

Spott Road to the west providing a route, including a route to school, for the occupants of the new housing developments at Bowmont Terrace and Newtonlees on the east side of the rail line.

On 22 April 2022 planning permission (ref: 20/00916/P) was granted for the laying of infrastructure including roads and footpaths, street lighting and drainage infrastructure within the Proposal DR7 site to facilitate what will be the first phase of development of it. The approved road and footpaths would lead from the existing access road between Asda and the Garden Centre and would terminate at what will be a junction in the road on the east part of the DR7 site; a length of the road would also loop round to the south and would link to the existing access between the McDonalds car park and the Asda supermarket. The approved road would, once formed, bound the application site to the north.

PROPOSAL

Planning permission is sought through this application for the erection on the application site of a coffee shop building (class 3), with outdoor seating area, drive thru facilities and for the formation of car parking, cycle parking and hard and soft landscaping.

The proposed drive thru coffee shop building would be situated on the southern part of the application site. It would be single storey in height, with a flat roof that would at its highest be some 3.9m in height with a feature tower protruding some 3m above the roof. It would have a largely rectangular shaped footprint some 26m in length by some 11.6m in width. Its walls would be clad with a combination of composite panels of a grey colour, wooden façade panels and large areas of glazing. Its roof would clad in composite panels of a grey colour. There would be two associated outdoor seating areas located to the front (north) and side (east) of the building. The drive thru component would comprise a single track road that would run in an arc around the south side of the building. Three transformer units would be erected on the northwest part of the site to allow for electric vehicle charging.

Access into the site would be from a new vehicular access to be created on the south side of the new road through the wider Proposal DR7 site approved by the grant of planning permission 20/00916/P.

Parking would be provided to the north side of the building with space for 32 cars and an additional 3 disabled parking bays. There would also be 8 electric vehicle charging spaces provided. Sheffield style cycle racks would be provided adjacent to the north side of the building allowing 12 bicycles to park.

The parking area and the drive thru component would be lit with 4m high lighting columns.

The perimeter of the site would be enclosed with a 1.1m high post and rail fence and landscaped. A pedestrian access would be taken from the pavement on the south side of the new road through the wider Proposal DR7 site approved by the grant of planning permission 20/00916/P and formed through the car parking area to the front door of the building.

The proposed coffee shop would be open 7 days a week from 6am to 10pm and would employ approximately 20 staff.

A Transport Statement, a Drainage Strategy, a Noise Impact Assessment, Design

Statement and a Planning Statement have been submitted in support of the application. The planning statement includes a retail impact assessment, and addresses the circumstance of the proposed development relative to the development plan and other material considerations. It concludes that the proposed development would not have an adverse effect on the vitality and viability of Dunbar Town Centre, and is consistent with the adopted East Lothian Local Development Plan 2018.

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 together with its adopted supplementary guidance.

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

Proposal DR7: Land at Spott Road and Policies CH5 (Battlefields), EMP1 (Business and Employment Location), TC1 ('Town Centre First' Principle), DP1 (Landscape Character), DP2 (Design), DP9 (Development Briefs), CH5 (Battlefields), NH10 (Sustainable Drainage Systems), NH11 (Flood Risk), T1 (Development Location and Accessibility), T2 (General Traffic Impacts) and T31 (Electric Car & Bus Charging Points) are relevant to the determination of the application.

Also relevant to the determination of the application is the Council's Development Briefs Supplementary Planning Guidance, and specifically the DR7 - Spott Road, Dunbar Development Brief contained within it, the Council's Sustainable Drainage Systems (SuDS) Supplementary Planning Guidance and the Council's Dunbar Town Centre Strategy Supplementary Planning Guidance.

The Dunbar Town Centre Strategy Supplementary Planning Guidance seeks to guide the improvement of Dunbar Town Centre. It should be noted that Appendix 1 of the Guidance identifies that a potential threat to Dunbar Town Centre is if the Spott Road local centre is expanded, which could attract residents away from the town centre. It should also be noted however that Appendix 1 of the Guidance also identifies that a weakness of the town centre is that a high proportion of retail expenditure, particularly on comparison goods, is made outwith the town.

