



## NOTICE OF THE MEETING OF THE PLANNING COMMITTEE

**TUESDAY 7 JUNE 2022, 9.00am  
VIA A DIGITAL MEETING FACILITY**

---

### Agenda of Business

#### Apologies

#### Declarations of Interest

*Members should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest.*

1. Planning Application No. 22/00266/P: 40 Main Street, Gullane – Change of use of garden area to outdoor seating area (retrospective) **(pages 1-6)**  
*Note - this application was called off the Scheme of Delegation List by Councillor Findlay for the following reasons: To allow the Committee to decide whether an increase in noise levels and neighbour disturbance is acceptable in a residential and conservation area.*
2. Planning Application No. 22/00267/P: 40 Main Street, Gullane – Erection of covered roof area (retrospective) **(pages 7-12)**  
*Note - this application was called off the Scheme of Delegation List by Councillor Findlay for the following reasons: I believe it is for the Committee to decide whether an increase in noise levels and neighbour disturbance is acceptable in a residential and conservation area.*
3. Planning Application No. 22/00357/P: Skateraw Farm, Innerwick – Change of use of agricultural sheds to storage and distribution units (Class 6) **(pages 13-18)**  
*Note - this application was called off the Scheme of Delegation List by Councillor Collins for the following reasons: I believe this would be in the public interest to come before planning committee. There has been a lot of interest locally regarding the application, causing a lot of concern to local residents in regards to noise and also road safety of the Skateraw Junction on the A1.*
4. Planning Application No. 21/01604/P: Letham Holdings Phase 3, Haddington – Substitution of house types on plots 495-503 and 506-541, repositioning of plots 495-503 and 506-541 and associated works as changes to the scheme of development the subject of planning permission 19/00643/PM **(pages 19-28)**  
*Note - this application was called off the Scheme of Delegation List by Councillor McMillan for the following reasons: To bring to Committee for information and wider consideration on the grounds of local concerns.*

Planning applications can be viewed on the Council's website within Planning Online at:

<http://www.eastlothian.gov.uk/site/scripts/documents.php?categoryID=200192>

Planning Committee reports can be viewed on the Council's website within the Committee Pages at:

[https://www.eastlothian.gov.uk/meetings/committee/7/planning\\_committee](https://www.eastlothian.gov.uk/meetings/committee/7/planning_committee)

Planning Committee meetings can be viewed on the Council's website within the Committee Pages at:

<https://eastlothian.public-i.tv/core/portal/webcasts>

5. Planning Application No. 21/00120/AMM: Blindwells – Conditions 1d, 1h and 1i (details of road, footpath, cycle path, landscape and drainage infrastructure for Phase 2) of planning permission in principle 20/01030/PM **(pages 29-40)**
6. Planning Application No. 21/01580/PM: Blindwells – Section 42 application variation to conditions 1, 13, 30 and delete condition 31 of planning permission 20/01030/PM **(pages 41-66)**
7. Planning Application No. 21/00449/PM: Blindwells – Erection of 77 houses and associated works **(pages 67-80)**
8. Planning Application No. 22/00009/AMM: Land to South, East, and West Wallyford – Approval of matters specified in conditions of planning permission in principle 14/00903/PPM – Erection of 90 flats and associated works **(pages 81-95)**

**Monica Patterson  
Chief Executive  
John Muir House  
Haddington**

**31 May 2022**

*Planning applications can be viewed on the Council's website within Planning Online at:*

<http://www.eastlothian.gov.uk/site/scripts/documents.php?categoryID=200192>

*Planning Committee reports can be viewed on the Council's website within the Committee Pages at:*

[https://www.eastlothian.gov.uk/meetings/committee/7/planning\\_committee](https://www.eastlothian.gov.uk/meetings/committee/7/planning_committee)

*Planning Committee meetings can be viewed on the Council's website within the Committee Pages at:*

<https://eastlothian.public-i.tv/core/portal/webcasts>

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

---

**1**

*Note - this application was called off the Scheme of Delegation List by Councillor Findlay for the following reasons: To allow the Committee to decide whether an increase in noise levels and neighbour disturbance is acceptable in a residential and conservation area.*

Application No. **22/00266/P**

Proposal Change of use of garden area to outdoor eating/seating area (Retrospective)

Location **40 Main Street  
Gullane  
EH31 2AL**

Applicant Mr L Crolla

Per Format Design

**RECOMMENDATION** Consent Granted

## **REPORT OF HANDLING**

### **PROPOSAL**

This application relates to the restaurant named 'Main Course' which occupies the ground floor premises of a two storey and attic terraced building located at the west end of Rosebery Place on the south side of Main Street in Gullane. The first floor component of the building is in use as a residential flat. The building is located within a predominantly residential area as defined by Policy RCA1 of the adopted East Lothian Local Development Plan 2018 and it is also within Gullane Conservation Area.

The premises fronts onto the public road of Main Street to the north. To the west is the residential property named 'The Saughs', to the east are the ground floor commercial properties of Rosebery Place with flats above and to the south of the premises is the rear garden of the neighbouring house named 'Kirklands'.

In October 2013, planning permission (Ref: 13/00643/P) was granted for the change of use of the premises from a delicatessen (Class 1) to restaurant (Class 3) and for the extension to an existing chimney pot on the rear (south) elevation of the building. Planning permission 13/00643/P has been implemented for some time.

In January 2015, planning permission (Ref: 14/00925/P) was granted for alterations to shopfront and installation of awnings. Planning permission 14/00925/P has been partly implemented as the alterations to the frontage of the building have been undertaken.

In March 2017, planning permission (Ref: 16/01027/P) was granted for a single storey flat roofed extension onto the rear (south) elevation of the building. Planning permission 16/01027/P has been implemented and the extension now forms part of the built form of the building.

In February 2021, planning permission (Ref: 20/01391/P) was granted for alterations and extension to the building, formation of hardstanding area and erection of shed and fencing (Part Retrospective).

In March 2021, the Council refused a certificate of lawfulness (Ref: 20/01403/CLU) for the use of the rear garden area of the building as a restaurant (Class 3) use for the following reason:

'It has not been demonstrated that the lawful use of the rear garden area has changed from a domestic garden associated with the first floor flat of 41 Main Street to an outdoor drinking/dining area used in association with the restaurant use operating from 40 Main Street. Neither has it been demonstrated that the rear garden has been in use as an external dining/drinking area for a period of 10 years or more. Therefore the rear garden area of the building of 40/41 Main Street cannot be lawfully used as an external dining/drinking area in association with the existing restaurant use operating from the ground floor premises of the building'.

The applicant appealed against the decision to refuse a Certificate of Lawfulness to the Scottish Government's Directorate of Planning and Environmental Appeals on 25th March 2021. On 15th June 2021 the Reporter, appointed by the Scottish Ministers to determine the appeal, dismissed the appeal concluding that a certificate of lawfulness should not be granted.

Planning permission is now retrospectively sought for the change of use of the rear garden area for use as an outdoor seating, eating and drinking area in association with the existing restaurant use operating from the ground floor premises of the building.

Through separate application 22/00267/P planning permission is sought for Erection of covered roof area (Retrospective). A separate report on application 22/00267/P is, at this time, on the Council's Scheme of Delegation List.

## **DEVELOPMENT PLAN**

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Development Plan 2018.

There are no policies of the approved South East Scotland Strategic Development Plan

(SESplan) relevant to the determination of this application. Policies RCA1 (Residential Character and Amenity), CH2 (Development Affecting Conservation Areas), DP2 (Design) and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of the application.

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

Scottish Planning Policy echoes the statutory requirements of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that a planning authority must have regard to the desirability of preserving or enhancing the character or appearance of a conservation area in exercising its responsibilities in the determination of any application for planning permission for development affecting a conservation area. It is stated in Scottish Planning Policy that proposed development within conservation areas and proposals outwith which will impact on its appearance, character or setting, should preserve or enhance the character and appearance of the conservation area. Proposals that do not harm the character and appearance of the conservation area should be treated as preserving its character and appearance.

## **REPRESENTATION**

Twenty objections to this application have been received. The main grounds of objection are summarised below:

- (i) the use of the garden area as an outdoor seating, eating and drinking area will encourage, and increase, outdoor noise which will be a nuisance to neighbouring residential properties;
- (ii) the use of the garden area as an outdoor seating, eating and drinking area will exaggerate the spread of cooking smells and cigarette smoke;
- (iii) there are noise and smells emanating from the kitchen of the restaurant which is supposed to have a self-closing door but the door is always left open;
- (iv) the rear garden was not intended to be used as an outdoor seating area, eating and drinking area and was not included in the original 'change of use' application when the building became a restaurant in 2013;
- (v) there are bright lights which keep the outdoor space lit at night which impact on the amenity of a neighbouring residential property;
- (vi) the hardsurfaced area created around the garden space being used as an outdoor seating, eating and drinking area amplifies noise considerably to the detriment of neighbouring residential properties;
- (vii) the use of the rear garden area as an outdoor seating area impacts on the privacy of neighbouring residential properties; and
- (viii) if approved, the use of the outdoor seating, eating and drinking area should have strict conditions to ensure that alcohol is only served with food within the garden area and that the use of the garden area should only operate during specific timeframes throughout the day.

## **COMMUNITY COUNCIL COMMENTS**

Gullane Area Community Council, as a consultee to this application, state that this application has the potential to cause noise and odour nuisance to neighbouring residential properties and, should planning permission be approved, that consideration be given to imposing conditions that could usefully be applied to limit any noise/odour concerns.

## PLANNING ASSESSMENT

To support businesses operating within the restrictions on social distancing during the COVID-19 pandemic the Scottish Government's issued guidance to local planning authorities in respect of outdoor dining at eating and drinking establishments in Scotland. The Chief Planner's letters of March and May 2020 included, amongst other matters, guidance for local planning authorities to, where possible to take a relaxed and supportive approach to local businesses who had made changes to their business practices and to avoid taking planning enforcement action which would result in unnecessary restrictions on those businesses during the COVID-19 pandemic. However, in November 2021 the Chief Planner issued further guidance which informed that this period of planning relaxation would be withdrawn by the end of September 2022 and that those business who have been benefitting from being allowed to operate temporarily without necessary planning permissions should apply for, and obtain, retrospective permissions before the end of September 2022 if they wish to continue beyond that point.

In accordance with the advice from the Scottish Government, the Council as Planning Authority took a relaxed and supportive stance in respect of the large open-sided marquee that was erected by the applicant within the garden area of the building and which was used as an external drinking/dining area in association with the restaurant use of the ground floor premise of 40 Main Street. That marquee has since been removed to facilitate the position of the extension, the subject of planning permission 20/01391/P.

As established through the determination of the certificate of lawfulness ref: 20/01403/CLU issued in March 2021 the lawful use of the rear garden area remains as a domestic garden belonging to the first floor flat of 41 Main Street. However, the applicant now owns both the first floor flat of 41 Main Street and the ground floor restaurant premise of 40 Main Street and has operated the rear garden area as an outdoor seating, eating and drinking area in association with the restaurant use of 40 Main Street since July 2020.

This planning application now seeks to formalise the use of rear garden area as a permanent outdoor eating/drinking and seating area in association with the existing restaurant use of the ground floor premises of the building.

Policy RCA1 of the adopted East Lothian Local Development Plan 2018 states that the predominantly residential character and amenity of existing or proposed housing areas will be safeguarded from the adverse impacts of uses other than housing. Development incompatible with the residential character and amenity of an area will not be permitted. Proposals for new development will be assessed against appropriate local plan policies.

The garden area, the subject of the change of use, is located immediately to the rear of the existing restaurant named 'Main Course'. It measures some 100 square metres in area and is fully enclosed along its south and west boundaries by a high stone wall and otherwise by a solid timber fence along its east boundary. Consequently it is not visible from a public place. In any views from within neighbouring properties the garden has a visual relationship with the building of 40/41 Main Street. Therefore, the use of the garden as an outdoor seating, eating and drinking area in association with the existing restaurant use of the premises of 40 Main Street is a natural extension of that well-established business, within the village of Gullane. The tables and chairs sited within the rear garden area, and which are used as seating areas, are not visible from a public place and do not appear as harmfully dominant or intrusive features within their setting. Therefore the change of use of the rear garden to an outdoor dining and drinking area

and the placing of tables and chairs within it is not inappropriate to its setting and does not harm the character and appearance of this part of the Gullane Conservation Area.

By virtue of their positions and orientations and due to the enclosures of the rear garden of the building, the use of the rear garden as an outdoor eating and drinking area and the erected tables and chairs do not allow for harmful overlooking or overshadowing of any neighbouring residential properties.

The **Council's Senior Environmental Health Officer** advises that he is aware of representations made from a neighbouring residential property concerning noise and lighting associated with the proposed use of the rear garden area as an outdoor eating/seating area. He also advises that Environmental Health cannot confirm that noise arising from patrons will, or will not, significantly impact upon residential amenity because noise associated with external drinking/dining areas is subjective and will vary from hour to hour and day to day and depend largely on the conduct of the persons using the external drinking/dining area and also upon effective management of such behaviour and associated noise by management. Therefore whilst he does not object to the application, to safeguard the residential amenity of the occupants of neighbouring residential properties he recommends that the following conditions be imposed, on any grant of planning permission:

- (i) the use of the outdoor seating, eating and drinking area shall be restricted to a temporary period of one year from the date of a grant of planning permission to allow any complaints that may arise due to noise to be monitored and assessed;
- (ii) the use of, and access to/from, the outdoor seating, eating and drinking area shall only be permitted between the hours of 1100-2000 on any day; and
- (iii) the design and construction of any proposed artificial lighting within the outdoor seating, eating and drinking area should take account of the Guidance contained within Annex 1 to Appendix 2 of Scottish Government Guidance to Accompany the Statutory Nuisance Provisions of the Public Health etc (Scotland) Act 2008. Accordingly, within an E3 Zone, (i.e. medium district brightness area such as small town centres or urban locations) light trespass (onto windows) of neighbouring residential properties, measured as Vertical Illuminance in Lux, (Ev), shall not exceed 10 between the hours of 0700-2300 and shall not exceed 2 between the hours of 2300-0700.

The above controls can reasonably be secured as conditions imposed on a grant of planning permission and subject to those conditions the use of the proposed outdoor seating, eating and drinking area would not, in its locational context within this predominantly residential area, and associated as it is with the existing and authorised restaurant use of the building of 40 Main Street, cause unacceptable harm through noise nuisance and disturbance to the amenity of neighbouring residential properties. In addition to these recommended conditions, it would also be prudent to impose further conditions to ensure that no public entertainment, amplified music, amplified vocals or live music be played in the outdoor seating, eating and drinking area and that any doors to the rear garden are self closing doors. Accordingly, and subject to those aforementioned planning controls, the retrospective change of use of the rear garden area to an outdoor seating, eating and drinking area does not conflict with Policy RCA1 of the adopted East Lothian Local Development Plan 2018.

The **Council's Road Services Officer** advises that this retrospective application is for an outdoor seating area for customers of the restaurant with a maximum capacity of 32 covers, which would be in addition to the main indoor seating area which currently has a capacity of 60 covers.

He states that the restaurant does not have a dedicated on-site car park but that there is

on-street parking adjacent to the site with a daytime restriction of 90 minutes maximum stay (Monday to Saturday between the hours of 0830-1730). The **Council's Road Services Officer** states that the proposals represent a theoretical increase in capacity proportionately but, given that it is outdoor seating that would be seasonal to a large extent, the number of visitors typically at the restaurant would increase to a lesser degree. He also advises that other commercial properties nearby are mainly focused towards daytime uses so some increases in parking demand associated with a restaurant use, being focused more towards the evening, is not likely to be problematic in terms of overall parking demands on-street in the area. Accordingly, the **Council's Road Services Officer** raises no objection to this application being satisfied that the proposals do not conflict with Policy T2 of the adopted East Lothian Local Development Plan 2018.

On these considerations, the proposals are consistent with Policies RCA1, CH2, DP2 and T2 of the adopted East Lothian Local Development Plan 2018 and with Scottish Planning Policy: June 2014. Therefore, the proposals are considered to be in accordance with the provisions of the stated relevant Development Plan policies and there are no material considerations which outweigh the proposal's accordance with the Development Plan.

#### **CONDITIONS:**

- 1 Planning permission is granted for a temporary period of 1 year, beginning from the date of this grant of planning permission, and after which time, unless planning permission is granted, the use of the rear garden as an outdoor eating and drinking area shall cease and the tables and chairs shall be removed from it.

Reason:

To enable the Planning Authority to monitor the noise impact of the outdoor seating, eating and drinking area, in the interests of the amenity of nearby residential properties.

- 2 The outdoor seating, eating and drinking area hereby approved shall only be used between the hours of 11:00am and 8:00pm, on any day of the week.

Reason:

To ensure that the use of the outside seating, eating and drinking area does not cause nuisance to neighbouring residential properties to an unacceptable level.

- 3 Any light trespass (onto windows) of neighbouring residential properties, as a result of the proposed lighting at the premise, measured as Vertical Illuminance in Lux, (Ev), shall not exceed 10 between the hours of 0700-2300 and shall not exceed 2 between the hours of 2300-0700.

Reason:

In the interests of protecting the amenity of neighbouring residential properties in the area.

- 4 There shall be no public entertainment, amplified music, amplified vocals or live music played in the outdoor seating, eating and drinking area hereby approved.

Reason:

To ensure that the use of the outside seating, eating and drinking area does not cause nuisance to neighbouring residential properties to an unacceptable level.

- 5 Within 1 month of this grant of planning permission any door(s) providing access to the outdoor seating area from the licensed premises of The Main Course restaurant shall be made self-closing, and that door(s) shall remain self-closing thereafter unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of safeguarding the amenity of neighbouring residential properties.



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

---

**2**

*Note - this application was called off the Scheme of Delegation List by Councillor Findlay for the following reasons: I believe it is for the Committee to decide whether an increase in noise levels and neighbour disturbance is acceptable in a residential and conservation area.*

Application No. **22/00267/P**  
Proposal Erection of covered roof area (Retrospective)  
Location **40 Main Street  
Gullane  
EH31 2AL**

Applicant Mr L Crolla  
Per Format Design

**RECOMMENDATION** Consent Granted

## **REPORT OF HANDLING**

### **PROPOSAL**

This application relates to the restaurant named 'Main Course' which occupies the ground floor premises of a two storey and attic terraced building located at the west end of Rosebery Place on the south side of Main Street in Gullane. The first floor component of the building is in use as a residential flat. The building is located within a predominantly residential area as defined by Policy RCA1 of the adopted East Lothian Local Development Plan 2018 and it is also within Gullane Conservation Area.

