

REPORT TO: Planning Committee
MEETING DATE: 7 June 2022
BY: Executive Director for Place
SUBJECT: Application for Planning Permission for Consideration

7

Application No. **21/00449/PM**
Proposal Erection of 77 houses and associated works
Location **Blindwells
Tranent
East Lothian**

Applicant Hargreaves Services (Blindwells)

Per Turley

RECOMMENDATION Consent Granted

REPORT OF HANDLING

BACKGROUND

As the area of the application site is greater than 2 hectares and as more than 49 dwellings are proposed, 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: 20/00009/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 (PAC) Report (dated March 2021) is submitted with this application. The report informs that due to restrictions within the provisions of The Coronavirus (Scotland) Act 2020 community consultation involved an online consultation website that had 843 visits and from which 218 information packs were downloaded. A further digital public webinar consultation event

was held on Wednesday 9th December 2020 between the hours of 6pm and 7pm. The event was attended by 25 people who made a number of queries and comments regarding the proposals. The PAC report informs that 10 completed online feedback forms were received in respect of the proposal. 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 site forms part of a larger area of land at Blindwells that is allocated by PROP BW1 for a new mixed use settlement.

The allocated land is in close proximity to the settlements of Prestonpans, Tranent, Cockenzie and Port Seton. It is within the inventory boundary of the Battle of Prestonpans, a battlefield included within the Inventory of Historic Battlefields. A Scheduled Ancient Monument, known as the Seton West Mains enclosures 500m SW of, is located some 300 meters to the northwest.

A Development Framework for the allocated land at Blindwells was approved by the Council on the 8th June 2010. It sets out the role of the new settlement in the settlement hierarchy and its characteristics in terms of service provision, the consequent scale and range of development/ land uses expected, and how the council requires it to be developed in terms of infrastructure and design requirements.

Planning permission in principle (Ref: 14/00768/PPM) was granted in May 2018, following the conclusion of a Section 75 agreement, for the creation of a mixed use settlement on land at Blindwells. A Masterplan and Masterplan Document docketed to that planning permission in principle shows how the various components of development could be accommodated on the site to include up to 1600 residential units, a school campus, 10 hectares of employment land, a local centre with commercial units, a supermarket, a park and ride facility, playing fields, open space, allotments, a cemetery, landscaping, roads, footpaths and associated infrastructure provision.

The approved Masterplan Document split the housing development of the approved site of 1600 houses into 11 phases of development and sets out the number of housing completions for each phase of development in each audit year.

RELEVANT SITE HISTORY

In October 2019 planning permission (Ref: 19/00242/AMC) was granted for approval of matters specified in conditions 1d and 1h (details of road infrastructure for Phase 1 Plot 1) of planning permission in principle 14/00768/PPM - For remediation of site and creation of a new settlement residential, employment, education and commercial uses with park and ride and rail halt facilities and associated works.

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

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

works.

In May 2020 planning permission (Ref: 19/00900/AMM) was granted for approval of matters specified in conditions of planning permission in principle 14/00768/PPM for the erection of 146 houses and associated works. Development of the 146 houses has commenced on site.

In June 2020 planning permission (Ref: 19/01068/AMM) was granted for approval of matters specified in conditions of planning permission in principle 14/00768/PPM for the erection of the 32 houses and 28 flats has commenced on site.

In December 2020 planning permission (Ref: 20/01030/PM) was granted to amend condition 30 (Transport Scotland Requirements) of planning permission in principle (Ref: 14/00768/PPM) to delay the timing of the interventions required to be undertaken amongst other things to the Bankton Interchange and its slip road until prior to the occupation of the 236th house on the larger Blindwells site. That approval created a new planning permission for the Blindwells development.

An Indicative Masterplan docketed to planning permission in principle (Ref: 20/01030/PM) again shows how the various components of development could be accommodated on the site to include up to 1600 residential units, a school campus, 10 hectares of employment land, a local centre with commercial units, a supermarket, a park and ride facility, playing fields, open space, allotments, a cemetery, landscaping, roads, footpaths and associated infrastructure provision.

