



NOTICE OF THE MEETING OF THE PLANNING COMMITTEE

TUESDAY 1 NOVEMBER 2022, 10.00am
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. Minutes for Approval: Planning Committee, 4 October 2022 **(pages 1-14)**
2. Planning Application No. 22/00239/P: Erection of poultry building and associated works, Field to the West of Howden Wood, Gifford **(pages 15-30)**
Note - this application was called off the Scheme of Delegation List by Councillor McIntosh for the following reasons: I would like this application referred to the committee to allow full discussion of the potential impact of the development on the environment, including the water environment, in the context of Local Development Plan policies including NH9, NH5, and NH13 and discussion of the impact on road traffic as discussed in policy DC1.
3. Planning Application No. 22/00681/AMM: Approval of matters specified in conditions of planning permission in principle 18/00485/PPM – Erection of primary school and associated works, Land to the North of Old Craighall Village, Old Craighall Road, Musselburgh **(pages 31-46)**
4. Planning Application No. 21/01289/P: Erection of two retail stores (class 1), car parking, servicing, access, and associated works, Land East of Dunbar Garden Centre, Spott Road, Dunbar **(pages 47-66)**
Note - this application was called off the Scheme of Delegation List by Councillor McIntosh for the following reasons: I would like this application referred to the committee to allow full discussion of the potential impact of the development on the Town Centre First principle (TC1) and the impact on road traffic (T1 and T2) and noise and air pollution (NH11 and NH12). Furthermore to consider the overall progress of active and pedestrian paths in the development as per the masterplan and policy T4.
Note - this application was called off the Scheme of Delegation List by Councillor Collins for the following reasons: To allow local businesses and residents fair discussion on the application.

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

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. 22/00021/P: Erection of coffee shop (class 3), with outdoor seating area, drive thru facilities (sui generis), and associated works, Land East of McDonald's, Spott Road, Dunbar (**pages 67-78**)

Note - this application was called off the Scheme of Delegation List by Councillor McIntosh for the following reasons: I would like this application referred to the committee to allow full discussion of the potential impact of the development on the Town Centre First principle (TC1) and the impact on road traffic (T1 and T2) and noise and air pollution (NH11 and NH12).

Note - this application was called off the Scheme of Delegation List by Councillor Collins for the following reasons: To allow local businesses and residents fair discussion on the application.

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

25 October 2022

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MINUTES OF THE MEETING OF THE PLANNING COMMITTEE

TUESDAY 4 OCTOBER 2022
VIA A DIGITAL MEETING FACILITY

1

Committee Members Present:

Councillor N Hampshire (Convener)
Councillor L Allan
Councillor C Cassini
Councillor D Collins
Councillor A Forrest
Councillor N Gilbert
Councillor C McGinn
Councillor S McIntosh
Councillor K McLeod
Councillor J McMillan (Depute Convener)
Councillor C Yorkston

Other Councillors Present:

None

Council Officials Present:

Mr K Dingwall, Service Manager – Planning
Ms E Taylor, Team Manager – Planning Delivery
Mr D Irving, Senior Planner
Mr C Grilli, Service Manager – Governance
Mr A Coull, Civil Engineer Technician
Ms M Haddow, Transportation Planning Officer
Mr G McLeod, Transportation Planning Officer
Ms S Cheyne, Projects Officer - Landscape
Ms P Gray, Communications Adviser

Clerk:

Ms B Crichton

Visitors Present/Addressing the Committee:

Item 2: Mr T Thomas, Mr J Mont, Mr A Hughes, Mr R Carruthers, Mr I Thomson, Mr A Davison, Ms M Page, Mr R Campbell, and Ms J Bell

Apologies:

Councillor J Findlay

Declarations of Interest:

Item 2: Councillor Hampshire, due to being on the Board at Hallhill Sports Centre.

1. MINUTES OF PLANNING COMMITTEE MEETING, 6 SEPTEMBER 2022

The minutes were agreed as an accurate record of the meeting.

Sederunt: Councillor Hampshire left the meeting and Councillor McMillan would chair the following item.

2. PLANNING APPLICATION NO. 21/00997/PM: ERECTION OF 78 HOUSES, GOLF CLUBHOUSE, GOLF RELATED FACILITIES INCLUDING DRIVING RANGE, SHORT COURSE, PRACTICE AREA AND ASSOCIATED WORKS AT DUNBAR GOLF CLUB

A report was submitted in relation to Planning Application No. 21/00997/PM. Daryth Irving, Senior Planner, recommended an additional condition requiring the development to be started within three years from the grant of planning permission, which was required by a change in legislation. He confirmed that the Section 75 legal agreement for application 18/01151/PM had now been fully entered into and was therefore a fully concluded contract with only technical and practical matters to follow. Following these, a decision notice to approve 18/01151/PM would be issued. Mr Irving also advised that plans from the applicant's agent had been received the previous day showing additional tree planting to be undertaken at site 1 on the southeast side of the site. Mr Irving then presented the report, summarising the key points. The report recommendation was to grant consent.

Officers responded to questions from Members. Mr Irving advised that it was usual practice to independently assess whether there was an ability to cross-fund a build. While much of the financial information provided to the District Valuer (DV) was confidential, the planning authority had sight of the DV's full response. He advised that affordable housing would not be expected as part of a development with an enabling component; in such a location, only the minimum amount of housing would be desired to cross-fund the primary use (in this case the golf club facilities) in accordance with Policy DC5. However, Members could ask the applicant whether they would be willing to contribute a commuted sum in this case. Keith Dingwall, Service Manager – Planning, highlighted that the decision made in 2018 was essentially a fall-back position; therefore, planning permission in principle would be in place for a housing development to cross-fund enabling facilities. Carlo Grilli, Service Manager – Governance, reiterated that every application must be decided on its own merits but with an awareness of the planning history of the site.

Responding to further questions, Alex Coull, Civil Engineer Technician, advised that the SEPA maps showed the clubhouse area not to be at risk of flooding, but small areas to the north of the current access road and the fairways were at risk of surface water flooding. The boundary wall, esplanade, and sea wall would act as a barrier to coastal flooding. Mr Irving advised that future repairs to the boundary wall would be the responsibility of the golf club, and Mr Coull highlighted that he had recommended a repair plan be put in place. He advised that the golf club had agreed to take on repairs of the esplanade and sea wall.

Responding to further questions, Mr Irving advised that 'undocumented areas' meant that it was not clear whether these areas had any kind of contamination, and therefore a recommended condition required submission of an environmental assessment. The biodiversity officer had also recommended that the applicant consider mitigation measures to benefit breeding birds through the site's clearance and development. Mr Irving described the new path connections to be provided, including from Site 2 to the coast and to the A107 public road, and from Site 1 to the A107 public road and to lead through the new housing development and to the golf course.

Tony Thomas, agent, spoke to the application. He shared feedback from East Lothian Active Schools, who added their support to the proposals; the club had involved over 350 primary 1-3 pupils in an introduction to golfing. The Dunbar Traders' Association also supported the proposals and felt that the development would attract high-spending tourists and provide a significant economic boost. He highlighted support from Scottish Golf and Sport Scotland to the original proposals, which remained a live permission. He described the new clubhouse as a standout building of high quality which would enhance the experience of members, many of whom were East Lothian residents. He said the proposed plans with its tree and hedgerow planting would create enhanced and new habitats. The club was accredited with the Golf Environment Organisation; it actively encouraged wildlife with a habitat management plan, and insect and bug hotels and bat boxes would be introduced in the new 9-hole course. He said the tree survey found trees with limited lifespan, but proposals made a commitment to planting 400 new trees and 1.7km of new hedgerows. Mr Thomas also advised that a noise survey had shown potential noise to be within acceptable levels. He highlighted that each home would include electric vehicle charging capacity, and also highlighted the contributions made to the upgrade of schools.

Mr Thomas responded to questions from Members. He advised that it would be part of the legal agreement that facilities would have to be provided in a phased manner with completion of housing, and provided reassurance that it would not be in anyone's interest to cram the site with further housing. He noted that Condition 24 required a species protection plan, and disturbance would be kept to a minimum. He advised that the access point had to be situated at the site of one of the tree groupings, but highlighted the tree survey's findings that some of the trees had a poor lifespan; proposals would double the number of trees on the site, and trees would be up to 3 metres at the time of planting. He said that green travel plans were not a common requirement of golf clubs; this may be considered by the club, but he noted that golfers often shared transport.

Responding to further questions, Mr Thomas said there was no intention to delay commencing work should planning permission be granted, and the technical work required had been undertaken. No concern had been raised regarding the quality of the sea wall. He thought that a breakwater would be expensive, but noted that the golf club had an obligation to maintain its grounds and facilities, and as guardians of the site would do what was necessary to protect the asset. Jacky Montgomery, representing Dunbar Golf Club, added that the club would look after its land and golf course. The current intention was to maintain the sea wall, which the club had done for many years.

Alistair Davison spoke against the application. He felt the development was in clear contravention to the 2018 Local Development Plan (LDP). He described the planning history of the site as confused and weak. He highlighted significant community feeling against the proposals, including that of community councils. He also noted that the original planning permission in principle from 2009 had carried an officer recommendation for refusal, which had been overturned by the Planning Committee. He felt that the current proposals removed much of the benefit to the community contained within previous proposals. He noted that there was no independent advice available to suggest that 76 houses would be the minimum necessary to achieve the primary purpose of funding development of facilities, and felt that the report ought to have been released to the public. As a commercial operation, the golf club should be able to access funds including borrowing, and he felt the funding test had been failed. He implored Members to refuse the application and stand up for the democratic will of constituents.

Molly Page spoke against the application. She painted a picture of the wildlife in the area of calm coastal space. She did not object to the proposals in principle, but did object to the removal of another green space. She noted that the proposals did not provide affordable housing, and described the private development as being designed to increase profits for the golf club and the developer. She felt that granting the application would make the LDP a

meaningless document. She highlighted that green space further afield was not very accessible for those who do not drive, and knew many people who felt the loss of green space to housing. She argued that Dunbar was already well provisioned for golf courses. She felt that green spaces had an intrinsic value to the people and wildlife who used them that could not be measured financially, and was concerned about the loss of biodiversity. She also suggested that the development would set a precedent for other such land to be developed for housing.

Rob Campbell spoke against the application. He objected to the damage to the coast from overshadowing houses, the intrinsic inequality of the proposals, and the loss of green space. As a GP, he noted the importance of exercise and green space for mental wellbeing. He also highlighted the '20-minute neighbourhood' concept, whereby green space and amenities should be within walking distance. However, the removal of the green space would present a barrier to exercise for those who did not drive. He felt that the enabling development was being used as a loophole. He said the development benefitted a minority of the community who could afford to purchase the houses and/or use the golf club, and questioned why a golf academy or bursary system had not already been set up. He felt that the proposals would be unlikely to increase visitors to the town and instead represented a vanity project for the golf club.

Jacquie Bell spoke against the application on behalf of Dunbar Community Council. She said that environmental groups were watching to see whether Members would listen to the community or to golfing money. She highlighted that there had been more than 50 objections, and noted that the housing did not appear in the LDP. She said that an enabling development must enable the preservation of a listed or historic building, and therefore the requirement for affordable housing should still apply in this case. She noted major issues with the loss of green space and amenity for the community. She noted that planning consent would involve a payment to Hallhill Sports Centre. She also highlighted issues relating to wildlife conservation, and flooding and drainage in an area prone to landslides. She said that large chunks of the area would be under water in 30 years. The community council felt that the application should be refused.

Jacquie Bell spoke against the application on behalf of West Barns Community Council. She noted that similar developments had used agricultural land, meaning less habitat was available for wildlife, fewer places for people to walk without access to a car, and bringing problems in heavy rainfall. The community council was concerned that the biodiversity part of the report dismissed the species living in the area, and felt that the plan to replace with some trees was not sufficient when trees did not grow well in coastal habitat. It was felt that the 78 large houses would have a detrimental impact on the John Muir way, and she also highlighted the lack of affordable housing in the area. She listed additional infrastructure issues, including already busy roads and schools. The community council asked Members to consider the proposal's benefits to the club against the detrimental effect on the community and environment.

Mr Dingwall responded that LDP 1 did allow enabling housing developments where the test of Policy DP5 was met.

Responding to a question from Councillor McGinn, Ms Bell said that both community councils had held meetings to establish community views, and highlighted that the number of submitted objections showed considerable strength of feeling from the community. She felt it would be better to refuse and allow Scottish Ministers to determine the application.

Responding to a question from Councillor McMillan, Mr Coull noted that marine licences may be required should a condition to build a breakwater be proposed by Members. He would not disregard the potential for revisiting the report, but noted that the current flood risk assessment and condition of the wall were acceptable.

Councillor McLeod described the current facilities as second-rate for a championship course, and looked forward to the development of the club's facilities.

Councillor Collins, Local Member, felt the development would be of tremendous benefit to Dunbar, and cited the schools project and the 9-hole course bringing young people into the sport. She felt the development would bring a boost in physical exercise for the community, a boost to local businesses, and would create new jobs and new habitats for wildlife. She noted the poor upkeep of some of the current wooded area, which would benefit from the new planting.

As Councillor Collins had connection problems earlier in the meeting, Mr Thomas and Mr Montgomery responded to her questions at this stage. Mr Thomas advised that although a commercial restaurant was not being proposed, facilities would be accessible when people brought children to lessons, etc. The club was known as a community amateur sports club (CASC), and community access came as a responsibility under this affiliation, as shown by the Active Schools initiative. Mr Montgomery said that anyone was free to visit the golf club facilities on an ad hoc visit, and also highlighted social membership opportunities.

Councillor McIntosh had reservations about building houses on land that was not specified in the LDP, and whether the enabling development argument was strong enough to override the presumption against countryside development. She had reservations about granting permission for the building of a luxury development to fund another commercial enterprise and highlighted the inequality when many constituents were struggling in a cost of living crisis. She was concerned about residents retaining car-free access to green space and felt Members should be custodians of green space. She was not satisfied that the necessity of the housing as being the only way to fund the development of the facilities had been shown, and would not support the application.

Councillor Gilbert was not satisfied that the application fully complied with the LDP, had doubts that the benefits to the area would be sufficient to permit such a level of development, and was concerned by the lack of affordable housing within the development. He would not support the officer recommendation.

Councillor Cassini echoed some of Councillor McIntosh's comments and particularly highlighted the inequality within the development, and the requirement to build luxury houses to fund a largely members-only clubhouse. She would not support the application.

Councillor Forrest acknowledged issues around inequality, but was keen for the planning authority to retain control of conditions and for the application not to be determined by Scottish Ministers. He felt development of the golf club facilities would bring significant benefits to Dunbar, and he would support the application.

Mr Dingwall reminded Members that they should consider whether the development complied with the LDP, and if not, whether there were other considerations which would justify making a decision contrary to the LDP. This would consider Policy DC5, with the key test of whether the benefits of securing the proposed primary use were sufficient to outweigh the normal policy presumption. The fall-back position of the 2018 planning permission, which would be in place should this application not be approved, should also be considered.

Councillor McGinn acknowledged the range concerns raised by colleagues and objectors, but felt it was not appropriate to let the decision be made by Scottish Ministers. He would support the application.

Councillor Allan had spent time learning about how golf courses were actively involved in promoting biodiversity. She would support the application. Councillor Yorkston echoed

Councillor Allan's comments, and also highlighted the long-term benefits of the youth engagement work undertaken by the gold club. The development would also allow the championship course to be used to its best potential, and he would support the application.

