

**PLANNING COMMITTEE**  
**TUESDAY 7 DECEMBER 2021**

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

**TUESDAY 2 NOVEMBER 2021  
VIA A DIGITAL MEETING FACILITY**

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**Committee Members Present:**

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

**Other Councillors Present:**

Councillor F O'Donnell

**Council Officials Present:**

Mr K Dingwall, Service Manager – Planning  
Ms E Taylor, Manager Planning Delivery  
Mr N Millar, Planner  
Mr G McLeod, Transportation Planning Officer  
Mr N Clark, Principal Countryside Officer  
Ms J Holland, Senior Solicitor  
Ms P Gray, Communications Adviser  
Ms F Currie, Committees Officer

**Clerk:**

Ms A Smith

**Visitors Present/Addressing the Committee:**

Item 2 – Mr A de Villiers, Ms H York

**Apologies:**

None

**Declarations of Interest:**

None

**1. MINUTES FOR APPROVAL – PLANNING COMMITTEE 5 OCTOBER 2021**

The minutes of the meeting of the Planning Committee of 5 October 2021 were approved.

**2. PLANNING APPLICATION NO. 21/01125/P: SITING OF SNACK VAN AT CAR PARK NUMBER 1, LONGNIDDRY BENTS, LONGNIDDRY**

A report was submitted in relation to Planning Application No. 21/01225/P. Neil Millar, Planner, presented the report. He highlighted issues raised at the site visit regarding the number of litter bins and also the applicant's vehicle and trailer entering/exiting the car park. On the first issue he referred to condition 5 and clarified that the Committee could, if desired, amend this condition to specify provision of 3 bins during trading hours. He stressed however that following further consultation both the Estates Team and the Countryside Rangers strongly objected to the provision of 3 bins, he outlined their reasons; he also gave details of litter bin trials at other Bents areas. The report recommendation for 1 bin therefore remained the best scenario. On the second issue, an extra condition could be added to the grant of planning permission preventing a right turn into/out of the car park onto the B1348; he outlined the potential wording for such a condition. The applicant was willing to comply with this additional condition and Road Services also agreed it was acceptable. He then summarised the key points of the proposal. The proposed decision was to grant consent.

Officers responded to questions from Members. Mr Millar clarified that the rectangular vehicle site was the only actual footprint and that there was no proposal for tables/chairs. On potential damage to the grass from daily vehicle movements he said there may be some damage but through condition 1 the grass verge would be restored to its original state if any damage occurred. Regarding the length of permission and a possible review during the 3 year period, Mr Millar said the condition could be restricted to 1 year if desired.

Members asked several questions about litter bin provision. Mr Millar clarified that it was up to the applicant to ensure waste was removed each day and disposed of appropriately. He advised that the Council had no control over packaging or whether bio-degradable products were used. On provision of 2 bins, 1 for waste and 1 for recycling, he said that if Members felt this was preferable then condition 5 could be altered accordingly. On experience from the food operator at car park no. 3, Neil Clark, Principal Countryside Officer, clarified that this vendor usually had 1 bin but if busy would have 2 bins adjacent to the van. On further points raised he said that car park no. 3 was a more difficult site to manage; he gave examples. He stressed that having no general litter bins, for 15 years now, had proved a huge success. The introduction of the vending unit at car park no. 3 had given an opportunity to target litter; the same scenario would apply with car park no. 1. He added that Countryside Rangers would be onsite, monitoring and working with vendors as happened at other beaches.

On queries about potential signage on the B1348 coast road before reaching Longniddry Bents, Mr Millar said there was already directional signage to the car parks; no additional signage was proposed through this application as it was not deemed necessary. Graeme McLeod, Transportation Planning Officer, added that proposed condition 6 addressed Road Service's concerns regarding vehicle turning movements particularly associated with a right turn move; restricting movement to a left turn would be the only way of better managing access/egress. Regarding signage the Convener said that officers could assess this outwith this application; there were some issues on this coastal road. On the possibility of the van remaining overnight on site thereby saving on mileage and being more sustainable, Mr Millar said it was a mobile unit so generally not promoted for permanent siting.

Andre de Villiers of BBQ Street Food, the applicant, addressed issues raised. Litter bins: he confirmed he would keep the site as clean as possible on a daily basis and would adhere to all conditions. Packaging: bio-degradable products were used for all packaging and utensils.

Permanent siting: he had no issue leaving the van on site, this would be more environmentally friendly but he would remove it over the winter months as he did not think the site would be as busy then. His bespoke van would be a very good introduction to Longniddry Bents, it would provide high quality food; it was not a standard takeaway van.

Responding to a question about pop up signage for the litter bins he said he would ensure proper signage was in place. On the matter of minimising daily travel miles he said that at present the van was stored in Edinburgh but he would be looking for storage closer to the site in Longniddry and referred to his earlier comments.

Helen York, Chair of Longniddry Community Council (LCC), made representation on behalf of LCC and as a personal objector. She commented that LCC would have liked to have seen a sustainable tourism policy before the Council decided to implement food sales/provision. She queried other coastal areas where people did not want any facilities. She reference the Good Food Charter. She raised concerns about where people would eat the food; it would not be beside the van so this had issues around litter disposal. She also highlighted concerns regarding signage within the Longniddry Bents car parks and on the coast road.

The Convener, responding to some of those points, stated that as was evident from comments made Members were concerned about the coastal area. However there was a demand for food provision. This particular beach had a large number of visitors, something the Council could not control. It was important that any provision had minimal impact.

Local Member Councillor O'Donnell, not a member of the Planning Committee, raised several issues. There were concerns about safety and a trailer of this size entering/exiting the car park from/onto the coast road. Regarding provision of extra litter bins she accepted the response from officers, but queried whether Members were satisfied. She felt that granting permission for 3 years was too long; granting/reviewing after 1 year would be better and Mr Clark should have input into this review. She was not asking the Committee to reject the application but to give careful consideration to the points of concern raised.

Local Member Councillor Bruce agreed with his colleague's suggestion to grant permission for 1 year only. Regarding the rest of the application he felt that this proposal had strong potential to be good for Longniddry Bents, people would like the addition of this quality food outlet; it would be a welcome tourism facility. On the subject of bins he appreciated Mr Clark's comments and noted that this strategy seemed to be working. In relation to the coast road he was happy to leave this to Roads Officers. He would be supporting the application.

Local Member Councillor Gilbert generally agreed but felt it was important however that litter was controlled. He agreed that an additional condition should be imposed stating that the trailer/van should only turn left into/out of the site. He felt that permission could be granted for 3 years but reviewed after 1 year. If these were in place he would support the application.

Councillor Kempson indicated she would support granting permission for 1 year only. She did have some concerns about the impact of outlets like this on local cafes. Referring to the coast road, she noted that vehicles travelled along this at speed; turning off onto the application site was not easy. Otherwise she was happy to support the application.

Councillor Findlay felt that Ms York had raised a good point about where people would eat their food and the associated litter issues. He was in favour of a 1 year review, however this was done. He was also intending to support the application.

Councillor McMillan thanked Ms York for her contribution. He stressed that the Committee's decision would be based on evidence and advice. He felt there were a couple of key points. Firstly, choice; giving people a choice of where and what to eat but also respecting the county's coastline and countryside in line with green tourism and sustainability. He

commended all the work carried out by the Countryside Rangers. Secondly, if the applicant needed help in securing an East Lothian site for the van base he was sure Business Gateway or the Economic Development Team would be able to assist. He added that on balance, he favoured an annual review. He would be supporting the application.

Councillor Williamson, referring to the issue of granting permission for 1 year or 3 years, asked about the situation as regards the van at Longniddry Bents car park no. 3; remarking that there should be equality of treatment. Mr Clark said he was not sure about the review period for that vendor. He added that car park no. 1 was much more compact, less windy and therefore easier to control.

Keith Dingwall, Service Manager for Planning, stressed that it was important for Members to treat each application on its own merits. Regarding a review after 1 year he advised that once a 3 year period of consent was granted this could not then cease after a year for review so if Members wanted this reviewed after 1 year then this condition would need amended. He clarified the other suggested amendments to the various conditions. Condition 4 – if the preferred vehicle option was to permit it to stay on site then deletion of the sentence allowing for removal of the van would be required. Condition 5 – this could be amended to the provision of 2 litter bins, 1 for recyclable materials and 1 for general waste. In addition, there was also the extra condition as outlined earlier regarding restricting van entry/egress.

Councillor Forrest welcomed that the Roads Service would look at signage on the B1348. He was impressed by the applicant's attitude. He would be supporting this application.

Councillor McGinn stated he would also be supporting this application; he did have some concerns but it was key to keep improving facilities along the coastline.

The Convener referenced the good debate. Members' concern was understandable, it was important to protect our coastline. He agreed that the consent period should be reduced to 1 year. He felt that all changes suggested would strengthen the Council's position. He would be supporting the application, with the amendments to conditions and the additional condition 7 as outlined.

The Convener moved to the vote on the report recommendation, to grant consent, incorporating the amendments to conditions 1, 4 and 5 and the addition of condition 7 – the vote was taken by roll call:

For: 11  
Against: 0  
Abstentions: 0

### **Decision**

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

- 1 Planning permission is granted for a temporary period of one year, beginning from the date of this grant of planning permission, and after which time all trading from the site shall cease and the mobile snack van shall be removed from the site and the grass verge restored to its former condition to the satisfaction of the Planning Authority.

**Reason:**

To enable the Planning Authority to assess the environmental impact of the operation of this type of temporary use on the locality in the interests of safeguarding the landscape character and amenity of the area.

- 2 This permission is made personal to the applicant, Mr Andre De Villiers and shall not be capable of being taken up by any other party.

Reason:

To prevent an over-commercialisation of the site in the interests of safeguarding the landscape character and amenity of the area.

- 3 No more than one mobile snack bar shall trade from the site at any one time.

Reason:

To prevent an over-commercialisation of the car park in the interests of safeguarding the landscape character and amenity of the area, and without detriment to the principle of the use of the car park for the parking of vehicles and the safe accessing and manoeuvring of those vehicles.

- 4 The mobile snack van hereby approved shall only operate during the hours of 0830 to 1630 November to February and from 0830 to 1930 March to October for the duration of its temporary siting, unless otherwise agreed by the Planning Authority.

Reason:

In the interests of safeguarding the landscape character and amenity of the area.

- 5 Two litter bins, each with a self-closing lid, shall be provided adjacent to the mobile snack van and shall be accessible to customers at all times whilst trading takes place. Prior to any use being made of the snack van details of the two litter bins, as well as a general strategy to minimise the impact of waste, shall be submitted to and approved in advance by the Planning Authority. The details shall show that one bin shall be used solely for recyclable materials and one bin shall be for general waste. The two litter bins shall thereafter be provided in accordance with the details so approved. The area around the snack van shall at all times during trading and at cessation of trading each day, be kept free of litter and any other waste or refuse. The bins and their contents shall thereafter be removed from the site and the site cleared from litter.

Reason:

In the interests of safeguarding the landscape character and amenity of the area.

- 6 No use of the existing car park access shall be used if the combined length of a vehicle and trailer exceeds 12.8 metres long.

Reason:

To ensure that there remains sufficient distance between the existing access gate serving the car park and the B1348 public road in the interests of road safety.

- 7 Prior to the siting of the snack van hereby approved, a management plan showing the route of entry and egress for the applicant's vehicle and trailer to and from the application site shall be submitted to and approved in advance by the Planning Authority. The submitted management plan shall show that the applicant's vehicle and trailer shall only turn left into, and left out of, the car park before joining the B1348 public road.

The applicant's vehicle and trailer shall thereafter only enter and egress the application site in strict accordance with the details so approved in the management plan.

Reason:

In the interests of road safety.

Signed .....

Councillor Norman Hampshire  
Convener of the Planning Committee





**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 7 December 2021  
**BY:** Executive Director of Place  
**SUBJECT:** Application for Planning Permission for Consideration

**2**

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Application No. **20/00110/PM**  
Proposal Erection of 197 houses, 48 flats and associated works  
Location **Hallhill North  
Dunbar  
East Lothian**  
Applicant Taylor Wimpey East Scotland and Hallhill Development Ltd

**RECOMMENDATION** **Consent Granted**

## **REPORT OF HANDLING**

### **PROPOSAL**

As the area of the application site is greater than 2 hectares and the proposal is for more than 49 residential units, 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.

As a statutory requirement for major development proposals this development proposal was the subject of a Proposal of Application Notice (Ref: 18/00011/PAN) and thus of community consultation prior to this application for planning permission being made to the Council.

As an outcome of that and as a statutory requirement for dealing with major development type applications a pre-application consultation report is submitted with this application. The report informs that some 65 people attended the pre-application community consultation event, which was held at the Hallhill Sports Centre, Dunbar on Wednesday 15 January 2019 and that those attendees made a number of queries and suggestions regarding the proposals. The PAC report informs that 19 completed feedback forms were received following the consultation event. The development for which planning permission is now sought is of the same character as that which was the subject of the community engagement undertaken through the statutory pre-application consultation of the proposal.

The application site is some 12.42 hectares in area and it encompasses the two allocated sites of Proposal DR2: Hallhill North, Dunbar and Proposal DR3: Hallhill Healthy Living Centre Expansion Land, by the adopted East Lothian Local Development Plan 2018. Proposal DR2 allocates the larger western part of the application site for a residential development of circa 250 homes. Proposal DR3 safeguards the smaller eastern part of the application site for the provision of an additional community sports pitch as an expansion to the Hallhill Healthy Living Centre.

