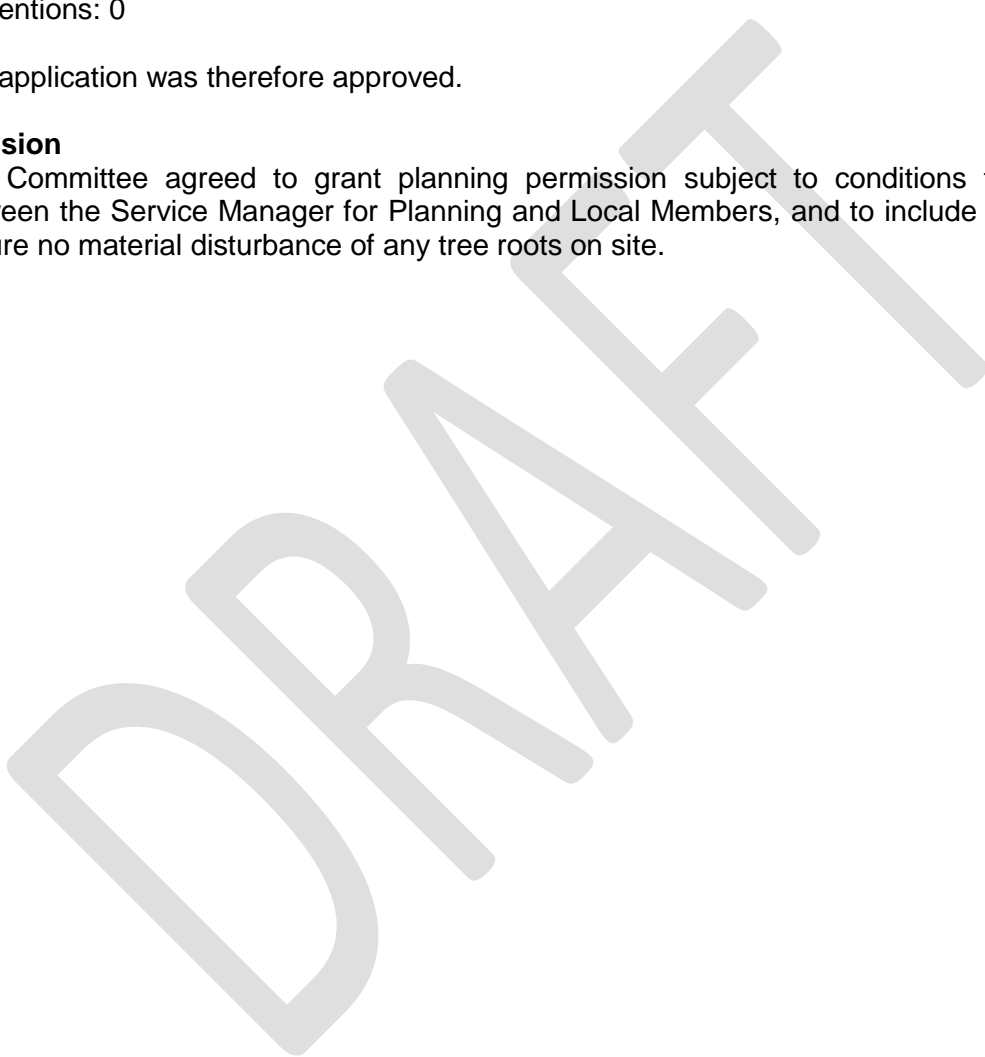
The Convener moved to the vote. He asked Members to vote for his amendment, seconded by Councillor Kempson, to grant consent.

For: 11
Against: 0
Abstentions: 0

The application was therefore approved.

Decision

The Committee agreed to grant planning permission subject to conditions to be agreed between the Service Manager for Planning and Local Members, and to include a condition to ensure no material disturbance of any tree roots on site.



Signed

Councillor Norman Hampshire
Convener of the Planning Committee

REPORT TO: Planning Committee
MEETING DATE: Tuesday 18 August 2020
BY: Head of Development
SUBJECT: Application for Planning Permission for Consideration

2

Application No. **19/01292/PM**

Proposal Erection of 152 residential accommodation and care units to people in need of care (Class 8), a community hub and associated works

Location **Land At Castleton Farm
North Berwick
East Lothian**

Applicant Goldcrest Communities Ltd

Per PPCA Ltd

RECOMMENDATION Application Refused

REPORT OF HANDLING

BACKGROUND

The development proposed in this application is, under the provisions of The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, defined as a major development. Furthermore, by being within the countryside of East Lothian and within the designated North Berwick Countryside Around Towns area, the proposed development is significantly contrary to Policies DC1 and DC8 of the adopted East Lothian Local Development Plan 2018.

Application 19/01292/PM is therefore brought before the Planning Committee for a Pre-determination Hearing prior to the consideration of its merits and determination of the application by the Planning Committee at their meeting immediately following the Pre-determination Hearing, in accordance with the Council's COVID-19 Emergency Recess procedures. The purpose of this report is to provide a description of the development proposal, summaries of the development plan policies and other material considerations including consultation responses and public representations relevant to application 19/01292/PM, and an assessment of the development proposal. The report also sets out the officer's recommendation for determination of the application.

As a statutory requirement for major development proposals this development proposal was the subject of a Proposal of Application Notice (Ref: 18/00008/PAN) and thus of community consultation prior to this application for planning permission being made to the Council.

As an outcome of that, and as a statutory requirement for major development type applications, a pre-application consultation report is submitted with this application. The report informs that a total of some 200 people attended a public exhibition which was held at North Berwick Community Centre between 2pm and 8pm on 20 May 2019, and that 87 feedback questionnaires were completed and returned. A finding of the 87 returned questionnaires is that 80 gave a North Berwick address, 1 a Gullane address and 6 provided no address.

Based on the responses received in the feedback questionnaires, the applicant informs that there were a number of issues raised including the impact on health services, the location and the impact on North Berwick.

As a result of the public consultation it is stated in the pre-application consultation report that the proposed development has been amended as follows:

- (i) confirmation of the number of private accommodation units;
- (ii) removal of reference to a new health centre location pending a final decision by East Lothian Council and the NHS on the future form of provision and location for such in North Berwick;
- (iii) northern boundary building line pulled back from A198 to reduce visual impact of peripheral views across site to North Berwick Law;
- (iv) northern boundary now terraced to soften road / building interface;
- (v) design adjustments to proposed Village Centre buildings to minimise impact upon the surrounding landscape in terms of massing and height;
- (vi) bungalows to the east pulled away from the line of existing trees to provide a larger open space buffer to the eastern boundary and the crown of the field has been reprofiled to reduce the visual impact of the upper storey of the Village Centre;
- (vii) the position and levels of the independent living unit cluster flats have been adjusted to ensure views through the site to local landmarks and vistas;
- (viii) SUDs facilities redesigned; and
- (ix) finalisation of the external architectural style and composition of the proposed Village following extensive building studies within North Berwick for character, scale and materials to be incorporated within the design.

The development for which planning permission was originally sought was of the same character as that which was the subject of the community engagement undertaken through the statutory pre-application consultation of the proposal.

It should however be noted that since the application was first submitted the description of the application has been amended to include 'the provision of 152 residential accommodation and care units to people in need of care (Class 8)' to more accurately reflect what is being proposed. As a consequence, further re-advertisement in the local press and re-notification of neighbours was undertaken.

Following this, revised information and drawings have been received as non-material variations to the proposed development. The variations made are a reduction in height of the main central building and a consequential reduction in parking provision. As a result of the reduction in height of the building the originally proposed care home element of the development has been removed, however otherwise the development remains as originally proposed, for the provision of 152 residential accommodation and care units to people in need of care (Class 8), a community hub and associated works. As a consequence of this further re-advertisement in the local press and re-notification to neighbours was undertaken. Such variation to an application is permitted under the provisions of Section 32A of the Town and Country Planning (Scotland) Act 1997.

The application site is an area of agricultural land with an area of some 7.89 hectares, and is located in the countryside some 0.37 miles to the east of the settlement edge of North Berwick.

The application site is bounded to the north by the A198 public road, to the east by the residential properties of Bass Rock View and a mature tree belt, to the south by agricultural land and to the west by agricultural land, the residential property of 5 Rhodes Holdings, and a public road. The site rises gently upwards in a southerly direction away from the A198, with the highest point being roughly the centre of it, where it then slopes gently downwards to its southern boundary.

The application site is located within the designated North Berwick Countryside Around Towns area.

The application site is within the East Lothian landscape character area of the Coastal Plain, which is described in the Council's approved Special Landscape Areas Supplementary Planning Guidance as being extensive areas of prime agricultural land bounded by clipped hedgerows and occasional stone walls with long range views common to most of the area both to the sea and south to the Lammermuir Hills, emphasising the open, level nature of the coastal plain.

The land of the application site is not within a designated Special Landscape Area. However the eastern edge of the North Berwick Law Special Landscape Area (19) is some 120m west of the site, the southwestern edge of the Tantallon Coast Special Landscape Area (28) is to the north of the site on the other side of the A198 public road and the southeastern point of the North Berwick to Seton Sands Coast Special Landscape Area (26) is to the northwest of the site on the other side of the A198 public road.

There are no listed buildings within the application site, nor are there any in the immediate area. The nearest ones are the properties of Rhodes Cottages some 0.3 miles to the northwest (Category B listed) and Castleton Farmhouse some 0.82 miles to the east (Category B listed).

The site is some 0.7 miles from the southeastern edge of North Berwick Conservation Area, some 1.1 miles from North Berwick Law (a Scheduled Monument and Site of Special Scientific Interest), some 1 mile to the east of the site is Tantallon Castle Scheduled Monument and some 0.8 miles to the southeast of the site is Castle Hill Scheduled Monument

The Firth of Forth Site of Special Scientific Interest (SSSI) and the Firth of Forth Special Protection Area (SPA) are some 460m to the north of the site.

The application site is currently arable agricultural land. The Macaulay Land Use Research Institute classifies the land as being Land Capable of Supporting Arable Agriculture Class 2, that being prime agricultural land capable of producing a wide range of crops with minor physical limitations affecting agricultural use and land that is highly productive.

PROPOSAL

Planning permission is sought for the erection on the application site of 152 residential accommodation and care units to people in need of care (all a use within Class 8 of The Town and Country Planning (Use Classes) (Scotland) Order 1997), a community hub and associated works. The associated works comprise of the provision of allotments, a bowling green, two SUDS basins, vehicular access and hardstanding areas (car parking and footpaths), walls and landscaping.

The applicant's submitted Planning Statement states that it is the intention that at least 1 occupant of each of the 152 proposed residential accommodation and care units must both be aged over 55 and have a pre-existing medical condition that qualifies for treatment before they would be allowed to occupy a unit and as such, this is neither retirement housing nor restricted occupancy market housing, but a specialist class 8 use of accommodation. The Statement advises that of the 152 proposed residential accommodation and care units, 94 would be independent living units, 38 would be assisted living units and 20 would be bungalow type units. The independent living units and assisted living units would be a mix of 1 and 2 bed accommodation units, and the bungalows would have a mix of 2 and 3 bedrooms.

The applicant's agent advises that proposed independent living units and the bungalow units are available for the over 55 aged residents with limited care requirements who choose to take care packages as their needs arise. The independent living units and bungalow units are fully adapted, flexible and future-proofed to enable independent living and ageing for the residents to maximise their capability to be occupied into old age.

The assisted living units are for over the over 55 aged residents who have more complex care requirements, but who are however, capable of living in an apartment environment, with limited kitchen facilities only including a sink, fridge, kettle and microwave, and are likely to have meals brought to them by a care assistant. These units provision is therefore a transition between residing in the independent living units and bungalow units.

The main and largest building on the application site would be located centrally on the northern part of the site, described in the supporting documentation as 'The Village Centre'. It would mainly comprise of a large mostly 3-storey building, but due to the topography of the site would be 2-stories at its west side, built around an internal courtyard. This building would contain at basement level 14 independent living units and at level 0 it would contain 14 independent living units and part of the community hub, which includes a restaurant and bar, dining rooms, shop, cinema/day room and lounge areas, providing future residents with onsite facilities and which would also be open to the public; it would also contain meeting and training rooms, offices, a manager's office, data centre rooms and back of house facilities. At level 1 it would contain the 38 assisted living units and residents lounge areas, and would also include staff bases and formal nurse's stations with drug stores as well as utility rooms.

The building would be articulated with projecting bays and would be clad in a mix of white dry dash render, natural stone cladding and horizontal weatherboarding, and its various pitched roofs would be clad in a mix of grey and terracotta tiles.

At the northwest side of this main building would be formed a glazed atrium which would function as the main entrance to it. This in turn would attach to a single storey building housing a spa and wellness centre, which would contain a gym, studio, treatment rooms and a pool, and these facilities would also form part of the community hub element of the proposed development providing future residents with onsite facilities and which would also be open to the public. The wellness centre would also include a Health Suite comprising consulting, examination and treatment rooms including for occupational and physical therapy and other physical and medical treatments. This building would have a central pitched roof clad in grey tiles and projecting pitched roof bays clad in terracotta tiles. Its external walls would be clad in a mix of white dry dash render, natural stone cladding and horizontal weatherboarding.

To the south and east of the main building would be erected 3 detached flatted buildings each containing 22 independent living units. Each flatted building would be 3-storeys in height and would have external walls clad in a mix of white dry dash render and natural

stone. The roofs of the flatted buildings would be pitched and gabled and clad in red tiles.

To the south and east of the 3 detached flatted buildings would be erected the 20 detached bungalow living units, which would be grouped into 4 clusters. Each of the proposed bungalow units would be single storey in height and would have an attached garage. Each bungalow unit would have external walls clad in a pastel coloured dry dash render. Their roofs would be clad in either grey or terracotta tiles.

Within the site would also be erected a pitched roof substation building, 10 pitched roofed waste store/mobility scooter store buildings, a pitched roof storage building and a pitched roofed car port.

Vehicular and pedestrian access to the site is proposed to be by way of a new access road into the site taken from the A198 public road some 350m to the west of the properties of Bass Rock View. Internal access roads, footways and a total of 219 car parking spaces are proposed to be provided within the site (a mix of resident and visitor spaces) of which 26 would be disabled. 31 of the car parking spaces would be allocated for staff use.

In the submitted Transport Assessment it is stated that the applicant proposes a residents shuttle bus which would operate regularly throughout the day between the site and North Berwick town centre. The service would pick up at various points within the site and the town centre which would be advertised within the community.

A hard and soft landscaped garden area is proposed for the north part of the site to provide for a softened landscaped corridor where the site meets the A198. Woodland tree and hedgerow planting is proposed to be undertaken at the southern and western boundaries of the site. A woodland would be created along the eastern boundary of the site on the south side of Bass Rock View within which would be formed a woodland walk. Within the site itself would be tree and hedge planting, communal green spaces, allotments, a bowling green and a sensory garden.

The following supporting reports and statements have been submitted with the application:

- Design and Access Statement;
- Economic Benefits Assessment;
- Transport Assessment;
- Planning Statement; and
- Health Impact Assessment.

The submitted design statement informs that the proposed development can be defined as a continuing care retirement village. It states that housing need later in life can no longer be equated with a need for care and support, as this fails to recognise the wide-ranging housing needs and preferences of older people. Traditional models of sheltered housing are being replaced, in part because they are unable to adapt to the care and support some older people need in order to avoid an unwanted move into residential care, or because of their failure to recognise the delivery of housing need later in life. In the Design Statement it is also stated that government policy is that elements of care should be delivered to the home. This has led to the continuing care retirement village model, which is being developed by various groups in England.

The design statement also states that as part of the pre-application process, the applicants considered alternative sites to the south, west and east of North Berwick. It informs that in their view there are no suitable sites of the size required available that are not allocated for alternative uses or in the control, through either ownership or under option, to house builders.

The submitted Economic Benefits Assessment advocates that the proposed development would generate 85 jobs per annum during construction and 120 jobs during operation. It also advocates that it would generate £3.2 million per annum in GVA (Gross Value Added) to the economy and cumulative income to local government over 20 years of £2.9 million. It also suggests that the proposed development could result in NHS and adult social care savings as people living in continuing care retirement village developments require less formal care than other people of similar age, and hospital stays can be reduced from an average of 14 to 2 days and the rates of resident falls are significantly lower compared to general housing.

The submitted Transport Assessment informs that a footway would be introduced on the south side of Tantallon Road to connect the internal site footway network with the adopted infrastructure. The applicant proposes a residents shuttle bus which would operate regularly throughout the day between the site and the town centre. The service would pick up at various points within the site and at various points within the town centre which would be clearly advertised within the community. In accordance with local and national transport policy, an assessment of the development proposals has been undertaken for all sustainable modes of travel. This indicates that the current walking cycling, and public transport provision in the area is sufficient to accommodate the expected future demand from the site. As part of the development proposals, additional pedestrian and cycle parking facilities will be introduced internally to further promote connectivity with the surrounding area. Furthermore, a Residential Travel Plan Leaflet will be circulated to residents upon occupation and a Travel Plan Framework will be considered for staff focused on reducing reliance on single vehicle occupancy. The assessment of the local road network supports access to the development and concludes that the traffic generation can be accommodated in terms of capacity. As a result, it is considered that the introduction of the development traffic will have no detriment to existing road users or cause additional delay. The Transport Assessment concludes that the development site would be accessible by sustainable modes of travel and integrate well within the existing transport network with the introduction of additional non-car promoting measures. In addition, the site can be accessed safely from the adjacent road network by private vehicles without compromising the safety or efficiency of existing road users.

The submitted Health Impact Assessment states that it is anticipated that the incoming residents will register as new patients at the North Berwick Group Practice. It advocates that the surgery has capacity to meet this increased demand when compared to the national average and that this increased patronage will improve the long term viability, and potentially the level of funding and service provided from this facility in the future. It further states that at the same time, the incoming population will also be supported through onsite services which will effectively reduce the burden on the local health service for minor complaints while also improving the health outcomes for the population.

DEVELOPMENT PLAN

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Development Plan 2018.

There are no policies of SESplan relevant to the determination of this application.

Proposal HSC2 (Health Care Facilities and Proposals) and Policies DC1 (Rural Diversification), DC8 (Countryside Around Towns), DC9 (Special Landscape Areas), CH1 (Listed Buildings), CH2 (Development affecting Conservation Areas), CH4 (Scheduled

Monuments and Archaeological Sites), NH1 (Protection of Internationally Designated Sites), NH2 (Protection of Sites of Special Scientific Interest and Geological Conservation Review Sites), NH5 (Biodiversity and Geodiversity Interests, including Nationally Protected Species), NH7 (Protecting Soils), DP1 (Landscape Character), DP2 (Design), HOU6 (Residential Care and Nursing Homes – Location), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of the application.

Also relevant to the determination of the application is the Council's approved Countryside and Coast Supplementary Planning Guidance and Special Landscape Areas Supplementary Planning Guidance.

Material to the determination of the application are Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Scottish Government's policy on development affecting a listed building and development within a conservation area given in Scottish Planning Policy: June 2014.

Scottish Planning Policy echoes the statutory requirements of Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that in considering whether to grant planning permission for development which affects a listed building or its setting a planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Scottish Planning Policy echoes the statutory requirements of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that a planning authority must have regard to the desirability of preserving or enhancing the character or appearance of a conservation area in exercising its responsibilities in the determination of any application for planning permission for development affecting a conservation area. It is stated in Scottish Planning Policy that proposed development within conservation areas and proposals outwith which will impact on its appearance, character or setting, should preserve or enhance the character and appearance of the conservation area. Proposals that do not harm the character and appearance of the conservation should be treated as preserving its character and appearance.

Material to the determination of the application is Scottish Planning Policy: June 2014.

Paragraph 28 of Scottish Planning Policy states that the planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost.

Paragraph 32 states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Proposals that accord with up-to-date plans should be considered acceptable in principle and consideration should focus on the detailed matters arising. For proposals that do not accord with up-to-date development plans, the primacy of the plan is maintained and this SPP and the presumption in favour of development that contributes to sustainable development will be material considerations.

Paragraph 76 states that in the pressurised areas easily accessible from Scotland's cities and main towns, where ongoing development pressures are likely to continue, it is important to protect against an unsustainable growth in car-based commuting and the suburbanisation of the countryside, particularly where there are environmental assets such as sensitive landscapes or good quality agricultural land. Plans should make provision for most new urban development to take place within, or in planned extensions to, existing settlements.

Paragraph 80 states that development on prime agricultural land should not be permitted except where it is essential:

- as a component of the settlement strategy or necessary to meet an established need, for example for essential infrastructure, where no other suitable site is available; or
- for small-scale development directly linked to a rural business; or
- for the generation of energy from a renewable source or the extraction of minerals where this accords with other policy objectives.

Paragraph 145 states that where there is potential for a proposed development to have an adverse effect on a scheduled monument or on the integrity of its setting, permission should only be granted where there are exceptional circumstances.

Paragraph 203 states that planning permission should be refused where the nature or scale of proposed development would have an unacceptable impact on the natural environment.

Scottish Planning Policy states that development outwith a conservation area that would impact on the setting of the conservation area should in terms of its design, materials, scale and siting be appropriate to the setting of the conservation area.