Councillor McMillan noted the planning authority's role in guarding Policies DC1 and DC5. Officers saw the proposals as the minimum enabling development to preserve an entity which contributed to the local economy, community, and added value to the coast and countryside. He thought the development would add value, sat within policies, and had been well tested, and he would support the application.

The addition of the officer-recommended condition requiring the development to begin before the expiration of three years from the date of planning permission granted was proposed by Councillor McMillan and seconded by Councillor Allan.

Councillor McMillan then moved to the vote on the report recommendation, to grant consent, taken by roll call.

For:	7	(Councillors McMillan, Allan, Collins, Forrest, McGinn, McLeod, and Yorkston)
Against:	3	(Councillors Cassini, Gilbert, and McIntosh)
Abstentions:	0	

DECISION

The Committee granted the planning application subject to the undernoted conditions.

It is recommended that planning permission be granted subject to:

1. The undernoted conditions.

2. The satisfactory conclusion of an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997, or some other legal agreement designed to secure from the applicant:

(i) a financial contribution of a total of £643,890 towards the provision of additional accommodation at Dunbar Primary Lower School (John Muir Campus), Dunbar Primary Upper School (Lochend Campus) and Dunbar Grammar School;

(ii) a financial contribution to the Council of £2,658 for transport improvements to Old Craighall Junction, Salters Road Interchange, Bankton Interchange, Musselburgh town centre improvements and Tranent town centre improvements;

(iii) a financial contribution to the Council of £25,714 towards the provision of signalling the junction of Queens Road and Spott Road, Dunbar;

(iv) a financial contribution to the Council of £76,424.40 towards the provision of a full size grass community sports pitch and changing facilities; and

(v) a control on the phasing of the proposed development on the following terms:

(1) No work shall commence on any of the houses approved in this planning permission unless and until development of the Clubhouse and the Clubhouse Car Park has commenced to the satisfaction of the Council.

(2) The occupancy of more than 22 houses is prohibited until the (1) Commencement of Development of the Golf Academy and Driving Range; and (2) the completion of the Clubhouse and car park to a building shell extent, which building shell extent includes being wind and watertight (roof, walls and windows), the extent is to be agreed with the Council.

(3) The Commencement of Development of the Green-Keepers maintenance facility building and the short hole golf course and practice area shall be no later than the Occupation of the forty fifth (45) house.

(4) The Commencement of Development of any of the houses on the Existing Clubhouse Site (shown as Site 2 on the application drawings) is prohibited until the construction of the Clubhouse and the Car Park and the Golf Academy and the Driving Range are completed all to the satisfaction of the Council.

(5) No houses shall be occupied at the Existing Clubhouse Site (shown as Site 2 on the application drawings) until after the completion of the Green-Keepers maintenance facility building to the satisfaction of the Council.

(6) No more than Nine (9) houses erected at the Existing Clubhouse Site (shown as Site 2 on the application drawings) shall be occupied until the construction of the short hole golf course and practice area have been completed to the satisfaction of the Council.

4. That in accordance with the Council's policy on time limits for completion of planning agreements it is recommended that the decision should also be that in the event of the Section 75 Agreement not having been executed by the applicant, the landowner and any other relevant party within six months of the decision taken on this application, the application shall then be refused for the reason that without the developer contributions and phasing control to be secured by the Agreement the proposed development is unacceptable due to a lack of sufficient school capacity at Dunbar Primary Lower School (John Muir Campus), Dunbar Primary Upper School (Lochend Campus) and Dunbar Grammar School, a lack of roads and transport infrastructure improvements, a lack of new sports pitches and changing accommodation and a lack of control to ensure delivery of the golf club facilities the enabling housing is proposed to deliver, contrary to, as applicable, Proposals CF1 and ED6 and Policies DEL1, T32 and DC5 of the adopted East Lothian Local Development Plan 2018.

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

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

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

Reason:

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

2 Unless otherwise approved in writing by the Planning Authority:

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

- Year 2024/25 - 20 residential units
- Year 2025/26 - 20 residential units
- Year 2026/27 - 23 residential units
- Year 2027/28 - 12 residential units
- Year 2028/29 - 3 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 2028/29 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.

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

- 5 A timetable for the provision of all boundary treatments to enclose the rear gardens of the houses hereby approved shall be submitted to and approved in advance by the Planning Authority and development shall thereafter be carried out in full accordance with the timetable so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

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

- 6 The garage buildings hereby approved shall only be used for purposes incidental to the residential use and enjoyment of the dwellinghouse they are to serve and shall at no time form a separate residential unit or be used for any business, trade or other commercial use.

Reason:

To enable the Planning Authority to control the use of the development in the interests of safeguarding the character and residential amenity of the area.

- 7 Each open space recreation areas indicated on the docketed drawings shall be available for use prior to the occupation of the last residential unit within the housing "Site" within which it would be located. The open space recreation areas, when provided, shall be used for such purposes at all times thereafter unless agreed in writing by the Planning Authority.

Reason:

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

- 8 A play area with equipment suitable for children aged 0 - 8 years shall be provided on the area shown for it on docketed planning layout drawing no. 17084(PL)013. Prior to the commencement of the development of any of the houses hereby approved the details of the play equipment and surfacing materials to be installed in the play area shall be submitted to

and approved in advance by the Planning Authority. The details to be submitted shall include a timetable for its installation.

The play equipment and surfacing materials shall thereafter be installed in accordance with the details so approved. The equipped play area, when provided, shall be used for such purposes at all times thereafter unless agreed in writing by the Planning Authority.

Reason:

To ensure the satisfactory provision of a play area in the interest of the amenity of the future occupants of the residential units hereby approved.

- 9 Prior to the commencement of development, the scheduled monument known as 'Samoya, 100m NNE of' will be protected by a fence, to be approved in writing by the Planning Authority, erected around the Scheduled Monument at a distance as may be agreed in writing by the Planning Authority. Within the area so fenced off the existing ground level shall neither be raised or lowered and no materials, temporary buildings, plant, machinery or surface soil shall be placed or stored and no fires shall be lit thereon without the prior written approval of the Planning Authority. The fence as so approved shall remain on site and intact through to completion of the development.

Reason:

To ensure the retention and maintenance of the Scheduled Monument.

- 10 No development shall take place on the application site until the applicant has undertaken and reported upon a Programme of Archaeological Work (10% Archaeological Excavation by trail trench) in accordance with a written scheme of investigation which has been submitted by the applicant (or their agent) and approved by the Planning Authority.

Reason:

In the interests of archaeological and natural heritage.

- 11 Prior to the commencement of development, to ensure that the site is clear of contamination, a Geo-Environmental Assessment shall be carried out and the following information shall be submitted to and approved by the Planning Authority:

1. (i) A Preliminary Investigation incorporating a Phase I Desk Study (including site reconnaissance, development of a conceptual model and an initial risk assessment); and

(ii) A Phase II Ground Investigation (if the Desk Study has determined that further assessment is required), comprising the following:

- o A survey of the extent, scale and nature of contamination, and reporting on the appropriate risk assessment(s) carried out with regards to Human Health, the Water Environment and Gas Characteristic Situation as well as an updated conceptual model of the site;
- o An appraisal of the remediation methods available and proposal of the preferred option(s).

The Desk Study and Ground Investigation must be undertaken by suitably qualified, experienced and competent persons and must be conducted in accordance with the relevant guidance and procedures.

If it is concluded by the Reporting that remediation of the site is not required, then Parts 2 and 3 of this Condition can be disregarded.

2. Prior to any works beginning on site (and where risks have been identified), a detailed Remediation Statement should be produced that shows the site is to be brought to a condition suitable for the intended use by the removal of unacceptable risks to all relevant and statutory receptors. The Statement should detail all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. It should 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; and

3. Following completion of the measures identified in the approved Remediation Statement, a Verification Report should be submitted that demonstrates the effectiveness of the remediation carried out.

Reason:

To ensure that the site is clear of contamination and that remediation works are acceptable.

- 12 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.

- 13 Prior to the commencement of development a Repair Plan detailing any structural repairs required to be undertaken to make good the condition of the boundary seawall adjacent to the golf club access road and the esplanade, the footpath and seawall that run parallel to the access road and the northern boundary wall of the golf club shall be submitted to and approved by the Planning Authority. The Repair Plan shall include a timetable for implementation of any identified repairs. Any identified repairs shall thereafter be carried out in accordance with the detail and the timetable as so approved.

Reason:

To ensure the structural integrity of the boundary wall in the interests of flood management.

- 14 Prior to commencement of development full details of the proposed Sustainable Drainage System (SuDS) scheme including a Surface Water Management Plan for the site which must be in accordance with the Council's Supplementary Planning Guidance 'Sustainable Drainage Systems (SuDS)', and a detailed Risk Assessment and Method statement for any culvert diversions, shall be submitted to and approved by the Planning Authority. The details shall include a timetable for the implementation of the SuDS scheme and culvert diversion works. The development shall thereafter be carried out in strict accordance with the details and Surface Water Management Plan so approved, unless otherwise agreed in writing with the Planning Authority.

Reason:

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

- 15 Prior to the occupation of the last residential unit 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 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 and pedestrian safety.

- 16 Prior to the new golf clubhouse, golf related facilities including a new pro-shop, golf academy, driving range, short course, practice area or maintenance facilities coming into use the

associated access roads, footpaths and parking areas 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 commercial use of the golf club and shall not be adapted or used for other purposes without the prior written approval of the Planning Authority.

Reason:

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

17 The development shall comply with the following transportation requirements:

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

(ii) driveways shall have minimum dimensions of 6 metres by 3 metres. Double driveways shall have minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11 m length. Pedestrian ramps to houses may encroach by up to 300mm on the width (but not the length) provided they are no greater than 150mm in height above the adjacent driveway surface;

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

Reason:

In the interests of road safety.

18 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 and shall include measures to ensure that noise generating activities cease for the duration of funerals taking place on the adjacent burial ground at Deer Park Cemetery. 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.

19 A Travel Information Pack shall be submitted to and approved by the Planning Authority prior to the occupation of any of the residential units hereby approved. The Travel Information Pack 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 Pack.

Reason:

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

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

Reason:

In the interests of the amenity of the housing development.

- 21 Prior to the commencement of development a Quality Audit shall be submitted to and approved by the Planning Authority, which shall be undertaken for the preliminary and detailed design of all roadworks, footways and cycle paths within the development hereby approved. The Quality Audit shall include swept path assessments for refuse collection and fire appliance access.

Reason:

In the interests of road and pedestrian safety.

- 22 Prior to the commencement of development a Stage 1 and Stage 2 Road Safety Audit shall be submitted to and approved by the Planning Authority, which shall be undertaken for the preliminary and detailed design of all roadworks, footways and cycle paths within the development hereby approved, and shall include an implementation programme describing when measures identified in the audits will be provided in relation to construction of the proposed development.

Immediately following completion of the development, the date of which shall be provided in writing to the Planning Authority, a Stage 3 Road Safety Audit - Post Opening shall be submitted to and approved by the Planning Authority.

12 months following approval of the Stage 3 Road Safety Audit a Stage 4 Road Safety Audit shall be submitted to and approved by the Planning Authority.

All the Road Safety Audits shall be carried out in accordance with DMRB Volume 5, Section 2, HD 19/3 or as amended by latest version.

Reason:

In the interests of road and pedestrian safety.

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

Reason:

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

- 24 No development shall take place until a Species Protection Plan for birds during site clearance and demolition, including for Sand Martins, has been submitted to and approved in writing by the Planning Authority. The Plan shall include a timetable for implementation of any mitigation measures highlighted to be required as a result of the Plan.

The development shall thereafter be carried out in strict accordance with the approved Species Protection Plan unless otherwise approved in writing by the Planning Authority.

Reason:

To avoid or minimise disturbance of birds.

- 25 Prior to the commencement of development a method statement to protect waterbodies from site development works, including appropriate measures detailed in Scottish Environment

Protection Agency's Guidance for Pollution Prevention - Works and maintenance in or near water: GPP 5, shall be submitted to and approved in writing by the Planning Authority.

Any works identified to be undertaken to protect waterbodies in the approved method statement shall thereafter be carried out in accordance with a timetable to submitted to and approved in advance by the Planning Authority.

Reason:

To avoid or minimise disturbance of internationally important populations of bird species (SPA populations) and associated habitat.

- 26 No development shall take place on site until temporary protective fencing in accordance with Figure 2 of British Standard 5837_2012 "Trees in relation to design, demolition and construction" has been installed, approved by an arboriculturist and its installation approved in writing by the Planning Authority in accordance with Condition 27 below. The temporary protective fencing shall be fixed in to the ground to withstand accidental impact from machinery, erected prior to site start and retained on site and intact through to completion of development. The temporary protective fencing shall be positioned as shown on docketed drawing nos. 19048_L_103 Rev E00 and 19048_L_104 Rev E00 and shall be positioned outwith the root protection area (RPA) as defined by BS5837:2012 for the existing retained trees.

All weather notices shall be erected on the temporary protective fencing with words such as "Construction exclusion zone - Keep out". Within the areas so fenced off the existing ground level shall neither be raised or lowered and no materials, temporary buildings, plant, machinery or surface soil shall be placed or stored, no handling, discharge or spillage of any chemical substance, including cement washings, and no fires shall be lit thereon without the prior written approval of the Planning Authority. Planning of site operations shall take sufficient account of wide loads, tall loads and plant with booms, jibs and counterweights (including drilling rigs), in order that they can operate without coming into contact with retained trees. Details of any trenches or services required in the fenced off areas shall be submitted to and approved by the Planning Authority prior to any such works being carried out and such trenches or services shall be excavated and backfilled by hand and any tree roots encountered with a diameter of 25mm or more shall be left unsevered.

Reason:

To ensure the protection of trees within the application site in the interests of safeguarding the landscape character of the area.

- 27 No development shall take place on site until a person who has, through relevant education, training and experience, gained recognised qualifications and expertise in the field of trees in relation to construction, been employed by the developer to monitor the site works, including the installation of the temporary protective fencing as required by Condition 26 above. The arboriculturist employed shall be required to approve the temporary protective fencing and submit written confirmation and photographic evidence that this has been installed for the prior approval of the Planning Authority prior to the commencement of development.

Reason:

To ensure the retention and protection of trees which are an important feature of the area.

- 28 All trees detailed on the docketed landscape that are to be retained on the application site shall not be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the previous written consent of the Planning Authority. Any tree to be retained on site which dies, is removed or becomes seriously damaged or diseased within ten years of completion of the development 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

To retain the visual amenity value afforded by the trees within the site.

29 All tree planting comprised in the approved scheme of landscaping shall be carried out in accordance with a phasing plan for the planting to be submitted to and approved by the Planning Authority prior to development commencing and which shall include the planting of the woodland belt between the houses on site1 and the 9 hole golf course in the first phase of development. Any trees which dies, is removed or becomes seriously damaged or diseased within ten years of completion of the development 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.

Thereafter, all existing and proposed woodland shall be managed in accordance with a Woodland Management Plan to be submitted to and approved by the Planning Authority prior to development commencing, unless otherwise agreed by the Planning Authority.

Reason

To ensure establishment and management of a landscape scheme that retains the character of the area.

30 Notwithstanding that which is shown on the drawings docketed to this planning permission and prior to the commencement of development, a revised detailed scheme of landscaping and a maintenance schedule for it shall be submitted to and approved by the Planning Authority.

All planting, seeding or turving comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of any of the buildings or the completion of the development, whichever is the sooner. All the new planting shall be maintained in accordance with the maintenance schedule as so approved.

