

PLANNING COMMITTEE
TUESDAY 12 JANUARY 2021

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

**TUESDAY 3 NOVEMBER 2020
VIA A DIGITAL MEETING FACILITY**

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Committee Members Present:

Councillor N Hampshire (Convener)
Councillor L Bruce
Councillor J Findlay
Councillor N Gilbert
Councillor S Kempson
Councillor K Mackie
Councillor C McGinn
Councillor K McLeod
Councillor J McMillan
Councillor F O'Donnell
Councillor J Williamson

Other Councillors Present:

Councillor S Akhtar
Councillor A Forrest
Councillor C Hoy

Council Officials Present:

Mr K Dingwall, Service Manager – Planning
Mr C Grilli, Service Manager – Legal
Mr D Irving, Senior Planner
Mr C Kiely, Planner
Mr G McLeod, Transportation Planning Officer
Ms L Hunter, Transportation Planning Officer
Ms P Gray, Communications Adviser
Ms F Currie, Committees Officer

Clerk:

Ms A Smith

Visitors Present/Addressing the Committee:

Item 2 – Mr N Sutherland, Mr P Jackson, Mr P Bruce
Item 3 – Mr N Braidwood, Mr A Gilmour, Mr D Scott, Mr A White

Apologies:

Councillor W Innes

Declarations of Interest:

None

1. MINUTES FOR APPROVAL – PLANNING COMMITTEE 6 OCTOBER 2020

The minutes of the meeting of the Planning Committee of 6 October 2020 were approved.

2. PLANNING APPLICATION 20/00108/PM: ERECTION OF CARE VILLAGE, COMPRISING 59 CARE BEDROOMS AND 171 RESIDENTIAL ACCOMMODATION AND CARE UNITS (47 CARE SUITES AND 124 CARE APARTMENTS) FOR PEOPLE IN NEED OF CARE (CLASS 8), WITH COMMUNAL FACILITIES AND ASSOCIATED WORKS AT SITE AT KIRK PARK, ESKMILLS ROAD, INVERESK, MUSSELBURGH

A report was submitted in relation to Planning Application No. 20/00108/PM. Daryth Irving, Planning Officer, presented the report, summarising the key points. The report recommendation was to grant consent.

Mr Irving, along with Graeme McLeod, Transportation Planning Officer, responded to questions. Regarding electric vehicle charging points and renewable energy measures, Mr Irving advised that the conditions included a requirement to submit measures taken to reduce carbon emissions. He added that increasingly renewable technology was being used for buildings as was provision of electric charging points. In relation to the access road, Mr McLeod clarified that the route would be private, i.e. not adopted by the Council and that a technical assessment would be carried out beforehand. He confirmed that the main access route would have a lit footpath. On controls to make sure that the access lane from St Michael's was not used during construction, or afterwards by traffic, he said that construction vehicle access would be controlled through the Construction Method Statement (CMS). Regarding use afterwards, as the lane did not form a suitable route he did not think people would choose to use it. The Convener remarked that as a safeguard perhaps suitable signage could be erected.

On queries about the comments from the East Lothian Health and Social Care Partnership (ELHSCP) Mr Irving clarified that these were not a material consideration; they were not matters for the Planning Committee nor the Planning Authority. He added that the ELHSCP had confirmed their building had no physical constraints. In relation to the previous application he advised that this remained live, the Council had resolved to grant planning permission but the legal agreement had not been concluded. He confirmed that if this new application was approved then the Section 75 Agreement had to be signed within 6 months, he clarified that this timescale had not been in force at the time of the previous application. On the traffic impact on the road network Mr McLeod stated that the amount generated by this application would be low; Road Services had no concerns. In relation to the minibus and whether an electric vehicle could be stipulated, Mr Irving indicated this was for the applicant. On whether the independent living units would have drying greens he said there was nothing specific in the proposal but there was space for this. Regarding new tree planting, landscaping plans had been submitted but the Landscape Projects Officer had requested a revised more robust scheme to be provided. On the value of getting the ELHSCP's comments if these could not be taken into account, he reiterated that GP provision was a matter for the NHS; as a statutory consultee they had to be consulted. On queries about construction traffic safety measures, wheel washing facilities and potential road damage, he clarified that all these matters were taken care of in the CMS or in the conditions. If there was any damage to the road the onus was on the developer. A query was also raised about the possibility of including a link to the development from the pathway at the River Esk.

Neil Sutherland of Wardell Armstrong, agent for the applicant, took Members through the application in detail outlining the various components of the proposal. One of the key benefits allowed couples with different care needs to be together. He gave details of the transport services that would be provided. He outlined employment opportunities and staff

shift patterns. Facilities could be used by the local community; they wanted residents to integrate with the community. A woodland management plan would be put in place and new planting undertaken as required. Access to the site would be restricted; no construction, site or future traffic would be allowed. The first phase would be the village care centre. In relation to the GP facility their calculations indicated that residents would comprise less than 1% of the GP list. There had been a very positive response at the community consultation event.

Mr Sutherland and Paul Jackson, of Cinnamon Retirement Living, the applicant, responded to questions. Regarding monitoring residents' care requirements Mr Sutherland advised that regular health checks would take place and appropriate levels of care provided. On evidence that this model of care provision reduced demand on primary care services Mr Sutherland said this data had been provided to the NHS; he highlighted some of the statistics. He clarified that GP's would not be directly employed but there would be health care nurses on site. Mr Jackson clarified that a surviving spouse would not have to move out even if they were aged under 65 and not in need of care. He further clarified that all properties would be in private ownership. Questions were asked regarding Covid-19 in care homes and evidence that a facility's size had an impact on the spread of the virus. Mr Jackson responded that the care home would be split into 3 separate units and infection control would operate on these separate units as regards staff and residents. He gave further details of how the entire facility would be managed if a lockdown situation occurred. He added that the Cinnamon Care Collective had been managing this situation extremely well. On facilities available within walking distance Mr Sutherland clarified that all facilities would be in the main central building. Offsite, it would depend on how far people were able to/wished to walk; he added that transport would be available to take residents out regularly.

Responding to questions about the restaurant and cinema, Mr Jackson indicated that the restaurant closing time would meet the demands of the residents, it was likely to be 9pm or earlier. He clarified that secondary use, after residents, would be for family/friends of residents; they were not trying to run a restaurant as such. Local people could however use this facility subject to booking and availability. The cinema would seat around 12/15 people and would be focused on the desires of residents; the room would also be used for staff training, presentations, etc. On whether electric vehicles would be used Mr Jackson confirmed that it was the intention that all vehicles would be electric. In relation to the possibility of installing a pathway across the site, linked to the existing path network, Mr Sutherland said that the practicality of this would have to be looked into. Mr Jackson added that the benefit of having this was appreciated. On questions about end of life care, he confirmed this would be provided; the ethos and intent was for people to be able to remain there as long as possible and to end their life there if that was also desirable and possible.

Local Member Councillor Forrest, not a member of the Planning Committee, said this was a very comprehensive application, offering a fantastic lifestyle. He was disappointed that since the original application it had taken so long to be progressed. He had concerns about traffic and stressed that in this area there were no peak times, the roads were constantly busy.

Local Member Councillor Mackie welcomed the inclusion of the Section 75 Agreement which would ensure the development remained as a care facility. She was also pleased this proposal was slightly smaller than the previous one. She expressed frustration that Members could not consider GP capacity as it was not a material consideration; she had concerns about the additional pressure on the local GP practices. She also welcomed the employment opportunities and the community facilities.

Local Member Councillor Williamson noted that in 2010 a proposal had been granted for something much larger so he felt there was no reason to go against this application today; he would therefore be supporting it. He hoped that footpaths, access and other issues raised would be taken into account. The development would be an asset to the area.

Councillor McGinn praised the informative presentations and the detail in the report. He would be supporting the application. He agreed with Councillor Mackie's point about GP capacity, he also had concerns about this provision. It was clear that the ELHSCP did not support the application and it was also clear that Members could not take those comments into account in making a determination. However, he would like to take ELHSCP's concerns to another level and asked if the Committee/relevant officers could write to David Small, Director of Primary Care with NHS Lothian and also to Jeane Freeman, the Scottish Government's Cabinet Secretary for Health, to try and secure an NHS GP practice to be situated in the new Wallyford development.

Councillor O'Donnell expressed support for the application, there was much to commend it. She welcomed that the whole care journey could take place in this facility and felt this concept may be something that could be coming forward in other areas too.

The Convener stated that the application was a high quality development and acceptable at this location. The issue around health provision in the community was serious and representation should be made to NHS Lothian and the Scottish Government. This Council was delivering development in every community across East Lothian and needed to make sure local demands were met and appropriate investment made. The Council had been calling for some time for an NHS facility for the new Wallyford community, which would allow the east of Musselburgh and Wallyford its own medical provision. He would be supporting the recommendation to grant planning permission as set out in the report.

The Convener moved to the vote on the report recommendation (to grant consent) (taken by roll call):

For: 11
Against: 0
Abstentions: 0

Keith Dingwall, Service Manager – Planning, asked Members if, given comments made during the questions and debate, they wished additional conditions attached to the grant of planning permission regarding a) restricting vehicular access to the site and b) the feasibility of forming a public footpath across the application site at the River Esk walkway. Condition 23 could also be amended to include reference to electric vehicles. The Committee agreed that all of these should be included.

Decision

The Committee agreed to grant planning permission 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 by some other appropriate agreement, designed:
 - (i) to control the use and occupancy of each of the 171 residential accommodation and care units (47 Care Suites and 124 Care Apartments). The control would be that the 171 residential accommodation and care units of the proposed care village development would as part of the overall care village use of the application site be a use within Class 8 of the Town and Country Planning (Use Classes) (Scotland) Order 1997, that one or more of the occupiers of each and every one of the 171 residential accommodation and care units would have to be aged 65 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, and have to enter into the Basic Care Contract.

The Agreement should also prohibit the lease, sale or other transfer of any of the 171 residential accommodation and care units to persons who do not meet such criteria;

(ii) to secure a financial contribution to the Council of £14,349 for transport improvements (comprised of £1601 for road improvements to Old Craighall Junction, £698 for improvements to Salters Road Interchange, £1013 for improvements to Bankton Interchange, £1801 for Musselburgh town centre improvements, £519 for Tranent town centre improvements, £372 for rail network improvements and £8345 for Segregated Active Travel).

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 reasons that without the occupancy control the 171 residential accommodation and care units would be indistinguishable from mainstream residential flats on an allocated employment site, contrary to Policy EMP1 of the adopted East Lothian Local Development Plan 2018 and that without the developer contributions to be secured by the Agreement the proposed development is unacceptable due to a lack of roads and transport infrastructure improvements, contrary to Policies DEL1 and T32 of the adopted East Lothian Local Development Plan 2018.