The application site is adjacent to and would form an expansion of the larger Hallhill development site allocated by Proposal DR1: Hallhill South West, Dunbar. That site is allocated for a housing development of circa 500 homes, infrastructure and associated work. That site is currently well under construction with most houses built and occupied and new road infrastructure in place.

The application site is mostly bound to the north by the East Coast Main Line and Beveridge Row to the west. The eastern and western sides of the application site are mostly separated by Dunbar Primary School Lochend Campus and an area of Lochend Wood. To the south is the land of Proposal DR1 and Lochend Wood. The residential properties of Kennelbrae and Lochend Kennels are adjacent to the south boundary of the site.

Planning permission is sought through this application for the erection on the application site of 197 houses, 48 flats and associated works.

The submitted development layout plan shows how the proposed 197 houses and 48 flats would be accommodated on the site along with associated access roads and footpaths, parking areas, landscaping, open space and a SuDS basin.

Of the 245 residential units there would be a total of 169 houses and 12 flats for private sale, and 28 houses and 36 flats would be for the provision of affordable housing.

Of the 197 houses 82 would be detached, 58 would be semi-detached and 57 would be terraced. In terms of size, of the proposed 197 houses 8 would contain 5 bedrooms, 80 would contain 4 bedrooms, 82 would contain 3 bedrooms and 27 would contain 2 bedrooms.

Of the 48 flats 28 would have 2 bedrooms and 20 would have 1 bedroom.

In accordance with the approved Development Brief for the site a vehicular access into the site would be taken from the Hallhill South West development to the south. Whilst not required through the Developer Brief there would also be a vehicular access into the site taken from Beveridge Row to the west. A pedestrian footway from Beveridge Row would also be formed which would give direct access to the northern part of the site. Pedestrian access would continue to be provided along the southern part of the site from Beveridge Row to the southeastern corner of the application site.

Areas of open space are provided through out the site, including an area of landscaped open space formed along the western part of the site, a large central area of open space, the area to the south of the school and the land of Proposal DR3 which comprises the eastern part of the site. A landscaped bund would be formed along part of the northern boundary of the site where it meets the East Coast Main Line. A SuDS basin would be formed centrally within the site.

Under the provisions of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 the proposed development falls within the category of a Schedule 2 Development, being one that may require the submission of an Environmental Impact Assessment (EIA). Schedule 3 of The Town and Country Planning

(Environmental Impact Assessment) (Scotland) Regulations 2017 sets out the selection criteria for screening whether a Schedule 2 development requires an EIA. On 28 April 2020 the Council issued a formal screening opinion to the applicant. The screening opinion concludes that it is East Lothian Council's view that the proposed development is not likely to have a significant effect on the environment such that consideration of environmental information is required before any grant of planning permission. It is therefore the opinion of East Lothian Council as Planning Authority that there is no requirement for the proposed housing development to be the subject of an EIA.

The following reports have been submitted as part of this application:

- \* Pre-application Consultation Report;
- \* Design and Access Statement;
- \* Archaeology Trench Evaluation Report;
- \* Environmental Issues Report;
- \* Noise Impact Assessment;
- \* Flood Risk Assessment;
- \* Geo-Environmental Interpretative Report;
- \* Transport Assessment;
- \* Invasive Weeds Survey.

## **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.

The purpose of the approved South East Scotland Strategic Development Plan (SESplan) is to set out the strategic planning framework to assist preparation of local development plans. Its policies are generally not relevant for assessing individual planning applications.

Relevant Proposals of the adopted East Lothian Local Development Plan 2018 are Proposals CF1 (Provision of New Sports Pitches and Changing Accommodation), DR2 (Hallhill North, Dunbar), DR3 (Hallhill Healthy Living Centre Expansion Land), ED6 (Dunbar Cluster Education Proposals), T3 (Segregated Active Travel Corridor), T15 (Old Craighall Junction Improvements), T17 (A1 Interchange Improvements (Salters Road, Dolphinstone Interchange, Bankton Interchange and Gladsmuir)), T19 (Transport Improvements at Musselburgh Town Centre) and T26 (Transport Improvements at Tranent Town Centre). Relevant Policies of the adopted East Lothian Local Development Plan 2018 are Policies HOU3 (Affordable Housing Quota), HOU4 (Affordable Housing Tenure Mix), OS3 (Minimum Open Space Standard for New General Needs Housing Development), OS4 (Play Space Provision in New General Needs Housing Development), T1 (Development Location and Accessibility), T2 (General Transport Impact), T4 (Active Travel Routes and Core Paths as part of the Green Network Strategy), T32 (Transport Infrastructure Delivery Fund), W3 (Waste Separation and Collection), NH5 (Biodiversity and Geodiversity Interests, including Nationally Protected Species), NH10 (Sustainable Drainage Systems), NH11 (Flood Risk), NH12 (Air Quality), NH13 (Noise), CH5 (Battlefields), DP1 (Landscape Character), DP2 (Design), DP3 (Housing Density), DP4 (Major Development Sites), DP8 (Design Standards for New Housing Areas), DP9 (Development Briefs) and DEL1 (Infrastructure and Facilities Provision).

Also material to the determination of the application is Scottish Planning Policy. Scottish Planning Policy highlights that new housing developments should be integrated with public and active travel networks, such as footpaths and cycle routes, rather than encouraging dependence on the car. There should be connectivity between new and existing streets with walking and cycling networks, and allow for links into future areas of development.

A further material consideration is Scottish Government Policy Statement Designing Streets, and Planning Advice Note 67: Housing Quality. They provide an overview of creating places, with street design as a key consideration. They advise on the detail of how to approach the creation of well-designed streets and describe the processes which should be followed in order to achieve the best outcomes. PAN 67 states that the planning process has an essential role to play in ensuring that the design of new housing reflects a full understanding of its context in terms of its physical location and market conditions, reinforces local and Scottish identity, and is integrated into the movement and settlement patterns of the wider area. The creation of good places requires careful attention to detailed aspects of layout and movement. Developers should think about the qualities and the characteristics of places and not consider sites in isolation. New housing should take account of the wider context and be integrated into its wider neighbourhood. The quality of development can be spoilt by poor attention to detail. The development of a quality place requires careful consideration, not only to setting and layout and its setting, but also to detailed design, including finishes and materials. The development should reflect its setting, reflecting local forms of building and materials. The aim should be to have houses looking different without detracting from any sense of unity and coherence for the development or the wider neighbourhood.

Also material to the determination of the application are:

- \* the Council's Design Standards for New Housing Areas Supplementary Planning Guidance. The SPG seeks to raise awareness of the unique characteristics and attributes of East Lothian, how these can be used positively to create new places both small scale and large, and the technical aspects of design that are required to deliver great new places;
- \* the Council's Development Briefs Supplementary Planning Guidance, and specifically the DR2 – Hallhill North Development Brief contained within it;
- \* the Council's Affordable Housing Supplementary Planning Guidance. The SPG supplements relevant LDP policies in relation to the delivery of affordable housing; and
- \* the Council's Sustainable Drainage Systems (SuDS) Supplementary Planning Guidance. The SPG supplements relevant LDP policies regarding SuDS and flood risk management and links with wider Council policies, strategies and priorities.

## **REPRESENTATIONS**

A total of 4 representations to the application have been received, all of which raise objection to the proposed development.

The main grounds of objection can be summarised as follows:

- \* the visual appearance of the proposed development would be of little architectural merit leading to 'visual scarring', and therefore the number of residential units should be reduced to provide more green space;
- \* there would be an increase in traffic generation;
- \* there would be an impact on already over stretched facilities;
- \* one path route crosses property not owned by the developers and follows a pointless route;
- \* the proposed development would lead to a loss of privacy to residential properties;
- \* the latest design of the SuDS does not follow the size and shape of the existing flooded area of land;
- \* the proposed development would lead to a loss of trees;

- \* the Beveridge Row access is an insoluble dilemma;
- \* the submitted Transport Assessment has several deep flaws;
- \* the existing developments have put a huge strain on Dunbar's infrastructure and further development would exacerbate this;
- \* an additional underpass under the railway line is never going to happen due to the impracticalities and costs involved;
- \* the proposed development would harm wildlife:
- \* the proposed "kickabout" pitch is unnecessary and will further impact wildlife;
- \* the proposed development would be an inefficient use of land;
- \* the proposed development needs to deliver active travel routes to the schools and local services/infrastructure;
- \* the design of the housing is not appropriate;
- \* an acoustic bund is unnecessary;
- \* there is a lack of information submitted with the application; and
- \* increase in through traffic and connections to the A1 may result in problems on the local road network.

The path route that crosses property not owned by the developers as alluded to in one of the written objections is not proposed in this application.

There is sufficient information submitted to make a proper and full assessment of the proposed development and all documents required by statute have been submitted.

## **COMMUNITY COUNCIL COMMENTS**

Dunbar Community Council, as a consultee on the application, raises concerns to the planning application. The main grounds for concern are summarised as follows:

- \* loss of wildlife habitat;
- \* concern over housing design and layout;
- \* concerns about any through route using Yosemite Park and Brodie Road; this route is narrow and often impeded by parked cars and is difficult for emergency vehicles and public transport to get through;
- \* the site should have linkages for active travel - safe routes under the railway line;
  
- \* concern over the future of Hospital Road/Beveridge Row as its condition is dangerous;
- \* public transport services to the Yosemite Park end of Brodie Road is poor;
- \* pressure on infrastructure, i.e. schools, health and the roads network;
- \* factoring - ongoing issues with the quality of factoring and ongoing maintenance;
- \* need to be more play parks with proper maintenance;
- \* drainage - needs to be effective given problems of flooding at other local sites during the winter; and
- \* construction regulations – minimise disruption to existing residents.

## **PLANNING ASSESSMENT**

The primary material consideration in the determination of this application is whether or not the principle and the detail of the proposed development accords with development plan policy, other supplementary planning guidance and if not, whether there are material considerations that outweigh any conflict with the development plan and other supplementary planning guidance.

The land of the application site comprises of the allocated housing site of Proposal DR2: Hallhill North on the larger western and southern parts of the application site, and the land of Proposal DR3: Hallhill Healthy Living Centre Expansion Land on the smaller eastern part of

the application site. Therefore the Council recognises the potential of the larger site for residential development of circa 250 homes.

The adopted Development Brief DR2 – Hallhill North, Dunbar has been prepared for the allocated housing site and sets out eight guiding principles to be followed for its development. These include, (i) vehicular and pedestrian access should be taken from Hallhill South West development over the access road between Beveridge Row and Hallhill Steading. Access proposals should incorporate appropriate traffic calming measures to retain the pedestrian and cycling priority along this existing east-west minor access road, (ii) the area between the school and DR3 (Hallhill Healthy Living Centre Expansion) should provide an attractive open space which provides setting to the area; (iii) appropriate traffic calming measures may be required to ensure pedestrian safety and to discourage school traffic and through traffic, (iv) a pedestrian access should be formed at the north of the eastern part of the site to connect with Hallhill Healthy Living Centre, (v) houses constructed along the southern boundary, west of the vehicular access from Hallhill South West should front onto the access road between Beveridge Row and Hallhill Steading, (vi) along the northern boundary of the site a landscape edge, incorporating new specimen tree planting, and a 3m wide shared use path for walking and cycling should be provided between Beveridge Row and the primary school, (vii) the wall that encloses the west boundary should be retained and where necessary repaired. Short-growing specimen trees could be planted at equal spacing along this edge and a multi-user path incorporated within this managed edge, and (viii) a safe pedestrian route should be formed at the northwest corner of the site to connect it to Beveridge Row and under the bridge of the East Coast Mainline.

In accordance with the Development Brief the site will be accessed from the Hallhill South West development to the south. Whilst the proposed vehicular access into the site from Beveridge Row does not feature in the Development Brief, the Brief does not state that there should not be a vehicular access from that road. Such additional access would allow future residents of the proposed development an alternative route from and to the site that avoids going through the adjacent existing Hallhill development. It is proposed that the area between the school and the land of Proposal DR3 be landscaped to provide an attractive open space, in accordance with point (ii) of the Development Brief. With regard to point (iv) of the Development Brief a pedestrian access can be formed at the north of the eastern part of the site to connect with Hallhill healthy living centre. With regard to point (v), not all houses to be constructed along the southern boundary, west of the vehicular access from Hallhill South West would front onto the access road between Beveridge Row and Hallhill Steading, however instead some rear gardens would be separated from the road by landscaped open space which mirrors the layout of the existing houses on the south side of the access road and is considered an appropriate design response that would not detract from the overall character of the development. With regard to point (vi) the submitted plans do not show the provision of a new shared use path for walking and cycling to be provided between Beveridge Row and the primary school, however this is addressed later in this report. With regard to point (viii), it is proposed that as alternative to a safe pedestrian route being formed at the northwest corner of the site to connect it to Beveridge Row and under the bridge of the East Coast Mainline, a new crossing, most likely in the form of an underpass, would be provided under or over the East Coast Main Line to provide a safe pedestrian crossing to the north of the site.

Policy DP3 of the adopted East Lothian Local Development Plan 2018 states that new housing sites will be expected to achieve a minimum average density of 30 dwellings per hectare (net) using a full range of housing types and sizes. This is to ensure efficient use of land and other resources and create mixed communities with a full range and choice of house types and sizes. The net density of the development proposed through this application is some 30 units per hectare, and therefore is in accordance with Policy DP3 of the Local Development Plan.

In terms of housing types and sizes, the development would comprise of a range and mix of detached, semi-detached and terraced houses and flats, with all of the proposed 197 houses being two storey in height, the cottage flats being two storey in height and the other flatted buildings being three storey in height. The range of house types, flatted buildings and sizes proposed would help to provide a distinctive layout and streetscapes with identity, and the mix of residential units includes a range of sizes and types. The layout reflects the surrounding area, which is generally characterised by a mix of detached, semi-detached and terraced two storey houses.

