



## NOTICE OF THE MEETING OF THE PLANNING COMMITTEE

TUESDAY 6 DECEMBER 2022, 10.00am  
VIA A DIGITAL MEETING FACILITY

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### 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, 1 November 2022 (**pages 1-20**)
2. Planning application no. 22/00909/PM: Section 42 application to vary condition 3 of planning permission 21/00231/PM to allow Sunday Working during the period of time of 0800 to 1700 hours, Smeaton Recycling Centre, Whitecraig, Musselburgh (**pages 21-32**)
3. Planning application no. 21/00093/PM: Section 42 application to remove Condition 2 of planning permission 90/00411/P, Monks Muir Caravan Park (**pages 33-46**)
4. Planning application no. 21/00092/PM: Section 42 application to vary Conditions 1, 4 and 3 of planning permission 90/00411/P, Monks Muir Caravan Park (**pages 47-68**)
5. Planning application no. 21/010608/PM: Erection of 86 houses, four flats and associated works, Land to the North of Castlehill, Main Street, Elphinstone (**pages 69-94**)
6. Planning application no. 22/00506/LBC: Replacement windows and door, 10 Balcarres Road, Musselburgh (**pages 95-98**)  
*Note - this application was called off the Scheme of Delegation List by Councillor Forrest for the following reasons: With the current climate crisis it would definitely be advisable to consider this application in greater detail.*

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

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

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

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

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

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

7. Planning Application no. 22/00990/P: Erection of garden room/store as changes to the scheme of development the subject of planning permission 13/00650/P, Plot 2 – Land South of Turner’s House, High Road, Spott, Dunbar **(pages 99-102)**  
*Note - this application was called off the Scheme of Delegation List by Councillor Hampshire for the following reasons:* This proposal is in a Conservation Area and it is in very close proximity to the Turner’s House that is listed as being of special architectural or historic interest (Category C) I would like members to look at the impact before deciding on this application.
  
8. Planning Application no. 22/00682/AMM: Approval of matters specified in conditions of planning permission 21/01580/PM – The erection of primary school and associated works, Blindwells, Tranent **(pages 103-117)**

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

**29 November 2022**

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## MINUTES OF THE MEETING OF THE PLANNING COMMITTEE

TUESDAY 1 NOVEMBER 2022  
VIA A DIGITAL MEETING FACILITY

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**Committee Members Present:**

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

**Other Councillors Present:**

None

**Council Officials Present:**

Mr K Dingwall, Service Manager – Planning  
Ms E Taylor, Team Manager – Planning Delivery  
Ms M Sullivan, Head of Development  
Mr J Baker, Service Manager – Economic Development  
Mr D Irving, Senior Planner  
Mr N Millar, Planner  
Mr C Kiely, Planner  
Mr C Grilli, Service Manager – Governance  
Ms M Haddow, Transportation Planning Officer  
Mr G McLeod, Transportation Planning Officer  
Ms P Gray, Communications Adviser  
Jon Canty, Transportation Planning Officer  
Marshall Greenshields, Senior Roads Officer

**Clerk:**

Ms B Crichton

**Visitors Present/Addressing the Committee:**

Item 2: Mr D Anderson, Ms B Lewis, and Mr M Scott  
Item 3: Ms C Davie, Ms V Scott, and Mr J Scott  
Item 4: Mr P Pritchett, Ms J Waddell, Mr G Laing, Ms J Bell, and Mr K Ross  
Item 5: Mr P Pritchett, Ms J Bell, Mr D Wilson, Mr A Hay, Mr J Opfer, and Mr S Geddes

**Apologies:**

Councillor L Allan  
Councillor J Findlay  
Councillor N Gilbert

**1. MINUTES OF PLANNING COMMITTEE MEETING, 4 OCTOBER 2022**

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

**2. PLANNING APPLICATION NO. 22/00239/P: ERECTION OF POULTRY BUILDING AND ASSOCIATED WORKS, FIELD TO THE WEST OF HOWDEN WOOD, GIFFORD**

A report was submitted in relation to Planning Application No. 22/00239/P. Ciaran Kiely, Planner, presented the report, summarising the key points. The report recommendation was to grant consent.

Officers responded to questions from Members. Mr Kiely advised that the revised Environmental Impact Assessment (EIA) submitted with the application incorporated comments from SEPA. SEPA would be responsible for the site regulation under the PPC licensing regime, and were content the environmental impact on the site should be low.

*Sederunt: Councillor Cassini joined the meeting.*

Councillor McIntosh enquired about the concentration of ammonia, which was just over the critical threshold, and whether this took into account the cumulative effect from other farms. Mr Kiely said that the Planning Authority was guided by SEPA, who were content that the slightly exceeded threshold would not lead to a significant impact. He confirmed that the cumulative impact of all three hen sheds in the area would have been taken into account. He also advised that Policy NH9 was not deemed relevant because there was no direct outfall onto any adjacent watercourse.

Dave Anderson, agent, and Michael Scott, applicant, were present to speak to the application. Mr Anderson highlighted that there had been no consultee objections to the application, and that SEPA had been satisfied with how the site would be operated. Regarding ammonia thresholds, Mr Anderson said that data did not take into account modern farming operations including the drying of manure, but confirmed all sheds within an agreed radius with SEPA had been taken into account. Water quality had to be assessed on an ongoing basis under pollution prevention and control (PPC) regulations.

Responding to further Member questions, Mr Scott gave an account of security measures, including a CCTV system and security gates. Mr Scott also gave an account of waste management of hen manure. Five hundred tonnes of dried manure was exported to other farms in the area, who used best practice for litter storage. No spreading could occur on the site, which was on a nitrate vulnerable zone, and there could be no run-off into watercourses. Mr Anderson advised that vehicle movements would include food deliveries and egg collection by HGV lorries, and car movements as day-to-day checking of birds and egg collections were carried out. Mr Anderson advised that previous tree felling had been to fulfil requirements for sightlines at junctions, and thinning of wood had been for traffic safety after trees had fallen onto the road. Replanting had taken place as part of this operation, and the woodland was managed by the applicant's brother as part of a Woodland Management Plan.

Following questions from Councillor McGinn, discussion took place regarding measures following the avian flu outbreak. It was established that DEFRA guidance for Scotland was for poultry to be kept indoors; although this was only an advisory note at this stage, Mr Anderson highlighted that no insurances were available for farmers who chose to keep birds outdoors should there be an outbreak amongst their stock. Mr Scott advised that in the two sheds currently housing hens, the birds would not be allowed outside until such time as they were laying anyway, and said the business followed free range guidance.

Councillor McIntosh had been reassured in her areas of concern with air and water pollution. She commented that the Planning Authority should think strategically about intensive poultry operations in the area and the cumulative effect on the environment, referencing significant problems with algal blooms in watercourses in the Wye Valley caused by an excessive concentration of intensive poultry farming sites.

Councillor McLeod commented that the facility looked first class, and fitted well within the 'growing our economy' goal as part of the East Lothian Plan. Councillor McGinn would also be supporting the application, but said that animal welfare considerations had to play key role. He had been satisfied by answers regarding woodland management.

Councillor McMillan had been reassured by the quality of answers to Member questions. He commented that to fulfil economic development goals to become Scotland's leading food and drink destination, it had to be easy to set up and grow a business. He thought that sustainability and environmental considerations had been well covered by SEPA, and he would support the application

The Convener noted that although some of the issues discussed had not been planning considerations, they were still relevant, and constituents should know that Councillors considered these wider issues. He said that the countryside was protected through policy, but it was also a working environment and residents had to accept the noise and odours associated with farming. He noted Councillor McIntosh's concerns and said that the area must guard against any similar environmental problems as faced in the Wye Valley. He recommended that Members vote with the officer recommendation.

The Convener then moved to the vote on the report recommendation, to grant consent, taken by roll call. The report recommendation was supported unanimously.

## DECISION

The Committee granted the planning application 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, 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.

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.

**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**

A report was submitted in relation to Planning Application No. 22/00681/AMM. Neil Millar, Planner, presented the report, summarising the key points. The report recommendation was to grant consent.

Officers responded to questions from Members. Responding to questions from Councillor McIntosh, Mr Millar said that the Energy Statement Report would provide steps taken to minimise the new school's energy footprint, but solar panels and air source heat pumps were planned. He also advised that there would be no designated drop-off point, and the School Travel Plan would identify safer appropriate routes for active travel. School design no longer crafted areas for children to be dropped off by car; there would be a number of cycle routes to school and the site was within walking distance of Musselburgh railway station. He also advised there would be a woodland trail within the southwest corner of the site to encourage nurturing of habitat and an interest in biodiversity.

Councillor Forrest welcomed the plans to build a school in the area. He hoped the safe routes to school would be well designed to encourage active travel, and that there would not be a way in which parents could stop at the side of the road to drop children off in cars. Councillor Yorkston also commended the amount of green space around the school to facilitate outdoor learning.

Councillor McMillan spoke of the pride afforded to a place from a well-designed building such as the school. He hoped it would be seen as an opportunity to build a sense of community and to encourage safe and active travel to school.

The Convener then moved to the vote on the report recommendation, to grant consent, taken by roll call. The report recommendation was supported unanimously.

**DECISION**

The Committee granted the planning application subject to the undernoted 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.

Reason:

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.

**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**

A report was submitted in relation to Planning Application No. 21/001289/P. Daryth Irving, Senior Planner, presented the report, summarising the key points. The report recommendation was to grant consent.

Officers responded to questions from Members. Mr Irving said that Roads Services were satisfied that the development could be accessed safely by pedestrians and cyclists, but recommended provision of more direct footpaths. The Planning Authority had to ensure that anything asked of applicants was feasible and deliverable, and there were significant level differences on either side of the site and could also be third party landowner issues; in such circumstances, a feasibility study was required.

Phil Pritchett, agent, spoke to the application. The proposal was for a Lidl and a B&M, which would employ around 80 local people. He noted that Dunbar was the only town in the county with no large discount stores, and over a third of residents travelled to other towns to access alternative provision. He said the proposed new stores would help Dunbar become more self-sufficient, would add to the attraction of the town, and support shoppers in a cost of living crisis. He highlighted Lidl's green credentials, including use of solar panels, Scottish suppliers, and as a carbon-neutral business. Lidl also paid £1.40 per hour over the living wage. He said the applicant was inclined to provide signage and tourist boards to direct visitors to the town centre, and this was common on these types of peripheral developments. He noted the low number of objections and positive comments received. He also advised that new junctions at Spott Road would be completed prior to development construction.

Jo Waddell spoke against the application. She owned a local hostel, The Dolphin Inn. She acknowledged some of the positives of the application, such as the creation of jobs and greater budget choice for consumers, but noted that businesses in the town centre were already struggling to fill vacancies. She felt there was no need for more supermarkets in Dunbar, which already had an Asda and a sizeable Co-op. She spoke of Dunbar as a gateway to Scotland; she felt that a giant retail part was a poor welcome, was not representative of the 'eco park' previously discussed, and was contrary to tourism strategies. She felt that the town centre was being sacrificed. The busier Spott Road became, the greater challenge faced in reaching the town centre. She highlighted that such developments were actively being discouraged in new Scottish Government retail and planning strategies. She felt that the developments did not enhance place-making and would be detrimental to Dunbar's town centre and local businesses.