Also material to the determination of the application is Scottish Planning Policy: June 2014. It advises that the planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost. This means that policies and decisions should be guided by principles, including supporting delivery of accessible housing, business, retailing and leisure development.

Scottish Planning Policy highlights that the planning system should apply a town centre first policy when planning for uses which attract significant numbers of people, including retail facilities. This requires that locations are considered in the following order of

preference:

- town centres (including city centres and local centres);
- edge of town centre;
- other commercial centres identified in the development plan; and
- out-of-centre locations that are, or can be, made easily accessible by a choice of transport modes.

It further states that Planning authorities, developers, owners and occupiers should be flexible and realistic in applying the sequential approach, to ensure that different uses are developed in the most appropriate locations.

REPRESENTATIONS

No written representations have been received in respect of this application.

COMMUNITY COUNCIL COMMENTS

Dunbar Community Council have been consulted on the application and advise they object to the proposed development. They state that there are major ongoing concerns about access to the area from Spott Road. Proposals for other developments in the area (e.g. Hallhill North) have led to an accumulation of access points which are thought to be dangerous to the public. The Community Council state pedestrian access from Spott Road is dangerous as there is no pavement, and that the signage at Spott Road roundabout is dangerous. The Community Council further state that any suggestion that there should be traffic lights at the area close to ASDA is opposed and that proposals for road safety must be ensured for all the developments proposed in the area prior to any planning permission being granted.

PLANNING ASSESSMENT

The application site is covered by Proposal DR7 of the adopted East Lothian Local Development Plan 2018. Proposal DR7 allocates the site for employment uses. Proposal DR7 states that any new development proposals for the site must include a comprehensive masterplan for the entire allocated site that conforms to the relevant Development Brief. Any development here is subject to the mitigation of any development related impacts, including on a proportionate basis for any cumulative impacts with other proposals including on the transport network as appropriate. Proposal DR7 further confirms that Policy EMP1 applies.

Policy EMP1 states that within areas allocated for business and employment, uses within Use Classes 4, 5 and 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 are supported. Other employment generating uses may also be supported in these locations subject to the town centre first principle (Policy TC1) and provided there would be no amenity conflicts or other unacceptable impacts. Proposals to redevelop employment sites or premises for other employment generating uses will only be supported where the uses proposed do not prejudice or inhibit the activities of a nearby employment use.

Proposals must not adversely affect amenity and must be able to co-exist satisfactorily with existing or proposed uses on the site and in the surrounding area.

Policy TC1 of the adopted East Lothian Local Development Plan 2018 states that a sequential 'town centre first' approach will be applied where appropriate to retail, commercial leisure, office and other development proposals that would attract significant footfall. Applicants should provide evidence that locations have been considered in the following order of preference:

1. Town centre or local centre;
2. Edge of town centre or local centre;
3. Other commercial centre;
4. Out-of-centre locations.

The proposal would be an employment generating use. On this matter, the applicant estimates that the proposed development would generate some 20 jobs.

With regard to whether the proposed development would prejudice any existing employment use, there is no reason in principle why the proposed retail uses could not satisfactorily co-exist with the nearby existing employment uses. On this matter, the application site is not bound by any sensitive land uses, with no nearby residential properties.

Policy EMP1 further states that proposals must not adversely affect amenity and must be able to co-exist satisfactorily with existing or proposed uses on the site and in the surrounding area. In this regard, the application site is not bound by any sensitive land uses, with no nearby residential properties.

The applicant's submitted Retail Impact Assessment (RIA) states that there are no sites or large buildings within Dunbar Town Centre which are capable of accommodating the proposed development, particularly with adjacent surface level car parking, and that the town centre does not have any industrial legacy where sites or buildings are vacant or could be converted to large scale retail use.

The applicant's RIA further states that the sequential approach to site selection identifies a hierarchy of centres to which retail development should be directed. In Dunbar there is a second recognised centre identified as a local centre at Spott Road which includes the current Asda store and garden centre. The local centre at Spott Road is tightly defined around existing uses with no expansion land identified.

Therefore the applicant's RIA concludes there is no space within the Dunbar Town Centre or the Spott Road local centre to accommodate the proposed development, so the application site has been chosen as an alternative edge of local centre location.

Given the constraints of existing town centre sites, it is accepted that there are no sites in Dunbar Town Centre or the Spott Road local centre that could accommodate the proposed development. On this consideration, the sequential test is met.

