



**MINUTES OF THE MEETING OF THE  
PLANNING COMMITTEE**

**WEDNESDAY 24 JUNE 2020  
VIA VIDEO CONFERENCE FACILITIES**

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**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 Dolphingstone 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/m<sup>2</sup>, 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 Haddow, 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 asterix 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<sub>rTr</sub>, 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<sub>90T</sub>.

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 of 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