Graeme Laing spoke against the application on behalf of his client, the Co-op. He described the Co-op as a key investor and stakeholder in East Lothian's town centres. The Co-op felt it should have had the opportunity to review and make comment on the Retail Impact Report and the applicant's response, neither of which were made publicly available. Mr Laing refuted comments that the Co-op had not invested in their Dunbar stores, citing the £1.5m investment in the Countess Crescent store in September 2021, and said this commitment to the town centre would be undermined by approval of the application. The development would reduce the reasons for visiting the town centre and have a detrimental impact on all businesses. Independent advice said that there could be an impact of up to 27% on the town centre, and Mr Laing had seldom seen such a high level of predicted impact. He said that

the proposals were contrary to Policy TC1 of the LDP, and the Co-op disagreed that the benefits of the development were of a significance to justify policy departure.

Jacque Bell spoke against the application on behalf of Dunbar Community Council. They felt that the DunBear site could have offered an interesting gateway to the county. She noted that NPF4 did not support out-of-town retail, and said that the development would erode the town centre when the pandemic and cost of living had already made trade difficult. Should the application be approved, it was important that signage be erected to show visitors what the town centre had to offer. Dunbar Community Council felt the application should be delayed to consider traffic flow, air pollution, and noise. They felt the applicant should pay for improvements to the inadequate pavements on Spott Road, and highlighted the need for people to feel safe to engage in active travel. She noted the difficulties getting in and out of Brodie Road at peak times, to be made worse by the five sets of traffic lights proposed. They felt that developer contributions should be spent on improving access points on the A1. She highlighted that prime agricultural land was being covered by hard landscaping, which would not help flooding or biodiversity.

Jacque Bell spoke against the application on behalf of West Barns Community Council, who echoed the concerns of Dunbar Community Council, and she also noted concerns of East Lammermuir Community Council. West Barns had been affected by traffic pressures of Dunbar developments, but dependence had also grown on Dunbar for shopping and services. Those who did not drive were more likely to use the high street, and there was concern about the development's threat to the town centre. She noted the badly designed Spott Road roundabout and the potential to add to congestion. The community council asked Members to reject the application because it was in opposition to the climate change strategy and counter to NPF4. They felt that something more exciting than a retail park should be developed on a site which was a gateway into East Lothian, overlooked by a statue which was meant to symbolise John Muir.

Responding to a question from the Convener, Ms Bell said that some people would welcome the development, but the community councils had concerns about the overall masterplan, issues caused for the town centre, and lack of opportunities for active travel.

Councillor Collins, Local Member, said she had called the application to Committee to allow the people of Dunbar to make their views heard. She said she often met Dunbar residents in the Haddington Retail Park, who were having to travel outside of Dunbar to shop at the discount retailers; she felt that Dunbar was losing out on this trade. She said that the local traders in the town centre offered superior quality goods which could not be replaced by stores on the development; she felt that custom pulled away temporarily would return, and gave an account of the many well-established traders in Dunbar able to provide specialised and personalised services. She thought it would be beneficial to the local businesses if the developers would erect signage to advertise the town centre.

Councillor McIntosh also acknowledged the specialised services offered in the town centre, but felt that vibrant town centre businesses were being put at risk by the development. She worried that the application was incompatible with the Climate Change Strategy, but noted that people were driving to other towns to access discounters in any case. She thought that the peripheral development would not serve those who did not have access to a car. She questioned why Lidl could not be in the town centre without parking, for people to access on public transport or using active travel, and felt that the assumption that a development required a large car park was problematic. She felt that something should be done with the pavements to secure active travel opportunities, and questioned whether a homogenous offer of stores across all the towns should be considered a positive argument.

Councillor Cassini echoed Councillor McIntosh's points. She felt that a discount retailer would be of use in an area of deprivation, but less helpful on a site where a car was required

for access. She felt that access would have to be improved to the site, and thought the eco park sounded a better idea than a group of discount retailers on the edge of town.

Councillor Forrest said that it had been useful to hear the objections, including from the Co-op, and had also found the report from Roderick MacLean Associates convincing. He would support the application. Councillor McMillan felt that the risks highlighted by the objectors were outweighed by the potential benefits, including opportunities with good employers, and peripheral developments leading to more visitors; the challenge would be to ensure that visitors also made their way to the town centre. He felt that the development would be compatible with the concept of 20-minute neighbourhoods, and would help to sustain Dunbar's new housing. He thought there was an opportunity to show an increased number of visitors Dunbar's wider attractions.

The Convener said that Members were aware that Spott Road was a busy area, and issues with the narrow pavement needed to be resolved, but this burden could not be placed on one developer. He felt that transportation officers ought to look at improving pedestrian links to the area. He felt that taking away the mini roundabout and installing traffic lights would represent a major improvement. The masterplan indicated that the distributor road would provide another access into the town if it came forward at a later date. Impact on retail was the biggest concern, but he said that Dunbar was losing trade to other towns with discount retailers. Continued investment to enhance the town was needed, and local residents who would want to access a discount retailer locally had to be considered. He would do everything he could to ensure improvements were made to pedestrian routes in the area, and to make sure the high street retained its vibrancy.

Councillor McLeod welcomed the two well-known retailers to Dunbar and the creation of jobs. He would support the application.

Councillor Collins proposed that signage be erected to advertise town centre businesses, and this was seconded by Councillor Hampshire. Mr Dingwall provided a form of words to be added to the conditions.

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

For:	8	(Councillors Hampshire, Cassini, Collins, Forrest, McGinn, McLeod, McMillan, and Yorkston)
Against:	1	(Councillor McIntosh)
Abstentions:	0	

## DECISION

The Committee granted the planning application 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 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 Part 2A 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 fastigiata 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.

- 21 Prior to the commencement of the development, details of an advertisement sign or signs, promoting Dunbar Town Centre, to be displayed within the site, shall be submitted to and approved by the Planning Authority. Neither of the retail stores shall be opened for trade unless and until the sign or signs are being displayed on site in accordance with the details so approved. The sign or signs shall not thereafter be altered or removed unless otherwise approved in advance by the Planning Authority.

Reason:

In the interests of promoting the viability and vitality of Dunbar Town Centre.

**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**

A report was submitted in relation to Planning Application No. 22/00021/P. Daryth Irving, Senior Planner, presented the report, summarising the key points. The report recommendation was to grant consent.

Phil Pritchett, agent, spoke to the application. A local business, Mungo Park Ltd., would operate the premises as a Starbucks franchise. They already operated a number of coffee shops on the east coast; this would be their first in East Lothian, and the coffee shop would employ up to 20 members of staff. A number of infrastructure improvements were to be made before the coffee shop would open for trade, and Mr Pritchett said that the proposal was therefore important to help justify and pay for those infrastructure works. He said that conditions for infrastructure improvements were welcomed. He highlighted that officers had assessed the proposals to be in line with planning policy. He said that the coffee shop had the potential to divert trade from the A1 into Dunbar, and said the commercial developments would help the overall economy of the town.

Jacquie Bell spoke against the application on behalf of Dunbar Community Council. She asked, should the application be granted, that an additional condition for the erection of signage to advertise local businesses also be applied to this application. Concerns had been raised by Dunbar, West Barns, and East Lammermuir Community Councils, Dunbar Traders' Association, and some residents. The concerns for road and pedestrian safety previously noted also applied to this application, with the drive-thru encouraging the use of cars. She raised concern about signage, which was poor and saw people making U-turns on Brodie Road and Kelly Road. It was also expected that the proposed traffic lights would cause congestion on the feeder roads. There was concern that noise and air pollution would be caused by traffic build-up to enter and exit the retail park, and the community council felt money would be better invested in cycleways. She noted that NPF4 did not support out-of-town retail. It was also felt that a Starbucks was not needed when there were many coffee shop options in the town centre, and these businesses were already struggling to find staff.

Councillor Collins, Local Member, said she had called the application to Planning Committee to allow local businesses and residents a say in the debate and opportunity to ask questions.

Councillor McIntosh felt that the risks posed to the town centre outweighed the benefits brought by the developments, and could see no positive reason to open a Starbucks. She thought it seemed ridiculous to approve a drive-thru, thus normalising car culture when the council had made commitments to reducing car kilometres. She highlighted that benefit from job creation would be lost should businesses in the town fold due to lost custom. She was

also concerned about traffic queues coming off the A1, and could not support the application.

The Convener spoke about a study of A1 traffic, where the destination for most of the traffic was Edinburgh, with few vehicles stopping in Dunbar. With greater use of electric vehicles, people needed to be able to plan journeys; the development would offer a number of EV charging points, and the opportunity to stop for a coffee. He welcomed the proposals and the increase in visitors to Dunbar, some of whom would also decide to visit the town centre.

Councillor Cassini had been surprised to see an application for a drive-thru. She felt there was an overabundance of Starbucks branches, which took custom away from local businesses who could offer a more personalised service. After discussion of the offer of EV charging points, the Convener confirmed that this application did offer a number of charging points.

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

For: 7 (Councillors Hampshire, Collins, Forrest, McGinn, McLeod, McMillan and Yorkston)  
Against: 2 (Councillors Cassini and McIntosh)  
Abstentions: 0

## DECISION

The Committee granted the planning application 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 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.

Signed

.....  
Councillor Norman Hampshire  
Convener of the Planning Committee

**REPORT TO:** Planning Committee  
**MEETING DATE:** 6 December 2022  
**BY:** Executive Director for Place  
**SUBJECT:** Application for Planning Permission for Consideration

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**2**

Application No. **22/00909/PM**

Proposal Section 42 application to vary condition 3 of planning permission 21/00231/PM to allow Sunday Working during the period time of 0800 to 1700 hours

Location **Smeaton Recycling Centre  
Whitecraig  
Musselburgh  
EH21 8PZ**

Applicant Hamilton Waste & Recycling  
Per Wardell Armstrong LLP

**RECOMMENDATION** Consent Granted

## **REPORT OF HANDLING**

### **PROPOSAL**

As the area of the application site is greater than 2 hectares, what is proposed in this application is, under the provisions of The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, defined as a major development type proposal and thus it cannot be decided through the Council's Scheme of Delegation. The application is therefore brought before the Planning Committee for a decision.

This application relates to Smeaton Recycling Centre, located to the south east of the town of Whitecraig. The site is located within the open countryside as designated by Policy DC1 of the East Lothian Local Development Plan 2018 (ELLDP). The site is also safeguarded for use as a waste management site under Policy W1 of the ELLDP as Smeaton Bing, Whitecraigs - Metal Recycler / Transfer station. The site is not located within an area of special character.