Condition 1(k) of planning permission in principle (Ref: 14/00768/PPM) and condition 1 (k) of planning permission (Ref: 20/01030/PM) require the provision within the application site of at least 10 hectares of employment land and that buildings within the employment land shall be restricted in use to Classes 4, 5 and 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997. Condition 1 of both consents also require that the details of any subsequent approval of matters application shall generally accord with the Indicative Master Plan docketed to the respective consents.

Condition 3 of planning permission in principle (Ref: 14/00768/PPM) and condition 3 of planning permission (Ref: 20/01030/PM) require that no more than 1600 residential units shall be erected on the site.

In September 2021 planning permission (Ref: 21/00308/AMM) was granted for the approval of matters specified in conditions of planning permission in principle (Ref: 14/00768/PPM) for the erection of 185 houses, 12 flats and associated works.

To date planning permission has been granted for a total of 403 residential units through approvals of matters specified in conditions of planning permission in principle (Ref 14/00768/PPM).

In January 2022 planning permission (Ref: 21/01580/PM) was sought to vary conditions 1, 13, and 30, and to delete condition 31, of planning permission 20/01030/PM. Amongst other things, approval is sought to replace the approved Masterplan docketed to planning permission in principle (Ref: 14/00768/PPM) and planning permission (Ref: 20/01030/PM) with a new indicative Masterplan which includes the following changes:

- i) The provision of a primary school campus - Blindwells Primary School- rather than a dual campus comprising both a Primary and Secondary school;
- ii) The reallocation of areas of employment land to the east and west of the proposed town centre for residential;

- iii) Changes to the location of employment uses to the north and north east of the site as well as within the town centre;
- iv) Changes to the layout and configuration of the town centre to a more traditional format of smaller commercial units with residential within the upper floors of buildings;
- v) Changes to the transport, landscape and drainage infrastructure to align with the approved detailed permissions granted;
- vi) The relocation of public sport facilities within a town park including the relocation of three sport pitches out with the school site to provide public accessibility; and
- vii) The relocation of allotments and a cemetery within a town park.

A Planning Statement submitted in support of application 21/01580/PM notes that the approved Masterplan docketed to planning permission in principle (Ref: 14/00768/PPM) and planning permission (Ref: 20/01030/PM) includes retail uses provided within a large scale foodstore and retail warehousing as part of a local centre. It informs that further to market testing and discussions with a range of potential retail operators and non-food retail warehouse operators it is concluded that a large scale foodstore and retail warehousing format approved under the existing planning approvals is not attractive to the current retail market. These uses are therefore no longer proposed as part of the development. The Planning Statement further advises that that the most appropriate way to ensure delivery of retailing which meets the needs of the proposed new settlement will be to deliver this as part of a reconfigured local centre rather than as a large scale foodstore and retail warehousing. The indicative Masterplan submitted as part of planning application 21/01580/PM therefore proposes retailing within a reconfigured local centre and the provision of 10 hectares of employment land on sites relocated to the north and northeast of the wider site.

A report on application 21/01580/PM is also on the agenda of the Planning Committee at this time.

PROPOSAL

Planning permission is sought through this application for the erection of 77 residential units and associated works on land to the west of the reconfigured local centre now proposed for the wider Blindwells development.

The application site is composed of an area of land some 3.2 hectares in size and shown on the indicative Masterplan docketed to planning permission in principle (Ref: 14/00768/PPM) and planning permission (Ref: (20/01030/PM) as being for use as being for employment use and as part of a supermarket site. The site is bounded to the south by an area of open space featuring a sustainable urban drainage scheme (SUDS) detention basin with an approved distributor spine road beyond. To the west is an area of open space with land beyond identified as Area 1 and approved for housing through planning permission 19/01068/AMM. To the east of the application site is land of the proposed Blindwells local centre and to the north is the east coast main railway line.

Main vehicular, pedestrian and cycle access to the site would be taken at two points located at the north and east of the site from roads approved for the wider Blindwells development. Additional pedestrian footpath access would be provided at points to the east, south and west of the proposed development.