The premises fronts onto the public road of Main Street to the north. To the west is the residential property named 'The Saughs', to the east are the ground floor commercial properties of Rosebery Place with flats above and to the south of the premises is the rear garden of the neighbouring house named 'Kirklands'.

In October 2013, planning permission (Ref: 13/00643/P) was granted for the change of

use of the premises from a delicatessen (Class 1) to restaurant (Class 3) and for the extension to an existing chimney pot on the rear (south) elevation of the building. Planning permission 13/00643/P has been implemented for some time.

In January 2015, planning permission (Ref: 14/00925/P) was granted for alterations to shopfront and installation of awnings. Planning permission 14/00925/P has been partly implemented as the alterations to the frontage of the building have been undertaken.

In March 2017, planning permission (Ref: 16/01027/P) was granted for a single storey flat roofed extension onto the rear (south) elevation of the building. Planning permission 16/01027/P has been implemented and the extension now forms part of the built form of the building.

In February 2021, planning permission (Ref: 20/01391/P) was granted for alterations and extension to the building, formation of hardstanding area and erection of shed and fencing (Part Retrospective).

In March 2021, the Council refused a certificate of lawfulness (Ref: 20/01403/CLU) for the use of the rear garden area of the building as a restaurant (Class 3) use for the following reason:

'It has not been demonstrated that the lawful use of the rear garden area has changed from a domestic garden associated with the first floor flat of 41 Main Street to an outdoor drinking/dining area used in association with the restaurant use operating from 40 Main Street. Neither has it been demonstrated that the rear garden has been in use as an external dining/drinking area for a period of 10 years or more. Therefore the rear garden area of the building of 40/41 Main Street cannot be lawfully used as an external dining/drinking area in association with the existing restaurant use operating from the ground floor premises of the building'.

The applicant appealed against the decision to refuse a Certificate of Lawfulness to the Scottish Government's Directorate of Planning and Environmental Appeals on 25th March 2021. On 15th June 2021 the Reporter, appointed by the Scottish Ministers to determine the appeal, dismissed the appeal concluding that a certificate of lawfulness should not be granted.

Planning permission is now retrospectively sought for the erection of a covered roof area, in the form of an open ended canopy, which abuts the side (west) elevation wall of the building and otherwise part of the west boundary wall enclosing the side garden of the building. It is supported by timber columns that abut the inner side of the stone wall enclosing the west boundary of the building.

Through separate application 22/00266/P planning permission is sought for change of use of garden area to outdoor eating/seating area (Retrospective). A separate report on application 22/00266/P is, at this time, on the Council's Scheme of Delegation List.

## **DEVELOPMENT PLAN**

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved South East Scotland Strategic Development Plan (SEsplan) and the adopted East Lothian Local Development Plan 2018.

There are no policies of the approved South East Scotland Strategic Development Plan (SEsplan) relevant to the determination of this application. Policies CH2 (Development Affecting Conservation Areas) and DP2 (Design) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of the application.

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

Scottish Planning Policy echoes the statutory requirements of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that a planning authority must have regard to the desirability of preserving or enhancing the character or appearance of a conservation area in exercising its responsibilities in the determination of any application for planning permission for development affecting a conservation area. It is stated in Scottish Planning Policy that proposed development within conservation areas and proposals outwith which will impact on its appearance, character or setting, should preserve or enhance the character and appearance of the conservation area. Proposals that do not harm the character and appearance of the conservation area should be treated as preserving its character and appearance.

## **REPRESENTATION**

Five objections to this application have been received. The main grounds of objection are:

- (i) the roof structure has been built without planning permission having first been sought for it;
- (ii) the erected covered roof structure impacts on general repairs and maintenance of a neighbouring residential property, restricts access to maintain the wall from the objectors' side and may cause structural damage to the existing boundary wall;
- (iii) the erected covered roof structure results in a neighbouring property becoming semi-detached as opposed to detached;
- (iv) the top of the covered roof structure is poorly kept, such that debris gathers on it, which is an eye sore from the windows of a neighbouring residential property;
- (v) the erected covered roof structure extends the restaurants kitchen area and encourages the kitchen door to be left open. The kitchen door is meant to be a self-closing door as per condition 2 of planning permission 16/01027/P and, when it is not closed properly, noise levels and smells are increased;
- (vi) fumes and smells from cooking in the kitchen area of the building pollutes washing within the drying greens of neighbouring properties;
- (vii) concerns are raised as to what is, and could be, stored underneath the covered roof area which may result in a fire safety hazard;
- (viii) there appears to be no adequate drainage arrangements to prevent water draining from the covered roof area into the rear wall of a neighbouring residential property; and
- (ix) the covered roof area impacts on the privacy of neighbouring residential properties.

In response to some of the points raised by the objectors above:

The fact that the covered roof area has already been erected without planning permission having first been granted for it does not debar the applicant from applying retrospectively for planning permission and does not preclude a determination of this application on the merits of the proposed development, assessed against relevant development plan policies and other material planning considerations.

The matter of whether or not any structural damage could be caused to the boundary wall of a neighbouring residential property as a result of a proposed development, or any restriction to access for repairs or maintenance of a neighbouring property, is not a material consideration relevant to the determination of an application for planning permission.

The fact that the covered roof area abuts the mutual boundary wall of a neighbouring residential property does not change the status of that neighbouring house to a 'semi-detached' property. Nevertheless, this matter is not, in itself, a material consideration relevant to the determination of an application for planning permission.

Whether or not the top of the covered roof structure is poorly kept is not a material consideration relevant to the determination of an application for planning permission.

The erected covered area is not enclosed and does not form part of the kitchen of the existing building. However, failure to comply with any conditions imposed on a grant of planning permission, particularly with regards to condition 2 of planning permission 16/01027/P as stated by the objectors, would be a matter for the **Council's Enforcement Officer** to investigate.

Any fumes and smells that are expelled from the kitchen into the communal rear garden areas which pollutes washing within drying greens is a matter controlled through legislation other than planning. Any complaints received in relation to this would be investigated by colleagues in Environmental Health and Trading Standards service.

Any materials stored within the covered area that could result in a fire hazard safety is not a material consideration in the determination of an application for planning permission.

Matters relating to drainage and water run-off are not material considerations in the determination of an application for planning permission. Such matters are controlled under other legislation other than planning legalisation.

The remaining points raised by the objectors are addressed elsewhere within this report of handling.

## **COMMUNITY COUNCIL COMMENTS**

Gullane Area Community Council, as a consultee to this application, state that this application has the potential to cause noise and odour nuisance to neighbouring residential properties and, should planning permission be approved, that consideration be given to imposing conditions that could usefully be applied to limit any noise/odour concerns.

## **PLANNING ASSESSMENT**

The erected covered roof area, in the form of an open ended canopy, abuts the side (west) elevation of the building and otherwise part of the west boundary wall enclosing part of the garden of the building. It is rectangular in shape measuring some 5.4 metres long, some 3.1 metres wide and some 2.8 metres above ground level. Its shallow mono-pitched roof covering is clad in a white coloured, aluminium framed, corrugated finish. In its position, affixed to part of the side (west) elevation of the building, the erected covered roof area is not visible in public views of it. Nevertheless, due to its discreet position and its relatively small size, scale and low height, the erected covered roof is appropriate to its place and well integrated into its surroundings. It does not appear harmfully as a

harmfully dominant, intrusive or incongruous feature within its garden setting. It does not harm the character and appearance of the building or the character and appearance of this part of the Gullane Conservation Area.

The use of it does not, due to the enclosures of the garden of the building, allow for harmful overlooking of any neighbouring residential properties.

Owing to its size, form, height, position and orientation, the erected covered roof area does not give rise to a harmful loss of sunlight or daylight received by any neighbouring residential properties.

The **Council's Senior Environmental Health Officer** raises no objection to this application.

The **Council's Road Services Officer** raises no objection to this application.

On these considerations, the erected covered roof area does not conflict with Policies CH2 or DP2 of the adopted East Lothian Local Development Plan 2018 or with Scottish Planning Policy: June 2014. Therefore, the proposal is considered to be in accordance with the provisions of the stated relevant Development Plan policies and there are no material considerations which outweigh the proposal's accordance with the Development Plan.

CONDITION:

1       None.



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

---

**3**

*Note - this application was called off the Scheme of Delegation List by Councillor Collins for the following reasons: I believe this would be in the public interest to come before planning committee. There has been a lot of interest locally regarding the application, causing a lot of concern to local residents in regards to noise and also road safety of the Skateraw Junction on the A1.*

Application No. **22/00357/P**  
Proposal Change of use of agricultural sheds to storage and distribution units (Class 6)  
Location **Skateraw Farm  
Innerwick  
EH42 1QR**

Applicant Firm of William Moffat  
Per John A Fyall

**RECOMMENDATION** Consent Granted

## **REPORT OF HANDLING**

### **PROPOSAL**

This application relates to two existing agricultural buildings, their curtilages and their access roads at Skateraw Farm to the southeast of Dunbar. The application site is within the countryside as defined by policy DC1 of the adopted East Lothian Local Development Plan 2018.

The agricultural buildings are located at points on either side (north and south) of the U223 public road. The sheds are bounded on all sides by land that is in agricultural uses. However beyond this agricultural land to the east of both of the sheds are residential properties. The application site is not within a conservation area, it is however within a site of some historic interest.

Planning permission is sought for a change of use of the sheds from an agricultural use (Class 18 of The Town and Country Planning (Use Classes) (Scotland) Order 1997 to a storage and distribution use, a use within Class 6 of The Town and Country Planning (Use Classes) (Scotland) Order 1997.

The agricultural building on the south side of the U223 public road is the larger of the two buildings and is of a rectangular shape with a footprint of some 3627 square meters. The main access to that building is taken from an existing access junction with the U223 road to the south. The northernmost building is of a square shape with a footprint of some 946 square meters. Main access to that building is taken from an existing access junction with the U223 road to the north. Both buildings are bounded by hard surface service areas. They have pitched roofs and are externally finished in profiled metal sheeting on the upper walls and roofs.

The agricultural buildings are currently let on a temporary basis for crop and grain storage. The applicant informs that long term lets are sought for a more general storage and distribution use to fully utilise the agricultural buildings.

No external works or internal alterations to the buildings are proposed to facilitate the change of use.

## **DEVELOPMENT PLAN**

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Development Plan 2018.

There are no policies of the approved South East Scotland Strategic Development Plan (SESplan) relevant to the determination of this application. Policies DC1 (Rural Diversification) CH4 (Scheduled Monuments and Archaeological Sites) and T2 (General Transport Impact) are relevant to the determination of this application.

## **REPRESENTATIONS**

A total of 11 letters of public objection to the application have been received. The main grounds of objection are:

- i) no detailed description has been provided of proposed storage and distribution operations, number of employees or hours of operation;
- ii) proposals are not for an established countryside use and are not consistent with existing agricultural and residential character of the area;
- iii) increase in traffic and the impact this will have on road safety;
- iv) mud on the public road being a road safety issue;
- v) the junction from the road onto the A1 is not a safe access and is not suitable for an increase in traffic;
- vi) impacts on amenity of neighbouring residential properties through increased levels of noise, light and dust;
- vii) the applicant lives off site;
- viii) no environmental impact assessment has been undertaken;
- ix) application is for two separate sites;
- x) a number of uses have previously been undertaken on the site of the application



without required consents;

- xi) impact of proposals on value of adjacent residential properties; and
- xii) all residents of Skateraw should be notified of proposals.

In response to the some of the points raised by objectors:

-there is sufficient detail submitted with the application to reasonably enable the planning authority to take a decision on this proposed change of use;

-there is no requirement for an applicant to reside permanently on a site for which development is proposed. The fact that the applicant lives off site is not a material planning consideration relevant to the determination of this planning application;

-Whether or not a development requires an Environmental Impact Assessment is determined by The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017. In accordance with those Regulations this is not a development type that requires an Environmental Impact Assessment;

-the application has been submitted by a single applicant providing one address as the location of proposed development. There is no requirement for 2 separate planning applications;

-On the matter of previous unauthorised uses of the sheds, this planning application stands to be determined on its merits in accordance with the Development Plan unless material considerations indicate otherwise. Any unauthorised uses could be investigated by the Planning Enforcement Service;

-matters relating to property values are not a material planning consideration in the determination of this planning application; and

- the Council as Planning Authority has notified all relevant neighbouring properties within 20m of the application site. Therefore the neighbour notification that has been carried out satisfies the requirements of the Town and Country Planning (Scotland) Act 1997.

The remaining points raised by the objectors are addressed elsewhere within this report of handling.

## **COMMUNITY COUNCIL COMMENTS**

Dunbar Community Council have commented on the application and raise concerns on the following grounds:

- increased vehicle movements and road safety;
- loss of amenity for residents of neighbouring residential properties;
- environmental impacts of proposed storage use; and
- lack of supporting information relating to intended storage use.

## **PLANNING ASSESSMENT**

Policy DC1 of the adopted East Lothian Local Development Plan 2018 states that development in the countryside, including changes of use or conversion of existing buildings, will be acceptable in principle where it is for: (a) agriculture, horticulture, forestry, infrastructure or countryside recreation; or (b) other businesses that have an operational requirement for a countryside location, including tourism and leisure uses.

Any proposals for the restoration or conversion of vernacular buildings to accommodate uses supported in principle by this policy should be of an appropriate scale and character and designed in such a way that maintains or complements their layout and appearance.

The use of the existing agricultural buildings for storage and distribution use (Class 6) is not a use related to agriculture, horticulture, forestry, infrastructure or countryside recreation nor does it have a locational requirement to be operational within the countryside. However, Policy DC1 does not prohibit such uses. In this case, the existing agricultural buildings have been in their countryside location for many years. They stand intact and are physically suitable for a Class 6 storage and distribution use. There is no proposal for the erection of new buildings in the countryside or the extension to an existing building. Rather the proposal is merely to utilise existing buildings in a countryside location that are no longer required for the use for which they were built. The use of the buildings and land of the site for Class 6 storage and distribution use constitutes an appropriate form of farm diversification that can be accommodated without detriment to the wider environment. Furthermore, there would be no encroachment onto cultivated agricultural land. In all of this, the proposed storage and distribution use is of an appropriate scale and character for its countryside location. In this regard the proposed change of use of the agricultural buildings is in principle not contrary to Policy DC1 of the adopted East Lothian Local Development Plan 2018.

Due to their set-back locations to the north and south of the U223 public road and their distance away from neighbouring residential properties the proposed use of the agricultural buildings for storage and distribution use would not harm the residential amenity of neighbouring residential properties to the east.

There are no land uses in close proximity to the agricultural buildings on which the proposed change of use to a storage and distribution use would have a harmful affect.

The **Council's Senior Environmental Protection Officer** has been consulted on the application and has responded no comment.

Policy T2 of the adopted East Lothian Local Development Plan 2018 states, among other things that new development must have no significant adverse impact on road safety.

The access onto the U223 from the A1 is an existing access used by farm vehicles and local residents to access their properties. It is also used by members of the public visiting the nearby beach at Skateraw Harbour. The Council's Road Services raise no objection to the proposals being satisfied that the buildings could be accessed without raising issues of road safety. The proposal therefore complies with Policy T2 of the East Lothian Local Development Plan 2018.

The **Council's Archaeology and Heritage Officer** raises no objection to the application being satisfied that the proposed change of use of the agricultural buildings for use as storage and distribution will have no impact on the historic environment.

Accordingly, the proposals do not conflict with Policy CH4 of the adopted East Lothian Local Development Plan 2018.

In conclusion, the proposals are considered to be in accordance with the provisions of the stated relevant Development Plan policies and there are no material considerations which outweigh the proposal's accordance with the Development Plan.

CONDITIONS:

- 1 Notwithstanding the provisions of Part 3 of the General Permitted Development (Scotland) Order 1992 the use of the buildings and land of the application site shall be limited to uses within Class 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 or any order that subsequently amends or re-enacts this order.

Reason:

To restrict the use of the buildings and land to that which was applied for in the interests of the amenity of neighbouring residential properties.

- 2 No outside storage shall take place within the application site without the prior written consent of the Planning Authority.

Reason:

In the interests of the visual amenity of the area.



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

---

**4**

*Note - this application was called off the Scheme of Delegation List by Councillor McMillan for the following reasons: To bring to Committee for information and wider consideration on the grounds of local concerns.*

Application No. **21/01604/P**

Proposal Substitution of house types on plots 495-503 and 506-541, repositioning of plots 495-503 and 506-541 and associated works as changes to the scheme of development the subject of planning permission 19/00643/PM

Location **Letham Holdings Phase 3  
Haddington  
East Lothian**

Applicant Taylor Wimpey

**RECOMMENDATION** Consent Granted

## **REPORT OF HANDLING**

### **PROPOSAL**

This planning application relates to an area of former agricultural land at Letham Mains, on the western side of Haddington. The application site forms part of a larger area of land allocated by Proposal HN2 (Letham Mains Expansion, Haddington) of the adopted East Lothian Local Development Plan 2018 for a residential development of circa 275 homes.

The application site is adjacent to, and forms an expansion of, the larger Letham Mains development site allocated by Proposal HN1 (Letham Mains, Haddington) of the adopted East Lothian Local Development Plan 2018 for a mixed use development of circa 800 houses, education and community facilities, a local centre, infrastructure and associated works. That site is currently well under construction.

In October 2021, planning permission (Ref: 19/00643/PM) was granted for the erection of 240 houses, 32 flats and associated works on the Letham Mains Expansion allocated housing site. Planning permission 19/00643/PM has not commenced but remains extant until 6th October 2024.

This application relates to part of the southwest end of the site the subject of planning permission 19/00643/PM, and planning permission is now sought for the substitution of house types approved for plots 495-503 and 506-541, as changes to the scheme of development the subject of planning permission 19/00643/PM. The proposed changes to the scheme of development approved by planning permission (Ref: 19/00643/PM) would affect 45 of the 140 residential units approved within part of the Taylor Wimpey component of the site. Each of those 45 units would be slightly re-positioned within the site. The proposals also include some minor changes to driveway layouts, boundary treatments and landscaping within the site.

The proposed development would comprise of a mix of 29 detached houses, 12 semi-detached houses and a terrace of 4 houses. The majority of the houses would all be two storey in height with the exception of the two southern most houses which would be single storey bungalows. There are 14 different house types in total and they would all be marketed for private sale. Access would be provided from the approved spine road within the Letham Mains site. No changes to the approved distributor roads which serve them are proposed.

Subsequent to the registration of this application, the applicant's agent has submitted revised drawings to address a number of points raised by the Council's Road Services department.