## PLANNING HISTORY

In March 2010, through a decision of the Planning Committee, planning permission (Ref: 09/00617/FUL) was granted for the use of the former shale and coal waste heap of Smeaton Bing and former agricultural land within the Edinburgh Green Belt, all at Crossgatehall to the southeast of Whitecraig as a waste recycling facility and, to enable that use, the reformation and reshaping of the existing bing to form bunds to contain an internal working area, the erection in it of buildings, the formation of an access road and a sustainable urban drainage system (SUDS) pond, and for associated planting. Planning permission 09/00617/FUL has been implemented and the waste recycling facility is operational, and is known as Smeaton Recycling Centre. Planning permission 09/00617/FUL was granted subject to 15 Conditions, including conditions to control the movement of vehicles and the undertaking of site operations.

In March 2018, through a decision of the Planning Committee, planning permission (Ref: 15/00192/PM) was granted for a variation of condition 8 (VI) and (VII) and condition 12 of planning permission 09/00617/FUL to allow the movement of vehicles and the undertaking of site operations over longer periods of time, and to allow the operation over a wider site area.

Condition 3 of planning permission 15/00192/PM states;

"Unless with the prior written approval of the Planning Authority:

(vi) During the time period of 0400 hours to 0530 hours Monday to Friday inclusive the only activity on site for the operation of the waste recycling facility shall be the movement from the site of one pre-loaded HGV. During the period of time of 0530 hours to 0700 hours Monday to Friday inclusive the only activity on site for the operation of the waste recycling facility shall be the movement from the site of HGV's and skip lorries with a skip having already been attached to them during a previous working day's permitted hours of operation of the waste recycling facility. There shall be no loading or unloading of such HGV's or lorries with skips during the period of time of 0530 to 0700 Monday to Friday inclusive. During the time period of 0800 hours to 1700 hours on Sundays the only activity on site for the operation of the waste recycling facility shall be no more than two HGV's entering and two HGV's leaving the site per hour; those HGV's can unload.

(vii) Other than for (vi) above no operational working of the waste recycling facility, including vehicle movements shall take place within the site outwith the hours of 0700 to 2100 Monday to Friday inclusive and 0700 to 1800 on Saturdays. No aggregate crushing shall take place on Saturdays or Sundays, or between the hours of 1800 to 2100 on Monday to Friday inclusive.

Reason:

In the interests of protecting the amenity of residential properties within the area."

Following a decision by the East Lothian Council Planning Committee on the 7th September 2021, planning permission Ref: 21/00231/PM was approved on a temporary basis of one year for the variation of condition 3 of planning permission 15/00192/PM to allow works to take place on a Sunday between 0800 hours and 1700 hours. As such, the wording of this condition was amended to read;

Unless with the prior approval of the planning authority, the waste recycling facility shall be operated strictly in accordance with the following requirements:

(vi) During the time period of 0400 hours to 0530 hours Monday to Friday inclusive the



only activity on site for the operation of the waste recycling facility shall be the movement from the site of one pre-loaded HGV. During the period of time 0530 hours to 0700 hours Monday to Friday inclusive the only activity on site for the operation of the waste recycling facility shall be the movement from the site of HGV's and skip lorries with a skip already having been attached to them the previous working day's permitted hours of operation of the waste recycling facility. There shall be no loading or unloading of such HGV's or lorries during the period of time of 0530 hours to 0700 hours Monday to Friday inclusive.

(vii) Until 16th September 2022, during the period of time of 0800 hours to 1700 hours on Sunday there shall be no more than two HGV's entering and two HGV's leaving the site per hour; those HGV's can unload. No additional HGV movements into or out of the site are permitted unless otherwise agreed with the Planning Authority. Other than these HGV movements no activity shall be undertaken on the site between the period of time of 0800 hours and 0900 hours on Sunday. During the period of time of 0900 hours to 1700 hours on Sunday the only activity on the site other than the HGV movements and loading/unloading permissible through this planning condition shall be operations within the Solid Recovered Fuel Facility and the Main Processing Shed. Sunday working associated with the Solid Recovered Fuel Facility shall be internal only. Sunday working within the Main Processing Shed of the Materials Recycling Facility shall be restricted to the following operations: Operation of a 360 degree digger, a shredder, a trammel, and air density separator, a picking station and a loading shovel. Other than the loading/unloading of HGV's permissible through this planning condition the only permitted external operations on Sunday are the use of a separator, a screen, a picking station, an air density separator, a water separator and a dumper.

(viii) After 16th September 2022, during the time period of 0800 hours to 1700 hours on Sundays the only activity on site for the operation of the waste recycling facility shall be no more than two HGV's entering and two HGV's leaving the site per hour; those HGV's can unload.

(iv) Other than for (vi), (vii) and (viii) above no operational working of the waste recycling facility, including vehicle movements shall take place within the site outwith the hours of 0700 to 2100 Monday to Friday inclusive, 0700 to 1800 on Saturdays and 0800 to 1700 on Sundays. No aggregate crushing shall take place on Saturdays or Sundays, or between the hours of 1800 to 2100 on Monday to Friday inclusive."

Reason:

In the interests of protecting the amenity of residential properties within the area.

## **PROPOSAL**

This current application therefore seeks planning permission to make permanent the variation of condition 3 of planning permission 21/00231/PM granted by Planning Committee in September 2021 for a period of 1 year. If granted this would allow the operation of the Solid Recovered Fuel Facility and the Main Processing Shed at the recycling plant between 08.00 and 17.00 on a Sunday. As with the approved temporary consent, it is not proposed to operate any external plant; all activity would be internal to those two buildings. The only external operations would consist of a separator and sorting equipment including a screen, picking station, air density separator, a water separator and a dumper.

Planning permission is therefore sought to vary condition 3 of planning permission 21/00231/PM to read:

Unless with the prior approval of the planning authority:

(vi) During the time period of 0400 hours to 0530 hours Monday to Friday inclusive the only activity on site for the operation of the waste recycling facility shall be the movement from the site of one pre-loaded HGV. During the period of time of 0530 hours to 0700 hours Monday to Friday inclusive the only activity on site for the operation of the waste recycling facility shall be the movement from the site of HGV's and skip lorries with a skip having already been attached to them during a previous working day's permitted hours of operation of the waste recycling facility. There shall be no loading or unloading of such HGV's or lorries with skips during the period of time of 0530 to 0700 Monday to Friday inclusive.

(vii) During the time period of 0800 hours to 1700 hours on Sundays there shall be no more than two HGV's entering and two HGV's leaving the site per hour; those HGV's can unload. During the period of time of 0800 hours to 1700 hours on Sunday the only activity on the site other than the HGV movements and loading/unloading permissible through this planning condition shall be operations within the Solid Recovered Fuel Facility and the Main Processing Shed. Other than the loading/unloading of HGV's permissible through this planning condition the only permitted external operations on Sunday are the use of a separator including a screen, picking station, air density separator, a water separator and a dumper.

(viii) Other than for (vii) above no operational working of the waste recycling facility, including vehicle movements shall take place within the site outwith the hours of 0700 to 2100 Monday to Friday inclusive and 0700 to 1800 on Saturdays and 0800 to 1700 on Sundays. No aggregate crushing shall take place on Saturdays or Sundays, or between the hours of 1800 to 2100 on Monday to Friday inclusive.

Reason:

In the interests of protecting the amenity of residential properties within the area.

In support of the application a report on Sunday Working has been submitted by the agent. The report on Sunday Working informs that Hamilton Waste & Recycling run a successful waste and recycling business at the purpose built Smeaton Bing facility in East Lothian. The business has invested extensively in the site and processes and have won UK national awards for their recycling expertise. The site has been operating since April 2014 and now employs 95 full time staff making it a significant employer within East Lothian. Hamilton Waste & Recycling operate within a competitive market and need to continue to win waste and recycling contracts from the public and private sector. A number of upcoming contracts will require Sunday working. Should the contracts be secured and the economy recovers as it is anticipated to do Hamilton Waste & Recycling hope to employ a further 10-20 full time staff. This planning application seeks to change planning control to allow the operation of the Solid Recovered Fuel Facility and the Main Processing Shed between 0800 and 1700 on a Sunday on a permanent basis.

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 the 21st September 2022 the Council issued a formal screening opinion on this application. The screening opinion concludes that it is East Lothian Council's view that the proposed development is not likely to have a significant environmental effect to the extent that an expert and detailed study through EIA is needed to properly assess any effect 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.

A Noise Assessment Report has also been submitted in support of this planning application.

## **DEVELOPMENT PLAN**

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

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

The application does not raise strategic issues and there are no relevant SESplan policies.

Policies W1 (Waste Management Safeguards), NH12 (Air Quality), NH13 (Noise), and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of the application.

Revised Draft National Planning Framework 4 (NPF4) was published by the Scottish Government on the 08 November 2022. The Town and Country Planning (Scotland) Act 1997 (as amended) requires that NPF4 must be approved by the Scottish Parliament before it can be adopted by Scottish Ministers. On adoption the Scottish Government will commence the provisions in the Planning Act which will make NPF4 part of the statutory development plan. The Existing National Planning Framework 3 and Scottish Planning Policy remain in place until NPF4 has been adopted by Scottish Ministers.

Also relevant to the determination of this application is Scottish Planning Policy (SPP): June 2014. Paragraph 176 of SPP states that the planning system should:

- i. promote developments that minimise the unnecessary use of primary materials and promote efficient use of secondary materials;
- ii. support the emergence of a diverse range of new technologies and investment opportunities to secure economic value from secondary resources, including reuse, refurbishment, remanufacturing and reprocessing;
- iii. support achievement of Scotland's zero waste targets: recycling 70% of household waste and sending no more than 5% of Scotland's annual waste arisings to landfill by 2025; and
- iv. help deliver infrastructure at appropriate locations, prioritising development in line with the waste hierarchy: waste prevention, reuse, recycling, energy recovery and waste disposal.