The application proposes a scheme of development for 77 residential units composed 73 houses and 4 flats. 13 different house types are proposed, 20 of which would be detached and 53 semi-detached/terraced. In terms of size 39 of the houses would be 2-bedroom, 23 would have 3 bedrooms and 11 would have 4 bedrooms. Four 2-bedroom cottage flats are proposed within a flatted building located to the east of the application

site. All of the buildings proposed for the site would be 2-storey in height and each residential unit would have access to an electric vehicle charging point.

The site of the application includes an internal distributor road to the north serving the wider Blindwells development and an area of open space beyond featuring a SUDS detention basin. A waste water pumping station of some 1.4 meters in height, 2.7 meters wide and 0.6 meters in depth would be installed to the northeast of the site.

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

The following reports have been submitted in support of this application:

- * Commercial Market Report (March 2021);
- * Drainage Strategy and Flood Risk Assessment (February 2021);
- * Geo-Environmental Assessment (April 2021);
- * Landscape Design and Access Statement and Outline Specification (March 2021);
- * Landscape Habitat Management Plan (March 2021);
- * Transport Statement (April 2021); and
- * Scottish Water Technical Audit (July 2021).

Since the application was first registered updated drawings have been submitted to show revisions to the proposed site layout, changes to the proposed house types, details of vehicle swept path analysis, revised landscape proposals and the location within the application site of unexcavated former high walls.

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).

There are no policies of the approved South East Scotland Strategic Development Plan (SESplan) relevant to the determination of the application. Proposal BW1 (Blindwells New Settlement) and Policies HOU1 (Established Housing Land), HOU3 (Affordable Housing Quota), HOU4 (Affordable Housing Tenure Mix), OS3 (Minimum Open Space Standards for New General Needs Housing), OS4 (Play Space Provision in New General Needs Housing Development), DCN2 (Provision for Broadband Connectivity in New Development), DP1 (Landscape Character), DP2 (Design), DP3 (Housing Density), DP9 (Development Briefs), CH4 (Scheduled Monuments and Archaeological Sites), CH5 (Battlefields), T1 (Development Location and Accessibility), T2 (General Transport Impact), W3 (Waste Separation and Collection), NH10 (Sustainable Drainage Systems) and NH11 (Flood Risk) of the ELLDP are relevant to the determination of this application.

Also material to the determination of this application is Scottish Government Advice given in Planning Advice Note 67: Housing Quality. Planning Advice Note 67 explains how Designing Places should be applied to new housing. In PAN 67 it is stated that the planning process has an essential role to play in ensuring that: (i) the design of new housing reflects a full understanding of its context - in terms of both its physical location and market conditions, (ii) the design of new housing reinforces local and Scottish identity, and (iii) new housing is integrated into the movement and settlement patterns of the wider area. The creation of good places requires careful attention to detailed aspects

of layout and movement. Developers should think about the qualities and the characteristics of places and not consider sites in isolation. New housing should take account of the wider context and be integrated into its wider neighbourhood. The quality of development can be spoilt by poor attention to detail. The development of a quality place requires careful consideration, not only to setting and layout and its setting, but also to detailed design, including finishes and materials. The development should reflect its setting, reflecting local forms of building and materials. The aim should be to have houses looking different without detracting from any sense of unity and coherence for the development or the wider neighbourhood.

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

Also material to the determination of the application is the Masterplan previously approved by planning permission 21/01580/PM. The Masterplan sets out the land uses indicatively proposed for the allocated site.

Also material to the determination of the application is Supplementary Planning Guidance (SPG) on 'Design Standards for New Housing Areas' adopted by the Council in May 2020, and on 'Sustainable Urban Drainage Systems (SuDS)', adopted by the Council in June 2019.

The SPG expands on policies that are set out in the adopted East Lothian Local Development Plan 2018.

REPRESENTATIONS

No public objection to this application has been received.

COMMUNITY COUNCIL COMMENTS

Cockenzie and Port Seton Community Council as a consultee to the application have made no comment on the application.