REPRESENTATIONS

A total of 509 representations to the application have been received. Of those representations, 506 raise objection to the proposals and the main grounds of objection can be summarised as follows:

- * The proposed development would have a significant and adverse landscape and visual impact on what is one of the most scenically beautiful coastlines in the UK;
- * The proposed development would result in an imposing eyesore, not in keeping with the scale and landscape character of this area. It would impact of the setting of world class landscape features such as North Berwick Law, Tantallon Castle and the Bass Rock. The magnitude of these visual impacts will be severe and long lasting, and would detract from the very qualities that people visit the area for;
- * The development would cause irreparable harm to the landscape character of the area including on the Coastal Plain Landscape Character Area and on the surrounding Special Landscape Areas;
- * The proposed development would have a detrimental effect on the landscape character of the area. It would be visually intrusive on the undeveloped Eastern approach to North Berwick along the A198 and also to properties adjacent to the site;
- * The eastern approach to North Berwick from the A198 includes coastal and countryside views, including south to the Lammermuir Hills and east to the North Berwick Law and this landscape would be destroyed by the proposed development;
- * The visual impact in the submitted EIA Report is inaccurate;
- * There is no sufficient mitigation for the impact of the proposed development;
- * The scale and massing of the proposed scheme is completely out of proportion to any of the surrounding buildings (which are predominantly of historic rural use or low rise period cottages). The proposed scheme would be a significant blight on both the local area, but also the wider East Lothian coastline;
- * Size and scale of the proposed development is grossly inappropriate and would be gross

overdevelopment;

* This is a significant size of urban development in the countryside outwith the North Berwick boundary;

* In its context, the proposed development would appear as disproportionately large; and inwardly cohesive (to an extent even greater than Archerfield). It would present itself as a uniformly built chunk of ribbon development. To the passer-by or person approaching North Berwick by road, it would be a sudden urban scene. Completely at odds with what he or she might properly expect. Which would be a gradual organic changeover from agricultural buildings in an open landscape to a slow increase in density of typical coastal and countryside residences;

* The design of the development would detract from the area and look like barracks. The design and scale of the proposed buildings, with their positioning and height would make for an over-bearing development;

* The design of the development makes no concession to the proposed location of great natural character. The proposed development is generic and not demonstrably different from any development one might see on any brownfield location around the UK. The scale (all dimensions) of the development is entirely inappropriate to this rural location with a generic multi-story building proposed that will be visible from great distances – not least the top of North Berwick Law;

* The proposed development would have a hugely adverse impact on the night-time darkness of this area and be the source of a significant amount of light pollution;

* The proposed development is located in protected Countryside Around Town / open countryside and not within an urban boundary; The proposed use is not for agriculture, forestry, infrastructure or countryside recreation or for business use that has an operational requirement for a countryside location. There is no clear operational requirement for the proposed location and there may be suitable other sites available;

* The proposal is contrary to East Lothian LDP Policy DC8, Countryside Around Towns, as the proposed use is not one that would be supported for agriculture, forestry, recreation and tourism or is not an essential infrastructure project;

* The proposal is contrary to LDP Policy DC9 as the harm of urbanisation of the views to North Berwick Law, (within the Special Landscape Area) are significant and would affect the amenity of local residents, visitors and potentially damage the local economy which thrives on high quality landscapes such as North Berwick and its coast. There are no material considerations which would outweigh the primacy of the up to date development plan in this case;

* No case has been made for this application on countryside land for the use of agriculture, horticulture or forestry. The application would result in the considerable loss of agricultural land stock in the area. There is no operational requirement for it;

* Question the need for the type of development proposed at this isolated location in a sensitive landscape on the protected North Berwick Coast, when there are evidently sites already identified to meet the need (at Blindwells for example), or as has been stated by the Council in its LDP, on sites that can be regenerated within towns and close to existing services and facilities. The scale of the proposal and its perceived need is not realistic for this location;

- * If approved, this application would set a bad precedence for the development of new housing in the countryside. Developers would be open to developing on all Countryside Around Towns protected land and the East Lothian Local Development Plan would be considered obsolete;
- * The application contravenes policies NH1, NH7, HOU6, T1, T2, DC1 and particularly DC8, elements of DC9, CH4 and DEL1. It is also contrary to number of objectives and supporting statements in the East Lothian Local Development Plan and the relevant supplementary guidance.
- * There would be resulting environmental impact including on drainage, potential loss of trees, wildlife, air quality, noise, dust; including impact on designated sites, regional and local;
- * Harmful impact on listed buildings and Scheduled Ancient Monuments, such as Tantallon Castle and North Berwick Law;
- * The development would be clearly seen from the beach and harbour area and could therefore have a negative effect on North Berwick Conservation Area;
- * The application site is isolated by $\frac{3}{4}$ mile of open countryside;
- * There would be a major impact on local GP services, the current GP practice is already overstretched and cannot accommodate future residents of the proposed development;
- * The development would bring a significant number of extra people who make a disproportionate demand on the health care provision and put an increase pressure on a failing service;
- * On the subject of the doctors, the application documents erroneously states that there is capacity for the additional patients based on there being 9 doctors in North Berwick. There are 9 but only 2 of them are full time meaning that there are, in fact, only 6.25 full time equivalents and, using that number instead, it proves that the doctors are already over capacity and that is before adding an aged population load which would have an above average load on their services;
- * The proposed development would overload services in North Berwick including doctors and dentists;
- * The proposed development would have a detrimental impact on existing services and infrastructure and the Development Plan does not allow for the pressure likely to be placed on these services as a result of this large scale urban development;
- * The Climate Emergency requires the increased use of land for carbon reducing horticulture not further energy consuming developments;
- * This proposal runs contrary to the recognition of a "Climate Emergency" declared by ELC;
- * The extension of the North Berwick urban footprint to this location would pave the way for further development infilling the remaining gap between this development and the next built-up area along the A198 road, the farm/steading at Gin Head and Tantallon Castle;
- * The design, layout and landscape impact are completely unacceptable. The development is not sustainable, particularly with regard to reliance on private car use. It has not been demonstrated that there will be no unacceptable adverse impact on the local economy or

provision of services;

* The proposed development would be have a harmful impact on the amenity of neighbouring residential properties;

* There would be a harmful impact on biodiversity and the development would lead to the loss of valuable foraging grounds for a number of Firth of Forth SPA species, including the near threatened Curlew;

* The proposed development would add more traffic onto the road network, both during construction and on occupation and would be dangerous;

* The application is centred around essential car ownership which is not compatible with the declared Climate Emergency by East Lothian Council;

* The application would result in considerable additional traffic along the A198 to North Berwick which is also the John Muir cycle way. Additional traffic along this section of the cycle way will further discourage its use and sustainable transport;

* Result in compounding existing car parking problems in North Berwick;

* There is a lack of regular public transport which would force those residents with a car to take frequent trips to the high street in North Berwick. In an era of climate change where government policy is focused on reducing car journeys, particular those of a few miles or less, the location is completely at odds with the direction in which the world is and should be moving. The location will simply encourage additional car trips and add to the already over congested North Berwick high street;

* It is unlikely that staff for the facility would come from the local area and therefore would have to travel to work creating more congestion on the local roads and rail service;

* There is not sufficient public transport to serve the site;

* There would be an irreversible loss of prime quality agricultural land contrary to LDP Policy NH7. The site also forms part of the Natura 2000 network;

* The application constitutes a 'significant' departure to the recently adopted East Lothian Local Development Plan and as such should be refused;

* The East Lothian Local Development Plan is new and the proposal goes against many policies, the site is not identified for development;

* The material considerations being put forward by the applicant to depart from the East Lothian Local Development Plan are not of sufficient weight to permit a significant departure from the adopted policies;

* Whilst Scottish Planning Policy promotes 'sustainable development' this must not be at the expense of the high quality environment and development proposals must be considered on balance with this principle;

* This is a wholly inappropriate development. It is not the right development in the right place, nor is it a sustainable development whereby the planning authority can simply set aside the development plan and grant permission on the balance of the material considerations put forward by the applicants. The planning authority should carefully consider the suitability of the plans for this sensitive location and refuse planning permission;

- * The proposal is not located in a strategic location as directed by SESplan;
- * Development on this scale should have been considered as part of the Local Development Plan process, if it wasn't then it must wait until the next Local Development Plan if the applicant still wants to float the notion;
- * The proposed development is detached from the body of the town, making it even more incongruous. Residential and care facilities for older people should be well integrated with the general community. In its location the present proposal is more reminiscent of a Victorian institution designed to isolate its inmates from society in general;
- * The application site is remote and relatively inaccessible for anybody who is infirm or immobile;
- * There is no evaluation of alternative sites. This should be based on a range of factors including the needs assessment. There is nothing to justify this site above all others. This site must be assumed to be for sale by a willing owner - that is not justification, it represents a convenient factor but indicates speculation rather than justification or credible site selection;
- * The development would lead to drainage and flooding problems as there is no capacity to serve it;
- * The proposed development would permanently destroy the landscape and be harmful to tourism;
- * There would be limited economic benefit and the proposed development would not benefit the wider community;
- * There is limited evidence to support the applicants claim that the wider benefits for local residents via health, wellbeing and community use will be accommodated in the development as the model appears to be a 'retirement village' and by virtue of its proposed location would encourage more, not less, vehicular travel in the surrounding area;
- * There is no justification for the proposed number of 'accommodation units' and what controls/checks the planning system can make to ensure these would be allocated to local residents seeking such care;
- * The developer's Health Impact Assessment (HIA), as presented, is entirely self-serving;
- * The majority of elderly in North Berwick would not be able to afford the cost of the properties nor the maintenance charges;
- * There is limited evidence to support the applicants claim that the wider benefits for local residents via health, well being and community use would be accommodated in the development as the model appears to be a 'retirement village' and by virtue of its proposed location would encourage more, not less, vehicular travel in the surrounding area; and
- * All current research is extolling the virtue of mixed age communities whether in houses or flats. For practical reasons (younger members can assist the elderly) and also for social/emotional ones (talking, bonding, reducing loneliness and mental health issues). This development on the outskirts of the town will create a village in itself where residents will not feel part of North Berwick and if aged and infirm will never become part of it;

The remaining 3 representations raise neither objection nor support to the application, and

highlight inaccuracies with the application documentation. This has since been corrected.

COMMUNITY COUNCIL COMMENTS

North Berwick Community Council, as a consultee on the application, raises objection to the planning application on the following grounds:

- The application is lacking both a needs assessment and a site assessment. There is no evidence that the developers considered alternative sites that might have been less controversial (other than the even more controversial one across the road).
- The East Lothian Local Development Plan does not foresee any such development on this site. Consultation for this plan stretched over 4 years and there was plenty of opportunity to take part in this, but the developers did not make any attempt to engage in this process. A member of the community said that ignoring the LDP would undermine the genuine participation of the community in the LDP process. This they felt would be regarded as a breach of trust.
- While the applicant's submitted Planning Statement claims that "This [application] has been the subject of full public consultation and has been amended to reflect concerns and issues raised through that process" the Health Impact Assessment admits "There has been no engagement with the community other than an open meeting as part of the pre-application process".
- The intended site is designated as "Countryside Around Towns" (ELLDP DC8), and while it could be argued that condition "ii) required for community uses" is fulfilled by the building of a care home and accommodation for elderly people, the planning application very clearly does not fulfil the central condition: "Any new development must not harm the landscape setting of the countryside location and must be of a scale, size and form that would not harm the objectives for the countryside around towns designation." Scale and size of the main building and the three apartment blocks do very much harm to the character of the site.
- The site is in a prominent position on the A198, which is a major tourist route and the envisaged buildings would totally destroy the views that are cherished by visitors and locals alike. Furthermore, views would also be destroyed from the John Muir cycle path past Rhodes Farm and from much of the Glen golf course. The Environmental Impact Assessment plays down the destruction of views in sometimes very obvious ways. Of the Glen golf course it claims that although sensitivity is medium to high, the impact is only medium, because of the few trees that are to be planted on the northern boundary of the site, and states that "Photographs 22 & 23 show views from the golf course." However, photo 23 is missing from the report, and for good reason, since the impact on the views from the 5th, 6th and 7th hole would be very high indeed. For the houses of Bass Rock View the claim is most preposterous, since the report argues that views from the front door to Bass Rock are already hampered by trees, and views to the north would not be impacted, and hence "the magnitude of change would be Medium". But for any house owner the important views are the ones from the living room and the back garden – and these are currently uninterrupted to the Law, but would be totally restricted to the village buildings.
- The Health Assessment claims that "The siting and orientation of the built environment celebrates and enhances views to striking local landmarks such as North Berwick Law and Bass Rock" and the Planning Assessment that "The Environmental Impact Assessment concludes that, with appropriate mitigation, the proposed development will not have a significant adverse impact". The fact is that the intended buildings will make the most of the views to striking local landmarks for the care home residents, but destroy them for everybody outside. Furthermore, the so called mitigation measures foreseen (a few trees and some low Ha Ha walls) are in no way "appropriate", but are again only designed to make

the most of the views outwards, but do nothing to hide, or distract from, the main building and the apartment blocks, which, being up to four floors high, are so out of scale for the countryside.

- The site in question is most definitely Prime Quality Agricultural Land (category 2) as defined by The James Hutton Institute. Appendix 3, page 219, of the East Lothian Local Development Plan (ELLDP) adopted by ELC in September 2018, confirms this fact and further clarifies that Prime Quality Agricultural Land includes Classes 1, 2 and 3.1. Class 2 is fertile, food producing land, a finite and increasingly valuable resource. The developers do not acknowledge this fact in any of their submitted documents. It is their intention, should they receive permission for this application, to concrete over 7.88ha (approx. 20 acres), meaning that this valuable asset would be irretrievably lost.
- Furthermore, wading birds, including the endangered red listed curlews, winter on the site.
- There is also the fear that the development would set a precedent, and a ribbon development would ensue all along the A198 between North Berwick and Castleton.
- A major consideration is that the site is so far out from the town and is effectively a ghetto for elderly people with no chance for them to mingle with younger people on site, other than specific visitors, and therefore creates social isolation.
- The plan foresees 214 parking spaces and garages for a total of 116 Independent Living Units (it should be safely assumed that the residents of the 60 care rooms and the 36 assisted living apartments are not driving cars anymore). Even if 40 are foreseen for staff, this still leaves 174 spaces for 116 apartments, an average of exactly 1.5 per apartment. This, together with the fact that the minimum age for moving in is only 55 years, suggests that the majority of the development is not about care for the elderly, but about (expensive and exclusive) additional housing.
- However, for those residents who do not own a car and are most in need of accessible transport options, there are only 7 buses per day in the week and 2 on Sundays to connect to North Berwick. Goldcrest is promising a shuttle bus, but there is no confirmation how frequent and convenient that would be and who it would serve.
- The other key issue, apart from the location of the development, is the impact on health and care services in North Berwick, which support everyone one of us in North Berwick, all ages, all health conditions. The community is strongly supportive of the need to support and enhance our primary and social care services and this is a priority. The view was confirmed at the community meeting in no uncertain terms. Concerns were raised by local GPs who described the current situation as a nightmare and that they are pushed to breaking point. Our discussions with groups of local older people who the proposers would probably consider as potential buyers or residents, and with people in NB care homes shows that whilst people agree there is a clear need for housing options and choices with a range of levels and types of care provided, people rely very heavily on primary care and care services at home. They were deeply concerned about the impact of the proposals on current services which would affect the whole community. They felt that the risks posed to primary care and current health and social care services far outweighed any benefits of the proposal and that options should add to not undermine current provision.
- The Health Assessment claims that the local surgery has a spare capacity of 1,211 patients. However, this is based on wrong data, since it assumes that there are 9 full-time GPs, while in reality only 2 work full time, which equates to 6.25 full-time GPs. This means the surgery is already oversubscribed by 2,097 patients, and struggles to cope with the current patient load. The development would attract some local people to move in, but the

majority of residents will come from outside North Berwick, and being all elderly, will increase the demand on the surgery over proportionally to their number. Until the NHS makes provision to extend the surgery, adding to the pressure on the health centre with so many new elderly people would be irresponsible and to the detriment of the community, as doctors pointed out in the public meeting.

- Local social care providers have raised concerns with Members of the CC about the impact of this proposal on their ability to retain staff and meet increasing demand. In support of this, a recent report by the Care Inspectorate and SSSC shows that care homes for older people and care at home struggle to recruit staff, and that this gets worse year by year: “At 31 December 2017, 38% of [care] services reported having vacancies. This was an increase of 2 percentage points on the proportion of services with vacancies at 31 December 2016 and an increase of 3 percentage points from 2015 (35%).” (<https://data.sssc.uk.com/images/StaffVacancies/Staff-vacancies-in-care-services-2017.pdf>). If Goldcrest were able to recruit staff for their proposed facility, it is highly likely that this would be at the expense of a wide range of current providers, reducing access to staff, especially trained and experienced staff, and undermining the strong and stable teams that are essential to providing good quality care in the community. This will also have negative impacts on unpaid carers - families and friends who are already struggling.

- Developing an effective health and social care system requires services that are connected, planned and properly resourced to ensure quality and sustainability. The community and local services are working with the H&SCP on the delivery of health and social care services. Carers, older people and local GPs are very concerned that there has been no attempt by the proposers to engage in this. We think that a genuine and serious proposal would have involved such engagement or at least an approach to the Community Council about the impact on the community.

- A final major consideration is the need for affordable housing for staff employed by the care village. The Planning Statement claims that the development will create local jobs, but the mix of qualifications needed there will mean that the majority of staff will have to be recruited from outwith North Berwick and will either have to travel here or, preferably, find housing locally. Many of these jobs will be relatively low paid, and therefore the pressure on affordable housing will increase even further from the already poor current situation.

- the removal of the care unit has eliminated one of the real benefits that this proposal initially had by providing residents moving there with the assurance that they could spend the rest of their lives in this environment. Without the care unit everybody needing more than assisted living will have to move again, away from their new home and newly found friends, into a proper care home, where they will be a stranger again.

ENVIRONMENTAL IMPACT ASSESSMENT

Under the provisions of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 the proposed development falls within the category of a Schedule 2 Development, being one that may require the submission of an Environmental Impact Assessment (EIA). On 18 January 2019 the Council adopted a Screening Opinion that an Environmental Statement was required and a subsequent Scoping Opinion (dated 8 May 2019) setting out the matters to be considered in the Environmental Statement, including biodiversity/ecology, traffic and transportation, air quality, noise nuisance, landscape and visual impact assessment, geology, hydrology and hydrogeology, land contamination, and archaeology/cultural heritage matters.

An Environmental Impact Assessment (EIA) Report was submitted to the Council on 20 January 2020, and has been duly advertised and consulted on.

The submitted EIA Report contains chapters on the method and approach to preparing the Report, the planning policy context, noise and vibration, air quality, landscape and visual impact assessment, ecology, ornithology and nature conservation, cultural heritage, traffic and transport, schedule of mitigation residual and cumulative effects.

Subsequent to the EIA being submitted, and being advertised and consulted on, it became apparent that some chapters needed updating, text was incorrect, needed clarification or was missing from the EIA Report. This was corrected with the submission of revised and additional information and the EIA Report was again duly advertised and consulted on.

Due to non-material amendments being made to the planning application one of the EIA chapters needed updating. On submission of the updated chapter the EIA Report was again duly advertised and consulted on.

As required by Regulation 5(5)(b) of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017, to ensure the completeness and quality of the EIA Report, the applicant has submitted with it a table outlining the relevant expertise or qualifications of the project team that has contributed to the EIA Report. Based on this submitted information, it can be reasonably concluded that the authors are suitably qualified.

Regulation 4(2) and 4(3)(a) to (d) require that an EIA must identify, describe and assess in an appropriate manner, in light of the circumstances relating to the proposed development, the direct and indirect significant effects of the proposed development on the factors and the interaction between those factors, and the factors are – (a) population and human health; (b) biodiversity; (c) land, soil, water, air and climate; and (d) materials assets, cultural heritage and the landscape.

In line with the Scoping Opinion, the EIA Report has considered the likely significant effects from noise and vibration, air quality, landscape and visual impact assessment, ecology and nature conservation, archaeology and cultural heritage and traffic and transport.

The EIA Report finds that:

- * Noise - The assessment of noise from road traffic concluded that the both during construction and post-development phases, the noise effects were found to be not significant. This is subject to the completion of a Construction Environmental Management Plan (CEMP) which will outline methods to be employed to minimise construction noise at neighbouring properties.

- * Air Quality - the proposed development would not introduce new receptors into an area of poor air quality.

- * Landscape and visual - With the implementation of mitigation measures the predicted residual effects on landscape and visual receptors will be low in the majority of cases, however the location of the proposed development site on currently open agricultural land, will present a change within the landscape.

- * Ecology and nature conservation - With the implementation of mitigation measures no residual effects are predicted on the ecology of the site and wider local designations.

- * Archaeology and cultural heritage - No significant direct impacts or indirect impacts (upon the setting of heritage assets within the wider landscape) are predicted, and it is considered that, through application of any required mitigation measures, the proposed development will not result in any significant residual effects on cultural heritage.

- * Access traffic and transport - To enhance the operation and safety of the construction phase, a Construction Traffic Management Plan (CTMP) as part of a wider CEMP would be developed and implemented to the satisfaction of East Lothian Council. The CTMP would detail any mitigation measures deemed necessary to remove, reduce or offset any temporary adverse effects of construction vehicles and operations and would detail

information on operational times and haulage routes. Following the implementation of mitigation proposed it is not predicted that the proposed development would result in significant environmental effects from traffic and transport.