## **REPRESENTATIONS**

Also material to the determination of the application are the written representations received from the public. Eight letters of objection have been received in relation to this application. The main grounds of objection are:

- o Concern with regards to potential increase in HGV traffic caused by the proposal;
- o Concern with noise and disruption - the peace and tranquillity of the area is blighted by noise and traffic coming from and to the recycling centre;

- o Increased pollution, noise, dust and odours caused by the proposal as well as litter management;
- o Existing Traffic Management plan not being complied with;
- o impact on road safety as vehicles pose a greater risk to road users especially cyclists, horse riders, pedestrians and visitors. If operational on a Sunday this will affect more people;
- o Neighbour notification not undertaken correctly now or in the past;
- o Failure of traffic to comply with speed limits on adjoining roads;
- o East Lothian Council (ELC) and SEPA have continually failed to take into consideration any residents concerns regarding expansion and environmental impact on what originally was designated Green Belt land; nor have either demonstrated suitable oversight and control when pollution incidents have been reported.
- o Concerns that SEPA and East Lothian Council have a conflict of interest in this site;
- o The assessment criteria for the one year trial period haven't been valid or realistic as the site has not been operational every Sunday;
- o East Lothian Council and SEPA failure to respond to complaints in a timely manner, or investigate appropriately given that SEPA have advised they will not attend the Hamilton site on a Sunday, and the ELC offices closed;
- o New housing development at Elphinstone and Whitecraig would exacerbate traffic and road safety conditions in the area.
- o Concern for the structural integrity of the bridge at the junction of B6414 and A6124 at Crossgatehall;
- o Condition of the path from Crossgatehall down to the roundabout at the bottom of Carberry hill is in poor condition in parts currently with foliage overhanging in sections meaning you have to use the road in some places instead and as such is unsafe for cyclists and pedestrians;
- o Intensification of site use towards a 24 hour commercial operation, and possibility of taking on adverse types of waste material, with the associated dust, noise, and odours has become a major concern;
- o Queries as to whether the Community Council were consulted on the application;
- o Applicant attempting to change previous weekday working conditions through this application; and
- o Applicant should consider improving their operational efficiency rather than extending their operating hours further to mitigate the impact Sunday working.

The grants of planning permission 09/00617/FUL, 12/00346/FUL, 15/00192/PM and 21/00231/PM for the waste recycling centre were granted subject to conditions to control the operation of the waste recycling facility, including a series of working controls on matters of noise, working hours and vehicular movements for the site. Other than the variation to the working hours to allow working on a Sunday on a permanent basis all other controls would remain in place.

In the determination of planning applications 09/00617/FUL, 12/00346/FUL, 15/00192/PM and 21/00231/PM for the waste recycling centre a material planning consideration in each case was the representations received to those applications from members of the public. Therefore consideration was given to resident's concerns in the determination of those planning applications.

On the matter of the existing Traffic Management Plan not being complied with, it would be for the Planning Enforcement service to investigate any complaints on this to establish whether there was any breach of planning control.

The proposal does not seek to alter the hours of operation of the site on weekdays or to expand operations towards 24 hours a day. Neither does it seek to increase the number

or type of vehicles operating to and from the site during the week. This application is to allow a limited amount of working on a Sunday. Any proposals to change other hours of operations or to increase the number or types of vehicles would require a further application for planning permission which would be determined on its merits in accordance with the development plan unless material considerations indicate otherwise. In the determination of any planning application to expand operations, change the type of vehicle associated with the site or increasing the number of vehicular movements on the public road the matters raised in respect of road safety and the structural integrity of the bridge may be material planning considerations.

Responsibility for enforcement of noise due to operational activities at this sites falls to SEPA to regulate under the terms of the Waste Management Licence. Therefore any complaints received by the Council in respect of operational activities would be passed onto SEPA. If SEPA are unable to investigate complaints regarding operational noise outwith the normal working week then that is a matter for SEPA to address.

The **Council's Protective Service** are the responsible authority for non-operational noise, e.g. construction noise associated with any new developments on site. Environmental Health staff may be available to deal with emergencies or pre-planned work for which the Council are the responsible authority. They would not be available to monitor/investigate any alleged breaches of a Waste Management Licence.

With regards to concerns that the Council has a conflict of interest in the determination of this planning application, the application stands to be determined on its merits in accordance with the development Plan unless material considerations indicate otherwise.

With regards to neighbour notification, the Council is required to notify properties within 20 metres of the site. In this regard, thirteen properties were notified. Furthermore, a site notice was placed by the Council at the entrance of the site notifying the community of the application. There is no requirement to formally notify the Community Council. However, an advertisement was also placed in the East Lothian Courier on the 01st September 2022 notifying the public of the application. Accordingly the application has been sufficiently notified to satisfy the statutory requirements of the Town and Country Planning (Scotland) Act 1997.

Concerns with regards to breach of speed limits adjacent to the site should be brought to the attention of Police Scotland. It is a matter controlled by legislation other than planning legislation.

On the matter of whether or not the site has been operational on a Sunday during the 1 year trial period the agent has provided dates of Sunday working since the decision of planning permission Ref: 21/00231/PM was issued on the 05th October 2021. The agent informs that the site has been operational on 42 Sundays during the 1 year temporary period and have provided extracts from site diaries to support this claim. The Council as Planning Authority have no evidence to dispute this claim.

## **COMMUNITY COUNCIL**

No comments have been received from the Community Council.

## **PLANNING ASSESSMENT**

Through the grants of planning permissions 09/00617/FUL, 12/00346/FUL, 15/00192/PM and 21/00231/PM the use of the site at Smeaton Bing as a waste recycling facility has

already been established. Furthermore through the grant of planning permission Ref: 21/00231/PM permission was granted for a temporary period of 1 year to allow the site to operate some functions on a Sunday. The purpose of the temporary consent was to allow a sufficient period of time to establish whether or not such operations on a Sunday would be acceptable on a permanent basis.

Therefore the main considerations in the determination of this application is whether the variation of condition 3 on a permanent basis to allow some Sunday working would have unacceptable impacts on the amenity of nearby residential properties and whether or not it would be a road safety hazard.

The report on Sunday Operations submitted with the application informs that the works proposed to take place on a Sunday within the site already take place on other days of the week and have been assessed through previous planning applications. However, a full noise assessment has been undertaken by SLR to establish what the noise impact of that Sunday working would be. The noise assessment undertook noise monitoring on a Sunday at the four nearest properties to Smeaton Bing. The noise from the proposal was modelled, following industry methodology that was agreed in advance with the **Council's Environmental Health Team**.

The applicant's Noise Assessment states that the surveys were undertaken at three locations representative of the closest Noise Sensitive Receptors. These survey locations include Sawmill House (NSR04), Pentland View, within Springfield Steading (NSR03), and Crossgate Hall (NSR05) and were agreed with SEPA. The assessment has shown that the noise rating level has been predicted to be below the representative background sound level at all the receptor locations during each operational scenario with the exception of at NSR04 (Sawmill House) when both the SRF and Main building are operating simultaneously, where the rating level is predicted to be +2 dB above the background level. In accordance with BS4142:2014+A1:2019, though it is considered that a rating level exceeding the background level by this amount would still equate to low impacts. To further justify the above, a context assessment was undertaken at NSR04 when both the SRF and main building are operating simultaneously. The context assessment has shown that there would be no increase in the ambient sound level at NSR04 during the Sunday daytime period when the SRF and main building are operating simultaneously, which further validates the view that there is a low impact at NSR04.

To conclude it is considered that noise should not pose a material constraint for the permanent Sunday daytime operation of the SRF and main building.

The **Council's Environmental Protection Manager** has been consulted on the application. They have responded to confirm that they have reviewed the Noise Report submitted with the application and they note that the methodology was previously agreed with SEPA.

They acknowledge and accept that previous baseline sound assessments carried out on Sunday 29th November 2020 were acceptable to determine typical background noise levels at Noise Sensitive Receptors on a Sunday. However, they note that no actual attended measurements are provided to assess noise levels during the temporary period of consent. They are aware however that Specific Noise Levels from proposed operational plant have been taken from previous noise assessments (10th and 25th of November 2020).

They state that it would have been preferable if attended measurements were taken when the works proposed for the permanent consent subject to this application were actually taking place so as to back-up and validate any previous modelling

predictions/assessments. They have asked for the agent to provide an explanation as to why attended measurements during the temporary consent were not undertaken. They ask this due to the ever-evolving development of this site and the significant objections and allegations from local residents.

In response, the agent informs that the noise assessment for the permanent Sunday working were based on Specific Noise Levels from proposed operational plant taken from previous noise assessments. Having liaised with Hamilton's, it was confirmed that as part of the application for permanent Sunday working, there would be no changes in the activities and plant contained in the previous reports and there had been no noise related complaint or issues arising from the 'temporary' Sunday operations. In view of the above it was considered that the results of the previous noise assessments remained valid and there was no requirements for noise monitoring to be undertaken.

They also state that it should be noted that a number of different operational scenarios were included within the assessments, whereas any Sunday monitoring would only measure a snap shot of operations on any given Sunday. In addition the predicted noise levels from Sunday operations at the Site were low when compared to measured ambient (LAeq) levels, therefore validating the predicted noise levels through measurement would have proved difficult. This was the case for the compliance assessment for normal weekday operations, and consequently SEPA issued a modification to the site's waste management licence (WML/L/1109747 - as modified - Modification No. 8), with modified conditions which relate to the control of noise, which specified noise limits on-top of the bunds surrounding the Site rather than at the nearest receptors.

Having said the above, the applicant's agent advises that Sunday compliance monitoring could be Conditioned as part of the Planning Permission for the permanent Sunday operations, though suitable limits would have to be agreed at the receptor locations or on-top of the bunds as per the compliance assessment for normal weekday operations.

The Council's Senior Environmental Protection Officer has confirmed that they are satisfied with this response.

The Council's Senior Environmental Protection Officer however also notes that the predicted Noise Rating Levels will not give rise to any significant impacts at Noise Sensitive Receptors. Given that complaints regarding noise may be directed to the Waste Licensing Authority, SEPA, who regulate the site under conditions attached to a Waste Management Licence, SEPA will need to clarify/confirm if they have received complaints in connection with the temporarily consented Sunday Working. While Environmental Health have received complaints regarding alleged noise from the site, this related to temporary construction activities for a new shed and were not deemed to be operational noise.

Whilst the Council's Senior Environmental Protection Manager has not raised objections to the proposed variation of condition to allow Sunday Working he has however stated that if the Council were minded to approve this application then he would suggest a condition be attached to any grant of planning permission to control the type of operations on the site on a Sunday. He has suggested a change to the proposed variation of the condition to include the restriction of operations on the site between 0800hours and 0900 hours on a Sunday to no more than two HGV's entering and two HGV's leaving the site and that other than those vehicular movements no other activity be undertaken on site between 0800hrs and 0900hrs. The agent has agreed to this suggested change.

Subject to that change the proposed variation of Condition 3 to allow Sunday Operations would be acceptable. Such a change would not have an unacceptable impact on the amenity of any neighbouring or nearby residential property due to noise.

SEPA have also been consulted on the application. They have confirmed that they have no objection to the planning application, but they have reiterated their previous advice of 26 August 2021, on planning application Ref: 21/00231/PM, and refer to complaints received from local residents concerning the site, waste and non-waste operations and traffic relating to the site. This is therefore noted.

It is also understood that a variation to the permit has already been issued by SEPA. SEPA's permitting team have however indicated that if East Lothian Council does not grant planning permission for Sunday working, on a permanent basis, then SEPA would initiate a variation of the Waste Management Licence to remove the condition which allows Sunday working. It is the Council's decision, and SEPA would ensure the Waste Management Licence reflects their decision.

The **Council's Road Services** confirm that they have no objection to the variation of condition 3 of planning permission 21/00231/PM. Therefore the variation of condition 3 would not be inconsistent with Policy T2 of the adopted East Lothian Local Development Plan 2018.