## **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). Proposal HN2, and Policies DP2 (Design), DP4 (Major Development Sites), DP1 (Landscape Character), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the East Lothian Local Development Plan 2018 are relevant to the determination of this application.

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.

A further material consideration to the determination of the application is the non-statutory Development Brief HN2 - Letham Mains Expansion which was adopted by the Council on 30th October 2018.

## REPRESENTATION

Twenty four objections and two representations to this application have been received. The main grounds of objection and representation are:

- (i) house plots 533 and 534 do not face the unclassified Letham Mains Holdings lane and thus do not accord with ELC'S supplementary guidance/development brief;
- (ii) house plots 533 and 534 are shown to be positioned hard up against the west boundary of the site but should be set back 10-15 metres from that boundary. They should also be no higher than 1.5 storey;
- (iii) the proposed layout plan shows 9 houses surrounding two sides of 31 Letham Mains Holdings which is excessive, unreasonable and without precedent. It is suggested that a planted buffer corridor be undertaken around the south and east side of 31 Letham Mains Holdings to help create a tapered edge and preserve the character of the holdings;
- (iv) signage should be installed for traffic approaching the Letham Mains Holdings Lane junction on the Pencaitland road to indicate that Letham Mains Holdings Lane is for local access only; and
- (v) it should be made a requirement that a safe and convenient shared use footpath is maintained at all times from the Letham Mains Holdings Lane along the north side of Pencaitland Road.

House plot 533 was previously approved to face into the site and not onto the Letham Holdings Road. Therefore there is not significant change to the positioning and orientation of that house plot of the development.

With regards to house plot 534 the scheme of development approved by planning permission 19/00643/PM included an access road leading from the development onto the Letham Holdings road. However at Planning Committee, it was decided that due to public objection that, there should be no vehicular access from the development onto Letham Holdings Road. Accordingly Condition 26 of planning 19/00643/PM states that there shall be no direct vehicular access from the application site to the unnumbered road to the southwest of the application site. Therefore this part of the site had to be amended to accommodate that change to the development layout to ensure a turning head could be incorporated on that part of the site. Consequently house plot 534 has been orientated to face north and shown to be accessed via a distributor road within the site. However that house will have an enhanced gable facing onto the Letham Holdings Road.

In response to point (ii) above, house plots 533 and 534 have been re-positioned further eastwards within the site and set back from the western boundary as shown in drawing number 21917/02/PH3 01 Revision B titled 'Development Layout Phase 3'.

In response to point (iii) above, the position and number of houses located to the south and east of 31 Letham Mains Holdings are the same as those approved through planning permission 19/00643/PM.

In response to points (iv) and (v) above, the **Council's Road Services Officer** advises that, in the context of this current application, there is no requirement to condition that any signage be installed on Letham Holdings Lane and that the installation of signage is not considered to be proportional mitigation. He also states that the requirement for a shared use footpath along the northern side of Pencaitland Road from Letham Holdings Lane is included within the current scheme.

## COMMUNITY COUNCIL COMMENTS

None.

## PLANNING ASSESSMENT

By the grant of planning permission 19/00643/PM, approval has been given for the detailed layout and design of 272 residential units comprising 240 houses and 32 flats within the site. As the number of residential units would remain as consented it is only the alteration to the extant consent which is being considered by this planning application.

The details now submitted for approval show a layout of development that is not significantly different to the layout of development already approved for this part of the Letham Mains Expansion site.

The proposed substitution of house types, in their proposed groupings, orientations and layout, would generally be consistent with the site layout as previously approved by planning permission 19/00643/PM. The houses now proposed would not cause any incongruous change to the architectural harmony, integrity and character of the scheme of housing development approved for this part of the Letham Mains Expansion site, provided there is compliance with the scheme of external finishes approved for the development as a whole by the grant of planning permission 19/00643/PM. In this regard, the predominant external wall finish should be render. Subject to the control over their finishes the proposed substitution of houses would, by virtue of their size, scale, height, design, finishes and layout, integrate and sit comfortably with the built architectural form and layout of the existing housing of the area and with the scheme of housing development already approved for this part of the Letham Mains Expansion site. They would not be harmful to the character and appearance of the landscape of the area.

The proposed development would provide an attractive residential environment for future residents of the proposed houses. The houses 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 application site is capable of accommodating all of the houses without being an overdevelopment of the site and without being incompatible with the density of existing housing development in the area.

On these considerations of design, layout and amenity, the proposals are consistent with Proposal HN2 and Policies DP1, DP2 and DP4 of the adopted East Lothian Local Development Plan 2018, the Council's adopted development brief for the site and Scottish Government Policy Statement entitled "Designing Streets".

The **Council's Senior Environmental Health Officer** raises no objection to this planning application.

The Council's Team Manager for Structures, Flooding and Street Lighting raises no objection to this planning application and notes that Technical Approval for the SUDS and drainage approved within the larger development site have been received from Scottish Water.

The **Council's Archaeology Officer** advises that there has been extensive



archaeological investigations which, despite there being a high potential for archaeological remains to be present on site, have shown that there is extensive disturbance across large areas of the wider Letham Mains area. He advises that there is no reason to suggest that the area of this application site has been subject to any less ground disturbance and thus considers that there is a low potential for archaeological remains to survive within the site area. Accordingly, he raises no objection to this planning application.

The **Council's Landscape Projects Officer** states that a scheme of landscaping shall be submitted for approval prior to the commencement of development. She advises that the scheme of landscaping shall include the height and slopes of any mounding on or re-contouring of the site, details of tree sizes, species, habitat, siting, planting distances and a programme of planting. Subject to an appropriately worded condition, the proposals do not conflict with Policy NH8 of the adopted East Lothian Local Development Plan 2018.

The Council's Road Services raise no objection to this planning application but recommend that the following requirements are made a condition on a grant of planning permission:

(i) all roads and paths shall conform to East Lothian Council Standards for Development Roads and, in particular, all paths and footways shall have a maximum longitudinal gradients of 5%;

(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) within private parking areas, the minimum dimensions of a single parking space shall be 2.5 metres by 5 metres. All visitor parking spaces within these areas shall be clearly marked for visitors with the remaining private parking spaces allocated to individual dwellings;

(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. This can be reduced to a minimum length of 5 metres on the proviso that there is adequate road space to manoeuvre in adjacent to the parking bay;

(v) 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 2.5m by 5 metres. The circulation lane should be 6 metres wide for nose-in parking - a narrower lane is acceptable for echelon parking;

(vi) all path and footway connections from a zone under construction to the existing settlement shall be constructed to an adoptable standard before the occupation of any units in that particular zone;

(vii) prior to commencement of development, a Factoring Plan shall be submitted clearly indicating the different responsibilities for long-term maintenance including: private and shared private areas, factored areas, and prospectively adoptable roads;

(viii) a Quality Audit to independently assess walking, cycling, access and road safety aspects within and around the development shall be submitted and approved by the Planning Authority prior to construction commencing. This will be reviewed after

construction is substantially complete and the developer required to make good any issues;

(ix) a Travel Information Pack with information for residents to encourage use of sustainable modes of transport such as trains, buses, cycling and walking shall be submitted to and approved by the Planning Authority prior to construction commencing. The Travel Information Pack will include local bus and train timetables, local cycling and walking maps, information on bike hire / car sharing, and shall include details of how it will be distributed to residents;

(x) a swept path, or vehicle track assessment, of the road layout must be submitted for prior approval to demonstrate how the site can accommodate a large vehicle. The Design Vehicle to be used is the "Large Rigid Vehicle" as outlined in the Freight Transport Association's document "Designing for Deliveries" - the vehicle being 2.5 metres wide with a 6.1 metres wheelbase and an overall vehicle length of 10 metres;

(xi) a Construction Method Statement to minimise the impact of construction activity on the safety and amenity of the area shall be submitted to and approved by the Planning Authority prior to the commencement of development. The Construction Method Statement shall recommend mitigation measures to control noise, dust, construction traffic (including parking, routes to/from site and delivery times) and shall include hours of construction work;

(xii) a Wheel washing facility be provided and maintained in working order during the period of operation of the site; and

(xiii) prior to the commencement of development, details of the provision of new electric vehicle charging points, including any infrastructure that may be required for them, shall be submitted to and approved in writing by the Planning Authority. At least one dedicated EV charging point shall be provided per dwelling. The details shall include a timetable for implementation. Development shall thereafter be carried out in accordance with the details so approved.

Subject to appropriately worded conditions, the proposals do not conflict with Policies T1 or T2 of the adopted East Lothian Local Development Plan 2018.

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. The effective measures required to reduce carbon emissions will be secured through the subsequent building warrant process. Such a condition should be imposed on a grant of planning permission for this proposed development.

Policy DEL1 of the East Lothian Local Development Plan 2018 stipulates that new housing will only be permitted where appropriate provision for infrastructure, required as a consequence of the development, is made. Planning permission (Ref: 19/00643/PM) for the overall Letham Mains Expansion site, to which this site forms a part of, was granted subject to conditions and following the conclusion of a Section 75 Legal Agreement to secure from the applicant:

(i) a financial contribution to the Council of £3,764,486 towards the provision of additional accommodation at Letham Mains Primary and Nursery School and Knox Academy;

- (ii) a financial contribution to the Council of £92,500 towards the cost of a 7 a side sports pitch and £353,460 towards the enhancement of existing sporting facilities within the Haddington Area;
- (iii) 68 affordable residential units within the application site; and
- (iv) a financial contribution to the Council of £148,470 for transport improvements.

The Council's Legal and Procurement Services has advised that the Section 75 Legal Agreement applies in respect of the now proposed development of 45 houses. Therefore this planning permission can be granted without the modification of the S75 legal agreement.

On this basis, the proposed development is consistent with Policies DEL1, HOU3, HOU4, ED5, CF1, T32 and, as applicable Proposals T15, T17, T21, T27 and T28 of the East Lothian Local Development Plan 2018.

In conclusion, the proposals are considered to be in accordance with the provisions of the stated relevant Development Plan policies and there are no material considerations which outweigh the proposal's accordance with the Development Plan. Accordingly, planning permission should now be granted subject to the undernoted conditions.

**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 shown in relation to the finished ground and floor levels on the site.

Reason:

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

- 2 Other than in exceptional circumstances where the layout or particular building type does not permit, the residential units shall be orientated to face the street. Notwithstanding that shown on the docketed drawings where a building is located on a corner of more than one street or road, it shall have enhanced gable(s) to ensure it has an active elevation to each street or road it faces. This includes the gables of the houses to be built on Plots 533 and 534 facing onto the Letham Holdings Road. The details of the enhanced gables shall be agreed with the Planning Authority.

Reason:

In the interests of safeguarding the character of the development.

- 3 Notwithstanding that which is stated on the drawings docketed to this planning permission, a detailed specification of all external finishes of the houses 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 shall be in accordance with a co-ordinated scheme of materials and colours that shall be submitted to and approved in advance by the Planning Authority. This co-ordinated scheme shall in detail promote render as the predominant

finish to the walls of the houses, with a use of more than one render colour and with a strongly contrasting difference in the colours such that they will not each be of a light colour. However, some use of a contrasting wall finish (i.e. reconstituted stone or facing brick) would be acceptable providing it is limited to a distinctively complete feature of the houses and flats and respectful of their design integrity. All such materials used in the construction of the houses shall conform to the details so approved.

Reason:

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

- 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 some other form of enclosure such as feature walls or hedges to heights and finishes to be approved in advance by the Planning Authority.

Details submitted shall also include the design, construction and materials of the entrance feature walls at the main accesses to the site. 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 No development shall take place on site until a scheme of landscaping has been submitted to and approved in writing by the Planning Authority. The scheme of landscaping shall include the height and slopes of any mounding on or re-contouring of the site, details of tree sizes, species, habitat, siting, planting distances and a programme of planting. It shall also include indications of all existing trees and hedgerows on the land, details of any to be retained, and measures for their protection in the course of development. The scheme shall include hedges of native species to all front gardens to be communally maintained at a minimum of 1 metre in height, tree planting of a mix species sizes with small species trees to front gardens, medium species trees to open spaces along roads and large species trees within open spaces.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the completion of the development or occupation of any house hereby approved, whichever is the sooner. Any trees, 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 or shrubs detailed in the approved landscaping plans to be retained on the site, shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the previous written consent of the Planning Authority.

Reason:

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

- 6 Prior to the occupation of the last of the residential units hereby approved, the proposed site access roads, parking spaces and footpaths shall have been constructed on site, in accordance with that which is shown on the docketed drawings, otherwise the layout shall be subject to the following requirements:

(i) all roads and paths shall conform to East Lothian Council Standards for Development Roads and, in particular, all paths and footways shall have a maximum longitudinal gradients of 5%;

(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) within private parking areas, the minimum dimensions of a single parking space shall be 2.5 metres by 5 metres. All visitor parking spaces within these areas shall be clearly marked for visitors with the remaining private parking spaces allocated to individual dwellings;

(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. This can be reduced to a minimum length of 5 metres on the proviso that there is adequate road space to manoeuvre in adjacent to the parking bay;

(v) 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 2.5m by 5 metres. The circulation lane should be 6 metres wide for nose-in parking - a narrower lane is acceptable for echelon parking;

(vi) all path and footway connections from a zone under construction to the existing settlement shall be constructed to an adoptable standard before the occupation of any units in that particular zone;

(vii) prior to commencement of development, a Factoring Plan shall be submitted clearly indicating the different responsibilities for long-term maintenance including: private and shared private areas, factored areas, and prospectively adoptable roads;

(viii) a Quality Audit to independently assess walking, cycling, access and road safety aspects within and around the development shall be submitted and approved by the Planning Authority prior to construction commencing. This will be reviewed after construction is substantially complete and the developer required to make good any issues;

(ix) a Travel Information Pack with information for residents to encourage use of sustainable modes of transport such as trains, buses, cycling and walking shall be submitted to and approved by the Planning Authority prior to construction commencing. The Travel Information Pack will include local bus and train timetables, local cycling and walking maps, information on bike hire / car sharing, and shall include details of how it will be distributed to residents; and

(x) a swept path, or vehicle track assessment, of the road layout must be submitted for prior approval to demonstrate how the site can accommodate a large vehicle. The Design Vehicle to be used is the "Large Rigid Vehicle" as outlined in the Freight Transport Association's document "Designing for Deliveries" - the vehicle being 2.5 metres wide with a 6.1 metres wheelbase and an overall vehicle length of 10 metres.

Reason:

In the interests of pedestrian and road safety.

- 7 Prior to the commencement of development a Construction Method Statement to minimise the impact of construction activity on the safety and amenity of the area shall be submitted to and approved by the Planning Authority. The Construction Method Statement shall recommend mitigation measures to control noise, dust, construction traffic (including parking, routes to/from site and delivery times) and shall include hours of construction work.

The recommendations of the Construction Method Statement shall be implemented prior to the commencement of development. Development shall thereafter be undertaken in accordance with the details so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

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

- 8 No work shall be carried out on the site unless and until an effective vehicle wheel washing facility

has been installed in accordance with details to be submitted to and approved by the Planning Authority prior to its installation. Such facility shall be retained in working order and used such that no vehicle shall leave the site carrying earth and mud in their wheels in such a quantity which causes a nuisance or hazard on the road system in the locality.

Reason

In the interests of road safety.

- 9 Prior to the commencement of development, details of the provision of new car charging points and infrastructure for them shall be submitted to and approved in writing by the Planning Authority. At least one dedicated EV charging point shall be provided per dwelling.

The details shall include a timetable for implementation and confirmation of applicant engagement with electricity providers to ensure that the entire electricity supply infrastructure will have sufficient capacity to enable all chargepoints to operate simultaneously at maximum rated power or via a load management system.

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

Reason:

To minimise the environmental impact of the development.

- 10 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.

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

---

**5**

Application No. **21/00120/AMM**

Proposal Approval of matters specified in conditions 1d, 1h and 1l (details of road, footpath, cycle path, landscape and drainage infrastructure for Phase 2) of planning permission in principle 20/01030/PM

Location **Blindwells  
Tranent  
East Lothian**

Applicant Hargreaves Services (Blindwells) Ltd

Per Turley

**RECOMMENDATION** Consent Granted

## **REPORT OF HANDLING**

### **PROPOSAL**

Although this application is for the approval of matters specified in conditions of planning permission in principle 20/01030/PM it has to be determined as a major development type application because the area of the application site is greater than 2 hectares. Accordingly the application cannot be decided through the Council's Scheme of Delegation. It is therefore brought before the Planning Committee for a decision.

The application site is bound to the north by the main east coast railway line, to the west by the Phase 1 (western) part of the Blindwells site with the A198 public road beyond, to the south by the A1 Trunk Road and to the east by the area of land for the Phase 3 part of the Blindwells site with agricultural land beyond.

Planning permission in principle 14/00768/PPM was granted in May 2018 for the creation of a new settlement that could comprise residential, employment, education and commercial uses with park and ride and rail halt facilities and associated works all on land at Blindwells, which is located in close proximity to the settlements of Prestonpans, Tranent, Cockenzie and Port Seton.

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

Since the granting of planning permission in principle 14/00768/PPM a number of detailed planning applications (18/00420/P, 18/00725/AMC, 18/00825/AMC, 19/00242/AMC, 19/00620/AMM, 19/00900/AMM, 19/01068/AMM, 20/01030/PM, 21/00308/AMM) have been granted for various schemes of development including road infrastructure, landscaping and residential units within the western part of the wider Blindwells site, referred to as Phase 1. These planning permissions have been implemented with road infrastructure including three access roads off the A198 into the site, landscaping and residential units having been undertaken within the Phase 1 part of the Blindwells site and a number of residential units are now occupied.

The granting of planning permission 20/01030/PM in amending condition 30 of planning permission in principle 14/00768/PPM had the effect of granting a new planning permission in principle for the Blindwells site through planning permission 20/01030/PM.

Planning permission is now sought through this current planning application for the approval of matters specified in Conditions 1d, 1h, 1l and 1n comprising of the details of the road, drainage and landscape infrastructure for Phase 2 of planning permission in principle 20/01030/PM.

The proposed scheme of development proposes the road infrastructure to serve the Phase 2 Blindwells site and consists of (i) the construction of distributor roads which will connect to the consented distributor roads within the Phase 1 part of the site which come off the eastern side of the A198 public road which lies to the west of the Blindwells site; (ii) the formation of footpaths; (iii) the landscaping of parts of the site; (iv) the formation of a permanent water body 'Princes Loch' within the northern part of the site; and (v) the formation of three SuDS detention basins. The application site has an area of some 57.60 hectares.