The EIA Report concludes that subject to the relevant mitigation the proposed development would not have any significant effects.

PLANNING ASSESSMENT

The considerations in this case are whether, having regard to national, strategic and local planning policies, guidance and other material considerations, the principle of the proposed 152 residential accommodation and care units to people in need of care (Class 8), a community hub and associated works is acceptable, including whether the proposed development would be of an appropriate scale and character for this countryside location within the North Berwick CAT area, whether the proposed development would result in harmful impacts to the landscape character of the area including the special character of the North Berwick Law and Tantallon Coast Special Landscape Areas or to the setting of North Berwick Conservation Area, whether the proposed development would result in harmful impacts to the setting of the Scheduled Ancient Monuments of North Berwick Law or Tantallon Castle, whether the proposed development would be harmful to the setting of any nearby heritage assets in the form of listed buildings, whether the proposed development would harm the conservation objectives of the Firth of Forth Site of Special Scientific Interest (SSSI) and the Firth of Forth Special Protection Area (SPA), whether the proposed development would lead to a loss of prime agricultural land, whether the proposed development would result in harmful impacts to the amenity of neighbouring properties and whether the development could be suitably serviced, and provided with a satisfactory means of vehicular access and provision for on-site parking, and if not whether other material considerations justify approving the application contrary to the development plan.

PROPOSED USE AND PRINCIPLE OF DEVELOPMENT

The proposal is for the erection of 152 residential accommodation and care units to people in need of care (all a use within Class 8 of The Town and Country Planning (Use Classes) (Scotland) Order 1997), a community hub and associated works. The associated works comprise of the provision of allotments, a bowling green, two SUDS basins, vehicular access and hardstanding areas (car parking and footpaths), walls and landscaping. The occupants of the proposed units must be aged 55 or more and have a pre-existing medical condition that qualifies for treatment before they would be allowed to occupy a unit.

Class 8 of The Town and Country Planning (Use Classes) (Scotland) Order 1997) defines care as meaning personal care including the provision of appropriate help with physical and social needs or support, and includes medical care and treatment.

The proposed 152 residential accommodation and care units to people in need of care by their functional nature meet the definition of a Class 8 residential institution use. With the inclusion of communal facilities for residents and internal 'street' accesses and their physical and functional linkages to the proposed hub of service facilities including administration offices, consulting, examination and treatment rooms for occupational and physical therapy and other physical and medical treatments, drug stores, restaurant and bar, shop, cinema room and lounge areas, swimming pool and gym would amount to the additional operation of a residential institution use of the site that would be within the definition of a Class 8 use.

Moreover, in order to satisfy the definition of care for a Class 8 residential institution use at least one occupant of each of the 152 residential accommodation and care units would have to be in need of medical care and treatment as well and be 55 years of age or older.

Should planning permission be granted it would be necessary for the applicant to enter into

an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997, or by some other appropriate agreement, to control the occupancy of each of the 152 residential accommodation and care units. The control would be that one or more of the occupiers of each and every one of the 152 residential accommodation and care units would have to be aged 55 or over, would have to be in need of care of a type with the objective of relieving individuals who are incapable of living independently by reason of any physical disability or any permanent or recurring physical illness or condition, including individuals suffering from the physical infirmities of age.

The applicant has advised they are willing to enter into such an Agreement.

By being within the countryside, the land of the application site is covered by Policy DC1 of the adopted East Lothian Local Development Plan 2018. The Local Development Plan does not allocate the land of the site for development. However, Local Development Plan Policy DC1 sets out controls for development in the countryside, stating this will be supported in principle where it is for:

- a) agriculture, horticulture, forestry, infrastructure or countryside recreation; or
- b) other businesses that have an operational requirement for a countryside location, including tourism and leisure uses.

The proposed development would not be for agriculture, horticulture, forestry, infrastructure or countryside recreation use. Neither would it be a tourism or leisure use, or another business use with an operational requirement for a countryside location.

By being within the designated North Berwick Countryside Around Towns (CAT) area, the land of the application site is also covered by Policy DC8 of the adopted East Lothian Local Development Plan 2018. Policy DC8 states that new development in designated Countryside Around Towns (CAT) areas will only be supported in principle where it is required for green network purposes, community uses, rural business, tourism or leisure related use or essential infrastructure with a clear operational requirement for that particular location and there is other suitable sites. Any new development must not harm the landscape setting of the countryside location and must be of a scale, size and form that would not harm the objectives for the countryside around towns designation.

The proposed development would not be for green network purposes, community uses, rural business, tourism or leisure related use or essential infrastructure with a clear operational requirement for its particular location. This is acknowledged in part 7.11.2 of the applicant's submitted EIA Report where it is stated that "At present the site is designated as "Countryside Around Towns" and the Proposed Development will not meet the requirements of the policy for permitted development." The proposed development does not meet the criteria of Policy DC8.

Whilst acknowledging this conflict with the development plan, the applicant seeks to argue that there is a need for this facility, and that there are no other suitable allocated sites. They also make reference to Proposal HSC2, which advises that NHS Lothian has identified, amongst other things, the following proposals within East Lothian as part of its modernisation agenda and the delivery of these is supported by East Lothian Council:

* Significant increases in care home capacity are unlikely to be required in the future as the Partnership increases capacity to care for people at home. However, significant increases in housing with care capacity to meet higher level needs will be required;

* The Partnership will support provision of facilities such as 'community hubs' or multi-use areas where such activities can take place for all age groups and client groups.

In terms of other suitable sites, the applicants submitted Planning Statement and the

submitted EIA Report both state that alternative sites were considered for the proposed development, to the south, west and east of North Berwick, and that there are no suitable sites of the size required available that are not allocated for alternative uses or in the control, through either ownership or under option, to house builders.

Three of the alternative sites listed, land at Ferrygate farm, land at Gilsland and land at Mains Farm are allocated development sites, with detailed planning permission/approval of matters specified in conditions permission and are either currently under construction or built out, and therefore cannot realistically be taken to be potential sites for this proposed development.

Of the other two alternative sites listed, 'land north of A198 east of town / north of Abbotsford Road west of town' and 'land south of Mains Farm and south / southeast of town', the applicant's reasons given for discounting these are "General Local Development Plan countryside development policy restriction on sites not with permission / allocation" and "Countryside around Towns designation".

However the land the subject of this application, by being in the countryside covered by Policy DC1 and in the designated North Berwick CAT area covered by Policy DC8, is subject to the same Policy requirements as these discounted sites. Therefore as the applicant discounted those alternative sites due to these Policy designations, it is unclear why then they assert that the application site is suitable for the proposed development when it is covered by the same Policies designations.

Moreover the supporting information submitted with the application does not include any evidence to suggest that the applicant has carried out any comprehensive search for a site located within any of the East Lothian's settlements that could accommodate the proposed development.

It should be noted that East Lothian Council has previously resolved to grant planning permission for a specialist care accommodation (Class 8) development at Musselburgh (ref: 09/00550/FUL). That site is allocated as employment land and Policy EMP1 of the adopted East Lothian Local Development Plan states that other employment generating uses may also be supported within areas allocated for business and employment. A further application (ref: 20/00108/PM) is current pending consideration for alternative scheme of development on the same site as previously application 09/00550/FUL and for the same Class 8 use care village development, demonstrating there are existing sites within defined settlements in East Lothian capable of accommodating such a proposal and that there is a demand for such development in other locations.

On the matter of need, **East Lothian Health and Social Care Partnership** advise that work is underway in the east of the county to reprovide two care homes and two community hospitals and their associated service provision to meet demand and to modernise services. These developments will provide flexible and responsive care to elderly patients and other clients through housing with care and other provision. Planning for health and social care services to all members of the community takes into account natural growth in populations and demographic change. The provision of specialist housing units aimed at older people above and beyond what is required to serve the local population risks attracting increasingly elderly residents to an area, so skewing the demographics and bringing unplanned for demand. East Lothian Health and Social Care Partnership state that there is no current need for a development for residential accommodation and care units to people in need of care to support current population projections.

On the basis of the advice from East Lothian Health and Social Care Partnership it cannot be concluded that there is a current need for the proposed development. Even if there were

a need, it remains unclear why the applicant believes this to be the best location, especially as it has not been demonstrated that a more suitable site within an East Lothian settlement is not available for the proposed development.

Moreover, the site lies outwith the Strategic Development Areas (SDAs) identified in the development plan, and is not allocated for development in the plan. In principle therefore, the proposals are contrary to SESplan's spatial strategy which seeks to prioritise the development of brownfield land and land within SDAs.

On these considerations the principle of development of the site for the proposed 152 residential accommodation and care units to people in need of care (Class 8) is contrary to Policies DC1 and DC8 of the adopted East Lothian Local Development Plan 2018.

LANDSCAPE AND VISUAL IMPACT AND DESIGN

The application site is within the East Lothian landscape character area of the Coastal Plain, which the Council's approved Special Landscape Areas Supplementary Planning Guidance describes as being extensive areas of prime agricultural land bounded by clipped hedgerows and occasional stone walls with long range views common to most of the area both to the sea and south to the Lammermuir Hills, emphasising the open, level nature of the coastal plain. Built character outside of the several small villages comprises a large scattering of farmsteads and small clusters of houses with larger mansion houses. The management guidelines for the Coastal Plain within the Council's Special Landscape Areas Supplementary Planning Guidance refer to retention of arable character and careful integration of new build development.

The application site is also within the North Berwick CAT area, on its eastern side. The Council's approved Countryside and Coast Supplementary Planning Guidance states that within this CAT area to the east of North Berwick includes agricultural land on the glaciated tail feature of North Berwick Law to the south of the A198 up to the enclosing tree belt east of Rhodes Small Holdings and open land to the north of the A198. The tree belt together with landform forms a strong visual and physical boundary feature to views to North Berwick from the east. To the west of the tree belt views open out to North Berwick including to the seafront and Sea Bird Centre and the full extent of North Berwick Law and its tail can be seen. Development to the east of North Berwick along the tail would impact detrimentally on the importance of North Berwick Law as a distinctive feature of the setting of the town. The CAT area forms the distinctive landscape setting of the town and should be protected from visually harmful development that would detrimentally impact on these views or the countryside setting of the town and landscape setting and character of the Law.

Although the land of the application site is not within a designated Special Landscape Area, the eastern edge of the North Berwick Law Special Landscape Area (SLA) is some 120m west of the site, the southwestern edge of the Tantallon Coast Special Landscape Area (SLA) is to the north of the site on the other side of the A198 public road and the southeastern point of the North Berwick to Seton Sands Coast Special Landscape Area (SLA) is to the northwest of the site on the other side of the A198 public road.

Policy DC9 (Special Landscape Areas) of the adopted east Lothian Local Development Plan states that development within or affecting Special Landscape Areas (SLAs) will only be permitted where: (1) it accords with the Statement of Importance of the SLA and does not harm the special character of the area; or (2) the public benefits of the development clearly outweigh any adverse impact and the development is designed, sited and landscaped to minimise such adverse impacts.

Part of the special qualities and features of the North Berwick Law SLA given in the Council's approved Special Landscape Areas Supplementary Planning Guidance is that the

open plain farmland and marsh setting of the Law allows appreciation of the feature, rising suddenly and steeply from the surrounding land, its ruggedness contrasting with the cultivated farmland below. The guidelines for development in this SLA include that any proposed development must not harm the open views from, or the setting of, the Law, any proposed development must not harm the Law as a landmark crag and tail feature, both in close and distant views or compete with it as a focal point within the landscape, any proposed development must not harm the sense of naturalness and wildness qualities of the area and development that would visually diminish its apparent size avoided, any proposed development must not harm views of the Law in particular from the John Muir Way, A198 and B1347, and any proposed development must not harm the integrity and coherence of the historic landscape.

The character of the Tantallon Coast SLA is described in the Council's approved Special Landscape Areas Supplementary Planning Guidance as being a highly scenic and diverse stretch of coastline from the rocky cliffs and headland of North Berwick and Tantallon to the windswept beach at Peffers and Ravensheugh Sands, to the iconic Bass Rock emerging from the sea, also including a coherent area of important prehistoric settlement, medieval sites and wartime remains. The guidelines for development in this SLA include that any proposed development must not harm the coastal character and characteristic features of the area, any proposed development must not harm the open views out from the coastline and to the Bass Rock from in particular the Haugh Road to A198 right of way and Glen Golf Course, Tantallon Castle, Seacliff Beach, Canty Bay, Peffer Sands, Ravensheugh Sands and St Baldred's Cradle, any proposed development must not harm the open panoramic views from the A198 both towards the coast and south to the Lammermuir Hills, any proposed development must not harm the night-time darkness of this area of the coast, any proposed development must not harm the landscape character of the area by prevention of residential built development encroaching on the coastal strip that is out of scale and character, both in terms of architectural design and layout, with the traditional coastal settlements, and any proposed development must not harm the integrity and coherence of the historic landscape.

The character of the North Berwick to Seton Sands Coast SLA is described in the Council's approved Special Landscape Areas Supplementary Planning Guidance as being the heart of East Lothian's recreational coast, including many beautiful, well-loved beaches, as well as the expansive nature reserve of Aberlady Bay and world class golf courses. The guidelines for development in this SLA include that any proposed development must not harm the coastal character and characteristic features of the area, any proposed development must not harm the night-time darkness of those areas of the coast that are currently darker and any proposed development must not harm the landscape character of the area by prevention of residential built development encroaching on the coastal strip that is out of scale and character, both in terms of architectural design and layout, with the traditional coastal settlements.

Scottish Planning Policy states that states that in the pressurised areas easily accessible from Scotland's cities and main towns, where ongoing development pressures are likely to continue, it is important to protect against an unsustainable growth in car-based commuting and the suburbanisation of the countryside, particularly where there are environmental assets such as sensitive landscapes or good quality agricultural land.

It also states that planning permission should be refused where the nature or scale of proposed development would have an unacceptable impact on the natural environment.

A Landscape and Visual Impact Assessment (LVIA) has been submitted with the application. The LVIA and Chapter 7 of the EIA Report consider the landscape and visual impacts of the proposed development from a number of viewpoints in the surrounding area and further

afield in East Lothian. The EIA Report and LVIA conclude that with the implementation of mitigation measures the predicted residual effects on landscape and visual receptors will be low in the majority of cases, however the location of the proposed development site on currently open agricultural land, will present a change within the landscape but would not have any harmful significant effects in terms of landscape and visual impact.

In their consultation response, on the matter of landscape and visual impacts, **Scottish Natural Heritage** (SNH) advise that the proposal does not raise landscape issues of national interest in terms of:

1. significant adverse effects on the integrity and objectives of designation of a National Scenic Area;
2. significant adverse effects on Special Landscape Qualities of a National Park;
3. significant adverse effects on the qualities of a Wild Land Area; or
4. landscape issues in the wider countryside.

SNH advise that they are only currently providing detailed landscape and visual advice in the highest priority circumstances, where the effects of proposals approach or surpass levels that raise issues of national interest for SNH.

The Council's Landscape Projects Officer advises that the landscape character assessment submitted in the LVIA is very limited; landscape receptors would include the constituent elements of the landscape, its specific aesthetic or perceptual qualities and the character of the landscape. Although the LVIA describes the landscape character area within which the site lies, no assessment of the impact of the proposal on the landscape character of the Coastal Plain has been made. The LVIA mentions the fact that there are SLAs adjacent to the site but makes no assessment of the impact of the proposal on the landscape character of these, and no assessment has been made on the impacts of the proposal on the landscape character of the North Berwick CAT area.

The Landscape Projects Officer further advises that as the LVIA notes, the site is currently a flat arable field bounded to the north, west and east by stone walls, to the south by a hawthorn hedge and also to the east by a wide belt of trees. This accords with its landscape character type of Coastal Plain, as noted above as described in the Council's approved Special Landscape Areas Supplementary Planning Guidance.

In terms of specific landscape appraisal the Landscape Projects Officer advises the following.

From the south of the site:

Due to the topography in a shallow valley to the south of the ridge of the 'tail' of North Berwick Law, the coast and the settlement of North Berwick are not visible to the north. Long distance views to the south and east are also curtailed by tree belts. The character of this area is a quiet, peaceful, undeveloped, rural landscape, rolling away to the west where North Berwick Law forms a prominent feature rising sharply from the plain. Visibility of built environment is limited to the small groupings of single storey buildings at 2 and 3 Rhodes Holdings to the south and 4 and 5 Rhodes Holdings sitting on the ridge line to the north, with a small section of red roofs of the single-storey terrace of cottages at Bass Rock View just visible to the east.

The photomontage of the proposed development in views from the south (viewpoint 1) shows how the proposed development would be out of character with, and detrimentally impact, the character of this rural area. It would change views of the built environment within the area from that of small-scale, individual buildings set within a rural environment to a mass of buildings spreading across the rural landscape from 4 and 5 Rhodes Holdings to

Bass Rock View, more akin to an urban development in form. The negative impact would be intensified by the heights of the proposed buildings with generally individual or linked single-storey buildings to the southern edge rolling south off the ridge line, with 3 storey development in large blocks north of these on the highest land of the ridge and a large 3 storey building. The proposed development would change the character of this area from rural and undeveloped, with North Berwick Law as a defining feature to the west, to urban developed. The proposal by its size, nature and massing is urban in character, yet there is no urban environment in this view for this proposal to relate to or link with resulting in it being intrusive and out of character with the landscape.

The existing buildings sit lower on the horizon as you move up the southern slope of the ridge, reducing in visual prominence. The impact of the development however would intensify the further north you travel along the public road to the west of the site as the proposals spill down the southern slope of the ridge. It would give the impression of approaching a new settlement.

On the public road at the crest of the ridge at 4 and 5 Rhodes Holdings is a high point, where the superb view of the coast opens out in front of you. The panoramic view stretches from, and is framed by, North Berwick Law to the west with the settlement of North Berwick visible at its base, to the Bass Rock and the cottages and trees at Bass Rock View to the east. The open, undeveloped, rural landscape of the Coastal Plain allows full appreciation of this view. No photomontage has been provided for this viewpoint. However the site layout shows how some attempt has been made to set the development back from local residences along this road to try to retain some openness of view to the north. Views to the east and the Bass Rock however will be negatively impacted by the proposals for development on the north side of the site. The site is important in providing a transition from the rural nature of the Coastal Plain to the ruggedness of the coastal margin. The openness of the fields allows appreciation of the expansive plain and coastal landscape between the prominent volcanic features of North Berwick Law and the Bass Rock. The development, although set east from the public road, would change the character of this landscape. The introduction of a large scale development would detract from the prominence of these features and massed built development would lead to a loss of rural character resulting in a major and significant adverse impact on the landscape character of the area.

Mitigation has been proposed, including planting along the western and southern boundaries of the site. The southern boundary of the site is at a lower elevation than the rest of the site. Planting here, even of tall trees, would provide limited visual screening of the proposed buildings on the ridge. Moreover hiding development by planting is not a good design ethic. Planting to the southern and western boundaries is likely to cause shading and safety concerns for the properties close to these boundaries reducing their amenity and leading to pressure to remove this in future. This would therefore not appear to be a suitable or successful form of mitigation.

From the east of North Berwick and along the A198:

The A198 from the northwest corner of the site eastwards lies within the Tantallon Coast SLA. Photographs 4 to 11 in the submitted LVIA show sequential views travelling from the east along the A198 towards North Berwick. Photographs 4 to 7 are east of the tree belt which bounds the site to the east and photographs 8-11 are adjacent to the north boundary.

The landscape assessment notes that the woodland belt to the east of the site screens much of the proposed development when viewed from the east and notes that views to North Berwick Law from further east are not significantly affected by the proposals. The Countryside and Coast Supplementary Planning Guidance with regard to the North Berwick CAT area notes that the tree belt forms a strong visual and physical boundary feature to

views to North Berwick from the east. It is agreed that the tree belt provides an element of screening for the site from the east. The further east you are the more prominently the Law sits above the trees.

The prominence of the Law above the trees reduces as you travel west, closer to the trees. However it is still visible through the trees, particularly during the winter months when fewer leaves are on the trees. The impact on the view from the east of the site from the A198 will therefore be greater than suggested by the LVIA. Large dense built development will clearly be seen through the tree belt and behind the cottages of Bass Rock View. This would have the effect of detrimentally changing the character of the landscape here from rural with scattered built development to urban developed.

There is a sense of anticipation when travelling west along the A198 with views of the Law from further east becoming screened by trees and the cottages at Bass Rock View. When passing the cottages the view opens out to show North Berwick Law central to your view rising from the panorama of arable land of the Coastal Plain with North Berwick to its north. The relationship between the Law and the town can clearly be seen with North Berwick nestled into the base of the Law and along the northern edge of the ridge of the 'tail', including the new housing to the east of Tesco. The uninterrupted ridge line of the 'tail' runs towards the viewer to the south through the proposed development site. The Countryside and Coast Supplementary Planning Guidance with regard to the North Berwick CAT area states that development to the east of North Berwick along the tail would impact detrimentally on the importance of North Berwick Law as a distinctive feature of the setting of the town. The North Berwick Law SLA guidelines for development state that any proposed development must not harm the Law as a landmark crag and tail feature, both in close and distant views or compete with it as a focal point within the landscape and development that would visually diminish its apparent size avoided, and that any proposed development must not harm views of the Law in particular from the John Muir Way, A198 and B1347. Through Policy DC9 this applies for all development, even if outwith the SLA boundary. The photomontages for locations 8 and 9 in the LVIA show the landscape impact of the proposals. The 3-storey development, even as proposed set back from the edge of the A198, both impacts views of the Law by directly blocking these views and by competing with it in terms of scale. The proposed development would be out of character with the sparse settlement of the Coastal Plain being more urban in scale and massing, yet in this location does not read as part of the urban settlement of North Berwick. The proposals would have a significant adverse impact on the setting of North Berwick Law when viewed from the east along the A198.