PLANNING ASSESSMENT

Through the assessment of planning application 21/01580/PM it has already been concluded that the residential development of the site the subject of this application (Ref: 21/00449/PM) is acceptable. There can therefore be no objection in principle to the development of housing on the application site.

The Council's Economic Development Manager raises no objection to the proposal, being satisfied that 10 hectares of employment land is being acceptably proposed elsewhere on the larger allocated site.

The proposed houses, flatted block and associated areas of ground, in their proposed groupings, orientations, and layout would be generally consistent with the principles of the Scottish Government Policy Statement entitled "Designing Streets". The proposed layout of roads, pathways and parking spaces would also generally accord with those principles.

The range of house types and flatted block proposed would give a variation of

architectural form to the development, which coupled with the orientation and layout of the buildings, would give a degree of variety of appearance to the development. The architecture of the proposed buildings is of a relatively traditional pitched roof form. The proposed buildings, due to their positioning on the application site and by virtue of their height, size and scale, and architectural design would satisfactorily integrate into their surroundings and would not appear as prominent or intrusive features. This would ensure a visually attractive and cohesive development, with the proposed buildings visible, but not appearing incongruous or intrusive in their surroundings.

The proposed materials palette comprises dry dash render, brick detailing, reconstituted stone sills and synthetic slate roof tiles. A condition can be imposed on any grant of planning permission to require the submission of a scheme of final finishes with a palette of colour of materials for the houses and flatted building, allowing for some use of reconstituted stone or brick, providing it is limited to a distinctively complete feature of the houses and flatted buildings and respectful of their design integrity. In all of this, subject to the imposition of the above condition, the proposal would be an appropriate residential development of the site.

The other components of the proposed development would not be harmful to the character and appearance of the area.

The proposed housing development would provide an attractive residential environment for future residents of the proposed dwellings. The houses and flatted block are largely shown to be laid out in such a way that adheres to the normally accepted privacy and amenity criteria on overlooking and overshadowing. The occupants of each of the new residential units would be afforded an appropriate level of privacy and residential amenity. In the interests of safeguarding the amenity of the future occupiers of the proposed flats it should be made a condition of the grant of planning permission for the proposed development that bin storage facilities for the proposed flats be formed prior to the occupation of those residential units.

The proposed development would be consistent with Policy DP3 of the adopted East Lothian Local Development Plan 2018, as the proposed development would achieve a minimum average density of at least 30 dwellings per hectare (net).

The application 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 proposed positioning of the 77 residential units and other components of the development would not prejudice the form of development of the remainder of the 1600 houses approved in principle by the grant of planning permission in principle 14/00768/PPM and planning permission 20/01030/PM.

The **Council's Landscape Officer** has been consulted and advises that he is generally satisfied with the submitted landscape plan. Subject to that landscaping plan being implemented, which can be made a condition of a grant of planning permission, he raises no objection to the proposed development.

The proposed development does not propose any play areas or formal areas of open space within the application site. However through the assessment of planning application 21/01580/PM it has already been concluded that in principle there is sufficient open space to serve the 1600 houses. Moreover, one of the planning obligations of the Section 75 Agreement is that the applicant must make a financial contribution to the Council to ensure the provision of equipped play provision within the new settlement.

The **Council's Acting Principal Amenity Officer** has been consulted on the application

and has responded no comment.

On this consideration the proposed development is not contrary to Policies OS3 or OS4 of the adopted East Lothian Local Development Plan 2018 or to the Council's approved development framework for Blindwells.

On all of these foregoing findings on matters of design, density, layout, landscaping and amenity the details submitted for approval are consistent with Policies DP1, DP2, DP3 and DP4 of the adopted East Lothian Local Development Plan 2018, the Council's approved development framework for Blindwells and the Scottish Government's Designing Streets.

A mixture of in-curtilage and on street car parking for residents and visitors is proposed throughout the development with provision for electric vehicle charging points for each proposed residential unit.

