



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

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

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