- 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 Prior to the commencement of development a phasing plan for the care village shall be submitted to and approved in writing by the Planning Authority. The submitted phasing plan shall show the main village centre building being built as part of the phase 1 works. Development of the care village shall thereafter be built in strict accordance with the phasing plan so approved.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the good planning of the site.

- 3 A schedule of materials and finishes and, where necessary, samples of such finishes for all components of the development, including 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 character and appearance of the Inveresk Conservation Area.

- 4 Only the development shown to be approved on the drawings docketed to this planning permission shall be undertaken on the part of the Inveresk Roman Fort Scheduled Monument within the application site. Prior to the commencement of development the areas of the Scheduled Monument that are not subject

to development will be protected by a fence, to be approved in writing by the Planning Authority, erected around the Scheduled Monument at a distance as may be agreed in writing by the Planning Authority. Within the area so fenced off the existing ground level shall neither be raised or lowered and no materials, temporary buildings, plant, machinery or surface soil shall be placed or stored and no fires shall be lit thereon without the prior written approval of the Planning Authority.

Reason:

To ensure the retention and maintenance of the Inveresk Roman Fort Scheduled Monument.

- 5 No development shall take place on the application site until the applicant has undertaken and reported upon a Programme of Archaeological Work (Full Archaeological Excavation and Monitored Strip) 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.

- 6 Prior to the commencement of development a Construction Environmental Management Plan (CEMP) shall be submitted to and approved by the Planning Authority. The CEMP shall identify appropriate mitigation measures to avoid any negative impact on the River Esk Local Biodiversity Site through pollution and sediment discharge during construction works and thereafter the measures shall be implemented as so approved.

Reason:

In the interests of protecting the River Esk Local Biodiversity Site.

- 7 No works that would disturb nesting birds shall be carried out during the breeding bird season (March-August) without the express written permission of the Planning Authority. Site clearance will take place outwith the bird breeding season, unless in strict compliance with a Species Protection Plan for breeding birds, including provision for pre-development supplementary survey, that shall be submitted to and approved in advance by the Planning Authority.

Reason:

In the interests of the biodiversity of the area.

- 8 Prior to the commencement of development protected species checking surveys shall be carried out where the current undertaken Protected Species Survey Report June 2020 by Wardell Armstrong has expired, and the results of such surveys shall be submitted to and approved by the Planning Authority. Any works highlighted to be required as a result of the approved surveys shall thereafter be carried out in accordance with a timetable to be submitted to and approved in advance by the Planning Authority.

Reason:

In the interests of the biodiversity of the area.

- 9 Prior to the commencement of development a Biodiversity Enhancement and Management Plan shall be submitted to and approved by the Planning Authority. The Plan shall be guided by the undertaken Protected Species Survey Report and shall include measures for bats and otters as appropriate and include a maintenance and monitoring schedule and a timetable for its implementation.

Thereafter, the Biodiversity Enhancement and Management Plan shall be implemented and complied with in accordance with the approved details, unless otherwise approved in writing by the Planning Authority.

Reason:

To maximise the ecological potential of the proposed development.

- 10 Details and a drawing(s) showing the form and layout of any proposed external lighting structures shall be submitted to and approved by the Planning Authority prior to their installation. External lighting structures shall be of a low height and/or embedded into hard surfaces, unless otherwise approved by the Planning Authority. Thereafter, the lighting structures installed and their layout shall accord with the details so approved.

Reason:

In the interests of the landscape character of the River Esk Special Landscape Area and the Inveresk Conservation Area.

- 11 No development shall take place on site until all existing trees, bushes and hedges to be retained on the site have been protected by temporary protective fencing, in accordance with details to be submitted to

and approved in writing in advance by the Planning Authority. The position of the fencing shall be as indicated on the Tree Survey drawing nos. 19485 of the 'Tree Survey, Arboricultural Constraints and Tree Protection Recommendations' report by Donald Rodger Associates Ltd that is docketed to this planning permission.

The temporary protective fencing shall comprise Heras, or similar approved, weld mesh enclosed panels joined together with a minimum of two anti-tamper couplings, and supported on preformed weighted footings, stayed and fixed into the ground to withstand impact from machinery and access into the construction exclusion zone, in accordance with British Standard BS5837: 2012 "Trees in relation to design, demolition and construction". The temporary protective fencing shall be 2.3 metres in height, erected prior to works commencing, kept in good condition through the works and shall be retained on site fully intact through to the completion of the site development. The position of this temporary protective fencing shall be outwith the root protection area (RPA) as defined by BS5837:2012 for the existing retained trees.

All weather notices shall be erected on the fencing referred to in paragraphs 1 and 2 of this condition with words such as "Construction exclusion zone - Keep out" and the fencing shall remain on site and intact through to completion of the development.

Within the areas so fenced off the existing ground level shall neither be raised or lowered and no materials, temporary buildings, plant, machinery or surface soil shall be placed or stored, no handling, discharge or spillage of any chemical substance, including cement washings, and no fires shall be lit thereon without the prior written approval of the Planning Authority. Planning of site operations shall take sufficient account of wide loads, tall loads and plant with booms, jibs and counterweights (including drilling rigs), in order that they can operate without coming into contact with retained trees. Details of any trenches or services required in the fenced off areas shall be submitted to and approved by the Planning Authority prior to any such works being carried out and such trenches or services shall be excavated and backfilled by hand and any tree roots encountered with a diameter of 25mm or more shall be left unsevered.

Reason:

To ensure the protection of trees within the application site in the interests of safeguarding the landscape character of the area.

- 12 No development shall take place until there has been submitted to and approved in writing in advance by the Planning Authority a revised scheme of landscaping for the site. The revised scheme of landscaping shall show the addition of large species trees to the western boundary of the central block on the site, large species trees to the west and east of the central plaza to the north of the main central building, large species trees to the northern boundary to replace the poplars identified for removal in the docketed 'Tree Survey, Arboricultural Constraints and Tree Protection Recommendations' report by Donald Rodger Associates Ltd, and new tree planting to the south of the site where trees require to be removed to facilitate installation of drainage. The landscaping scheme shall provide details of: the height and slopes of any mounding on or recontouring of, the site; 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.

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 of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of ten 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 existing and new planting comprised in the scheme of landscaping shall be retained and maintained 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 the amenity of the area and the landscape character of the River Esk Special Landscape Area.

- 13 Prior to the commencement of development a woodland management plan for the Shire Wood to the south and west of the site shall be submitted to and approved in writing by the Planning Authority. The woodland management plan shall include for restructuring of the woodlands and replanting of failed trees to allow development and retention of a balanced woodland structure. Thereafter, the woodland management plan shall be implemented and complied with in accordance with the approved details, unless otherwise approved in writing by the Planning Authority.

An annual inspection of the trees by a qualified and experienced arboriculturist identifying any trees requiring work above that identified within the woodland management plan shall be included within the management plan. The annual inspection report shall be submitted to the Planning Authority annually within one month of commissioning. Any tree works identified as required at the annual inspections, including a timetable for the works, shall be approved in writing by the Planning Authority and shall thereafter be undertaken in accordance with the detail so approved.

Reason

To ensure retention of woodlands important to the amenity of the area.

- 14 Prior to the commencement of development further rounds of gas monitoring shall be carried out on the application site in order to establish the trend in gas levels, and a revised Gas Risk Assessment shall be submitted for the approval of the Planning Authority, which shall include an evaluation of any gas protection measures that may be deemed necessary.

If the Gas Risk Assessment identifies that protection measures are required then a Verification Report shall be submitted that demonstrates what protection measures are to be undertaken and a timetable for their implementation. It must be approved by the Planning Authority prior to commencement of the new use of the land and the protection measures shall be implemented as so approved.

Reason:

In the interests of the amenity of the area.

- 15 Prior to the commencement of development a timetable for the formation of roads, footpaths and parking spaces within the care village development hereby approved shall be submitted to and approved in writing by the Planning Authority.

The roads, footpaths and parking spaces shall thereafter be formed on site in accordance with the details so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of road and pedestrian safety.

- 16 A visibility splay of 4.5 metres by 40 metres in both directions shall be provided and maintained on each side of the proposed new access junction with Eskmills Road so that no obstruction lies within it above a height of 1.05 metres measured from the adjacent carriageway surface.

The applicant shall also undertake works, or arrange for any amendments, to street lighting apparatus in order to provide the vehicular access.

Reason:

In the interests of road safety.

- 17 Prior to the formation of all roadworks, footways and cycle paths within the development hereby approved, a Quality Audit shall be submitted to and approved by the Planning Authority, which shall be undertaken for the preliminary and detailed design of those works. The Quality Audit shall include swept path assessments for refuse collection and fire appliance access.

Reason:

In the interests of road and pedestrian safety.

- 18 Prior to the commencement of development a Stage 1 and Stage 2 Road Safety Audit shall be submitted to and approved by the Planning Authority, which shall be undertaken for the preliminary and detailed design of all roadworks, footways and cycle paths within the development hereby approved, including works to Eskmills Road and shall include an implementation programme describing when measures identified in the audits will be provided in relation to construction of the proposed development.

Immediately following completion of the development, the date of which shall be provided in writing to the Planning Authority, a Stage 3 Road Safety Audit - Post Opening shall be submitted to and approved by the Planning Authority.

12 months following approval of the Stage 3 Road Safety Audit a Stage 4 Road Safety Audit shall be submitted to and approved by the Planning Authority.

All the Road Safety Audits shall be carried out in accordance with GG119 Road Safety Audit Rev 1. The Road Safety Audits shall include the proposed roads, junctions, footways and cycle ways where applicable.

Reason:

In the interests of road and pedestrian safety.

- 19 Prior to the commencement of development technical documentation detailing the construction of the new access road shall be submitted to and approved in writing by the Planning Authority. The detail shall include all drawings, construction details, specifications, earthworks, drainage, structural works and street lighting. Development shall thereafter be carried out in accordance with the detail so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of road safety.

- 20 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.

- 21 A Construction Method Statement to minimise the impact of construction activity on the amenity of the area, including from the effects of noise and dust, 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. 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, unless otherwise agreed in writing, the measures identified within the Construction Method Statement 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.

- 22 Prior to the commencement of development, a programme for monitoring the condition of, (i) the roundabout at the junction of the A6095 Olivebank Road and Eskmills Road, and (ii) the section of the public road between the roundabout at the junction of the A6095 Olivebank Road and Eskmills Road and the new site vehicular access to be formed on Eskmills Road, 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 development is rectified.

- 23 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, new electric car charging points and infrastructure for them, where feasible and appropriate in design terms, and the need for the use of electric vehicles, where possible. 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.