The Council's Road Services have been consulted on the application and are generally satisfied with the detailed proposals for site access, layout arrangements and parking. They do not object to the application on the grounds of road safety although they do recommend the following:

- i) submission for approval of details of all electric vehicle charging points and required infrastructure prior to commencement of any development, along with a timetable for provision;
- ii) submission of a Quality Audit, to include a Road Safety Audit, prior to the commencement of development to independently assess walking, cycling, access and road safety aspects within and around the development and to provide details of raised tables across the estate roads;
- iii) submission for approval of a Residents Travel Pack prior to first occupation of the first dwelling on the site providing information for residents to encourage use of sustainable modes of transport such as trains, buses, cycling and walking; and
- iv) submission for approval of a Construction Method Statement prior to commencement of any development to provide details of mitigation measures to be implemented during construction works to control noise, dust, construction traffic (including parking, routes to/from site and delivery times) and hours of construction work.

All of these requirements can reasonably be made conditions of a grant of planning permission for the proposed housing development.

On these foregoing transportation and other access considerations the proposed residential development is consistent with Policies T1 and T2, of the adopted East Lothian Local Development Plan 2018.

Transport Scotland have been consulted on the application and raise no objection to it provided no part of the proposed development shall be occupied until the proposed upgrades to Bankton Interchange, as specified in Condition 30 of planning permission (Ref: 20/01030/PM), and the subject of a proposed variation of conditions within planning application 21/01580/PM, are implemented to the satisfaction of the Planning Authority, after consultation with Transport Scotland. As this is an application for planning permission, the recommendations of Transport Scotland can reasonably and competently be imposed as a condition of a grant of planning permission.

The matter of site drainage was considered through the determination of planning permission in principle 14/00768/PPM and planning permission 20/01030/PM. The Indicative Masterplan docketed to those consents indicates how in principle sustainable

urban drainage scheme (SUDS) detention basins could be formed within the site to attenuate the flow of surface water run-off. Conditions 22 and 23 of planning permission in principle 14/00768/PPM and conditions 22 and 23 of planning permission 20/01030/PM state that a SUDS scheme, Drainage Assessment and Surface Water and Flood Risk Report should be submitted for the written approval of the planning authority, in consultation with the Scottish Environment Protection Agency (SEPA).

An updated Drainage Strategy covering Phase 1 of the Blindwells site was approved as part of planning permission 19/00620/AMM for approval of matters specified in conditions 1d, 1h, 1l and 1n (details of road, drainage and landscape infrastructure for Phase 1) of planning permission in principle 14/00768/PPM. That Drainage Strategy provides details of the surface water, flooding and ground water drainage strategy for the site the subject of that application.

Further to the submission of Scottish Water's Technical Approval for connection from the site to the public waste water network, and having reviewed the submitted Drainage Strategy and Flood Risk Assessment for the application site, the **Council's Flooding and Structures Officer** raises no objection to this proposed housing development, being satisfied that the Drainage Strategy for the site is acceptable.

The Scottish Environment Protection Agency (SEPA) have been consulted on the application and raise no objection to the proposals, being satisfied that the recommendations of the submitted Flood Risk Assessment have been taken into account in the design of the site and that development has been limited to land which is unlikely to flood based on all information available, including an appropriate allowance for climate change.

Scottish Water as a consultee on the application advise that they have no objection to the proposal.

On the foregoing drainage considerations the proposed development is consistent with Policies NH10 and NH11 of the adopted East Lothian Local Development Plan 2018.

The Coal Authority were consulted on the application and raised an objection on grounds that a Coal Mining Risk Assessment had not been submitted as part of the application. Further to submission of a Geo-Environmental Assessment (prepared by Waterman Infrastructure & Environment Ltd, dated April 2021) the Coal Authority noted that whilst commentary within that Geo-Environmental Assessment informs that it is not expected that any structures proposed within the application will be required to span the highwall of the former opencast extraction, this would appear not to be the case when considering the appended drawing titled 'High Wall Constraints Plan' showing the proposed layout of plots 1 to 16 as spanning the high wall. Notwithstanding these matters, on the basis that Section 13.2 of the submitted Geo-Environmental Assessment confirms that mitigation in the form of ground surcharging is to be undertaken and that the appropriate foundations will be incorporated in to the design of those plots that will span the high wall, a matter for the Building Standards process, the Coal Authority is satisfied that the development can be made safe and stable and, subject to controls to ensure that such mitigating measures are implemented prior to the commencement of any development, has withdrawn its objection to the application.