The architecture of the proposed houses and flats would be of a traditional pitched roof form and a relatively traditional design overall and the materials proposed are generally traditional in appearance including two different render colours. A condition can be imposed on a grant of planning permission for the proposed development to ensure that the finishing colours and mix of colours to be used respect the character and appearance of the wider Hallhill development.

The proposed development would provide an attractive residential environment for future residents of the proposed houses and flats. The units are shown to be laid out in such a way that adheres to the normally accepted privacy and amenity criteria on overlooking and overshadowing, whilst affording the future occupants of the houses and flats an appropriate level of privacy and residential amenity. The proposed new houses and flats would be so sited, oriented and screened such as not to harm the privacy and amenity of existing or future neighbouring or nearby residential properties through overlooking or overshadowing.

The proposed residential units have been carefully designed to respect their location within part of the wider Hallhill housing development. The layout proposed is generally informal and has designed into it some intrinsic interest. The proposed residential units, due to their positioning on the application site and by virtue of their height, size and scale would integrate with the already approved houses that have been built within the Hallhill/Lochend area, and they would not therefore appear as a disjointed and inharmonious grouping of buildings. The proposed residential units would not cause any incongruous change to the architectural harmony, integrity and character of the Hallhill/Lochend area.

In respect of landscape matters the applicant has taken into consideration a number of comments of **the Council's Landscape Projects Officer** in the submission of revised drawings to incorporate enhanced landscape planting within the site. Accordingly the Landscape Projects Officer raises no objection to the proposed development.

The site is capable of accommodating all of the proposed development including vehicular and pedestrian access and amenity space without being an overdevelopment of it. The pattern and density of the proposed development would not be at odds with the existing patterns and densities of housing and other development within Dunbar.

On all of these foregoing findings on matters of density, design, layout, landscaping and amenity, and subject to the imposition of conditions, the proposed development is not inconsistent with Proposal DR2 or Policies DP1, DP2, DP3, DP4, DP8, DP9, the Council's Design Standards for New Housing Areas Supplementary Planning Guidance, the Council's Development Briefs Supplementary Planning Guidance, or with Scottish Government Policy Statement entitled "Designing Streets".

The proposed site layout includes areas of open space to be formed within the site including an area of landscaped open space formed along the western part of the site, a large central area of open space incorporating the SuDS and a large area to the south of the Dunbar Primary School Lochend Campus. It is the intention to form a large play area on the land on

the south side of the school, incorporating play equipment, areas of mounding for informal play, a woodland walk area with information boards and an outdoor learning space. **The Council's Amenity Services** is satisfied that the size and locations of the areas of open space proposed will provide for adequate informal recreation for the proposed development, and is satisfied with the size and location for the play area and the variety and flexibility of play and spaces it would provide for. On these considerations the proposed development is consistent with Policies OS1 and OS4 of the adopted East Lothian Local Development Plan 2018.

With regard to the play area, **the Council's Service Manager, Sport, Countryside & Leisure** advises that to ensure the play area and associated equipment is properly maintained in future he recommends that the land of the play area and the open space surrounding it be transferred to the Council at zero cost on completion of the build of the play area and prior to the occupation of any of the proposed residential units. The Council would thereafter be responsible for the maintenance and upkeep of the play area and open space. This would have the benefit of relieving the financial burden of future maintenance of those spaces from occupiers of the proposed residential development which would normally be secured through a factor.

The applicants have confirmed in writing that they are willing to transfer the land of the play area and the open space surrounding it to the Council on completion of the build of the play area at zero value. However in terms of timescales they advise that it will be necessary to generate material from the build to create the play area and therefore are willing to transfer the land prior to completion of the 20th residential unit. Such timescale is acceptable in order to provide the play area at an early stage in the build. The transfer of the land of the play area and the open space surrounding it to the Council on completion of the build of the play area could be secured by a legal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997, or by some other legal agreement.

In terms of path connections, to provide a safe pedestrian and cycle route to the north from the site, the preamble to Proposal DR2 of the adopted East Lothian Local Development Plan 2018 states that pedestrian and cycle routes must be provided to connect the site to other parts of the wider Hallhill development area, and to parts of the town to the north of the rail line, including re-opening of an underpass to the west of the town towards which contributions from the developer of the site will be required. The existing blocked up underpass under the East Coast Main Line is located adjacent to the north side of the application site.

Although the preamble as described above includes for the re-opening of the existing underpass, what is clearly required by the adopted East Lothian Local Development Plan 2018 is a means of pedestrian and cycle access across the East Coast Main Line to make development of the Proposal DR2 site acceptable in planning terms. This could be in the form of a re-opened underpass, a new underpass or an overbridge; it would be determinate on what emerges as the preferred solution. Therefore a proportionate contribution should be secured through this application for a new crossing over/under the railway.

In 2011 the Council commissioned an outline feasibility study for an access route to cross the East Coast Main Line at a location adjacent to the north boundary of the application site. That study presented the options of a new footbridge over the railway or the reopening of the existing blocked up underpass. The study provided costings for each, and estimated the works for reopening the existing underpass at some £1.2 million. This figure has been used as a basis for the cost of a new crossing over/under the railway.

In order to provide a basis for proportionate contributions towards the cost of a new crossing **the Council's Road Services** advise that the methodology that a contribution from all



residential properties within a 600 metres radius of the intended crossing point (which would be near the existing blocked up underpass, a precise location is yet to be determined) would be a reasonable basis on which to base a contribution for this development.

The radius distance reflects the advice in Annex B of the Scottish Government's Planning Advice Note 75: Planning for Transport which recommends a threshold of 1200m for walking distance to local facilities. So the 600 metre radius is half this distance, assuming users are journeying further than the railway crossing point to local facilities.

**Road Services** advise there would be 1,267 properties in a 600 metre radius of the area for a proposed crossing point, when including the proposed development. Therefore the contribution sought for this 245 unit development would be £232,044 (£1.2 million/1267\*245).

The financial contribution of £232,044 from the proposed development could be secured by a legal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other legal Agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. The applicant has agreed in writing to the payment of £232,044 for the railway crossing.

One of the guiding principles of development as set out in the adopted Development Brief DR2 – Hallhill North, Dunbar is that a 3m wide shared use path for walking and cycling should be provided between Beveridge Row and the primary school. Within the application site there is provided a 3m wide shared path through the northern part of the site from Beveridge Row to the northeast corner of the housing area. The application site does not extend to the linear area of land along the north side of the school.

The Council's Roads Services confirms that a safe footpath connection with lighting must be provided from the site along the linear area of land on the north side of the school to link the proposed development with the school for both pedestrians and cyclists, in accordance with the adopted Development Brief. Road Services have confirmed that East Lothian Council own that area of land. The applicant has confirmed they accept the need for such a footpath and advise their preference is for the Council to undertake construction of it, as an alternative to providing it themselves. Road Services therefore advise that the Council will provide a final design solution for the route and undertake the works to provide it. In respect of this they advise of a requirement for a commuted sum of £90,000 for construction of the footpath. The financial contribution of £90,000 from the proposed development could be secured by a legal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other legal Agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. The applicant has agreed in writing to the payment of £90,000 for the new footpath.

The Council's Road Services have considered the details of the application and raise no objection to the proposed development, being satisfied that it could be accessed safely and would not lead to a road or pedestrian safety hazard.

Road Services do raise the matter of the operational capacity of the Queens Road/ Spott Road junction to accommodate the additional traffic that could be generated by the proposed development and by other developments proposed within the Dunbar area and advises that the Council proposes to signalise the junction. The applicant accepts Road Services requirement for a developer contribution of £17,200 towards these road improvement works.

Road Services also raise the matter of the safety of the crossing of Belhaven Road at

Beveridge Row and advises that the junction should be redesigned to provide a safe crossing for pedestrians and cyclists that could be generated by the proposed development, and by other developments proposed within the Dunbar area. The applicant accepts Road Services requirement for a developer contribution of £25,000 towards these road improvement works.

The financial contributions of £17,200 and £25,000 from the proposed development can be secured by a legal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other legal Agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements.

**Road Services** further recommend a number of transportation requirements which can be met through the imposition of conditions on a grant of planning permission for the proposed development. These include the submission of a Construction Method Statement, which amongst other requirements, shall identify routes of construction traffic. Road Services advise that if Yosemite Park and Brodie Road are identified with the Construction Method Statement as the route for construction traffic, then the full length of those roads must be brought up to an adoptable standard prior to their use by construction traffic.

With the imposition of conditions to cover these recommendations of Roads Services, the proposed development does not conflict with Policies T1 or T2 of the adopted East Lothian Local Development Plan 2018.

**Transport Scotland** raise no objection to the proposal provided appropriate proportionate financial contributions are secured to address the cumulative impact on the strategic road network arising from the development.

Policy DEL1 of the adopted East Lothian Local Development Plan 2018 states that new development will only be permitted where the developer makes provision for infrastructure required as a consequence of their development. Policy T32 of the ELLDP specifically relates to the package of transportation interventions to mitigate the cumulative impact of development on the transport network which have been identified by the Council in consultation with Transport Scotland. In line with Policy DEL1, relevant developments are required to contribute to the delivery of these transportation interventions, on a proportionate, cumulative pro-rata basis, as set out in the Developer Contributions Framework Supplementary Guidance.

**The Council's Road Services** advises that the contributions required for each transport intervention for this development are:

- \* Improvements to Old Craighall junction (PROP T15): £1,107
- \* Improvements to Salters Road Interchange (PROP T17): £1,135
- \* Improvements to Bankton Interchange (PROP 17): £5,137
- \* Musselburgh Town Centre improvements (PROP T21): £654
- \* Tranent Town Centre Improvements (PROP T27 and T28): £1,292
- \* Segregated Active Travel (Prop T3): £122,920

The total contribution required for transportation improvements resulting from cumulative impacts of the development is therefore £132,245.

The total developer contributions towards the transportation interventions of £132,245 (indexed linked) can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012:

Planning Obligations and Good Neighbour Agreements. The applicants have confirmed in writing that they are willing to enter into such an agreement.

**The Council's Waste Services** advise that they are satisfied that the proposed development could be serviced by waste collection vehicles and is consistent with Policy W3 of the adopted East Lothian Local Development Plan 2018.

Due to the East Coast Main Line bounding the site to the north, a Noise Impact Assessment has been submitted with the application. The Council's Public Health and Environmental Protection Officer has appraised the applicant's submitted Noise Impact Assessment, and agrees with the conclusions of it that a 3 metre high acoustic barrier (bund/fence) is required to be formed/erected along the northern part of the site where it meets the East Coast Main Line to ensure there would be no harmful loss of amenity to future occupiers of the proposed residential units as a result of noise. The Public Health and Environmental Protection Officer advises this includes for a gap in an acoustic barrier to form a footpath leading to a future crossing of the railway.

The application drawings show an intention to form an acoustic barrier in this location.

**The Public Health and Environmental Protection Officer** is satisfied that the proposed development would not have a harmful impact on the amenity of any nearby or neighbouring residential property or land use.

In relation to considerations of contaminated land issues, **the Council's Environmental Protection Officer (Contaminated Land)** recommends that in the event that unexpected ground conditions (contamination) are encountered at any time when carrying out the permitted development, work on site shall cease and the issue shall be reported to the Planning Authority immediately. At this stage a Site Investigation and subsequent Risk Assessment may have to be carried out, if requested by the Planning Authority. It may also be necessary to submit a Remediation Strategy should the reporting determine that remedial measures are required. This requirement could be controlled by a condition attached to a grant of planning permission.

Subject to the above recommended controls, which can reasonably be imposed as conditions on a grant of planning permission, the proposed development does not conflict with Policies DP2, NH12 or NH13 of the adopted East Lothian Local Development Plan 2018.

**The Council's Biodiversity Officer** advises that the proposed development is adjacent to the Lochend Woods Local Biodiversity Site, however it would not have any harmful impact on that woodland site. The Biodiversity Officer further advises that Lochend Woods has a known population of deer, and the movement of this population could be restricted by this proposed development and thus the impact of the development on the deer population should be assessed. She also advises that a Preliminary Ecological Appraisal should be submitted to identify key ecological constraints related to the development. Subject to these recommended controls, which could be imposed as conditions on a grant of planning permission, the proposed development does not conflict with Policy NH5 of the adopted East Lothian Local Development Plan 2018.

**Historic Environment Scotland** have been consulted on this application and they have raised no objection to the proposed development nor do they have any comments to make in terms of impact of the proposals on the Battle of Dunbar II Battlefield Site. The proposed development therefore does not conflict with Policy CH5 of the adopted East Lothian Local Development Plan 2018.

**The Scottish Environment Protection Agency (SEPA)** raise no objection to the application on the grounds of flooding or drainage.

**The Council's Team Manager for Structures, Flooding and Street Lighting** raises no objection to the proposed development. He recommends that conditions be imposed on a grant of planning permission requiring the submission of a detailed Risk Assessment and Method Statement for the diversion of the culverts on the site, and the submission of full details of the proposed Sustainable Drainage System scheme including a Surface Water Management Plan for the site. He also recommends that a specific finished floor levels for the residential units should be set in order to mitigate against flooding. Subject to the imposition of such conditions the proposed development is consistent with Policies NH10 and NH11 of the adopted East Lothian Local Development Plan 2018 and with the Council's Supplementary Planning Guidance 'Sustainable Drainage Systems (SuDS)'.