The drawings submitted in support of the application show the layout of the roads and footpaths that would be formed within the application site together with proposed landscaping which includes individual tree planting, avenue tree planting, grassed areas, meadow areas, woodland planting and aquatic planting within the 'Princes Loch' permanent water body.

At the time of reporting 2 separate planning applications for schemes of development within the Blindwells site are currently pending consideration. Planning application 21/00449/PM seeks planning permission for 77 houses on Plot 11 of the larger site. Planning application 21/01580/PM seeks planning permission for variations to conditions 1, 13, 30 in relation to the drawing no. of the approved masterplan for the Blindwells site these conditions refer to as a new indicative masterplan for the Blindwells site is proposed through application 21/01580/PM. Planning application 21/01580/PM also proposes the deletion of condition 31 of planning permission 20/01030/PM. These planning applications stand to be determined on their own merits and are also brought before the Planning Committee for a decision.



## **DEVELOPMENT PLAN**

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Development Plan 2018.

There are no relevant policies of the approved South East Scotland Strategic Development Plan (SESplan). Relevant to the determination of the application are Proposal BW1 (Blindwells New Settlement) and Policies DP2 (Design), CH5 (Battlefields), T1 (Development Location and Accessibility), T2 (General Transport Impact), NH10 (Sustainable Drainage Systems) and NH11 (Flood Risk) of the adopted East Lothian Local Development Plan 2018.

## **REPRESENTATIONS**

No letters of written representation have been received to the application.

## **COMMUNITY COUNCIL**

None.

## **PLANNING ASSESSMENT**

The principles of the means of accessing of the proposed Blindwells site are already decided by the grant of planning permission in principle 20/01030/PM. These include that vehicular and pedestrian access to the site shall be taken from the A198 public road to the west of the site as detailed in the indicative masterplan approved through the granting of planning permission 20/01030/PM. This masterplan also provided details of the alignment of the proposed roads to serve the Blindwells site along with areas of housing, a school campus including sports pitches, a local centre, landscaped areas and parks and areas for SuDS.

By the grant of planning permissions in principle 20/01030/PM approval has been given for the principle of the creation of a new settlement that could comprise residential, employment, education and commercial uses with park and ride and rail halt facilities and associated works all on land at Blindwells. There can therefore be no objection in principle to the proposed infrastructure associated with the new settlement on 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 and the landscaping of the site. In this regard the detailed proposals have to be considered against relevant development plan policy and the indicative masterplan layout and conditions attached to planning permission in principle 20/01030/PM.

The layout proposed through this approval of matters application for the roads, drainage and landscape infrastructure within the application site is broadly consistent with the indicative masterplan layout docketed to planning permission in principle 20/0130/PM. The layout proposed through this approval of matters application for the roads, drainage and landscape infrastructure within the application site is also broadly consistent with the new indicative masterplan layout proposed through application 21/01580/PM.

Through the previous grant of the aforementioned detailed planning permissions the

Phase 1 part of the Blindwells site is underdevelopment with the road infrastructure and landscaping undertaken, houses under construction and a number of houses completed and already occupied. The Phase 1 part of the Blindwells site occupies the western most part of the wider site which provides access into the site in the form of three distributor roads off the A198.

Through this application planning permission is now sought for the internal road infrastructure, drainage and landscaping within the Phase 2 part of the Blindwells site. The Phase 2 part of the Blindwells site occupies the central part of the Blindwells site immediately to the east of Phase 1. It is proposed that the internal road infrastructure, drainage and landscaping the subject of this application will connect into and continue the road infrastructure, drainage and landscaping approved within the Phase 1 part of the site through the grant of planning permission 19/00620/AMM.

It is proposed that the middle and south distributor roads within the Phase 1 part of the Blindwells site be extended and continued into the Phase 2 part of the site where they would run in an east - west direction. An internal road linking the middle and south distributor roads would be formed in the central part of the Phase 2 site running in a north-south direction, while a further internal road running in a north-south direction would be formed off the middle distributor road adjacent to the north-east boundary of the Phase 2 part of the Blindwells site. Pedestrian footpaths are proposed through the landscaped areas of the site to provide pedestrian connections throughout the Blindwells site.

The Phase 2 application site also includes the area of land which is to accommodate the Blindwells town centre and employment land which are to be located to the north of the middle distributor road. At the time of reporting no detailed design or application for the town centre has been submitted as such the infrastructure within the town centre does not form part of this current planning application. Accordingly the infrastructure for the town centre and employment land will require to be assessed through a future detailed application which will stand to be determined on its own merits.

The Phase 2 application site also includes the area of land which is to accommodate the new Blindwells Primary School which is to be located to the south of the middle distributor road and to the east of the proposed link road which would connect the middle and south distributor roads. At the time of reporting no detailed design or application for the Blindwells Primary School has been submitted as such the infrastructure within the Blindwells Primary School site does not form part of this application. Accordingly the infrastructure for the Blindwells Primary School site will require to be assessed through a future detailed application which will stand to be determined on its own merits.

The Council's Road Services advises that numerous discussions and meetings have taken place during the determination process of the application regarding the road infrastructure and footpaths to be provided to serve the Blindwells site. The Council's Road Services have advised that the road infrastructure and footpath drawings submitted as part of the proposed scheme of development have been amended during the determination process of the application and a Bus Service Strategy has also been submitted to address the previous Road Services comments, concerns and requirements. Vehicle tracking for heavy vehicles through the core road network has also been provided demonstrating, to Road Services satisfaction, that the road network is acceptable from a general design perspective. The Council's Road Services advise that the general design approach for the road links is considered to be acceptable in principle with regards to the road alignments and carriageway widths and that the general design approach to the junctions within this road network is also considered to be acceptable in principle, all of which being T-junctions with raised tables and uncontrolled pedestrian

crossing points that meet the desire lines. Nevertheless, Road Services advise that it is likely that some of the crossing points will need to be upgraded to controlled crossings, depending on the final layout of the school site, and the outcomes of the Quality Audits. In this regards Road Services advise that Quality Audits and Road Safety Audits for the whole network will be required (with designer's responses) for Road Services review and approval prior to commencement of development, which should be secured via an appropriately worded planning condition. This matter could be controlled through a condition of a grant of planning permission.

The Council's Road Services advise that the submitted Bus Service Strategy has been produced at the request of Road Services and that discussions have been evolving with regards to the appropriate bus access loops into Phases 1, 2 and 3 of the Blindwells development. The Phase 3 bus loop is also relevant to this Phase 2 Infrastructure Application in terms of the agreed routes through to Phase 3 areas. Road Services advise that the submitted hardstanding drawings for this application indicate bus landing platforms to the north of the school site which are not in accordance with the current Bus Service Strategy and no other such platforms are shown throughout the rest of the core road network to serve the proposed bus loops. It should also be noted that the submitted drawings include a superseded Primary School layout which includes a vehicular access on the western boundary of the school that is no longer required. Notwithstanding the fact that the drawings are not in line with the current Bus Service Strategy plans or Primary School layout, such bus stop details and vehicular access arrangements can be modified with Road Services agreement as part of the associated Road Construction Consent process - therefore the current infrastructure planning application drawings are not considered to be unacceptable in general design principles and Road Services do not have any objections as such. However, Road Services request that the details and locations of the bus stops be agreed via a relevant planning condition. This matter could be controlled through a condition of a grant of planning permission.

Road Services advise that as part of the requirements to provide safe and desirable active travel routes to the Primary School from the neighbouring residential areas, controlled crossings of the central boulevard and the core road along the western boundary of the Primary School will be required. Road Services accept that the exact form of such controlled crossings will be subject to further assessment and subsequent agreement on their part via a relevant planning condition. Furthermore, to protect the safe access to the school by active travel modes Road Services request that a planning condition be added such that deliveries to the school take place out with the arrival and departure times of the Primary School (i.e. no deliveries to be scheduled to take place within an hour before and after both the start and end times of the school day). These matters could be controlled through a condition of a grant of planning permission.

Road Services advise that a Construction Method Statement to minimise the impact of construction activity on the safety and amenity of the nearby residential areas will be required for approval by the Planning Authority prior to the commencement of development to be secured by an appropriately worded planning condition. The Construction Method Statement shall recommend mitigation measures to control noise, dust, construction traffic (including parking, routes to/from site and delivery times) and shall include hours of construction work. Temporary measures shall be put in place to control surface water drainage during the construction of the SuDS. This matter could be controlled through a condition of a grant of planning permission.

With regards to the timing of the infrastructure associated with the school, Road Services request that a planning condition be applied that states the need for all paths, footways and road crossings forming the main routes to the school from the residential developments within the wider site are completed prior to the opening of the school. This

matter could be controlled through a condition of a grant of planning permission.

Accordingly The Council's Road Services advise that subject to the required aforementioned planning conditions being attached to any grant of planning permission Road Services are satisfied that the proposal, as amended, would not have an adverse impact on pedestrian or road safety, and as such the Council's Road Services raise no objection to the proposal.

Transport Scotland as a consultee on the planning application advise that they do not propose to advise against the granting of planning permission based on the understanding that no part of Phase 2 shall be occupied until the proposed mitigation works at Bankton Interchange, consisting of the upgraded merge/diverge arrangements to the west-facing slip roads and signalisation of the roundabouts have been implemented.

This current planning application is an application for matters reserved in relation to conditions of planning permission in principle 20/01030/PM. With regards to the matter of the improvement works to the Bankton junction in relation to the timing of the development and occupation of the Blindwells site raised by Transport Scotland, this has previously been addressed and controlled through condition 30 of planning permission 20/01030/PM which requires that prior to the occupation of the 236th residential unit the proposed upgrade of the northern and southern roundabouts at Bankton Interchange to traffic signal control and the upgrade of the west facing slips at Bankton Interchange to Type B parallel merge/diverge arrangements as illustrated by WYG's Drawing No. SK002 and SK004 respectively shall be implemented to the satisfaction of the Planning Authority, after consultation with Transport Scotland. As such this matter is already secured and controlled through condition 30 of planning permission 20/01030/PM.

Therefore on the matter of road safety and subject to the aforementioned planning conditions required by the Council's Road Services being attached to any grant of planning permission the proposed details are consistent with Policies T1 and T2 of the adopted East Lothian Local Development Plan 2018.

The applicant's infrastructure landscape plan sets out the landscaping proposals for the Phase 2 part of the wider Blindwells site. It indicates that the SuDs basin located on the northern boundary of the site previously approved through the Phase 1 infrastructure planning permission 19/00620/AMM would be altered in shape, increased in size and repositioned to the east. In the proposed position the proposed SuDs basin would be located partly within an area of land identified as employment on the approved masterplan for the site. Condition 1 (K) of planning permission 20/01030/PM requires:

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

During the determination period of this application the applicant has provided supporting drawings showing that even with the loss of this small area of employment land to accommodate the proposed larger SuDs basin, there would remain sufficient land available within the remainder of the Blindwells site to provide at least 10 hectares of employment land as required by condition 1(K).

The SuDs basin and sides would be seeded with the area around it seeded with meadow mix planting, a bodpave grass track would run to the north of the SuDs basin adjacent to a grass coir matting track. The northern boundary of the site, adjacent to the east coast railway line, would be landscaped with a combination of woodland planting, woodland

edge mix, amenity grass and grass coir matting track some 33 metres wide.

The 'Princes Loch' a permanent water body would be provided within the northern part of the Phase 2 site adjacent to the town centre and employment land. The 'Princes Loch' waterbody would have edge planting of submerged aquatic mix, marginal planting and then amenity grass. To the south of 'Princes Loch' 2 further SuDs basins are proposed which would have their basins and sides seeded with the areas around them seeded with meadow mix planting and individual trees. The north eastern boundary around Princes Loch would be landscaped with woodland planting and woodland edge mix. A landscape strip consisting of amenity grass and individual trees is proposed along the eastern boundary of the Phase 2 application site running north-south, with a further landscape strip consisting of meadow mix planting, amenity grass, individual trees and an area of woodland planting running from the central part of the Princes Loch in a north-south direction to the middle distributor road.

To the north and south of the middle distributor road running in an east-west direction would be grassed landscape strips measuring some 3 metres wide which would be planted with individual trees. A further area of open grass parkland planted with individual trees measuring at most some 240 metres long by some 35 metres wide would be provided to the south of the middle distributor road. A woodland planting strip measuring some 20 metres wide by 260 metres long is proposed along the eastern boundary of the Phase 2 application site, to the east of the proposed Blindwells Primary School site running in a north-south direction. A similar woodland planting strip measuring some 28 metres wide by some 170 metres long is proposed along the southern boundary of the Blindwells Primary School site running in an east-west direction with a further woodland planting strip proposed along the western boundary of the Blindwell Primary School site measuring some 16 metres by 235 metres long running in a north-south direction between the school site and the internal road which would run along the western boundary of the Blindwells Primary School site.

A further area of grassed land to the south east of the school site, to the north of the south distributor road, would be provided which would form part of a wider park area. While the drawings submitted with this application indicate a changing pavilion, parking area and four tennis courts within this area of land, no details of these facilities have been submitted with this application and as such these facilities do not form part of this application. Accordingly the details of these facilities will require to be the subject of a future detailed planning application which will stand to be determined on its own merits.

The southern boundary of the site adjacent to the A1 Trunk Road is to be landscaped with an embankment along its length which would be planted with woodland, meadow mix and grass. With the layout as indicated the nearest housing sites within the Blindwells site would be, at their closest point, some 45 metres from the southern boundary of the site with the A1 Trunk Road beyond. The landscape embankment would serve as a both a visual and noise barrier between the Blindwells new settlement and the A1 Trunk Road.

The **Council's Landscape Project Officer** advises that following discussions during the determination process of the application and the submission of additional information the Council's Landscape and Project Officer raises no objection to the application.

The **Council's Sport, Countryside and Leisure Officer** advises she has no comment to make on the open space, parks and green space areas proposed in this current Phase 2 Infrastructure application. She does however note that the south eastern area of the current application site is annotated on drawings as accommodating a changing pavilion, car parking area and tennis courts which would be components of a wider town park

which would largely be provided outwith the current application site. No details for the changing pavilion, car parking and tennis courts have been submitted with this application and as such these elements do not form part of the proposed infrastructure the subject of this application. The details of the town park including all facilities within it including the changing pavilion, car park, tennis courts, sport pitches, allotments and a cemetery will require to be assessed through a future detailed application which will stand to be determined on its own merits.

The matter of site drainage was considered through the determination of previous application 20/0130/PM the indicative masterplan docketed to planning permission in principle 20/0130/PM 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 20/0130/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). A detailed Drainage Strategy for the Phase 1 area of the Blindwells site was approved through the grant of planning permission 19/00620/AMM.

A detailed Drainage Strategy covering the Phase 2 area of the Blindwells site has been submitted as part of this application. This drainage strategy provides details of the surface water, flooding and ground water drainage strategy for the site which includes the provision of SuDS basins and ponds.

The **Council's Flooding and Structures Officer** advises that numerous discussions have been undertaken with the agent regarding the proposed Drainage Strategy for the site during the determination period of the application. As such a revised Blindwells Phase 2 Drainage Strategy and additional supporting information has been submitted during the determination period which has addressed the previous concerns of the Council's Flooding and Structures Officer. Accordingly the Council's Flooding and Structures Officer confirmed the acceptance of the submitted drainage drawings and updated Blindwells Phase 2 Drainage Strategy Report from a Surface Water Management/Flood Risk viewpoint. Accordingly the Council's Flooding and Structures Officer raises no objection to the application being satisfied that the Drainage Strategy for the site is acceptable.

The Council's Flooding and Structures Officer advises that SEPA have published a new Climate Change Allowance on 1st April 2022. However the Council's Flooding and Structures Officer agrees with SEPA's stance with regards to the implementation date of such figures and its potential impact on the calculations provided within the latest Drainage Strategy. The Council's Flooding and Structures Officer states it is reassuring to note that all future Drainage Strategies to be submitted will utilise SEPA's most recent Guidance/Advice on Climate Change allowance.

The Council's Flooding and Structures Officer does however state that as the details for the areas for the town centre and employment land have not been submitted as part of this application the drainage for this part of the site has not been assessed as part of this application and as such any future detailed application for the town centre and employment land will require to be accompanied with a drainage strategy for those parts of the site. This matter would require to be addressed when any future individual planning applications for development of the town centre and employment land within the Phase 2 Blindwells site are submitted. Any such future planning applications would require to be determined on their own individual merits.

SEPA as a consultee on the application have advised that they raise no objection to the

proposed scheme of development if East Lothian Council as the Flood Risk Management Authority is satisfied with the proposal. SEPA advise given their very recent update in relation to climate change rainfall uplift to 39% this will not be required for this application. However SEPA note for future phases that the intention for the rest of the development will be to manage flood risk inclusive of the revised climate change figures, which SEPA would support. Accordingly SEPA raise no objection to the proposed scheme of development.

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

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

Historic Environment Scotland were consulted on the planning application given that the application site is located within the Battle of Prestonpans battlefield site. Historic Environment Scotland advise that they have no comment to make on the proposal.

The proposed details are consistent with Policy CH5 of the adopted East Lothian Local Development Plan 2018.

The Coal Authority advises that it is noted that the submission is for the approval of matters specified in conditions 1d, 1h, 1l and 1n of planning permission 20/01030/PM and that the layout relating to road, drainage and landscape infrastructure for Phase 2 is unaffected by mine entries. As such the Coal Authority advise that they have no objection to the application.

The Council's Consultant Engineer Geologist has been consulted on the planning application however he has not provided a response and as such has not raised an objection to the application.

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

By virtue of their size, scale, proportions, positioning, form and materials, the distributor and internal link roads, footpaths, SuDS detention basins and landscape works are all appropriate for their locations and are in keeping with their surroundings and acceptable to their purpose of serving the mixed use new settlement of Blindwells.

By its nature and by its positioning the proposed infrastructure would not result in any harm to any neighbouring land use or to the privacy or amenity of any neighbouring residential property.

On all of the foregoing considerations of layout, design, amenity and landscape, the proposed infrastructure development is consistent with the Indicative Masterplan docketed to planning permission in principle 20/0130/PM. It is also consistent with the new indicative masterplan layout for the Blindwells site proposed through application 21/01580/PM.

In conclusion the proposal is considered to be in accordance with the provisions of the stated relevant Development Plan policies and there are no material considerations which outweigh the proposal's accordance with the Development Plan.

## 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 finished ground 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.

Reason:

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

- 2 Prior to the commencement of development, road safety audits and quality audits for the whole Phase 2 road network within the application site shall be submitted to and approved by the Planning Authority. Development shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of road safety.