The LVIA assessment of views from the A198 states that the A198 passes to the south of the site and will have a medium sensitivity to visual impact. The A198 passes to the north of the site and being the tourist coastal route from North Berwick to Whitekirk passed Tantallon Castle, with views over the coast and Coastal Plain, as identified in the Tantallon SLA in which it is located, should be defined as having a high sensitivity to visual impact. Combined with the high magnitude of change predicted this would result in a major and significant adverse impact on views from the A198.

From North Berwick Law:

North Berwick Law provides a panoramic view across the Coastal Plain of East Lothian as well as the coastal margin and Firth of Forth to the north. To the east the edge of the settlement of North Berwick is clearly defined with the Coastal Plain and coastal margin beyond and the features of the Bass Rock and Tantallon Castle large enough to form prominent landmarks in the view. Viewpoint 14 in the LVIA from North Berwick Law shows the clear line of the ridge tail feature of North Berwick Law crag and tail extending along and through the proposed site. This can more clearly be seen from the top of the Heugh. The

view from North Berwick Law also clearly shows the extent of the settlement of North Berwick, with the most recent housing to the east of Tesco kept to the north and off the ridge line and in line with the older development to the north of the A198, thereby forming a coherent settlement expansion. The application site can clearly be seen from the Law, sitting within open countryside within the Coastal Plain. Due to its large height, massing and density the proposed development would appear urban in scale and massing, yet in this location has no relationship with, and is separated from, the urban settlement of North Berwick.

The only assessment in the LVIA for North Berwick Law is considered under scheduled monuments. The assessment identifies North Berwick Law as having high sensitivity to visual impact and assesses the magnitude of change of the proposals to be medium given the 360o view. Using table 3.1 of the EIA Report this correlates to a major to moderate, and therefore significant, adverse impact on North Berwick Law. The LVIA incorrectly identifies this as medium impact and suggests that mitigation using appropriate design, vernacular style and landscaping will reduce this impact to minor. The landscape character of the Coastal Plain is a large scattering of farmsteads and small clusters of houses. The proposed development has therefore not mitigated for its impact by using appropriate design and vernacular style. It is also unlikely, given its proposed height and massing and the raised elevation of this viewpoint, that landscaping planting would help integrate the proposal into the landscape from this view.

From North Berwick:

Views of, and the impact on the town, and its Conservation Area have been considered from the Seabird Centre and Milsey Bay area to the east of North Berwick, including Castle Hill.

In views from the Seabird Centre this shows how the town spreads to the east of the Glen on top of the cliffs. Urban development here is well contained within established tree cover. The caravan park can be seen separated from the town to the east by trees, and is different in layout and form to the urban settlement. Further east the orange roofs of Bass Rock View cottages can be seen separated further from the caravan park by the field of the application site and trees. This layout is typical of the landscape character of the Coastal Plain of small clusters of houses within arable fields. A photomontage has been produced for this view which clearly shows the visibility of the proposed development. It would create an urban form that would appear to link the rural cottages at Bass Rock View with the caravan park and would change the rural character of this view to urban developed. This would impact detrimentally on the appreciation of the North Berwick to Seton Sands SLA and the setting of North Berwick. This detrimental impact is repeated in the view from beach road at Marine Parade, although from Castle Hill the site appears to be screened by existing trees.

From the coast to the north of the site:

The LVIA photograph 22 is taken from the east end of the Haugh Road at the path on the west side of the golf course. This view is also relevant to views and impacts on golfers and visitors to the caravan park. This location is on the boundary of the North Berwick to Seton Sands and Tantallon Coast SLAs. It is taken looking inland towards the site across the golf course. It is an open, rural area with limited built development that can be associated with a rural location including the caravans and small-scale low buildings of the caravan site, and the single storey cottages at Bass Rock View. The main focus at this viewpoint is westwards across the bay to North Berwick. Heading east along the path the focus of this view is likely to be to the coast, the Forth, the Bas Rock, and the sea to the north and east. The photomontage from this location clearly shows the massing, height and spread of the proposed development within this view and how this would negatively impact on the SLAs by introducing large widely visible development that is out of scale and character, both in terms

of architectural design and layout, with the existing landscape and detracts from the natural qualities of the area.

Given the height and massing of the proposed development it would result in a significant adverse impact on the SLAs and the core path route. Suggested mitigation by the inclusion of a landscaped buffer along the northern boundary of the site would have limited impact given the exposed coastal location, likely wish for views of the coast from the development, and height of the buildings to be screened.

Conclusion:

The proposal is for condensed built development comprising a large three storey building adjacent to the A198, two three storey buildings to its south and many single storey buildings surrounding this. This form of development is not a scattering of farmsteads and small clusters of houses that typifies the landscape character of the Coastal Plain landscape character area. It is of a large more developed urban form, both in height and spread, and would therefore appear out of character and scale with the area.

The Countryside and Coast Supplementary Planning Guidance with regard to the North Berwick CAT identifies this area as important in providing expansive coastal countryside views to North Berwick Law on the eastern approach to North Berwick. It states that this area forms the distinctive landscape setting of the town and should be protected from visually harmful development that would detrimentally impact on these views of the countryside setting of the town and landscape setting and character of the Law. The proposed development would detrimentally impact on these views, setting and character.

The North Berwick Law SLA guidelines for development state that any proposed development must not harm the Law as a landmark crag and tail feature, both in close and distant views, or compete with it as a focal point within the landscape, and development that would visually diminish its apparent size avoided, and any proposed development must not harm views of the Law in particular from the A198. The proposed development would harm the character of the crag and tail feature by building on the tail and would detrimentally impact on views of the Law particularly from the A198. The Tantallon Coast SLA guidelines for development state that any proposed development must not harm the open panoramic views from the A198 towards the coast. The massing, height and location of the proposed development would significantly adversely change the character of the landscape and the context of views to the coast from the A198. The North Berwick to Seton Sands and Tantallon Coast SLAs both state that any proposed development must not harm the landscape character of the area by prevention of large, widely-visible development that reduces the scale and contrast of the landscape form and detracts from the natural qualities of the area. The proposed development would be widely visible and located adjacent to these SLAs, where it would detract from the natural qualities of the SLAs, reducing the scale and contrast of the landscape form.

Although the design of the buildings proposed takes due cognisance of the architectural form and appearance of the buildings in North Berwick by the use of stone and render for the walls, red/grey roof tiles for the pitched roofs and traditional window forms, due to the scale of development there is no way, either architecturally or through the use of materials and landscaping to harmoniously blend the proposed development into its open landscape setting. The surrounding landform and agricultural landscape ensures that a development of this scale and nature cannot successfully integrate into its landscape setting and thus would appear harmfully prominent, incongruous and intrusive, and grossly out of character within its surrounding rural setting. The application site is also within what could be termed as a 'dark skies' landscape with little artificial light evident during the hours of darkness other than for the small groupings of buildings within the surrounding agricultural landscape. The sheer

scale of development with light coming from a multitude of 3-storey and single storey buildings and light associated with use of the car parking areas, footpaths and landscaped areas would result in harm to the night-time darkness of the area.

In overall conclusion the proposed development cannot successfully integrate into its landscape setting and would appear harmfully prominent, incongruous and intrusive, and grossly out of character within it's the surrounding rural landscape. It would be harmful to the landscape character of the Coastal Plain, the distinctive landscape setting of the North Berwick CAT area and would harmfully affect the special character of the North Berwick Law, Tantallon Coast and North Berwick to Seton Sands Coast Special Landscape Areas. The nature and scale of the proposed development would have an unacceptable impact on the natural environment.

On these considerations of landscape and visual impact the proposed development is contrary to Policies DC8, DC9, DP1 and DP2 of the adopted East Lothian Local Development Plan 2018, the Council's approved Countryside and Coast and Special Landscape Areas Supplementary Planning Guidance and Scottish Planning Policy: June 2014.

IMPACT ON HERTIAGE ASSESTS

There are also a number of heritage assets on and in the area surrounding the application site.

The application site is located some 1.1 miles east of North Berwick Law Scheduled Monument, some 1 mile to the west of Tantallon Castle Scheduled Monument and some 0.8 miles to the southeast of Castle Hill Scheduled Monument. It is also some 0.7 miles from the southeastern edge of North Berwick Conservation Area.

There are no listed buildings within the application site, nor are there any in the immediate area. The nearest ones are the properties of Rhodes Cottages some 0.3 miles to the northwest (Category B listed) and Castleton Farmhouse some 0.82 miles to the east (Category B listed).

The proposed development would be sufficient distance away from nearby listed buildings so as not to have a detrimental impact on their settings.

Paragraph 137 of Scottish Planning Policy states that the planning system should promote the care and protection of the designated and non-designated historic environment (including individual assets, related settings and the wider cultural landscape) and its contribution to sense of place, cultural identity, social well-being, economic growth, civic participation and lifelong learning; and enable positive change in the historic environment which is informed by a clear understanding of the importance of the heritage assets affected and ensure their future use. Change should be sensitively managed to avoid or minimise adverse impacts on the fabric and setting of the asset, and ensure that its special characteristics are protected, conserved or enhanced.

Chapter 9 of the EIA considers the potential direct and indirect impacts resulting from the proposed development on cultural heritage assets, including listed buildings, scheduled monuments, conservation areas, inventory gardens and designed landscapes and inventory battlefields.

Historic Environment Scotland (HES) advise that, as the proposed development does not raise historic environment issues of national significance, they raise no objection to the principle of the proposed development.

On the matter of the EIA Report, HES advise that they are satisfied that sufficient information has been provided to come to a view on the proposals and that they agree with assessment in the EIA Report which does not identify any significant effects for their interests, and they agree with this conclusion.

Scottish Planning Policy states that planning authorities should protect archaeological sites and monuments as an important finite and non-renewable resource and preserve them in situ wherever possible. Where in situ preservation is not possible, planning authorities should, through the use of conditions or a legal obligation, ensure that developers undertake appropriate excavation, recording, analysis, publication and archiving before and/or during development. Planning Advice Note 2/2011: Planning and Archaeology similarly advises.

Scottish Planning Policy also states that archaeological sites and monuments are an important finite and non-renewable resource and should be protected and preserved in situ wherever feasible. The presence and potential presence of archaeological assets should be considered by planning authorities when making decisions on planning applications. Where preservation in situ is not possible planning authorities should through the use of conditions or a legal agreement ensure that developers undertake appropriate excavation, recording, analysis, publication and archiving before and/or during development. If archaeological discoveries are made during any development, a professional archaeologist should be given access to inspect and record them. Planning Advice Note 42: Archaeology similarly advises.

Scottish Planning Policy states that where there is potential for a proposed development to have an adverse effect on a scheduled monument or on the integrity of its setting, permission should only be granted where there are exceptional circumstances.

In relation to direct impacts, **the Council's Archaeology/Heritage Officer** advises that the application site has the potential for buried archaeological remains to be present which may be disturbed by the development process. He therefore recommends that if planning permission is to be granted for this proposal, a programme of archaeological works (Archaeological Evaluation by Trial Trench) should be carried out prior to the commencement of development. This could be secured through a condition, an approach consistent with Scottish Planning Policy: June 2014, Planning Advice Note 42: Archaeology and with Policy CH4 of the adopted East Lothian Local Development Plan 2018.

The Archaeology/Heritage Officer does not advise the proposed development would harmfully affect the setting of Castle Hill Scheduled Monument.

However the Archaeology/Heritage Officer advises he has concerns with the indirect impacts of the proposed development. He states that there would be greater impacts upon the setting of both North Berwick Law and Tantallon Castle Scheduled Monuments from what is concluded in the submitted EIA Report. He advises that the openness of the landscape along this coast line is important in understanding these two monuments, as being able to have long distance views was one of the principle functions of both of these designated sites.

The Archaeology/Heritage Officer states that the scale and massing of the proposed development would have an adverse effect on the integrity of the setting of North Berwick Law Scheduled Monument. In particular on the views to the Law from along the A198, which are part of the modern experience of the Law itself and the understanding of the sense of place that the Law gives to this landscape. Also the eastern views from the Law would also be adversely impacted upon as the open landscape along the coast would be significantly reduced by the proposals. He further stated that it is clear that a 360 degree view of the surrounding landscape and seascape is and was important to understanding the historical and current uses of the Law. Whilst these longer scale views can absorb some levels of

development, the density of the proposed development and its separation from the edge of the town of North Berwick would have a detrimental impact upon eastern views from the Law which would appear more cluttered.

The Archaeology/Heritage Officer advises that the proposed development, due to its scale, massing and height could not be absorbed into the landscape without impacting adversely upon the integrity of the setting of North Berwick Law Scheduled Monument.

He further advises that from Tantallon Castle Scheduled Monument, especially the view from the ramparts, the proposed development would be seen as foreshortened against North Berwick town, which although will not impact directly on the castle would affect the sense of place. The perceived distance from significant structures is important in how the castle is experienced and understood by modern visitors and the longer distance views both landward and seaward were primary functions of the castle. The significant change to the landscape setting of the castle arising as a result of the proposed development would have a serious adverse impact on the setting of the Tantallon Castle Scheduled Monument.

The proposed development, being some 0.7 miles from the southeastern edge of North Berwick Conservation Area, would not directly impact on the character and appearance of the Conservation Area. However the proposed development would be visible in views both from and to the Conservation Area, and in such views the scale and nature of the urban form of the development within the open landscape setting of the town would detrimentally impact on these views resulting in harm to the setting of the Conservation Area.

In conclusion, the proposed development would have an adverse effect on the integrity of the setting of the North Berwick Law and Tantallon Castle Scheduled Monuments and would detrimentally impact on the setting of North Berwick Conservation Area. On these considerations of impact on heritage assets the proposed development is contrary to Policies CH2 and CH4 of the adopted East Lothian Local Development Plan 2018, Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and Scottish Planning Policy: June 2014.

IMPACT ON INTERNATIONALLY DESIGNATED SITES, SITES OF SPECIAL SCIENTIFIC INTEREST AND BIODIVERSITY

The Firth of Forth Special Protection Area (SPA) and the Firth of Forth Site of Special Scientific Interest (SSSI) are some 460m to the north of the application site.

With regard to international designations, paragraph 207 of Scottish Planning Policy states that sites designated as Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) make up the Natura 2000 Network of protected areas. Any development proposal likely to have a significant effect on these sites which is not directly connected with or necessary to their conservation management must be subject to an “appropriate assessment” of the implications for the conservation objectives.

Chapter 8 of the EIA Report includes an assessment of the potential impacts of the proposed development on ecological features including the SPA, SSSI, including the submission of a Habitats Regulations Appraisal, and has also assessed other biodiversity assets.

Chapter 9 of the EIA Report includes an assessment of the potential effects of the proposed development on the archaeology and cultural heritage resource of the site and surrounding area.

Scottish Natural Heritage (SNH) advise that the proposal could affect the Firth of Forth SPA, and that the status of this sites means that the requirements of the Conservation (Natural

Habitats, &c.) Regulations 1994 as amended (the “Habitats Regulations”) apply. Consequently, Marine Scotland is required to consider the effect of the proposal on these sites before it can be consented (commonly known as Habitats Regulations Appraisal).

Under the Habitats Regulations, decision makers (known as competent authorities in the legislation) can only agree to development proposals which are unconnected with the nature conservation management of the site after having confirmed that they will not affect the integrity of the Natura site. The process of coming to this judgement is commonly referred to as Habitats Regulations Appraisal (HRA).

With regard to HRA Stage 1, SNH states that the proposal is not connected to conservation management of any European site.

With regard to HRA Stage 2 (is the proposal ‘likely to have significant effects’ upon the European sites), SNH state that several bird species which are protected by the SPA designation will travel inland to roost or forage, particularly at times of high tides. This development site lies approximately 400m from the SPA boundary, which is within range of these species, and comprises of habitat that SPA birds could use for foraging and roosting. Therefore connectivity between the proposed development and the SPA exists via the potential loss of supporting habitat.

With regard to HRA Stage 3 (will the proposal have adverse effects on the integrity of the SPA), SNH advise that despite being within connectivity distance to the SPA, several factors make the development site less attractive to SPA birds:

1. the site lies outside the ‘main feeding area for pink-footed geese’;
2. the site is less attractive to foraging or roosting birds due to its proximity to a road and a shelter belt, both of which could generate disturbance and block lines-of-sight;
3. correspondingly there is an abundance of more attractive roosting and foraging habitat in the surrounding area;
4. the site has broadly similar parameters to nearby Local Development Plan allocations where development was shown to have ‘no likely significant effects’ in the HRA of the LDP; and
5. the applicant’s incomplete wintering bird survey, which shows close to zero usage of the development site by SPA birds, acts as supporting evidence for the above points.

Taking all of the above into account, SNH advise that there would be negligible effects from the proposed development upon SPA birds, and so there would be ‘no adverse effects upon site integrity’.

With regard to HRA, **the Councils’ Biodiversity Officer** notes that a Habitat Regulations Appraisal has been submitted as an appendix to the EIA Report. It concludes that the proposed development will not have a significant effect on the Firth of Forth SPA, given the lack of qualifying bird species using the site (as demonstrated in the submitted Bird Survey Report), and the low amount of habitat that would be lost, both as a direct consequence of the development and in combination with other developments. The Biodiversity Officer agrees with this conclusion and is satisfied that the development proposal is not likely to have a significant effect on the SPA.

Therefore as the proposed development proposal would have ‘no adverse effects upon site integrity’ there is no requirement for an “appropriate assessment” to be undertaken.

SNH also advise that in consideration of the above HRA process there would be no adverse effects upon the integrity of the Forth of Forth or North Berwick Law SSSI.

With regard to ecology, SNH advise that they support the conclusions of the submitted

Ecological Baseline Report, advising that the application site supports habitat of local value and there is low risk of impacts on protected species.

In respect of this, the Council's Biodiversity Officer advises that in the Ecological Baseline Report nine habitat types were recorded, the majority of which are of ecological value. There are small areas of mixed woodland, scattered scrub and semi-improved grassland which are of moderate value, however these are not priority habitats and are deemed to be at low risk from the proposed development. Opportunities to enhance these habitats should be taken, particularly in the eastern part of the site adjacent to the woodland habitat as this would enhance the green network.

The Biodiversity Officer further advises that no evidence was found of protected species including otter, badger and red squirrel. Brown hare were observed during the survey, however no further work is required as the licencing requirements are not relevant to the proposed development. No evidence was found of amphibians or reptiles.

The submitted Preliminary Roost Assessment found no suitable roosting features for bats, and determined that the area lacks suitable foraging habitat. Habitats that may support breeding birds occurs on site (notably woodland at the eastern edge of the site). The report includes recommendations to minimise the disturbance to birds.

The Biodiversity Officer recommends that were planning permission to be granted, a habitat and protected species survey should be undertaken no less than 18 months from the completion of the Ecological Baseline Report and that if construction does not commence before October 2020, the surveys should be updated per the methodology stated in the Ecological Baseline Report.

On these considerations the proposed development is not contrary to Policies NH1, NH2 or NH5 of the adopted East Lothian Local Development Plan 2018 or Scottish Planning Policy: June 2014.

PRIVACY AND AMENITY INCLUDING NOISE IMPACT, AIR QUALITY AND CONTAMINATION

The nearest neighbouring residential properties to the proposed buildings are the cottages of Bass Rock View which bound the site at its northeast corner. By virtue of its distance away from those residential properties, the proposed buildings would not result in any harmful overlooking or unacceptable loss of sunlight or daylight to them. Also with a scheme of landscaping to separate the proposed development from the cottages of Bass Rock View, this could ensure there would be no harmful overlooking from users of the grounds of the proposed development to the gardens of those cottages.

Chapter 5 of the EIA Report considers potential noise and vibration arising from the proposed development on the site both during construction and when the development is operational. It explains that noise effects associated with the proposed development have been considered at Noise Sensitive Receptors (NSRs) and the assessment considers residential dwellings to be NSRs; no other types of sensitive receptors (e.g. educational, institutional or cultural buildings) were identified.

Chapter 5 of the EIA Report concludes that noise effects arising from additional traffic flows associated with the proposed development have been evaluated at existing NSRs, both during the construction and post-development phases, and found to be not significant, subject to the completion of a Construction Environment Management Plan (CEMP). The CEMP will outline methods which will be employed to minimise construction noise at neighbouring properties. Noise effects at proposed NSRs have been evaluated during the post-development phase and found to be not significant. No mitigation measures have been

proposed.

Chapter 6 of the EIA Report provides an assessment of the potential effects of the proposed development upon local air quality. It concludes that the overall assessment of significance of the proposed development on local air quality is not significant.