Proposal DR3 of the adopted East Lothian Local Development Plan 2018 safeguards the smaller eastern part of the application site for the provision of an additional community sports pitch as an expansion to the Hallhill Healthy Living Centre in line with Proposal CF1, which states that development proposals for 5 or more homes must make provision for the delivery of new sports pitches and changing accommodation as set out in the Developer Contributions Framework Supplementary Guidance.

**The Council's Service Manager for Sport, Countryside & Leisure** has advised that there is a requirement for the provision of a full size grass community sports pitch and changing facilities within the application site on the land of Proposal DR3. A financial contribution of £244,020 is required towards the provision of those facilities (£966 per residential unit).

In order to provide such community facilities, the Service Manager for Sport, Countryside & Leisure also advises that the part of the application site comprising of the land of Proposal DR3 should be transferred to the Council at zero cost.

The required payment of a financial contribution of a total of £244,020 towards the proposed sports pitch and changing facilities and the transfer of the land of the Proposal DR3 to the Council at zero cost can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to this, the proposal is consistent with Proposal CF1 and Policy DEL1 of the adopted East Lothian Local Development Plan 2018. The applicants have confirmed in writing that they are willing to enter into such an agreement.

**The Council's Executive Director – Education and Children's Services** informs that the application site is located within the school catchment areas of catchment areas of Dunbar Primary Lower School, Dunbar Primary Upper School and Dunbar Grammar School. Proposal ED6 (Dunbar Cluster Education Proposals) of the adopted East Lothian Local Development Plan 2018 stipulates that the Council will provide additional phased permanent extension to pre-school and primary schools as required to meet the need arising as a direct result of new housing development in their catchment areas and will provide additional phased permanent extension to Dunbar Grammar to meet the need arising from proposed new housing development in the Dunbar cluster.

The Executive Director – Education and Children's Services advises that Dunbar Primary Lower School, Dunbar Primary Upper School and Dunbar Grammar School will not have sufficient capacity to accommodate children that could arise from the proposed development the subject of this application. Therefore she objects to the application on the grounds of lack of permanent capacity at those schools. However, she would withdraw that objection

provided the applicant makes a financial contribution to the Council of £1,154,682.55 (£4,712.99 per residential unit) towards the provision of additional school accommodation at Dunbar Primary Lower School, Dunbar Primary Upper School and Dunbar Grammar School.

The required payment of a financial contribution of a total of £1,154,682.55 towards the provision of additional school accommodation can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the payment of the required contribution towards additional school accommodation the proposal is consistent with Proposal ED6 and Policy DEL1 of the adopted East Lothian Local Development Plan 2018. The applicants have confirmed in writing that they are willing to enter into such an agreement.

**The Council's Housing Strategy and Development Service Manager** advises that in accordance with the Council's Affordable Housing Policy, 25% of the proposed 245 residential units require to be affordable housing units. In the case of this application, the affordable housing component of the proposed housing development is 62 units. Discussions have taken place between Housing Strategy and Development and the applicant and the Housing Strategy and Development Service Manager confirms that the location, mix and sizes of the affordable units have been agreed. Therefore and as the affordable housing would be sufficiently integrated into the overall development in two separate areas, the Economic Development & Strategic Investment Manager advises that the affordable units to be provided on the site is acceptable.

The terms for the provision of this affordable housing requirement could be the subject of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the Council securing the affordable housing requirement, which the applicant is willing to do, the proposal would be consistent with Policies HOU3 and HOU4 of the adopted East Lothian Local Development Plan 2018 and with the Council's Affordable Housing Supplementary Planning Guidance.

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 all applications for planning permission. Such a condition should be imposed on a grant of planning permission for this proposed development.

## **RECOMMENDATION**

It is recommended that planning permission be granted subject to:

1. The undernoted conditions.
2. The satisfactory conclusion of an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997, or some other legal agreement designed to secure from the applicant:
  - (i) a financial contribution of a total of £1,154,682.55 (£4,712.99 per unit) towards the provision of additional accommodation at Dunbar Primary Lower School (John Muir Campus), Dunbar Primary Upper School (Lochend Campus) and Dunbar Grammar School;

- (ii) the provision of 62 affordable residential units within the application site;
- (iii) a financial contribution to the Council of £132,245 for transport improvements (comprised of £1,107 for road improvements to Old Craighall Junction, £1,135 for improvements to Salters Road Interchange, £5,137 for improvements to Bankton Interchange, £654 for Musselburgh town centre improvements, £1,292 for Tranent town centre improvements and £122,920 for Segregated Active Travel);
- (iv) a financial contribution to the Council of £232,044 towards the provision of a railway crossing over/under the East Coast Main Line adjacent to the northern boundary of the application site;
- (v) a financial contribution to the Council of £17,200 towards the provision of signalling the junction of Queens Road and Spott Road, Dunbar;
- (vi) a financial contribution to the Council of £25,000 towards the provision of road improvements/ alterations at, or in the vicinity of, the junction of Belhaven Road and Beveridge Row, Dunbar;
- (vii) a commuted sum of £90,000 for construction of a footpath from the northeast corner of the site along the northern side of the Dunbar Primary School Lochend Campus to connect with the path network at Hallhill;
- (viii) a financial contribution to the Council of £244,020 towards the provision of a full size grass community sports pitch and changing facilities;
- (ix) the transfer to East Lothian Council at no cost of the land of Proposal DR3 of the adopted East Lothian Local Plan 2018, and the northern access strip of land projecting from it, required for the new community facilities (community sports pitch and changing facilities) as shown highlighted in blue and marked as 'DR3 Transfer Land' on docketed drawing no. AP/06/A titled East Lothian Council Land Transfer Layout; and
- (x) the transfer to East Lothian Council at no cost of the land of the play area and surrounding open space as shown outlined in red and marked as 'East Lothian Council Transfer Land' on docketed drawing no. AP/06/A titled East Lothian Council Land Transfer Layout. The land transfer to be made on completion of construction of the play area and prior to the occupancy of the 20th residential unit built on the application site.

3. That in accordance with the Council's policy on time limits for completion of planning agreements it is recommended that the decision should also be that in the event of the Section 75 Agreement not having been executed by the applicant, the landowner and any other relevant party within six months of the decision taken on this application, the application shall then be refused for the reason that without the developer contributions to be secured by the Agreement the proposed development is unacceptable due to a lack of sufficient school capacity at Dunbar Primary Lower School (John Muir Campus), Dunbar Primary Upper School (Lochend Campus) and Dunbar Grammar School, the lack of provision of affordable housing, a lack of roads and active travel and transport infrastructure improvements and a lack of new sports pitches and changing accommodation, contrary to, as applicable, Proposals CF1 and ED6 and Policies DEL1, HOU3 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 shown in relation to the finished ground and floor levels on the site.

Reason:

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

- 2 Notwithstanding that which is stated on the drawings docketed to this planning permission a detailed specification of all external finishes of the houses and flats hereby approved shall be submitted to and approved by the Planning Authority prior to the use of the finishes in the development. The external finishes of the houses and flats shall be in accordance with a co-ordinated scheme of materials and colours that shall in detail promote render as the predominant finish to the walls of the houses and flats, with a use of more than one render colour and with a strongly contrasting difference in the colours such that they will not each be of a light colour, and shall show the roofs being clad in more than one colour of roof tile. All such materials used in the construction of the houses and flats shall conform to the details so approved.

Reason:

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

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

(a) Housing completions on the application site in any one year (with a year being defined as being from 1st April to 31st March the following year) shall not cumulatively exceed the following completion rates, unless otherwise approved in writing by the Planning Authority:

Year 2022/23 - 55 residential units

Year 2023/24 - 55 residential units

Year 2024/25 - 55 residential units

Year 2025/26 - 55 residential units

Year 2026/27 - 25 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 2027/28 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.

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

Thereafter the boundary treatments erected shall accord with the details so approved unless otherwise agreed in writing by the Planning Authority.

Reason:

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

- 5 With the exception of the pine tree proposed to be planted adjacent to plot 88 which shall be replaced with a birch tree, all planting, seeding or turfing comprised in the details of landscaping on drawing nos. 1456/01 Rev C, 1456/02 Rev C, 1456/03 Rev C, 1456/04 Rev C, 1456/05 Rev C, 1456/06 Rev C, 1456/07 Rev C, 1456/08 Rev C, 1456/09 Rev C, 1456/10 Rev C and 1456/11 Rev C all docketed to this planning permission shall be carried out in the first planting and seeding season following the occupation of any of the buildings or the completion of the development, whichever is the sooner. Any trees which die, are removed or become seriously damaged or diseased shall be replaced in the next

planting season with others of similar species and final size, unless the Planning Authority gives written consent to any variation. No trees detailed in the approved landscaping plans to be retained on the site, shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the previous written consent of the Planning Authority.

All the new planting shall be maintained in accordance with the maintenance and management programme as detailed in the docketed 'Hallhill North, Dunbar: Planting Notes & Landscape Maintenance and Management Proposals' report dated February 2020 by Brindley Associates.

Reason:

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

- 6 Prior to the commencement of development a Preliminary Ecological Appraisal undertaken by a suitably qualified ecologist shall be carried out on the application site and the results shall be submitted to and approved by the Planning Authority. Any mitigation measures highlighted to be required as a result of the approved appraisal shall thereafter be carried out in accordance with a timetable to be submitted to and approved by the Planning Authority.

Reason:

In the interests of the biodiversity of the area.

- 7 Prior to the commencement of development an assessment of the impact of the development hereby approved on the local deer population shall be submitted to and approved by the Planning Authority. Any mitigation measures highlighted to be required as a result of the approved assessment shall thereafter be carried out in accordance with a timetable to be submitted to and approved by the Planning Authority.

Reason:

In the interests of the biodiversity of the area.

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

Reason:

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

- 9 In the event that unexpected ground conditions (contamination) are encountered at any time when carrying out the permitted development that was not previously identified, work on site shall cease and the issue shall be reported to the Planning Authority immediately. At this stage a Site Investigation and subsequent Risk Assessment may have to be carried out, if requested by the Planning Authority. It may also be necessary to submit a Remediation Strategy should the reporting determine that remedial measures are required and a subsequent Verification Report.

Reason:

To ensure that the site is clear of contamination.

- 10 Due to noise associated with rail traffic on the East Coast Main Line, mitigation measures in the form of an acoustic barrier shall be provided along the northern boundary of the application site prior to the occupation of any of the residential units hereby approved. The barrier shall be 3 metres in height (timber fence atop an earth bund or equivalent) in accordance with detail to be submitted to and approved in advance by the Planning Authority. Development shall thereafter be carried out in accordance with the details so approved and the acoustic barrier shall thereafter be retained in place.

Reason:

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

- 11 The development shall comply with the following transportation requirements:

(i) all roads and paths shall conform to East Lothian Council Standards for Development Roads;

(ii) driveways shall have minimum dimensions of 6 metres by 3 metres. Double driveways shall have minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11 m length. Pedestrian ramps to houses may encroach by up to 300mm on the width (but not the length) provided they are no



greater than 150mm in height above the adjacent driveway surface;

(iii) vehicle accesses to private parking areas (i.e. other than driveways) shall be via a reinforced footway crossing. Within private parking areas, the minimum dimensions of a single parking space shall be 2.5 metres by 5 metres;

(iv) cycle parking for dwellings without private back garden with a gate (e.g. flats/mid-terraces), shall be included at a rate of 1 space per dwelling. This shall be in the form of a lockable room or shed.

Reason:

In the interests of road safety.

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

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

Reason:

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

- 13 A visibility splay of 4.5 metres by 70 metres shall be provided and maintained on each side of the proposed new site vehicular access junction with Beveridge Row such that there shall be no obstruction to visibility above a height of 1.05 metres measured from the adjacent carriageway level within the area defined below:

a) A line 4.5 metres long measured along the access road from the nearside edge of the main road carriageway.

b) A line 70 metres long measured along the nearside edge of the main road carriageway from the centre of the access road in both directions.

c) A straight line joining the termination of the above two lines.

Reason:

In the interests of road safety.

- 14 Prior to the occupation of any of the residential units hereby approved, the roadside stone boundary wall on the east side of Beveridge Row shall be repaired/rebuilt along the application site frontage, other than where demolition/realignment is required to facilitate the formation of the new access to the site and required visibility splays and the new footpath/cycleway. Details of the exact position, height, materials and construction of the repair and rebuild of the stone boundary wall shall be submitted to and approved in advance by the Planning Authority and the repair and rebuild carried out shall accord with the detail so approved.

Reason:

To enhance the appearance of the development in the interests of the amenity of the area.

- 15 Prior to the commencement of development a Road Safety Audit for the detailed design of the new pedestrian/cycle connection onto Beveridge Row as hereby approved shall be submitted to and approved by the Planning Authority.

Reason:

In the interests of pedestrian and cycle safety.

- 16 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 and routes of construction traffic. If Yosemite Park and Brodie Road are identified with the Construction Method Statement as the route for construction traffic, the full length of those roads must be brought up to an adoptable standard prior to their use by construction traffic associated with the development hereby approved.

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. The Construction Method Statement shall also detail temporary measures to be put in place to control surface water drainage during the construction of the SuDS.

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

Reason:

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

- 17 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, shall include local bus and train timetables, local cycling and walking maps, information on bike hire / car sharing, and shall include details of how it will be distributed to residents. It shall also 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.

- 18 Prior to commencement of development, a Factoring Plan shall be submitted to and approved by the Planning Authority which shall clearly indicate the different responsibilities for long-term maintenance including: private and shared private areas, factored areas, and prospectively adoptable roads.

Reason:

In the interests of the amenity of the housing development.