- 24 Notwithstanding that shown on the drawings docketed to this planning application, there shall be no vehicular access to the application site from the western end of Inveresk Village Road. Prior to the commencement of development, details of measures to prevent vehicular access being taken between the application site and the western end of Inveresk Village Road shall be submitted to and approved by the Planning Authority. The details to be submitted shall include a timetable for the provision of the identified measures. The identified measures shall thereafter be undertaken in accordance with the

details so approved, and shall thereafter be retained, unless otherwise approved in advance by the Planning Authority.

Reason:

To protect the amenity of nearby residential properties and in the interests of road safety.

25 Prior to the commencement of development:

- a) the applicant shall investigate whether or not it is feasible to form a public footpath across the application site, between the River Esk walkway and the western end of Inveresk Village Road; and
- b) details of this investigation and of any feasible footpath route, shall be submitted to and approved in writing by the Planning Authority. If there is a feasible route then the details shall include a timetable for the formation of the footpath.

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

Reason:

In the interests of promoting sustainable modes of transport.

3. PLANNING APPLICATION NO. 20/00629/P: ERECTION OF ONE HOUSE AND ASSOCIATED WORKS AT GARDEN GROUND OF GARDEN COTTAGE, EDINBURGH ROAD, GIFFORD

A report was submitted in relation to Planning Application No. 20/00629/P. Ciaran Kiely, Planner, presented the report, summarising the key points. The proposed decision set out in the report was to grant consent.

In response to questions on overlooking Mr Kiely advised that the guidance depth of 9 metres was adhered to in the proposal so there were no concerns as regards overlooking.

Al Gilmour, the applicant, informed Members that his family had lived in the village, in their house, for 50 years. Over the years there had been many changes to the village. Garden ground development had now largely become the norm. The architect had worked hard to ensure that the proposed house was of a good design, suitable for the area and aimed to not dominate other properties. There was ample garden space for a comfortable house at the centre. All relevant bodies involved had accepted the proposal and all appropriate steps had been taken. He hoped therefore that Members would support the application.

Niall Braidwood of Ogilvy Chalmers, agent for the applicant, added that there would be pressure on a development site like this. The design style fitted in to the village and he felt that it was not unreasonable for a house to be built on this plot.

Mr Gilmour and Mr Braidwood responded to questions. On whether the design was appropriate Mr Gilmour reiterated it was in keeping with the local design. Mr Braidwood added that it was suitable for the Conservation Area, it was a mature site. As regards his local connections Mr Braidwood gave details of various East Lothian projects he had been involved in. On whether a smaller house, a bungalow perhaps, had been considered, Mr Gilmour stated that the size of the house had been carefully considered; the plot was very comfortable for the size of the house proposed. Mr Braidwood said that the proposed development would be one of the smallest houses in this area. Clarifying the number of storeys, he said the proposed house would comprise of 3 elements; a single storey, a 1½ storey and a small 2 storey component.

Derek Scott spoke against the application on behalf of clients Mr and Mrs Hamilton, owners/occupiers of Orchard Cottage which bordered the application site. He outlined the objections. Overlooking- the proposal would adversely affect their amenity as regards overlooking and loss of privacy. Direct uninterrupted views would be possible.

Overdevelopment- the proposal took almost the entire width of the plot; the density of development and relationship to the house was more akin to a modern development. It was too large and inappropriate and would adversely affect the character and appearance of the Conservation Area. Trees- the felling of 5 trees was required solely for the purpose of building this house, this included a mature Ash tree; his clients felt this should be kept and a local tree expert agreed. He quoted from Policy NH8 regarding felling of trees. The application should be refused for all of the reasons outlined.

Councillor McMillan asked Mr Scott if his clients were aware when they moved in to their house of a possible development. Mr Scott indicated they were aware of the plot of land but whether they thought there might be an application for development he could not say.

The Convener, given Mr Scott's comments, asked for further clarification. Mr Kiely advised, regarding overlooking, that windows at the side elevation would face Orchard Cottage and the conditions stated that these should be obscure glazed. The secondary window would not overlook the neighbouring property. On overdevelopment, the opinion was that the proposal was adequately set back from Tweeddale Avenue and behind a large stone wall at the front, so the site allowed for adequate space and was not an overdevelopment. Regarding trees, the Landscape Policy Officer was satisfied with the Arboricultural Statement submitted so content with the loss of 5 trees subject to replacement planting.

Adam White, Chair of Gifford Community Council (GCC) spoke against the application. He said that GCC did not have an issue with a house being built on this site as such but wished to make representation on behalf of the local community given the large number of objections and did have concerns over the size and height of the proposal.

Local Member Councillor Akhtar, not a member of the Planning Committee, said that given the number of objections to this application she felt it appropriate to have it debated at the Planning Committee. The site was in the Gifford Conservation Area so required due consideration. She asked the Committee to look carefully at all the information presented. The applicant could have chosen to have a smaller development proposal which would perhaps have been more suitable. She asked the Committee not to support this application.

Local Member Councillor Hoy, also not a member of the Planning Committee, remarked that whilst GCC were not objecting per se to development here they had raised concerns regarding the size and height of the proposal; these were key issues. That there had already been development on the Forbes Lodge site did not automatically mean there should be more. This site was in the Gifford Conservation Area and the local community had concerns. He felt there were grounds for rejection given the level of complaints and GCC's comments.

Local Member Councillor McMillan stated that after consideration of the report and the various presentations, and weighing up all the evidence, he was minded to support the application. He felt the proposed design was good, the development would fit in to the area and would not be detrimental to Gifford.

Councillor Findlay noted the site was available for development but felt the crux was interpretation of policies. In his opinion the proposal did not meet Policy DP7 as it would be an overdevelopment, nor Policy DP2 as it was not in keeping with surrounding properties. He would therefore not be supporting the report recommendation.

The Convener stated that he did not think this was an overdevelopment. Officers had assessed the application and in their opinion the proposal met all the various relevant policies. The scale and size of the house was appropriate. He would be supporting the recommendation to grant planning permission as set out in the report.

The Convener moved to the vote on the report recommendation (to grant consent) (taken by roll call):

For: 8 (Cllrs Hampshire, Bruce, Gilbert, McGinn, McLeod, McMillan, O'Donnell, Williamson)

Against: 3 (Cllrs Findlay, Kempson, Mackie)

Abstentions: 0

Decision

The Committee agreed to grant planning permission 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 house; 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 Samples of the materials to be used as external finishes of the house and for the areas of hardstanding all hereby approved shall be submitted to and approved by the Planning Authority prior to their use in the development. Only those materials approved by the Planning Authority shall be used as the external finishes of the house and for the areas of hardstanding.

Reason:

To secure a standard of development that is appropriate to its location and in keeping with its surroundings in the interests of safeguarding the character and appearance of the Gifford Conservation Area.

- 3 Prior to the house hereby approved being brought into use the access, parking and turning arrangements for it shall all be laid out as shown in the drawings docketed to this planning permission and thereafter the access, parking and turning areas shall be retained for such use.

Reason:

To ensure that sufficient off-street parking is available to serve the development and in the interests of road safety.

- 4 Prior to works commencing on site, full details of the replacement tree planting species shall be submitted to and approved in writing by the Local Planning Authority and thereafter implemented on site. These trees shall be standard trees 2.5m to 3.0m in height and 8cm to 10cm in girth when planted and maintained wind firm and weed free until established. The trees must be planted within the planting season (October through to March) following the completion of the house or its habitation, whichever is earliest.

Reason:

In the interest of preserving the amenity of the site and teh surrounding Gifford Conservation Area.

- 5 An arboriculturist shall be engaged to position and supervise the tree protection measures throughout the development works in accordance with the 'Tree Survey and Arboricultural Implication Assessment' of May 2020 by Donald Rodger Associates Ltd., and that all tree protection measures are maintained in good order and kept in position through to the completion of all site operations.

Reason:

In the interest of preserving the amenity of the site and teh surrounding Gifford Conservation Area.

6 Part 1

Prior to any site development works a suitable Geo-Environmental Assessment must be carried out, with the Report(s) being made available to the Planning Authority for approval. It shall include details of the following:

- o A Preliminary Investigation incorporating a Phase I Desk Study (including site reconnaissance, development of a conceptual model and an initial risk assessment);
 - o A Phase II Ground Investigation (if the Desk Study has determined that further assessment is required), comprising the following:
 - o A survey of the extent, scale and nature of contamination, and reporting on the appropriate risk assessment(s) carried out with regards to Human Health, the Water Environment and Gas Characteristic Situation as well as an updated conceptual model of the site;
 - o An appraisal of the remediation methods available and proposal of the preferred option(s).
- The Desk Study and Ground Investigation must be undertaken by suitably qualified, experienced and competent persons and must be conducted in accordance with the Environment Agency's Contaminated Land Report 11, Model Procedures for the Management of Land Contamination, CLR11.

If it is concluded by the Reporting that remediation of the site is not required, then Parts 2 and 3 of this Condition can be disregarded.

Part 2

Prior to any works beginning on site (and where risks have been identified), a detailed Remediation Statement shall 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 shall detail all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. It shall 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. The Statement must be submitted to the Planning Authority for approval.

Part 3

Following completion of the measures identified in the approved Remediation Statement, a Validation Report shall 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.

Reason:
In the interests of the safety of future occupants on the site.

- 7 Prior to the occupation of the dwelling hereby approved the ground floor and first floor windows to be installed in its southeast elevation which face onto Orchard Cottage and the first floor window of its northwest elevation which would face onto Holybank shall be obscurely glazed in accordance with a sample of the obscure glazing to be submitted to and approved by the Planning Authority in advance of its use on the dwelling. The obscure glazing of the windows shall accord with the sample so approved and thereafter those window shall remain obscurely glazed unless otherwise approved by the Planning Authority.

Reason:
To safeguard the privacy and amenity of the occupants of Orchard Cottage and Holybank.

Signed

Councillor Norman Hampshire
Convener of the Planning Committee

REPORT TO: Planning Committee
MEETING DATE: Tuesday 12 January 2021
BY: Executive Director – Place
SUBJECT: Application for Planning Permission for Consideration

2

Application No. **20/01030/PM**

Proposal Amend condition 30 of planning permission in principle 14/00768/PPM

Location **Blindwells
Tranent
East Lothian**

Applicant Hargreaves Services (Blindwells) Limited

Per Turley

RECOMMENDATION Consent Granted

REPORT OF HANDLING

PROPOSAL

As the area of the application site is greater than 2 hectares, 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 and thus it cannot be decided through the Council's Scheme of Delegation. The application is therefore brought before the Planning Committee for a decision.