Given the site's location within the Battle of Pinkie Historic Battlefield, Historic Environment Scotland has been consulted on the application. They have responded to confirm that they have no comments to make on the proposal. As such, no objection is raised to the application and the proposal would not be detrimental to the character or appearance of the Battle of Pinkie Historic Battlefield.

A revised version of Planning Series Circular 3/2013 (Development Management Procedures) was published by the Scottish Government in September 2015. Annex I of the Circular gives guidance on applications for planning permission under section 42 of the Town and Country Planning (Scotland) Act 1997, as amended. The application that is the subject of this report is made under section 42 of the Act. Annex I states that "Planning authorities should attach to the new permission all of those conditions from the previous permission, where it is intended these should apply and ensure (where appropriate) that permission is granted subject to the conclusion of any appropriate planning obligation".

Therefore, planning permission should be granted subject to the 9 conditions previously imposed on planning permission REF: 21/00231/PM which all should continue to apply to the operation of the site. Subject to the compliance with these 9 planning conditions the operation of the waste recycling use on Sundays during the period time of 0800 to 1700 hours would not conflict with Policies W1, NH12, NH13 and T2 of the adopted East Lothian Local Development Plan 2018 and Scottish Planning Policy: June 2014. In conclusion, the proposals are considered to be in accordance with the provisions of the stated relevant Development Plan policies and there are no material considerations which outweigh the proposal's accordance with the Development Plan.

## **RECOMMENDATION:**

That planning permission be granted subject to the 9 undernoted conditions including varied condition 3 of planning permission REF: 21/00231/PM:



- 1 Within two months of the date of the grant of this planning permission a Traffic Management Plan embodying the measures of traffic control set out in Chapter 6 of the Environmental Statement docketed to planning permission 09/00617/FUL, to minimise the impact of construction and operational site traffic on the area and additionally measures to encourage more sustainable methods of travel by employees to and from the site, including the provision of cycle parking and car share schemes shall be submitted to and approved by the Planning Authority. The waste recycling facility shall thereafter be operated in accordance with the Traffic Management Plan so approved.

Reason:

In the interests of the amenity of the residents of the area, and in the interests of road safety.

- 2 If any of the planting, seeding or turfing carried out in accordance with the details of landscaping approved by the grant of planning permission 12/00346/PM within a period of five years from the date of the grant of this planning permission die, are removed or become seriously damaged or diseased they 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. The landscaping, tree planting and hedging shall continue to be maintained in accordance with the landscape and woodland management plan for the site approved by the grant of planning permission 12/00346/PM.

Reason:

In order to ensure the implementation and long-term maintenance of a landscaping scheme to enhance the appearance of the development in the interests of the amenity of the area.

- 3 Unless with the prior approval of the planning authority:

(vi) During the time period of 0400 hours to 0530 hours Monday to Friday inclusive the only activity on site for the operation of the waste recycling facility shall be the movement from the site of one pre-loaded HGV. During the period of time 0530 hours to 0700 hours Monday to Friday inclusive the only activity on site for the operation of the waste recycling facility shall be the movement from the site of HGV's and skip lorries with a skip already having been attached to them the previous working day's permitted hours of operation of the waste recycling facility. There shall be no loading or unloading of such HGV's or lorries during the period of time of 0530 hours to 0700 hours Monday to Friday inclusive.

(vii) During the period of time of 0800 hours to 1700 hours on Sunday there shall be no more than two HGV's entering and two HGV's leaving the site per hour; those HGV's can unload. No additional HGV movements into or out of the site are permitted unless otherwise agreed with the Planning Authority. Other than these HGV's movements no activity shall be undertaken on the site between the period of time 0800hours and 0900 hours on a Sunday. During the period of time of 0900 hours to 1700 hours on Sunday the only activity on the site other than the HGV movements and loading/unloading permissible through this planning condition shall be operations within the Solid Recovered Fuel Facility (SRF) and the Main Processing Shed. Sunday working associated with the SRF shall be internal only. Sunday working within the Main Processing Shed of the Materials Recycling Facility shall be restricted to the following operations: Operation of a 360 degree digger, a shredder, a trammel, and air density separator, a picking station and a loading shovel.

Other than the loading/unloading of HGV's permissible through this planning condition the only permitted external operations on Sunday are the use of a separator, a screen, a picking station, an air density separator, a water separator and a dumper.

(viii) Other than for (vii) above no operational working of the waste recycling facility, including vehicle movements shall take place within the site outwith the hours of 0700 to

2100 Monday to Friday inclusive, 0700 to 1800 on Saturdays and 0800 to 1700 on Sundays. No aggregate crushing shall take place on Saturdays or Sundays, or between the hours of 1800 to 2100 on Monday to Friday inclusive.

Reason:

In the interests of protecting the amenity of residential properties within the area.

- 4 The site access with the A6124 public road shall have a visibility splay of 9 metres by 215 metres on each side of it so that no obstruction lies within the splay above a height of 1.05 metres. The gates for that access shall be set back at least 19 metres along the length of the new access road from the western edge of the carriageway of the A6124 public road and shall open inwards to the site.

Reason:

In order to ensure the safe turning and off-road stopping of HGVs accessing the site, in the interests of road safety.

- 5 Details of all external lighting proposed to be used within the site shall be submitted to and approved in writing by the Planning Authority prior to its erection. The lighting shall be positioned and designed to ensure that no light from within the site spills beyond the boundaries of the working area or access road to be formed as part of the development hereby approved.

Reason:

In the interests the amenity of nearby properties and of this part of the East Lothian countryside.

- 6 The development hereby approved shall be used solely for the purposes of waste recycling in accordance with the approved plans docketed to this planning permission and planning permission 09/00617/FUL, including the ancillary office, parking and storage facilities. No part of the site other than as set out in the Operational Site Plan drawing no. ED11492/003 docketed to this planning permission shall be used for the purposes of storage, separation, processing or recycling of waste or any other materials, nor for parking or storage of vehicles.

Reason:

To ensure that none of the operations of the waste recycling facility or use of the site is harmful to the rural character of this part of the East Lothian countryside or the Edinburgh Green Belt.

- 7 Any fuel oil stored on the site shall be bunded or contained such as to avoid any spillage of leaked oil. Details of such measures shall be submitted to and approved in writing in advance by the Planning Authority.

Reason:

To ensure the site does not become contaminated.

- 8 Within two months of the date of the grant of this planning permission a litter control plan for the site shall be submitted to and approved by the Planning Authority. The litter control plan shall detail the measures necessary to prevent windblown litter within the site and from leaving the site. The waste recycling facility shall be operated in strict accordance with the litter control plan so approved.

Reason:

In the interest of the amenity of the area.

- 9 All loaded lorries which enter and leave the application site shall have their loads fully enclosed or fully sheeted.

Reason:

In the interest of the amenity of the area.

**REPORT TO:** Planning Committee  
**MEETING DATE:** 6 December 2022  
**BY:** Executive Director for Place  
**SUBJECT:** Application for Planning Permission for Consideration

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**3**

Application No. **21/00093/PM**  
Proposal Section 42 application to remove condition 2 of planning permission 90/00411/P  
Location **Monks Muir Park  
Haddington  
East Lothian**

Applicant Bakersfield Properties Ltd  
Per Fox Planning Consultancy

**RECOMMENDATION** Consent Granted

### **REPORT OF HANDLING**

As the site area of the application site is greater than 2 hectares, the development proposed in this application is, under the provisions of The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, defined as a major development and thus it cannot be decided through the Council's Scheme of Delegation.

### **APPLICATION SITE**

This application pertains to the existing caravan park at Monks Muir.

The existing caravan park site has a predominantly rectangular shaped, long linear layout extending between the north side of the A199 classified public road and the south side of the minor public road, which provides access to Markle Mains Quarry. An existing house is located within the caravan park, towards its southern end. At its southern end on its east side, there is a further rectangular shaped area of land to the east side of the vehicular access road of the caravan park.

The existing caravan park has been operating at Monks Muir on the north side of the A199 classified public road between Haddington and East Linton with the benefit of a number of planning permissions stretching back to 1954. Subsequent permissions since 1954 have allowed for the progressive expansion of the caravan park. In December 1990 a planning permission was granted under reference P/0411/90 for the redevelopment of the caravan park. This redevelopment and upgrading of the site allowed for a total of 66 pitches, being 51 pitches for static caravans and 15 for either touring caravan or tent use. The docketed drawings for planning permission P/0411/90 show an area of the northern end of the caravan park as being retained as amenity space, and the land to the south of the existing house, and to the east of the vehicular access road of the caravan park and to the southeast of the existing house, all being between the house and the public road, as being for late arrival touring caravans and overspill area for tents.

Thus, the caravan park at Monks Muir is a well-established facility operating in the countryside of East Lothian.

The existing caravan park is bounded to the east and west by agricultural land, and to the north by a minor public road which provides access to Markle Mains Quarry beyond which is further agricultural land. To the south is the A199 classified public road on the opposite side of which is an intervening strip of treed land beyond which is the classified A1 Trunk Road.

The existing caravan park is enclosed along its north (roadside) boundary by a low rubble stone wall and along its east and west boundaries by a combination of low rubble stone wall, fencing and hedging. There are some trees positioned at irregular intervals along the east and west boundaries. The south (roadside) boundary with the A199 classified public road is enclosed by a rubble stone wall, some 1.65 metres in height. There is evergreen hedging planted along the inside of the roadside boundary wall. That hedging is some 3.0 metres in height along the west side of the southern boundary (to the west of the vehicular access from the public road) and some 2.0 metres in height to the east side of the southern boundary (to the east of the vehicular access). There is a small group of predominantly evergreen trees on the west side of the access road to the west of the vehicular access from the public road. The east and north boundaries of the rectangular shaped area of land that is to the eastern side of the vehicular access road at the southern end of the caravan park are enclosed by vertical slatted timber fencing some 1.7 - 1.85 metres in height.

The existing caravan park, and thus also the land of the application site, is located within the defined area for a National Gas Transmission Pipeline (Gladsmuir to Aberlady Pipeline).

The route of Core Path No.84 and a Right of Way passes to the north of the application site along the route of the minor public road that is to the north of the application site.

The Beanston House Local Garden and Designed Landscape is located some 490 metres to the west of the caravan park site and the Beanston Mains Local Garden and Designed Landscape is located some 340 metres to the northwest of the caravan park site. The Garleton Hills Special Landscape Area (SPA) is located some 0.7 of a mile to the west of the caravan park site and the Traprain and Tyne Valley Special Landscape Area (SPA) is located some 30 metres to the south of the caravan park site.

## **PLANNING HISTORY**

In July 1954, planning permission Ref. 63/54 was granted for a tea stall, parking, etc at the

site of Monks Muir Caravan site.

On 4th December 1964 planning permission Ref. 236/63 was granted for the erection of a toilet block at Monks Muir Caravan site.