- 19 Prior to their erection, details, including their size, form, position, appearance and colour(s), of all substations and gas governors to serve the development hereby approved shall be submitted to and approved in advance in writing by the Planning Authority, and thereafter any substations and gas governors shall accord with the details so approved.

Reason:

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

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

Reason:

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

- 21 Prior to the commencement of development a detailed Risk Assessment and Method Statement for the diversion of the culverts on the application site shall be submitted to and approved by the Planning Authority. The Risk Assessment and Method Statement shall include an amended design which indicates no sharp angles along the culvert routes and appropriate gradients in line with current best practice negating the prospect of deposition of sediment and shall confirm pipe sizes of the proposed culvert. The Risk Assessment and Method Statement shall also include a timetable for the implementation of the works to divert the culverts. The development shall thereafter be carried out in strict accordance with the detailed Risk Assessment and Method Statement so approved, unless otherwise agreed in writing with the Planning Authority.

Reason:

To ensure that development is not at risk from flooding.

- 22 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. 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.

- 23 Notwithstanding that which is shown on the drawings docketed to this planning permission and prior to the commencement of development, a revised scheme for the provision of car charging points and associated infrastructure for them, where feasible and appropriate in design terms, shall be submitted to and approved in writing by the Planning Authority. The scheme shall include a timetable for implementation. Development shall thereafter be carried out in accordance with the charging points scheme so approved.

Reason:

To minimise the environmental impact of the development.



**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 7 December 2021  
**BY:** Executive Director of Place  
**SUBJECT:** Application for Planning Permission for Consideration

**3**

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Application No. **21/00966/AMM**

Proposal Approval of matters specified in conditions of planning permission in principle 18/00937/PPM - Erection of 100 houses and associated works

Location **Land At Windygoul South  
Tranent  
East Lothian**

Applicant Springfield Properties PLC

**RECOMMENDATION Consent Granted**

## **REPORT ON HANDLING**

### **PROPOSAL**

Although this application is for the approval of matters specified in conditions of planning permission in principle 18/00937/PPM it has to be determined as a major development type application because the area of the application site is greater than 2 hectares and the number of dwellings detailed is greater than 49. Accordingly the application cannot be decided through the Council's Scheme of Delegation. It is therefore brought before the Planning Committee for a decision.

On the 19th December 2019 planning permission in principle 18/00937/PPM was granted for a residential development of 561 residential units with associated access, SUDS, roads, open space, future school expansion site, sports pitch and landscape works all on the allocated housing site TT1 and allocated Windygoul Primary School Expansion site TT2 at Windygoul South, Tranent. Docketed to that planning permission in principle is an indicative site plan/masterplan which shows how in principle, the development would be accommodated on the application site.

A detailed planning permission (reference 19/00378/P) was granted on the 12th September 2019 for the formation of a vehicular access from the classified road of Ormiston Road and for the formation of part of a spine/link road through the land allocated by Proposal TT1 and another detailed planning permission (reference 19/00379/P) was granted on the 23rd December 2019 for the formation of a SUDS basin designed to serve the overall residential

development the subject of planning permission in principle 18/00937/PPM. Site works have commenced on the developments the subject of those detailed planning permissions.

A further detailed planning permission (reference 19/00388/P) was granted on 26th February 2020 for the erection of 41 houses and associated works on an area of land located roughly in the centre of the wider site the subject of planning permission in principle 18/00937/PPM and immediately to the south of a section of the spine road the subject of detailed planning permission 19/00378/P. That residential site is referred to in the drawings accompanying that application as 'Area D' of the overall site the subject of planning permission in principle 18/00937/PPM.

Application (reference 20/00018/AMC) for the approval of matters specified in conditions of planning permission in principle 18/00937/PPM for the construction of the remainder of the spine/link road (Phase 2) and footpaths was granted on the 12th March 2020.

On 27th August 2020 detailed planning permission (reference 19/01131/PM) was granted for the erection of 32 houses and 28 flats along with associated access roads, parking spaces and areas of landscaping and footpaths on a site located in the north eastern part of the wider Windygoul South site allocated by Proposal TT1. All of the residential units the subject of planning permission 19/01131/PM are to be affordable housing to be managed by East Lothian Council.

On 19th March 2021 an application (reference 20/00764/AMC) for the approval of matters specified in conditions of planning permission in principle 18/00937/PPM for the erection of 25 houses and associated works on a site of some 1.27 hectares which forms part of the wider site the subject of planning permission in principle 18/00937/PPM was approved. That residential site is referred to in the drawings accompanying that application as 'Area A' of the overall site the subject of planning permission in principle 18/00937/PPM. It is located in the north eastern part of the wider Windygoul South site, immediately to the east of the site the subject of planning permission 19/01131/PM.

On the 5th October 2021 the Planning Committee approved application 21/00551/AMM for the approval of matters specified in conditions of planning permission in principle 18/00937/PPM for the erection of 99 houses on another part of the land to which planning permission in principle 18/00937/PPM and the masterplan docketed to that permission apply. That residential site is referred to in the drawings accompanying that application as 'Area B' of the overall site the subject of planning permission in principle 18/00937/PPM. It is located in the southeasternmost part of the wider Windygoul South site close to where the boundary of the wider allocated site meets the B6371 public road of Ormiston Road.

Through this current application the approval of matters specified in conditions is sought for the erection of 100 houses on another part of the land to which planning permission in principle 18/00937/PPM and the masterplan docketed to that permission apply. This now proposed housing site is referred to in the drawings as 'Area E' of the overall site the subject of planning permission in principle 18/00937/PPM. Its location is roughly in the centre of the overall site and to the south of the spine road which runs through the site. It is bounded on all sides by the remainder of the site the subject of planning permission in principle 18/00937/PPM. Immediately to the north it is bounded by the new spine road and associated landscaped edges and beyond that by the primary school expansion site and the southern end of the public road of Brotherstone's Way. To the east it is bounded partly by the new residential site known as 'Area D' which was the subject of planning permission 19/00388/P and partly by land which is to become part of the landscaped perimeter edge of the wider Windygoul South site. To the south and southwest it is bounded by further land which is to become part of the landscaped perimeter edge along with a noise attenuation bund and by land which is to form open space with equipped play provision. To the west of

the site, beyond the proposed landscaped edge and an existing mature strip of screen planting, lies the Elphinstone Research Centre (which is operated by Charles River Laboratories), and to the north of that lies an area which is identified in the masterplan docketed to planning permission in principle 18/00937/PPM as being proposed for housing development, in particular as an affordable housing site. The land of the site is generally flat with a slight slope downhill from its southern end to its northern end.

The application site is within an area identified by The Coal Authority as being a Coal Mining Development Low Risk Area. A small area of land near to the western boundary of the site is identified as being at risk from surface water flooding.

Since the registration of the application, a number of non-material amendments have been made to the proposals resulting in the submission of revised site layouts, landscaping, boundary treatments, electric vehicle charging provision, parking, road surfacing and road and footpath layouts. Also since the registration of the application, further details on drainage arrangements, site setting out plans and cross section drawings have been submitted.

The development site layout plan shows how the proposed 100 houses would be accommodated on the site along with associated detached garages, boundary treatments access roads and areas of landscaping and footpaths. The houses would comprise of a mix of 85 detached, 2 semi-detached and 13 terraced houses of 18 different house types. 96 of the houses would be two-storey, or predominantly two storey with single storey elements, and 4 of the houses would be single storey bungalows.

In terms of size, of the proposed 100 houses 13 would contain 5 bedrooms, 47 would contain 4 bedrooms and 40 would contain 3 bedrooms. All of the houses would be private houses for sale.

Vehicular, pedestrian and cycle access to the site would be taken by way of a single access which would be formed directly from the new spine road the subject of planning permission 19/00378/P which lies to the north of the site. The proposed access would continue southwards and would branch off to form a series of streets and cul-de-sacs throughout the site. It would also link into the street network of the residential site to the east the subject of planning permission 19/00388/P and to the future residential area to the west which is not yet the subject of a detailed planning application or application for approval of matters consent. Residential properties would generally face towards the streets and the majority of the proposed residential properties would have in curtilage parking, with the exception of the terraced houses which would have off street parking provided immediately to the rear or side of them. Visitor parking would also be provided. Footpaths would be formed throughout the site and these would connect to the wider site the subject of planning permission in principle 18/00937/PPM to connect the development the subject of this application to areas of landscaping and other parts of the residential development the subject of that planning permission in principle and beyond. The submitted details also include for electric vehicle charging provision, detached garages, boundary treatments and landscaped open space within the site.

The application is supported by a number of detailed drawings and reports including a Site Investigation Report and a 'Reducing Carbon Emissions' Report detailing the actions to be taken to reduce the carbon emissions from the building and from the completed t.

## **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 (ELLDP) together with its adopted supplementary guidance.

The purpose of the approved South East Scotland Strategic Development Plan (SESplan) is to set out the strategic planning framework to assist preparation of local development plans. Its policies are generally not relevant for assessing individual planning applications.

Relevant ELLDP Policies and Proposals are PROP TT1: Housing at Windygoul South, Tranent, Policy T1: Development Location and Accessibility, Policy T2: General Transport Impact, Policy DP1: Landscape Character, Policy DP2: Design, Policy DP3: Housing Density, Policy DP4: Major Development Sites, Policy DP8: Design Standards for New Housing Areas, Policy DP9: Development Briefs, Policy DCN2: Provision for Broadband Connectivity in New Development, Policy HOU1: Established Housing Land, Policy HOU3: Affordable Housing Quota, Policy W3: Waste Separation and Collection, Policy SEH2: Low and Zero Carbon Generating Technologies, Policy OS3: Minimum open Space Standards for New General Needs Housing, Policy OS4: Play Space Provision in New General Needs Housing Development, Policy CH4: Scheduled Monuments and Archaeological Sites, Policy NH10: Sustainable Urban Drainage Systems, Policy NH11: Flood Risk, Policy NH12: Air Quality and Policy NH13: Noise.

Material to the determination of the application is Scottish Planning Policy: June 2014. One of the main 'Outcomes' of Scottish Planning Policy (SPP) is to create successful, sustainable places by supporting sustainable economic growth and regeneration, and the creation of well-designed, sustainable places.

Scottish Planning Policy highlights that new housing developments should be integrated with public and active travel networks, such as footpaths and cycle routes, rather than encouraging dependence on the car. There should be connectivity between new and existing streets with walking and cycling networks, and allow for links into future areas of development.

Also material to the determination of the application is the non-statutory Development Brief (TT1 – Windygoul South, Tranent) which was adopted by the Council on 30 October 2018 and the Council's approved non-statutory Supplementary Planning Guidance (SPG) on 'Sustainable Drainage Systems (SuDS)' and on 'Design Standards for New Housing Areas'. The Council's SPG expands on policies that are set out in the ELLDP.

Also material to the determination of this application is the Scottish Government Policy Statement entitled "Designing Streets". It provides an overview of creating places, with street design as a key consideration. It advises on the detail of how to approach the creation of well-designed streets and describes the processes which should be followed in order to achieve the best outcomes. Planning Advice Note 67: Housing Quality explains how Designing Streets should be applied to new housing. In PAN 67 it is stated that the planning process has an essential role to play in ensuring that: (i) the design of new housing reflects a full understanding of its context - in terms of both its physical location and market conditions, (ii) the design of new housing reinforces local and Scottish identity, and (iii) new housing is integrated into the movement and settlement patterns of the wider area. The creation of good places requires careful attention to detailed aspects of layout and movement. Developers should think about the qualities and the characteristics of places and not consider sites in isolation. New housing should take account of the wider context and be integrated into its wider neighbourhood. The quality of development can be spoilt by poor attention to detail. The development of a quality place requires careful consideration, not



only to setting and layout and its setting, but also to detailed design, including finishes and materials. The development should reflect its setting, reflecting local forms of building and materials. The aim should be to have houses looking different without detracting from any sense of unity and coherence for the development or the wider neighbourhood.

Also material to the determination of the application is the approved masterplan for the site as approved by the grant of planning permission in principle 18/00937/PPM. The masterplan sets out the land uses expected for the allocated site and how the Council requires the site to be developed.

## **REPRESENTATIONS**

No written representations have been received to this application.

## **COMMUNITY COUNCIL COMMENTS**

Tranent and Elphinstone Community Council have been consulted on the application but have not provided any comments on it.

## **PLANNING ASSESSMENT**

By the grant of planning permission in principle 18/00937/PPM, approval has been given for the principle of the erection of 561 residential units over the wider allocated site following technical assessments which demonstrated that local and wider infrastructure, subject to financial contributions and conditions, can accommodate such level of development. The indicative site plan docketed to planning permission in principle application 18/00937/PPM is indicatively detailed down to the level of individual house plots and house types which could be accommodated on the overall site the subject of that planning permission in principle and the detailed layout the subject of this current application shows a layout, a density, overall number of units and house types that are broadly consistent with the indicative layout docketed to permission in principle 18/00937/PM for this part of the Windygoul South site. Full regard has therefore been had to the terms of the approved site layout drawing that relates to the wider site and the development now proposed is in conformity with the overall provisions of that approved site layout drawing. There can therefore be no objection in principle to the erection of the 100 houses now proposed on this particular part of the site.

Therefore, in the determination of this application the Council, as Planning Authority, can only concern itself with the siting, design and external appearance of the development, the landscaping of and means of access to the site and the means of any enclosure of the boundaries of the site. In this regard the detailed proposals have to be considered against relevant development plan policy and conditions attached to planning permission in principle 18/00937/PPM.