The Council's Public Health and Environmental Protection Officer advises that the potential noise/vibration and dust impacts from the proposed development would only arise during the construction phase, and that the operational phase would not give rise to any noise/vibration or dust that would harmfully impact upon amenity of existing neighbouring properties.

With regards to mitigation during the construction phase, the Public Health and Environmental Protection Officer advises that the submission of a Construction Environmental Management Plan (CEMP) for prior scrutiny and approval prior to commencement of development and compliance with methods contained in the CEMP would adequately protect residential amenity. The CEMP should include details of the following:

(i) with regards to noise the applicant should adopt "Best Practice Guidance" as recommended BS5228-1: 2009 + A1:2014 "Code of practice for noise and vibration control on construction and open sites – Part 1:Noise and Part 2: Vibration"; and

(ii) with regards to dust the CEMP should include details regarding practicable control measures for reducing visible dust emissions affecting properties beyond the site boundary. Control measures to be considered are identified in Section 8 of the Institute of Air Quality Management Guidance document on the assessment of dust from demolition and construction (2014).

The Public Health and Environmental Protection Officer notes that Chapter 6 of the EIA Report on air quality makes reference to the Institute of Air Quality Management Guidance document and reproduces most the dust mitigation measures required in Appendix 6.2 of the EIA Report.

The requirement for the submission of a CEMP to be submitted for the approval of the planning authority and thereafter for the construction works to be carried out in accordance with it could be controlled by a condition of a grant of planning permission, were that to be the decision. The Construction Environment Environmental Management Plan (CEMP) should include amongst other matters, mitigation for the control of dust during the construction phase.

Subject to the aforementioned planning control the proposed development would not have a harmful impact on amenity.

The Geo-Environmental Desk Study, Appendix 3.5 of the EIA Report, considers ground conditions on the site and potential contamination sources. It concludes that no significant potential sources of contamination have been identified at the site given its current and historical use, but further intrusive ground investigations are likely to be required for any below ground works as part of the redevelopment of the site.

The Council's Environmental Health Officer (Contaminated Land) advises that he has reviewed the Geo-Environmental Desk Study and confirms that he is satisfied that the reporting has been carried out in accordance with best practice guidelines and the relevant standards. He notes that from the assessment it has been concluded that there is a low likelihood of any plausible pollutant linkages impacting on the proposed development,

however, recommendations have been made for intrusive investigations to be carried out. The Environmental Health Officer (Contaminated Land) agrees with this given both the nature of the development as well as its relatively large areal extent (potential for localised made ground deposits to exist) and the need to better define the ground conditions on the site and recommends that the following matters be controlled by conditions:

1. Prior to any development works commencing a suitable targeted Geo-Environmental Assessment must be carried out, with the Report being approved by the Planning Authority. The investigation should include details of the following:

- (i) a ground investigation comprising a survey of the extent, scale and nature of the contamination;
- (ii) a risk assessment of all appropriate pollutant linkages and an updated conceptual model of the site;
- (iii) an appraisal of the remediation methods available and proposal of the preferred option(s).

2. Prior to any works beginning on site (and where risks have been identified), a detailed Remediation Statement should be produced that shows the site is to be brought to a condition suitable for the intended use by the removal of unacceptable risks to all relevant and statutory receptors. The Statement should detail all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. It should also ensure that the site will not qualify as contaminated land under Part2A of the Environmental Protection Act 1990 in relation to the intended use of the land following development; and

3. Following completion of the measures identified in the approved Remediation Statement, a Verification Report should be submitted that demonstrates the effectiveness of the remediation carried out. It must be approved by the Planning Authority prior to commencement of the new use of the land.

These requirements could be controlled by a condition(s) attached to a grant of planning permission, were that to be the recommendation.

On these considerations the proposed development is consistent with Policy DP2 of the adopted East Lothian Local Development Plan 2018.

SCOTTISH WATER AND FLOOD RISK

A drainage strategy and flood risk assessment are appended to the EIA Report.

No water courses cross the site. The nearest water course to the site is an unnamed watercourse flowing 350m south of the site. It is proposed that two SuDS basins would be formed, one at the northwest corner of the site and the other positioned centrally adjacent to the southern boundary of the site. The proposed development would utilise the public sewer for foul drainage.

The submitted flood risk assessment concludes that as the closest watercourse to the site is 350m to the south and 11m below the site, it is not considered to be at significant risk from fluvial flooding. The site is also not considered to be at significant risk from pluvial flooding due to it being located on a local high point and therefore no external catchment is able to flow through it. The site is not considered to be at significant risk from groundwater flooding or coastal flooding as a primary source. The proposed layout allows for flood free access to the site from the A198. The drainage of the site is proposed to be entirely to the watercourse to the south of it. As over 50% of the site currently drains north, surface water runoff from the site will need to be limited to the greenfield rate for the part of the site that

currently flows to the watercourse.

Scottish Water has been consulted on the application for planning permission and in respect of the EIA Report. They advise that they have no objection to the proposed development. A copy of Scottish Water's response has been forwarded to the applicant's agent for their information.

On the matter of surface water drainage, **the Scottish Environment Protection Agency (SEPA)** advise that the planning application details that the proposed development would be utilising the public sewer for foul drainage. They state that the applicant should ensure confirmation from Scottish Water that there is an available connection to the public sewer and that Scottish Water will accept waste from this development.

On the matter of flood risk SEPA advise that the submitted flood risk assessment states that the nearest watercourse is 350m from the site boundary, and there is 11m difference in elevation between the site and the watercourse. SEPA agree with the conclusions of the flood risk assessment that the site is not at significant flood risk so raise no objection to the application.

The Council's Structures Flooding and Street Lighting Team Manager raises no objection to the application, satisfied that the site is not at risk from flooding and the drainage arrangements are acceptable.

HEALTHCARE

East Lothian Health and Social Care Partnership advise that the proposed 152 residential accommodation and care units to people in need of care would place extra demands on an already over-stretched health and social care system and specifically on the North Berwick GP Practice Team. They advise the demand on that service would arise through the increased need for services associated with a new population of over 55s who would require primary care and other services who will have complex care and clinical support needs and in many cases would require home visits.

They further advise that North Berwick already has a high number of elderly residents placing already high demands on the GP Practice and on the wider health and social care system. The Practice does not have the staffing to provide home visits to a new elderly patients and the demand arising from a new population of over 55s. This is exacerbated by ongoing difficulties in recruiting and retaining doctors and other staff in primary care. As all people living within a GP Practice area are entitled to register with the practice, North Berwick will be unable to decline to register the residents of the proposed development.

For these reasons East Lothian Health and Social Care Partnership do not support the application.

On the matter of staffing, the ongoing costs of GP provision are a matter for the National Health Service. While it is acknowledged the concerns about the effects of unplanned demand, including concerns about the costs of free personal care, this is not a matter that it is possible to resolve through the planning system in general and this application in particular.

East Lothian Health and Social Care Partnership do however confirm that their objection to the proposed development is not based on any constraints on the physical size of North Berwick GP practice to accommodate any increased demand as a result of the proposed development.

Given all of the above, it would not be reasonable to refuse planning permission on the basis

of the impact of the proposed development on healthcare provision.

EDUCATION AND AFFORDABLE HOUSING

As the proposed 152 residential accommodation and care units to people in need of care (a use within Class 8 of The Town and Country Planning (Use Classes) (Scotland) Order 1997) would require at least 1 occupant of each of them to be both be aged over 55 and have a pre-existing medical condition that qualifies for treatment before they would be allowed to occupy a unit and as such, this is neither retirement housing nor restricted occupancy market housing, but a specialist class 8 use of accommodation. It would not produce school aged children and therefore there is no requirement to assess a need for educational provision.

The Council's approved Affordable Housing Supplementary Planning Guidance states that affordable housing will be sought on all housing developments which propose to develop housing defined under use class 9, whether a conversion, student accommodation, amenity, sheltered or retirement housing.

As this application proposes that all units would come under Class 8 (Residential Institution) use the affordable housing requirement does not apply.

IMPACT ON PRIME AGRICULTURAL LAND

The application site is currently arable agricultural land. The Macaulay Land Use Research Institute classifies the land as being Land Capable of Supporting Arable Agriculture Class 2, that being prime agricultural land capable of producing a wide range of crops with minor physical limitations affecting agricultural use and land that is highly productive.

Policy NH7 of the adopted East Lothian Local Development Plan states that development on prime quality agricultural land will not be permitted unless:

It is to implement a proposal of this plan, or
It is necessary to meet an established need and no other suitable site is available; or
It is for an appropriate development in the countryside, including that which is directly linked to a rural business or an existing house; and
The layout, design and construction methods of development minimises the amount of such land that is affected, taking into account the design policies of the plan.

Paragraph 80 of Scottish Planning Policy states that development on prime agricultural land should not be permitted except where it is essential:

- as a component of the settlement strategy or necessary to meet an established need, for example for essential infrastructure, where no other suitable site is available; or
- for small-scale development directly linked to a rural business; or
- for the generation of energy from a renewable source or the extraction of minerals where this accords with other policy objectives.

The application site does not form a proposal of the East Lothian Local Development Plan, nor is it a component of the settlement strategy. On the basis of the advice from East Lothian Health and Social Care Partnership it cannot be concluded that there is a current need for the proposed development. It has been concluded earlier in this report that it has not been demonstrated other suitable sites are not available. The proposed development is inappropriate development in the countryside and is not for small-scale development linked to a rural business or an existing house, nor is it for the generation of energy from a renewable source or the extraction of minerals.

The proposed development would lead to an unacceptable loss of prime agricultural land and does not meet the Policy criteria above, and the non-essential loss of this finite resource

would be contrary to national planning policy. On this consideration the proposed development is contrary to Policy NH7 of the adopted East Lothian Local Development Plan and Scottish Planning Policy.

TRANSPORTATION

Chapter 10 of the EIA Report includes an assessment of the potential effects of the proposed development on the surrounding transport network and sensitive receptors with respect to transport and access. A Transport Assessment and Construction Traffic Management Plan have also been submitted with the application. The EIA Report finds that subject to the implementation of mitigation measures proposed it is not predicted that the proposed development would result in significant environmental effects from traffic and transport.

Paragraph 76 of Scottish Planning Policy states that in the pressurised areas easily accessible from Scotland's cities and main towns, where ongoing development pressures are likely to continue, it is important to protect against an unsustainable growth in car-based commuting and the suburbanisation of the countryside, particularly where there are environmental assets such as sensitive landscapes or good quality agricultural land.

Annex B of the Scottish Government's Planning Advice Note 75: Planning for Transport recommends a threshold of 1600m for walking distance to local facilities.

The recommended guidelines in Planning Advice Note 75 for accessibility of housing to public transport are less than 400m to bus services and up to 800m to rail services.

Vehicular and pedestrian access to the site is proposed to be by way of a new access road into the site taken from the A198 public road some 350m to the west of the properties of Bass Rock View. Internal access roads, footways and a total of 219 car parking spaces are proposed to be provided within the site (a mix of resident and visitor spaces) of which 26 would be disabled. Of these 31 would be staff spaces.

Pedestrian access to the site would be direct from Tantallon Road (A198) which is a pedestrian route in to North Berwick from the east. A pedestrian footway is present on the northern side of the A198 which connects the site with the built up environment to the west. The footway routes past Tantallon Caravan Park and onwards towards the Lime Grove residential area, the Tesco Superstore and beyond into the town centre providing access on foot for resident, staff and visitors. The route is not street lit between the site and the North Berwick town entry sign, which is some 600m to the west. Therefore local facilities can potentially be reached on foot within 1600m of the application site.

Bus stops are located on the A198, either side of the priority junction with Bass Rock View. Further stops are located on the western boundary of the site adjacent to Rhodes Holdings. Eves Coaches service 120 operates on the A198 between North Berwick in the north and Dunbar in the south and offers connections to the site throughout the day.

In the submitted Transport Assessment it is stated that the applicant proposes a residents shuttle bus which would operate regularly throughout the day between the site and North Berwick town centre. The service would pick up at various points within the site and the town centre which would be advertised within the community.

Access to the site is proposed to be taken from a ghost island junction on the A198 with a pedestrian refuge island. The proposed new access junction has been subject to an independent Road Safety Audit, which identified the possibility of the pedestrian island being removed and recommended either removal of the island or the creation of a more urbanised environment.

This part of the A198 is currently subject to the National Speed Limit, but the applicant proposes to reduce it to 40mph from the eastern extent of North Berwick to the eastern extent of the site frontage and introduce a visibility splay at the site access junction of 4.5m x 120m in both directions. It is also proposed to extend street lighting along the extent to the proposed reduced speed limit and provide additional speed reducing measures in the form of a “gateway” including shark’s teeth road markings, an speed activated sign, a painted 40mph roundel on the road surface on a red background and a series of 40mph 3-2-1 (countdown) sign posts on approach to it from the east. Also proposed is to create a new footway along the site frontage which would link into the adopted footway network to North Berwick.

The Council’s Road Services are satisfied that the above measures would ensure the site could be accessed safely by both car users, pedestrians and cyclists. They are also content to the proximity of the bus service which passes the site which links Dunbar and North Berwick in both directions (Eve 120), advising that although it is not a high frequency service, it is one which residents/users of the proposed development would be able to use. They note there are a pair of bus stops close to the proposed access and the pedestrian refuge island would facilitate access to/ from the bus stop serving eastbound services. They also note the applicant proposes a residents shuttle bus which would operate regularly throughout the day between the site and the town centre.

Road Services advise that the applicant has undertaken and presented an impact assessment of the proposed development and has forecast that the AM and PM 2-way peak hour generated traffic flows associated with it are 33 and 30 respectively. Road Services advise that the A198 is relatively lightly trafficked and could comfortably accommodate this increase in traffic level, and that the operation of the proposed junction was modeled and no queuing in the A189 or from the site access would occur.

In consideration of the above it is concluded that the proposed development is consistent with Policies T1 and T2 of the adopted East Lothian Local Development Plan 2018.

Policy DEL1 of the adopted East Lothian Local Development Plan 2018 states that new development will only be permitted where the developer makes provision for infrastructure required as a consequence of their development in accordance with Scottish Government Circular 2/2012 or any revision. Developer contributions will be required from all development proposals that meet or exceed the thresholds:

- * Proposals for 5 or more dwellings
- * Employment, retail, leisure or tourism proposals of 100sqm gross floor space or larger;

The exact nature and scale of developer contributions required in association with all relevant new development proposals, including windfall proposals, will be assessed on a case by case basis. In the case of employment, retail, leisure or tourism proposals these contributions would be limited to transport interventions, such as road or rail improvements.

In this instance Road Services advise that based on the level of traffic forecast to be generated by the proposed development and its distance from any of the identified transport interventions there would be no requirement for any developer contributions.

Transport Scotland raise no objection to the proposed development.

DEVELOPMENT PLAN CONCLUSION

It is now necessary to consider whether there are any material considerations that outweigh the above identified conflict with the relevant provisions of the development plan.

MATERIAL CONSIDERATIONS

SOCIO-ECONOMICS BENEFITS

Scottish Planning Policy supports sustainable economic growth, and also emphasises the need to locate the right development in the right place.

The submitted Economic Benefits Assessment advocates that the proposed development would generate 85 jobs per annum during construction and 120 jobs during operation. It also advocates that it would generate £3.2 million per annum in GVA (Gross Value Added) to the economy and cumulative income to local government over 20 years of £2.9 million. It also suggests that the proposed development could result in NHS and adult social care savings as people living in continuing care retirement village developments require less formal care than other people of similar age, and hospital stays can be reduced from an average of 14 to 2 days and the rates of resident falls are significantly lower compared to general housing.

In their consultation response, the East Lothian Health and Social Care Partnership do not advise that the proposed development could result in NHS and adult social care savings. Rather, they express concerns that the proposed 152 residential accommodation and care units to people in need of care would place extra demands on an already over-stretched health and social care system and specifically on the North Berwick GP Practice Team.

The proposed development would result in some benefit, including the generation of jobs during both the construction and operation phases of the development. However this economic benefit does not outweigh the significant conflict with the relevant provisions of the development plan.

SCOTTISH PLANNING POLICY

The applicant states that the proposals are consistent with Scottish Planning Policy (SPP). Whilst it is considered that there is support for aspects of the proposed development in SPP, crucially it is found that it does not contribute to sustainable development (SPP paragraph 29) as it does not meet the principles of, (i) supporting good design and the six qualities of successful places, (ii) protecting, enhancing and promoting access to cultural heritage, including the historic environment, (iii) protecting, enhancing and promoting access to natural heritage, including green infrastructure, landscape and the wider environment.

SPP also does not provide support insofar that the proposed development does not create a distinctive place (SPP paragraph 41), would dangerously suburbanise the countryside by not being within or adjacent to a settlement (SPP paragraph 81), harms the setting of North Berwick Conservation Area (SPP paragraph 143), does not promote the care and protection of the designated and non-designated historic environment or enable positive change in the historic environment (SPP paragraph 137), does not facilitate positive change while maintaining and enhancing distinctive landscape character (SPP paragraph 194) and the siting and design of development does not take account of local landscape character (SPP paragraph 202).

CONCLUSION

There are no material considerations that outweigh the primary material considerations that the proposed development is significantly contrary to the above relevant Policies of the East Lothian Local Development Plan 2018 and associated Supplementary Planning Guidance, and national policy given in Scottish Planning Policy: June 2014.

RECOMMENDATION

It is recommended that planning permission be refused for the following reasons:

- 1 The proposed 152 residential accommodation and care units to people in need of care (Class 8) has no operational requirement for a countryside location. Rather it would be a significant, sporadic development that would harm the objectives of the North Berwick Countryside Around Town area. As such the proposal is contrary to Policies DC1 and DC8 of the adopted East Lothian Local Development Plan 2018.
- 2 The proposed development cannot successfully integrate into its landscape setting and would appear harmfully prominent, incongruous and intrusive, and grossly out of character within the surrounding rural landscape. It would be harmful to the landscape character of the Coastal Plain, the distinctive landscape setting of the North Berwick Countryside Around Towns area and would harmfully affect the special character of the North Berwick Law, Tantallon Coast and North Berwick to Seton Sands Coast Special Landscape Areas, contrary to Policies DC8, DC9, DP1 and DP2 of the adopted East Lothian Local Development Plan 2018, the Council's approved Countryside and Coast and Special Landscape Areas Supplementary Planning Guidance and Scottish Planning Policy: June 2014.
- 3 The proposed development would have an adverse effect on the integrity of the setting of the North Berwick Law and Tantallon Castle Scheduled Monuments and would detrimentally impact on the setting of North Berwick Conservation Area, contrary to Policies CH2 and CH4 of the adopted East Lothian Local Development Plan 2018, Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and Scottish Planning Policy: June 2014.
- 4 The proposed development would lead to an unacceptable loss of prime agricultural land, contrary to Policy NH7 of the adopted East Lothian Local Development Plan and Scottish Planning Policy: June 2014.

REPORT TO: Planning Committee
MEETING DATE: Tuesday 18 August 2020
BY: Head of Development
SUBJECT: Application for Planning Permission for Consideration

3

Note - this application was called off the Scheme of Delegation List by Councillor Currie for the following reason: Given the large number of objections from local residents and the range of concerns expressed I believe that the Planning Committee would benefit from a site visit and considering the application in public by the full committee.

Application No. **20/00044/P**

Proposal Erection of drive-thru restaurant (fast food) (class 3) and associated works

Location **Land East of Inveravon Terrace
Olivebank Road
Musselburgh
East Lothian**

Applicant McDonald's Restaurants Ltd

Per Planware Ltd

RECOMMENDATION **Consent Granted**

REPORT OF HANDLING

PROPOSAL

This application relates to an area of land that comprises part of the access road to, and the northern part of the customer car park that serves, the Tesco supermarket, Musselburgh. It is to the south of the Tesco Petrol Filling Station.

The site is not located within Musselburgh Conservation Area but is within the defined Musselburgh Town Centre. The site is within the wider designated area of the Battle of Pinkie.

To the east of the site lies residential properties on Inveresk Road and the former Tesco supermarket site, for which approval of matters specified in conditions (ref: 16/01029/AMM) has been granted for the erection on that site of 140 flats, construction of which is underway. To the west of the site is Eskmills Bowling Club and amenity housing flats for elderly people. Musselburgh Grammar School lies some 280m to the southeast of the site

Planning permission is sought for the erection on the application site of a drive thru restaurant and for the formation of access roads and footpaths, an outdoor seating area and

play area, drive-thru canopies and customer order displays, car parking, cycle parking and hard and soft landscaping. Planning permission is also sought for works to the internal Tesco access road to facilitate the proposed development, including an upgrading of part of it to accommodate HGV vehicles as well as resurfacing works and altered road markings for the proposed amended road layout.

The proposed drive thru restaurant would be located on the western part of the site. It would be comprised of a single storey building, with a number of flat roofs at differing heights and would at its highest be some 5.8m in height. It would have a largely rectangular shaped footprint some 31m in length by some 13.5m in width. It would have a gross floor area of 413.4m² which would comprise the public dining area (101 covers), counter and a corridor leading to male/female/disabled toilets, and the non-trading part of the building comprising of the kitchen and service counters, an office, drive thru booths to the north (for payment and collection on the drive thru lane), a staff room, staff changing rooms, store, external store, freezer and chiller rooms and corral area (for waste management).