On 10th January 1968 planning permission Ref. 197/67 was granted for an extension to the caravan and camping site at Monks Muir. In that planning permission it is noted that at the time, the caravan park site could accommodate 14 caravans or tents and that permission was sought to increase that by an additional 30 caravans or tents.

On 17th November 1970 planning permission Ref. 230/70 was granted for an extension to provide an additional area for tents at Monks Muir Caravan site.

On 26th November 1971 planning permission Ref. 291/71 was granted for the extension of a toilet block at Monks Muir Caravan site.

On 24th August 1973 planning application Ref. 308/73 was refused for an extension of Monks Muir Caravan site. That decision was subsequently appealed to the Scottish Development Department. That appeal was subsequently withdrawn by the applicant.

On 31st August 1976 planning permission Ref. 289/76 was granted for the erection of a café building.

On 11th October 1976 planning application Ref. 290/76 was refused for the use of part of Monks Muir Caravan site as a caravan sales site.

In 1978 planning permission Ref. 41/78 was granted for an extension to provide an additional area for 30 tents at Monks Muir Caravan site.

On 11th July 1978 planning permission Ref. 181/78 was granted for an extension to toilet blocks and café at Monks Muir Caravan site. In that planning permission it is noted that at the time, the caravan park site could accommodate 30 caravans and 20 tents.

On 1st April 1981 planning permission Ref. 639/79 was granted for the demolition of existing stores and garage and the erection of new stores and garages.

On 5th December 1990 planning permission P/0411/90 was granted, subject to conditions, for the redevelopment of the existing caravan and camping site. Those conditions pertain to (i) the number of caravans/tents to be positioned on the caravan site and their positioning on the site, (ii) the period of each year when the static caravans shall be occupied, (iii) the use of the southern part of the caravan site between the existing house and the public road, and (iv) landscaping of the caravan site.

It should be noted that the development of the caravan park has since evolved, and the current layout does not now accord with any of the previously approved layouts.

On 16 October 2008 planning permission 08/00796/FUL was granted for the erection of stone walls and pillars along the part of the south roadside boundary of the site with the classified A199 public road (former A1 trunk road) in place of unauthorised walls that had been erected on that part of the boundary. The stone walls are approved to be erected to the west side of the existing vehicular access of the south boundary and for a short length immediately to the east side of the vehicular access.

On 22 December 2017 planning permission 17/00414/P was retrospectively granted for a shed, a gas governor, lampposts, a flagpole, walls, fencing, gates and gate piers that had

been erected on the southeast part of the site of Monks Muir Caravan Park (i.e. the rectangular shaped area of land that is to the east side of the vehicular access road of the caravan park at the southern end of the caravan park) and for hardstanding areas that had also been formed on that part of the caravan park site. Planning permission 17/00414/P was granted retrospectively and unconditionally because all of the development had already been undertaken on the site.

In April 2022 planning permission 21/00873/P was retrospectively granted for the erection of an amenity building, measuring some 4.1 metres in length by some 3 metres in width and with a maximum roof ridge height of some 3 metres above ground, that has been positioned on the northern part of the rectangular shaped area of land that is at the southern end of the caravan park site, to the east side of the vehicular access road.

In January 2021, application 21/00094/CLU was registered for a certificate of lawfulness for an existing use for the land involving the stationing of caravans with unrestricted occupancy and the pre-existing unrestricted use of the site. Application 21/00094/CLU has been withdrawn by the applicant's agent.

In November 2022, retrospective planning permission (Ref. 22/01045/P) was granted for a wood store building that has been erected on the northern part of the rectangular shaped area of land that is at the southern end of the caravan park site, to the east side of the vehicular access road.

## **PROPOSAL**

Through this current application submitted under Section 42 of the Town and Country Planning (Scotland) 1997, permission is sought for the removal of condition 2 of planning permission P/0411/90.

Condition 2 of planning permission P/0411/90 states:

"No static caravan will be occupied outwith the periods 1st March to 31st October and 15th December to 15th January annually, both sets of dates inclusive and during these periods their occupation by any one person either alone or as one of a group of people will be restricted to a period of not more than one month.

Reason:

To ensure that the static caravans to be positioned on the site are not used as permanent residential accommodation."

A supporting Planning Statement has been submitted with the application.

The applicant advises that the site layout has differed to the 1990 approved layout for many years however does not know precisely when these layout variations first occurred. They note that the park has benefitted from a residential site licence for more than 10 years. These two applications (Refs. 21/00093/PM and 21/00092/PM) are proposed by the applicant to regularise the current site layout/development and also provide landscaping enhancements under the landscaping condition.

The Planning Statement states that it is clear from the 1967 planning consent that occupancy restrictions were not applied, and indeed that caravans on the park have benefitted from a residential site license for more than 10 years.

The supporting statement argues that condition 2 of planning permission P/0411/90 fails to meet the relevant tests set out in Circular 4/1998. It is stated that planning permission

P/0411/90 relates to operational development concerning the physical layout of the caravan park site and that it does not relate to the use of the site as a caravan park site use, which the statement purports was, at that time, already established on the whole of the site, and is demonstrated by the description of development of planning permission P/0411/90 being for the "redevelopment of existing caravan and camping site". The supporting statement further explains that the restrictive occupancy condition imposed through condition 2 of planning permission P/0411/90 was the first time such restrictive occupancy condition had been introduced for the caravan park.

Since the application was registered the application drawings have been amended to:

- (i) reduce the number of caravan pitches from 70 to 69, comprising 66 static caravans, 1 smaller green coloured static caravan, and 2 touring caravans; and
- (ii) change the landscaping proposals to include the provision of a wildlife garden on an area of land previously detailed as an empty caravan pitch on the northeast part of the site.

These changes are shown on amended application drawings submitted by the applicant's agent.

Drawing no. MON 0000 has been submitted with this application. That drawing is entitled 'Location Plan'. On it, each of the caravans on the caravan park site are annotated with the word 'house'. In planning terms, the structures on the site are caravans, and not houses. The agent for the application had advised that drawing no. MON 0000 would be updated to replace the word 'house' with 'caravan'. However, the agent now declines to amend the annotation on drawing no. MON 0000. That drawing should not therefore be docketed as part of a grant of planning permission.

The site area the subject of this application is more than 2 ha and therefore is a major development type. Section 35A (1) of The Town and Country Planning (Scotland) Act 1997 (as amended) requires the submission of a Proposal of Application Notice and notice of community consultation for major development types prior to the application for planning permission being made to the Council. However subsection 1A of Section 35A of the Act is clear that this requirement for public consultation does not apply to applications made under Section 42 of the Town and Country Planning (Scotland) Act 1997. As this application is one made under Section 42 of the Act then there was no statutory requirement for public consultation to be carried out.

Through separate application (Ref. 21/00092/PM), permission is sought under Section 42 of the Town and Country Planning (Scotland) Act 1997 for the variation of Conditions 1, 3 and 4 of planning permission P/0411/90. Application 21/00092/PM stands to be determined on its own merits and is reported at this time on this Planning Committee Agenda.

## **EIA SCREENING**

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 9th March 2021, the Council issued a formal screening opinion to the applicant's agent. 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 application submitted under Section 42 of the Town and Country Planning (Scotland) for the removal of condition 2 of planning permission P/0411/90 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 Edinburgh and South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Development Plan 2018.

The purpose of the approved Edinburgh and 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 applications.

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

Relevant to the determination of the application are Policies DC1 (Rural Diversification), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018.

Revised Draft National Planning Framework 4 (NPF4) was published by the Scottish Government on the 08 November 2022. The Town and Country Planning (Scotland) Act 1997 (as amended) requires that NPF4 must be approved by the Scottish Parliament before it can be adopted by Scottish Ministers. On adoption the Scottish Government will commence the provisions in the Planning Act which will make NPF4 part of the statutory development plan. The Existing National Planning Framework 3 and Scottish Planning Policy remain in place until NPF4 has been adopted by Scottish Ministers.

## **REPRESENTATIONS**

Twenty-four public representations have been received to the application. Twenty-three of those public representations raise objection to the application and as summarised the main grounds of objection are:

- i. oppose the permanent siting of the caravans at the front of the site and also the WC block;
- ii. the caravan park is a residential park for retired/semi-retired people over 50 years of age and no children are allowed, and none of the proposals will have any benefits to the residents;
- iii. Mr Young has moved his older children into the caravans sited at the front;
- iv. Mr Young's younger children have taken over what was the parks club room for residents so that space is no longer available for use by residents;



- v. this change to the character of the site (young families, children, noisy activities) is harmful to residents amenity;
- vi. although planning permission has not been sought for the units on the front (between the house and the public road) and rear of the site, there is no objection to these units as they are occupied;
- vii. Residents express a concern for a lack of care for them;
- viii. no amenities for residents (no shop, green seating area, club room);
- ix. it will be a blight on the amenity of the park;
- x. the use of static and touring caravans which do not comply with BS3632 are not allowed as residential;
- xi. there will be an increase in traffic generation;
- xii. the site is not suitable for disabled people under the Disability Act;
- xiii. the site, which had retrospective planning for a large shed was designed solely to house machinery;
- xiv. no planning permission has been sought for the siting of units 2 and 3 Cedar;
- xv. mature trees have been felled;
- xvi. loss of privacy;
- xvii. loss of tree cover on the northern part of the caravan park site resulting in noise and dust from lorries accessing Geddes Markle Quarry having a harmful impact on existing caravans;
- xviii. loss of environment for wildlife;
- xix. increased demand on water and sewage system; and
- xx. devaluing of existing caravans as park becomes much less desirable by becoming a site for touring caravans.

Twenty-two of the twenty-three representations raising objection to the application are in the form of two pro-forma letters.

The one remaining representation expresses support for the application, and comments that the park is a safe environment for mature residents and the owner/ manager has made significant changes and improvements to provide a post box, bus shelter, main road lighting and more importantly mains gas, which has made heating more affordable addressing fuel poverty associated with bottled gas, and that the amenities available suit most residents who prefer privacy.

The matter relating to the caravans complying with BS3632 is not a material planning consideration in the determination of this planning application.

The matter of the impact of this planning application on the value of the existing caravans/mobile homes is not a material planning consideration in the determination of

this planning application.

There is no planning control attached to the previous grants of planning permission that restricts the occupancy of the caravans at Monks Muir Caravan Site to a person(s) over the age of 50 who has retired or is semi-retired and has no children. Thus, these matters are not a material planning consideration in the determination of this planning application.

The use of the shed approved by the grant of planning permission 17/00414/P as part of the operation of the caravan park site is not a material planning consideration in the determination of this planning application.

This application pertains to the removal of condition 2 of planning permission P/0411/90, which restricts occupancy of the caravans to specific times of the year. It does not pertain to any physical form of development on the site. Thus, the subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

## **COMMUNITY COUNCIL**

Dunpender Community Council (DCC), as a consultee on the application, raises objection to the application to remove Condition 2 of planning permission P/0411/90, and as summarised their main grounds of objection are:

1) Loss of amenity green space - considerable frontage development on the site has taken away the last communal green amenity space left on the site. This loss of green space is detrimental to health and well-being and, when possible, social interaction - especially important in these difficult times (Covid-19 pandemic). DCC believe that this situation does not meet the guideline standards developed by Scottish Government and the Scottish Confederation of Park Home Residents Association (SCOPHRA). Therefore DCC objects to this retrospective development application on the frontage of the Monks' Muir Park.