The proposed houses, due to their positioning on the application site and by virtue of their height, size and scale, architectural design and finishes would satisfactorily integrate into their surroundings and would not appear as prominent or intrusive features. The other components of the proposed development would not be harmful to the character and appearance of the area. Residential properties would generally face towards the streets.

The architecture of the proposed houses is of a relatively traditional pitched roof form. Render is proposed as the predominant wall finish with some use of reconstituted stone as a contrasting wall finish. Two different colours of render, two colours of reconstituted stone and two different colours of roof tile are proposed to add visual interest to the development. Differing heights of houses, including two storey, part two storey/part single storey and single storey bungalows would also add visual interest to the development as well as providing a

range of house types, including single storey houses, to the area. Solar panels would be fitted in the roof slopes of the houses. In all of this the proposal would be an appropriate residential development of the site. It would be well designed and integrated into its landscape and settlement setting.

The proposed development would provide an attractive residential environment for future residents of the proposed houses. The units are shown to be laid out in such a way that adheres to the normally accepted privacy and amenity criteria on overlooking and overshadowing, whilst affording the future occupants of the houses an appropriate level of privacy and residential amenity. The proposed new houses would be so sited, oriented and screened such as not to harm the privacy and amenity of existing or future neighbouring or nearby residential properties through overlooking or overshadowing.

Footpath links to the wider residential site the subject of planning permission in principle 18/00937/PPM are proposed and they will allow for pedestrian and cycle access to the wider area and will allow for good connectivity with the remainder of the Windygoul South site.

In respect of landscape matters the applicant has taken into consideration all of the comments of **the Council's Landscape Projects Officer** in the submission of revised drawings to incorporate enhanced landscape planting within the site. The provision, maintenance and retention of a scheme of landscaping of the site can be made a condition of an approval of matters consent. On this consideration the proposed development is consistent with Policy DP1 of the ELLDP.

**The Council's Road Services** have considered the details of the application and raise no objection to the proposed development, being satisfied that it could be accessed safely and would not led to a road or pedestrian safety hazard. They recommend a number of transportation requirements which, where relevant, can be met through a conditional approval of matters consent for the proposed development. With the imposition of conditions to cover these recommendations of Roads Services, the proposed development does not conflict with Policies T1 or T2 of the ELLDP.

Swept path analysis drawings demonstrating how the site can be serviced for waste collection have been submitted as part of the application. **The Council's Waste Services** have been consulted on the proposals and have confirmed they have no objections to the layout of the proposed development being satisfied that waste vehicles can access and service the site satisfactorily. The Council's Waste Services have provided details, which have been forwarded to the applicant, on circumstances where householders will have to present their bins at the kerbside and not within private driveway areas and advice for the applicant on marking or providing signage in turning areas to state that no parking should take place in these areas to allow waste collection vehicles sufficient space to manoeuvre. The Council's Road Services are also satisfied that it has been satisfactorily demonstrated that the site can be serviced for waste collection, or other large, vehicles. The proposal complies with Policy W3 of the ELLDP.

In relation to considerations of contaminated land issues, **the Council's Environment Protection Officer (Contaminated Land)** advises he has previously reviewed a Site Investigation Report which formed part of panning permission in principle application 18/00937/PPM and which covered this and the wider site to which this application relates. He advises that the Site Investigation Report findings indicate that there are no potential pollutant linkages associated with the proposed development site. However, given the nature of the development (residential units), he advises it would be prudent to impose a condition if approval of matters consent is to be granted requiring that in the event that 'unexpected' ground conditions (contamination) are encountered at any time when carrying out the development, that work will cease until a further site investigation and any

subsequent risk assessment is carried out and satisfactorily reported on to the Planning Authority and any necessary measures carried out on site. This requirement can be secured through a condition attached to an approval of matters consent for the proposed development.

The site of this current approval of matters consent application is the part of the wider site which is in closest proximity to the boundary with the Elphinstone Research Centre which is operated by Charles River Laboratories. In order to consider any impact the Research Centre could have on the development which was proposed through planning permission in principle application 18/00937/PPM and to inform any necessary mitigation of negative impacts on the proposed residential development, assessments for noise, odour and emissions were undertaken by the applicant and where relevant conditions are imposed on the grant of planning permission in principle 18/00937/PPM to ensure any necessary mitigation of negative impacts on the proposed residential development are implemented.

In terms of noise impacts from the Research Centre, a condition (condition 5) is imposed on the planning permission in principle 18/00937/PPM requiring a series of mitigation measures, required to protect the amenity of the future occupants of the proposed residential development. These include the construction of an acoustic barrier approx. 4 metres in height and comprising an acoustic fence atop an earth bund all to be located in the south portion of the site adjacent to the eastern boundary of the Research Centre; placement of bungalows in the cul-de-sac beyond the barrier, to eliminate the potential for lines of sight over the top of the barrier from first floor habitable rooms; positioning of principle gardens on the far side of associated dwellings from the Research Centre incinerator, to create localised acoustic screening, minimising the potential for any residual impacts; and minimising habitable room glazing elements facing directly towards the Research Centre by arranging future dwellings around recognised potential noise sources with the gable end orientated towards the source thus limiting the angle of view from future habitable room windows. The condition requires that the mitigation measures meet certain design criteria listed in the condition and also requires the submission of a further noise report to demonstrate the noise mitigation measures required to ensure compliance with this design criteria together with a timetable for their implementation, should be submitted to and approved by the Planning Authority.

Since the grant of planning permission in principle 18/00937/PPM the further noise report required by condition 5 of that permission in principle has been submitted **and the Council's Environmental Health Service Manager** has confirmed that he is satisfied that the recommendations of that report, including the design for the noise attenuation bund, the orientation and design of houses to minimise the potential for any residual impacts and the timetable for implementation meet the requirements of condition 5 of planning permission in principle 18/00937/PPM and the mitigation measures will offer satisfactory level of amenity to occupiers of the proposed housing.

In consultation on this approval of matters consent, the Council's Environmental Health Service Manager is satisfied that the siting and design of the residential units, which includes the placement of bungalows in the cul-de-sac beyond the barrier, to eliminate the potential for lines of sight over the top of the barrier from first floor habitable rooms, positioning of principle gardens on the far side of associated dwellings from the Research Centre incinerator, to create localised acoustic screening, minimising the potential for any residual impacts, and minimising habitable room glazing elements facing directly towards the Research Centre meet the requirements of condition 5 of planning permission in principle and the recommendations of the further noise report submitted in accordance with that condition.

In terms of odour impacts from the Research Centre **the Environment Health Service Manager** advised in his response to planning permission in principle application 18/00937/PPM that he was satisfied that the Assessments carried out by the applicant demonstrated that there will be no harmful impacts on the future occupants of the residential development proposed arising from operations carried out at the Research Centre.

In terms of air quality impacts from the Research Centre the Council's Environmental Health Manager and **SEPA** were involved, during the assessment of planning permission in principle application 18/00937/PPM in detailed discussions with the applicant in relation to the scoping method to be applied to assessing air quality and in particular the impact operations carried out at the Research Centre could have on the amenity of future occupants of the proposed housing in respect of air quality. Following on from establishing the methodology to be used, the Council's Environmental Health Manager having carefully considered the Air Quality Impact Assessment submitted with that application concluded that he agreed with the key findings of the Assessment which are that based upon a worst case scenario, the impact NO<sub>x</sub> emissions from the diesel generators operating at the Research Centre would have on the proposed residential properties at the south of the site would result in a breach of the statutory 1 hour mean Nitrogen dioxide (NO<sub>2</sub>) Air Quality Objective on a small part of the site of planning permission in principle application 18/00937/PPM. That part is within the site of this current approval of matters application and it contains 9 of the residential units proposed for the site (those being plots 82-90 of the units proposed through this current approval of matters application). It occupies the most southerly corner of the application site, close to the eastern boundary of the Research Centre site. It is identified in a drawing titled "Air Quality Mitigation Area" docketed to planning permission in principle 18/00937/PPM.

In his assessment of planning permission in principle application 18/00937/PPM, the Council's Environmental Health Manager, having discussed this matter with SEPA as the responsible authority for applying the provisions of the Medium Combustion Plant Directive via The Pollution Prevention and Control (Scotland) Amendment Regulations 2017, advised that the diesel generators being operated at the Research Centre are not currently subject to a permit for their operation and whether or not they will become the subject of permit controls, therefore ensuring compliance with Air Quality Objectives, depends on a number of factors including the length of time they would operate for in any year. There therefore appears to be no immediate or short term likelihood of this situation regarding air quality over this small area of the site being addressed and unless and until it is addressed the Council's Environmental Health Manager advised in his assessment of planning permission in principle application 18/00937/PPM that this small area of the site should not be developed for housing as occupants of such housing would suffer harmful impacts on their air quality. As such and in order to address this air quality issue on this small part of the overall site the Council's Environmental Health Manager recommended that a condition be imposed on the grant of planning permission in principle 18/00937/PPM to ensure that no residential units shall be erected within the yellow shaded area shown in Drawing No. CAR85-902 and titled Air Quality Mitigation Area dated 01.04.2019 unless and until such times as an updated Air Quality Assessment, that demonstrates all statutory Air Quality Objectives are being, and will continue to be met, has been submitted to, and approved by, the Planning Authority. Such a condition was imposed on the grant of planning permission 18/00937/PPM and will continue to apply to the site unless and until such times as an updated Air Quality Assessment, that demonstrates all statutory Air Quality Objectives are being, and will continue to be met, has been submitted to, and approved by, the Planning Authority.

No such updated Air Quality Assessment has yet been submitted which means that, notwithstanding that approval of matters consent is being sought for the detailed design and siting of the 9 houses proposed for this southern part of the site which lie within the "Air Quality Mitigation Area" as identified in a drawing docketed to planning permission in

principle 18/00937/PPM, these 9 houses cannot be erected unless and until such times as an updated Air Quality Assessment, that demonstrates all statutory Air Quality Objectives are being, and will continue to be met, has been submitted to, and approved by, the Planning. The Council's Environmental Health Manager has recommended that it would be prudent for the avoidance of doubt to apply this same conditional control on any approval of matters consent granted for this proposal. The applicant has advised that they are agreeable to this condition again being imposed on this approval of matters consent application if consent is to be granted.

Subject to the imposition of the aforementioned condition relating to air quality future residents would benefit from a satisfactory level of privacy and residential amenity and the residential development of the site would not prejudice ongoing operation of the Research Centre.

On all of these foregoing findings on matters of density, design, layout, road, pedestrian, cyclist and other transportation design considerations, landscaping and amenity, and subject to the imposition of conditions, the proposed development is not inconsistent with the conditions imposed on the planning permission in principle 18/00937/PPM or with the indicative layout/masterplan docketed to that planning permission in principle. Nor is it inconsistent with Proposal TT1 or Policies DP1, DP2, DP3, DP4, DP8, DP9, NH12, NH13, T1 or T2 of the ELLDP, the Council's adopted development brief for the site, the Council's adopted SPG on 'Design Standards for New Housing Areas' or the Scottish Government Policy Statement entitled "Designing Streets" or its PAN 67.

**The Council's Heritage Officer** has been consulted on this current application as the area of the wider site lies in an area which contains previously identified cropmarks of a putative prehistoric enclosure. The Council's Heritage Officer advises that he has no comments to make on this current application in relation to the Historic Environment being satisfied that the area has been previously mitigated archaeologically with an evaluation and excavation having already taken place over the area of this current proposal. On this consideration the proposed development does not conflict with Policy CH4 of the ELLDP.

Matters of drainage and flood risk concerning the wider allocated site were fully considered in the assessment of the planning permission in principle application 18/00937/PPM. The principle, and subsequently the detail, of the provision of a sustainable urban drainage scheme (SUDS) detention basin to serve the wider development has already been approved by the grant of planning permission in principle 18/00937/PPM and the detailed planning permission 19/00379/P.

**The Council's Team Manager for Structures, Flooding & Street Lighting** has been consulted on this current application and in response to a request from that consultee the applicant has submitted revised drainage details which detail how the surface water from this site would connect to the SUDS Basin approved by the grant of planning permission 19/00379/P. Having assessed the revised information submitted, the Council's Team Manager for Structures, Flooding & Street Lighting has confirmed that he raises no objections and has no comments to make on drainage or flood risk grounds. He has made a recommendation to the applicant that it would be prudent to install a boundary catch-water drain at the bottom of the slopes of the earth bund to the immediate south of the site of this current application to assist in protecting gardens and roads from overland flow of surface water and this recommendation has been passed to the applicant for their information. The proposals are consistent with Policies NH10 and NH11 of the ELLDP.

**The Scottish Environmental Protection Agency (SEPA)** have been consulted on this current application and have no comments to make being satisfied that the Council's Team Manager for Structures, Flooding & Street Lighting and the Council's Environmental Health

Service Manager have provided responses dealing with flooding/drainage and environmental health matters.

**Scottish Water** have been consulted on the proposals. They raise no objection and have provided comments relevant to servicing the proposed development which have been forwarded to the applicants for their information.

Small areas of landscaped open space are proposed to be created on the site of this current application however the majority of open space provision and the formal play provision are to be formed elsewhere on the wider Windygoul south site, including in an area immediately to the south of the site of this application. In terms of open space and formal play provision the details for this site are consistent with the indicative details shown for this area of the wider site in the indicative site plan docketed to planning permission in principle application 18/00937/PPM and therefore the proposals are consistent with Policies OS3 and OS4 of the ELLDP.

The site lies within a Coal Mining Development Low Risk Area. **The Coal Authority** has issued 'Standing Advice' on development within low risk coal mining areas which provides developers with advice in the event of coal mining features being encountered during development and this advice has been issued to the applicant. Condition 9 of planning permission in principle 18/00937/PPM requires the investigation and remediation of mining legacy affecting the wider site the subject of planning permission in principle 18/00937/PPM.