There would be 2 small associated outdoor seating areas and a small play area located to the side (south) of the building. The drive thru component would comprise a road that would run in an arc around the north and south sides, and west rear of the building, which includes the introduction of a fast forward lane, which will allow for a customer to pull forward to a third booth, if there is a small delay in their order, to allow the traffic flow to be retained through the drive-thru lane.

Access into the site would be from the existing internal Tesco access road, however to facilitate the proposed development a part of it would be upgraded and resurfaced, and altered road markings would be applied for the proposed amended road layout to allow for turning into the site.

The proposed layout includes a total of 30 car parking spaces to the east of the restaurant building which includes 2 disabled bays and 2 Grill Bays and the provision of 4 cycle stands with 8 cycle parking spaces. The applicant informs that additional parking is available within the main Tesco car park. Pedestrian access points are proposed on both the north and south side of the site, with the north access point connecting into the existing footpath network.

The site would be lit with ten 6m high pole mounted lights positioned around the car parking area and drive thru area as well as close to the site entrance.

The perimeter of the south and west sides of the site would be enclosed with a mix of 600mm and 900mm high close boarded fencing and the site landscaped. Four trees and some hedging would be removed to facilitate the proposed development.

It is intended that the proposed drive thru restaurant would operate 24 hours per day, 7 days per week. Servicing of the restaurant would be undertaken by a dedicated supplier, and would take place approximately 3 times per week, lasting between 15 - 45 minutes depending on the delivery required, with the deliveries taking place between 6am and 11pm.

It is anticipated that the proposed drive thru restaurant would employ 65 full and part time staff.

A Noise Assessment, Low and Zero Carbon Report, Odour Control Report, Travel Plan, Drainage Maintenance Plan, Flood Risk Assessment, Transport Assessment, Lighting Strategy, Air Quality Assessment and a Planning Statement & Planning Addendum have been submitted in support of the application.

The applicant's submitted Planning Statement & Planning Addendum informs that based on the assessment of all the low and zero carbon technologies, air source heat pumps are proposed to be used for the development as a preferred renewable and low carbon technology to meet the total heating, cooling and water demand of the building. In terms of construction, the environmental considerations for the new elements of the building and its fit out include the selective use of materials and modern methods of construction to reduce waste; the inclusion of building energy management systems and 100% green energy supply generated off site and installation of waterless urinals which save 150 million litres of water per year nationally. It continues that McDonald's is committed to using recycled materials wherever possible, throughout the business. In the UK, approximately 90% of McDonald's food packaging is made from renewable sources. Recycled paper and virgin fibres from certified sustainable forestry sources represent around 55% and 69% respectively of the renewable resources used. All of McDonald's napkins and cup carriers are made from 100% recycled paper. The majority of the boxes used to package hot food (such as Big Macs®, Filet-o-Fish®, Chicken McNuggets®, Apple Pies, French Fries, and Happy Meal® boxes) are made from 72% recycled fibres. Waste cooking oil from the restaurants is collected by delivery vehicles and later recycled as biofuel. This is then used in the delivery fleet, providing a carbon saving of around 8,200 tonnes per annum. By using larger delivery vehicles McDonald's can deliver to more stores in a single trip, reducing the frequency of return trips to the supply centre.

DEVELOPMENT PLAN

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Development Plan 2018.

There are no policies of SESplan relevant to the determination of this application. Policies TC2 (Town and Local Centres), DP1 (Landscape and Streetscape Character), DP2 (Design), CH1 (Listed Buildings), CH2 (Development Affecting Conservation Areas), CH5 (Battlefields), NH8 (Trees and Development Sites), NH11 (Flood Risk), NH12 (Air Quality), NH13 (Noise), T1 (Development Location and Accessibility), T2 (General Transport Impact) and DEL1 (Infrastructure and Facilities Provision) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of this application.

REPRESENTATIONS

160 written representations to the application have been received. Of these 157 object to the proposed development, 2 are in support of it and 1 neither objects to nor supports it.

The main grounds of objection can be summarised as follows:

- * Increase in traffic congestion and pollution in the local area as well as road and pedestrian safety impacts;
- * Impacts on air quality and noise and odour issues;
- * Impact of light pollution;
- * The proposed development would harmfully impact on the amenity of nearby residential properties and on recreational amenity;
- * Impact on existing businesses;
- * Impacts on diet and healthy eating, particularly to children given the site's proximity to Musselburgh Grammar School;
- * Increase in litter problems and seagulls;
- * Proximity to an existing McDonalds restaurant and other fast food outlets;
- * Increase in litter and anti-social behaviour;

- * Impact on Climate Change in terms of impact on air quality and car emission from congestion;
- * Impact on historic environment and in particular on the Category A listed building of Old Bridge;
- * Loss of parking within the existing car park;
- * Impacts on parking in the surrounding area;
- * Traffic modelling is inaccurate.

The objections on the grounds of anti-social behaviour and proximity to existing McDonalds restaurants are not material considerations in the determination of this application. Neither is the matter of commercial competition.

The grounds of support are that the proposal would create jobs, and that McDonalds restaurants recycle packaging, tidy up areas they are near, work with communities for charities and sponsorship, give back to communities more than they take from communities, are kids, babies and disabled friendly and are affordable for many struggling families.

COMMUNITY COUNCIL

Musselburgh and Inveresk Community Council object to the application on the following grounds:

(i) they have on previous occasions stated that traffic management is dreadful, and emissions are terrible in Musselburgh;

(ii) the traffic modelling undertaken by the applicant was carried out during lockdown and thus it can have no true relevance as the streets were all but deserted.

(ii) Musselburgh continues to be surrounded with new builds adding to the traffic congestion in the town. Work has begun on the old Tesco site (next door) to build 140 flats which will only add to the emissions;

(iii) East Lothian Council's Climate Change Strategy 2020–2025 was approved at the Cabinet meeting on 21 January 2020. Approval of this application would seem to be at odds with the Climate Change Strategy set out by the Council's commitment to tackling the Climate Emergency at a local level and the vision and overall aims for a 'Net Zero Council' and a 'Carbon Neutral East Lothian' over the next five years;

(iv) the site has two schools in close proximity and the Community Council have been inundated with concerns from families regarding this application.

It terms of the Community Council's comment that the applicant's traffic modelling was carried out during lockdown this is not accurate. The traffic impact calculations of the proposed development were inputted into the Council's commissioned East Lothian Transport Appraisal model, which was produced to inform the East Lothian Local Development Plan, and takes into account the implications of housing and economic land allocations of the Plan on the transport network.

PLANNING ASSESSMENT

Policy TC2 of the adopted East Lothian Local Development Plan 2018 states that within a town or local centre, uses that will be acceptable in principle include retailing, business and office use, restaurants, leisure and entertainment. Proposals that would have a significant environmental impact, particularly on housing, will not be permitted.

There is no requirement for the applicant to demonstrate a locational or market need for the proposed drive thru restaurant. By virtue of being within Musselburgh Town Centre the

principle of the proposed drive thru restaurant use is acceptable, provided the environmental impacts are acceptable and other policy requirements are met. Accordingly, the drive thru restaurant use of the site does not conflict with Policy TC2 of the adopted East Lothian Local Development Plan 2018.

The proposed development, by being sited on land comprising part of the existing Tesco car park and being situated between the Tesco supermarket building and its associated Petrol Filling Station and car wash, would be seen in the context of those large commercial buildings, and in the context of the nearby bowling club and Primary Care Centre, as well as existing and new residential buildings (when constructed). Also as a result of differing ground levels and the presence of existing buildings and structures, the proposed development would be relatively contained in views from Olive Bank Road. In such a locational context the proposed drive thru restaurant building, by its height and modern contemporary design would sit comfortably within its mixed use location. It would not by its architectural form, size or positioning appear as an incongruous or overly dominating feature within the wider area. Moreover, and with the addition of a proposed scheme of landscaping, the proposed building together with the associated outside seating and play area, car parking and drive thru canopies would be suitably contained within the site and would not appear overly conspicuous or incongruous. They would be appropriate to their location in terms of their positioning, size, form, massing, proportions and scale. Consequently they would not be harmful to the visual amenity of the area, including to the setting of the Musselburgh Conservation Area or to the setting of the river Esk and its embankment.

Due to its position within the Tesco car park and that the existing Petrol Filling Station would sit between the application site and the Old Bridge, the proposed development would not have any immediate visual relationship with the Category A listed Old Bridge, or any other nearby listed building that would result in harm to its setting.

On these matters of siting and design, and impact on the setting of Musselburgh Conservation Area and listed buildings, the proposed development would not be contrary to Policies DP1, DP2, CH1 or CH2 of the adopted East Lothian Local Development Plan 2018.

The Council's Public Health and Environmental Protection Officer advises the proposed development has potential to have a harmful impact upon existing sensitive receptors due to noise, on local air quality (in particular the nearby Air Quality Management Area in Musselburgh High Street) and has the potential for increased littering within the vicinity of the site. He also notes there is also a significant gull problem within the immediate vicinity with nesting gulls recorded at the bus depot, Eskmills Industrial Estate and at the nearby Tesco.

On the matter of noise the Public Health and Environmental Protection Officer has perused the applicant's submitted Noise Assessment. He advises that it has considered sources of noise that are under the control of the operator of the drive thru restaurant arising from fixed plant, noise from vehicle movements and deliveries and on assessment of it, the Public Health and Environmental Protection Officer is satisfied that normal operational noise arising from the proposed development will not result in a harmful loss of amenity to any neighbouring or nearby residential property or other neighbouring land use. However he does advise that noise arising from the use of the premises during operational hours could harmfully impact upon neighbouring amenity. Accordingly he recommends that:

- (i) noise associated with the operation of any associated plant and/or equipment should not exceed Noise Rating curve NR25 at any octave band frequency within any residential property. All measurements to be made with windows open at least 50mm;
- (ii) deliveries should only be permitted between the hours of 0700-2300 on any day;
- (iii) the proposed drive thru restaurant can be allowed to operate 24 hours a day 7 days a

week for a temporary period of 1 year. Thereafter operating hours should be restricted to between 0700 to 2300 hours on any day; this will allow the operation of the proposed drive thru restaurant to be monitored and any impacts upon local amenity to be assessed;

(iv) the use of the external seating/eating area and play area should be restricted to between the hours of 0700 to 2100 on any day.

The Public Health and Environmental Protection Officer advises that his recommendation to allow the operation of the proposed drive thru restaurant 24 hours a day 7 days a week for a temporary period of 1 year would allow the operation of it to be monitored and any impacts upon local amenity assessed. This can be made a condition of a grant of planning permission.

On the matter of lighting, the Public Health and Environmental Protection Officer advises subject to control over light spillage, which can be imposed as a condition on a grant of planning permission, there would no harm from the lighting of the site to the amenity of nearby residential properties.

On the matter of air quality, the Public Health and Environmental Protection Officer advises that the proposed development is anticipated to result in up to 541 customer vehicles visiting the premises daily, which is a significant number of additional vehicles given the proximity of the application site to the Air Quality Management Area (AQMA) in Musselburgh High Street, which is located approximately 230m to the northeast of it. Access/egress to and from the proposed drive thru restaurant would also be located at a junction where there is existing congestion.

The Public Health and Environmental Protection Officer has perused the applicant's submitted Air Quality Assessment (AQA), and advises it has considered the impacts on NO₂, P10 and PM_{2.5} against both long term and short term mean Air Quality Objectives and has due regard to relevant guidance and methodology. He advises that the AQA concludes that impacts upon air quality at sensitive receptors would not be significant, and he agrees with this conclusion. He advises that whilst it is acknowledged that additional traffic would have an impact upon queuing and reduce traffic speeds, the composition of the increased traffic would be from Light Duty Vehicles (passenger cars) which are less polluting than Heavy Duty Vehicles and buses. In addition, sensitive receptors are set back from the road and in an open setting that will facilitate dispersal of pollution. Furthermore, he advises that not all of the additional traffic generated would travel eastwards from the application site along Mall Avenue towards the AQMA on Musselburgh High Street. Finally, he advises that the composition of the road traffic by the proposed opening date in 2021 would have improved since the baseline year of 2018 with older, more polluting vehicles being replaced by newer vehicles and enhanced engine technology. On the basis of the above the Public Health and Environmental Protection Officer advises the proposed development would have no harmful impact on air quality nor on the objectives of the AQMA and in this regard would not harm the amenity of the area.

On the matter of litter, the Public Health and Environmental Protection Officer recommends that a litter management plan be submitted for the prior approval of the Planning Authority. This should include measures for the escape of waste from bins and the location, frequency and distance from the site of litter picks. Such a requirement could be imposed as a condition on a grant of planning permission.

The Public Health and Environmental Protection Officer advises that there is a significant local gull population with the following information on nests/numbers known as of 2018:

(i) Bus depot – 36 nests/pairs = 72 birds; each nest producing an average of 3 chicks per year or 108 chicks in total.

(ii) Eskmills Industrial Estate – 15 nests/pairs = 30 birds; each nest producing an average of 3 chicks per year or 45 chicks in total.

In addition to the above, Tesco also have nesting gulls but there is no information on the number of nests/pairs as Tesco carry out gull control using their own contractor. East Lothian Council carry out an annual gull control programme aimed at controlling the number of eggs/chicks, however the Council's Public Health and Environmental Protection service cannot use Statutory Nuisance provisions of the Environmental Protection Act 1990 to control wild birds and carry out the Gull Control under licence due to ongoing health and Safety concerns presented to the local population.

The Public Health and Environmental Protection Officer states that the proposed drive thru restaurant building has a number of flat roofs that could provide an ideal location for birds to nest. Accordingly, he recommends that a pest management plan be submitted for the prior approval of the Planning Authority, which could be imposed as a condition on a grant of planning permission.

Subject to the imposition of the above mentioned conditions the operation of the proposed drive thru restaurant would not cause a harmful loss of air quality, harm from pests or harm to the amenity of the occupants of neighbouring or nearby residential properties.

In relation to considerations of contaminated land issues, **the Council's Environmental Protection Officer** (Contaminated Land) advises that he has appraised the submitted Site Investigation Report submitted by the applicant and confirms that the reporting has been carried out in accordance with best practice guidelines and the relevant standards and there is no requirement for any further investigative works to be undertaken. He further advises that the investigation and assessments carried out have identified no risk to the proposed development from any on-site contaminants contained within the topsoil or made ground. He notes that there are indications of asbestos contamination on the site which will have to be taken into account, and that the gas monitoring and risk assessment carried out have identified the site as falling within a Characteristic Situation 2 meaning that gas protection measures will be required for the development.

In this regard the Environmental Protection Officer (Contaminated Land) advises that a Remediation Statement should be submitted detailing the measures to be implemented for the site and also confirming the validation procedures to be undertaken in order to verify these measures. On completion of the remedial works a Verification Report should be submitted confirming that all the remedial measures have been successfully carried out. This requirement can be secured through a condition attached to a grant of planning permission for the proposed development.

The proposed drive thru restaurant would be located sufficiently far away to ensure that there would be no loss of amenity through overlooking or overshadowing of any nearby residential property.

ON these considerations the proposed development is consistent with Policies DP2, NH12 and NH13 of the adopted East Lothian Local Development Plan 2018.

The advice from **the Council's Landscape Officer** is that there would be a loss of 5 young semi mature Rowan trees, and some small linear strips of ground cover planting to accommodate the proposed development. This planting was carried out as part of the planning approval for the Tesco store, and its loss must be mitigated. He advises that there are a number of trees between the northern boundary of the site and access route into the Tesco store along an embanked strip that will, in time, soften and semi screen the development from views into the site from the north. To integrate the proposed

development within the wider setting and mitigate the tree loss, the Landscape Officer recommends that a minimum of eight new small to medium sized tree species be planted within the curtilage of the development, new trees should comprise species with compact crowns such as Rowan (*Sorbus aucuparia* - streetwise) or similar approved, and be heavy standards 3.0 to 3.5m in height and 12 to 14cm in circumference when planted. The requirement of a scheme of landscaping can be made a condition on a grant of planning permission for the proposed development, in which case it is not contrary to Policy NH8 of the adopted East Lothian Local Development Plan 2018.

The Council's Waste Services were consulted on the application and raised no objection.

Sottish Water raise no objection to the application.

SEPA reviewed the information provided in this consultation and it is noted that the application site lies outwith the medium likelihood (0.5% annual probability or 1 in 200 year) flood extent of the SEPA Flood Map. They advise that the application site is not located within an area identified to be at risk of flooding, advising that Section 4.2 within the applicant's submitted Flood Risk Assessment indicates that finished floor levels are proposed to be 10.30mAOD. Review of LiDAR Data and the recent model outputs from the Musselburgh Flood Protection Scheme, indicates that the site is outwith the fluvial flood extent and a significant height above the River Esk. Therefore, SEPA raise no objection to the proposed development on flood risk grounds.

The Council's Flooding and Structures Manager raises no objection to the application, satisfied it would not be at risk from flooding.

As part of the application site lies within an area at high risk due to former coal mining, **The Coal Authority** have been consulted on the application. The Coal Authority advise that records indicate that part of the application site is within an area of possible shallow coal mining. At their request, the applicant has submitted a Phase I and Phase II Site Investigation Report. Having reviewed these, The Coal Authority considers that the content and conclusions of the Phase I and II Site Investigation Report are sufficient in demonstrating that there are no shallow coal seams likely to be present beneath the application site and no further works are considered necessary. The Coal Authority therefore raises no objection to the proposed development.

Historic Environment Scotland have been consulted on this application and they have raised no objection to the proposed development on the setting of the A listed Old Bridge. Nor do they have any comments to make in terms of impact of the proposals on the Battle of Pinkie Battlefield Site or on any other aspects of the Historic Environment.

At the request of **the Council's Road Services and Planning Service**, the applicant has undertaken a traffic network modelling exercise to predict the traffic impact on the local road network as a result of the proposed development, to be read in conjunction with the submitted Transport Assessment. The traffic modelling concludes that there would be no adverse impact on the operation of the local road network as a result of increased traffic arising from the use of the proposed development.

The Council's Road Services advise that they accept the conclusions of the traffic network modelling exercise, that the traffic impact associated with the proposed development would be minimal and there would be no adverse impact on the operation of the local highway network.

In terms of parking provision, Road Services advise that the submitted Transport Assessment concludes that the site location and demographic means that the maximum

parking demand at the proposed drive thru restaurant would be 28 spaces. Although up to 20 staff would be also be on-site at any one time, only 25% of them are expected to arrive by car (based on the applicant's experience at their other stores).

Road Services state that it is noted that there is a significant shortfall in the number of parking spaces being provided when compared to the Council's Parking Standards for a foodstore (Tesco) and a restaurant (proposed development) as detailed below:

Tesco:

Spaces required by ELC Parking Standards – 575

Maximum number of spaces in use currently – 209

Provision after completion of proposed development – 345

Proposed drive thru restaurant:

Spaces required by ELC Parking Standards – 50

Maximum number of spaces in use currently – 0

Provision after completion of proposed development – 30

However, Road Services advise that parking counts by the applicant on Friday 21st June 2019 were also taken and these actual counts are much lower than the Council's parking standards would require. The maximum number of spaces in use in the Tesco car park at any time on the observed days is 209. Road Services accept that this is representative of a normal busy day. The loss of parking in Tesco car park as a result of the proposed development would still allow a spare capacity of 136 spaces which would be ample for any peak shopping days, and still allow for staff use and overspill use from surrounding premises.

Road Services therefore advise that they are satisfied that there would remain sufficient parking in the Tesco car park to accommodate the demands of the Tesco store itself, any overspill from the proposed development and any overspill from surrounding uses and that the parking provision for the proposed drive thru restaurant is acceptable.

Notwithstanding the above, Road Services do object to the application on the grounds of lack of accessibility for non-car users. They state that there would be a significant number of pedestrian and cycle trips to the site, particularly from Musselburgh Grammar School and the town centre and these desire lines are not accommodated in the site layout. They further state that there are no good links to nearby bus stops or cycle routes.

However, Policy T1 of the adopted East Lothian Local Development Plan 2018 states that "New developments shall be located on sites that are capable of being conveniently and safely accessed on foot and by cycle, by public transport as well as by private vehicle". Policy T1 doesn't require separate walking and cycling routes or that they be the most direct route, only that sites are capable of being accessed, which the application site is. Pedestrians approaching from the north are able to access the site from Olive Bank Road, and enter the site from the north side, and those approaching from the south can enter at the ramp close to the Tesco entrance and then follow the path running directly up the centre of the Tesco car park to the site. Moreover the application site is within the defined Musselburgh Town Centre, and therefore the site is easily and safely accessible to non-car users and within proximity to bus stops.

Road Services advise that if planning permission were to be granted, they recommend that a revised Travel Plan be submitted to minimise private car trips and to encourage use of alternative modes of transport such as buses, cycling and walking.

In consideration of the above it is concluded that the proposed development is consistent with Policies T1 and T2 of the adopted East Lothian Local Development Plan 2018.