The application site has an area of 128 hectares and is located in close proximity to the settlements of Prestonpans, Tranent, Cockenzie and Port Seton. It was formerly in use as an open cast mine. When workings ceased it was backfilled and reinstated for agricultural use. A body of water, known as Blindwells Loch, is located in the northwest part of the site, and disused railway sidings remain from the former mining operations. There is an existing vehicular access to the site from the A198 road, at a central point on the western boundary of the site.

Topographically, the site generally slopes from southeast to northwest, although a defined ridge passes across it, from which the land falls more rapidly to the north. This feature creates a high platform and ridge to the southeast of the site and a low basin to the northwest.

The site is predominantly bounded to the north by the east coast main railway line, beyond which is the A198 road, to the east by a public right of way known as Whinny Loan, with agricultural land beyond, to the south by the A1 trunk road, with agricultural land beyond, and to the west by the Bankton roundabout and the A198 road. On the other side of the A198 road is the former St Joseph's School. The School, together with its gates and gate piers, is listed as being of special architectural or historic interest (Category B).

The majority of the application site is within the inventory boundary of the Battle of Prestonpans, a battlefield included within the Inventory of Historic Battlefields.

The Seton House (Palace) Designed Landscape is located to the north of the northeast part of the application site, on the other side of the east coast main railway line and the A198 road.

A Scheduled Ancient Monument, known as the Seton West Mains Enclosures 500M SW Of, is located some 300 metres to the northwest of the application site.

The Firth of Forth Special Protection Area is located approximately 1km to the north of the application site.

Planning permission (Refs: 09/00036/FUL, 14/00362/P, 14/00363/P and 14/00644/P) has been granted on four occasions between 2009 and 2014 for temporary surcharging trials within the application site. The purpose of these trials was to establish that ground conditions can be remediated to be suitable for a mixed use development of the application site.

In May 2018 planning permission in principle (Ref: 14/00768/PPM) was granted for remediation of the application site and for the creation of a new settlement. The approved settlement could comprise residential, employment, education and commercial uses with park and ride and rail halt facilities and associated works.

The elements of the new settlement include up to 1600 residential units, a school campus, 10 hectares of employment land, a local centre with commercial units, a supermarket, a park and ride facility, playing fields, open space, allotments, a cemetery, landscaping, roads, footpaths and associated infrastructure provision.

An indicative masterplan was approved with planning permission 14/00768/PPM. It shows how the various components of development could be accommodated on the site including how the site could be accessed at three points from the A198 road, to the west of the application site. It shows how one of the accesses could be taken from the Bankton Interchange, which is at the southwest edge of the site. The northernmost proposed access is shown to involve the upgrading of the existing vehicular access into the site. It is further indicated that the third access could be formed at a central point on the western boundary of the site, in a position opposite an existing vehicular access that serves the former St Joseph's School.

Planning permission (Ref: 18/00725/AMC) was granted in December 2019 for the approval of matters specified in Conditions 1d and 1h (details of road infrastructure for Phase 1 Plot 2) of planning permission in principle 14/00768/PPM - For remediation of site and creation of new settlement comprising residential, employment, education and commercial uses with park and ride and rail halt facilities and associated works with 18/00725/AMC granting permission for the middle access road to serve the site.

In October 2019 planning permission (Ref: 19/00242/AMC) was granted for the approval of matters specified in conditions 1d and 1h (details of road infrastructure for Phase 1 Plot 1) of planning permission in principle 14/00768/PPM - For remediation of site and creation of new

settlement comprising residential, employment, education and commercial uses with park and ride and rail halt facilities and associated works with 19/00242/AMC granting permission for the northern access road to serve the site.

Planning permission (Ref: 19/00620/AMM) was granted in May 2020 for the approval of matters specified in conditions 1d, 1h, 1l and 1n (details of road, drainage and landscape infrastructure for Phase 1) of planning permission in principle 14/00768/PPM - For remediation of site and creation of new settlement comprising residential, employment, education and commercial uses with park and ride and rail halt facilities and associated works

Also in May 2020 planning permission (Ref: 19/00900/AMM) was granted for approval of matters specified in conditions of planning permission in principle 14/00768/PPM -Erection of 146 houses and associated works.

In June 2020 planning permission (Ref: 19/01068/AMM) was granted for approval of matters specified in conditions of planning permission in principle 14/00768/PPM - Erection of 32 houses, 28 flats and associated works.

Planning permission in principle 14/00768/PPM was granted subject to the imposition of a number of conditions. Of those, condition 30 states:

“Development of the application site shall be carried out in accordance with the following requirements:

- * Prior to the occupation of any of the approved development, the proposed upgrade of the northern and southern roundabouts of the Bankton Interchange to traffic signal control, generally as illustrated in drawing no. SK0002, shall be implemented to the satisfaction of the Planning Authority, following consultation with Transport Scotland;
- * Prior to the occupation of any of the approved development, the proposed upgrade of the west facing slips at Bankton Interchange to Type B parallel merge/ diverge arrangements, generally as illustrated in drawing no. SK004, shall be implemented to the satisfaction of the Planning Authority, following consultation with Transport Scotland;
- * Details of the lighting within the application site shall be submitted to and approved by the Planning Authority, following consultation with Transport Scotland;
- * Prior to the commencement of development, details of the frontage landscaping treatment along the trunk road boundary shall be submitted to and approved by the Planning Authority, following consultation with Transport Scotland;
- * Prior to the occupation of any of the approved development, a barrier/ boundary feature shall be provided and maintained along the proposed boundary of the site with the A1 trunk road, in accordance with details to be submitted to and approved in advance of its provision by the Planning Authority, following consultation with Transport Scotland; and
- * There shall be no drainage connections to the trunk road drainage system.

Reason:

In the interests of road safety”.

Planning permission is now sought through this current application for the amendment of the wording of condition 30 of planning permission in principle 14/00768/PPM.

The applicant's agent has submitted a supporting statement and report with the application. This advises that the applicant's transport consultant Whyte, Young, Green (WYG) has undertaken a modelling exercise to establish whether off-site highways mitigation works will be required in the vicinity of the site in order to deliver the initial quantum of development proposed. WYG's report titled 'Blindwells Microsimulation Model - S-Paramics Modelling for Transport Scotland - S-Paramics Forecasting - Plots 1, 2A and 2B Technical Note' concludes that:

"The quantum of development proposed will not have any adverse impacts on the local or strategic highway network in the vicinity of the site.

Because no material traffic impact has been observed, it can be concluded that no off-site highways mitigation works are required to deliver the Stage 1 and Stage 2 development proposals associated with the Blindwells site.

The development of Plots 1, 2A and 2B are therefore acceptable in transport terms".

The applicant's agent advises that the WYG report was issued to both Transport Scotland and East Lothian Council for review. Responses were received from Transport Scotland on 5 February 2020 confirming 'no objection', and from East Lothian Council on 6 February 2020 accepting the conclusions of the report.

As a result of this modelling exercise and the acceptance of both Transport Scotland and East Lothian Council of its conclusions, Hargreaves Services (Blindwells) Limited is seeking to amend the wording of the first two requirements of Condition No. 30 so that it reflects the conclusions of the modelling exercise accordingly, i.e. off-site highways mitigation works are not required to deliver the housing within Plots 1, 2A and 2B of the Blindwells development, amounting to a total of 235 residential units.

In addition, planning officers of the Council have suggested that the wording of the third requirement of condition 30 is amended in order that it relates specifically to street lighting, and not all lighting within the site. It was also recommended that a time element be incorporated into the wording of this requirement. Hargreaves Services (Blindwells) Limited is amenable to the suggestions and content to take forward the recommended wording in this regard.

In order that condition 30 provides greater flexibility should any element of the condition need to be revisited, it is also proposed that the wording "Unless otherwise agreed with the Planning Authority, following consultation with Transport Scotland" be included within the amendment. This will allow for agreement of appropriate alternative arrangements, in consultation with the relevant stakeholders, without the requirement for a further application under Section 42, should this be necessary.

As such this current planning application seeks to amend the wording of condition 30 of planning permission in principle 14/00768/PPM such that it would read:

"Unless otherwise agreed with the Planning Authority, following consultation with Transport Scotland, development of the application site shall be carried out in accordance with the following requirements:

- o Prior to the occupation of the 236th residential unit hereby approved, the proposed upgrade of the northern and southern roundabouts of the Bankton Interchange to traffic signal control, generally as illustrated in drawing no. SK0002, shall be implemented to the satisfaction of the Planning Authority, following consultation with Transport Scotland;

o Prior to the occupation of the 236th residential unit hereby approved, the proposed upgrade of the west facing slips at Bankton Interchange to Type B parallel merge/ diverge arrangements, generally as illustrated in drawing no. SK004, shall be implemented to the satisfaction of the Planning Authority, following consultation with Transport Scotland;

o Street lighting shall not be installed within the application site unless and until details of it have been submitted to and approved by the Planning Authority, following consultation with Transport Scotland;

o Prior to the commencement of development, details of the frontage landscaping treatment along the trunk road boundary shall be submitted to and approved by the Planning Authority, following consultation with Transport Scotland;

o Prior to the occupation of any of the approved development, a barrier/ boundary feature shall be provided and maintained along the proposed boundary of the site with the A1 trunk road, in accordance with details to be submitted to and approved in advance of its provision by the Planning Authority, following consultation with Transport Scotland; and

o There shall be no drainage connections to the trunk road drainage system.

Reason:

In the interests of road safety."

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) that are relevant to the determination of the application.

Policies 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 this application.

REPRESENTATIONS

There have been no letters of written representation received to this application.

COMMUNITY COUNCIL COMMENTS

There have been no Community Council comments received to the planning application.

PLANNING ASSESSMENT

The requirement for the wording of condition 30 arose from the original consultation response on planning application 14/00768/PPM received from **Transport Scotland** at the time of determination.

Since that time, the applicant's transport consultant has been in discussion with both **Transport Scotland and the Council's Road Services** and has undertaken a modelling

exercise to establish whether off-site highways mitigation works will be required in the vicinity of the site in order to deliver the initial quantum of development proposed.

Transport Scotland have been consulted on this current application and the proposed amendment to the wording of condition 30 of planning permission 14/00768/PPM. Transport Scotland advise that in relation to the timing of off-site highway mitigation works and lighting details they are content with the proposed amendments to parts 1 and 2 of condition 30. Parts 4, 5, and 6 of condition 30 relating to landscape treatment, barrier/boundary fencing and drainage respectively will remain unchanged. In relation to the proposed amendment to part 3 of condition 30 relating to lighting, Transport Scotland advise that this lighting condition is intended to relate to all lighting (within reason) not just street lighting. On this basis, as well as ensuring consistency with other similar development sites across Scotland and any potential impact upon the Trunk Road Network (TRN), Transport Scotland advise that they are unwilling to accept the proposed amendment to the lighting part of condition and as such part 3 should remain unchanged. As such Transport Scotland raise no objection to the application provided the wording of condition 30 is amended to:

o Prior to the occupation of the 236th residential unit hereby approved, the proposed upgrade of the northern and southern roundabouts at Bankton Interchange to traffic signal control, generally as illustrated in WYG's Drawing No. SK002, shall be implemented to the satisfaction of the Planning Authority, after consultation with Transport Scotland.