Any trees in the approved scheme of landscaping which die, are removed or become seriously damaged or diseased within ten years of completion of the development 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 the interests of achieving an appropriate landscaped setting for the development.

31 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 electric 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.

32 The development hereby approved shall begin before the expiration of three years from the date of this permission.

Reason

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

Signed

Councillor John McMillan
Depute Convener of the Planning Committee

REPORT TO: Planning Committee
MEETING DATE: 1 November 2022
BY: Executive Director – Place
SUBJECT: Application for Planning Permission for Consideration

2

Application No. **22/00239/P**
Proposal Erection of poultry building and associated works
Location **Field to the West of Howden Wood
Gifford
East Lothian**
Applicant East Lothian Eggs Ltd
Per Cogeo Planning & Environmental Services Ltd

RECOMMENDATION Consent Granted

REPORT OF HANDLING

PROPOSAL

This application relates to an area of agricultural land which forms part of Howden Farm which is to the east side of East Saltoun. The site is within the countryside, as defined by Policy DC1 of the East Lothian Local Development Plan 2018 (ELLDP 2018).

The site is bounded to the northwest by an existing poultry shed and associated range land at Howden Farm beyond which is the B6368 public road. The east of the site adjoins Howden Wood, which is designated as a Local Biodiversity Site and native woodland. The south and west of the site is bounded by agricultural land.

There have been a number of planning permissions granted for poultry related developments at Howden Farm resulting in there being 3 separate poultry buildings with associated smaller buildings and ranges in different locations, on Howden Farm.

Planning History

In February 2016 planning permission ref: 15/00541/P was granted for the erection of a poultry shed on agricultural land to the east side of Howden Wood and some 300 metres to the south of the agricultural buildings of Howden Farm. Planning permission 15/00541/P has been implemented and the poultry shed is in situ.

In March 2017 planning permission ref: 17/00027/P was granted for an extension to be added to the southern gable elevation of the poultry shed approved by the grant of planning permission 15/00541/P. Planning permission 17/00027/P has been implemented.

On 27th June 2019 planning permission (Ref: 19/00330/P) was granted for the erection of poultry building and associated works on land to the south of Howden Wood. Planning permission has been implemented and the poultry shed is in place.

In February 2020 planning permission (Ref: 19/01200/P) was granted for changes to landscaping and variation of condition 1 of planning permission (Ref: 19/00330/P).

In April 2020 planning permission (Ref: 20/00238/P) was granted for the installation of a ground-source heat pump, solar array, siting of a storage container all in association with the poultry building granted planning permission 19/00330/P.

In October 2020, planning permission (Ref: 20/00851/P) was granted for a poultry building and associated works to be erected on land to the north of the farm buildings of Howden Farm some 600m to the north of this current application site. Planning permission 20/00851/P has been implemented.

In June 2021 planning permission (Ref: 21/00375/P) was granted for siting of 3 storage containers for the installations of heat pump units and associated works on land to the east side of the poultry shed granted planning permission 20/00851/P.

In February 2022 Planning permission (Ref: 21/01235/P) was granted for the formation of an earth bund to be formed to surround the existing poultry building the subject of planning permission 19/00330/P and the associated buildings and structures. Works to implement planning permission 21/01235/P have commenced and are on going.

In addition to this current application a planning application ref: 22/00952/P has recently been received by East Lothian Council for a further poultry shed to be erected on land to the east of the poultry building approved by the grant of planning permission 15/00541/P on the eastern side of Howden Wood. That application will be determined on its merits in accordance with the development plan unless material planning considerations indicate otherwise.

PROPOSAL

Planning permission is now sought in part retrospectively for; (i) the erection of a poultry shed on the application site, (ii) the erection of a building containing an egg packing facility adjacent to the northeast corner of the proposed poultry shed, (iii) two x 9m high feeding silos adjacent to the southeast corner of the proposed poultry shed and (iv) an area of hardstanding to be used as a car parking area to the east side of the proposed poultry shed and egg packing building.

This proposed poultry shed would lie directly to the south east of the existing poultry shed which was granted planning permission Ref: 19/00330/P and would be within the landscaped bund which was approved as part of planning permission Ref: 21/01235/P. The site would be accessed from the existing vehicular access to the existing poultry shed leading from the B6368 public road.

The proposed poultry shed would be rectangular in shape and would house 32,000 free-range hens for egg production. It would measure some 26.55m wide by some 102.3 m in

length. It would have a pitched roof which would be approximately 6.89m in height to the ridge of its roof and 3.3 metres to eaves. The north eastern gable would have two large pairs of double doors in it as well as two small pairs of double doors. The south west elevation would have two small pairs of double doors. There would be a personal door within each of the south east and north west elevations. The shed would be finished in a colour, design and materials that are in-keeping with the finishes of the existing poultry shed unit. Heat recovery units would be attached to the north east gable while exhaust fans would be attached to the south west gable.

The egg packing house would adjoin the south eastern corner of the poultry shed. It would be approximately 30 metres long and 14 metres wide. It would have a pitched roof 6.44 metres to ridge and 4.5 metres to eaves. The north east elevation would have a pair of large double doors and a pair of small double doors. It would also be constructed a material to match the existing buildings on the site.

The two proposed feed silos would be located adjacent to the south east corner of the proposed poultry building and would each measure some 9 metres to ridge and be some 3.5 metres wide.

The south east roof slopes of the poultry shed and packing shed would be fitted with solar PV panels to improve the energy efficiency of the building.

The development would be contained within the landscaped bund which was approved as part of planning permission Ref: 21/01235/P.

The Planning Statement submitted by the applicant informs that the application is submitted on behalf of East Lothian Eggs Ltd, a local agricultural business with an existing free range hen shed operation on land at Howden Farm. Due to the success of the current operations, the applicant is seeking to expand their rural business through the construction of an additional hen shed onsite with a proposed capacity of 32,000 hens – which if granted would give the business a cumulative capacity of 64,000 hens within the two sheds.

In terms of vehicle movements, the applicant has stated that as the site hosts an existing hen shed unit, operational deliveries and collections from the site will be scheduled to service both hen sheds in one visit. By managing the two units together, vehicle movements associated with operations will be reduced.

In terms of feed deliveries, this would occur 1-2 times per week. Egg collections would be undertaken up to 3 times per week. It is also stated that 2-3 vehicles will enter and leave the site per day, working in the sheds.

The hens would be delivered on site as pullets at 14 weeks of age and they would be removed from the site at 80 weeks of age, as per existing operations at the site.

The applicant has stated that they aim to employ 2-3 additional members of staff for the operations.

A range area of some 40 Hectares for the hens would be provided in the fields to the southeast of the proposed shed.

The application is accompanied by an Environmental Impact Assessment and information on noise, dust, odour, light, and drainage, waste management have been submitted as part of the supporting information of this planning application. A further revised Environmental Impact Assessment has also been submitted to incorporate

comments received by SEPA following consultation on the Environmental Impact Assessment.

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 SESplan relevant to the determination of this application. Relevant to the determination of the application are Policies DC1 (Rural Diversification), DP1 (Landscape and Streetscape Character), DP2 (Design), T2 (General Transport Impact), NH3 (Protection of Local Sites and Areas), NH5 (Biodiversity and Geodiversity Interests including Nationally Protected Species) NH8 (Trees and Development), NH11 (Flood Risk), NH12 (Air Quality), NH13 (Noise) and SHE2 (Low and Zero Carbon Generating Technologies) of the adopted East Lothian Local Development Plan 2018.

REPRESENTATIONS

Two written objections have been received to the application. The main grounds of objection are:

- * Noise from both the construction of the sheds and the use after construction;
- * Odour from waste associated with the poultry shed;
- * Additional road traffic on an already busy road;
- * Impact of the concentration of poultry sheds in the area and concern over industrial agriculture;
- * Increased vermin in the area;
- * The new tree proposed, is there details regarding the protection of these against wildlife;
- * Impact of the concentration of poultry sheds in the area detrimental to mental health, and the council receiving money for the application.
- * Previous history of unsociable construction noise and burning plastics which should be prevented;
- * Increased deforestation noise and the continued cutting down of trees and no replanting of trees with ground now being a dumping ground.
- * Contamination of waterways from urea run off;
- * Movement of hen litter;
- * Advertising free range eggs when they are not;
- * Intimidation of residents by an unhinged family with sonic bird scarers, revving of engines behind properties and general victimisation of residents around Howden Farm;
- * No consideration of the welfare of residents and the environment from the destruction and industrialisation of East Lothian;
- * A full environmental study needs to be carried out into the impact of the buildings already in place;
- * Damage to roads from increased traffic;

With regards to the siting of the proposed shed within this area, there is no requirement for the applicant to demonstrate why this site was chosen. The application will be determined on its merits in accordance with the Development Plan unless material considerations indicate otherwise.

The issue of intimidation of the occupiers of neighbouring properties by the applicant is not a material planning consideration relevant to the determination of this planning application. Any matters of anti-social behaviour, is a matter for Police Scotland.

The application does not propose the felling of any trees within the application site. If any trees have been felled contrary to the requirements of an existing planning consent then this matter can be investigated by the **Council's Planning Enforcement Service** as an alleged breach of planning control. Otherwise the felling of unprotected trees that are outwith a conservation area may be controlled through Forestry Scotland depending on the extent of felling.

With regards to fees received by the Council to assess the planning application, these fees are set out by the Scottish Government and are intended to cover the costs of the Council to assess and determine planning applications.

This planning application is for a poultry building to be operated as part of the farm unit at Howden Farm. The matters of pollution – noise, waste and contamination of waterways - are assessed as part of the EIA.

The matter of what constitutes free range egg production in Scotland is controlled by Scottish Government. Scottish Government have advised that the granting of planning permission for the poultry shed would not necessarily mean that a relevant licence approving the shed for free range egg production licence would also be issued. As the issuing of that licence is a separate process governed by legislation other than planning legislation this does not prevent the Council as Planning Authority from determining this planning application. The applicant has however been made of this separate licensing process.

The matter of vermin is controlled through legislation other than planning. Such matters are therefore not relevant to the determination of this planning application.

With regard the matter of noise during the construction period of the shed as this would be for a temporary period then it would be unreasonable of the Council as Planning Authority to limit the noise emanating from the site during this period. However any complaint about unreasonable levels of noise could be investigated by the **Council's Protective Services** under their relevant legislation. The matter of noise from the shed once in operation is addressed elsewhere within this report.

COMMUNITY COUNCIL

The Humble, Bolton, East and West Saltoun Community Council have commented on this planning application. They have stated that they do not wish to submit a formal objection to this application. However they have raised a number of points that they believe should be considered including;

1. Ensuring compliance with the landscaping condition of previous consents before any further development is undertaken.
2. Concerns about the potential longer term impact of sequential expansion of developments of this kind. Staged applications can eventually lead to a complex of buildings which would not be approved if applied for as a consolidated proposal. ELC should seek a clear statement from the applicant on future expansion plans and consider setting explicit limits on what would be acceptable.
3. It appears that this application involves building on land identified in the previous application as 'grazing' for the hens in that unit. It is understand that hens are 'locked

down' at present, but that may not always be the case so it is important to identify what land is earmarked for this in respect of the proposed and previous unit.

4. The applicant felled or uprooted roadside trees to comply with sight-line requirements in the previous consent. The area felled is currently an unsightly mess of broken, fallen and uprooted trees. Remedial work should be a condition of any new planning consent.

In respect of some of the points raised by the Community Council the following responses are given.

Issues of landscaping conditions can be enforced by the Council through Planning Enforcement Action if necessary. Furthermore, supplementary replacement planting can be dealt with by way of planning conditions attached to any consent issued.

With regards to subsequent development on this site, any future proposals would require planning permission and their impacts would be assessed on their own merits in compliance with the East Lothian Local Development Plan 2018 including cumulative impacts.

A range area of some 40 Hectares for the hens would be provided in the fields to the southeast of the proposed shed. However the formation of the range area does not require planning permission and does not form part of this planning application.

ENVIRONMENTAL IMPACT ASSESSMENT

Under the provisions of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 the proposed development falls within the category of a Schedule 2 Development, being one that may require the submission of an Environmental Impact Assessment (EIA). The proposal falls under the development description Schedule 2, Section 1(c) - Intensive Livestock Installation with a floor space area greater than 500m². The proposal therefore must be screened under Schedule 2 of the EIA (Scotland) Regulations 2017.

On 20th August 2020 (Planning Reference EIA/SCREEN/20/11) the Council adopted a screening opinion that an Environmental Impact Assessment was required and a subsequent Scoping Opinion dated 19th July 2021 setting out the matters to be considered in the Environmental Statement including Landscape and Visual, Ecology, Noise, Air Quality, Odour, Drainage and Flood Risk and Pollution Prevention and Environmental Management.

An Environmental Impact Assessment (EIA) was submitted to the Council on 25th February 2022 and has been duly advertised and consulted on.

A revised EIA was submitted on the 9th August 2022 to include an updated Chapter 9 following comments from SEPA. The revised EIA has been duly advertised and consulted on.

The submitted EIA contains chapters on the method and approach to preparing the EIA, the planning policy context, Design & Mitigation, Ecology, Air Quality, Odour, Noise Impact Assessment, Drainage Strategy and Flood Risk Assessment, and Pollution Prevention & Environmental Management Pollution Prevention & Environmental Management.

The EIA is based on a proposal for the erection of a single 32,000 capacity free-range hen shed as an extension of existing farming operations at Howden Farm, Gifford, EH41

4JS. The new agricultural unit is proposed to the south of the existing free-range hen shed located west of Howden Wood.

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, the applicant has submitted with the EIA a statement outlining the relevant expertise or qualifications of the project team that has contributed to the EIA.

Based on this submitted statement, it can be reasonably concluded that the authors are suitably qualified.

Regulation 4(2) and 4(3)(a) to (d) require that an EIA must identify, describe and assess in an appropriate manner, in light of the circumstances relating to the proposed development, the direct and indirect significant effects of the proposed development on the factors and the interaction between those factors, and the factors are – (a) population and human health; (b) biodiversity; (c) land, soil, water, air and climate; and (d) materials assets, cultural heritage and the landscape.

In line with the Scoping Opinion, the EIA has considered the likely significant effects from construction and operation of the proposed development on Landscape and Visual, Ecology, Noise, Air Quality, Odour, Drainage and Flood Risk and Pollution Prevention and Environmental Management.

The EIA finds that:

Landscape and Visual – Visualisations have been produced and suggested mitigation measures implemented into the design of this development provide an appropriate level of screening from the outset, with impacts reduced to negligible once the landscaping has matured. The creation of the earth bund will provide a boundary around the development, allowing it to be viewed as a single operation. Proposed landscape planting will minimise the visual impact of the development to receptors south of the site, whilst also providing shelter for the hens within the free ranging area.

Ecology – Impacts to sensitive ecological features, both flora and fauna are deemed unlikely as a result of the extension of onsite operations;

Noise – Sharps Redmore have carried an assessment of the potential noise impact from the proposed use including:

- Noise from ventilation fans
- Noise from delivery and collection vehicles on the access road
- Noise from waste belt

Against agreed methods of assessment the report objectively demonstrates that the proposal will not give rise to significant adverse noise impacts, which is the test under PAN 1/2011.

It is therefore concluded that the proposals can proceed in terms of noise;

Air Quality

* An air quality impact assessment using modelling data has been conducted using figures from the proposed and existing sheds for residential dwellings and designated habitats in the vicinity. The AQIA report is presented in Appendix 9.1 of the EIR report.

* In relation to human health impacts for the pollutants of concern, it is concluded that there are no significant impacts due to air pollution at any relevant exposure location.