In accordance with Policy DCN2 of the ELLDP the applicant has confirmed in writing to the Planning Authority that all houses will have high speed broadband connections.

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, including applications for the approval of matters specified in conditions of a planning permission in principle. This application is supported by a 'Reducing Carbon Emissions' Report which has been amended by the applicant since the registration of the application. The Report submitted sets out the measures to be taken to reduce the carbon emissions from the building and from the completed development which include meeting the latest building regulation standards in terms of thermal performance and energy efficient systems, promoting a Green Travel Plan to future residents and incorporation of a range of energy efficient measures to the properties including the fitting of solar panels to the properties as standard. In respect of electric vehicle charging provision, the Report confirms that all properties with in-curtilage parking will be provided with a three-pin socket installed and designed to allow at least a 3kW(16A) charger to be electrically supported. For properties without in-curtilage parking (plots 12 to 16 and plots 17 to 26) ducting infrastructure is to be provided. These ducts will be taken from each of these dwellings and terminated at appropriate locations at the remote car parking spaces which will provide the opportunity to upgrade the parking courts with charging columns in the future. The location/alignment of the duct will be identifiable for future use and in particular the point of termination of the ducting for future residents of the terraced properties will be made clear by the use of plot numbered base plates indicating with property each duct is connected to. These proposed electric vehicle charging provision measures have been detailed in layout drawings submitted with this application. **The Council's Road Services** have confirmed that they are satisfied with the electric vehicle charging measures proposed. Subject to a condition being imposed on a grant of planning permission for this proposed development to ensure that the proposed actions to be taken to reduce the carbon emissions from the building and from the completed development,

including the proposals for Electric Vehicle Charging Provision are implemented on site, the proposals are consistent with Policy SEH2 of the ELLDP.

The mechanisms to secure from the applicant sports pitch provision, the transfer of land for additional school campus provision, financial contributions towards primary and secondary school provision, transport improvements, allotment provision, path provision and the provision of 141 units of affordable housing on the overall planning permission in principle site have already been secured through the grant of planning permission in principle 18/00937/PPM. The masterplan docketed to planning permission in principle 18/00937/PPM indicates the parts of the wider Windygoul development that will provide for affordable housing. There is no affordable housing allocated for this part of the site in that docketed masterplan. In this regard the proposal is consistent with the indicative masterplan docketed to planning permission in principle 18/00937/PPM and not inconsistent with Policy HOU3 of the ELLDP.

In summary, the site is capable of accommodating the proposed development including vehicular, pedestrian and cycle access and landscaped open space. An approval of matters consent for the proposed development in the context of the site being part of housing allocation PROP TT1 of the East Lothian Local Development Plan, and in that its impacts in respect of amenity and technical considerations are acceptable in themselves, or can be mitigated through the appropriate use of planning conditions, would not be inconsistent with Scottish Planning Policy: June 2014, with the Scottish Government's "Designing Streets" or PAN 67, with the relevant policies and proposals of the East Lothian Local Development Plan 2018 or with its adopted supplementary planning guidance or with the principles established by the grant of planning permission in principle 18/00937/PM.

## **RECOMMENDATION**

That Approval of Matters Consent be granted subject to the following conditions:

- 1 The actions to be taken to reduce the carbon emissions from the building and the provisions for electric vehicle charging all as detailed in the 'Reducing Carbon Emissions' report docketed to this approval of matters consent shall be fully implemented on site prior to the occupation of the last house hereby approved and thereafter shall be retained unless otherwise approved in writing by the Planning Authority.

Reason:

To minimise the environmental impact of the development.

- 2 In the event of the presence of any previously unsuspected or unforeseen contamination of the land on the application site being found, development shall not begin, or shall cease to continue, until a scheme to deal with contamination on the site has been submitted to and approved in writing by the Planning Authority. The scheme shall contain details of the proposals to deal with contamination to include:

- 1 the nature, extent and type(s) of contamination on the site,
- 2 measures to treat/remove contamination to ensure the site is fit for the use proposed,
- 3 measures to deal with contamination during construction works,
- 4 condition of the site on completion of decontamination measures.

Thereafter any mitigation measures required shall be implemented as so approved.

Before any of the houses hereby approved are occupied the measures to decontaminate the site shall be fully implemented as approved by the Planning Authority.

Reason:

To ensure that the site is clear of contamination prior to the occupation of the houses.

- 3 All planting, seeding or turfing comprised in the details of landscaping on the drawings titled 'Landscape Proposals Sheets 1 to 5' with drawing numbers 593.02.01b; 593.02.02b; 593.02.03b; 593.02.04b and 593.02.05b docketed to this approval of matters consent shall be carried out in the first planting and

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

All the new planting shall be maintained in accordance with the maintenance programme as detailed on docketed drawing number 593.02.01b titled 'Landscape Proposal (Sheet 1 of 5)'.

Reason

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

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

Reason:

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

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

Reason:

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

- 6 The development shall comply with the following transportation requirements:
- (i) All roads and paths shall conform to East Lothian Council Standards for Development Roads;
  - (ii) driveways shall have minimum dimensions of 6 metres by 3 metres. Double driveways shall have minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11 m length. Pedestrian ramps to houses may encroach by up to 300mm on the width (but not the length) provided they are no greater than 15021/mm in height above the adjacent driveway surface.;
  - (iii) Vehicle accesses to private parking areas (i.e. other than driveways) shall be via a reinforced footway crossing. Within private parking areas, the minimum dimensions of a single parking space shall be 2.5 metres by 5 metres;
  - (iv) All prospectively adoptable parking bays (i.e. that will form part of the public road) shall have minimum dimensions of 2.5 metres by 6 metres.
  - (v) Parking for the development shall be provided at a rate as set out in the East Lothian Council Standards for Development Roads - Part 5 Parking Standards. Visitor parking bays should be clearly identifiable.
  - (vi) Driveways shall have minimum dimensions of 6 metres by 3 metres. Double driveways shall have minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11 m length. Pedestrian ramps to houses may encroach by up to 300mm on the width (but not the length) provided they are no greater than 150mm in height above the adjacent driveway surface.

Reason:

In the interests of road and pedestrian safety.

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

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



Reason:

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

- 8 No residential units shall be erected within the yellow shaded area shown in Drawing No. CAR85-902 and titled Air Quality Mitigation Area dated 01.04.2019 docketed to planning permission in principle with reference 18/00937/PPM unless and until such times as an updated Air Quality Assessment, that demonstrates all statutory Air Quality Objectives are being, and will continue to be met, has been submitted to, and approved in writing by, the Planning Authority.

Reason:

To ensure an acceptable standard of air quality in the interests of the amenity of the future occupants of the site.



**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 7 December 2021  
**BY:** Executive Director of Place  
**SUBJECT:** Application for Planning Permission for Consideration

**4**

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*Note - this application was called off the Scheme of Delegation List by Councillor Kempson for the following reasons: First is due to the large number of objections from local residents. Secondly a similar application was refused permission two years ago and the situation and reasons for the rejection have not changed.*

Application No. **21/01195/P**  
Proposal Siting of snack van  
Location **South Of Shore Road Carpark  
Belhaven  
Dunbar  
East Lothian**  
Applicant Matsform Ltd

**RECOMMENDATION** **Consent Granted**

## **REPORT OF HANDLING**

### **PROPOSAL**

The application site forms part of an existing grassed area to the south of the public carpark which is located to the west of the public non-classified Shore Road in Belhaven, Dunbar.

This application relates to an area of grassed land located at the southern end of the public car park at Shore Road Belhaven which is located at the eastern edge of the John Muir Country Park. The car park and therefore the application site is located within countryside as defined by Policy DC1 of the adopted East Lothian Local Development Plan 2018. It is also within (ii) the constrained coast as defined by Policy DC6 and (iii) within the Belhaven Bay Special Landscape Area. It is adjacent to but not within the Firth of Forth Special protection area and SSSI. The carpark is outwith, but immediately adjacent to, the Belhaven Conservation Area.

The public car park is accessed from the Shore Road public road that is adjacent to the eastern side of the car park.

In December 2019 planning application ref: 19/00744/P was refused against officer recommendation, for the siting of a mobile snack van in the Shore Road car park. The

reasons for the refusal of planning application 19/00744/P were:

1. In its prominent roadside location, the proposed mobile snack bar would harm the character and appearance of this part of the John Muir Countryside Park, and
2. The operation of the proposed mobile snack bar in such close proximity to residential properties would be likely to harm the privacy and amenity of those nearby properties.

Planning permission is now sought for the siting of a snack van within a different part of the public car park at Shore Road. It would be positioned adjacent to the wall that encloses the southern end of the car park some 90m to the southeast of the site of the snack bar the subject of refused planning permission 19/00744/P and would be of a different form and appearance to that refused snack van.

The proposed mobile snack bar would be in the form of a van with a service area to the rear which would feature a hatch on one side. It would be approximately 6.6 metres long and 2.5 metres wide and have a height of 2.8 metres. The van proposed by the applicant is to be dark green in colour.

The snack van is proposed to be situated at this location for trading from 0830 hrs to 1930 hrs March to October from Tuesdays to Sundays. This would vary from November to February when trading times would change to 0830 to 1630 hrs Tuesday to Sundays. The applicant has stated that the types of food to be sold include soup, hot and cold sandwiches and rolls, pancakes, Mediterranean wraps as well as Italian coffee, selection of teas, soft drinks, juices.

The pitch has been offered by East Lothian Council Estates. A condition of the licence is that there would no deep fat frying.

Since the application was first submitted, revised details have been submitted reducing the scale of the proposed snack van and changing it to a dark green colour.

Subsequent to the registration of this application, the applicant's has provided the following statement:

As a result of feedback, a lower height vehicle has been found. The lower height will make it less prominent, and the forest green colour was chosen to allow it to blend more into the natural surroundings. The van type was chosen over the trailer as it is more suitable for the terrain and will need less manoeuvring into position over the grass which could be vulnerable to erosion. As this is a new siting, the effect of the siting of the vehicle on the grass surface will need to be monitored with the Amenity Service team from the Council and we are happy to work with them in how to resolve any issues that arise. The van type will also support the use of electric batteries, which will be the only energy source to the food van. This should result in a quiet, no emissions food van that although it may create limitations in terms of hours per day the operator is willing to adapt to the local community's wishes. The plan is to store the vehicle locally in a secure facility when not working to reduce vehicle movements and support the local community.

The cutlery and packaging used by the food van will be compostable and consideration will be given on how to reduce waste, reuse, recycle and encourage customers to do the same. Recycling and general waste bins will be provided with self-closing lids. Information on where to find the local bins for walkers and tourists. We plan to litter pick and work with local community groups and the Council to ensure we prevent litter problems from occurring. We are considering trialling innovative solutions such as a deposit return litter bags to prevent litter issues.

## **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). Policies DC1 (Rural Diversification), DC6 (Development in the Coastal Area), DC9 (Special Landscape Areas), CH2 (Conservation Areas), TC4 (Hot Food Outlets), NH1 (Protection of Internationally Designated Sites), NH3 (Protection of Local Sites and Areas), NH5 (Biodiversity and Geodiversity Interests including Nationally Protected Species), NH13 (noise) DP2 (Design), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of the application.

Also relevant to the determination of the application is the Countryside and Coast and the Special Landscape Areas Supplementary Planning Guidance of the adopted East Lothian Local Development Plan adopted by the Council in 2018.

## **REPRESENTATIONS**

A total of seventeen public objections to the siting of the proposed mobile snack bar have been received.

The main grounds of objection are:

1. the siting of a mobile snack van on the proposed site would generate unacceptable levels of additional vehicular traffic thereby creating a road safety hazard and increased parking demand;
2. the siting of a mobile snack van will have a negative visual impact on the proposed location and the wider area and views over Belhaven Bay;
3. the proposal would generate unacceptable levels of litter;
4. cooking odours and noise from the mobile snack van will harm the residential amenity of nearby residential properties; and
5. food choices offered by the mobile snack van are detrimental to public health.
6. the length of the 3 year temporary consent applied for too long and should be a trial period of 1 year;
7. impact on nearby trees;
8. the siting of the snack van on a wet part of the site and its impact on ground conditions;
9. the colour of the van being too prominent;
10. the hours of operation being unacceptable in impacting on residential amenity;
11. disturbance of wildlife habitat and impact on John Muir Country Park and requirement for EIA;
12. the van uses both gas and a generator for power and cooking. Both are deemed environmentally unfriendly;
13. the loss of privacy to gardens of nearby properties;
14. the loss of property values of nearby properties;
15. the size of the van exceeding the advertised pitch size and too high for the access barrier;
16. the environmental implication of the van and increased traffic with regards to climate change;
17. impact of the snack van on flood risk;

18. site not within a town centre location;
19. no assessment of need made for the snack van and its impact on trade to nearby shops;
20. Will single use plastics be used?
21. Has a Flood Risk Assessment been undertaken?
22. Planning permission has previously been refused for a snack van;
23. a better solution would be the conversion of part of the toilet block and thus negating the need for a van and generator;
24. Some visitors to the area avoid parking charges by parking on North Road.

## COMMUNITY COUNCIL COMMENTS

Both West Barns Community Council and Dunbar Community Council have submitted objections to this application. The grounds of objection are in relation to: (i) road safety; (ii) suitability of the vehicle proposed; (iii) commercialisation of the countryside; (iv) flood risk; (v) litter; (vi) environmental impact; and (viii) the proposal is suggested to be contrary to ELC Policy - Good Food Charter.