Reason: To ensure that the design layout complies with the current standards, and that the safety and free flow of traffic on the trunk road is not diminished.

o Prior to the occupation of the 236th residential unit hereby approved, the proposed upgrade of the west facing slips at Bankton Interchange to Type B parallel merge / diverge arrangements, generally as illustrated in WYG's Drawing No. SK004, shall be implemented to the satisfaction of the Planning Authority, after consultation with Transport Scotland.

Reason: To ensure that the design layout complies with the current standards, and that the safety and free flow of traffic on the trunk road is not diminished.

o Prior to the commencement of the development details of the lighting within the site shall be submitted for the approval of the Planning Authority, after consultation with Transport Scotland, as the Trunk Roads Authority.

Reason: To ensure that there will be no distraction or dazzle to drivers on the trunk road and that the safety of the traffic on the trunk road will not be diminished.

o Prior to the commencement of the development, details of the frontage landscaping treatment along the trunk road boundary shall be submitted to and approved by the Planning Authority, following consultation with Transport Scotland.

Reason: To ensure that there will be no distraction to drivers on the trunk road, and that the safety of the traffic on the trunk road will not be diminished.

o Prior to the occupation of any of the approved development, a barrier / boundary feature shall be provided and maintained along the proposed boundary of the site with the A1 trunk road, in accordance with details to be submitted to and approved in advance of its provision by the Planning Authority, following consultation with Transport Scotland.

Reason: To minimise the risk of pedestrians and animals gaining uncontrolled access to the trunk road with the consequential risk of accidents.

o There shall be no drainage connections to the trunk road drainage system.

Reason: To ensure that the efficiency of the existing trunk road drainage network is not affected.

These matters can be controlled through a condition of a grant of planning permission.

The Council's Road Services advise that having reviewed the submitted information and considered the consultation response received from Transport Scotland they consider that the response from Transport Scotland is an appropriate one and as such Road Services do not have any further comment to make and do not raise any objection to the application, being satisfied that it would not have an adverse impact on pedestrian or road safety.

The proposed amendment to the wording of condition 30 of planning permission in principle 14/00768/PPM subject to the aforementioned conditions is consistent with Policies T1 and T2 of the adopted East Lothian Local Development Plan 2018.

A revised version of Planning Series Circular 3/2013 (Development Management Procedures) was published by the Scottish Government in September 2015. Annex I of the Circular gives guidance on applications for planning permission under section 42 of the Town and Country Planning (Scotland) Act 1997, as amended. The application that is the subject of this report is made under section 42 of the Act. Annex I states that "Planning authorities should attach to the new permission all of those conditions from the previous permission, where it is intended these should apply and ensure (where appropriate) that permission is granted subject to the conclusion of any appropriate planning obligation". Therefore, planning permission should be granted subject to the applied for amendment of the wording of condition 30 of planning permission in principle 14/00768/PPM and subject to all of those conditions from planning permission 14/00768/PPM, where it is intended these should apply. In this case, the other conditions which should continue to apply are 1-29 and 31-32. The wording of the Legal Agreement approved by the Council for planning permission in principle 14/00768/PPM ensures that the Section 75 Legal Agreement applies in respect of this application to vary condition 30 of planning permission in principle 14/00768/PPM. Therefore there is no need for a new S75 Legal Agreement for this application.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1 The submission for approval of matters specified in conditions of this grant of planning permission in principle shall include details of the siting, design and external appearance of all the dwellings and other buildings, the means of access to them, the means of any enclosure of the boundaries of the site and of gardens and other subdivisions of the site and the landscaping of the site and those details shall generally accord with the Indicative Master Plan drawing no. 13055(PL)100 Rev. D docketed to this planning permission in principle, and shall address the following requirements:
 - a. The provision within the application site of recycling facilities.
 - b. Other than in exceptional circumstances where the layout or particular building type does not permit, houses and flats shall be orientated to face the street.
 - c. Notwithstanding that shown in the Indicative Master Plan docketed to this planning permission in principle there shall be no integral garages, unless it can be justified as an exceptional design feature, or where the house and garage would not be on a primary street frontage;
 - d. The detailed design of the layout shall accord with the principles set out in the Council's Design Standards for New Housing Areas and with Designing Streets;
 - e. The external finishes of the residential units shall be in accordance with a coordinated scheme of materials and colours that shall respect the layout of the development and shall promote render as the

predominant finish to the walls of the residential units.

f. Notwithstanding the details shown in the Indicative Site Master Plan referred to above, there shall be a separation distance of at least 9 metres between facing windows of a proposed new building and the garden boundaries of existing or proposed neighbouring residential properties; and a separation distance of at least 18 metres between directly facing windows of a proposed new building and the windows of existing or proposed neighbouring residential properties.

g. Parking for the residential, local centre and primary school components of the development hereby approved shall be provided at a rate as set out in the East Lothian Council's "Standards for Development Roads- Part 5 Parking Standards" For the local centre and school this shall include for cycle parking. Private parking spaces in the local centre and other private parking areas shall be a minimum of 2.5 metres by 5 metres and spaces on the public road shall be a minimum of 2.5 metres by 6 metres. Access to private parking areas other than driveways shall be via a reinforced footway crossing and have a minimum width of 5.5 metres over the first ten metres. Private driveways shall be a minimum of 6 metres by 2.5 metres, double driveways shall be 5 metres by 6 metres or 3 metres by 11 metres.

h. All access roads within the new settlement shall conform to East Lothian Council's "Standards for Development Roads" in relation to roads layout and construction, footways and footpaths, parking layout and number, street lighting and traffic calming measures.

i. Cycle parking shall be included at a rate of 1 space per flat. The parking shall be in the form of 1 locker per flat or communal provisions in the form of a lockable room or shed.

j. The provision within the local centre of a civic square, which shall be designed as a central meeting point and to provide a multifunctional space for both formal use such as community arts and theatre activities and for informal use.

k. The provision within the application site of at least 10 hectares of employment land. The buildings within the employment land shall be restricted in use to Classes 4, 5 and 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997.

l. The provision within the application site of nature based elements such as woodlands, wetlands and SUDS, public open space and boulevard planting.

m. 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;

n. Details of the implementation and design of infrastructure works onto the A198, including junctions, road widening and delivery timescales shall be submitted to and approved by the Planning Authority. The submitted detail shall include full road safety audits and quality audits. Development should thereafter be carried out in accordance with the details so approved.

o. Electric vehicle charging points shall be provided around proposed community facilities such as schools and retail areas. Charging points, if considered necessary by the Planning Authority, shall also be provided for electric buses.

p. There shall be no built development or landscaping within the area defined as being "EMBANKMENT" on drawing number 13055(PL)160 - Masterplan - Rail Embankment.

No part of the development hereby approved shall be begun on the site until all of the above details have been submitted to and approved in writing by the Planning Authority. The development shall be carried out in accordance with the details so approved.

Reason:

To enable the Planning Authority to control the development in the interests of the amenity of the development and of the wider environment and in the interests of road and rail safety.

- 2 The details to be submitted pursuant to condition 1 shall include a delivery schedule and phasing plans that establishes the phasing and timing programme for the proposed development. It shall include the phasing and timing for the provision of education capacity, employment land, the local centre, the transportation works, footpaths and cycleways and Safer Routes to School, external transport works such as offsite path links, Longniddry traffic signals at Coal Road (A198/B6363 Junction) and A198 works and junctions. It must also include for public road links, including paths, to local services (either existing or as these are developed for Blindwells), schools and the public road network. This shall also

apply to the provision of drainage infrastructure, recreational facilities, landscaping and open space. The details to be submitted shall also include construction phasing plans.

The phasing of the development of the site shall be carried out in strict accordance with the phasing plan so approved, unless otherwise approved in writing in advance by the Planning Authority.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the good planning of the site.

- 3 No more than 1600 residential units shall be erected on the site.

Reason:

To ensure that there is sufficient education capacity, to restrict the scale of development to that applied for and identified in the applicant's Transport Assessment and to minimise interference with the safety and free flow of traffic on the trunk road.

- 4 Unless otherwise approved in writing by the Planning Authority:

(a) Housing completions in any one year (with a year being defined as being from 1st April to 31st March the following year) shall not exceed the following completion rates:

Year 2020/21	-	24 residential units
Year 2021/22	-	73 residential units
Year 2022/23 to 2030/31-	97 residential units per annum	
Year 2031/32 to 2034/35-	122 residential units per annum	
Year 2035/36	-	102 residential units
Year 2036/37	-	40 residential units

(b) If fewer than the specified number of residential units is completed in any one year then those shall be completed instead at Year 2036 or beyond and not added to the subsequent Year.

Reason:

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

- 5 No development shall take place until there has been submitted to and approved in writing by the Planning Authority a scheme of landscaping. The scheme shall provide details of: the height and slopes of any mounding on or recontouring of, the site; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. 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. It shall also include details of all planting and landscaping along the boundary of the site with the A1(T) trunk road.

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 of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of ten 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.

Reason:

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

- 6 Prior to the commencement of development a long term landscape and habitat management plan shall be submitted to and approved in writing by the Planning Authority. The plan shall include details of how the overall wildlife value of the large body of water known as 'Princes Loch' can be maximised. These details for 'Princes Loch' shall include appropriate marginal and wetland planting, scalloping of edges, connections to adjacent scrub and woodland, creation of small islands, and physical connectivity to the SUDS network. The plan shall also detail measures of how to design the SUDS ponds as habitats and landscape features. The plan shall include a timetable for the implementation of the proposed works. Development shall thereafter be carried out in accordance with the details so approved.

Reason:

To maximise the ecological potential of the proposed development.

- 7 Prior to the commencement of development, a method statement for the translocation and future management of the bee orchids and their habitat within the application site shall be submitted to and approved by the Planning Authority. The method statement shall include a timetable for implementation.

The development shall thereafter be implemented in accordance with the details so approved.

Reason:

To maintain the contribution of the bee orchids to the nature conservation value of the local area.

- 8 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 routes to/from site) and shall include hours of construction work and routing of traffic. The Construction Method Statement shall also make recommendations in respect of how pedestrians and school children can safely access the new school during construction works. It shall also provide details of utility/service drainage connections.

The recommendations of the Construction Method Statement shall be implemented prior to the commencement of development.

Reason:

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

- 9 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, LArTr, 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, LA90T.

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.