Policy DEL1 of the adopted East Lothian Local Development Plan 2018 states that new development will only be permitted where the developer makes provision for infrastructure required as a consequence of their development in accordance with Scottish Government Circular 2/2012 or any revision. Developer contributions will be required from all development proposals that meet or exceed the thresholds:

- * Proposals for 5 or more dwellings
- * Employment, retail, leisure or tourism proposals of 100sqm gross floor space or larger;

The exact nature and scale of developer contributions required in association with all relevant new development proposals, including windfall proposals, will be assessed on a case by case basis. In the case of employment, retail, leisure or tourism proposals these contributions would be limited to transport interventions, such as road or rail improvements.

In this instance due to the relatively small gross floor area of the development the contributions that would be required would be negligible. Therefore the Council's Road Services advise that no developer contributions are sought in this instance.

Many written objections are made on the grounds of the proximity of the proposed drive thru restaurant to Musselburgh Grammar School, and that such a facility promotes unhealthy eating and thus would lead to harmful health consequences.

The East Lothian Local Development Plan 2018 does not contain any policies restricting the location of drive thru restaurant facilities to a certain distance from schools, or any other educational establishments. Nor does it contain any policies relating to unhealthy eating or the health consequences of proposed developments. Thus, and in the absence of national guidance on health consequences of proposed developments, no significant weight can be given to these matters.

A recent planning appeal decision by a Scottish Government Reporter came to this same conclusion on the health impacts of a proposed drive thru restaurant. It is therefore concluded that there are no planning grounds to refuse this application on the proximity of the proposed development to schools, or on health grounds.

At its meeting on Tuesday 27th August 2019 the Council approved a motion declaring a Climate Emergency. Thereafter, at its meeting on Tuesday 3rd September 2019 the Council's Planning Committee decided that a report on the actions to be taken to reduce the carbon emissions from the building and from the completed development should be required on relevant applications for planning permission. The applicant has submitted a Low and Zero Carbon Report advising that air source heat pumps are proposed to be used for the development as a preferred renewable and low carbon technology to meet the total heating, cooling and domestic hot water demand of the building, combined with use of 15m² of photovoltaic panels to reduce the overall carbon emissions by 16.10% compared to the notional building. The effective measures required to reduce carbon emissions will be secured through the subsequent building warrant process. In order to further reduce carbon emissions, it would also be prudent to require proposals for the provision of new car charging points and infrastructure for them. This could be secured by a condition imposed on a grant of planning permission for this proposed development.

RECOMMENDATION

It is recommended that planning permission be granted subject to the undernoted conditions:

- 1 No development shall take place on site unless and until final site setting out details have been submitted to and approved by the Planning Authority.

The above mentioned details shall include a final site setting-out drawing to a scale of not less than 1:200, giving:

- a. the position within the application site of all elements of the proposed development and position of adjoining land and buildings;
- b. finished ground and floor levels of the development relative to existing ground levels of the site and of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and
- c. the ridge height of the proposed shown in relation to the finished ground and floor levels on the site.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the amenity of the area.

- 2 A detailed schedule of materials and finishes and, if requested, samples of such materials and finishes for all components of the development, including ancillary structures, hard ground surfaces and boundary enclosures shall be submitted to and approved by the Planning Authority prior to the material and finishes being used in the development. The materials and finishes used in the development shall accord with the schedule and samples of them so approved.

Reason:

To enable the Planning Authority to control the materials, finishes and colour to be used to achieve a development of good quality and appearance in the interest of the visual amenity of the area.

- 3 The hours of operation of the drive thru restaurant hereby approved shall be 24 hours a day 7 days a week for a temporary period of 1 year only, which shall begin on the commencement of use of the premises. The date of commencement of use of the drive thru restaurant shall be provided in writing to the Planning Authority prior to it being open for business. Thereafter the hours of operation of the drive thru restaurant shall be restricted to between 0700 to 2300 hours on any day.

Reason:

In the interests of safeguarding the amenity of the occupiers of nearby residential properties.

- 4 Noise associated with the operation of the development hereby approved and from any associated plant and/or equipment shall not exceed Noise Rating curve NR25 at any octave band frequency within any residential property. All measurements to be made with windows open at least 50mm.

Reason:

In the interests of safeguarding the amenity of the occupiers of nearby residential properties.

- 5 There shall be no service delivery to the drive thru restaurant and no unloading or loading of service vehicles within the site outwith the hours of 0700 to 2300 hours on any day.

Reason:

In the interests of safeguarding the amenity of the occupiers of nearby residential properties.

- 6 The use of the external seating/eating area and play area of the drive thru restaurant shall be restricted to between the hours of 0700 to 2100 on any day.

Reason:

In the interests of safeguarding the amenity of the occupiers of nearby residential properties.

- 7 The design and construction of any artificial lighting within the application site shall take account of the guidance contained within Annex 1 to Appendix 2 of Scottish Government Guidance to Accompany the Statutory Nuisance Provisions of the Public Health etc (Scotland) Act 2008. Accordingly, within an E3 Zone, i.e. Medium district brightness area such as small town centres or urban locations, the following criteria shall be met prior to any external lighting units becoming operational and thereafter shall be maintained:

(i) Light Trespass (onto windows) of neighbouring residential properties, measured as Vertical Illuminance in Lux, (Ev), shall not exceed 10 between the hours of 0700 to 2300 and shall not exceed 2 between the hours of 2300 to 0700.

Reason:

In the interests of safeguarding the amenity of the occupiers of nearby residential properties.

- 8 Prior to the commencement of use of the drive thru restaurant as hereby approved a Litter Management Plan shall be submitted to and approved in writing by the Planning Authority. The Litter Management Plan shall include details on:

(i) measures to prevent escape of waste from bins or other receptacles, including by birds or other animals;
(ii) location, frequency and radius of litter picks from the application site;
(iii) a location map showing the areas to be covered and boundaries of the Litter Management Plan; and
(iv) details on measures to be taken in event of complaints being received by the Planning Authority regarding litter arising from the proposed development.

All the measures identified in the approved Litter Management Plan shall be in place and fully operational for the opening of the drive thru restaurant to members of the public and shall continue in operation for the duration of the approved use, unless otherwise agreed in writing by the Planning Authority.

Reason:

In the interests of protecting the character and amenity of the surrounding area.

- 9 Prior to the commencement of use of the drive thru restaurant as hereby approved a Pest Management Plan shall be submitted to and approved in writing by the Planning Authority. The Pest Management Plan shall include details on measures to be taken to control or minimise any health and safety risks presented to members of the public due to gulls that may nest on the roof of the drive thru restaurant. This may include, but not be limited to, details of proofing measures to be taken to prevent or minimise nesting and measures to be taken to control nesting gull numbers.

All the measures identified in the approved Pest Management Plan shall be in place and fully operational for the opening of the drive thru restaurant to members of the public and shall continue in operation for the duration of the approved use, unless otherwise agreed in writing by the Planning Authority.

Reason:

In the interests of protecting the amenity of the surrounding area.

- 10 Prior to the commencement of development (and where risks have been identified), a detailed Remediation Statement shall be submitted to and approved by the Planning Authority which shall demonstrate that the application site is to be brought to a condition suitable for the intended use by the removal of unacceptable risks to all relevant and statutory receptors. The Statement should detail all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures.

Following completion of the measures identified in the approved Remediation Statement, a Verification Report shall be submitted to and approved by the Planning Authority prior to the commencement of use of the development hereby approved that demonstrates the effectiveness of the remediation carried out.

Reason:

To ensure that the site is clear of contamination and that remediation works are acceptable prior to the occupation of any of the residential units.

- 11 A Travel Plan to minimise private car trips and to encourage use of alternative modes of transport such as buses, cycling and walking shall be submitted to and approved by the Planning Authority prior to construction commencing. Additionally the Travel Plan shall include details of the measures to be provided, the methods of management, monitoring, review, reporting and duration of the Plan.

Reason

In the interests of encouraging sustainable methods of transport.

- 12 Prior to the commencement of development a scheme of landscaping shall be submitted to and approved by the Planning Authority. This shall include a minimum of eight new small to medium sized tree species to be planted within the site, new trees should comprise species with compact crowns such as Rowan (*Sorbus aucuparia* - streetwise) or similar approved, and be heavy standards 3.0 to 3.5m in height and 12 to 14cm in circumference when planted.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in

the first planting and seeding season following the completion of the development. Any trees or plants which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar species and final size, unless the Planning Authority gives written consent to any variation. No trees or shrubs, detailed in the approved landscaping plans to be retained on the site, shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the previous written consent of the Planning Authority.

Reason:

In the interests of achieving an appropriate landscaped setting for the development.

- 13 Prior to the commencement of development, details of the provision of new car charging points and infrastructure for them shall be submitted to and approved in writing by the Planning Authority. The details shall include a timetable for implementation. Development shall thereafter be carried out in accordance with the details so approved.

Reason:

To minimise the environmental impact of the development.

REPORT TO: Planning Committee
MEETING DATE: Tuesday 18 August 2020
BY: Head of Development
SUBJECT: Application for Planning Permission for Consideration

4

Application No. **19/00869/AMM**

Proposal Approval of matters specified in conditions of planning permission in principle 17/00917/PPM - Erection of 230 houses, 20 flats and associated works

Location **East Of Cowpits Road
Whitecraig
East Lothian**

Applicant Persimmon Homes Limited & Executors Of Late Sir John Hope

Per EMA Architecture and Design

RECOMMENDATION Consent Granted

REPORT OF HANDLING

PROPOSAL

Although this application is for the approval of matters specified in conditions of planning permission in principle 17/00917/PPM it has to be determined as a major development type application because the area of the application site is greater than 2 hectares and the number of dwellings detailed is greater than 49. Accordingly the application cannot be decided through the Council's Scheme of Delegation. It is therefore brought before the Planning Committee for a decision.

The land is allocated for residential development and the provision of infrastructure and associated works by Proposal MH14: Land at Whitecraig North by the adopted East Lothian Local Development Plan 2018 (ELLDP 2018).

On 4th November 2018 following the conclusion of a S75 legal agreement planning permission in principle (Ref: 17/00917/PPM) was granted for a residential development of some 250 homes, a SUDS drainage system, open space and play area and associated infrastructure on some 11.4 hectares of predominantly agricultural land to the north of Whitecraig. Planning permission in principle 17/00917/PPM was granted subject to the prior conclusion of a Section 75 Agreement that secured from the applicant:

(i) a financial contribution to the Council of £3,152,750 for education contributions - £2079,250 (£8317 per residential unit) towards the provision of additional capacity at

Whitecraig Primary School, £59250 (£237 per dwelling) towards the cost of campus land for the new Musselburgh Secondary School and £1014250 (£4057 per dwelling) contribution towards the capital costs for the new Musselburgh Secondary School;

(ii) a financial contribution to the Council for campus land for Whitecraig Primary school. This contribution will be based on the value of the land as assessed by the District Valuer for the 250 units (or the number of units built) as a proportion of the 600 residential units to be built within the Whitecraig primary school catchment area;

(iii) a financial contribution to the Council of £288,637.50 (£1154.55 per dwelling) towards the provision of a new sports pitch facility at Whitecraig;

(iv) a financial contribution to the Council of £136,102.50 for transport improvements - £96,145 for road improvements to Old Cragihall Junction, Salters Road Interchange and Bankton Interchange, £24,197.50 for rail improvements, £5,780 for Musselburgh town centre improvements and £9,980 for Tranent Town Centre improvements.

(v) provision of 25% of the final approved number of residential units within the application site as affordable residential units or if it can be demonstrated to the Council that this, or the off-site provision of 25% of the final approved number of residential units as affordable units is not practicable, to secure from the applicant a commuted sum payment to the Council in lieu of such an on or off-site provision.

Condition 1 of planning permission in principle 17/00917/PPM requires that the development of the site should generally accord with the indicative masterplan docketed to this planning permission in principle.

Approval of matters specified in conditions now sought is for the erection of 230 houses and 20 flats and associated works on land to the north of Whitecraig and thus on the site to which planning permission in principle ref: 17/00917/PPM and the masterplan docketed to that permission apply.

This application site has a largely rectangular shaped footprint and forms the southern part of a larger agricultural field. It is bounded to the west by Cowpits Road, to the north and east by the remainder of the agricultural field and to the south by the village of Whitecraig.

In part of the field to the north is the Monktonhall Junction, Neolithic cursus Schedule Monument. The site is also with the Battle of Pinkie Battlefield Site. To the west side of the site, on the opposite side of Cowpits Road is the eastern boundary of the Dalkeith House Garden and Designed Landscape.

In accordance with planning permission 17/00917/PPM vehicular access to the development would be taken from two vehicular accesses – one from Cowpits Road to the west and one from the north side of Whitecraig road, beyond the eastern edge of the village.

Also in accordance with planning permission 17/00917/PPM a new 4m wide cycle path will also be formed through the site from Cowpits Road to Whitecraig Road. This cycle path will form part of the National Cycle Route (NCR1).

The SUDs for the site differs from that approved through planning permission 19/00917/PPM in that there is no longer a second SUDs basin proposed in the northeast corner of the site. Instead only one SUDS basin is proposed which will be in the northwest corner of the site.

A network of open space will be provided throughout the site with larger areas to the northwest and southeast, which would be linked by a green corridor that would run through the

centre of the site, adjacent to the new spine road, and which would also integrate the new the NCR1 cycle path within it.

Of the 250 residential units to be erected within the site 63 would be affordable housing and 187 would be for private houses for sale.

The 187 houses for private sale would be a mix of terraced (34), semi detached (28) and detached houses (125) which would give a mix of 16 x 2 bed terraces, 18 x 3 bed terraces, 28 x 3 bed semi detached, 17 x 3 bed detached, 101 x 4 bed detached and 7 x 5 bed detached houses.

The 63 affordable units would comprise 20 flat (4 x 1 bed flats, 16 x 2 bed), 18 x 2 bed roomed terraced houses, 21 x 3 bed roomed semi-detached houses, 2 x 4 bed roomed semi detached houses and 2 semi-detached bungalows.

Other than the 2 bungalows all the houses would be two-storey in height.

The submitted details also include for the internal access roads, garages, parking courts, boundary treatments and landscaping.

The application is supported by a Design and Access Statement.

Subsequent to the registration of this application, further drawings have been submitted showing revisions to the site layout including a change to the mix of residential units, a change to the alignment of the cycle path and omitting the SUDs basin that was previously proposed in the northeast corner of the site.

DEVELOPMENT PLAN

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Development Plan 2018.

There are no policies of the approved South East Scotland Strategic Development Plan (SESplan) of relevance. Proposal MH14: Land at Whitecraig North and Policies HOU3 (Affordable Housing Quota), HOU4 (Affordable Housing Tenure Mix), OS3 (Minimum Open Space Standards for New General Needs Housing, DP1 (Landscape Character), DP2 (Design), DP3 (Housing Density), DP4 (Major Development Sites), DP9 (Development Briefs), DCN2 (Provision for Broadband Connectivity in New Development), T1 (Development Location and Accessibility), CH4 (Scheduled Monuments and Archaeological Sites), (CH5 (Battfields), CH6 (Gardens and Designed Landscapes) and T2 (General Transport Impact of the adopted East Lothian Local Development Plan 2018 ELLDP 2018) are relevant to the determination of the planning application.

Planning Advice Note 67 explains how Designing Places should be applied to new housing. In PAN 67, it is stated that the planning process has an essential role to play in ensuring that: (i) the design of new housing reflects a full understanding of its context - in terms of both its physical location and market conditions, (ii) the design of new housing reinforces local and Scottish identity, and (iii) new housing is integrated into the movement and settlement patterns of the wider area. The creation of good places requires careful attention to detailed aspects of layout and movement. Developers should think about the qualities and the characteristics of places and not consider sites in isolation. New housing should take account of the wider context and be integrated into its wider neighbourhood. The

quality of development can be spoilt by poor attention to detail. The development of a quality place requires careful consideration, not only to setting and layout and its setting but also to detailed design, including finishes and materials. The development should reflect its setting, reflecting local forms of building and materials. The aim should be to have houses looking different without detracting from any sense of unity and coherence for the development or the wider neighbourhood.

Also material to the determination of this application is the Scottish Government Policy Statement entitled "Designing Streets". It provides an overview of creating places, with street design as a key consideration. It advises on the detail of how to approach the creation of well-designed streets and describes the processes which should be followed in order to achieve the best outcomes.

Also material to the determination of the application is the development brief for allocated site MH14: Whitecraig North which is within the Development Briefs Supplementary Planning Guidance 2018 and the approved masterplan for the site as approved by the grant of planning permission in principle 17/00917/PPM. The Development Brief informed the masterplan and sets out the land uses expected for the allocated site and how the Council requires the site to be developed.

Also material to the determination of the application is the approved Sustainable Drainage Systems (SuDs) SPG adopted by the Council on 25th June 2019.

REPRESENTATIONS

No representations were received in respect of this application.

COMMUNITY COUNCIL

Whitecraig Community Council were consulted on the application but did not provide a consultation response.

PLANNING ASSESSMENT

By the grant of planning permission in principle 17/00719/PPM, approval has been given for the principle of the erection of up to 250 residential units on the application site.

Therefore, in the determination of this application the Council, as Planning Authority, can only concern itself with the siting, design and external appearance of the development, the landscaping of and means of access to the site and the means of any enclosure of the boundaries of the site. In this regard the detailed proposals have to be considered against relevant development plan policy and conditions attached to planning permission in principle 17/00917/PPM.

In accordance with the Development Brief access to the site will be taken from two new vehicular accesses to be formed – one from Cowpits Road and the other from Whitecraig Road. These accesses are also in accordance with the illustrative masterplan (Ref: 14003-MPDF-P002-D) approved through the grant of planning permission in principle 17/00917/PPM.

The proposed residential development would be located adjacent to the northern edge of the existing settlement of Whitecraig. The site is relatively flat therefore there is no requirement for any significant changes in ground levels to facilitate the development of the site. However, due to the ground levels towards the north boundary of the site the houses built along the north boundary of the site - plots 233-242 - would have rear gardens that would slope down towards the landscaped edge along that northern boundary. Due to their positioning on the site the houses with the more steeply sloping gardens along the north boundary would not appear incongruous or obtrusive and would not be harmful to the

landscape character of the area.

The proposed houses would be seen as a continuation of the existing housing of Whitecraig Road to the south. Due to the relationship the proposed new houses and flats would have with the existing houses of Whitecraig the proposed residential development would be seen against the backdrop of that existing housing and therefore would not appear isolated or sporadic. It would instead be well integrated into its surroundings. The woodland planting along the northern and eastern boundaries of the site to the east of the site would give visual containment to the proposed residential development in views of it from Cowpits Road to the west and Whitecraig road to the south. In all of the this proposed residential development would be appropriate to its location and would not be out of keeping with the character of the settlement and local area. It would sympathetic to the character of Whitecraig.

The details now submitted for approval of matters are for a scheme of development comprising a mix of detached, semi-detached, terraced houses and flats (22 types of residential units), with the houses and flats being largely two stories in height. The total number of units proposed accords with the planning permission in principle granted for this part of the site and the mix of residential units includes a range of sizes and types. The layout reflects the surrounding area, which is generally characterised by a mix of single and two-storey houses. The layout which includes SUDs and openspace gives a density of development, at some 33 units per hectare, which is consistent with Policy DP3 of the ELLDP 2018 which requires a minimum density of some 30 units per ha.

The range of house types and flats proposed would give a variation of architectural form to the development, which coupled with the orientation and layout of the buildings, would give a degree of variety of appearance to the development. The architecture of the proposed houses is of a traditional pitched roof form. It should be ensured that the use of render is the predominant wall finish as this would respect the built form of other housing developments in Whitecraig. A condition can be imposed on a grant of approval of matters specified in conditions for the proposed development to address these matters of wall finishes.

The proposed layout is broadly consistent with the layout shown in the Design Concept docketed to planning permission in principle 17/00719/PPM. The houses due to their positioning on the application site and by virtue of their height, size and scale, would not appear incongruous in their landscape setting. This coupled with the proposed landscaping would ensure a visually attractive and cohesive development, with the proposed houses visible but not appearing intrusive in their surroundings. The other components of the proposed development would not be harmful to the character and appearance of the area.

The proposed residential development would provide an attractive residential environment for future residents of the proposed houses. The houses are shown to be laid out in such a way that adheres to the normally accepted privacy and amenity criteria on overlooking and overshadowing, whilst affording the future occupants of the houses and flats an appropriate level of privacy and residential amenity.

The application site is capable of accommodating all of the houses without being an overdevelopment of the site and without being incompatible with the density of existing housing development in the area.

Thus on those matters of design the proposed development is consistent with Prop MH14, the adopted Development Brief for the site, with Policies DP1 and DP2 of the ELLDP 2018 and with Planning Advice Note 67.

Through the determination of planning permission in principle 17/0917/PPM it was established that the proposal would not have an adverse impact on the setting of

Monktonhall Junction, Neolithic cursus north of Whitecraig Scheduled Monument, the Battle of Pinkie Battlefield site or to the setting of the Dalkeith House Designed Landscape. The proposals are therefore consistent with Policies CH4, CH5 and CH6 of ELLDP 2018.

Condition 3 of planning permission in principle 17/00917/PPM requires the submission and approval of a scheme of landscaping prior to the commencement of development on the site, and thereafter secure the implementation of the scheme of landscaping. The approval of this matter as specified in Condition 3 of planning permission in principle application 17/00917/PPM is sought through this application. The landscaping scheme submitted by the applicant generally complies with that shown in planning permission in principle 17/00917/PPM. Therefore, and provided the landscaping scheme is implemented in accordance with the drawings and within a timetable to be submitted to and agreed with by the Planning Authority which can be made a condition of a grant of Approval of Matters this landscaping scheme is acceptable.