* In relation to impacts at designated nature conservation sites, screening thresholds are marginally breached for the cumulative or in-combination ammonia concentration at

Papana Water (4.2%), Traprain Law (4.3%) and Danskin Loch (4.9%).

* Given the marginal nature of the screening breaches by evaluation against the lower critical level of 1 ug NH₃/m³ for the cumulative assessment and that it is for the point on the site boundary closest to the farm, it will be unlikely that damage will occur to the designated features at the Danskin Loch, Papana Water, and Traprain Law SSSIs.

* The predicted spatial variation in pollutant concentrations across the proposed impact area and designated habitats using contour plots are presented in Appendices 9.4 – 9.6 of the AQIA report.

Odour - The potential modelled odour impacts of the proposed development from odour emissions associated with poultry and poultry manure onsite are not likely to cause nuisance or impairment. An updated OMP to include the proposed hen shed is attached (Appendix 10.2 of the AQIA report) and will be submitted to SEPA as part of the PPC permit required for the poultry operations onsite. This plan will work towards minimising odour impacts associated with the operations at Howden Farm;

Drainage and Flood Risk – The assessment has demonstrated that the proposed development will be safe from flooding and that a suitable drainage system can be provided to serve the new poultry building without increasing flood risk in the area. For the reasons above it is considered that the proposed development is acceptable and should not be refused on the grounds of flood risk or drainage.

Pollution Prevention and Environmental Management – Through the adoption and implementation of best practice methods during the construction phase, with all onsite agricultural practices monitored and regulated by SEPA throughout the operational life of the poultry site, the risk of pollution will be managed and dealt with appropriately.

The Environmental Impact Assessment (EIA) concludes that subject to the relevant mitigation the proposed development would not have any significant effects.

Historic Environment Scotland have also commented on the EIA to state that sufficient information is provided in the EIA Report for them to come to a conclusion as to the level of impact on heritage assets covered by their interests. They have concluded that the development proposal does not raise issues of national significance sufficient to warrant an objection for their historic environment interests. They have also confirmed that they have no comments following the submission of the revised EIA.

Transport Scotland has also commented on the EIA and the revised EIA and have confirmed that they no longer respond to EIA consultations in a statutory capacity.

PLANNING ASSESSMENT

What is proposed in this planning application is for a poultry shed with associated development which is an agricultural use that accords with the definition of agriculture given in Section 277 of the Town and Country Planning (Scotland) Act 1997.

In that the proposed poultry shed development is for agricultural use to expand the operation of an existing farming enterprise at Howden Farm the principle of this proposed development in the countryside at Howden Farm has an operational requirement for its proposed location. On this consideration the proposed development, in principle, complies with Policy DC1 of the adopted East Lothian Local Development Plan 2018.

Policy DC1 of the adopted East Lothian Local Development Plan 2018 requires that, where acceptable in principle, development should thereafter be compatible with other policies of the adopted East Lothian Local Development Plan including impact on its

surroundings, landscape impact, having no significant adverse impact on nearby uses and suitable access is or can be made available.

The application site would still be an agricultural use of this agricultural land and therefore would not result in the loss of this agricultural use. The proposed poultry shed, silo and egg packing building would be a new build elements in the landscape of the area.

The proposed poultry building and associated structures would be large modern agricultural buildings set in the context of a local landscape of agricultural fields and buildings. They would not be significantly higher or of such a larger footprint to be different to other large modern agricultural buildings located elsewhere in East Lothian. There would be some views of the buildings from the B6368 public road to the north and east, as well as from the unclassified road to the south. However the proposed landscaped bund which is to be formed between the public roads and the existing and proposed sheds, together with the high hedgerows on the sides of the roads would provide some screening of the the proposed building from public views from those roads. In such a setting, and seen against the backdrop of Howden Wood the proposed poultry shed would not, either individually or cumulatively with the adjacent poultry shed, be visually imposing in its landscape setting. Furthermore, the proposed new buildings together with the adjacent buildings would be sited a sufficient distance away from, and separated from the other poultry sheds located on other parts of Howden Farm by Howden Wood to ensure they would not have a visual relationship with those other poultry buildings. Therefore the proposed new poultry shed would not cumulatively with those other poultry sheds have a harmful impact on the landscape character of the area.

As so positioned and designed the proposed poultry shed, egg packing store and feed bins would be seen as part of the existing agricultural business operating at Howden Farm. They would be structures functionally and visually related to that existing poultry farm operation at Howden Farm. By virtue of this, and in the context of their landscape setting and by their size, height, materials and proposed colours they would not be untypical for their countryside location and would not be harmfully incongruous or obtrusive features. They would not be out of keeping with the nearby buildings and would therefore not be visually harmful to the character and appearance of this part of the East Lothian countryside.

On matters of landscape and visual impact, the **Council's Landscape Projects Officer** has been consulted on the planning application. They have advised that the application relates to buildings associated works with the existing poultry business. They are satisfied that if the perimeter bund approved by planning permissions 19/01200/P & 21/01235/P is formed this would provide screening and softening of the buildings within their landscape setting.

With regard to the timing of the bund's construction and tree planting, the Landscape Policy Officer states that this should ideally be carried out in tandem with the shed construction and no later than the planting season following the commencement of the development, in which would be this October through to March 2023 at the latest. This can be made a condition of any grant of planning permission.

Subject to the imposition of the aforementioned planning control for the formation and landscaping of the bund the proposed poultry shed, egg packing building, silos and hardstanding would not be inappropriate to their agricultural landscape setting and would not be harmfully out of keeping with their surroundings. They would not be inconsistent with Policies DP1 and DP2 of the adopted East Lothian Local Development Plan 2018.

The proposed poultry shed would be sufficiently sited so that it would not detrimentally impact on levels of daylight or sunlight to surrounding residential properties. Similarly, given the separation distance of the proposed poultry shed from surrounding residential properties, the proposal would not lead to a detrimental increase on overlooking or loss of privacy of surrounding properties.

In terms of nuisance odours, Paragraph 13.14 of the Scottish Government publication the Scottish Executive Code of Good Practice, Prevention of Environmental Pollution from Agricultural Activity states that; "When designing new buildings, consider their siting in relation to residential accommodation, and avoid sites within 400m of such developments. Where possible, sites downwind of residential areas should be chosen."

With regard to this Government guidance the material consideration is whether or not the siting of the proposed chicken sheds development less than 400 metres from the nearest residential properties in the locality would result in odour emissions having a harmful impact on the amenity of residents of those properties.

The nearest residential property is less than 400 metres from the application site. However the Government guidance goes not prohibit such development, only that consideration is given to the impact of development on nearby residential properties.

In respect of amenity, the **Council's Senior Environmental Protection Officer** has been consulted on the proposal. They have responded to state that the Pollution Prevention and Control (Scotland) Regulations 2012 (PPC Regulations) apply to a wide range of industries, including large agricultural installations used for the intensive rearing of poultry that exceed 40,000 places. Although the development is for a single 32,000 capacity hen shed, the cumulative operating capacity onsite exceeds this threshold and as such, the site will be controlled under the PPC Regulations regulated by the Scottish Environmental Protection Agency (SEPA). They have, however, perused the various technical assessments of Air Quality, Odour and Noise impacts upon sensitive receptors and have stated:

With regards to air quality that for the purposes of Local Air Quality Management review and assessment the applicant has considered impacts upon sensitive receptors due to PM10 arising from the proposed development in addition to cumulative impacts with existing operations having regard to Air Quality Objectives specified in Air Quality (Scotland) Regulations 2000, the Air Quality (Scotland) Amendment Regulations 2002 and the Air Quality (Scotland) Amendment Regulations 2016. The assessment concludes that odours arising from the proposed development are unlikely to result in any significant impact upon sensitive receptors.

The Council's Senior Environmental Protection Officer also confirmed that an Odour Assessment forms part of the Air Quality Impact Assessment and concludes that odour emissions are unlikely to result in significant impacts upon sensitive receptors and would not be contrary to Policy NH12 of the adopted East Lothian Local Development Plan 2018.

However, as stated above, odour emissions will be regulated by SEPA through conditions attached to a PPC permit for the site and will include a requirement that an Odour Management Plan be submitted as part of the Permit Application.

With regards to noise, the Council's Senior Environmental Protection Officer states that noise management is integrated throughout the Standard Farming Installation Rules⁴⁰ as part of the Pollution Prevention and Control (Scotland) Regulations. The proposal will

trigger the requirement of a PPC Permit, issued and regulated by SEPA, as the introduction of the additional hen shed will increase the cumulative capacity of onsite livestock operations above the stated threshold of 40,000 places for hens. As part of this guidance, all sites are required to prepare and maintain a noise management plan prior to the commencement of operations. They also confirm that the cumulative noise impacts associated with the existing and proposed development at Howden Farm have been assessed against the following design criteria and found to comply at all sensitive receptors:

* The Rating Level, LArTr, of noise associated with the operation of the existing and proposed poultry buildings, including noise from associated plant/equipment, when measured 3.5m from the façade of any neighbouring residential property, shall be no more than 5dB (A) above the background noise level, LA90,T. All measurements to be made in accordance with BS 4142: 2014 "Methods for Rating and Assessing Industrial and Commercial Sound"

* Noise arising from any plant or equipment associated with the existing and proposed poultry building shall not exceed Noise Rating Curve NR 20 at any Octave Band Frequency when measured within any neighbouring residential property assuming windows open at least 50mm.

Subject to the imposition of planning controls ensuring that the operation of the buildings is in accordance with the noise management plan the proposals would not be contrary to Policy NH13 of the adopted East Lothian Development Plan 2018.

No details are given of lighting for the site. The applicant has submitted a 'Light Pollution Management Plan'. The **Council's Environmental Protection Manager** has made no comments on the matter of light pollution. However as this is a rural location where light spill from the site could have a detrimental impact on the character of the area a condition should be attached requiring details of any lighting to be submitted and approved before installation.

SEPA has also responded to consultation on the application including the revised EIA. They state that they have been involved in negotiations with the applicant and have confirmed that they are content with the work that has been done, at least in terms of giving comfort for the planning application, and confirm that SEPA has no objection to this planning application 22/00239/P.

They however requested, that the:

- * The Air Quality Impact Assessment, as accepted by SEPA on 20 July 2022;
- * Drainage Strategy, as accepted by SEPA on 01 July 2022; and
- * Nitrate Vulnerable Zone

be submitted to East Lothian Council in support of the planning application in order that they form part of any planning permission given. These documents were subsequently submitted.

As requested by SEPA, Cogeo revised the AQIA to v 1.2 in July 2022 and the EIA was revised to v 1.1 in August 2022. SEPA confirm that both these revisions agree and acknowledge that screening thresholds were marginally breached for the cumulative or in-combination ammonia concentration at Papana Water (4.2%), Traprain Law (4.3%) and Danskine Loch (4.9%). However overall, SEPA confirm that the breach is marginal and these findings are consistent with SEPA Ecology's assessment that the proposal will not have a significant impact on the sensitive ecological receptors screened. Therefore

SEPA have confirmed that they have no objection to this application on the grounds of pollution or emissions.

However, they have advised that they cannot, at this stage, guarantee the appropriate consents will be issued by them as they need the fuller and more detailed information which should be provided in an application for PPC. A copy of their response has been sent to the agent for the of the applicant. SEPA again advise that they are still at the pre-application stage with this application for PPC. They confirm that the AQIA has been agreed and accepted.

On those matters of amenity and subject to the above controls, the proposed development would not, through impacts of odour emissions and noise be harmful to the amenity of the occupants of nearby residential properties and is consistent with Policies NH12, NH13 and DP2 of the adopted East Lothian Local Development Plan 2018.

SEPA also confirmed that they raise no objection to the application on the grounds of flood risk. Therefore the proposals are not contrary to Policy NH11 of the adopted East Lothian Local Development Plan 2018.

The **Council's Roads Service** raises no objection to the proposed development. They have stated that there will be limited demand for on-site parking and that the site as configured, will accommodate operational parking and turning requirements. They also confirm that the 'Site Plan' – drg.no. COG2167/APP/019/e – indicates an extended area of hardstanding that will be sufficient for vehicles to manoeuvre in and return to the adjoining classified road in a forward gear. They have however requested that conditions be imposed on any grant of planning permission to ensure (i) the required visibility splay of 2.5 metres by 160 metres shall be provided and maintained on each side of the proposed access and that there shall be no obstruction to visibility above a height of 1.05 metres measured from the adjacent carriageway level within the area defined, and (ii) that the first 15 metres of the access is hard formed and that a turning area shall be provided and maintained, free of parked vehicles or other obstructions. Subject to the imposition of these planning controls the proposed development is consistent with Policy T2 of the adopted ELLDP.

The application site lies to the south west of the area of Ancient Woodland known as Howden Wood. The application however does not propose the felling of any of these trees. As such the proposal would not detrimentally impact upon these trees and is not contrary to Policy NH8 of the adopted East Lothian Local Development Plan 2018.

Howden Wood is designated as a Local Biodiversity Site.

Nature Scot has been consulted on this application, They have responded to state that the Air Quality Impact Assessment (Cogeo Ltd, 2022) concludes that there are no anticipated significant impacts from air pollution on any of the SSSIs identified within the 10km screening distance (and Traprain Law, at 10.6k). They also state that according to their records, none of these SSSIs is under particular pressure from air pollution so they can accept this conclusion. This is on the assumption that SEPA is content with the technical accuracy of the report and can confirm the adequacy and validity of the air emission data. They have also commented on the revised EIA to state that they acknowledge that the additional calculations included show that the potential Process Contribution (PC) to Papana Water, Traprain Law and Danskine Loch SSSIs are just above 4%, meaning it is above the critical load threshold for further assessment. However, since it is explained that these are upper estimates and their previous advice noted that none of these SSSIs are under existing pressure from air pollution, Nature Scot confirm that there are no anticipated significant impacts on any of the designated

features associated with these sites. They do not object to the application.

The Council' Biodiversity Officer has also been consulted on the application. They have stated that they have had some discussion with the environmental consultant during the EIA process and prior to submission of the planning application. Their main concerns related to the proximity of the shed and the ranging area to two Local Biodiversity Sites – Howden Wood (an area of Ancient Woodland), and Gifford Railway (an important wildlife corridor), but as the hens would not have access to the woodland areas, and that no fragmentation of the woodland habitat would occur they are satisfied that the proposal is unlikely to impact on protected or priority species which may use adjacent areas.

The Council' Biodiversity Officer does however state that the previous application for the erection of the first poultry shed at this location (Ref: 19/00330/P) included a condition for the erection of a 1.2m stock fence to prohibit access to the woodland areas in order to preserve the biodiversity of this habitat. Therefore, they suggest that this condition is also imposed on any grant of planning permission for this application. As such, pending compliance with this suggested condition, the proposal would be consistent with Policies NH3 and NH5 of the adopted East Lothian Local Development Plan.

Scottish Water has also been consulted on the application and the revised EIA and have responded to confirm that they have no objection to this planning 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.

RECOMMENDATION:

That planning permission be granted subject to the undernoted 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 The area to be used for poultry free range roaming in association with the use of poultry shed hereby approved shall be solely limited to the free range area shown on the approved plan 'Appendix 5.8 - Supplementary Plan - Range Area' docketed to this planning permission.

A 1.2 metres high stock proof fencing around the range area shall be erected prior to the use of the shed hereby approved and retained and maintained for the duration of the operation of the poultry shed.

Reason:

In order to conserve the biodiversity of Howden Wood ancient woodland.