Policy TC1 of the adopted East Lothian Local Development Plan 2018 also requires that the scale of any new development should be appropriate to the scale of settlement and the role and function of the centre where it is proposed, and in this regard it is necessary to consider whether the proposed development would adversely affect the vitality or viability of Dunbar Town Centre.

In order to assess any potential impact on the vitality or viability of Dunbar Town Centre and to assess the applicant's submitted retail impact assessment, the Planning Service commissioned Roderick MacLean Associates Ltd to undertake a review of the applicant's supporting information and in this capacity has provided a consultation response to the

application.

Roderick MacLean Associates Ltd advise that some business may be diverted from the café/ restaurant sector in Dunbar Town Centre, but not very much because the market is different. Those visiting the town centre are most likely to continue to want to visit cafes and restaurants in the centre in conjunction with shopping and other reasons, rather than making a separate trip some distance away, simply for coffee. Some passing trade would also be attracted off the A1.

Roderick MacLean Associates Ltd advise they do not consider that the proposed drive-thru coffee shop would have a significant adverse effect on the vitality and viability of Dunbar Town Centre.

The proposal is therefore consistent with Scottish Planning Policy and Policy EMP1 of the adopted East Lothian Local Development Plan 2018. It also does not conflict with the aims and objectives of the Council's Dunbar Town Centre Strategy Supplementary Planning Guidance.

The proposed coffee shop building would be seen in relation to the existing developments to the west, namely the McDonalds Drive thru restaurant, Asda supermarket and Dunbar Garden Centre, and may well in time also be seen in relation to future buildings on the wider Proposal DR7 site. In such a context the proposed coffee shop building by being single storey in height and of a contemporary design would sit comfortably with the other existing nearby buildings. It would not by its architectural form size or positioning appear as an incongruous or overly dominating feature. The building would be of a size, scale and design appropriate to its location and would not be an over development of the site. In their positional relationships with the main building, neither would the car parking areas, access roads and other associated development of the site. The proposed landscaping would reduce the impact of the development in public views of it. In all of this the coffee shop building, car park and other associated development, by virtue of their design scale and position are appropriately designed for their place and would not be harmful to the character or appearance of the area.

There are no nearby residential properties and therefore the proposed development would not harm the amenity of any nearby residential property or neighbouring land use. The **Council's Senior Environmental Health Officer** raises no objection to the application.

The **Council's Landscape Officer** advises that a scheme of landscaping should be submitted to help to absorb the impact of the development and provide attractive landscaped edges to it. The Landscape Officer also advises that the hedge on the south side of the site should be retained and protected during the course of development. The requirement for a scheme of landscaping can be imposed as a condition on a grant of planning permission for the proposed development.

On these considerations of layout, design, and amenity, the proposed development is consistent with Policies DP1 and DP2 of the adopted East Lothian Local Development Plan 2018.

Historic Environment Scotland raise no objections to the application being satisfied that it would not have a significant adverse affect on the key features of the Battle of Dunbar II historic battlefield site.

The **Council's Archaeology/Heritage Officer** advises that the application site has likely seen a high degree of disturbance, and that the area to immediate west (where the

McDonalds now stands) was evaluated and no remains were identified; indeed a significant part of that area was shown to have been disturbed by the construction of the A1. The Archaeology/Heritage Officer advises that overall although the proposal area does lie in a general area of high archaeological potential, the exact area of the proposal is likely to have been previously disturbed by the construction of the A1, which means that any archaeological remains which may have been present are likely to have been destroyed. The Archaeology/Heritage Officer therefore raises no objection to the application.

On these considerations the proposed development is consistent with Policy CH5 of the adopted East Lothian Local Development Plan 2018, Planning Advice Note 2/2011: Planning and Archaeology and Scottish Planning Policy.

The **Council's Civil Engineer Technician** – Flooding has been consulted on the application and raises no objection to the proposed development on the grounds of flood risk or drainage. The Civil Engineer Technician – Flooding does however recommend that full details of the proposed Sustainable Drainage System (SuDS) scheme and a drainage strategy for the site be submitted.

Scottish Water raise no objection to the proposed development, advising that there is sufficient capacity locally for the supply of water and treatment of foul waste from the site.