- 10 No residential unit shall be occupied unless and until details of artwork to be provided on the site or at an alternative location away from the site have been submitted to and approved by the Planning Authority. The details shall include a timetable for the provision of the artwork.

The artwork shall thereafter be provide in accordance with the details so approved.

Reason:

To ensure that artwork is provided in the interest of the visual amenity of the locality or the wider area.

- 11 The supermarket hereby approved shall have a gross floor area no greater than 1,035 square metres.

Reason:

In order to retain control of the scale of the supermarket and in the interests of safeguarding the vitality and viability of existing retail provision.

- 12 To ensure that the site is clear of contamination, the following requirements shall be complied with:

o Prior to commencement of any site development, a targeted contaminated land investigation shall be carried out and a report submitted to and for approval of the Planning Authority. The investigation must also include further rounds of gas monitoring for the site. The subsequent report must include a site-specific risk assessment of all relevant pollutant linkages.

o Where the risk assessment identifies any unacceptable risk or risks, a detailed remediation strategy shall be submitted to the Planning Authority for approval. Prior to receipt of approval of the remediation strategy by the Planning Authority no works, other than investigative works, shall be carried out on the site

o Remediation of the site shall be carried out in accordance with the approved remediation plan. Any amendments to the approved remediation plan shall not be implemented unless approved by the Planning Authority.

o On completion of the remediation works and prior to the site being occupied, a validation report shall be submitted to the Planning Authority confirming that the works have been carried out in accordance with the remediation plan.

o 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 prior to the occupation of any of the buildings.

- 13 The open space to be provided on site shall generally accord with the Indicative Master Plan drawing no. 13055(PL)100 Rev. D docketed to this planning permission in principle. Moreover, the area of open space known as the Town Park shall include within it woodland of a significant size.

Prior to the commencement of development, a timetable for the provision of the open space within the new settlement shall be submitted to and approved in advance by the Planning Authority.

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

Reason:

To ensure the timely provision of an appropriate amount of open space, in the interests of the amenity of the area.

- 14 Prior to the commencement of development, details of how the areas of open space and equipped areas are to be maintained shall be submitted to and approved in advance by the Planning Authority.

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

Reason:

To ensure the satisfactory maintenance of open space and equipped play areas, in the interests of the amenity of the area.

- 15 Prior to the commencement of development, details of a new continuous shared use (walking/cycling) path from the western side of the A198 road to Prestonpans Railway Station, including a timetable for its delivery, shall be submitted to and approved in advance by the Planning Authority. The details shall be based on the continuous shared use (walking/cycling) path that is indicatively shown on drawings docketed to this planning permission. The submitted details shall show the footpath being lit and shall include road safety audits and quality audits.

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

Reason: In the interests of road and pedestrian safety.

- 16 Prior to the commencement of development, details of a new 2 metres wide tarmac "active travel path" to be formed for walkers and cyclists on the western side of the hedge at the eastern edge of the application site, parallel to the core path, with link paths connecting from the housing areas to the tarmac path and to the core path, shall be submitted to and approved in advance by the Planning Authority. The details shall include a timetable for implementation.

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

Reason:

In the interests of road and pedestrian safety.

- 17 In the event that the catchment secondary school for the new settlement is Preston Lodge High School,

a report assessing walking and cycling routes to this school from the new settlement in terms of safety and quality to include distances, controlled pedestrian/cycle crossings of the A198 and B1361 (also to include a technical assessment of the existing footbridge over the rail line north of Meadowmill Sports Centre) shall be submitted to and approved by the Planning Authority. The details shall include any mitigation measures required and a timetable for their implementation.

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

Reason:

To reduce children being driven to and from school in private cars, in the interests of road safety and sustainability.

- 18 Prior to the commencement of any ground improvement / remedial works within the application site, proposals for further ground investigations for each phase of the proposed development shall be submitted to and approved by the Planning Authority. These further ground investigations shall be designed to provide comprehensive factual information on the depth of backfill / rock head, level of the ground water table and continuous monitoring of ground gases during the period of the investigations. On completion of the further investigations the applicant shall submit a factual report presenting the findings of the investigations to the Planning Authority for their information. The ground improvement / remediation works shall thereafter be carried out in accordance with the details so approved.

Reason:

To ensure that ground improvement / remediation works are acceptable in order to enable the development to safely and satisfactorily proceed.

- 19 Prior to the commencement of any ground improvement / remedial works within the application site, detailed proposals for the proposed ground improvement / remediation works shall be submitted to and approved by the Planning Authority. The detailed proposals shall include detailed designs and supporting information for the proposed surcharging and consolidation of shallow workings beneath the base of the open cast. It shall also include the surcharge layouts, surcharge heights, surcharge periods, recovery period following removal of the surcharge, proposed monitoring instrumentation, and assessment of predicted settlement at each surcharge location. In respect of the consolidation of the shallow workings the detailed proposals shall provide full details of the proposed consolidation works required to remove the risk of future subsidence. Where appropriate the ground improvement / remedial works shall make provision for percolation / inundation testing to demonstrate that the surcharging has been effective in reducing the risks of such collapses to acceptable levels. The ground improvement / remediation works shall thereafter be carried out in accordance with the details so approved.

Reason:

To ensure that ground improvement / remediation works are acceptable in order to enable the development to safely and satisfactorily proceed.

- 20 Following completion of the ground improvement works / remedial works on each phase of the development site and prior to commencing any construction works the applicant shall prepare a completion report and submit this to the Planning Authority for their approval. This completion report shall provide a detailed account of the ground improvement / remedial works carried out together with a complete record of all monitoring carried out during ground improvement / remediation. The completion report shall provide a detailed assessment of future risks arising from continuing creep and percolation / inundation settlement. Where the risk of future collapse settlement remains, the completion report shall provide conclusions and recommendations for further monitoring / further remedial measures required prior to works commencing. The completion report shall provide conclusions and recommendations for developers in respect of foundation design, drainage design, ground gas defensive measures and other construction related activities. With regard to the consolidation of the shallow workings the completion report shall provide full details of the works carried including the validation of the end product by post treatment probes or other appropriate measures.

Reason:

To ensure that ground improvement / remediation works are acceptable in order to enable the development to safely and satisfactorily proceed.

- 21 Prior to the commencement of development the following information shall be submitted to and approved by the Planning Authority, following consultation with the Coal Authority:

a) the submission of a layout plan which identifies appropriate zones of influence for the mine entries on site, and the definition of suitable 'no-build' zones, together with indication of the high wall; and

b) The submission of details of investigations and of treatment if necessary for the mine entries on site,

shallow coal workings, ground gas, and ground stabilisation of the backfill.

Prior to the commencement of development any identified remedial works shall be fully implemented.

Reason:

To ensure that ground improvement / remediation works are acceptable in order to enable the development to safely and satisfactorily proceed.

- 22 Prior to the commencement of development, an update of the Surface Water and Flood Risk Report, which shall assess the flood risk within the northwest part of the application site from all sources during a 0.5% AP (1:200) rainfall event, and which shall include proposed mitigation measures that are required to not increase flood risk downstream of the site and to prevent flood risk of any built development in the northwest part of the application site, shall be submitted to and approved by the Planning Authority. The Report timetable for the delivery of all identified mitigation measures shall also be submitted.

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

Reason:

To ensure that built development within the northwest part of the application site is not at risk from flooding, there is no increase in flood risk elsewhere and appropriate long-term maintenance arrangements are in place.

- 23 Prior to the commencement of development, a SuDS scheme and Drainage Assessment for the whole development site to meet the vesting requirements of the Statutory Authorities shall be submitted to and approved by the Planning Authority, following consultation with SEPA. The submitted detail shall include a timetable for the delivery of all identified mitigation measures shall.

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

Reason:

To ensure that built development within the northwest part of the application site is not at risk from flooding, there is no increase in flood risk elsewhere and appropriate long-term maintenance arrangements are in place.

- 24 Prior to the commencement of development, a full engineering report detailing ground stability and structural integrity shall be submitted to and approved by the Planning Authority. The report, which shall be prepared by an adequately qualified and indemnified engineer, shall identify all necessary remediation works and a timescale for those remediation works being undertaken. Development shall thereafter be carried out in accordance with the details so approved;

Reason:

To ensure that ground improvement / remediation works are acceptable in order to enable the development to safely and satisfactorily proceed.

- 25 Prior to the commencement of development a strategy for the new speed limits within the application sites and those on the existing road network shall be submitted to and approved by the Planning Authority. The strategy shall assess how these will be developed, including road safety audits and associated infrastructure (i.e. street lighting, signage etc). The strategy shall include full detailed designs for all the works on the existing public road including full road safety audits and quality audits putting particular emphasis on walking & cycling and the safety and attractiveness of these routes (including street lighting review in these areas). This shall extend into the site to offer excellent paths and cycling facilities within the site to ensure walking and cycling are the first modes to be considered for local trips. The strategy shall also detail controlled crossings that are necessary as well as bus stops and shelters. The strategy shall also include a timetable for implementation of any new speed limits as well as when controlled crossings and bus stops and shelters should be provided. Development shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of road safety.

- 26 Prior to the commencement of development, road safety audits and quality audits for external works and the links within the site shall be submitted to and approved by the Planning Authority. Development shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of road safety.

27 Prior to the commencement of development, a vehicle tracking/swept path analysis for all internal roads and changes to external roads shall be submitted to and approved by the Planning Authority. The vehicle tracking/swept path analysis shall include the large design rigid (in accordance with the FTA associations Designing for Deliveries) over all the roads within the proposal site and large HGV (arctic etc) as well as large buses on main distributor roads and employment areas (including local centre). It shall also include all vehicles types including buses for the external routes/works. Development shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of road safety.

28 Prior to the commencement of development, a general, overarching travel plan framework for the whole settlement (including school and future business/economic uses travel) shall be submitted to and approved by the Planning Authority. The framework shall include tools and mechanisms for each part of the development to use. It shall include measures to be put in place to encourage Public Transport penetration into the new settlement. It shall also include a timetable for implementation, Development shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of road safety.

29 Prior to the commencement of development, a strategy to establish how traffic regulation orders and parking restrictions will be needed, particularly in the town centre around schools, public buildings and shops as well as other areas throughout the site shall be submitted to and approved by the Planning Authority. Development should thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of road safety.

30 Development of the application site shall be carried out in accordance with the following requirements:

* Prior to the occupation of the 236th residential unit hereby approved, the proposed upgrade of the northern and southern roundabouts at Bankton Interchange to traffic signal control, generally as illustrated in WYG's Drawing No. SK002, shall be implemented to the satisfaction of the Planning Authority, after consultation with Transport Scotland.

* Prior to the occupation of the 236th residential unit hereby approved, the proposed upgrade of the west facing slips at Bankton Interchange to Type B parallel merge / diverge arrangements, generally as illustrated in WYG's Drawing No. SK004, shall be implemented to the satisfaction of the Planning Authority, after consultation with Transport Scotland.