A condition can reasonably be imposed on a grant of planning permission requiring that prior to the commencement of development approved details of proposed foundation or other mitigating works proposed for structures spanning the area of former highwall are submitted for planning authority approval, and that development is thereafter carried out in accordance with the details so approved.

The **Council's Contaminated Land Officer** was consulted on the application and, taking into account the findings of the submitted Geo-Environmental Assessment, advises that the reporting has been carried out in accordance with best practice guidelines and the relevant standards. He confirms that he is in agreement with the findings of the report that the site investigations have not identified any significant soil / made ground contamination that could impact upon human health or the water environment and notes that a topsoil layer has been recommended for gardens and areas of soft landscaping, with confirmatory testing carried out to confirm suitability. He advises that the major issue on the site is that of ground gas, with the risk assessment showing that the development plot should be classified as Characteristic Situation 3 meaning that gas protection measures would be required within the new builds. He therefore confirms requirement for a Remediation Statement to be submitted detailing the exact nature of gas protection measures to be implemented for the site and also confirming the validation procedures to be undertaken in order to verify these measures. Following completion of the measures identified in the approved Remediation Statement, he advises submission of a Verification Report that demonstrates the effectiveness of the remediation carried out to the planning authority for approval prior to commencement of the new use of the land. Should unexpected contamination that was not previously identified be found at any time when carrying out the approved development, work on site shall cease and the issue reported to the Planning Authority.

These recommendations can reasonably be secured by the imposition of a condition on any planning permission granted for the proposed development.

Subject to this planning control the contaminated land officer raises no objection to the proposed development.

The **Council's Biodiversity Officer** offers no comment on the application.

Historic Environment Scotland raise no objection to the principles of the proposed development, advising that whilst the development has the potential to impact upon the Prestonpans Battlefield landscape and the Seton West Mains enclosures 500m sw of scheduled ancient monument, they do not consider this to be of such a level as to warrant their objection. On this consideration the proposed development would not have a significant adverse effect on the key features of the Battlefield or the scheduled ancient monument. On this consideration the proposal is consistent with Policy CH5 of the adopted East Lothian Local Development Plan 2018.

The Council's Waste Services Manager has been consulted and has no comment other than to advise that the houses proposed for plots 1-5, 13 - 17, 27 - 29 and 40 - 44 would be expected to present containers for collection on the main street.

At its meeting on Tuesday 27 August 2019 the Council approved a motion declaring a Climate Emergency. Thereafter, at its meeting on Tuesday 3 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 buildings and from the completed development should be imposed on relevant applications for planning permission, which should include the provision of electric car charging points. Such a condition should be imposed on a grant of planning permission for this proposed development.

Planning permission in principle (Ref: 14/00768/PPM) was granted following the conclusion of a Section 75 Agreement to secure (i) 30% affordable housing provision; (ii) financial contributions towards (a) primary and secondary education, (b) community

sports facilities, (c) equipped play (d) allotments, (e) cemetery plots and (f) maintenance depot; (iii) transfer to the Council, at no cost, ownership of the (a) site for the new primary school, (b) sites for the equipped play areas, (c) site of the community sports facilities, (d) sites for allotment and cemetery plots and (e) site for a new rail halt; and (iv) the provision of the bus services to Cockenzie Primary School, St Gabriel's Primary School, Preston Lodge High School and Prestonpans Railway Station.

In March 2020 a Section 75A Agreement was concluded to modify the planning obligations associated with the planning permission in principle for the Blindwells development of 1,600 homes (Ref:14/00768/PPM).

The **Council's Planning Obligations Officer** has been consulted on the application and is satisfied that the legal agreement associated with planning in principle (Ref: 14/00768/PPM) and planning permission (Ref: 20/01030/PM) to secure required affordable housing and other financial contributions can be modified to ensure that the proposed 77 residential units could not be built without fulfilling the related planning obligations and would therefore be proportionally liable for the obligations set out in that agreement.