On these considerations of SuDS design, flood risk and drainage, and subject to the above recommended control, the proposals are consistent with Policies NH10 and NH11 of the adopted East Lothian Local Development Plan 2018 and with the Council's Sustainable Drainage Systems (SuDS) Supplementary Planning Guidance.

The **Council's Road Services** advise, as well as motorised traffic, the proposed development will attract local trips on foot and by bike, and it is important to ensure that the use of such modes of transport are safe and attractive. Road Services note that the applicant's submitted Transport Statement states that the infrastructure works which are the subject of planning permission 20/00916/P will be complete and provide access for customers and staff to the proposed building. Road Services advise this is essential as the road to McDonalds from the Spott roundabout on the A1 has never been proposed for adoption and remains private.

Road Services further advise that they recognise the need for a high-quality pedestrian and cycle network linking the application site with the existing town centre and the train station, and that this needs to be achieved by the construction of a fully signalised junction in place of the current roundabout at the Kellie Road/ Spott Road junction, which would provide safe access for pedestrian and cyclists to cross Spott Road to reach the site.

Road Services are satisfied the site can be safely accessed and would cause no harmful impact on the operation of the road network, subject to:

- (i) the infrastructure works including paths and footways which are the subject of planning permission 20/00916/P having been implemented prior to any use being made of the proposed retail units;
- (ii) the Spott Road/Kellie Road roundabout being upgraded to a fully signalised junction with pedestrian and cyclist crossing facilities on each arm;
- (iii) the provision of pedestrian and cycle routes from Spott Road being complete and available for use including the footway to the east which crosses the access road to McDonalds;

- (iv) the submission of a Travel Plan to minimise private car trips and to encourage use of alternative modes of transport;
- (v) the submission of a Construction Method Statement; and
- (vi) wheel washing facilities being provided.

Subject to the above recommended conditions, which can be imposed as conditions on a grant of planning permission, the proposed development is consistent with Policies T1, T2 and T31 of the adopted East Lothian Local Development Plan 2018.

Transport Scotland raise no objection to the application subject to the integrity of the existing fencing and landscape planting along the north side of the A1 trunk road boundary where it meets the application site being maintained and protected during construction of the proposed development, and that any damage incurred be rectified by the applicant. Such control can be imposed as a condition on a grant of planning permission for the proposed development.

The **Council's Waste Services** have been consulted on the application and raised no objection to it.

Policy DEL1 of the adopted East Lothian Local Development Plan 2018 states that new development will only be permitted where the developer makes provision for infrastructure required as a consequence of their development in accordance with Scottish Government Circular 2/2012 or any revision. Developer contributions will be required from all development proposals that meet or exceed the thresholds:

- * Proposals for 5 or more dwellings
- * Employment, retail, leisure or tourism proposals of 100 sq m gross floor space or larger;

The exact nature and scale of developer contributions required in association with all relevant new development proposals, including windfall proposals, will be assessed on a case by case basis. In the case of employment, retail, leisure or tourism proposals these contributions would be limited to transport interventions, such as road or rail improvements.

In this instance due to the relatively small gross floor area of the development the contributions that would be required would be negligible. Therefore the **Council's Planning Obligations Officer** advises that no developer contributions are sought in this instance.

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.

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

CONDITIONS:

- 1 The development hereby approved shall begin before the expiration of 3 years from the date of this permission.

Reason:

Pursuant to Section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.

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

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

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

Reason:

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

- 3 Prior to the commencement of development a detailed specification and, if requested, samples, of all external finishes to be used in the proposed development shall be submitted to and approved by the Planning Authority. The external finishes used in the development 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 Prior to any use being made of the coffee shop building hereby approved, the proposed access roads, parking spaces and footpaths to serve them 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 use of the coffee shop, 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.

- 5 Prior to any use being made of the coffee shop building hereby approved the infrastructure works, including paths and footways, which are the subject of planning permission 20/00916/P shall be implemented in full.

Reason:

To ensure the development can be safely accessed in the interests of road and pedestrian safety.