The masterplan docketed to planning permission in principle 17/00917/PPM indicates how areas of formal and informal open space, could be provided on the allocated site.

An equipped play area is proposed in the area of open space towards the northeast part of the site. It can reasonably be made a condition of a grant of planning permission that the details of the play equipment be provided together with a timetable for its provision prior to works commencing on site.

The largest areas of open space would be provided within the northwest and southeast corners of the site and which would be linked by a linear strip of open space that would run adjacent to the north side of the spine road. Within that linear strip would be the NCR1 cycle path. Smaller area of open space would also be provided within the site. The proposed size and location of open space is consistent with Policy OS3 of the adopted East Lothian Local Development Plan 2018 and with the indicative masterplan docketed to planning permission in principle 17/00917/PPM.

The principles of the means of accessing the proposed housing area have already decided by the grant of planning permission in principle 17/00917/PPM. These include vehicular access to the proposed site being taken from Cowpits Road and also from a vehicular accesses to be taken from Whitecraig Road.

Condition 10 of planning permission in principle 17/00917/PPM requires amongst other things the provision of a 2m wide footway on the east side of Cowpits Road from the proposed site access southwards to the existing pedestrian footway. In response to this it is proposed to form a 2m wide footway within the verge between the houses fronting onto Cowpits Road and that road. This will provide a separation between the footway the road and give a better walking experience. This footway will also extend beyond the site access on Cowpits Road to meet with the cycle path in the northwest corner of the site. The southern end of the footway will also link into and form part of the footway network to be formed through the site. In that respect it is consistent with the masterplan approved by the grant of planning permission in principle 17/00917/PPM.

The submitted details for accessing the site are in accordance with these established principles of the means of accessing the development.

Condition 10 of planning permission in principle 19/00917/PPM also requires that prior to the occupation of any of the residential units all roads and footpaths, including external footpaths as required shall be completed and brought into use in accordance with a phasing of them as agreed with the Roads Authority and which shall include:

- 1) a scheme of works to provide a controlled pedestrian/cycle crossing of the A6094 near NCR1 at a location to be agreed with East Lothian Council;
- 2) a scheme of works and associated measures on Cowpits Road to the north of the proposed new junction to control vehicle speeds. The proposed measures shall be submitted to the Council for approval and shall include a reduced speed limit with the relocation of the existing 30 miles per hour speed limit some 700m north of the proposed new junction onto Cowpits Road, the provision of a pedestrian footway/footway widening, traffic calming and street lighting;
- 3) Provision of a 2.0m wide footpath on the east side of Cowpits Road from the proposed site access, southwards to the existing pedestrian footway. Where the existing footway on Cowpits Road is less than 2.0m wide, the footway shall be increased to 2.0m in width;
- 4) Provision of a footpath link of not less than 2.0m width on the north side of Whitecraig Road between the proposed site access junction and the existing residential properties (no 2 Whitecraig Road) and the footpath shall have adequate width for cyclists and bus shelters.
- 5) If provision (of) a footpath link from the site to Whitecraig Road that adjoins the south side of the site is possible, the said footpath link shall be included in the scheme of landscaping. If such provision is not possible, the scheme shall nevertheless be designed so as to facilitate provision of such a link at a future date should circumstances change.
- 6) Street lighting shall be provided over the full extent of the proposed 30 mph speed limit on the A6094 and Cowpits Road from the existing lighting on both roads to a point beyond both proposed site access junctions.

Other than the footpath on the east side of Cowpits Road this Approval of Matters does not seek to implement any of those other offsite works listed in Condition 10. Therefore and to ensure that those works are undertaken to facilitate pedestrian and cyclist movement from the site including to the Whitecraig Primary school a condition should again be imposed on this Approval of Matters to ensure those works are carried out prior to the commencement of development.

The Council's Roads Services also recommend that within the site:

- (i) all adoptable footpaths shall be 2m wide;
- (ii) driveways shall have minimum dimensions of 6 metres by 3 metres. Double driveways shall have minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11 m length;
- (iii) within private parking areas, the minimum dimensions of a single parking space shall be 2.5 metres by 5 metres. All visitor parking spaces within these areas shall be clearly marked for visitors with the remaining private parking spaces allocated to individual dwellings;
- (iv) all prospectively adoptable parking bays (i.e. that will form part of the public road) shall have minimum dimensions of 2.5 metres by 6 metres. This can be reduced to a minimum length of 5 metres on the proviso that there is adequate road space to manoeuvre in adjacent to the parking bay;
- (v) Vehicle access to private parking areas shall be via a reinforced footway crossing and have a minimum width of 5.5m over the first 10m to enable adequate two movement of vehicles;

All of these requirements can reasonably be made conditions of the approval of matters specified in conditions for the proposed housing development.

On these foregoing transportation and other access considerations and subject to the aforementioned conditions the proposed residential development is consistent with Policies

T1 and T2, of the adopted East Lothian Local Development Plan 2018.

The mechanism of a financial contribution towards additional educational provision for a housing development of 250 residential units has already been secured through the grant of planning permission in principle 17/00917/PPM.

Condition 11 of planning permission in principle 17/00917/PPM requires a scheme of intrusive investigation works in accordance with the Coal Mining Risk Assessment shall be submitted to and approved in writing by the Planning Authority in conjunction with the Coal Authority. However, the approval of this matter as specified in Condition 11 of planning permission in principle application 17/00917/PPM is not sought through this application and thus the requirement to submit that scheme of intrusive works remains embodied in Condition 11 of planning permission in principle 17/00917/PPM and therefore remains in force.

Condition 12 of planning permission in principle 17/00917/PPM requires the submission and implementation of a programme of archaeological work prior to the commencement of development. However, the approval of this matter as specified in Condition 12 of planning permission in principle application 17/00917/PPM is not sought through this application and thus the requirement to submit that programme of works remains embodied in Condition 12 of planning permission in principle 17/00917/PPM and therefore remains in force.

The mechanism of the provision within the residential development of 250 residential units of 25% affordable housing (i.e. 63 units of the proposed 250 units) is already secured through the Section 75 agreement associated with the grant of planning permission in principle 17/00917/PPM. The Council's Strategic Investment and Regeneration team has discussed the delivery of the affordable housing with East Lothian Housing Association and LAR Housing. The proposed mix and house types have also been agreed as delivering a mix of 30 units for social rent and 33 as an intermediate tenure.

Therefore, **the Strategic Investment and Regeneration Service Manager** raises no objection to the application which is consistent with Policies HOU3 and HOU4 of the adopted East Lothian Local Development Plan 2018.

The Council's Team Manager for Structures and Flooding raises no objection to the proposed revised drainage strategy for this application. However it would be prudent to attach a condition to any grant of approval that prior to the commencement of development prior to commencement of development on site, full details of the proposed Sustainable Drainage System (SuDS) shall be submitted to and approved in writing by the Planning Authority and the details shall include confirmation of Scottish Water's technical approval of the SuDS proposals.

The Council's Waste Service have been consulted on the application and have not raised an objection to it.

SEPA raise no objection to the 250 residential units now proposed.

Scottish Water raise no objection to the application.

The Council's Service Manager – Protective Services raises no objection to the application, satisfied that the proposed development would not result in a loss of amenity to any neighbouring or nearby residential property.

Policy DCN2 requires that developments of 5 houses or more shall as part of the development make provision for deliverable opportunities for digital infrastructure to the

proposed new homes, particularly for ducting and fibre or wiring for broadband connectivity. The applicant's agent has confirmed that in this instance Fibrenest will provide full fibre optic broadband up to 500Mb on this site. Therefore the proposal is consistent with Policy DCN2 of the adopted East Lothian Local Development Plan 2018.

At its meeting on Tuesday 27th August 2019 the Council approved a motion declaring a Climate Emergency. Thereafter, at its meeting on Tuesday 3rd September 2019 the Council's Planning Committee decided that a condition requiring a developer to submit for the approval of the Planning Authority a report on the actions to be taken to reduce the carbon emissions from the building and from the completed development should be imposed on relevant applications for planning permission. Such a condition should be imposed on a grant of planning permission for this proposed development.

RECOMMENDATION

That approval of matters specified in conditions for the proposed residential development be granted subject to the following conditions:

- 1 Prior to the commencement of development, final site setting out details shall be submitted to and approved in writing by the Planning Authority.

The above mentioned details shall include a final site setting-out drawing to a scale of not less than 1:200, giving:

- a. the position within the application site of all elements of the proposed development and the position of adjoining roads, land and buildings;
- b. finished ground levels and finished floor levels of the development relative to existing ground levels of the site and existing ground and road levels of adjoining land. The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and
- c. the ridge height of the proposed buildings hereby approved, shown in relation to the finished ground and finished floor levels on the site.

Thereafter, the details shall be implemented as approved.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the amenity of the area.

- 2 Other than in exceptional circumstances where the layout or particular building type does not permit, the residential units shall be orientated to face the street. Notwithstanding that shown on the docketed site plan the houses denoted with an asterisk shall have dual frontages. Otherwise where a building is located on a corner of more than one street, it shall have enhanced gable(s) to ensure it has an active elevation to each street it faces;

Reason:

In the interests of ensuring active frontages and to enhance character and appearance of the area.

- 3 Notwithstanding that which is stated on the drawings docketed to this planning permission, a detailed specification of all external finishes of the houses of the proposed development shall be submitted to and approved by the Planning Authority prior to the use of the finishes in the development. The external finishes of the houses shall be in accordance with a co-ordinated scheme of materials and colours that shall be submitted to and approved in advance by the Planning Authority. This co-ordinated scheme shall in detail promote render as the predominant finish to the walls of the houses, with a use of more than one render colour and with a strongly contrasting difference in the colours such that they will not each be of a light colour. However, some use of a contrasting wall finish (i.e. reconstituted stone or facing brick) would be acceptable providing it is limited to a distinctively complete feature of the houses and flats and respectful of their design integrity. All such materials used in the construction of the houses shall conform to the details so approved.

Reason:

To ensure the development is of a satisfactory appearance in the interest of the amenity of the locality.

- 4 Notwithstanding that shown on the drawings docketed to this approval of matters, and unless otherwise agreed by the Planning Authority, all semi private and defensible spaces in front of or to the side of dwellings and to the side of parking courtyards shall be enclosed by walls/hedges/fences/ or railings to define areas of private space from public space.

Notwithstanding that shown on the drawings docketed to this planning permission, the boundary enclosures shown on those drawings are not hereby approved. Instead, and prior to the commencement of development, revised details of all boundary enclosures to be erected on the application site, and the timescales for their provision, shall be submitted to and approved in advance by the Planning Authority. Those details shall show 1.8 metre high solid enclosures around rear gardens of the houses hereby approved except where those boundaries are adjacent to a road or pathway where they shall be some other form of enclosure such as feature walls or hedges to heights and finishes to be approved in advance by the Planning Authority.

Details submitted shall also include the design, construction and materials of the entrance feature walls at the main accesses to the site.

Development shall thereafter be carried out in full accordance with the details so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure the satisfactory provision of the boundary enclosures in the interest of safeguarding the visual amenity of the area and to safeguard the privacy and amenity of residential properties nearby.

- 5 The landscaping scheme as shown on docketed landscape drawings(ref: 143 121 01G -143 121 11G) shall be carried out in accordance with the details so approved unless otherwise approved by the Planning Authority. A timetable for the implementation of the landscaping scheme shall be submitted to and approved by the Planning Authority prior to the commencement of development. Thereafter the landscaping of the site shall be carried out in accordance with the approved timetable, unless otherwise agreed by the Planning Authority.

Reason:

To ensure the implementation and maintenance of a landscaping scheme to enhance the appearance of the development in the interests of the amenity of the area.

- 6 Unless otherwise agreed in writing by the Planning Authority all new planting as approved in terms of the detailed scheme of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings in the phases of the site, and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

All the new planting shall be maintained in accordance with the maintenance programme of the approved revised detailed scheme of landscaping.

No trees or shrubs which are to be retained on the site, shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the previous written consent of the Planning Authority.

Reason:

In order to ensure the implementation and maintenance of a landscaping scheme to enhance the appearance of the development in the interests of the amenity of the area.

- 7 A play area with equipment suitable for children aged 0 - 15 years shall be provided on the area of open space in the northwest part of the application site to the west of plot 233 as shown on docketed site layout drawing no. 18167(PL)001-Z . Prior to the commencement of the development hereby approved the details of the play equipment and surfacing materials to be installed in the play area shall be submitted to and approved in advance by the Planning Authority. The details to be submitted shall include a timetable for its installation.

The play equipment and surfacing materials shall thereafter be installed in accordance with the details so approved.

The equipped play area, when provided, shall be maintained and used for such purposes at all times thereafter unless agreed in writing by the Planning Authority.

Reason:

To ensure the satisfactory laying out of all play areas in the interest of the amenity of the future

occupants of the residential units hereby approved.

- 8 Prior to the commencement of development a plan showing all areas of factored open space shall be submitted to and approved by the Planning Authority, Thereafter all the open space areas indicated on the docketed site layout plan and on the factoring plan shall be available for use prior to the occupation of the last house on the site.

Other than to provide the play area as required by Condition 7 above, the open space recreation areas, when provided, shall be used for such purposes at all times thereafter unless agreed in writing by the Planning Authority.

Reason:

To ensure the satisfactory laying out of all areas of open space in the interest of the amenity of the future occupants of the dwellings hereby approved.

- 9 Prior to commencement of development on site, full details of the proposed Sustainable Drainage System (SuDS) shall be submitted to and approved in writing by the Planning Authority.

The details shall include confirmation of Scottish Water's technical approval of the SuDS proposals.

Thereafter, the approved details shall be implemented as approved.

Reason:

To ensure that the final SuDS design complies with Sewers for Scotland 3 and can be vested by Scottish Water in the interest of flood prevention, environmental protection and the long term amenity of the area.

- 10 Prior to the occupation of the last of the residential units hereby approved, the proposed site access roads, parking spaces and footpaths shall have been constructed on site, in accordance with that which is shown on the docketed drawings, otherwise the layout shall be subject to the following requirements:

1) Parking for the residential elements of the development shall be provided at a rate as set out in the East Lothian Council Standards for Development Roads – Part 5 Parking Standards.

2) All access roads shall conform to ELC Standards for Development Roads in relation to road layout and construction, footways & footpaths, parking layout and number, street lighting and traffic calming measures. This shall also comply with ELC Design Standards for New Housing Areas. NB the minimal level of treatment on home zone roads for streets with a single access.

3) Vehicle access's to private parking areas (i.e. other than driveways) shall be via a reinforced footway crossing and have a minimum width of 5.5 metres over the first 10 metres to enable adequate two way movement of vehicles.

4) Driveways shall have minimum dimensions of 6 metres by 3 metres. Double driveways shall have minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11 m length. Pedestrian ramps to houses may encroach by up to 300mm on the width (but not the length) provided they are no greater than 150mm in height above the adjacent driveway surface.

5) Within residential private parking areas the minimum dimensions of a single parking space shall be 2.5 metres by 5 metres. All visitor parking spaces within these areas shall be clearly marked for visitors with the remaining private parking spaces allocated to individual dwellings.

Thereafter those access, parking and footpath provisions shall not be used for any other purpose than for accessing and for parking in connection with the residential use of the houses and shall not be adapted or used for other purposes without the prior written approval of the Planning Authority.

Reason:

To ensure that adequate and satisfactory provision is made for access and for off-street parking in the interests of road safety.

- 11 A Green Travel Plan shall be submitted to and approved by the Planning Authority prior to the occupation of any of the residential units hereby approved. The Green Travel Plan shall have particular regard to provision for walking, cycling and public transport access to and within the site, and will include a timetable for its implementation, details of the measures to be provided, the system of management, monitoring, review, reporting and duration of the Plan.

Reason:

In the interests of ensuring sustainable travel patterns in respect of the development.

- 12 A Construction Method Statement to minimise the impact of construction activity on the amenity of the area shall be submitted to and approved by the Planning Authority prior to the commencement of development. The Construction Method Statement shall recommend mitigation measures to control construction traffic and shall include hours of construction work.

Thereafter, unless otherwise agreed in writing, the measures identified within the CMS must be implemented on site for the duration of construction works.

Reason:

To minimise the impact of construction activity in the interests of the amenity of the area.

- 13 A Construction Method Statement to specify the measures to be adopted to protect the amenity of neighbouring residential properties from the effects of noise and dust arising as a result of the construction phase of the proposed development shall be submitted to and approved by the Planning Authority prior to the commencement of development.

Thereafter the measures identified in the report shall be implemented on site until the build out of the site is complete unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of the amenity of the area.

- 14 No work shall be carried out on the site unless and until an effective vehicle wheel washing facility has been installed in accordance with details to be submitted to and approved by the Planning Authority prior to its installation. Such wheelwash facility shall be retained in working order and used such that no vehicle shall leave the site carrying earth and mud in their wheels in such a quantity which causes a nuisance or hazard on the road system in the locality for the duration of constructions works on site unless otherwise agreed by the Planning Authority.

Reason:

In the interests of road safety.

- 15 Prior to the commencement of development the following offsite works shall be completed to the satisfaction of the Planning Authority:

- 1) the provision of a controlled pedestrian/cycle crossing of the A6094 near NCR1 at a location to be agreed with East Lothian Council;
- 2) a scheme of works and associated measures on Cowpits Road to the north of the proposed new junction to control vehicle speeds. The proposed measures shall be submitted to the Council for approval and shall include a reduced speed limit with the relocation of the existing 30 miles per hour speed limit some 700m north of the proposed new junction onto Cowpits Road, the provision of a pedestrian footway/footway widening, traffic calming and street lighting;
- 3) Provision of a 2.0m wide footpath on the east side of Cowpits Road from the proposed site access, southwards to the existing pedestrian footway. Where the existing footway on Cowpits Road is less than 2.0m wide, the footway shall be increased to 2.0m in width;
- 4) Provision of a footpath link of not less than 2.0m width on the north side of Whitecraig Road between the proposed site access junction and the existing residential properties (no 2 Whitecraig Road) and the footpath shall have adequate width for cyclists and bus shelters.
- 5) If provision (of) a footpath link from the site to Whitecraig Road that adjoins the south side of the site is possible, the said footpath link shall be included in the scheme of landscaping. If such provision is not possible, the scheme shall nevertheless be designed so as to facilitate provision of such a link at a future date should circumstances change.
- 6) Street lighting shall be provided over the full extent of the proposed 30 mph speed limit on the A6094 and Cowpits Road from the existing lighting on both roads to a point beyond both proposed site access junctions.

Reason:

In the interests of road safety.

- 16 Prior to the commencement of development, a report on the actions to be taken to reduce the Carbon Emissions from the build and from the completed development shall be submitted to and approved in writing by the Planning Authority. This shall include the provision of renewable technology for all new buildings, where feasible and appropriate in design terms, and new car charging points and infrastructure for them, where feasible and appropriate in design terms. The details shall include a

timetable for implementation. Development shall thereafter be carried out in accordance with the report so approved.

Reason:

To minimise the environmental impact of the development.

- 17 All roadworks including the cycle path shall be subject to Road Safety Audit, completed through Stages 1, 2, 3 and 4 (Preliminary Design, Detailed Design, Post Opening Audit and finally Post Opening Audit + 12 months and a Stage 2 Quality Audit. The Road Safety Audit process shall be undertaken in accordance with DMRB Volume 5, Section 2, HD 19/3 or as amended by latest version. Thereafter, all roads and footpaths shall be constructed in accordance with the Road Safety Audit and Stage 2 Quality Audit details so approved.

Reason:

In the interests of road and pedestrian safety.

- 18 Prior to the commencement of development, a programme for monitoring the condition of the section of the public road (i) between the roundabout at the junction of Carberry Road/Whitecraig Road and the new site access to be formed on Whitecraig Road, and (ii) between the A6094 (Whitecraig Road) and the new site access to be created on Cowpits Road, prior to and immediately following the completion of the housing development, shall be submitted to and approved in writing by the Planning Authority. Thereafter the approved programme of monitoring shall be implemented. Any remedial works shown by the monitoring as arising from the construction of the development, shall be undertaken by the applicant within 3 months of the completion of the final monitoring undertaken, unless an alternative means of securing the works is approved in writing by the Planning Authority.

Reason:

To ensure that damage to the public road network resulting from the construction of the housing development is rectified.

- 19 Prior to the commencement of development a phasing plan detailing the number of housing completions on this site in any one year shall be submitted to and approved by the Planning Authority. Thereafter the build out of the site will be in accordance with the agreed phasing plan, unless otherwise agreed by the Planning Authority.

Reason:

To ensure that the completion rate of residential development within the application site accords with the provision of education capacity.

- 20 Prior to their erection, details, including their size, form, position, appearance and colour(s), of all substations and gas governors to serve the development hereby approved shall be submitted to and approved in advance in writing by the Planning Authority, and thereafter any substations and gas governors shall accord with the details so approved.

Reason:

To enable the Planning Authority to control the positioning, appearance, form, finishes and colour of the substations and gas governors to be used to achieve a development of good quality and appearance in the interest of the visual amenity of the area.