- 3 Details of the proposed bus stops within the Phase 2 core road network shall be submitted to the Planning Authority for agreement prior to commencement of the subject works on site in accordance with the indicative locations shown on the docketed 'Indicative Bus Infrastructure Plan' (Dougall Baillie Associates Drawing no. 21215-SK-15 Revision D) unless otherwise agreed by the Roads Authority, summarised as follows:

(i) Stops G & H to the north west of the Primary School site;

(ii) Stops I and J between Plot 6B and 7A;

(iii) Stops O & P directly to the east of the changing pavilion to the north of Plots 9A & 9B; and

(iv) Stops Q and R between Plot 5A and Plot 5B.

Reason:

To ensure the provision of necessary infrastructure for sustainable travel in the interests of pedestrian and road safety.

- 4 A report describing the promoted active travel routes to the Blindwells Primary school, including controlled crossings on appropriate desire-lines on the roads bounding the Blindwells Primary school to both the north and the west, shall be submitted to and approved by the Roads Authority. The promoted routes so approved should be completed prior to the opening of the Blindwells Primary school or prior to the road being brought into public use whichever comes first.

Reason:

To ensure the provision of safe and convenient infrastructure for active travel to the school in the interests of pedestrian and road safety.

- 5 Prior to the opening of the Blindwells Primary school all paths, footways and road crossings forming the main routes to the Blindwells Primary school from the residential developments within the wider site shall have been completed in their entirety and made available for use. The paths, footways and road crossing so formed shall thereafter be maintained and retained available for use unless otherwise approved by the Planning Authority.

Reason:

To ensure the provision of safe and convenient infrastructure for active travel to the school in the interests of pedestrian and road safety.

- 6 A Construction Method Statement to minimise the impact of construction activity on the safety and amenity of the area shall be submitted to and approved by the Planning Authority prior to the commencement of development. The Construction Method Statement shall recommend mitigation



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

The Construction Method Statement shall also make recommendations in respect of how building materials and waste will be safely stored and managed on site.

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

Reason:

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

- 7 No work shall be carried out on the site unless and until an effective vehicle wheel washing facility has been installed in accordance with details to be submitted to and approved by the Planning Authority prior to its installation. Such facility shall be retained in working order and used such that no vehicle shall leave the site carrying earth and mud in their wheels in such a quantity which causes a nuisance or hazard on the road system in the locality.

Reason

In the interests of road safety.



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

---

**6**

Application No. **21/01580/PM**

Proposal Section 42 application variation to conditions 1, 13, 30 and delete condition 31 of planning permission 20/01030/PM

Location **Blindwells  
Tranent  
East Lothian**

Applicant Hargreaves Land  
Per Turley

**RECOMMENDATION** Consent Granted

## **REPORT OF HANDLING**

As the area of the application site is greater than 2 hectares, what is 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 type proposal 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.

## **APPLICATION SITE**

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

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

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

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

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

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

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

## **RELEVANT PLANNING HISTORY**

In March 2011 planning permission in principle (Ref: 11/00173/PPM) was sought for the construction of 1600 houses, education, retail, employment, community uses, park and ride and associated open space and infrastructure on the application site. That application, which was submitted by the Scottish Resources Group, was subsequently withdrawn without it having been determined.

In June 2014 a Proposal of Application Notice (Ref: 14/00015/PAN) was submitted in respect of a proposed Energy Park comprising a mix of uses including Classes 4, 5 and 6 development. The site proposed for the Energy Park comprised a substantial area of land and included the land of the application site. No subsequent application has been submitted in respect of the proposed Energy Park development.

Planning permission (Refs: 09/00036/FUL, 14/00362/P, 14/00363/P, 14/00644/P and 17/00394/P) has been granted on five occasions between 2009 and 2017 for temporary surcharging trials within the application site. The purpose of these trials was to establish that ground conditions can be remediated to be suitable for a mixed use development of the application site.

Planning permission in principle 14/00768/PPM for remediation of the application site and for the creation of a new settlement which could comprise residential, employment, education and commercial uses with park and ride and rail halt facilities and associated works was granted in May 2018 following the conclusion of a Section 75 Legal Agreement regarding a number of matters. An indicative masterplan was approved through planning permission in principle 14/00768/PPM which shows how the various components of development could be accommodated on the site. The elements of the new settlement approved through planning permission in principle 14/00768/PPM 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 indicative masterplan approved with planning permission in principle 14/00768/PPM shows how the various components of development could be accommodated on the site including how the site could be accessed at three points from the A198 road, to the west of the application site. It shows how one of the accesses could be taken from the Bankton Interchange, which is at the southwest edge of the site. The northernmost proposed access is shown to involve the upgrading of the existing vehicular access into the site. It is further indicated that the third access could be formed at a central point on the western boundary of the site, in a position opposite an existing vehicular access that serves the former St Joseph's School.

Since the granting of planning permission in principle 14/00768/PPM a number of detailed planning applications (18/00420/P, 18/00725/AMC, 18/00825/AMC, 19/00242/AMC, 19/00620/AMM, 19/00900/AMM, 19/01068/AMM, 20/01030/PM, 21/00308/AMM) have been granted for various schemes of development including road infrastructure, landscaping and residential units within the western part of the wider Blindwells site, referred to as Phase 1. These planning permissions have been implemented with road infrastructure including three access roads off the A198 into the site, landscaping and residential units having been undertaken on site and a number of residential units now occupied.

The granting of planning permission 20/01030/PM in amending condition 30 of planning permission in principle 14/00768/PPM had the effect of granting a new planning permission in principle for the Blindwells site through planning permission 20/01030/PM. Planning permission 20/01030/PM was granted subject to the imposition of a number of conditions.

Of those, condition 1 states amongst other things that:

The submission for approval of matters specified in conditions of this grant of planning permission in principle shall include details of the siting, design and external appearance of all the dwellings and other buildings, the means of access to them, the means of any enclosure of the boundaries of the site and of gardens and other subdivisions of the site and the landscaping of the site and those details shall generally accord with the Indicative Master Plan drawing no. 13055(PL)100 Rev. D docketed to this planning permission in principle, and shall address the following requirements.....

Conditions 13 states amongst other things that:

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

Conditions 30 states:

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

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

\* Prior to the occupation of the 236th residential unit hereby approved, the proposed

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

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

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

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

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

Conditions 31 states:

Prior to the commencement of development details of the Longniddry Junction (junction of A198/B6363 Main Street with Coal Road - traffic signals to provide a left turn to Gladsmuir and vice-versa for return - as a deflection strategy to draw trips away from the A198 frontage at Blindwells) shall be submitted to and approved by the Planning Authority. The details shall include a timetable for implementation. Development shall thereafter be carried out in accordance with the details so approved.

## **PROPOSAL**

Through this current application planning permission is now sought for the variation to conditions 1, 13, 30 and the deletion of condition 31 of planning permission 20/01030/PM. This current application proposes a new indicative masterplan for the Blindwells site and as such the proposed variation to conditions 1 and 13 of planning permission 20/01030/PM is so that the conditions will relate to the new masterplan drawing no. 13055(S42)001\_J proposed through this application and not the previous masterplan drawing no. 13055(PL)100 Rev. D approved through the granting of planning permission 20/01030/PM such that once varied they would read:

### Condition 1

The submission for approval of matters specified in conditions of this grant of planning permission in principle shall include details of the siting, design and external appearance of all the dwellings and other buildings, the means of access to them, the means of any enclosure of the boundaries of the site and of gardens and other subdivisions of the site and the landscaping of the site and those details shall generally accord with the Indicative Masterplan drawing no. 13055(S42)001\_J docketed to this planning permission in principle and shall address the following requirements .....

### Condition 13

The open space to be provided on site shall generally accord with the Indicative Master

Plan drawing no. 13055(S42)001\_J docketed to this planning permission in principle. Moreover, the area of open space known as the Town Park shall include within it woodland of a significant size.....

For the avoidance of doubt the intention in the variation of Conditions 1 and 13 is to amend the drawing number of the indicative Masterplan to which those conditions relate to drawing no. 13055(S42)001\_J. The other requirements of those conditions would remain as approved.

Planning permission is also sought through this current application for the amendment of the wording of condition 30 of planning permission 20/01030/PM. It is proposed that Condition 30 be divided to form two separate conditions which will enable the two matters of works required to the Bankton junction and lighting to be controlled through two separate conditions. Such that the new proposed condition 30 would read:

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

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

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

It is proposed the new separate condition (a new condition 31) relating to lighting would read:

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

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

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

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

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

For avoidance of doubt the requirements of condition 30 would remain as approved,

albeit in 2 separate conditions. The reason for this change is to facilitate the discharge of the requirements of the condition which currently relates to separate matters of (i) the trigger point for the interventions required to be undertaken to the Bankton Junction and (ii) external lighting within the Blindwells site, frontage landscape treatment along the trunk road and the erection of a barrier along the trunk road.

It is also proposed through this application that condition 31 of planning permission 20/01030/PM be deleted.

The applicant's agent has submitted a supporting statement and report with the application which states this application seeks to vary Conditions 1 and 13 in order to replace the previously approved indicative masterplan drawing (ref. 13055(PL)100 Revision D) for Blindwells, explicitly referred to by these conditions, with that of an updated indicative masterplan to reflect changes to the way in which the development, approved under PPIP 20/01030/PM, will be delivered. Condition 30 is proposed for division into two separate conditions to provide distinction between the provisions of this condition; the effect of these provisions will remain unchanged. The timing of delivery of off-site highways mitigation works is a key focus of 'existing' Condition 30, and considered distinct from the other provisions of the condition. It would therefore benefit from being subject of its own condition in order to provide clarity for developers. Condition 31 is proposed for deletion as ELC has recently confirmed that the requirements of this condition have been discharged through payment of a contribution by the applicant. No change to the quantum of development is proposed and the new masterplan represents a realignment of existing permitted uses within the site only. The masterplan has evolved due to the passage of time; detailed site survey work; changing retail patterns and requirements; and updated requirements from ELC regarding school provision which, together, have resulted in a number of necessary changes to the overall development site layout.

## **DEVELOPMENT PLAN**

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Development Plan 2018.

There are no policies of the approved South East Scotland Strategic Development Plan (SESplan) that are relevant to the determination of the application.

Proposal BW1 (Blindwells New Settlement), Proposal ED3 (Blindwells Cluster Education Proposals), Proposal OS6 (Allotment Sites), Policy CH4 (Scheduled Monuments and Archaeological sites), Policy DP1 (Landscape Character), Policy DP3 (Housing Density), Policy DP4 (Major Development Sites), Policy OS3 (Minimum Open Space Standard for New General Needs Housing Development), Policy OS4 (Play Space Provision in new General Needs Housing Development), Policy HOU3 (Affordable Housing Quota), Policy HOU4 (Affordable Housing Tenure Mix), Policy NH8 (Trees and Development), Policy NH10 (Sustainable Urban Drainage Systems), Policy DEL1 (Infrastructure and Facilities Provision), Policies T1 (Development Location and Accessibility), Policy T2 (General Transport Impact), Policy T4 (Active Travel Routes and Core Paths as part of the Green Network Strategy), Policy T6 (Reallocation of Road Space and Pedestrian Crossing Points) and Policy T8 (Bus Network Improvements), of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of this application.



A material consideration in the determination of this application is Scottish Planning Policy: June 2014. One of the main outcomes of Scottish Planning Policy is to create a successful, sustainable place by supporting sustainable economic growth and regeneration, and the creation of well-designed, sustainable places. This is reflected in paragraph 25 of Scottish Planning Policy in which it is stated that the Scottish Government's commitment to the concept of sustainable development is reflected in Scottish Planning Policy's Purpose.

Also material is the Scottish Government Policy Statement entitled "Designing Streets" and Planning Advice Note 67: Housing Quality. 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 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 is East Lothian Council Supplementary Planning Guidance 'Design Standards for New Housing Areas' approved by the Council in May 2020. This guidance states that new developments vary significantly in scale and location, and the key aims for the built environment will therefore change depending on these. Development at the upper end of the scale including the creation of new urban centres, require careful balancing of environmental and physical change to support the long-term success of places. Design at this scale is often highly complex and requires solutions that will sustain the vitality and vibrancy whilst managing regular change. Below this, there may be a mixed-use development created that includes a new local centre or community facility such as a school with housing around it. Design must focus on how new residents living on the site will access any local facilities, and services in the wider area.

A further material consideration is the Development Framework for Blindwells, which was approved by the Council on the 08 June 2010. It sets out how the Council requires the site to be developed in terms of its land use, design and infrastructure requirements.

## **REPRESENTATIONS**

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

## **COMMUNITY COUNCIL COMMENTS**

Community Councils have been consulted on the application however no responses have been received.

## **ENVIRONMENTAL IMPACT ASSESSMENT**

In July 2021 a request was made to East Lothian Council (ELC) by Turley Associates on behalf of Hargreaves Land for an Environmental Impact Assessment (EIA) Scoping Opinion for amendments to the approved masterplan at Blindwells approved by the grant of planning permission 20/01030/PM. The EIA scoping request related to this S42 application with the amendments being made to conditions 1 and 13 attached to planning permission 20/01030/PM.

The conclusion of the Scoping Opinion was that as conditions 1 and 13 relate to the overall masterplan for the Blindwells site, and considering the fact that the 2014 applications was accompanied by an Environmental Statement, constituting EIA Development, it was deemed necessary to submit an updated EIA report to accompany this S42 application.

Therefore an Environmental Impact Assessment (EIA) Report has been submitted with the application, but it relates only to the environmental impacts associated with the amendments to condition 1 and 13 rather than an entirely revised EIA Report.

The submitted EIA Report therefore contains chapters on the method and approach to preparing the Report, the description of the development, Hydrology, Drainage and Hydrogeology, Traffic and Transportation and Socio Economics and Human Health.

As required by Regulation 5(5)(b) of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017, to ensure the completeness and quality of the EIA Report, the applicant has submitted with it a table outlining the relevant expertise or qualifications of the project team that has contributed to the EIA Report. Based on this submitted information, it can be reasonably concluded that the authors are suitably qualified.

The EIA Report concludes that subject to the relevant mitigation, that no adverse significant effects are predicted through the amendments to conditions 1 and 13.

## **PLANNING ASSESSMENT**

The application site is covered by Proposal BW1 (Blindwells New Settlement) of the adopted East Lothian Local Development Plan 2018. Proposal BW1 allocates the land at Blindwells for a mixed development including circa 1,600 homes, no less than 10 hectares of serviced employment land, a local centre, education and community facilities, infrastructure and associated works.

A Development Framework for the allocated land of Blindwells was approved by the Council on the 08 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 and an approved indicative masterplan has previously been approved for the Blindwells site through the grant of original planning permission in principle 14/00768/PPM and subsequent planning permission 20/01030/PM. Development of the site has commenced following the grant of a number of Approval of Matters Specified in Conditions for the western part of the Blindwells site accessed off the A198 public road (Phase 1).

The intent of the variation of condition 1 is to allow an amended indicative masterplan to

be approved for the Blindwells site. That amended masterplan proposes a number of changes to the previously approved masterplan the subject of permission 20/01030/PM. The proposed changes comprise:

- 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;
- vii) The relocation of allotments and a cemetery within a town park;

The principles of the means of accessing of the proposed Blindwells site are already decided by the grant of planning permission in principle 20/01030/PM. These include that vehicular and pedestrian access to the site shall be taken from the A198 public road to the west of the site as detailed in the indicative masterplan approved through the granting of planning permission 20/01030/PM. This masterplan also provided details of the alignment of the proposed roads to serve the Blindwells site along with areas of housing, a school campus including sports pitches, a local centre, landscaped areas and parks and areas for SuDS.

By the grant of planning permissions in principle 20/01030/PM approval has been given for the principle of the creation of a new settlement that could comprise residential, employment, education and commercial uses with park and ride and rail halt facilities and associated works all on land at Blindwells. The new proposed masterplan also contains those indicative uses. There can therefore be no objection in principle to the proposed new masterplan associated with the new settlement on the site.

Therefore, in the determination of this application the Council, as Planning Authority, can only concern itself with the indicative layout, proposed in this new masterplan in relation to the elements which are required to be provided within the Blindwells new settlement through the previous grant of planning permission in principle 20/01030/PM, the conditions attached to that permission and the requirements of the Section 75 Legal Agreement.

The proposed new masterplan does not propose any change to the means of accessing the Blindwells site which would remain as the three vehicular and pedestrian accesses into the site off the A198 public road to the west. These access roads have been formed following the grant of detailed planning permissions for them. The internal road network layout within the site as indicated on the proposed new masterplan is broadly consistent with the internal road network layout within the site previously approved masterplan for the site.

The stamped approved indicative masterplan for the Blindwells site approved by planning permission in principle 20/01030/PM includes a dual campus Primary and Secondary school facility. However at the Full Council Committee Meeting on 28 March 2017 a report was presented to the Committee by the Head of Education relating to the outcome of the school consultation on the proposed change to Preston Lodge High School catchment area and the establishment of a new Primary School at Blindwells.

The Council agreed at that Committee, on the basis of the school consultation undertaken and taking account of the educational and social benefits of the proposal, that only a new primary school with early learning and childcare provision would be required to be established for the Blindwells primary school catchment area and that the Preston Lodge High School catchment area would be extended to include the Blindwells new settlement. As such a new High School is not required to be provided within the Blindwells site only a Primary School.

In this regard the proposed new indicative masterplan the subject of this planning application now proposes a single campus primary school within the Blindwells site rather than a dual campus school as indicated on the stamped approved indicative masterplan for the site. The indicative location for the primary school is consistent with the location of the dual campus school in the stamped approved indicative masterplan, however as the requirement is only now for a Primary school rather than a dual campus to be provided the area of land proposed for the school site has been reduced from 8.7 hectares to 4.25 hectares.

This proposed change to the indicative masterplan in relation to school provision is to bring the indicative masterplan in line with the Education requirements for the Blindwells new settlement as agreed by Council at the Full Committee of 28 March 2017. As such this proposed change is acceptable. The details of the layout, access, form and design of the new Blindwells Primary School will be the subject of a future detailed planning application which will stand to be determined on its own merits.

The proposed indicative masterplan also proposes the reconfiguration of the local centre and adjacent areas of land to the east and west of it, one of which was shown as a site for a supermarket with associated car parking. Documents submitted in support of planning permission in principle application 14/00768/PPM had confirmed that this supermarket proposal consists of a foodstore with a gross floorspace of 2,694 square metres. The retail impact of a foodstore with this gross floorspace was a material consideration in the determination of that previous application. In the interests of safeguarding the vitality and viability of existing retail provision, the assessment concluded that it was necessary to limit the size of the supermarket to well below that originally proposed by the applicant. Consequently condition 11 of planning permission 20/01030/PM restricts the size of any supermarket constructed within the Blindwells development to no greater than 1035 square metres.