- 3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992, or any subsequent Order amending, revoking or re

enacting that Order, no external lighting shall be installed on site without the details first being submitted to and approved in writing by the Planning Authority.

Thereafter, the lighting shall be installed as approved.

Reason:

To control the lighting on site in the interests of protecting the character of the rural area from light pollution.

- 4 Prior to the occupation of the poultry shed hereby approved a visibility splay of 2.5 metres by 160 metres shall be provided and maintained on each side of the proposed access onto the B6368 public road. There shall be no obstruction to visibility above a height of 1.05 metres measured from the adjacent carriageway level within the area defined below:-

a) A line 2.5 metres long measured along the access road from the nearside edge of the main road carriageway.

b) A line 160 metres long measured along the nearside edge of the main road carriageway from the centre of the access road in both directions.

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

Reason:

To ensure there are sufficient sightlines for drivers of vehicles egressing from the site in the interest of road safety.

- 5 Prior to the shed hereby approved being brought into use, a turning area shall be provided and shall thereafter be maintained free of parked vehicles or other obstructions as shown stamped approved drawing 'Appendix 5.2 - Site Plan drawing No. COG2167/APP/019/e' dated 09.03.22 docketed to this permission.

Reason:

To ensure vehicles can enter the site and egress onto the main public road in forward gear, in the interest of road safety.

- 6 The first 15 metres of the access road hereby approved, as measured from the southern edge of the B6368 road, shall be hard formed for its full width.

Reason:

To prevent loose material entering the public road in the interests of road safety.

- 7 The Rating Level, LA_{rTr}, of noise associated with the operation of the existing and proposed poultry buildings, including noise from associated plant/equipment, when measured 3.5m from the façade of any neighbouring residential property, shall be no more than 5dB (A) above the background noise level, LA_{90,T}. All measurements to be made in accordance with BS 4142: 2014 "Methods for Rating and Assessing Industrial and Commercial Sound"

Noise arising from any plant or equipment associated with the existing and proposed poultry building shall not exceed Noise Rating Curve NR 20 at any Octave Band Frequency when measured within any neighbouring residential property assuming windows open at least 50mm.

Reason:

To safeguard the residential amenity of neighbouring residential properties.

- 8 By no later than the planting season following the commencement of development of this poultry shed hereby approved, which would be October 2022 through to March 2023 the bund and planting all as approved by planning permission 21/01235/P shall be completed in accordance with the drawings docketed to that planning permission and to the satisfaction 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.

- 9 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 the new building, 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: 1 November 2022
BY: Executive Director – Place
SUBJECT: Application for Planning Permission for Consideration

3

Application No. **22/00681/AMM**

Proposal Approval of matters specified in conditions of planning permission in principle 18/00485/PPM - Erection of primary school and associated works

Location **Land to the North of Old Craighall Village
Old Craighall Road
Musselburgh
East Lothian**

Applicant East Lothian Council

Per JM Architects

RECOMMENDATION Consent Granted

REPORT OF HANDLING

Although this application is for the approval of matters specified in conditions of planning permission in principle 18/00485/PPM 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.

APPLICATION SITE

This planning application relates to some 3.1 hectares of former agricultural land at Old Craighall to the south of Musselburgh. The application site forms part of a larger area of land allocated by Proposal MH1 (Land at Craighall) of the adopted East Lothian Local Development Plan 2018 for a mixed use development including 1,500 homes, around 41 hectares of employment land, a new local centre, a new primary school and community uses as well as infrastructure and associated works.

The application site is located to the north of the village of Old Craighall and is bounded

to the southeast by the B6415 public road (from Monktonhall to Old Craighall), to the northeast by the A1 and to the northwest and southwest by the remainder of land allocated by Proposal MH1. The application site is relatively flat but undulating in parts. It is within the inventory boundary of the Battle of Pinkie, a battlefield included within Historic Environment Scotland's Inventory of Historic Battlefields. It is also part of a larger area that is identified by the Coal Authority as being at low risk from past mining related activity.

PLANNING HISTORY

In October 2019, following the conclusion of a Section 75 Legal Agreement to secure amongst other things education and affordable housing contributions and a land transfer, as well as financial contributions towards allotment provision and transportation interventions, and either provision of, or financial contributions towards, sports pitches, changing room facilities, planning permission in principle 18/00485/PPM was granted for a mixed use development comprising residential development, education, business, industry, storage and distribution, innovation hub (including class 2,3,4,5 and 6), employment uses, community facilities, residential neighbourhood centre (including class 1,2,3 and 10 uses), playing fields, changing facilities, public park(s) and associated works on some 116.5 hectares of land at Craighall to the south of Musselburgh, allocated by Proposal MH1 of the adopted East Lothian Local Development Plan 2018 for mixed use development.

In May 2020, approval of matters specified in conditions of planning permission in principle 18/00485/PPM (Ref: 19/01321/AMM) was granted for the formation of infrastructure associated with proposed new primary school, sports playing fields, sports changing facility and future proposed residential development including ground improvement, earthworks, access roads, foot & cycle paths, services and drainage.

The site to which this application relates comprises part of Area 1 of the MH1 allocation, specifically the site for the proposed new primary school.

PROPOSAL

The approval of matters specified in conditions of planning permission in principle 18/00485/PPM is now sought for the erection of a primary school campus and associated works on land to the north of Old Craighall and thus on part of the larger site to which planning permission in principle 18/00485/PPM and the masterplan docketed to that permission apply.

The proposed school campus would comprise of a new primary school (to cater for 420 pupils and 64 staff), a nursery (to cater for 100 2-5 year olds), associated playgrounds, playing fields, car parking and service access, cycle shelters, sprinkler housing, bin storage, boundary enclosures and play equipment. The proposed primary school would be erected on the south-eastern part of the site to the southwest of the A1. The building would be roughly rectangular in shape. The east elevation of the proposed school would face towards, and would be served by, a new distributor road which is approved to be constructed by the grant of approval of matters specified in conditions 19/01321/AMM. The proposed school building would be predominately two storeys in height with single storey flat roofed components added to part of its east and south elevations. The east end of the south elevation of the proposed school would contain two main entrances; one serving the primary school component of the building and the other serving the nursery component of the building.

The two storey component of the proposed building would comprise a series of

'sawtooth' pitches. Its external walls would be predominately clad in brick with some limited use of rain-screen timber effect cladding. Its north and south facing pitched roof slopes would be clad in aluminium standing seam. It would have aluminium downpipes and gutters. It would also have aluminium framed windows and doors formed within it. Its north facing pitched roof slope would have a number of roof windows formed within it.

The single storey flat roofed components would be predominately clad in facing brick with some parts it clad in horizontal timber cladding. Their flat roofed tops would be clad in a single ply membrane. They would have aluminium framed windows and doors formed within them.

The proposed school building would contain, at ground floor level, two classrooms (including an additional support needs classroom), a multi-purpose hall and dining area, toilets, changing room facilities, store rooms, a kitchen, staff meeting rooms, staff offices, a reception, circulation spaces and playrooms. The first floor level of the building, which would be served by three separate internal staircases and otherwise by a lift access, would contain twelve classrooms, toilets, a staff room, a deputy head teacher office, a nurture room, a shared library and a shared 'movement and dance' room.

The playground areas would be primarily located to the southwest of the proposed school building and would include various play equipment on hard and soft landscaped areas. The 2 grass sports pitches, including a 5 lane 100 metres running track, would be located within the southeast end of the site. There would be tree planting, a woodland trail and other landscaped areas provided within the site.

A detached single storey flat roofed sprinkler tank building would be located within the northeast end of the site. Its external walls would be clad in facing brick and its flat roofed top would be clad in aluminium profiled sheets. A single storey flat roofed bin store, which would be external finished in the same materials as that of the proposed sprinkler building, would abut its southeast end.

The proposed school site and its associated playground and grass pitch areas, would be enclosed by a 1.8 metres high, dark grey coloured, metal security fence. It would also have four gated accesses; one of which would be taken from the staff car parking area at the northern end of the site and one opposite the main entrance plaza within the east boundary of the site. The two other gated accesses, within the south and west boundaries of the site, would provide a pedestrian pathway and would link with future footpaths outwith the site. A lower 1.2 metres high metal fence would enclose two landscaped play areas, the outdoor nursery garden and the addition needs support garden, to the south and west of the school building respectively.

Vehicular access to the proposed school building would be served by a new distributor road that is approved to be constructed through the grant of approval of matters specified in conditions 19/01321/AMM. It is located within the northern end of the site. The car park area would be surfaced in permeable block paving and would provide 36 spaces (8 of which would be EV charging bays) via a one-way system. A mini-bus layby would also be created on the west side of the staff car park area. A hardsurfaced access road, in the form of a hammerhead layout, would be located parallel to the east elevation of the building and would provide 6 car parking spaces (3 visitor bays and 3 disabled bays). Two covered cycle racks would be located adjacent to the main entrance plaza and two covered cycle racks would be located within the southern end of the site.

The submitted drawing titled 'Landscape layout Phase 2' identifies an area to the north side of the proposed building that could be used in the future to accommodate a school extension(s). It also shows where an additional 9 parking spaces could be provided

within the site. This is for indicative purposes only and does not form part of the proposed development the subject of this planning application.

A Drainage Strategy Report, a Flood Risk Assessment, a Transport Statement, an Energy Strategy Summary and a Design and Access Statement has been submitted with this application.

Under the provisions of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 the proposed development falls within the category of a Schedule 2 Development, being one that may require the submission of an Environmental Impact Assessment (EIA). Schedule 3 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 sets out the selection criteria for screening whether a Schedule 2 development requires an EIA. The matter of the requirement for an Environmental Impact Assessment (EIA) was considered through the determination of the grant of planning permission in principle 18/00485/PPM, which includes the provision of a school on the site of the current application. An Environmental Statement considering landscape, transportation, air quality, noise and cultural heritage matters was submitted with planning permission in principle 18/00485/PPM. The proposal for the school has not changed significantly from the indicative details provided with planning permission in principle 18/00485/PPM and thus considered in the Environmental Statement submitted with that application. Therefore, there is no requirement for the proposed school development to be the subject of an EIA.

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 MH1 (Land at Craighall) and Policies DP1 (Landscape Character), DP2 (Design), DP4 (Major Development Sites), DP9 (Development Briefs), NH11 (Flood Risk), NH13 (Noise), CH4 (Scheduled Monuments and Archaeological Sites), CH5 (Battlefields), SEH2 (Low and Zero Carbon Generating Technologies), T1 (Development Location and Accessibility), T2 (General Transport Impact) and T31 (Electric Car and Bus Charging Points) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of the application.

The Council's approved Development Briefs Supplementary Planning Guidance can be a material consideration in the determination of planning applications. They are a set of guiding principles, and indicative design, to be followed where possible. Policy DP9 of the East Lothian Local Development Plan 2018 requires that development conforms to the relevant brief.

The Development Brief for the MH1 allocation refers to the areas of the site and proposed forms of development within these as set out above. It also includes design guidance for access, internal connections, landscaping and layout and design.

REPRESENTATIONS

No public objection to this application has been received.

COMMUNITY COUNCIL COMMENTS

Musselburgh and Inveresk Community Council have been consulted on this planning application but have not responded with any comments.

PLANNING ASSESSMENT

The application site forms part of a larger area of land covered by Proposal MH1 adopted East Lothian Local Development Plan 2018, which is promoted for a mixed use development including 1,500 homes, around 41 hectares of employment land, a new local centre, a new primary school and community uses as well as infrastructure and associated works. Thus, the principle of the development of the application site for a new primary school building accords with Proposal MH1 (Land at Craighall) of the adopted East Lothian Local Development Plan 2018.

Moreover, by the grant of planning permission in principle 18/00485/PPM, approval has also been given for the principle of the erection of a new primary school on part of the land of that site, which identifies the current application site as being the proposed site for the new primary school. There can therefore be no objection in principle to the erection of a new primary school on the application 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 and means of access to the site. In this regard the detailed proposals have to be considered against relevant development plan policy, the Council's approved Development Brief for the MH1 allocation and the indicative Craighall Masterplan and conditions attached to planning permission in principle 18/00485/PPM.

As is required by Policy DP4 of the adopted East Lothian Local Development Plan 2018 relevant supporting information in the form of detailed drawings and a Design and Access statement have been submitted to support this major development type application. The Design and Access statement provides a contextual analysis of the site, an explanation of the design concepts and the evolution of the design, the historic context, detailed descriptions of the proposals, including the building, the hard and soft landscaping of the site and the approach to materials, environmental design and accessibility.

In that statement it explains that the new Craighall primary school and early years facility aims to address the pre-school and primary education requirements arising from the housing development in the Craighall areas as identified in the adopted East Lothian Local Development Plan 2018. It seeks to create an inspirational, innovative and collaborative learning environment for the young learners of East Lothian and the wider East Lothian Community. The proposed school would, in accordance with East Lothian Council's education brief, provide a 14no. classroom (2 stream) primary school provision for 420 pupils and a 100 pupil early years facility to cater for 2-5 year olds. The statement explains that the primary school site is located within the southeast part of the Craighall Masterplan, occupying a prominent location within the residential quarter, with its east elevation facing towards the community sports pitches (yet to be developed) and located close to the proposed extended village centre of Old Craighall. It states that the overall site strategy, including the building's location within the site, is well integrated with the wider Craighall masterplan. The statement explains that the vehicular access and parking areas have been kept segregated from the school playgrounds and sports pitches and are purposely hidden from the main frontage. It also states that car parking will be reserved for staff use only. It states that the school sports pitches are located

within the southeast end of the site and that a mixture hard and soft play areas are located to the south and west of the school building. In terms of design, it states that the 'sawtooth' roof has been chosen to link with the industrial heritage of the area of Craighall. It also states that, taking into account the context of the site and relating the elevation treatment back to the historic manufacturing of brick in East Lothian, a heritage-aesthetic brick with multiple tones and textures has been chosen for its external wall finish, complemented by some limited use of rain-screen timber effect cladding. It also states that brick offers a high quality, long lasting, durable finish that will reduce life cycle costs and minimise maintenance costs. In conclusion, it states that the design of the school building represents a positive development for the local area, offering a modern, efficient and exciting facility for the future pupils of the school and the wider community groups in and around Craighall.

The proposed school building would be positioned within the south-eastern part of the wider site. In such position, occupying as it would a prominent site adjacent to the new local centre of the indicative masterplan layout, the proposed school building would be readily visible in public views from the A1 to the northeast, from the B6415 public road to the southeast and from the new distributor road to the northeast of the site. The proposed school building would present its main entrance elevation to the southeast and its northeast elevation would face towards the new distributor road that would serve access to it.

The proposed school building would be predominately two storeys in height and would measure some 56.3 metres long, some 45.5 metres wide and some 12.6 metres high to the highest point of its series of 'sawtooth' pitches. It would be of a modern contemporary architectural style and would be of a distinctive architectural form and appearance reflective of its functional purpose as a school and community building at the heart of the new local centre for Craighall. It would be confident in its design and would have a distinct physical presence within its immediate surroundings.

Due to its footprint size and its proposed height, the proposed school building would be a large building with a noticeable physical presence. However, in its positional relationship close to the new local centre and the high/medium density housing indicatively shown to be positioned to the south, west and northwest of it in the indicative masterplan of planning permission in principle 18/00485/PPM, the proposed school would be of an acceptable scale and massing for its landscape setting. Due to its height and its positioning relative to neighbouring residential properties the proposed school would not appear harmfully overbearing or dominant when viewed from those neighbouring residential properties.