2) Loss of communal building - the communal building on the site has been lost for the use of residents and is now being used for private use only. DCC strongly feel that in post COVID times the building should be reinstated for the use of all residents. DCC believe that this situation does not meet the guideline standards developed by Scottish Government and SCOPHRA. Further space has also been lost to a shower block development. Therefore DCC objects to this retrospective development application on the grounds that essential communal residents' facilities have been lost.

3) Static caravan and other caravans on the frontage of the site - DCC objected to the industrial development of this frontage site back in 2017 (planning permission 17/00414/P). Their original objections still stand to the development of that part of the site. However, in addition, DCC are extremely upset that this area of the site (an industrial area) is currently being used for living in. This yard was built on a communal green space provided for residents. DCC believe that this ground should be reinstated as a green communal area. DCC believe that this situation does not meet the guideline standards developed by SCOPHRA. Therefore DCC objects to this site being used for any living purposes, even for caravans. The Monks' Muir Residents Association have outlined their concerns in an excellent submission made by their Chair. DCC agrees with all of their well-made points and gives them their fullest support on these matters.

## **CONSULTATIONS**

The **Council's Senior Environmental Health Officer** has no comment to make regarding this application to remove condition 2 of planning permission P/0411/90.

The **Council's Environmental Health Food and Safety Officer (Business Regulation)** advises that the current caravan site licence is based on the site being a residential site with no closure period, and the licence does not include provision for touring caravans and/or tents, and that if any touring caravans and/or tents were to be located on the site their occupancy should be restricted to prevent them being used as permanent residencies.

The **Council's Road Services** has been consulted on the application and raises objection to the application to remove condition 2 of planning permission P/0411/90 on the grounds that it would be more likely that the site would become a permanent residential site, which is contrary to condition 2 of planning permission P/0411/90.

## **PLANNING ASSESSMENT**

As the applicant advises, the site layout has differed to the 1990 approved layout for many years. This application (Ref. 21/00093/PM) and the associated application Ref. 21/00092/PM are proposed by the applicant to seek to regularise the current site layout/development on the caravan park site.

The existing caravan park, and thus the land of the application site, is located within the defined area for a National Gas Transmission Pipeline (the Gladsmuir to Aberlady Pipeline), and thus is an existing facility within the defined area for that pipeline. However, as the application does not propose any development to the established caravan park site, there is no requirement to consult on this matter.

Local Development Plan Policy DC1 set out criteria whereby development in the countryside may be supported in principle. It does not specifically refer to caravan park sites. As this planning application relates to an existing established operational caravan park site within this countryside location, there can be no objection in principle to the caravan park site in this countryside location.

This planning application relates to an existing established operational caravan park site within this countryside location. The removal of condition 2 of planning permission P/0411/90 would not have any appreciable impact on the existing relationship between the existing caravan park site and the Beanston House Local Garden and Designed Landscape some 490 metres to the west of the caravan park site.

It is normally the case that occupancy controls would be applied to the occupation of caravans on caravan sites to ensure that they are not occupied as permanent residential accommodation, and in such circumstances examples of such conditions often preclude the occupation of a caravan for a period of 6 weeks during January and February each calendar year.

This current planning application relates only to the site area of the existing caravan park site at Monks Muir and does not propose to extend the site area from that already established by previous grants of planning permission.

The application drawings submitted with this planning application show a total of 67 static caravans and 2 touring caravans, giving an overall total of 69 pitches.

This planning application seeks to remove the occupancy restriction that is set out in condition 2 of planning permission P/0411/90.

It should be noted that planning permission P/0411/90 does not impose any planning

controls to restrict the occupancy of touring caravans on the caravan site.

In the supporting statement submitted with the application, the applicant's agent puts forward a case that condition 2 of planning permission P/0411/90 does not relate to the operational development the subject of that planning permission, as that planning permission was for the 'redevelopment of existing caravan and camping site', and that condition 2 does not meet the tests of Circular 4/1998: the use of conditions in planning permissions.

Circular 4/1998 states that planning conditions should only be imposed where they are:

- o necessary;
- o relevant to planning;
- o relevant to the development to be permitted;
- o enforceable;
- o precise; and
- o reasonable in all other respects.

The caravan park site at Monks Muir is a well-established facility operating in the countryside of East Lothian and with the benefit of a number of planning permissions has operated from this site stretching back to 1954.

The decision notices for the grants of planning permission (Refs. P/0236/63, P/0197/67, P/0230/70, P/0291/71, P/0289/76, P/041/78, P/0181/78, and P/0639/79), some of which pertain to the siting of additional caravans and/or tent pitches, do not include any planning controls to restrict the occupancy of the caravans and/or tents.

Although unable to locate the decision notice for the 1954 grant of planning permission for the caravan park site (Ref. P/063/54), given that subsequent planning permissions (Refs. P/0236/63, P/0197/67, P/0230/70, P/0291/71, P/0289/76, P/041/78, P/0181/78, and P/0639/79), did not include any conditions to control occupancy of the caravans on the caravan park site, it would not be unreasonable to conclude that the 1954 grant of planning permission for the caravan park site (Ref. P/063/54) also did not include any such occupancy restriction. Thus, it is reasonable to conclude that prior to the grant of planning permission P/0411/90 there was no planning control to restrict the occupancy of the caravans at Monks Muir Caravan Park.

Any controls on the occupancy of the caravans on the caravan park site is provided only on caravan site licences.

As the grant of planning permission P/0411/90 is for the redevelopment of the existing caravan and camping site, in seeking to impose occupancy restrictions on all of the caravans the subject of that planning application, condition 2 was seeking to impose occupancy controls on static caravans which already had approval to be sited on the caravan park site, and at that time could be occupied without any restriction.

In that the grants of planning permission P/0236/63, P/0197/67, P/0230/70, P/0291/71, P/0289/76, P/041/78, P/0181/78, and P/0639/79 do not impose occupancy restrictions on any caravans and/or tents on the caravan park site, there were no grounds for such occupancy controls to be imposed through planning permission P/0411/90, unless such control was required for new caravans/tent pitches on the caravan park site. Such requirement for control on the new caravans/tent pitches is not specified in the report of handling for planning permission P/0411/90.

In an affidavit submitted with the application, the site manager, Mr Young, attests that "since 2006/2007 all new static caravans have been occupied on a year round basis with

unrestricted 12-month occupancy".

Thus, on these aforementioned considerations, there is no objection to the removal of condition 2 of planning permission P/0411/90.

Furthermore, as the grants of planning permission P/0236/63, P/0197/67, P/0230/70, P/0291/71, P/0289/76, P/041/78, P/0181/78, P/0639/79 and P/0411/90 do not impose occupancy restrictions on any touring caravan on the caravan park site, it would be unreasonable to now seek to impose such an occupancy control for touring caravans on the caravan park site.

Contrary to the comments received from the **Council's Environmental Health Food and Safety Officer (Business Regulation)**, the application does not propose any tent pitches on the caravan park site.

Accordingly, the removal of condition 2 of planning permission P/0411/90 does not conflict with Policy DC1 of the adopted East Lothian Local Development Plan 2018.

The **Council's Road Services** raises objection to the application to remove condition 2 of planning permission P/0411/90 on the grounds that as a result of the removal of the condition it would be more likely that the site would become a permanent residential site, which is contrary to the condition that was imposed by planning permission P/0411/90.

The removal of condition 2 would have no impact on the ongoing, well established use of the static caravans as park homes on the caravan park site, and there would be no additional parking demand or pressure on the road network arising from the deletion of condition 2. Accordingly, on transportation and road safety matters the removal of the condition 2 does not conflict with Policies T1 and T2 of the adopted East Lothian Local Development Plan 2018.

In conclusion, based on the aforementioned material considerations, the removal of condition 2 of planning permission P/0411/90 is considered to be in accordance with the provisions of the stated relevant Development Plan policies and there are no material considerations which outweigh that proposal's accordance with the Development Plan. Thus, the proposed removal of condition 2 is acceptable.

A revised version of Planning Series Circular 3/2013 (Development Management Procedures) was published by the Scottish Government in October 2022 (Circular 3/2022: Development Management Procedures). Annex I of the Circular gives guidance on applications for planning permission under section 42 of the Town and Country Planning (Scotland) Act 1997, as amended. The application that is the subject of this report is made under section 42 of the Act. Annex I states that "Planning authorities should attach to the new permission all of those conditions from the previous permission, where it is intended these should apply and ensure (where appropriate) that permission is granted subject to the conclusion of any appropriate planning obligation". In this case, the other conditions are 1, 3 and 4 of planning permission P/0411/90.

Through separate application Ref. 21/00092/PM, which is reported at this time on this Planning Committee Agenda, permission is sought under Section 42 of the Town and Country Planning (Scotland) Act 1997 for the variation of Conditions 1, 3 and 4 of planning permission P/0411/90 with a recommendation that those conditions be varied to reflect the current layout of the caravan park site and to approve a different scheme of landscaping for the caravan park site.

Therefore, if the Planning Committee is minded to grant planning permission for the

removal of condition 2 of planning permission P/0411/90 and to grant the variation of conditions 1, 3 and 4 of planning permission P/0411/90 through separate planning application Ref. 21/00092/PM, which is reported at this time on this Planning Committee Agenda, then the varied conditions recommended through separate planning application Ref. 21/00092/PM should be attached to this grant of Section 42 application for the removal of condition 2.

However, if the Committee refuses the associated Section 42 application 21/00092/PM then the original wording of conditions 1, 3 and 4 of planning permission P/0411/90 should apply to this grant of Section 42 application (Ref. 21/00093/PM) for the removal of condition 2.

## **RECOMMENDATION:**

That planning permission be granted for the removal of condition 2 of planning permission P/0411/90, subject to the following:

a) If Planning Committee resolve to grant the variation of conditions 1, 3 and 4 of planning permission P/0411/90 through separate planning application Ref. 21/00092/PM then planning permission (Ref. 21/00093/PM) should be granted subject to the following conditions:-

1. The development shall be carried on in accordance with the site layout shown in the following drawings: MON 0001 F Rev 1 Landscape Strategy Plan, MON 002 B Rev 1 South Area Landscape Plan and MON 1130 F Rev 1 North East Site Layout Wildlife Garden, and shall be retained in this manner unless otherwise agreed in accordance with drawings which shall be submitted to and approved in writing by the Local Planning Authority. The total number of static caravans to be accommodated on the site shall not at any time exceed 67, and the total number of touring caravans to be accommodated on the site shall not at any time exceed 2, unless otherwise approved in writing by the Local Planning Authority in accordance with a revised layout scheme.