Due to the imposition of condition 11 the supermarket of the size shown on the approved masterplan cannot be delivered. Retail provision is now instead focussed within the local centre. There is therefore justification for an alternative use of land now being proposed on the part of the site previously indicated for a supermarket. Much of the supermarket site is now proposed for a residential development. The detail of this residential development is separately proposed in planning application 21/00449/PM, and a report on this application is elsewhere on this Planning Committee Agenda. In principle, this site would be suitable for residential development, being located in close proximity to the local centre, to the proposed primary school, and to areas of open space. Roads Services are in principle content that house could be safely accessed.

This residential development is also partly located on land that was indicated for employment use on the previously approved Masterplan. The new Masterplan proposes other changes to the locations and configuration of the employment land.

Notwithstanding these change Condition 1 (k) of planning permission 20/01030/PM requires the provision within the application site of at least 10 hectares of employment land. Condition 1 (k) further requires that the buildings within the employment land shall

be restricted in use to Classes 4, 5 and 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997.

During the determination period of this application the applicant has demonstrated that even with the proposed reallocation and relocation of the areas of employment land, there would remain sufficient land available within the remainder of the Blindwells site to provide at least 10 hectares of employment land as required by condition 1(k). Therefore the reconfiguration of this part of the site will not compromise the requirements of condition 1(k) to deliver the employment land.

With regards to the number of residential units within the Blindwells site condition 3 of planning permission 20/01030/PM states:

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

Reason:

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

With Condition 3 controlling and restricting the number of residential units which can be erected within the Blindwells site, the proposed reallocation of land for residential use would not result in an increase in residential units within the site beyond 1600. The restriction and requirements of condition 3 remain limiting the number of residential units to be erected on the site to 1600. Any proposal that resulted in more than 1600 residential units being constructed on the Blindwells site the subject of planning permission 20/01030/PM would require planning permission and/or condition 3 of planning permission 20/01030/PM to be modified. There is no indication that the applicant intends to increase the number of residential units above 1600. However were such an application submitted it would be for the Planning Authority to then decide whether or not the development proposed was acceptable.

The Council's Economic Development and Regeneration Manager advises that the Economic Development Service supports the revised proposals and is happy with the sizes, locations and configurations of the local centre and employment plots that are shown on the revised masterplan. Accordingly the Council's Economic Development and Regeneration Manager raises no objection to the application.

The **Council's Housing Enabler and East Lothian Mid-Market Homes Officer** as a consultee on the application advises that Housing Strategy and Developments position is unchanged in that they are looking to secure 30% affordable housing throughout the whole masterplan. She advises that they continue to work closely with the applicant and prospective developers of the site to engage as early as possible in pre-planning applications to ensure that the affordable housing is positioned in a suitable area and of the mix and size and tenure that is a reflection of need for the area. Accordingly Council's Housing Enabler and East Lothian Mid-Market Homes Officer raises no objection to the application.

Accordingly the proposed change to the indicative masterplan in relation to reallocation and changes to the location of employment land is acceptable in principle. The details of the layout, form and design of the employment land and buildings within it will be the subject of future detailed planning applications which will stand to be determined on their own merits.

It also proposed that the layout and configuration of the town centre be altered. The applicants have undertaken retail surveys which indicate changing retail patterns and

requirements in recent years. As such the layout of the town centre is proposed to be altered such that it would have more of a traditional high street arrangement which would provide a range of uses. The proposed town centre arrangement would remain consistent with the development framework for the site.

Condition 1 (j) of planning permission 20/01030/PM requires:

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

The requirements of condition 1 (j) remain. The details and design of the layout, buildings, civic square and range of uses within the town centre would be the subject of future detailed planning applications which would stand to be determined on their own merits. However the proposed changes to the layout and configuration of the town centre of the indicative masterplan are in principle acceptable.

The proposed indicative masterplan layout also proposes changes to the internal transport, landscape and drainage infrastructure. These changes are proposed in order to update the indicative masterplan for the site and align the layout of the internal road network, landscaping and drainage infrastructure with the approved detailed planning permissions for the site a number of which have now been constructed on site within the western part (Phase 1) of the Blindwells site.

The Council's Road Services advise that they have no objection in principle to the proposed new indicative masterplan and advise that the access, parking and internal road network within the Blindwells site particularly around the Blindwells Primary School, Town Centre, Employment Land, Sport Pitches, Allotments and Cemetery will require to be assessed through future detailed planning applications. Road Services note that the proposed new indicative masterplan indicates that land in the north-western corner of the site remains safeguarded for the potential delivery of a rail halt/park and ride facility to serve the site and acknowledge that the delivery of such infrastructure is subject to ongoing discussions and that alternative options for such transportation enhancement schemes may be brought forward at a later stage subject to future planning decisions.

The **Council's Flooding and Structures Officer** raises no objection to the application but recommends that future applications within the site provide updated whole site wide reports as well as individual reports for plot developments in order to deal with future flood risk and enabling robust Surface Water Management as the site develops.

The Scottish Environmental Protection Agency (SEPA) consider that the proposed changes regarding land use on the site will not have a detrimental impact on flood risk compared to the approved masterplan. In relation to flood risk it is for East Lothian Council as Flood Risk Management Authority to comment on the acceptability of the proposed surface water management measures. SEPA's interest is to ensure no increase in fluvial flood risk. As the agent and consultant are aware through recent discussions with SEPA and East Lothian Council, updated SEPA Climate Change Allowance guidance (rainfall and flow data) was published on 31 March 2022 and as such SEPA recommend that any assessment for future phases is undertaken using the most up to date information available. In relation to ground water SEPA note that the proposed masterplan shows a change in the position of the proposed cemetery and as such would reiterate the previous advice that SEPA have given on the cemetery that if the ground conditions at the site prove problematic/unsuitable then that is the risk the applicants are assuming by not undertaking the detailed assessment now.

The Section 75 Agreement for the planning permission in principle requires, amongst other matters:

(i) the provision of three community sports pitches, a six changing room facility, 30 allotment plots with an area of 4,000 m<sup>2</sup>, and a cemetery to accommodate 700 formal burial plots, each capable of accepting 3 coffin interments;

Given the change in the Education provision requirements for the site which now only requires the provision of a Primary School this has enabled a rearrangement of the required sport and amenity facilities which are required to be provided within the Blindwells new settlement through the Section 75 Agreement. With the school site being reduced in size to accommodate only a Primary school it is indicated that the required three community sport pitches would be provided to the east of the school site within a town park, along with the required changing pavilion, allotments and cemetery. The relocation of these facilities as shown on the proposed new indicative masterplan are, in principle, acceptable however the detailed design of these facilities will require to be the subject of future detailed planning applications which will stand to be determined on their own merits.

The Council's Sport Countryside and Leisure advise that 'in principle and without prejudice' the proposed masterplan indicates that the required sport and amenity facilities required to be provided within the Blindwells site can be accommodated. However the detailed design and location of the sport pitches, changing facility, allotments, cemetery, town park and play areas will require to be the subject of future detailed planning applications for them which will stand to be determined on their own merits.

Sport Scotland as a consultee state that the sport provision within the new masterplan would remain the same. Sport Scotland state that while they are not a statutory consultee they would be happy to engage with the design process in relation to sports uses on the site.

The **Council's Landscape and Project Officer** as a consultee on the application states that in respect of the landscaping and due to the Masterplan titled indicative, which does not tie it down to specific areas, he is satisfied that the current proposals should achieve the landscape design philosophy overall and as such he has no further comment to make on the application.

Nature Scotland as a consultee on the application advise they have no comment to make on the proposal.

Through this application it also proposed that condition 30 of planning permission 20/01030/PM be divided to form two separate conditions which will enable the two matters of works required to the Bankton junction and lighting to be controlled through two separate conditions. The requirement for the wording of condition 30 arose from the previous consultation responses received from Transport Scotland at the time of determination of applications 14/00768/PPM and 20/01030/PM.

Transport Scotland has been consulted on this current application and the proposed variation to the wording of condition 30 of planning permission 20/01030/PM. Transport Scotland raise no objection to the proposed new masterplan and advise that the proposed changes to condition 1 and 13 of planning permission 20/01030/PM are of no direct relevance to Transport Scotland. With regards to the proposed variation to condition 30, which includes the Bankton Interchange mitigation, Transport Scotland have confirmed they are content with the proposal and the dividing of the existing

condition 30 to form a proposed new condition to deal with the matter of lighting. As such Transport Scotland raise no objection to the application provided the wording of condition 30 and the new condition to be created is amended to:

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

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

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

Reason:

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

o Unless otherwise agreed with the Planning Authority, following consultation with Transport Scotland, prior to the commencement of the development of each individual Plot / Phase within the overall application site, the following matters will need to be addressed:

a) Prior to the commencement of the development of each individual Plot / Phase, details of the lighting within the site shall be submitted for the approval of the Planning Authority, after consultation with Transport Scotland, as the Trunk Roads Authority.

b) Prior to the commencement of the development of each individual Plot / Phase, details of the frontage landscaping treatment along the trunk road boundary shall be submitted to, and approved by, the Planning Authority, after consultation with Transport Scotland. All landscaping shall be located such that it can be installed and maintained from within the development without requiring access to the trunk road.

c) Prior to commencement of the development of each individual Plot / Phase, details of the fencing / barrier proposals along the trunk road boundary shall be submitted to, and approved by, the Planning Authority, after consultation with Transport Scotland. The fencing / barrier proposals shall be located such that they can be erected and maintained from within the development without requiring access to the trunk road.

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

Reason:

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

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

c) To minimise the risk of pedestrians and animals gaining uncontrolled access to the trunk road with the consequential risk of accidents;

d) To ensure that the efficiency of the existing trunk road drainage network is not affected.

The consultation response received from Transport Scotland has been forwarded to the applicant's agent for their information and the agent has confirmed in writing that the



applicant is satisfied with the recommended wording for the conditions as set out by Transport Scotland in their consultation response.

It is also proposed through this application that condition 31 of planning permission in principle 20/01030/PM be deleted.

Condition 31 states:

Prior to the commencement of development details of the Longniddry Junction (junction of A198/B6363 Main Street with Coal Road - traffic signals to provide a left turn to Gladsmuir and vice-versa for return - as a deflection strategy to draw trips away from the A198 frontage at Blindwells) shall be submitted to and approved by the Planning Authority. The details shall include a timetable for implementation. Development shall thereafter be carried out in accordance with the details so approved.

Reason: In the interests of road safety.

**East Lothian Council Road Services** and the **Council's Planning Obligation Officer** have previously confirmed that the applicant, Hargreaves Land Management, made a payment to East Lothian Council in May 2021 which was sufficient to discharge their obligation to provide for traffic signals at the junction of the A198 (Main Street) and the B6363 (Coal Road). Additionally East Lothian Council Road Services have confirmed that East Lothian Council Road Services will engage contractors to finalise the junction design and begin construction of said traffic signals. As such the requirements of condition 31 have previously been met and the condition has previously been discharged by East Lothian Council. As such the proposed deletion of this condition is acceptable given that there is no longer a requirement for the condition to remain attached as payment has been received from the applicant which will enable East Lothian Council Road Services to engage contractors to finalise the junction design and begin construction of said traffic signals. Accordingly the proposed deletion of condition 31 is acceptable.

With condition 31 of planning permission 20/01030/PM proposed to be deleted and condition 30 proposed to be divided to form two separate planning conditions, a new planning condition 31 would be created.

The Council's Consultant Engineer Geologist has been consulted on the planning application and raises no objection to it being content that there are no geotechnical issues with this change in the indicative master plan.

The Coal Authority as a consultee on the application advises that in terms of the conditions which this application seeks the variation/deletion of, they do not specifically relate to land stability. Consequently the Coal Authority raises no objection to the application but recommends that conditions 18, 19, 20 and 21 relating to land instability be repeated on any re-issued consent.

The **Council's Senior Environmental Health Officer** as a consultee on the application has no comment to make regarding the application.

Network Rail as a consultee on the application advise they have no objection in principle to the development, however due to its close proximity to the operational railway, they request that all construction works must be undertaken in a safe manner which does not disturb the operation of the neighbouring railway. The consultation response received from Network Rail has been forwarded to the applicant's agent so they are aware of the contents and Network Rail requirements.

The proposed new indicative masterplan for the site is broadly consistent with the existing approved indicative masterplan for the site. The changes proposed in the new indicative masterplan are to update it and bring it in line with the detailed permissions granted within the western (Phase 1) part of the site, roads, drainage, landscaping and buildings which have been formed, the changes in Education provision requirements within the site agreed by the Council in that only a Primary School is required to be provided and the rearrangement of infrastructure and uses within the site as a result of the ongoing engineering works which are taking place on the site. The proposed new indicative masterplan shows how all the required elements that are required to be provided within the Blindwells new settlement through the conditions and Section 75 agreement of the planning permission in principle for the site can be accommodated within the site. The quantum of development within the site remains consistent with the development framework for the Blindwells site and Proposal BW1 (Blindwells New Settlement).

Therefore and as the S75 legal agreement attached to planning permission 14/00768/PPM was amended through the approval of a S75A application ref: 20/00001/OBL to include, amongst other things, modifications to the definition of Planning Permission so the same S75 agreement applied to any S42 permission related to the original consent. Consequently, there is no requirement for any further modification to the S75 agreement to include this current S42 application.

A revised version of Planning Series Circular 3/2013 (Development Management Procedures) was published by the Scottish Government in September 2015. Annex I of the Circular gives guidance on applications for planning permission under section 42 of the Town and Country Planning (Scotland) Act 1997, as amended. The application that is the subject of this report is made under section 42 of the Act. Annex I states that "Planning authorities should attach to the new permission all of those conditions from the previous permission, where it is intended these should apply and ensure (where appropriate) that permission is granted subject to the conclusion of any appropriate planning obligation". Therefore, planning permission should be granted subject to the applied for variation of the wording of conditions 1, 13 and 30 and deletion of condition 31 of planning permission in principle 20/01030/PM and subject to all of those conditions from planning permission 20/01030/PM, where it is intended these should apply. In this case, the other conditions which should continue to apply are 2-12, 14-29. The wording of the Legal Agreement approved by the Council for the original planning permission in principle 14/00768/PPM, and as such subsequent planning permission in principle 20/01030/PM ensures that the Section 75 Legal Agreement applies in respect of this application to vary conditions 1, 13 and 30 of planning permission in principle 20/01030/PM. Therefore there is no need for a new S75 Legal Agreement for this application.

Condition 4 of the planning permission in principle for the site relates to the annual housing completions within the Blindwells site. Since the granting of the planning permission in principle East Lothian Council as Planning Authority has approved revised timings of housing completions for the site, as such condition 4 has been amended to reflect the approved updated housing completion figures.

In conclusion, the proposal is considered to be in accordance with the provisions of the stated relevant Development Plan policies and there are no material considerations which outweigh the proposal's accordance with the Development Plan.

## CONDITIONS:

- 1 The submission for approval of matters specified in conditions of this grant of planning permission in principle shall include details of the siting, design and external appearance of all the dwellings and other buildings, the means of access to them, the means of any enclosure of the boundaries of the site and of gardens and other subdivisions of the site and the landscaping of the site and those details shall generally accord with the Indicative Master Plan drawing no. 13055(S42)001\_J docketed to this planning permission in principle, and shall address the following requirements:
  - a. The provision within the application site of recycling facilities.
  - b. Other than in exceptional circumstances where the layout or particular building type does not permit, houses and flats shall be orientated to face the street.
  - c. Notwithstanding that shown in the Indicative Master Plan docketed to this planning permission in principle there shall be no integral garages, unless it can be justified as an exceptional design feature, or where the house and garage would not be on a primary street frontage;
  - d. The detailed design of the layout shall accord with the principles set out in the Council's Design Standards for New Housing Areas and with Designing Streets;
  - e. The external finishes of the residential units shall be in accordance with a coordinated scheme of materials and colours that shall respect the layout of the development and shall promote render as the predominant finish to the walls of the residential units.
  - f. Notwithstanding the details shown in the Indicative Site Master Plan referred to above, there shall be a separation distance of at least 9 metres between facing windows of a proposed new building and the garden boundaries of existing or proposed neighbouring residential properties; and a separation distance of at least 18 metres between directly facing windows of a proposed new building and the windows of existing or proposed neighbouring residential properties.
  - g. Parking for the residential, local centre and primary school components of the development hereby approved shall be provided at a rate as set out in the East Lothian Council's "Standards for Development Roads- Part 5 Parking Standards" For the local centre and school this shall include for cycle parking. Private parking spaces in the local centre and other private parking areas shall be a minimum of 2.5 metres by 5 metres and spaces on the public road shall be a minimum of 2.5 metres by 6 metres. Access to private parking areas other than driveways shall be via a reinforced footway crossing and have a minimum width of 5.5 metres over the first ten metres. Private driveways shall be a minimum of 6 metres by 2.5 metres, double driveways shall be 5 metres by 6 metres or 3 metres by 11 metres.
  - h. All access roads within the new settlement shall conform to East Lothian Council's "Standards for Development Roads" in relation to roads layout and construction, footways and footpaths, parking layout and number, street lighting and traffic calming measures.
  - i. Cycle parking shall be included at a rate of 1 space per flat. The parking shall be in the form of 1 locker per flat or communal provisions in the form of a lockable room or shed.
  - j. The provision within the local centre of a civic square, which shall be designed as a central meeting point and to provide a multifunctional space for both formal use such as community arts and theatre activities and for informal use.
  - k. The provision within the application site of at least 10 hectares of employment land. The buildings within the employment land shall be restricted in use to Classes 4, 5 and 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997.
  - l. The provision within the application site of nature based elements such as woodlands, wetlands and SUDS, public open space and boulevard planting.

m. Vehicle access's to private parking areas (i.e. other than driveways) shall be via a reinforced footway crossing and have a minimum width of 5.5 metres over the first 10 metres to enable adequate two way movement of vehicles;

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

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

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

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

Reason:

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

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

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

Reason:

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

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

Reason:

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

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

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

Year 2021/22	-	120 residential units
Year 2022/23	-	130 residential units
Year 2023/24	-	110 residential units
Year 2024/25	-	120 residential units
Year 2025/26	-	120 residential units

Year 2026/27	-	120 residential units
Year 2027/28	-	120 residential units
Year 2028/29	-	120 residential units
Year 2029/30	-	120 residential units
Year 2030/31	-	150 residential units
Year 2031/32	-	150 residential units
Year 2032/33	-	150 residential units
Year 2033/34	-	70 residential units

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

Reason:

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

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

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of ten years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

Reason:

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

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

Reason:

To maximise the ecological potential of the proposed development.