In such circumstances and by virtue of its height, size, scale, massing and positioning, the proposed school building would sit comfortably in its positional relationship with neighbouring buildings and roads. It would not appear harmfully dominant, intrusive or incongruous within its setting. It would sit comfortably alongside the neighbouring buildings in the locality and would not have a harmfully overbearing effect on those neighbouring properties.

Its palette of external finishes of brick and rain-screen timber effect cladding for its external walls, single ply roofing membrane for its flat roof sections and aluminium standing seam for its north and south facing pitched roof slopes would be appropriate to its modern architectural style and its functional use as a school and civic building. So too would it aluminium framed windows and glazed doors. A condition can be imposed on a grant of planning permission requiring a schedule or samples of the external materials to be submitted and approved by the Planning Authority prior to their use on the building to ensure they are of a finishing quality and colour appropriate to their surroundings.

Seen as they would be in their immediate relationship with the proposed school building, the proposed hard and soft landscaped play areas, 2 grass sports pitches with associated 100m running track, hardstanding areas, cycle shelters, sprinkler housing, refuse storage, boundary fencing and landscaping would not be inappropriate development for a school campus. They would not together with the school building appear harmfully incongruous, exposed or result in an overdevelopment of the land upon which they would be built. They would not be harmful to the character and appearance of the landscape character of the area.

The proposed school building would be positioned on the site such that its windows and glazed doors would be more than 9 and 18 metres away from the gardens or windows of any proposed residential properties within the residential areas shown on the indicative masterplan layout of planning permission in principle 18/00485/PPM, which would be located to the south, west and northwest of the school campus. Such separation distances meet the Council's standard of acceptable privacy distances respectively between facing windows and private amenity space and between facing windows in neighbouring properties.

By its positioning, height, orientation and distance away from proposed housing, the proposed school and its associated works would not give rise to harmful loss of daylight or sunlight of any proposed residential properties within the residential areas shown on the indicative masterplan layout of planning permission in principle 18/00485/PPM.

On all of the foregoing considerations of layout, design and amenity, the proposals are consistent with Proposal MH1 and Policies DP1, DP2, DP4 and DP9 of the adopted East Lothian Local Development Plan 2018 and the Council's approved Development Brief for the MH1 allocation and the indicative Craighall Masterplan attached to planning permission in principle 18/00485/PPM.

Transport Scotland have been consulted on this application and advise that they raise no objection to the proposals nor do they have any comments or recommended conditions to be imposed on a grant of planning permission for the proposed development.

The Scottish Environment Protection Agency (SEPA) do not raise any objection to this application advising that they have no comments to make with regards to flood risk matters and/or water treatment provision.

Scottish Water raise no objection to this application and advise that there is currently sufficient capacity in the Glencorse Water Treatment Works to service the proposed development and that the proposed development would be serviced by Edinburgh PFI Waste Water Treatment Works.

The Council's Flooding Officer confirms that he has reviewed the submitted drainage strategy report and raises no objection to this application. However, he advises that prior to the commencement of works the applicant will need to submit a copy of Scottish Water's Technical Approval for the drainage. This can be controlled by a condition on a grant of planning permission.

The Council's Waste Services raise no objection to this application.

The Council's Education Service Manager raises no objection to this application.

The Council's Access Officer raises no objection to this application.

The Council's Sport, Countryside and Leisure department advise that they are supportive of the proposals and that the ongoing maintenance of the landscaping areas will be undertaken by the Council's Amenity Services department.

The Council's Amenity Officer raises no objection to this application but has made some general comments to some of the planting types shown on the submitted drawings. Those comments have been addressed by the applicant's agent via the submission of revised landscape drawings.

Historic Environment Scotland have been consulted on this application and raise no objection to the proposals. However, they advise that archaeological works will be subject to the requirements of East Lothian's Archaeology Service to ensure that suitable mitigation is in place to safeguard against any potential impacts on the Battle of Pinkie battlefield site.

Condition 4 of planning permission in principle 18/00485/PPM requires a Programme of Works (evaluation by archaeological trial trench) be undertaken and reported upon in accordance with a written scheme of investigation, prior to the commencement of development of Areas 1 as identified within the Development Brief of the MH1 allocation, which area forms part of the application site.

On this matter, the Council's Archaeology/Heritage Officer raises no objection to this application noting that, in respect of the Historic Environment, the archaeological work to mitigate impacts from the proposals was successfully carried out and reported upon in 2020. Accordingly, the proposals do not conflict with Policies CH4 and CH5 of the adopted East Lothian Local Development Plan 2018.

Condition 10 of planning permission in principle 18/00485/PPM requires that applications for approval of matters specified in conditions shall include:

- (i) a scheme of treatment for the recorded mine entries;
- (ii) a scheme of remedial works for the shallow coal workings; and
- (iii) timescales for the implementation of those remedial works.

The Coal Authority have been consulted on this application and advise that there is no requirement, through this approval of matters application, to comply with the points set out above in Condition 10 of planning permission in principle 18/00485/AMM. They also advise that the site falls within the defined Development Low Risk Area that Condition 10 of planning permission in principle 18/00485/AMM is only specific to parts of the wider site which are defined within the Development High Risk Area. Accordingly, they raise no objection to this application but advise that the Coal Authority's Standing Advice should be included within the Decision Notice of any consented scheme as an informative note.

The Council's Senior Environmental Health Officer has commented on the application and raises concerns that noise from the A1, which dissects the Northern and Southern areas of the larger site, and noise from the railway loop to the east and south, may impact upon occupiers of the proposed school. He also advises that there may be impacts from any artificial lighting/floodlights associated with the sports pitches on proposed housing. Accordingly, he requests that a noise assessment be carried out to assess impacts of road traffic noise and that a lighting assessment, including an iso-contour plan, be submitted prior to the commencement of development. In particular, he advises that the noise assessment should identify any mitigation measures considered necessary to ensure compliance with design criteria noise levels specified in Table 6 of BS8233:2014 "Guidance on sound insulation and noise reduction in buildings." With regards to any artificial lighting/floodlights, it is recommended that 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 Council's Senior Environmental Health Officer also advises that there is the potential for noise from plant and equipment used in association with the proposed school to result in harm to the amenity of proposed nearby housing. In order to mitigate for any such potential noise nuisance, it is recommended that noise associated with the operation of any plant and/or equipment should not exceed Noise Rating curve NR25 at any octave band frequency between the hours of 0700 - 2300 within any neighbouring residential property with all measurements to be made with windows open at least 50mm.

The above matters can be controlled by appropriately worded conditions imposed on the approval of matters specified in conditions for the proposed development. Subject to such control, the proposals do not conflict with Policy NH13 of the adopted East Lothian Local Development Plan 2018.

The Council's landscape department have been consulted on this application but have not responded with any comments. However, it would be prudent to ensure that the proposed planting shown in the submitted planting plan drawing be carried out in the first planting season (between November and February) following the completion of the development. This matter can be controlled by condition on a grant of planning permission.

The Council's Road Services state that they are satisfied with the proposals for site access, parking provision (including the number of parking spaces to be provided), servicing and emergency access and manoeuvrability, electric charging and pedestrian and cyclist provision. They also advise that the submitted swept path assessments, quality audit and transport statement are acceptable. They note that the submitted transport statement sets out eight recommendations in Section 6.2 which advise that the following be provided:

- 1) a Toucan Crossing on the northern development frontage road;
- 2) a Puffin Crossing on the eastern development frontage road;
- 3) a 'Copenhagen' style Crossing on the site's vehicular access;
- 4) bus stops and associated bus shelters on the eastern development frontage road;
- 5) Traffic Regulation Orders and 'School Keep Clear' markings on both sides of the northern development frontage road;
- 6) the erection of 'School Ahead' warning signage on the eastern development frontage road;
- 7) Adoption of the northern development frontage road; and
- 8) Once the primary school building is operational, it enrolls in Transport Scotland's 'Junior Roads Safety Officer Scheme'.

The northern development frontage road, positioned to the northeast of the site, is currently under construction. This road will serve access to the primary school site. The Council's Road Services Officer advises that this road is to be adopted by the Council which complies with recommendation 7 set out above. He also advises that the Toucan crossing and the 'Copenhagen' style Crossing require to be installed on the northern development frontage road prior to any use being made of the primary school building (in accordance with the locations shown for them in Figure 6-1 of the transport statement). He also advises that details and the location of 'School Ahead' signage can be controlled by a condition on a grant of planning permission. He also advises that the Traffic Regulation Orders and 'School Keep Clear' markings on both sides of the northern development frontage road should be made a condition on a grant of planning

permission. However, he also advises that it would be for the Council's Road Services department to ensure that these are in place on behalf of the applicant. In addition, he also advises that until the eastern development frontage road has been constructed, bus stops and associated bus shelters will need to be located on the B6415 public road with details of them to be provide in advance. Accordingly, these recommendations can be controlled, as necessary, by an appropriately worded condition imposed on a grant of planning permission.

The eastern development frontage road, which is to be positioned to the southeast of the primary school site, has yet to be constructed. Both the northern and eastern development frontage roads were granted through the determination of approval of matters specified in conditions of planning permission in principle 18/00485/PPM (Ref: 19/01321/AMM). Moreover, there is no clear timescale as to when the eastern development frontage road will be constructed and available for use. The transport statement recommendations that a puffin crossing, bus stops (and associated bus shelters) and 'School Ahead' warning signage be located on the eastern development frontage road. The Council's Road Services advises that these measures will be required once the eastern development frontage road has been constructed. Accordingly, these recommendations can be controlled by an appropriately worded condition imposed on a grant of planning permission.

The Council's Road Services Officer also advises that the following recommendations be controlled by conditions on a grant of planning permission:

(i) prior to the commencement of use of the primary school building a School Travel Plan shall be submitted to and approved in writing by the Planning Authority. The School 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;

(ii) 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 and wheel washing facilities or alternative facilities to prevent deleterious materials being carried onto the public road on vehicle tyres;

(iii) 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 shall include; the proposed roads, junctions, footways, cycle paths and pedestrian crossings 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.

Subject to these recommended controls being imposed on a grant of planning permission, the proposals do not conflict with Policies T1 and 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.

This planning application is supported by an Energy Statement Report which outlines the design approach, and the measures to be taken, in order to minimise the carbon footprint and the carbon emissions from the build. The Report sets out how the development proposals shall achieve compliance with 'Section 6' of the Scottish Technical Standards and will also satisfy the technical requirements of Policy SEH2 of the East Lothian Local Development Plan 2018. In addition to the measures detailed in the Energy Statement Report, provision is to be made for Electric Vehicle Charging within the car parking areas of the site and the Council's Road Services have advised they are satisfied with such proposals. Subject to a condition being imposed on a grant of planning permission for this proposed development to ensure that the proposed actions to be taken to reduce the carbon emissions from the building and from the completed development, including the proposals for Electric Vehicle Charging Provision are implemented on site, the proposals are consistent with Policies SEH2 and T31 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 proposals accordance with the Development Plan.

RECOMMENDATION:

That approval of matters specified in conditions for the proposed primary school and its associated works be granted subject to the following conditions:

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

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

- a. the position within the application site of all elements of the proposed development and position of adjoining land and buildings;
- b. finished ground and floor levels of the development relative to existing ground levels of the site and of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and
- c. the ridge height of the proposed 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 A schedule of materials and finishes, including their colours, to be used on the exterior of the primary school building hereby approved shall be submitted to and approved in advance by the Planning Authority prior to their use in the development. The colour of the materials and finishes used 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 commencement of development hereby approved, confirmation of Scottish Water's technical approval of the surface water drainage proposals for the development shall be submitted to and approved in advance by the Planning Authority.

Reason:

To ensure that the drainage design can be vested by Scottish Water in the interest of flood prevention.

- 4 Prior to the commencement of the development hereby approved a noise assessment shall be submitted to and approved in writing by the Planning Authority. The Assessment shall identify any mitigation measures, including a timetable for their implementation, to ensure compliance with design criteria noise levels specified in Table 6 of BS8233:2014 "Guidance on sound insulation and noise reduction in buildings."

Thereafter, any mitigation measures shall be fully implemented prior to occupation of the school building hereby approved and thereafter retained.

Reason:

To ensure that noise levels are acceptable to the future users of the primary school building.

- 5 Prior to the installation of any artificial lighting or floodlights being erected to serve the two sports pitches hereby approved, a lighting assessment shall be submitted to and approved in writing by the Planning Authority. The design and construction of any proposed floodlighting shall 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 to ensure that the following criteria be met prior to any external lighting becoming operational:

(i) 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.

A Light Spill iso-contour plan shall be provided to ensure the above requirement can be met.

The lighting shall thereafter be maintained as approved unless the Planning Authority given written consent to any variation.

Reason:

To prevent lighting from spilling onto neighbouring land, in the interests of safeguarding the amenity of future occupants of neighbouring residential properties.

- 6 Noise associated with the operation of any plant and/or equipment associated with the operation of the school building hereby approved shall not exceed Noise Rating Curve NR25 at any octave band frequency between the hours of 0700 and 2300 within any neighbouring residential property, with all measurements to be made with windows open at least 50mm.

Reason:

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

- 7 All new planting, seeding and turfing as detailed on drawing numbers 1953-RAF-XX-XX-D-L-01003-PLANTING PLAN-2131 Rev P06 titled 'Planting Plan' and 1953-RAF-XX-XX-D-L-01001-LANDSCAPE LAYOUT P1-2131 Rev P11 titled 'Landscape Layout Phase 1' docketed to this planning permission shall be carried out in the first planting season (between November and February) following the completion of the development hereby approved. Any new trees or plants which within a period of five 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.

- 8 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:

- (i) mitigation measures to control noise, dust, construction traffic (including routes to/from site and delivery times);
- (ii) hours of construction work;
- (iii) routes for construction traffic;
- (iv) how building materials and waste will be safely stored and managed on site; and
- (v) wheel washing facilities or alternative 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 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 and relative to school generated vehicle and pedestrian movements.

- 9 Prior to any use being made of the primary school building hereby approved, the proposed access roads, parking spaces, cycle parking 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 use of the primary school building 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 parking in the interests of road safety.

- 10 Prior to any use being made of the primary school building hereby approved, details, including a timetable for their implementation, showing compliance with the following off-site transportation requirements shall be submitted to and approved in writing in advance by the Planning Authority.

- (i) a Toucan Crossing on the northern development frontage road;
- (ii) a 'Copenhagen' style Crossing on the site's vehicular access;
- (iii) bus stops and associated bus shelters on the B6145 public road; and
- (iv) 'School Ahead' warning signage on the northern development frontage road.

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.

- 11 Prior to the commencement of development hereby approved, details for the provision of a puffin crossing, bus stops/bus shelters and 'School Ahead' signage on the re-aligned distributor road to the east of the application site (which was approved by the grant of approval of matters specified in conditions permission 19/01321/AMM) shall be submitted to and approved in advance by the Planning Authority. The details shall include a timetable for the installation of the puffin crossing, bus stops/bus shelters and 'School Ahead' signage. The puffin crossing, bus stops/shelters and 'School Ahead' signage shall thereafter be installed in accordance with the details so approved and shall thereafter remain in place, unless otherwise agreed in writing by the Planning Authority.

Reason:

In the interests of road and pedestrian safety.

- 12 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 shall include; the proposed roads, junctions, footways, cycle paths and pedestrian crossings 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 primary school building.

Reason:

In the interests of road and pedestrian safety.

- 13 Prior to the commencement of use of the primary school building hereby approved, a School Travel Plan shall be submitted to and approved in writing by the Planning Authority. The School 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.