On 21st February 2022 an application (Ref: 22/00002/OBL) was submitted to modify the planning obligations on planning permission in principle 14/00768/PPM and planning permission 20/01030/PM to incorporate this now proposed housing development into the Section 75A legal agreement. The **Planning Obligations Officer** advises that planning permission should be granted subject to the prior conclusion of the required Section 75A Legal Agreement.

In accordance with the Council's policy on time limits for completion of planning agreements the decision also is that in the event of the Section 75A 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 it would not be regulated by the terms and obligations set out in the S75A agreement.

RECOMMENDATION:

It is recommended that planning permission be granted subject to:

1. The undernoted conditions; and
2. The satisfactory modification of the legal agreement associated with planning in principle 14/00768/PPM in order to secure the applicants proportional liability for the planning obligations set out in that planning agreement.

CONDITIONS:

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

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

- a. the position within the application site of all elements of the proposed development and position of adjoining land and buildings;
- b. finished ground and floor levels of the development relative to existing ground levels of the site and of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench

Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and
c. the ridge height of the proposed buildings shown in relation to the finished ground and floor levels on the site.

Reason:

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

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

Reason:

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

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

Reason:

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

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

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

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

Reason:

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

- 5 Prior to the commencement of development details of all electric vehicle charging points and required infrastructure, along with a timetable for provision, shall be submitted to and approved in writing by the Planning Authority. Such provision shall involve engagement with electricity providers to ensure that the entire electricity supply infrastructure will have sufficient capacity to enable all chargepoints to operate simultaneously.

The installation of all electric vehicle charging points and required infrastructure shall thereafter be carried out in accordance with the details so approved unless otherwise agreed in writing with the Planning Authority.

Reason

In the interests of sustainability.

6 The development shall comply with the following transportation requirements:

i)a Quality Audit, to include a Road User Safety Audit, shall be submitted for Planning Authority approval prior to the commencement of development to independently assess walking, cycling, access and road safety aspects within and around the development and to provide details of raised tables across the estate roads;

ii)submission for approval of a Residents Travel Pack prior to first occupation of the first dwelling on the site providing information for residents to encourage use of sustainable modes of transport such as trains, buses, cycling and walking. The Residents Travel Pack shall thereafter be provided to the occupants of each new residential unit; and

iii)submission for approval of a Construction Method Statement prior to commencement of any development to provide details of mitigation measures to be implemented during construction works to control noise, dust, construction traffic (including parking, routes to/from site and delivery times) and hours of construction work. Construction of the site shall thereafter be carried out in accordance with the Construction Method Statement so approved.

Reason:

In the interests of pedestrian and road safety.

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

Reason:

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

8 Prior to the commencement of any part of the development hereby approved details shall be submitted for the approval of the Planning Authority of foundation or other mitigating works proposed for structures spanning the area of former highwall, as shown on docketed drawing no.17684-WIE-95-ZZ-DR-C-020 P01 titled 'Plot 11 Proposed Layout Showing Highwall Extents'. The details submitted shall include a timetable for the provision of all mitigation works.

The approved foundation or other mitigating works shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of the safety and amenity of future residents and occupiers of the development.

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

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

*Prior to the commencement of any of the new uses hereby approved, and following completion of the measures identified in the approved Remediation Statement, a Validation Report demonstrating

the effectiveness of the remediation carried out shall be submitted to and approved by the Planning Authority.

*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. It should also be noted that a Verification Report would also need to be submitted confirming the satisfactory completion of these remedial works.

Reason

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

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

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

Reason

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

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

Reason:

To minimise the environmental impact of the development.

- 12 No part of the development hereby approved shall be occupied prior to the implementation and completion of works to upgrade Bankton Interchange to the satisfaction of the planning authority in consultation with Transport Scotland.

Reason

To mitigate the adverse impact of the development on the safe and efficient operation of the trunk road network.