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

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

Reason:

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

- 8 A Construction Method Statement to minimise the impact of construction activity on the safety and amenity of the area shall be submitted to and approved by the Planning Authority prior to the

commencement of development. The Construction Method Statement shall recommend mitigation measures to control noise, dust, construction traffic (including routes to/from site) and shall include hours of construction work and routing of traffic. The Construction Method Statement shall also make recommendations in respect of how pedestrians and school children can safely access the new school during construction works. It shall also provide details of utility/service drainage connections.

The Construction Method Statement shall also make recommendations in respect of how building materials and waste will be safely stored and managed on site.

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

Reason:

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

- 9 The details to be submitted pursuant to condition 1 above shall include full details of all noise mitigation measures. The mitigation measures shall include, but may not be limited to, final heights and locations of any acoustic bunds and/ or barriers, upgraded glazing/ ventilation specification within specific properties and possible re-orientation of residential properties. These mitigation measures shall be such that the following design criteria shall be met:

1. Daytime garden noise levels should not exceed 55 dB (A);
2. Daytime internal noise levels should not exceed 35 dB (A) and night-time internal noise levels should not exceed 30 dB (A); and
3. The Rating Level, LArTr, of noise emanating from any proposed commercial unit (when measured 3.5m from the façade of any existing or proposed residential property shall be no more than 5 dB (A) above the background noise level, LA90T.

The details to be submitted shall also include a further noise report to demonstrate the noise mitigation measures required to ensure compliance with this design criteria, together with a timetable for the implementation of all of the proposed noise mitigation measures.

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

Reason:

To ensure an appropriate level of acoustic screening in the interests of the amenity of the future occupants of the site.

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

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

Reason:

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

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

Reason:

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

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

- o Prior to commencement of any site development, a targeted contaminated land

investigation shall be carried out and a report submitted to and for approval of the Planning Authority. The investigation must also include further rounds of gas monitoring for the site. The subsequent report must include a site-specific risk assessment of all relevant pollutant linkages.

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

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

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

o The presence of any previously unsuspected or unforeseen contamination that becomes evident during the development of the site shall be brought to the attention of the Planning Authority. At this stage, further investigations may have to be carried out to determine if any additional remedial measures are required.

Reason:

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

- 13 The open space to be provided on site shall generally accord with the Indicative Master Plan drawing no. 13055(S42)001\_J docketed to this planning permission in principle. Moreover, the area of open space known as the Town Park shall include within it woodland of a significant size.

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

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

Reason:

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

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

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

Reason:

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

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

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

Reason: In the interests of road and pedestrian safety.

- 16 Prior to the commencement of development, details of a new 2 metres wide tarmac "active travel

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

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

Reason:

In the interests of road and pedestrian safety.

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

- 20 Following completion of the ground improvement works / remedial works on each phase of the development site and prior to commencing any construction works the applicant shall prepare a completion report and submit this to the Planning Authority for their approval. This completion report shall provide a detailed account of the ground improvement / remedial works carried out together with a complete record of all monitoring carried out during ground improvement /



remediation. The completion report shall provide a detailed assessment of future risks arising from continuing creep and percolation / inundation settlement. Where the risk of future collapse settlement remains, the completion report shall provide conclusions and recommendations for further monitoring / further remedial measures required prior to works commencing. The completion report shall provide conclusions and recommendations for developers in respect of foundation design, drainage design, ground gas defensive measures and other construction related activities. With regard to the consolidation of the shallow workings the completion report shall provide full details of the works carried including the validation of the end product by post treatment probes or other appropriate measures.

Reason:

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

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

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

b) The submission of details of investigations and of treatment if necessary for the mine entries on site, shallow coal workings, ground gas, and ground stabilisation of the backfill.

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

Reason:

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

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

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

Reason:

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

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

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

Reason:

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

- 24 Prior to the commencement of development, a full engineering report detailing ground stability

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

Reason:

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

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

Reason:

In the interests of road safety.

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

Reason:

In the interests of road safety.

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

Reason:

In the interests of road safety.

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

Reason:

In the interests of road safety.

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

Reason:

In the interests of road safety.

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

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

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

Reason:

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

- 31 Unless otherwise agreed with the Planning Authority, following consultation with Transport Scotland, prior to the commencement of the development of each individual Plot / Phase within the overall application site, the following matters will need to be addressed:

a) Prior to the commencement of the development of each individual Plot / Phase, details of the lighting within the site shall be submitted for the approval of the Planning Authority, after consultation with Transport Scotland, as the Trunk Roads Authority.

b) Prior to the commencement of the development of each individual Plot / Phase, details of the frontage landscaping treatment along the trunk road boundary shall be submitted to, and approved by, the Planning Authority, after consultation with Transport Scotland. All landscaping shall be located such that it can be installed and maintained from within the development without requiring access to the trunk road.

c) Prior to commencement of the development of each individual Plot / Phase, details of the fencing / barrier proposals along the trunk road boundary shall be submitted to, and approved by, the Planning Authority, after consultation with Transport Scotland. The fencing / barrier proposals shall be located such that they can be erected and maintained from within the development without requiring access to the trunk road.

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

Reason:

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

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

c) To minimise the risk of pedestrians and animals gaining uncontrolled access to the trunk road with the consequential risk of accidents;

d) To ensure that the efficiency of the existing trunk road drainage network is not affected.

- 32 Prior to the commencement of development a detailed condition survey of the construction access route from the Bankton interchange shall be jointly undertaken by the developer and East Lothian Council Roads Services. During the period of construction of the development a similar joint inspection shall be carried out to assess the condition of the route on each anniversary of the commencement of development. Any damage identified as a result of construction activities shall be repaired or resurfaced by the developer in compliance with the Council's specifications and requirements at no cost to the Council as Roads Authority.

Reason:

In the interests of road safety.



**REPORT TO:** Planning Committee  
**MEETING DATE:** 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.

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

---

**8**

**Application No.** 22/00009/AMM

**Proposal** Approval of matters specified in conditions of planning permission in principle 14/00903/PPM - Erection of 90 flats and associated works

**Location** **Land To South, East And West Wallyford East Lothian**

**Applicant** Dunedin Canmore Housing Association

**Per** EMA Architecture and Design

**RECOMMENDATION** Consent Granted

## **REPORT OF HANDLING**

Although this application is for the approval of matters specified in conditions of planning permission in principle (Ref: 14/00903/PPM) it has to be determined as a major development type application because 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.

## **BACKGROUND**

On 30 November 2009 planning permission in principle (Ref: 09/00222/OUT) was granted for a mixed use development on some 86 hectares of predominantly agricultural land to the east, south and southwest of Wallyford. The site included Wallyford Community Woodland, the public roads of Salters Road and Inchview Road, and land to the south of Fa'side Avenue South, to the south of the existing village. The land is the allocated housing site of Proposal MH9 of the adopted East Lothian Local Development Plan 2018.

Planning permission in principle (Ref: 12/00924/PPM) was subsequently sought for the renewal of planning permission in principle (ref: 09/00222/OUT), as submitted to the Council on 26 November 2012. On 1 April 2014 the Council resolved to approve the application subject to the required Section 75 Agreement and planning permission in

principle was duly granted with conditions on 14 November 2014 following the registration of that agreement.

Subsequent to this the applicant sought and was granted planning permission for the following variations to the conditions of planning permission in principle (Ref: 12/00924/PPM):

- Variation of condition 2 of planning permission in principle (Ref: 12/00924/PPM) to allow for the development and occupation of residential units from both the western (A6094 - Salters Road) and northern (A199) ends of the site (Ref: 14/00913/PM);
- Variation of condition 5 of planning permission in principle (Ref: 12/00924/PPM) to allow for up to 90 units to be completed in Year 1, up to 150 units in Year 2, up to 150 units in Year 3 and up to 60 units in Year 8 (Ref: 14/00916/PM).

In September 2015 planning permission in principle (Ref: 14/00903/PPM) was granted for amendments to planning permission in principle (Ref: 12/00924/PPM), including an increase in number of residential units from 1050 up to a maximum of 1450, relocation and redesign of open space, development for residential purposes of areas previously proposed as open space and relocation and redesign of the proposed local centre.

The elements of the approved mixed use development include residential development, community buildings including a new school and community facilities, office units, a restaurant, business units, general industrial units, storage and distributions units, trade counter units, a residential institution, a non-residential institution, hot food takeaways, playing fields, open space, allotments, landscaping and associated infrastructure provision.

Condition 1 of planning permission in principle (Ref: 14/00903/PPM) requires that the development of the site should generally accord with the indicative masterplan docketed to this planning permission in principle.

Condition 4 states that no more than 1450 residential units shall be erected on the application site.

However, in December 2020 planning permission in principle (Ref: 15/00537/PPM) was granted for residential development with associated educational and community facilities and open space on the land, known as Dolphinstone to the immediate south and east of the site the subject of planning permission in principle (Ref: 14/00903/PPM). Through a condition attached to that grant of planning permission in principle (Ref: 15/00537/PPM) the number of residential units on the combined sites the subject of planning permission in principle (Ref: 14/00903/PPM) and (Ref: 15/00537/PM) was limited to no more than 2050. A revised indicative masterplan was submitted and approved as a part of planning permission in principle (Ref: 15/00537/PPM) to show that the positions shown for the distributor road, SUDS ponds, school campus and local centre would be the same as that approved by planning permission in principle (Ref: 14/00903/PPM).

In October 2015 approval of matters specified in conditions (Ref: 15/00136/AMM) was granted for infrastructure associated with the residential development of the Wallyford site. The approved infrastructure includes the formation of an acoustic bund, and spine road that will provide access to much of the larger Wallyford development. Development of the infrastructure is well underway.

In October 2016 approval of matters specified in conditions (Ref: 16/00537/AMC) was granted for the erection of 26 houses and 18 flats on land to the south of Fa'side Avenue

South. Development of that site is largely complete.

In March 2017 planning permission (Ref: 16/01056/AMM) was granted for approval of matters specified in conditions of planning permission in principle (Ref: 14/00903/PPM) - Erection of school on Land to South of Wallyford Farm Cottages. The approved school campus comprises a new primary school, a nursery, a shared school and community library, a dining hall and multi-purpose hall for shared school and community use, associated playgrounds, playing fields, car parking and associated works. That development has been completed as Wallyford Primary School and Children's Nursery.

In September 2017 approval of matters specified in conditions (Ref: 17/00384/AMM) was granted for the erection of 185 houses on land to the east side of Wallyford - to the east of the new spine road approved by the grant of approval of matters specified in conditions (ref: 15/00136/AMM). Development of that site is largely complete.

In November 2017 approval of matters specified in conditions (Ref: 17/00432/AMM) was granted for the erection of 245 houses on land to the southwest of Wallyford and thus on part of the larger site to which planning permission in principle (Ref: 14/00903/PPM) and the masterplan docketed to that permission relate. Development of the site is well underway.

On June 4th 2019 approval of matters specified in conditions (Ref: 18/01283/AMM) was granted for the erection of 74 houses and 16 flats on land to the south of Fa'side Terrace, Wallyford and thus on the larger site to which planning permission in principle (Ref: 14/00903/PPM) and the masterplan docketed to that permission relate. Development of that site is underway.

On June 14th 2019 approval of matters specified in conditions (Ref: 18/01328/AMM) was granted for the erection of 141 houses and associated works on Land South of Faside Terrace, Wallyford to the south of the new spine road approved by the grant of approval of matters specified in conditions (ref: 15/00136/AMM). Development of the site is largely complete.

In January 2020 approval of matters specified in conditions (Ref: 19/00926/AMM) was granted for the erection of 69 houses and associated works on Land to the South, East and West of Wallyford and thus on the larger site to which planning permission in principle (Ref: 14/00903/PPM) and the masterplan docketed to that permission relate. Development of the site is largely complete.

In May 2021 approval of matters specified in conditions (Ref: 21/00069/AMM) was granted for the erection of 105 houses and associated works on Land West of 33 Fa'side Terrace, Masons Way, Wallyford and thus on the larger site to which planning permission in principle (Ref: 14/00903/PPM) and the masterplan docketed to that permission relate. Development of the site has commenced.

In June 2021 detailed planning permission (Ref: 21/00070/PM) was granted for a learning campus and associated works on land to the West of Masons Way. Development of the site is well underway.

In August 2021 planning permission (Ref: 21/00693/P) was granted for substitution of house types and erection of 12 additional houses and associated works as changes to the scheme of development the subject of planning permission (Ref: 18/01283/AMM).

In September 2021 approval of matters specified in conditions (Ref: 21/00219/AMC) was granted for the erection of 42 houses and associated works on Land To South, East And

West, Wallyford and thus on the larger site to which planning permission in principle (Ref: 14/00903/PPM) and the masterplan docketed to that permission relate. Development of this site has not yet commenced.

Also in September 2021 approval of matters specified in conditions (Ref: 21/00468/AMM) was granted for the erection of 149 houses and associated works Land To South, East And West, Wallyford and thus on the larger site to which planning permission in principle (Ref: 14/00903/PPM) and the masterplan docketed to that permission relate. Development of this site is underway.

In August 2021 planning permission (Ref: 21/00693/P) was granted for substitution of house types and erection of 12 additional houses and associated works as changes to the scheme of development the subject of planning permission 18/01283/AMM on Land South of Fa'side Terrace, Wallyford.

## **PROPOSAL**

Planning permission is now sought for approval of matters specified in conditions of planning permission in principle (Ref: 14/00903/PPM) for the erection of 90 flats and associated works on Land To South, East And West, Wallyford.

The application site is located to the south and east of Wallyford. It relates to an irregular-shaped area of land of some 1 hectares that slopes gradually from north east to south west. It has a rough grass finish and has no trees or any other landscape features present on it. In February 2022 an application (Ref: 22/00133/AMC) was submitted to the council for approval of matters specified in conditions of planning permission in principle 15/00537/PPM - Erection of convenience store (class 1), mixed use units (class 1, 2 & 3/sui generis), 1 NHS facility building (class 2), and associated works on land to the east of the site of this application. That application was reported to members through the Scheme of Delegation List of 26th May 2022 with a recommendation that planning permission be granted.

To the south of the application site is the existing access road of Futures Way with Wallyford Primary School beyond. To the north of the site is the land of the Learning Campus approved through detailed planning permission (Ref: 21/00070/PM) and currently under construction. To the west of the site is an area of land which the masterplan docketed to planning permission in principle 14/00903/AMM identifies as an area of open space with houses of the established Wallyford settlement beyond.

In June 2019 application (Ref 19/00003/OBL) to modify the S75 legal agreement associated with planning permission in principle (Ref: 14/00903/PPM) was approved. This gave approval for modifications to that S75 legal agreement which was the mechanism by which the provision within the residential development of 1450 residential units of 25% affordable housing (i.e. 363 units of the proposed 1450 units) was secured. Additionally, the plan docketed to the Section 75 agreement indicated where within the parts of the overall Wallyford development site that the affordable housing would be provided. This application is for 90 flats on one of those affordable housing sites.

Of the 90 flats proposed, all would be promoted as affordable housing consisting of 61 social/mid-market rent and 29 Livingwell flats for older people. The Councils Development Team Housing Enabler has undertaken an assessment of need and advises that the preferred tenure for this site includes a mix of social rent to include mid-market rent and older person's living. She further confirms that discussions are ongoing with applicants toward such provision. In this regard the proposal is consistent with the indicative masterplan docketed to planning permission in principle (Ref: 14/00903/PPM)

and with policy HOU3 (Affordable Housing Quota) of the adopted East Lothian Local Development Plan 2018. A condition can reasonably be attached to any grant of planning permission to ensure the development is operated as affordable housing.

The proposed 90 flats would be contained within three flat roofed, flatted blocks. They would comprise 9 one-bedroom flats, 78 two-bedroomed flats and 3 three-bedroomed flats. The flatted 3 blocks would be oriented to face outwards from the site and would be constructed around an inner courtyard and would consist of:

- a 3-storey U-shaped flatted block of 30 flats on the west part of the site;
- a 4-storey L-shaped flatted block on the northeast part of the site providing 29 Livingwell flats to include a communal social area; and
- a 4-storey L-shaped flatted block of 31 flats on the southeast part of the site.

The proposed flatted blocks would have flat roofs finished in grey single-ply membrane and external elevation walls finished predominantly in red and light buff multi-facing brick with some use of grey brick as feature panels. All windows would be finished in dark grey. Other than those serving bathrooms all proposed window openings above ground floor level would be full size and would feature Juliet balconies finished in brushed steel railings. All external doors and fascias would be dark grey. Entrance to the proposed flats would be taken from a number of doorways formed on the front, side and rear elevations of the flatted blocks. Internal bin and cycle storage facilities would be provided at ground-floor level within each flatted block.

The principal vehicular access to the proposed 90 flats would be provided by an access road formed to the north of the site taken from a junction formed on the west side of the main spine road of Masons Way. Additional vehicular access would be taken from the existing Wallyford Primary School access road of Futures Way to the south. Pedestrian footpaths would be formed to the north, south and west and to connect with the proposed local centre to the east.

Centrally laid out parking areas are proposed within the site to provide a total of 90 parking spaces to serve the proposed flats to include those providing disabled access. All of the proposed vehicle parking spaces would have access to an electric vehicle charging point.

The submitted details also include for the internal access roads, footpaths, boundary treatments, landscaping and associated area of open space.

The application is supported by a Design and Access Statement.

As well as detailed architectural drawings, the application is also supported by, amongst other documents, a proposed Drainage Layout Plan and an Interim Geo-Environmental Letter Report (Mason Evans, dated 25th March 2022).

Since the application was first registered further drawings have been submitted showing revisions to the proposed site layout.

## **DEVELOPMENT PLAN**

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved South East Scotland Strategic Development Plan

(SESplan) and the adopted East Lothian Local Development Plan 2018.

There are no policies of the approved South East Scotland Strategic Development Plan (SESplan) relevant to the determination of the application. Proposal MH9: (Land at Wallyford) and Policies DP1 (Landscape Character), DP2 (Design), DP3 (Housing Density), DP4 (Major Development Sites), T1 (Development Location and Accessibility), T2 (General Transport Impact), DP8 (Design Standards for New Housing Areas), DP9 (Development Briefs), DCN2 (Provision for Broadband Connectivity in New Development), HOU1 (Established Housing Land), HOU3 (Affordable Housing Quota), HOU4 (Affordable Housing Tenure Mix), W3 (Waste Separation and Collection), PSEH2 (Low and Zero Carbon Generating Technologies), OS3 (Minimum Open Space Standards for New General Needs Housing) and OS4 (Play Space Provision in new General Needs Housing Development) of the adopted East Lothian Local Development Plan 2018 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 approved masterplan for the site as approved by the grant of planning permission in principle 14/00903/PPM. The masterplan sets out the land uses expected for the allocated site and how the Council requires the site to be developed.