* Prior to the commencement of the development details of the lighting within the site shall be submitted for the approval of the Planning Authority, after consultation with Transport Scotland, as the Trunk Roads Authority.

* Prior to the commencement of development, details of the frontage landscaping treatment along the trunk road boundary shall be submitted to and approved by the Planning Authority, following consultation with Transport Scotland;

* Prior to the occupation of any of the approved development, a barrier/ boundary feature shall be provided and maintained along the proposed boundary of the site with the A1 trunk road, in accordance with details to be submitted to and approved in advance of its provision by the Planning Authority, following consultation with Transport Scotland; and

* There shall be no drainage connections to the trunk road drainage system.

Reason:

To ensure that: the design layout complies with the current standards; that there will be no distraction or dazzle to drivers on the trunk road; to minimise the risk of pedestrians and animals gaining uncontrolled access to the trunk road with the consequential risk of accidents; to ensure that the efficiency of the existing trunk road drainage network is not affected; all to ensure that the safety and free flow of traffic on the trunk road is not diminished.

31 Prior to the commencement of development details of the Longniddry Junction (junction of A198/B6363 Main Street with Coal Road - traffic signals to provide a left turn to Gladsmuir and vice-versa for return - as a deflection strategy to draw trips away from the A198 frontage at Blindwells) shall be submitted to and approved 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:

In the interests of road safety.

- 32 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.

REPORT TO: Planning Committee
MEETING DATE: Tuesday 12 January 2021
BY: Executive Director – Place
SUBJECT: Application for Planning Permission for Consideration

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Note - this application was called off the Scheme of Delegation List by Councillor Henderson for the following reason: I and members of the community have concerns over the size, scale and design of the proposed building on a relatively small site within a conservation area.

Application No. **20/00999/P**
Proposal Alteration to building and erection of 1 house and associated works
Location **82 High Street And Land North Of 82 High Street
North Berwick
East Lothian**
Applicant Sutherland & Co Architects Ltd

RECOMMENDATION Consent Granted

REPORT OF HANDLING

PROPOSAL

The property to which this application relates is part of a flat roofed extension on the north (rear) elevation of the two storey building of 82 High Street and a yard area to the rear of the property. The application site is located on the south side of Forth Street onto which it has a direct frontage. The application site is located within the North Berwick Conservation Area. The application site is predominantly located within a residential area as defined by Policy RCA1 of the adopted East Lothian Local Plan 2018 however the southern part of the site including the building containing the property of 82 High Street and the extension is within the Town Centre as defined by Policy TC2 of the adopted East Lothian Local Plan 2018.

Planning permission 16/00915/P was granted in March 2017 for the alterations and part change of use of shop (class 1) use to financial, professional and other services (class 2) use. Planning permission 16/00915/P has been implemented with the ground floor of the property of 82 High Street currently being in use as a shop (class 2) while the first floor of the property is currently in use as an architect's office (class 2). Through the alterations undertaken through the granting of planning permission 16/00915/P the ground floor rear extension on the property has no access with or association with the shop on the ground floor.

Planning permission is now sought through this application for the alteration to the building of 82 High Street comprising of the demolition of an existing two storey brick extension on the rear (north) elevation of the building and the erection of a three storey house within the northern part of the application site with access off and fronting directly onto Forth Street. The application site is bound to the west by the residential property of 47 Forth Street, to the south by the buildings on the High Street predominantly with commercial units at ground floor level and largely residential flatted properties on the upper floors, to the north by Forth Street on the opposite side of which lie residential properties and to the east by an adjacent yard area beyond which are flatted residential properties. The application site is currently enclosed by a high brick wall along the eastern boundary, partly by the side elevation of the residential property of 47 Forth Street to the immediate west and a high brick and rendered wall along the west boundary and by a high timber gate over the yard access on the northern boundary. The proposed house would occupy the northern part of the site and would have a rectangular footprint measuring at most some 4 metres by 20 metres. The proposed house would be of a contemporary design providing living accommodation over three levels. A private courtyard garden, garden store and first floor roof terrace would be provided to the south of the proposed house.

Through separate application 20/00111/CAC Conservation Area Consent is sought for the demolition of the rear extension on the building of 82 High Street, the boundary wall and gates. That application stands to be determined on its merits.

The applicant has submitted a Design and Access statement in support of the application. The statement states 'no. 82 High Street, North Berwick comprises a Class 1 shop on the ground floor, Class 2 architects office on the first floor (both accessed from High Street) and a yard area to the rear which includes a former shop store and redundant fire escape neither with any internal connection to 82 High Street. This vacant yard area is self-contained with a frontage and established vehicle access onto Forth Street. For the avoidance of doubt, the yard is unconnected to the uses at 82 High Street. It is this yard area 28.6m x 4.2m, known as 45 Forth Street, which is proposed as the site for a house on 3 levels with access from Forth Street. This will involve the demolition of the former shop store and redundant fire escape. The store and fire escape on this portion are redundant and not required for the viability of the High Street uses. The majority of retail and other commercial uses are on High Street. The location of the site on Forth Street, which is predominantly residential, does not conflict with the vertical mix of land uses found on High Street. The design of the house is such that it will not have a significant environmental impact either on the commercial uses on High Street or the surrounding housing on Forth Street. The design of the proposed new house reflects the attributes of those buildings which give the Conservation Area its character. In contrast to some of the nearby late 20th century developments which are of little or no merit, it is a positive addition which will not only preserve, but enhance the special architectural or historic character or appearance of the Conservation Area. The former shop store and the fire escape are relatively recent additions of no merit which detract from the character of the Conservation Area. Their demolition and replacement with the proposed house will serve to enhance the Conservation Area. The siting and design of the proposed new house, as part of the residential frontage onto Forth Street, reflect the character and density of established development, ensuring commensurate levels of privacy and amenity along with suitable servicing and access. It has been demonstrated that the site can accommodate the entire development, there will be no significant loss of privacy and amenity to existing development, the new development will enjoy appropriate levels of privacy and amenity, the scale and design are sympathetic, there is no overdevelopment as the design reflects established density, and there is no material loss of space or features.'

The applicant has also provided a further design statement in support of the application stating that the building presents a slender double-pitched gable to the street, a self-consciously domestic form that is sympathetic to the scale and character of surrounding

buildings. The local street context is defined by an eclectic mix of materials and finishes, providing no obvious single material language to draw upon in developing the proposal. It is further considered that the new house should have an unashamedly contemporary expression with the main volume of the house being clad in natural zinc, both as a wall and roofing material. Pale grey brick is proposed for the ground floor walls. This is a robust and durable finish which acknowledges the materiality of the existing brick boundary walls and relates to the use of brickwork elsewhere on Forth Street. Proposed windows are timber framed but clad externally in aluminium. The proposed use of zinc as the primary cladding material and also the proposed aluminium clad window system have numerous precedents in recent development in the North Berwick Conservation Area.

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 relevant policies of the approved South East Scotland Strategic Development Plan (SESplan). Relevant to the determination of the application are Policies RCA1 (Residential Character and Amenity), TC2 (Town and Local Centre), CH2 (Development Affecting Conservation Areas), DP2 (Design), DP5 (Extensions and Alterations to Existing Buildings), DP7 (Infill, Backland and Garden Ground development), T1 (Development locations and accessibility) and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018.

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

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 area should be treated as preserving its character and appearance.

Also material to the determination of the application is the Scottish Government's guidance on housing design and quality given in Planning Advice Note 67: Housing Quality.

Planning Advice Note 67: Housing Quality 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.

REPRESENTATIONS

Eight Letters of representation to the application have been received all objecting to the proposed development. The main grounds of objection are:

- i) Road safety due to proposed parking bay;
- ii) Intrusion on privacy to neighbouring residential properties;
- iii) Overdevelopment;
- iv) Design and cladding inappropriate for Conservation Area;
- v) Overshadowing and loss of daylight to neighbouring properties;
- vi) Roof terrace threat to local residential amenity and will set a precedent for other roof gardens;
- vii) Property could be sold and used as an air B & B or holiday home with the roof garden becoming a noise pollutant;
- viii) Loss of view to the beach, sea, Craigleith Island and Fife will lead to a devaluation of neighbouring properties;
- ix) Disruption to Forth Street will be considerable with delivery of materials which will impact on local residents;
- x) Alleged that when the applicant renovated the office space the building work was not kept within the structured hours;
- xi) Security risk to the pharmacy and neighbouring residential flatted properties with roof garden on a level with the flat roof of Boots the Chemist;

The type of development proposed in this application is common place and there would be nothing extraordinary in the construction works to be carried out that would justify the Planning Authority exercising planning control over matters of site noise, hours of working, delivery and storage of materials and parking of builder's vehicles and skips. Any matters of alleged nuisance to neighbours from any construction works that may be carried out would be for the Council's Environmental Health Manager to investigate under separate environmental protection legislation. Any skips to be sited on the public road would require a permit for that from the Council's Road Services.

The loss of a private view, the devaluation in property, security of neighbouring buildings and alleged complaint regarding hours of work on previous renovations are not material considerations in the determination of this planning application.

COMMUNITY COUNCIL COMMENTS

North Berwick Community Council as a consultee on the application object to the application on the grounds that:

- i) The use of zinc cladding is out of character with the surroundings;
- ii) It is an overdevelopment of the site;
- iii) The roof terrace and south facing windows overlook several houses in the High Street and are a clear invasion of privacy for the flats in these houses.

PLANNING ASSESSMENT

The application site is largely located within a predominantly residential area as defined by Policy RCA1 of the adopted East Lothian Local Development Plan 2018. However the town centre boundary runs through the southern part of the application site with the existing rear brick extension containing a ground floor store and a redundant fire escape at first floor level being within the area defined as the town centre by Policy TC2 of the adopted East Lothian Local Development Plan 2018.

The applicant has provided an additional supporting statement which advises that he purchased 82 High Street in 2016 and embarked on a comprehensive refurbishment that was completed in 2018. The ground floor has been retained in retail use and Sutherland & Co. Architects now operates from a shared studio on the first floor. As such both the ground floor and first floor of the building of 82 High Street are in commercial use. The ground floor shop (within 82 High Street) is subject to a 10 year lease, with the tenant having been selected on the basis of a competitive bid following a period of marketing. The current tenant was selected from a total of 5 bids, 2 of which were considered credible with their lease excluding the rear store area and yard. The internal layout of the rear shop was subsequently altered at the tenant's request, relocating the toilet and removing the internal connection to the store to facilitate their fit-out. The fire escape stair, (at first floor level) the most conspicuous feature visible from Forth Street, is now redundant as the High Street building has been fitted with a sprinkler system and the store within the rear extension is no longer internally accessible from the shop or available for the tenant's use. As such both the rear yard and store have been in informal personal use for storage of the applicant's possessions since 2016. It is proposed that the rear extension which comprises of the first floor fire escape and the ground floor store be demolished. The main High Street building will be retained in its current commercial use and is unaffected by the proposal. As such given that the commercial use of the building of 82 High Street will be retained with the existing ground floor shop being let on a 10 year lease and the first floor of the building being retained in commercial use as a Class 2 office the proposed scheme of development would not compromise the North Berwick town centre's vibrancy, vitality or viability and as such would not be contrary to Policy TC2 of the adopted East Lothian Local Plan.