The approved School Travel Plan shall be implemented prior to the use of the primary school building.

Reasons:

In the interest of road safety.

- 14 The actions to be taken to reduce the carbon emissions from the building as detailed in the Energy Statement Summary docketed to this planning permission and the proposals for Electric Vehicle Charging provision as detailed on drawing number 1953-JMA-ZZ-ZZ-D-A-PL102 Rev P03 titled 'Proposed Site Plan' docketed to this planning permission shall be fully implemented on site prior to any use being made of the primary school building and thereafter shall be retained unless otherwise approved in writing by the Planning Authority.

Reason:

To minimise the environmental impact of the development.

REPORT TO: Planning Committee
MEETING DATE: 1 November 2022
BY: Executive Director – Place
SUBJECT: Application for Planning Permission for Consideration

4

Application No. **21/01289/P**

Proposal Erection of two retail stores (class 1), car parking, servicing, access and associated works

Location **Land East of Dunbar Garden Centre
Spott Road
Dunbar
East Lothian**

Applicant Hallhill Developments Ltd and Lidl Great Britain Ltd

Per Pritchett Planning Consultancy

RECOMMENDATION Consent Granted

REPORT OF HANDLING

The application site consists of 1.87 hectares of land on the western part of what is currently an agricultural field, and comprises part of the 21 hectare allocated site of Proposal DR7: Land at Spott Road by the adopted East Lothian Local Development Plan 2018. Proposal DR7 allocates the land for employment uses.

The application site is to the east of the existing Dunbar Garden Centre. The field of which this site is a part is bounded to the south by the A1 Trunk Road, to the west in part by McDonalds Drive thru restaurant, in part by an Asda supermarket, in part by Dunbar Garden Centre and in part by the access roads leading to those existing uses. To the north the field is bounded by the Spott Road Industrial Estate and to the east by the embankment of the East Coast Mail Line.

A 3m wide hardsurfaced and lit shared use path crosses the field. It provides a safe and accessible route from the underpass under the East Coast Mail Line across the field to 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.

In 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 the future 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 south and east.

PROPOSAL

Planning permission is sought through this application for the erection on the application site of 2 retail units (class 1) and associated works.

The 2 retail units would be positioned adjacent to one another and would each have a broadly rectangular shaped footprint. The westernmost unit is shown on the drawings as 'Unit 1' and the easternmost unit as 'Unit 2'. Both proposed retail units would have their front elevations facing southwards across their car parks towards part of the road approved by the grant of planning permission 20/00916/P.

Unit 1 would be some 77m long, 27m wide and some 6.7m high to the top of the highest point of its roof. Its elevations would mostly be clad in white coloured metal panels. Its front elevation would include a glazed entrance and incorporate framed billboards intended to display advertisements. Its west (side) elevation would incorporate large expanses of glazing. There would be provided a service access at the east side of the front elevation of the building, stepped back from the main building frontage.

The car park for unit 1, which would be in front of the building, would provide 124 car parking spaces, 8 of which would be disabled spaces and 2 would be electric vehicle charging spaces. Also provided would be 6 cycle stands located beneath the building canopy.

Unit 2 would be some 61m long, 35m wide and some 9.5m high to the top of the highest point of its roof. It would be clad in composite cladding panels and would have a large glazed entrance on its front elevation. It would incorporate a garden centre at its east side which would be enclosed by fencing. There would be provided a service yard at the west side of the building.

The car park for unit 2, which would be in front of the building, would provide 102 car parking spaces, 6 of which would be disabled spaces and 2 would be electric vehicle charging spaces. Also provided would be covered cycle parking.

Access to the site for the retail units and delivery service vehicles would be taken from the road approved by the grant of planning permission 20/00916/P. A new pedestrian footpath would be formed along the north side of that road with zebra crossings where it crosses the vehicular access to the retail units. It is shown that a 600mm high stone wall would be erected along lengths of the east, south and west boundaries of the site and a landscaped area would be formed on the eastern boundary of the site.

The application is supported by a flood risk assessment, renewables statement, transport assessment, drainage statement and a planning statement. 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.

Under the provisions of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 the proposed development falls within the category of a Schedule 2 Development, being one that may require the submission of an Environmental Impact Assessment (EIA). Schedule 3 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 sets out the selection criteria for screening whether a Schedule 2 development requires an EIA. On 10 November 2021 the Council issued a formal screening opinion to the applicant. The screening opinion concludes that it is East Lothian Council's view that the proposed development is not likely to have a significant effect on the environment such that consideration of environmental information is required before any grant of planning permission. It is therefore the opinion of East Lothian Council as Planning Authority that there is no requirement for the proposed development to be the subject of an EIA.

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), SEH2 (Low and Zero Carbon Generating Technologies), 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.

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

A total of 6 written representations have been received in respect of this planning application. Of these, 4 make objection to the proposed development, 1 is in support of it and 1 does not state whether they object to or support the proposed development.

The main grounds of objection can be summarised as follows:

(i) the proposed development would lead to increased traffic on Spott Road would lead to a road and pedestrian safety hazard;

(ii) Dunbar town centre is particularly sensitive to retail impact;

(iii) the proposed development would seriously and adversely affect the attractiveness of Dunbar town centre and High Street both to shoppers and investors and would divert footfall from them;

(iv) the proposed development would cause significant harm to the vitality and viability of Dunbar town centre, contrary to LDP Policy TC1 and Strategic Development Plan Policy 3. The applicant's submitted retail study significantly underestimates the impact of the proposals on Dunbar town centre;

(v) the LDP and its associated guidance support improvements to Dunbar town centre and identify that further retail floorspace at Spott Road would cause harm to Dunbar town centre;

(vi) the proposals, taken together with the existing retail uses at Spott Road, would result in the creation of a retail park, providing more retail floorspace than Dunbar town centre. The Council's strategy for Dunbar town centre, and the LDP hierarchy of centres would be fundamentally undermined by the proposed development;

(vii) there is insufficient expenditure within the Dunbar catchment to support additional convenience retail floorspace and the proposed development cannot be supported without there being significant adverse impacts on Dunbar town centre;

(viii) what is being proposed is essentially a new retail park, providing convenience and comparison outlets on a site which lies immediately adjacent to an existing large Asda superstore, garden centre, hotel, drive thru and petrol filling station. The proposed development and the existing Asda superstore would become the focus for convenience and comparison retailing in Dunbar where shoppers would have access to a broad range

of retail outlets, providing a highly convenient arrangement for the car borne shopper;

(ix) the proposal lacks firm commitments to community benefit;

(x) if out-of-town development results in a high street lined with empty shops, the vibrancy and attractiveness of the town centre would be replaced by a predominantly industrial development next to the A1; and

(xi) the proposed development would be an unwelcome and unnecessary addition to the town, one that would result in additional car journeys being made and siphon customers, investment and attention away from the struggling Dunbar High Street.

The main grounds of support are that that there is a need for retail capacity to match the housing in Dunbar, as at present there is no choice but to leave Dunbar for essential items, and that Dunbar has the potential to become a hub for retail and amenities in East Lothian

COMMUNITY COUNCIL COMMENTS

Dunbar Community Council have commented on the application. They have raised concerns with regards to the potential extra traffic generated by the proposed development on Spott Road, which they state has been increasing due to the considerable level of housebuilding at the Hallhill estates. They also raise concern over increased traffic at the junction of Spott Road and Lochend Road and at the junction of Spott Road with Queens Road. They also raise concern over the wider traffic impacts around Dunbar. They also have concerns over crossing points, advising that there is no safe pedestrian crossing point near the existing garden centre. In terms of economic impact Dunbar Community Council state that some residents have welcomed the incoming of a LIDL and B&M, however, others are concerned that there may be an impact on the viability of Dunbar High Street, which has already been affected by the pandemic by the development of further units at an out of town location. Dunbar Community Council also raise concern over noise and air quality impacts from additional traffic, light pollution, the loss of wildlife habitat and drainage and sewerage disposal.

West Barns Community Council have commented the application. They have also raised concerns with regards to the potential extra traffic generated by the proposed development on Spott Road, which they state has been increasing due to the considerable level of housebuilding at the Hallhill estates. The also raise concern over increased traffic at the junction of Spott Road and Lochend Road and at the junction of Spott Road with Queens Road. They also raise concern over the wider traffic impacts around Dunbar. They also have concerns over crossing points, advising that there is no safe pedestrian crossing point near the existing garden centre. In terms of economic impact West Barns Community Council state that some residents have welcomed the incoming of a LIDL and B&M, however, others are concerned that there may be an impact on the viability of Dunbar High Street, which has already been affected by the pandemic by the development of further units at an out of town location West Barns Community Council also raise concern over the loss of wildlife habitat and drainage and sewerage disposal.

PLANNING ASSESSMENT

The adopted Development Brief DR7 – Spott Road, Dunbar has been prepared for the wider allocated employment site of which this site is a part of, and sets out six guiding

principles to be followed for its development, which have been taken into account in this application.

The proposed two retail units would principally be designed for the functionality of their intended use. They would be seen in relation to the existing developments to the west, namely the Dunbar Garden Centre, McDonalds Drive thru restaurant and Asda supermarket, which are all buildings designed for their commercial functions. Furthermore the proposed buildings may well in time be seen in relation to future buildings on the wider Proposal DR7 site. In this regard, the proposed buildings would sit comfortably in their intended locations and would not appear as alien or incongruous features in their proposed location. They would not appear as prominent or intrusive features, harmful to the visual amenity of the area.

The buildings would be of a size, scale and design appropriate to their location and would not be an over development of the site. In their positional relationships with the main buildings, neither would the car parking areas, access roads and other associated development of the site. The retained tree planting and proposed landscaping would reduce the impact of the development in public views of it. In all of this the retail units, car park and other associated development, by virtue of their design scale and position are appropriately designed for their place and would not be inappropriate to their setting or harmful to the character or appearance of the area.

The **Council's Landscape Projects Officer** has appraised the applicant's proposed scheme of landscaping for the site, and advises that a revised landscaping plan should be submitted to include for low ground cover planting in place of the slate chippings shown on the application drawings, and that hedge planting should be included to the north of the site and on the east side of the fencing surrounding the garden centre element of unit 2. The Landscape Projects Officer advises that such proposed landscaping would help to absorb the impact of the proposed development and would provide attractive landscaped edges to it. The requirement for a revised scheme of landscaping can be imposed as a condition on a grant of planning permission for the proposed development. Subject to this landscaping the proposed development would successfully integrate into its landscape setting and would not appear harmfully prominent, incongruous or intrusive in this location.

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 Environmental Health Officer (Contaminated Land)** advises that there is the potential for areas of contamination to exist and thus there is therefore the potential for pollutant linkages to exist on the site that may impact upon the proposed development. Therefore he recommends a Geo-Environmental Assessment be undertaken prior to the commencement of development on the site. The requirement for such assessment can be controlled by a condition attached to a grant of planning permission.

The **Council's Waste Services Officer** has confirmed that they have no objection to the proposal.

On these considerations of layout, design, and amenity, the proposed retail development is consistent with Policies DP1, DP2 and DP9 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 lies within the area designated for the Battle of Dunbar II and therefore considered that the proposed development has a high potential to impact upon buried archaeological remains. He therefore advises that if planning permission is to be granted for this proposal, a Programme of Archaeological Works (Metal Detecting Survey and Archaeological Evaluation by Trial Trench) be carried out at the site prior to the commencement of development. This requirement can be secured through a condition attached to a grant of planning permission.

Subject to the above recommendation, which could be secured by condition, 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: June 2014.

The applicant has advised that the surface water drainage strategy for the site has been developed from the principles of Sustainable Drainage Systems (SuDS) as set out in CIRIA Report C753, The SuDS Manual (2015). The strategic surface water drainage network will be designed in accordance with Sewers for Scotland, 4th Edition (Scottish Water, 2018) and shall remain private to the point of connection to the proposed public drainage network.

The **Council's Civil Engineer Technician – Flooding** has considered the submitted Flood Risk and Drainage Assessments and is satisfied with the contents and conclusions of them. The Civil Engineer Technician – Flooding therefore raises no objection to the proposed development on the grounds of flood risk or drainage subject to the imposition of a condition requiring confirmation of Scottish Water's technical approval for the surface water drainage for the site.

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.

The Scottish Environment Protection Agency have no objection to the proposal on flood risk or drainage grounds.

On these considerations of SuDS design, flood risk and drainage 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 the applicant's submitted Transport Assessment recognises the need for a high-quality pedestrian and cycle network linking the application site with the existing town centre and the train station. Road Services advise 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 investigation of the provision of more direct active travel path links to the west (Dunbar Garden Centre) and east (the road which is the subject of planning permission 20/00916/P);

(iv) the provision of revised arrangements for cycle parking and electric vehicle car charging points;

(v) the submission of a Travel Plan to minimise private car trips and to encourage use of alternative modes of transport;

(vi) the submission of a Construction Method Statement; and.

(vii) 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 proposed development.

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

The Planning Obligations Officer advises that the contributions required for each transport intervention for this development are:

- * Improvements to Old Craighall junction: £52.90
- * Improvements to Salters Road Interchange: £233.22
- * Improvements to Bankton Interchange: £85.33
- * Musselburgh Town Centre improvements: £23.69
- * Tranent Town Centre Improvements: £29.90

The total contribution required for transportation improvements resulting from cumulative impacts of the development is therefore £425.04.

The total developer contributions towards the transportation interventions of £425.04 can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. The applicants have confirmed in writing that they are willing to enter into such an agreement.

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

The application site is within an area 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 in total would generate some 80 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.

With regard to the sequential 'town centre first' approach as stated in Policy TC1 of the adopted East Lothian Local Development Plan 2018 the application site is in a edge of local centre location.

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 large scale retail stores 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.

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.

The proposed Unit 1 (shown on the application drawings as potentially being a Lidl) would comprise of 1900 sq m gross/1256 sq m net retail floor space. Of this some 80% of the sales floor space would be for convenience goods and 20% for comparison goods.

The proposed Unit 2 (shown on the application drawings as potentially being a B&M store) would comprise of 2137 sq m gross/1923 sq m net retail floor space. Of this some 40% of the sales floor space would be for convenience goods and 60% for comparison goods.

The applicant's RIA advises that the proposed retail stores would be operated by Lidl and B&M, and that such retailers are not represented in Dunbar and would add a new dimension to retailing in Dunbar. The RIA informs that those retailers would capture local trade which would normally be expected to travel to similar stores in North Berwick and Haddington and would also capture comparison trade that is likely to leak to larger, accessible discount stores in Edinburgh.

The applicant's RIA informs that there is a compelling qualitative case for the introduction of discount retailers in Dunbar and it is now well established in the retail market place that shoppers are looking for quality products at lower prices and these types of retailers are established in out of centre locations elsewhere in East Lothian and in particular in the competing towns of North Berwick and Haddington. Dunbar residents and the surrounding hinterland are currently missing out on this form of retailing which is a growing and dynamic sector of the retail market. This lack of retail provision is evidenced by the leakage of expenditure that is occurring.

The applicant's RIA continues that Dunbar is a historic town centre which does not rely on main food shopping for its vitality and viability. The existing Co-op store is capable of expansion and upgrade but has not been invested in by the owner to capture shopping trade which exists and the former adjacent Somerfield store is no longer in food retail use. It is evident that the Asda store at Spott Road is the largest and most popular store in Dunbar. As Dunbar has expanded and the nearest competing towns have upgraded

their retail function it is evident that there will have been increased leakage in food and comparison expenditure which would continue without this development, particularly to the new retail park in Haddington. This proposal is aimed at ensuring that Dunbar is as self-sufficient as possible in retail provision, reclaiming leaked expenditure where this exists and complementing the existing stores in the town. The benefit of the development will be in making Dunbar as a town a more sustainable and self-sufficient retail destination with the new stores reducing the need for shoppers to travel further afield especially for every day goods. This will be a major benefit for the less well-off and least mobile members of the community who are currently disadvantaged.