- 6 Prior to any use being made of coffee shop building hereby approved the Spott Road/Kellie Road roundabout shall be upgraded to a fully signalised junction with

pedestrian and cyclist crossing facilities on each arm. Details of the signalised junction, including a timetable for its implementation, shall be submitted to and approved in writing by the Planning Authority and thereafter those works shall be implemented as so approved, unless otherwise agreed in writing by the Planning Authority.

Reason:

To ensure the development can be safely accessed in the interests of road and pedestrian safety.

- 7 Prior to any use being made of the coffee shop building hereby approved, the EV charging spaces and infrastructure for them, and the cycle parking stands shall have been provided on site in accordance with the docketed drawings.

Those areas of land shall not thereafter be used for any other purpose than for EV car charging and cycle parking in connection with the use of the coffee shop, and shall not be adapted or used for other purposes without the prior written approval of the Planning Authority.

Reason:

In the interests of promoting sustainable modes of transport.

- 8 A Travel Plan shall be submitted to and approved by the Planning Authority prior to any use being made of the two retail units hereby approved. The Travel Plan shall have particular regard to provision for walking, cycling and public transport access to and within the site, shall include local bus and train timetables, local cycling and walking maps, information on bike hire / car sharing, and shall include details of how it will be distributed to residents. It shall also include a timetable for its implementation, details of the measures to be provided, the system of management, monitoring, review, reporting and duration of the Plan.

Reason:

In the interests of ensuring sustainable travel patterns in respect of the development.

- 9 A Construction Method Statement to minimise the impact of construction activity on the amenity of the area, including from the effects of noise and dust, shall be submitted to and approved by the Planning Authority prior to the commencement of development. The Construction Method Statement shall recommend mitigation measures to control construction traffic, shall include hours of construction work and routes of construction traffic to/from the site. It shall also make recommendations in respect of how building materials and waste will be safely stored and managed on site.

The Construction Method Statement shall also include details of wheel washing facilities to be provided, and that these facilities shall be maintained in working order during the period of operation of the site. All vehicles must use the wheel washing facilities to prevent deleterious materials being carried onto the public road on vehicle tyres.

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

Reason:

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

- 10 Prior to commencement of development full details of the proposed Sustainable Drainage System (SuDS) scheme and drainage strategy for the site, which must be in accordance with the Council's Supplementary Planning Guidance 'Sustainable Drainage Systems (SuDS)', shall be submitted to and approved by the Planning Authority. The details shall include a timetable for the implementation of the SuDS scheme and site drainage strategy. The development shall thereafter be carried out in strict accordance with the details so approved, unless otherwise agreed in writing with the Planning Authority.

Reason:

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

- 11 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 re-contouring of the site including SuDS basin/ponds details; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. Non-thorn shrub species should be located adjacent to pedestrian areas. The scheme shall include indications of all existing trees and hedgerows on and adjacent to the application site, details of any to be retained, and measures for their protection in the course of development.

In addition to that shown on docketed drawing no. PL-SP-02 Rev B, the scheme of landscaping shall include:

- (i) large species shrubs to the northwest corner of the site;
- (ii) a line of feature trees of medium fastigate species to the west side of the site; and
- (iii) hornbeam hedge planting to the north and east boundaries of the site.

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 the building hereby approved, whichever is the sooner, and any trees which within a period of ten years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation. All existing and new planting comprised in the scheme of landscaping shall be retained and maintained unless the Planning Authority gives written consent to any variation.

Reason:

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

- 12 Prior to the commencement of development, the existing fencing and landscape planting along the north side of the A1 trunk road boundary adjacent to the full length of the south boundary of the application site shall be protected during construction of the development hereby approved in accordance with detail to be submitted to and approved in advance by the Planning Authority.

If the existing fencing or landscape planting along the north side of the A1 trunk road boundary adjacent to the full length of the south boundary of the application site is damaged during construction works it shall be repaired and/or reinstated in accordance with detail to be submitted and approved in advance by the Planning Authority following consultation with Transport Scotland.

Any replacement hedge shall be of a similar species in the same location and planted in the planting season (October to March) immediately following the damage/death of existing hedging. In the event that any such replacement hedge dies, is removed, or becomes seriously damaged or diseased within a period of 10 years following its planting it shall be replaced in the next planting season with another of similar species and final size, unless the Planning Authority gives written consent to any variation.

Reason:

In the interests of the landscape character of the area.

- 13 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.