With the exception of the southern part of the application site which accommodates the rear extension on the building of 82 High Street the application site is located within a predominantly residential area as defined by Policy RCA1. Policy RCA1 does not actively promote the development of land for new build residential development. The principal purpose of Policy RCA1 is to ensure that the predominantly residential character and amenity of its area of coverage is safeguarded against the impacts of land uses other than housing. However Policy RCA1 does state that infill, backland and garden ground development will be assessed against Policy DP7 of the adopted East Lothian Local Development Plan 2018.

The site is bound to the west by a residential property, to the south by the buildings on the High Street with commercial units at ground floor level and residential flatted properties on the upper floors, to the north by Forth Street on the opposite side of which lie residential properties and to the east by an adjacent yard area beyond which are flatted residential properties.

Accordingly, the development of the site for the erection of 1 house on it can largely be defined as being infill housing development within the predominantly residential area of this part of North Berwick. The principle of such development is supported by Policy DP7 of the adopted East Lothian Local Development Plan 2018.

Thereafter the determining factor in this case is whether, having regard to national, strategic

and local planning policy and guidance and other material considerations, the size, form, design and architectural appearance of the proposed development is acceptable in terms of the potential impact of the development on the character and amenity of the area including the impact on the character and appearance of the North Berwick Conservation Area and neighbouring residential amenity, and whether the proposed development would be provided with a satisfactory means of residential amenity, vehicular access and a sufficient standard of on-site parking provision.

The buildings within this part of North Berwick Conservation Area vary between single storey and four storeys in height. Those on the north side of Forth Street are generally of a lower height varying between single storey with attic accommodation and two storeys. Those on the south side of Forth Street are generally high, varying between two and four storey in height. The flatted building beyond the yard that is to the east of the site the subject of this application is some 13 metres high while the building to the west of the application site is some 9 metres. The buildings of High Street to the south vary in height between two and four storeys. As such the buildings within this part of the North Berwick Conservation Area are characterised by a mix of varying heights, architectural styles, materials and finishes.

The proposed house would provide living accommodation on three floors, with the third floor of accommodation being provided within the roofspace of the building, it would have a dual pitched roof with a ridge height of some 11 metres in height. While the proposed house would be some 2 metres higher than the neighbouring residential building of 47 Forth Street, it would be some 3.5 metres lower than neighbouring flatted buildings on Forth Street. As such it would be seen in the context of the variable heights of the surrounding buildings that are part of the character of this part of the North Berwick Conservation Area. In its context the proposed house would not appear harmfully dominant or intrusive in the streetscape of Forth Street.

The proposed house to be erected on the application site is of a contemporary design which would provide living accommodation over three levels. At ground floor level the proposed house would provide a covered parking bay, bin store, entrance hall, utility/plant room, bathroom and study/bedroom at first floor level a bedroom, toilet and kitchen with roof terrace would be provided and at third floor a bedroom and living room would be provided. A private courtyard garden, garden store and first floor roof terrace would be provided to the south of the proposed house. The parking bay would be accessed directly off Forth Street.

The proposed house would be finished externally with a mix of zinc cladding on the walls and roof with grey brick elements at ground floor level, the windows of the house would be timber framed clad externally in aluminium. The proposed house is of a design which responds to the constraints of the site. Although the design of the proposed house is contemporary, in the context of Forth Street which displays a variety of architectural forms and finishes by virtue of its location, form and layout it would not be so prominent to be seen to harm the character and appearance of this part of the North Berwick Conservation Area. The materials to be used on the proposed new house are of an appropriate quality for the Conservation Area.

On those matters of design the proposed development is not contrary to Policies CH2, DP2 and DP7 of the adopted East Lothian Local Development Plan 2018 and with Scottish Planning Policy: June 2014.

On the matter of the impact of the proposed development on daylight and sunlight on neighbouring properties, guidance is taken from "Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice" by P.J. Littlefair. Application of the relevant daylight and sunlight tests of the Guide demonstrates that by virtue of its height, positioning and distance away from the neighbouring residential properties to the south, west, north and east, the

proposed house would not give rise to harmful loss of daylight or sunlight to them and therefore would not have a harmful effect on the residential amenity of those neighbouring residential properties.

In assessing whether or not a new development would result in harmful overlooking and therefore loss of privacy to existing neighbouring residential properties it is the practice of the Council, as Planning Authority to apply the general rule of a 9 metres separation distance between the windows of a proposed new building and the garden boundaries of neighbouring residential properties and an 18 metres separation distance between directly facing windows of the proposed new building and the windows of existing neighbouring residential properties.

It is proposed that three openings would be formed within the south elevation of the proposed house. A glazed double door serving a bedroom/study would be formed at ground floor level providing access to both the proposed courtyard garden and garden store which would be provided to the south of the proposed house between the rear elevation of the proposed house and the rear elevation of the building of 82 High Street. A glazed double door opening serving a kitchen would be provided at first floor level providing access to a first floor roof terrace which is proposed to be formed on the south elevation enclosed by a 1 metre high brick wall. A double window opening is also proposed to be formed at second floor level serving a bedroom.

The existing rear extension on 82 High Street is proposed to be demolished and the rear elevation of 82 High Street altered in the form of an existing ground floor door opening bricked up and the area of wall where the extension is removed from made good and finished in brickwork to match existing. The area of ground to the immediate north of the building of 82 High Street would be used as the garden store and garden courtyard which is proposed to serve the proposed house.

The proposed ground floor glazed double door opening would be some 8.2 metres from the rear (north) elevation of the building of 82 High Street with the glazed double door facing directly into and providing access to the courtyard garden which is proposed to serve the house. With the proposed alterations to the north elevation of the building of 82 High Street there would be no openings at ground floor level and as such no directly facing openings. The proposed first floor glazed double door opening serving the kitchen would be some 11.7 metres from the rear (north) elevation of the building of 82 High Street while the proposed roof terrace would be some 8.2 metres away. The first floor of the building directly to the rear of the application site is not in residential use as it is in commercial class 2 office use. The proposed alterations to the north elevation of 82 High Street include the installation of an obscured glazed timber framed window within the existing first floor fire escape door which would serve the existing staff room of the first floor commercial office along with the three existing windows fitted with obscure glass, as such there would be no directly facing residential windows at first floor level within the north elevation of the building of 82 High Street. The existing building of 82 High Street being only two storeys in height has no windows at second floor level and as such there would be no directly facing windows. As such the proposed windows on the south elevation of the proposed house would not give rise to overlooking of any directly facing windows within the north elevation of the building of 82 High Street.

The buildings to the south east and south west of the application site on either side of 82 High Street do contain residential flatted properties at first and second floor level with windows within their rear (north) elevation. However these windows are not directly facing windows of either the windows or the roof terrace within the south elevation of the proposed house. The proposed windows within the south elevation of the proposed house would not be within 9 metres of the garden of any residential property and would not be within 18

metres of any directly facing windows of any neighbouring residential property and thus, they would not allow for any harmful overlooking or loss of privacy and amenity to any neighbouring residential properties.

The first and second floor windows within the north elevation of the proposed house would face towards the public footpath and road of Forth Street. On the opposite of Forth Street directly opposite the application site lie two storey residential properties with accommodation within their roofspace. In its proposed position the proposed house would, at its closest point, be some 10 metres from these existing residential properties located on the north side of Forth Street. However, that separation distance would be over a public street. Moreover, the distance between the proposed house and the existing buildings on the opposite side of Forth Street is of a similar locational relationship to that of the existing built form in other parts of both Forth Street and elsewhere in North Berwick town centre, where buildings face each other directly over the intervening public street. In such circumstances there is insufficient reason to refuse to grant planning permission for the proposed development on grounds of overlooking.

On those matters of amenity the proposals are consistent with Policies DP2 and DP7 of the adopted East Lothian Local Development Plan 2018.

There is sufficient land within the site to accommodate the proposed house and its associated works, with a sufficient sized courtyard garden and adequate parking provision and vehicular and pedestrian access without there being an overdevelopment of it. Development of the site would not result in any loss of open space important to recreation or amenity requirements.

The proposed house would be served by a covered parking bay accessed directly off Forth Street. **The Council's Road Services** advise that the dimensions and the scale of the parking facility is in accordance with ELC Standards for Development Roads. The parking bay will be accessed from Forth Street which is a classified road. Ordinarily, Road Services would require vehicles to be able to turn within the curtilage of the property to allow access and egress in a forward gear. However, given that there is an existing service yard in the location of the proposed bay which, although not in regular use, can accommodate vehicles. Road Services advise it would therefore be unreasonable to recommend refusal on the grounds of parking or accessibility. Accordingly The Council's Road Services raise no objection to the proposal being satisfied that it would not have an adverse impact on pedestrian or road safety. On those matters of road safety the proposals are consistent with Policy T2 of the adopted East Lothian Local Development Plan 2018.

The Council's Environmental Protection Manager has no adverse comment to make on the application, being satisfied that the development would not have an adverse impact on any neighbouring land uses.

Scottish Water raise no objection to this planning application.

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.

In conclusion, given all of the above and subject to the aforementioned conditions the proposed development is not contrary to Policies RCA1, TC2, CH2, DP2, DP7, T1 and T2 of

the adopted East Lothian Local Development Plan 2018 and with Scottish Planning Policy: June 2014.

RECOMMENDATION

That planning permission be granted subject to the undernoted conditions:

- 1 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.

- 2 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 house 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.

- 3 A schedule and samples of all of the external finishing materials and finishing colours to be used in the external finishes of the house hereby approved shall be submitted to and approved in writing by the Planning Authority prior to their use in the development. Thereafter, the external finishing materials and colours used shall accord with the schedule and samples so approved.

Reason:

To ensure the satisfactory appearance of the development in the interest of safeguarding the character and appearance of the Conservation Area.

- 4 Prior to the occupation of the house hereby approved the vehicular access and parking arrangements shall be laid out and made available for use, as shown in docketed drawing no. 2001 (PL) 030 revision B, and thereafter the access and parking areas shall be retained for such uses, unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure the provision of an acceptable standard of vehicular access and parking in the interests of road safety.