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.

In terms of comparison spend, Roderick MacLean Associates Ltd advise that the comparison element of the proposed retail developments is unlikely to threaten the vitality and viability of Dunbar Town Centre, as they estimate that some 65% of the turnover of the proposed development would come from clawback of expenditure leakage by Dunbar residents to centres in Edinburgh, 10% of the trade diversion may come from ASDA because of its proximity and range of comparison goods, another 10% of the trade diversion is estimated to come from shops in Dunbar town centre and again 15% from other centres and stores in the rest of East Lothian.

In terms of convenience spend, Roderick MacLean Associates Ltd advise that the town centre convenience stores account for some 44% of the turnover in the Dunbar catchment, with ASDA accounting for some 55% of turnover, therefore the convenience shops in the town centre are very important to serving the residents of Dunbar. Roderick MacLean Associates Ltd continue that based on the proportions of convenience expenditure inflow to the Dunbar catchment, they estimate that 85% of the turnover of the proposed development would derive from residents of the Dunbar catchment and 15% from beyond, stating that there is no particular reason why a greater proportion of shoppers would be attracted from outside the catchment, because of its location. Roderick MacLean Associates Ltd conclude that the retail impact on stores in Dunbar Town Centre could be up to some 27%, which they say is a high level of impact. In their view, this level of impact may adversely effect the vitality and viability of Dunbar Town Centre.

As the proposed development may have an adverse effect on the vitality and viability of Dunbar Town Centre, it is contrary to Policy TC1 of the adopted East Lothian Local Development Plan 2018, and is also therefore contrary to Policy EMP1 of the Plan.

However, it is now necessary to consider whether or not there are any other material considerations that outweigh this policy conflict.

Roderick MacLean Associates Ltd advise in their consultation response that there is a reasonable argument that a qualitative retail deficiency exists in the Dunbar catchment which the proposed retail units could fill. Qualitative deficiency refers to the range and quality of the retail offer in a catchment area, including ready access to shops without having to travel far, and can include consideration of the types of retail floor space and format.

Roderick MacLean Associates Ltd advise that there are no discount foodstores in Dunbar and no budget mixed goods stores, the nearest stores include Aldi and Home

Bargains in Haddington (some 13.6 miles/ 18 minutes' drive) and Aldi at North Berwick (some 11.6 miles/ 22 minutes' drive). Other towns in East Lothian have representation by these types of retailers; Lidl and Aldi are in Musselburgh, along with B&M and Home Bargains. Lidl and B&M are in Prestonpans and Aldi is in Tranent. Roderick MacLean Associates Ltd conclude that a qualitative retail deficiency exists in the Dunbar catchment, but continue to advise that the scale of the proposed convenience floorspace element may threaten the vitality and viability of Dunbar Town Centre, the threat relating to the trade diversion from town centre shops.

Roderick MacLean Associates Ltd advise that in the case of Dunbar, the level of expenditure leakage indicates that the existing stores are not meeting residents' demand. Roderick MacLean Associates Ltd advise that there is convenience expenditure leakage from Dunbar of some £14.1 million each year, mostly going to Haddington. So, there is a quantitative deficiency associated with the existing qualitative deficiency, this being a situation where there is surplus catchment residents' expenditure which is not being serviced by the existing retail floor space.

In response to the consultation response from Roderick MacLean Associates Ltd, the applicant's agent has submitted a Response to Retail Issues report (RRI). This report informs that Roderick MacLean Associates Ltd estimates that that the outflow of expenditure from Dunbar is in the order of £14.1 million each year, which equates to nearly 37% of all available convenience expenditure and therefore Dunbar is leaking ever more spending which is unsustainable leading to longer and unnecessary shopping journeys.

The RRI informs that the proposed Lidl store at the application site is estimated to have a convenience turnover of £8.1m and the convenience floorspace in the B&M store is around £5.3m equating to a total of £13.4m which is less than the outflow of expenditure, and therefore the result of the proposed development would be to significantly reduce outflow of locally generated spending and to enable Dunbar to have a more sustainable and self-contained convenience retail market. The proposed development could also lead to local people not having to make round trips to either Haddington or North Berwick to undertake shopping trips.

The RRI continues that the amount of leakage of expenditure from Dunbar demonstrates that customers are clearly taking the view that shopping provision locally is inadequate and are shopping elsewhere. The range of shopping locally does not therefore match shoppers' aspirations and the leaked expenditure needs to be addressed. Leaked expenditure and the lack of retailing locally of the nature proposed indicates both a quantitative and qualitative need for the development.

The RRI concludes that there is a qualitative need for the proposed new retail stores as there is long term significant leakage of expenditure from Dunbar, and that the proposed new stores would:

- (i) Significantly reduce leaked expenditure;
- (ii) Provide meaningful competition and choice to Asda leading to lower prices and better service in a policy supported location;
- (iii) Expand the local retail market by enticing more shoppers from outwith the area to come to Dunbar from which all retailers can benefit;
- (iv) Provide a similar choice of shopping provision that is found in all other major towns in East Lothian;
- (v) Be located on a site which is supported by policy on the sequential approach;
- (vi) Be appropriate in scale for the town and in relation to the local Centre;

- (vii) Enhance the role and function of the adjacent local centre; and
- (viii) Be in accordance with development plan policy.

From the applicant's submitted information and the consultation response from Roderick MacLean Associates Ltd, it can be concluded that a retail qualitative deficiency exists in Dunbar, in that there is expenditure leakage from Dunbar due to the lack of range and quality of the existing retail offering, particularly when it comes to the lack of large discount foodstores and budget mixed goods stores such as Lidl and B&M. It is also acknowledged that there is no suitable alternative sites to accommodate the proposed development in Dunbar Town Centre or the Spott Road local centre.

Although the consultation response from Roderick MacLean Associates Ltd concludes that a qualitative retail deficiency exists in the Dunbar catchment, it also informs that the scale of the proposed convenience floorspace element may impact on the vitality or viability of the town centre, including possible closures. Although this is disputed by the applicant's submitted Retail Impact Assessment.

However the impact on the convenience floor space in the town centre has to be weighed against the acknowledged qualitative retail deficiency that exists in the Dunbar catchment, the resultant leakage of expenditure to other towns in East Lothian which involves car journeys and the job creation that would accrue from the proposed development.

In this regard, the Council's Economic Development Team Manager advises that the level of proposed convenience floorspace could create an impact that would adversely affect the vitality and viability of Dunbar town centre, but however advises that the determination of the application will require a decision on the benefits of claw back of leakage and associated reduction of shopping trips to centres beyond Dunbar.

The Council's Economic Development Team Manager advises that Dunbar Town Centre has a diverse offering with a number of non-retail outlets, with the convenience elements including 2 Co-op stores, RS McColls, fishmonger, butcher, baker and greengrocer. However, the Economic Development Team Manager advises that the town centre does not rely primarily on convenience retailing and acknowledges that there is no discount foodstore in Dunbar and that the proposed development would therefore result in a qualitative enhancement of the retail offering in the town, would result in job creation and moreover, would prevent expenditure leakage from Dunbar, as currently some residents choose to visit discount foodstores elsewhere.

Therefore, on balance, the Economic Development Team Manager does not object to the proposed development.

In all of the above considerations although the proposed development may adversely effect the vitality and viability of Dunbar Town Centre and thus have a resultant impact on individual shops in terms of loss of convenience expenditure, this impact would be outweighed by the qualitative retail gap the proposed two retail units would fill. Moreover, it can reasonably be concluded that the enhanced qualitative retailing offering provided by the proposed development would serve to prevent acknowledged expenditure leakage to other towns, which would be better kept within Dunbar and could encourage more people to shop locally. This in turn could lead to a reduction in car journeys undertaken to visit discount retailers/ budget mixed goods stores elsewhere in East Lothian, which would result in a more sustainable development which supports the Council's key outcomes in declaring a Climate Emergency and could encourage less car travel and a consequential reduction in carbon emissions. The proposal would also create jobs and therefore would help support the local economy.

In conclusion, it is considered the above material considerations would outweigh the adverse effect on the vitality and viability of Dunbar Town Centre. In this regard, the proposal is therefore not inconsistent with Scottish Planning Policy and Policy EMP1 of the adopted East Lothian Local Development Plan 2018. It also does not conflict overall with the aims and objectives of the Council's Dunbar Town Centre Strategy Supplementary Planning Guidance.

It would however be prudent to restrict the size of the retail stores to that applied for, namely for Unit 1 a gross floor area no greater than 1900 square metres and a net sales floor area no greater than 1256 square metres of which no more than 1005 square metres should be used for the sale of convenience goods, and for Unit 2, a gross floor area no greater than 2137 square metres and a net sales floor area no greater than 1923 square metres of which no more than 769 square metres should be used for the sale of convenience goods.

In conclusion, it is considered that for the reasons set out above, the proposed development accords overall with the relevant provisions of the development plan and that other material considerations, principally the enhanced qualitative retailing offering provided, the reduced expenditure leakage, sustainability benefits and economic benefit, are sufficient to outweigh any adverse effect on the vitality and viability of Dunbar Town Centre.

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, consistent with the requirements of Policies T31 and SEH2 of the adopted East Lothian Local Development Plan 2018.

The decision to grant this planning permission is subject to the prior conclusion of an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997, or by some other appropriate agreement, designed to:

- (i) secure a financial contribution to the Council of £425.04 for transport improvements.

In accordance with the Council's policy on time limits for completion of planning agreements it is recommended that the decision also is that in the event of a Section 75 Agreement or other agreement not having been executed by the applicant, the landowner and any other relevant party within six months of the decision taken on this application, the application shall then be refused for the reason that without the developer contributions to be secured by an agreement the proposed development is unacceptable due to a lack of roads and transport infrastructure improvements, contrary to Policies DEL1 and T32 of the adopted East Lothian Local Development Plan 2018.

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 The retail unit hereby approved as shown as 'Unit 1' on the drawings docketed to this planning permission shall have a gross floor area no greater than 1900 square metres and a net sales floor area no greater than 1256 square metres. Of the net sales floor area no more than 1005 square metres shall be used for the sale of convenience goods. The retail unit shall not be subdivided to form more than 1 retail unit.

Reason:

In order to retain control over the format of retail development at the site and in the interests of safeguarding the vitality and viability of the retail function of Dunbar Town Centre.

- 4 The retail unit hereby approved as shown as 'Unit 2' on the drawings docketed to this planning permission shall have a gross floor area no greater than 2137 square metres and a net sales floor area no greater than 1923 square metres. Of the net sales floor area no more than 769 square metres shall be used for the sale of convenience goods. The retail unit shall not be subdivided to form more than 1 retail unit.

Reason:

In order to retain control over the format of retail development at the site and in the interests of safeguarding the vitality and viability of the retail function of Dunbar Town Centre.

- 5 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.

- 6 Prior to any use being made of the two retail units 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 retail units, 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.

- 7 Prior to any use being made of the two retail units 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.

- 8 Prior to any use being made of either of the two retail units 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.

- 9 Prior to the commencement of development the applicant shall:

(i) investigate whether or not it is feasible to form direct active travel path links from the application site to the west towards Dunbar Garden Centre, and to the east to the road the subject of planning permission 20/00916/P; and

(ii) details of this investigation and of any feasible footpath routes shall be submitted to and approved in writing by the Planning Authority. If there is a feasible route then the details shall include a timetable for the formation of the footpaths.

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

Reason:

In the interests of promoting sustainable modes of transport.

- 10 Notwithstanding that which is shown on the drawings docketed to this planning permission and prior to commencement of development, details of revised proposals for cycle parking, including a timetable for their provision, shall be submitted to and approved in writing by the Planning Authority. Thereafter the cycle parking shall be provided in accordance with the details so approved, unless otherwise agreed in writing by the Planning Authority.

Reason:

In the interests of promoting sustainable modes of transport.

- 11 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.

- 12 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 include any temporary measures to be put in place to control surface water drainage during the construction of the SuDS, and state that the existing route to school path from the railway underpass to Spott Road must remain open at all times. 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.

- 13 Prior to commencement of development, confirmation of Scottish Water's technical approval of the surface water drainage proposals for the development hereby approved shall be submitted to and approved by the Planning Authority.

Reason:

To ensure that the drainage design can be vested by Scottish Water in the interest of flood prevention.

- 14 No development shall take place on the site until the applicant has undertaken and reported upon a programme of archaeological work (Metal Detecting Survey and Archaeological Evaluation by Trial Trench) in accordance with a written scheme of investigation which has been submitted by the applicant (or their agent) and approved by the Planning Authority.

Reason:

In the interests of archaeological and natural heritage.

- 15 Prior to the commencement of development, to ensure that the site is clear of contamination, a Geo-Environmental Assessment shall be carried out and the following information shall be submitted to and approved by the Planning Authority:

1. (i) A Preliminary Investigation incorporating a Phase I Desk Study (including site reconnaissance, development of a conceptual model and an initial risk assessment); and

(ii) A Phase II Ground Investigation (if the Desk Study has determined that further assessment is required), comprising the following:

o A survey of the extent, scale and nature of contamination, and reporting on the appropriate risk assessment(s) carried out with regards to Human Health, the Water Environment and Gas Characteristic Situation as well as an updated conceptual model of the site;

o An appraisal of the remediation methods available and proposal of the preferred option(s).

The Desk Study and Ground Investigation must be undertaken by suitably qualified, experienced and competent persons and must be conducted in accordance with the relevant guidance and procedures.

If it is concluded by the Reporting that remediation of the site is not required, then Parts 2 and 3 of this Condition can be disregarded.

2. Prior to any works beginning on site (and where risks have been identified), a detailed Remediation Statement should be produced that shows the site is to be brought to a condition suitable for the intended use by the removal of unacceptable risks to all relevant and statutory receptors. The Statement should detail all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. It should 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; and

3. Following completion of the measures identified in the approved Remediation Statement, a Verification Report should be submitted that demonstrates the effectiveness of the remediation carried out.

Reason:

To ensure that the site is clear of contamination and that remediation works are acceptable.

- 16 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.

- 17 Prior to the commencement of development, detail of the red sandstone wall and red sandstone pillars to be erected on the application site shall be submitted to and approved by the Planning Authority. The detail shall include a timetable for its provision. Thereafter the red sandstone wall and red sandstone pillars shall be erected on the application site in accordance with the approved details prior to any use being made of either of the two retail units hereby approved.

Reason:

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

- 18 Notwithstanding that which is shown on the drawings docketed to this planning permission and prior to the commencement of development, a revised detailed scheme of landscaping shall be submitted to and approved by the Planning Authority. The revised scheme of landscaping shall show the replacement of slate chips on the south side of the car park with turf or low planting, and the planting of feature trees such as fastigiated oaks along the south side of the site, both on the south side of the stone feature wall and at either side of the vehicular accesses to each of the buildings hereby approved.

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 any of the buildings or the completion of the development, whichever is the sooner. Any trees in the approved scheme of landscaping which die, are removed or become seriously damaged or diseased within ten years of completion of the development 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. All 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 the interests of achieving an appropriate landscaped setting for the development.

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

Reason:

To minimise the environmental impact of the development.

- 20 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.

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.