Also material to the determination of the application is the Council's Supplementary Planning Guidance 'Design Standards for New Housing Areas' material to the determination of the application is 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.

## **REPRESENTATIONS**

No letters of public objection have been received in respect of this application.



## **COMMUNITY COUNCIL COMMENTS**

Wallyford Community Council, as a consultee, have raised concerns to the proposals on grounds of road safety relating to:

- use of the existing access road serving Wallyford Primary School and Nursery to access the site of the proposed development;
- the siting of vehicle parking spaces opposite the main entrance to Wallyford Primary School/Nursery;
- loss of an existing turning circle to the southeast of the application site; and
- insufficient parking within the site of the proposed development;

## **PLANNING ASSESSMENT**

By the grants of planning permission in principle (Ref: 14/00903/PPM) and (Ref: 15/00537/PPM) approval has been given for the principle of the erection of up to 2050 houses on the combined Wallyford and Dolphingstone sites following technical assessments which demonstrated that local and wider infrastructure, subject to financial contributions and conditions, can accommodate such level of development. To date, approval has been granted for the erection of a total of 1082 residential units on the wider Wallyford site (Ref: 16/00537/AMC, 17/00384/AMM, 17/00432/AMM, 18/01283/AMM, 18/01328/AMM, 19/00926/AMM, 21/00069/AMM, 21/00693/P, 21/00219/AMC and 21/00468/AMM). Therefore as the cap of 2050 houses has not yet been reached within the combined Wallyford and Dolphingstone sites, there can be no objection in principle to the proposed 90 flats now proposed on this particular part of the larger site.

Consequently, in the determination of this application the Council, as Planning Authority, can only concern itself with the siting, design and external appearance of the housing 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, the approved masterplan of, and conditions attached to planning permission in principle (Ref: 14/00903/PPM).

The proposed flatted development would form an extension to, and would be a natural extension of the southern edge of Wallyford. The proposed flats would be seen in relation to the new Wallyford Primary School to the south and the Learning Campus currently under construction on land to the north of this site. The new flats will also eventually be seen in relation to a local centre that is proposed on land immediately to the east of the application site. In all of this, the proposed flatted development would be sympathetic to and would not be out of keeping with the character of Wallyford or with other recent residential developments in the Wallyford area.

The proposed flatted buildings and associated areas of ground, in their proposed groupings, orientations, and layout would be broadly consistent with the layout shown in the Design Concept docketed to planning permission in principle (Ref: 14/00903/PPM) and with the principles of the Scottish Government Policy Statement entitled "Designing Streets". The proposed layout of roads, pathways and parking spaces would also generally be consistent with those principles.

The details now submitted for approval are for a scheme of development comprising 3 flatted blocks consisting of one of 3-stories and two of 4-stories in height. The total number of residential units proposed accords with the planning permission in principle granted for this part of the site and the mix of residential units includes a range of sizes and flat types. The layout reflects the surrounding area and the flatted blocks 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 development of the three flatted blocks on this site would result in a higher density of development than is apparent on the other pockets of development within the larger Wallyford development. However, the 3 and 4 storey flatted blocks would be seen in the context of, and would sit comfortably alongside the buildings of the Wallyford Learning Campus and Primary school and also the future buildings of the new local centre. Therefore due to the location of the site this higher density of development would not be inappropriate and such a density of development would not be harmful to the character of this particular part of the larger Wallyford development.

The flatted blocks due to their positioning on the application site and by virtue of their height, size and scale, would not appear incongruous in their landscape setting. This coupled with the proposed landscaping would ensure a visually attractive and cohesive development, with the proposed flatted blocks visible but not appearing intrusive in their surroundings. The other components of the proposed development would not be harmful to the character and appearance of the area.

The architecture of the proposed flatted blocks is of a flat roof form. The use of brick as external wall finishes would be appropriate to their modern architectural style, and would be reflective of the historic links of Wallyford to brick production. A condition can be imposed on a grant of approval of matters specified in conditions for the proposed development to address these matters of external finishes.

The proposed development would provide an attractive residential environment for future residents of the proposed flats. The flats 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 flats an appropriate level of privacy and residential amenity.

The **Council's Landscape Officer** has been consulted and raises no objections to the proposals. The submission of a detailed scheme of landscaping prior to the commencement of development can be made a condition of a grant of approval of matters.

The **Council's Senior Environmental Health Officer** has been consulted and has responded no comment.

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 and DP2 of the adopted East Lothian Local Development Plan 2018 and the Council's approved development framework for Wallyford, Scottish Government's Designing Streets and the Council's Supplementary Planning Guidance 'Design Standards for New Housing Areas'.

The masterplan docketed to planning permission in principle (Ref: 14/00903/PPM) indicates how areas of formal and informal open space, including two community sports pitches, could be located throughout the allocated site.

The site that is the subject of this approval of matters application includes small areas of land shown on the docketed masterplan as being the location for areas of open space. It does not show areas for play area provision or for sports pitch provision.

However, the site is bounded to the northwest by areas identified by the masterplan for planning permission in principle (Ref: 14/00903/PPM) as open space. Furthermore a play park suitable for a range of age groups of children is open and available for use. Additionally, the site is in close proximity to the Wallyford Community Woodland which will provide a range of opportunities for outdoor recreation for the residents of the wider Wallyford site including the future occupants of the 90 flats to be constructed on this site. Therefore the future occupants of the flats would benefit from a range of play and recreation facilities within the immediate area.

The **Council's Acting Principal Amenity Officer** has been consulted on the application and has not raised any objection to it.

The principles of the means of accessing the larger development comprising the Wallyford expansion are already decided by the grant of planning permission in principle (Ref: 14/00903/PPM). These include vehicular access to the proposed housing plots being taken from the new distributor road approved by the grant of Approval of Matters Specified in Conditions (Ref: 15/00136/AMM).

The Council's Road Services raise no objection to the submitted details, being satisfied that the proposed development would not result in unacceptable traffic congestion on the local road network and that it would not result in a road or pedestrian safety hazard. They advise that the location and amount of parking within the site is acceptable given the proximity of public transport provision and access to alternative active travel modes. They recommend however that conditions be imposed on any grant of planning permission to ensure that:

- \*A Quality/Safety Audit is undertaken and the outcomes implemented through the design and implementation stages - including post construction/opening;
- \* All paths and footway connections from the development to adjacent roads shall be constructed to an adoptable standard in accordance with East Lothian Council Standards for Development Roads, to include provision of a 1.5 meters wide footpath at the northern end of the flatted Block 3;
- \* Full details of all the proposed offsite works are submitted for planning authority approval to include provision of Way finding signage around the site and externally within Wallyford to show active travel routes to the site as well as for those driving;
- \*A Travel Plan be provided with particular regard to provision for walking, cycling and public transport access to and within the site and to identify the measures to be provided, the system of management, monitoring, review, reporting and duration of the plan;
- \* The details of an emergency access strategy is agreed in advance with the Planning Authority;
- \* A Construction Method Statement to minimise the impact of construction activity on the public road network be submitted to and approved by the Planning Authority prior to the commencement of development. It should recommend mitigation measures to control noise, dust, construction traffic (including routes to/from the site) and shall include hours of construction work;
- \* Wheel washing facilities be provided and maintained in working order during the period of operation of the site to prevent deleterious materials being carried on to the Distributor Road on vehicle tyres.
- \*Cycle parking and electric vehicle charging provision be provided prior to the occupation of any of the proposed flats; and
- \* Full details of 3 adoptable footpath connections to link the northern edge of the

application site to the adjacent Wallyford Learning Campus are submitted for planning authority approval and thereafter constructed in accordance with those details as approved.

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

In relation to the 3 off-site footpaths to be provided between the application site and the Learning Campus currently under construction to the north, the Council's Design and Programme Management Team raise no objections to the provision of path links being provided on Council owned and maintained land between the application site and the Learning Campus subject to the prior submission of full details of the proposed footpaths. The footpaths to be provided between the application site and the Learning Campus would cross over a small landscaped strip of land to link with an east/west pedestrian/cycle corridor along the south side of the site of the Learning Campus providing public access through that site. A condition can be imposed on any grant of planning permission to ensure the final details of these paths, and to include replacement details for any planting to be removed to facilitate provision of the paths as well as the hard surfacing and lighting requirements required by Road Services, be approved and the footpaths provided prior to any occupation of the proposed flats.

On these foregoing transportation and other access considerations the proposed development is consistent with Policies T1 and T2 of the ELLDP.

The mechanism of a financial contribution towards additional educational provision for a housing development of 1450 residential units has already been secured through the grant of planning permission in principle (Ref: 14/00903/PPM). The **Council's Planning Obligations Officer** has confirmed that, as an approval of matters of that planning permission in principle, there are no requirements for additional developer contributions associated with this application.

The indicative masterplan docketed to planning permission in principle (Ref: 14/00903/PPM) indicates how three sustainable urban drainage scheme (SUDS) detention basins would be formed within the wider Wallyford site to attenuate the flow of surface water run-off. The three SUDS detention basins have been approved by approval of matters (Ref: 15/00136/AMM) and have been constructed.

The applicant's agent has confirmed that all onsite drainage/Suds features will be served by the SUDS scheme previously consented by approval of matters Ref: 15/00136/AMM and installed within the larger development.

The **Council's Flooding Officer** has been consulted on the application and has confirmed that the submitted Drainage Layout Plan is acceptable.

The Flooding Officer raises no objection to the application.

Scottish Water were consulted on the planning application and raise no objection.

The **Council's Waste Services** were consulted on the application and raise no objection.

In relation to considerations of contaminated land issues, the **Council's Contaminated Land Officer** has reviewed the submitted Geo-Environmental Letter Report and is satisfied that no further assessment is required for the application site with regards to contamination. He advises however that a Gas Risk Assessment Report is submitted in

order for him to provide additional comments upon completion of gas monitoring works.

Subject to the above controls the Council's Contaminated Land Officer raises no objection to the application.

At its meeting on Tuesday 27th August 2019 the Council approved a motion declaring a Climate Emergency. Thereafter, at its meeting on Tuesday 3rd September 2019 the Council's Planning Committee decided that a condition requiring a developer to submit for the approval of the Planning Authority a report on the actions to be taken to reduce the carbon emissions from the building and from the completed development should be imposed on relevant applications for planning permission. Such a condition should be imposed on a grant of planning permission for this proposed development.

In conclusion, the proposals are considered to be in accordance with the provisions of the stated relevant Development Plan policies and there are no material considerations which outweigh the proposals accordance with the Development Plan.

**CONDITIONS:**

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

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

- a. the position within the application site of all elements of the proposed development and position of adjoining land and buildings;
- b. finished ground and floor levels of the development relative to existing ground levels of the site and of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and
- c. the ridge height of the proposed buildings shown in relation to the finished ground and floor levels on the site.

Reason:

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

- 2 Notwithstanding that which is stated on the drawings docketed to this approval of matters specified in conditions, a detailed specification of materials and finishes to be used on the exterior of the flats hereby approved which shall include samples of the brick to be used on the buildings, and a schedule of all other materials and finishes to be used on the other components of the development, including ground surfaces and boundary enclosures, shall be submitted to and approved by the Planning Authority prior to the materials and finishes being used in the development. The materials and finishes used in the development shall accord with the schedule and samples of them so approved.

Reason:

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

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

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

Reason:

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

- 4 No development shall be commenced on site unless and until written evidence that a contract has been entered into for the provision as affordable housing of all of the 90 flats hereby approved has been submitted to and agreed by the Planning Authority.

Reason:

In order to ensure the development is operated as affordable housing and is therefore compliant with Policy HOU3 of the adopted East Lothian Local Development Plan 2018.

- 5 Prior to the occupation of the flats hereby approved, details, including a timetable for their implementation, showing compliance with the following transportation requirements shall be submitted to and approved in writing in advance by the Planning Authority

(i) all paths and footway connections from the development to adjacent roads shall be constructed to an adoptable standard in accordance with East Lothian Council Standards for Development Roads;

ii) a 1.5 meters wide footpath shall be provided at the northern end of the flatted Block 3 hereby approved;

(ii) details of all the proposed offsite works to include provision of Way finding signage around the site and externally within Wallyford to show active travel routes to the site as well as for those driving;

(iii) details of proposed emergency access strategy.

These transportation requirements shall thereafter be carried out in accordance with the details and timetable so approved.

Reason:

In the interests of road and pedestrian safety.

- 6 Prior to the commencement of development, details of the provision of car charging points and infrastructure for them shall be submitted to and approved in writing by the Planning Authority. No use of the vehicle parking spaces shall commence prior to installation in accordance with details so approved of the car charging points and infrastructure for them unless otherwise approved in writing by the Planning Authority.

Reason:

To minimise the environmental impact of the development.

- 7 Notwithstanding that shown on drawings docketed to this approval of matters specified in conditions, a scheme of landscaping shall be submitted to and approved in writing by the Planning Authority prior to the commencement of development which shall include full details of all new tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting within the application site. Thereafter the scheme of landscaping shall be carried out in accordance with that approved landscaping scheme unless otherwise agreed by the Planning Authority.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the completion of the development or occupation of any house hereby approved, whichever is the sooner. Any trees or plants which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar species and final size, unless the Planning Authority gives written consent to any variation.

Reason

In order to ensure the implementation of a landscaping scheme to enhance the appearance of the

development in the interests of the amenity of the area

- 8 All of the landscaping as required by condition 8 above shall be implemented, maintained and managed in accordance with management details to be provided by the landscaping scheme unless otherwise agreed in writing by the Planning Authority.

Reason:

In order to ensure the maintenance and management of the landscaping scheme to enhance the appearance of the development in the interests of the amenity of the area.

- 9 Prior to the commencement of development a Gas Risk Assessment shall be undertaken for the site and a Gas Risk Assessment Report shall be submitted which shall include an evaluation of any gas protection measures that may be deemed necessary. Where risks have been identified, a detailed Remediation Statement should be produced that shows 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

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

In the event that 'unexpected' ground conditions (contamination) are encountered at any time when carrying out the permitted development, and if required further Site Investigations and subsequent Risk Assessment may have to be carried out and if necessary a Remediation Strategy and a Verification Report be submitted confirming the satisfactory completion of these remedial works.

Reason:

In the interests of the amenity of the area.

- 10 Prior to the commencement of the development hereby approved a Stage 1 Road Safety Audit shall be undertaken for the preliminary design of all roadworks, footways and cycle paths to be formed. This process shall be completed through Stages 2, 3 & 4 which are Completion of Detailed Design, Completion of Construction & Post Opening Monitoring using 12 months of validated post scheme opening road traffic collision data - all in accordance with GG119 Road Safety Audit Rev1. The Road Safety Audit to include; the proposed roads, junctions, footways, cyclepaths, pedestrian crossings (including controlled crossing) and double 'D' islands where provided. The findings of the Road Safety Audit shall be submitted for the approval of the Planning Authority prior to the implementation of any outcomes arising from them.

The outcomes of the initial Quality and Safety Audits shall be implemented (including the designers response) through the detailed design stages and the full audit processes (i.e. Safety Audit and Quality Audit) completed through the design and implementation stages - including post construction/opening in accordance with a timetable to be agreed with the Planning Authority in advance of the opening of the convenience store (class 1), mixed use units (class 1, 2 & 3/sui generis) and NHS facility building hereby approved.

Reason:

In the interests of road and pedestrian safety.

- 11 Prior to the commencement of development, a Construction Method Statement which sets out how the impact of construction activity on the safety and amenity of the area will be mitigated shall be submitted to and approved by the Planning Authority.

The Construction Method Statement shall include details of:

- \* Mitigation measures to control noise, dust, construction traffic (including routes to/from site and delivery times).
- \* Hours of construction work
- \* Routes for construction traffic

\* Wheel washing facilities or alternative facilities to prevent deleterious materials being carried onto the public road on vehicle tyres.

\* Temporary measures to control surface water drainage during the construction works.

Wheel washing facilities must be provided and maintained in working order during the period of construction operations at 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 make recommendations in respect of how building materials and waste will be safely stored and managed on site.

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 and the wheel washing facilities, or any alternative facility so approved, shall be provided and maintained in working order during the period of construction operations at the site .

Reason:

To minimise the impact of construction traffic in the interests of road and pedestrian safety in the locality.

- 12 Prior to the occupation of any of the flats hereby approved, a Travel Plan shall be submitted to and approved in writing by the Planning Authority in consultation with Road Services. The Travel Plan shall have particular regard to provision for walking, cycling and public transport access to and within the site, including the identification of appropriate Safer Routes to School, and will identify the measures to be provided, the system of management, monitoring, review, reporting and duration of the plan.

Reasons:

In the interest of road safety.

- 13 Prior to the commencement of development details of proposed secure cycle parking shall be submitted to and approved by the Planning Authority.

The secure cycle parking shall be formed and made available for use in accordance with the details so approved and thereafter retained in place unless otherwise agreed by the Planning Authority.

Reason:

To ensure the provision of adequate cycle parking on the site

- 14 Prior to the commencement of any part of the development hereby approved, full details of the 3 adoptable and lit footpath links at points between the northern boundary of the application site and the approved footpath network to the south of Wallyford Learning Campus shall be submitted to and approved by the Planning Authority. The 3 footpath links shall follow a route to the north over an area of landscaping linking them to the east/west pedestrian/cycle corridor along the south side of the site of the Learning Campus.

Thereafter and prior to the occupation of any of the flats the 3 footpath links shall be formed in accordance with approved details unless otherwise approved by the Planning Authority.

Thereafter, the 3 footpath links shall be retained in use as adoptable and lit footpath links.

Reason:

In the interests of the safety and amenity of pedestrians and cyclists.

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



accordance with the report so approved.

Reason:

To minimise the environmental impact of the development.

- 16 The drainage scheme as detailed on drawing number 52001 Revision P02, titled 'Proposed Drainage Layout', docketed to this planning permission shall be formed and available for use prior to any part of the development hereby approved coming into use, unless otherwise approved by the Planning Authority. Thereafter the drainage layout shall be retained unless otherwise agreed by the Planning Authority.

Reason:

To ensure that the site is adequately serviced and that surface water and foul drainage from the site can be accommodated.