In response to the some of the points raised by the objectors and by the Community Councils:

This application is for the siting of a snack van. The Council as Planning Authority cannot refuse a planning application on the basis that there may be a “better” alternative proposal available elsewhere.

There would be no deep fat frying from the snack van and it would be powered by batteries. Therefore, there would be no detrimental impact on neighbouring properties by way of odour or noise.

The fact that a snack van was refused planning permission on a different part of the car park does not prevent the submission and determination of this planning application.

The supporting statement submitted with this application confirms that the applicant will provide litter bins during trading hours.

**The Council's Estates Team Leader** advises that East Lothian Council operate the car park at Shore Road and have issued the lease to the applicant to allow them to operate from this site. If issues arise from the ground conditions then the Council will work with the applicant to manage this issue.

Any pest control matters would be for **the Council's Environmental Health Service** to deal with under statutory nuisance provisions.

The siting of a snack van in this location is not a type of development that requires an EIA by The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017;

The application is not located within a flood risk area as defined by SEPA and therefore does not require a flood risk assessment.

The Shore Road car park is located adjacent to but is not within the Belhaven Conservation Area or within the part of Belhaven covered by Policy RCA1 of the adopted East Lothian Local Development Plan.

Whether there will be any customer demand for the snack van, the impact on other local businesses, the fact that the applicant will come from Musselburgh every day, the matter of visitors parking on North Road to avoid parking charges, the loss of a view from the windows of a neighbouring house, the type of food being sold not being healthy and the matter of the snack van being larger than that specified in the advert issued by Estates are not material planning considerations relevant to the determination of this planning application.

## **PLANNING ASSESSMENT**

Policy DC1 supports development in the countryside where it is for agriculture, horticulture, forestry, infrastructure or countryside recreation or other businesses that have an operational requirement for a countryside location, including tourism and leisure uses. Policy DC6 states that development proposed on the constrained coast will only be supported if it requires a coastal location. The siting and design of new development must respect the qualities of the particular coastal location.

Shore Road Car Park within John Muir Country Park is one of a number of large coastal car parks which are used by a range of visitors including families, surfers, horse riders, dog walkers and ramblers who wish to explore this part of East Lothian's coastline. It is therefore a popular coastal location within East Lothian. The proposed snack van is a business use that would serve visitors to the area who are participating in coastal and countryside activities based within this coastal area. Consequently the siting of the proposed snack van and the provision of food and drink from it would not be incompatible with this coastal location. Therefore, and as it would benefit and further the enjoyment of the visiting public, it is a use that would enable and enhance the attraction of John Muir Country Park as a popular tourist area. Consequently, the proposed snack van does not conflict with Policies DC1 and DC6 of the adopted East Lothian Local Development Plan 2018 or with the Countryside and Coast Supplementary Planning Guidance adopted by the Council in October 2018.

Policy DC9 of the adopted East Lothian Local Development Plan states that development within or affecting Special Landscape Areas will only be permitted where: (i) it accords with the statement of importance and does not harm the special character of the area or (ii) the public benefits of it would outweigh any adverse impacts and is designed, sited and landscaped to minimise such adverse impacts.

The Special Landscape Area Supplementary Guidance states that the Belhaven Bay Special Landscape Area has considerable scenic appeal, with a dynamic coastline changing from year to year, sometimes a wide expanse of sand, sometimes with channels cut by the sea. The Bay is heavily used in tourist marketing and marketing of businesses in this area and wider East Lothian. A considerable part of the tourist draw of beaches is in their landscape setting. In particular it states that recreation, both informal and formal is a key quality of this area. There are superb free outdoor recreational resources here, including the beaches and sea, and John Muir Country Park. Many of these rely for their appeal at least in part on their landscape setting. Furthermore, Belhaven Bay is a wide expanse of sandy beach backed by dunes, with considerable recreational value to families, surfers and other water sport participants.

In the guidelines for development within the SPG it states that any proposed development must not harm the coastal character and characteristic features of the area. It states that well sited small scale development to enable beach and other coastal recreation may be acceptable. Any proposed development must not harm views of the Belhaven Bay from Shore Road Car Park.

In accordance with the statement of importance of the Supplementary Planning Guidance on the Belhaven Bay Special Landscape Area the proposed snack van would be small in scale. It would facilitate and enable beach and other coastal recreation already taking place in this area of the John Muir Country Park. Furthermore, by being located within the southern part of the car park it would not encroach onto any undeveloped areas of the Belhaven Bay coast. Therefore the siting of the snack van would not harm the natural or scenic qualities of the area, harm the undeveloped character of Belhaven Bay, cause disturbance to areas not already in use as part of the busy Shore Road car park or harm the views of the Belhaven Bay from the car park. Consequently, the siting of the snack van would not harm the special qualities of the Belhaven Bay Special Landscape Area and would not conflict with Policy DC9 of the adopted East Lothian Local Development Plan 2018 or with the Special Landscape Areas Supplementary Planning Guidance.

Policy TC4 (Hot Food Outlets) of the East Lothian Local Development Plan 2018 states that proposals for hot food takeaways will be supported in town or local centres or designated employment areas provided they would not result in significant impacts on local amenity, including cumulatively with other existing or consented takeaways in the area, and are consistent with other relevant Plan policies, including in relation to parking and road safety. Mobile snack bars may also be permitted on suitable car parks or lay-by sites adjacent to main transport routes, subject to other Plan policies including consideration of visual and landscape impacts.

The proposed snack van would be positioned within the existing car park at Shore Road. Therefore the principle of siting the snack bar in this location is not contrary to Policy TC4. Furthermore, as so positioned the proposed snack van would be seen in relation to other motor vehicles using the car park. When seen in the context of that car park the proposed snack van would not appear harmfully out of keeping with its surroundings and would not harm the landscape character or visual amenity of the area. The proposal would also not result in more than one snack van operating in this car park.

The closest neighbouring residential properties to the application site are located to the east on the opposite side of Shore Road. By being located within the existing car park the proposed snack van would not cause overlooking of the rear gardens of neighbouring residential properties that would be any different to that already possible from the car park and from Shore Road. Therefore the siting of the snack van would not result in a loss of privacy to those neighbouring residential properties.

Due to its distance from neighbouring residential properties the siting of the snack van would not cause a loss of residential amenity through overshadowing.

**The Council's Environmental Health Officer** was consulted on this application. He advises that he has concerns that noise associated with the operation of any generator supplying power to the vehicle may impact on the impact of residential receptors. Therefore he requests that a condition be attached to any grant of planning permission that prevents generators being operated on site for the purposes of providing power to the proposed snack van. However, the applicant has confirmed that the snack van will use electric batteries and those will be the only energy source for the food van. Notwithstanding a condition will be attached to any grant of planning permission preventing the use of a generator. Subject to the imposition of that planning control the siting of the snack van would not give rise to a loss of amenity through noise nuisance to neighbouring residential properties consistent with Policy NH13 of the adopted East Lothian Local Development Plan 2018.

The Council's Environmental Health Officer did not raise any concerns in respect of smells from the snack van. A condition of the licence issued by East Lothian Estates is that there would no deep fat frying within the snack van. Therefore the siting of the snack van would



not give rise to a loss of amenity through odours or smell to neighbouring residential properties consistent with Policy.

On these considerations the proposed snack van does not conflict with Policies TC4, NH13 or DP2 of the adopted East Lothian Local Development Plan 2018.

**The Council's Biodiversity Officer** advises that the application site is within the Shore Road car park. She notes that the snack van would be located on an area of amenity grassland that is cut fortnightly and used as a car park. Grassland of this nature and with such frequency of use generally has limited bio-diversity value. The snack van will be temporary in nature and is small scale so is unlikely to result in a significant loss of habitat. She also adds that whilst the snack van would be very close (under 30m from) the Firth of Forth SPA and SSSI as noted above the proposal will not result in a significant loss of habitat and is unlikely to significantly increase disturbance levels (noise and recreational pressure) over and above what is currently experienced due to the very busy car park and water sports business located nearby. This proposal is therefore unlikely to result in significant effects on the Firth of Forth SPA and SSSI. Accordingly, the proposals do not conflict with Policies NH1, NH3 or NH5 of the adopted East Lothian Local Development Plan 2018.

**The Council's Principal Countryside Officer** advises that the applicant will be given a key to operate the existing metal gate in order to access and exit the application site. He also advises that the grass car park could be vulnerable to ground disturbance in wet weather, not just from the applicant's unit but also from visiting cars. However if it is wet he advises that there are means of managing this and if required measures would be put in place to prevent access from cars to that area of the grassed car park to minimise damage. Furthermore it would be prudent to attach a condition to any grant of planning permission requiring that the ground be repaired and restored at the end of the temporary consent.

On the matter of litter when granting planning permission for the siting of a snack van the Council as Planning Authority will generally impose a condition requiring that at least one litter bin be provided adjacent to the mobile snack van and that it shall be accessible to customers at all times whilst trading takes place. The normally imposed condition also requires that the area around the snack van shall at all times during trading and at cessation of trading each day, be kept free of litter and any other waste or refuse. It would be prudent to impose such a condition in this case. On top of this, **the Council's Estates Team Manager** advises that litter control will be covered in the lease and agreed in advance prior to the commencement of trading.

**The Council's Waste Services** also have no objection to the application stating that the applicant should be reminded that they are not permitted to use the coastal car parking bins to dispose of waste. The applicant would also need to set up a trade waste service with either ourselves or an external company.

In response the applicant has stated that recycling and general waste bins will be provided with self-closing lids. They also plan to litter pick and work with local community groups and the Council to prevent litter problems from occurring. They are also considering trialling innovative solutions such as a deposit return litter bags to prevent litter issues. The cutlery and packaging used by the food van would be compostable and consideration would be given on how to reduce waste, reuse, recycle and encourage customers to do the same.

Notwithstanding that planning permission is sought for the siting of the snack van on the application site throughout the year, there is no applied for limit on how many years this could be for. A mobile snack van, by its nature, is not satisfactory as a permanent use at the site. Therefore, it would be prudent for the Council, as Planning Authority, to allow the use

on a temporary basis only. A temporary permission for 1 year would allow the Council the opportunity to continue to review this use within the application site in the interests of safeguarding the landscape character and amenity of the area.

It would also be prudent to make the planning permission personal to the applicant and to limit the number of snack vans within this site to one, in order to safeguard against over-commercialisation. Furthermore, it would also be prudent to control, by condition, the hours of operation in accordance with those applied for and otherwise to ensure that litter bins be provided outside the snack van at all times whilst trading takes place, and that the area around the snack van be kept free of litter and any other waste or refuse at all times during trading and at cessation of trading each day. These controls can be made conditions on a grant of planning permission.

On all of the above considerations, and subject to the imposition of appropriately worded conditions, the proposed snack van does not conflict with Policies DC1, DC6, DC9, TC4, NH1, NH3, DP2 of the adopted East Lothian Local Development Plan 2018 or with the Special Landscape Areas Supplementary Planning Guidance.

**The Council's Road Services** advise that in terms of impact on the local road network the snack van is unlikely to be a "destination" in its own right and will more likely attract customers who are already using the car park or passing by Belhaven Bay on foot/cycle. Therefore the Council's Road Services does not anticipate that the proposed snack van will create significantly more additional vehicular movements to the Shore Road car park than already exists. Therefore as Shore Road is an existing car park accessed from an existing junction Shore Road and as no changes to the existing access or its associated junction are proposed through this application the Council's Road Services raises no objection to the application.

On all of the above, and subject to the imposition of that aforementioned condition, the proposed snack van would not be contrary to Policies T1 and T2 of the adopted East Lothian Local Development Plan 2018.

## **RECOMMENDATION**

That planning permission is granted subject to the following conditions:

- 1 Planning permission is granted for a temporary period of one year, beginning from the date of this grant of planning permission, and after which time all trading from the site shall cease and the mobile snack van shall be removed from the site and the grass area restored to its former condition to the satisfaction of the Planning Authority.

Reason:

To enable the Planning Authority to assess the environmental impact of the operation of this type of temporary use on the locality in the interests of safeguarding the landscape character and amenity of the area.

- 2 This permission is made personal to the applicant, Matsform Ltd and shall not be capable of being taken up by any other party.

Reason:

To prevent an over-commercialisation of the site in the interests of safeguarding the landscape character and amenity of the area.

- 3 No more than one mobile snack bar shall trade from the site at any one time.

Reason:

To prevent an over-commercialisation of the car park in the interests of safeguarding the landscape character and amenity of the area, and without detriment to the principle of the use of the car park for the parking of vehicles and the safe accessing and manoeuvring of those vehicles.

- 4 The mobile snack van hereby approved shall only operate during the hours of 0830 to 1630 from Tuesdays to Sundays from November to February and from 0830 to 1930 from Tuesdays to Sundays from March to October for the duration of its temporary siting, unless otherwise agreed by the Planning Authority.

Reason:

In the interests of safeguarding the landscape character and amenity of the area.

- 5 Two litter bins, each with a self-closing lid, shall be provided adjacent to the mobile snack van and shall be accessible to customers at all times whilst trading takes place. Prior to any use being made of the snack van details of the two litter bins, as well as a general strategy to minimise the impact of waste, shall be submitted to and approved in advance by the Planning Authority. The details shall show that one bin shall be used solely for recyclable materials and one bin shall be for general waste. The two litter bins shall thereafter be provided in accordance with the details so approved. The area around the snack van shall at all times during trading and at cessation of trading each day, be kept free of litter and any other waste or refuse. The bins and their contents shall thereafter be removed from the site and the site cleared from litter.

Reason:

In the interests of safeguarding the landscape character and amenity of the area.