Reason:

To ensure that the amount of caravans on the site does not exceed the approved number and to ensure that the appropriate facilities are provided to an adequate level and at satisfactory locations all in respect of ensuring the caravan park is operated in an acceptable manner.

2. That part of the site between the existing house and the A199 classified public road shall only be used and set out in accordance with the site layout shown on the following drawings: MON 001 F Rev 1 Landscape Strategy Plan, MON 002 B Rev 1 South Area Landscape Plan and MON 1130 Rev 1 North East site Layout Wildlife Garden, and shall be retained in this manner unless otherwise agreed in accordance with drawings which shall be submitted to and approved in writing by the Local Planning Authority.

Reason:

To minimise the visual impact of the use of the front part of the site in the interest of safeguarding the rural character and amenity of the area.

3. The site shall be landscaped in accordance with the landscaping scheme contained in the following documents and drawings: MON 001 F Rev 1 Landscape Strategy Plan, MON 002 B Rev 1 South Area Landscape Plan and MON 1130 Rev 1 North East site Layout Wildlife Garden, MON 1150 Trees in Planters, MON 020 Heavy Standard Rootballed Tree, MON 021 Heavy Standard Bare Root Tree, MON 023 Hedge Details, and Landscape Management Plan dated 19 January 2021. Details of the specific location of the 8 trees in planters shall be submitted to and approved in advance in writing by the Planning Authority prior to their placement on the site. The landscaping shall be completed in its entirety during the first planting and seeding season following this grant of planning permission and thereafter that planting shall be maintained in accordance with the submitted Landscape Maintenance and Management Plan. The landscaping layout shall be retained in this manner unless otherwise agreed in writing in advance by the Planning Authority in accordance with drawings which shall be submitted to and approved in writing by the Planning

Authority.

Reason:

To ensure that the use of the site layout does not cause visual intrusiveness to the detriment of the rural character and amenity of the area.

b) If Planning Committee resolve to refuse the variation of conditions 1, 3 and 4 of planning permission P/0411/90 through separate planning application Ref. 21/00092/PM then planning permission (Ref. 21/00093/PM) should be granted subject to the following conditions:

1. The total number of static and touring caravans and tents to be accommodated on the site will not, at any time, exceed that which is specified in drawings nos. 1675/C/01 and 02 which are docketed to this planning consent and they will be disposed on the site together with the café/shop, workshop, garage and play area and toilet, shower, washing, s water supply, soil and waste-water disposal, and fire alarm and fighting facilities all in the manner shown in those drawings and in accordance with the current Model Standards of the Caravan Sites and Control of Development Act.

Reason:

To ensure that the amount of caravans and tents on the site does not exceed the approved number and to ensure that the appropriate facilities are provided to an adequate level and at satisfactory locations all in respect of ensuring the caravan park is operated in an acceptable manner.

2. The part of the site between the existing house and café/shop and the A1 trunk road will be used solely as a temporary overspill area for touring caravans and tents, for accommodating both caravans which arrive late and tents on an occasional basis, and on that part of the site no single touring caravan and tent will remain for more than 24 hours.

Reason:

To minimise the visual impact of the use of the front part of the site in the interest of safeguarding the rural character and amenity of the area.

3. Prior to the commencement of any part of the development and upgrading scheme which is the subject of this planning consent, a fully detailed landscape plan for the entire site, to include enhanced planting both with the site and along its boundaries will be submitted to and approved by the Director of Planning, and that landscaping will be completed in its entirety during the first full planting season following commencement of work to further develop and upgrade the site, and thereafter that planting will be maintained in accordance with a management plan which will also have received the prior approval of the Director of Planning.

Reason:

To ensure that the use of the site does not cause visual intrusiveness to the detriment of the rural character and amenity of the area.





**REPORT TO:** Planning Committee  
**MEETING DATE:** 6 December 2022  
**BY:** Executive Director for Place  
**SUBJECT:** Application for Planning Permission for Consideration

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**4**

Application No. **21/00092/PM**  
Proposal Section 42 application to vary Condition 1, 4 and 3 of planning permission 90/00411/P  
Location **Monks Muir Caravan Park  
Haddington  
East Lothian**

Applicant Bakersfield Properties Ltd  
Per Fox Planning Consultancy

**RECOMMENDATION** Consent Granted

## **REPORT OF HANDLING**

As the site area of the application site is greater than 2 hectares, the development proposed in this application is, under the provisions of The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, defined as a major development and thus it cannot be decided through the Council's Scheme of Delegation.

## **APPLICATION SITE**

This application pertains to the existing caravan park at Monks Muir.

The existing caravan park site has a predominantly rectangular shaped, long linear layout extending between the north side of the A199 classified public road and the south side of the minor public road, which provides access to Markle Mains Quarry. An existing house is located within the caravan park, towards its southern end. At its southern end on its east side, there is a further rectangular shaped area of land to the east side of the vehicular access road of the caravan park.

The existing caravan park has been operating at Monks Muir on the north side of the A199 classified public road between Haddington and East Linton with the benefit of a number of planning permissions stretching back to 1954. Subsequent permissions since 1954 have allowed for the progressive expansion of the caravan park. In December 1990 a planning permission was granted under reference P/0411/90 for the redevelopment of the caravan park. This redevelopment and upgrading of the site allowed for a total of 66 pitches, being 51 pitches for static caravans and 15 for either touring caravan or tent use. The docketed drawings for planning permission P/0411/90 show an area of the northern end of the caravan park as being retained as amenity space, and the land to the south of the existing house, and the land to the east of the vehicular access road of the caravan park and to the southeast of the existing house, all being between the house and the public road, as being for late arrival touring caravans and overspill area for tents.

Thus, the caravan park at Monks Muir is a well-established facility operating in the countryside of East Lothian.

The existing caravan park is bounded to the east and west by agricultural land, and to the north by a minor public road which provides access to Markle Mains Quarry beyond which is further agricultural land. To the south is the A199 classified public road on the opposite side of which is an intervening strip of treed land beyond which is the classified A1 Trunk Road.

The existing caravan park is enclosed along its north (roadside) boundary by a low rubble stone wall and along its east and west boundaries by a combination of low rubble stone wall, fencing and hedging. There are some trees positioned at irregular intervals along the east and west boundaries. The south (roadside) boundary with the A199 classified public road is enclosed by a rubble stone wall, some 1.65 metres in height. There is evergreen hedging planted along the inside of the roadside boundary wall. That hedging is some 3.0 metres in height along the west side of the southern boundary (to the west of the vehicular access from the public road) and some 2.0 metres in height to the east side of the southern boundary (to the east of the vehicular access). There is a small group of predominantly evergreen trees on the west side of the access road to the west of the vehicular access from the public road. The east and north boundaries of the rectangular shaped area of land that is to the eastern side of the vehicular access road at the southern end of the caravan park are enclosed by vertical slatted timber fencing some 1.7 - 1.85 metres in height.

The existing caravan park, and thus also the land of the application site, is located within the defined area for a National Gas Transmission Pipeline (Gladsmuir to Aberlady Pipeline).

The route of Core Path No.84 and a Right of Way passes to the north of the application site along the route of the minor public road that is to the north of the application site.

The Beanston House Local Garden and Designed Landscape is located some 490 metres to the west of the caravan park site and the Beanston Mains Local Garden and Designed Landscape is located some 340 metres to the northwest of the caravan park site. The Garleton Hills Special Landscape Area (SPA) is located some 0.7 of a mile to the west of the caravan park site and the Traprain and Tyne Valley Special Landscape Area (SPA) is located some 30 metres to the south of the caravan park site.

## **PLANNING HISTORY**

In July 1954, planning permission Ref. 63/54 was granted for a tea stall, parking, etc. at

the site of Monks Muir. Caravan site.

On 4th December 1964 planning permission Ref. 236/63 was granted for the erection of a toilet block at Monks Muir Caravan site.

On 10th January 1968 planning permission Ref. 197/67 was granted for an extension to the caravan and camping site at Monks Muir. In that planning permission it is noted that at the time, the caravan park site could accommodate 14 caravans or tents and that permission was sought to increase that by an additional 30 caravans or tents.

On 17th November 1970 planning permission Ref. 230/70 was granted for an extension to provide an additional area for tents at Monks Muir Caravan site.

On 26th November 1971 planning permission Ref. 291/71 was granted for the extension of a toilet block at Monks Muir Caravan site.

On 24th August 1973 planning application Ref. 308/73 was refused for an extension of Monks Muir Caravan site. That decision was subsequently appealed to the Scottish Development Department. That appeal was subsequently withdrawn by the applicant.

On 31st August 1976 planning permission Ref. 289/76 granted for the erection of a café building.

On 11th October 1976 planning application Ref. 290/76 was refused for the use of part of Monks Muir Caravan site as a caravan sales site.

In 1978 planning permission Ref. 41/78 was granted for an extension to provide an additional area for 30 tents at Monks Muir Caravan site.

On 11th July 1978 planning permission Ref. 181/78 was granted for an extension to toilet blocks and café at Monks Muir Caravan site. In that planning permission it is noted that at the time, the caravan park site could accommodate 30 caravans and 20 tents.

On 1st April 1981 planning permission Ref. 639/79 was granted for the demolition of existing stores and garage and the erection of new stores and garages.

On 5th December 1990 planning permission P/0411/90 was granted, subject to conditions, for the redevelopment of the existing caravan and camping site. Those conditions pertain to (i) the number of caravans/tents to be positioned on the caravan site and their positioning on the site, (ii) the period of each year when the static caravans shall be occupied, (iii) the use of the southern part of the caravan site between the existing house and the public road, and (iv) landscaping of the caravan site.

It should be noted that the development of the caravan park has since evolved, and the current layout does not now accord with any of the previously approved layouts.

On 16 October 2008 planning permission 07/00796/FUL was granted for the erection of stone walls and pillars along the part of the south roadside boundary of the site with the classified A199 public road (former A1 trunk road) in place of unauthorised walls that had been erected on that part of the boundary. The stone walls are approved to be erected to the west side of the existing vehicular access of the south boundary and for a short length immediately to the east side of the vehicular access.

On 22 December 2017 planning permission 17/00414/P was retrospectively granted for a shed, a gas governor, lampposts, a flagpole, walls, fencing, gates and gate piers that had

been erected on the southeast part of the site of Monks Muir Caravan Park (i.e. the rectangular shaped area of land that is to the east side of the vehicular access road of the caravan park at the southern end of the caravan park) and for hardstanding areas that had also been formed on that part of the caravan park. Planning permission 17/00414/P was granted retrospectively and unconditionally because all of the development had already been undertaken on the site.

In April 2022 planning permission 21/00873/P was retrospectively granted for the erection of an amenity building, measuring some 4.1 metres in length by some 3 metres in width and with a maximum roof ridge height of some 3 metres above ground, that has been positioned on the northern part of the rectangular shaped area of land that is at the southern end of the caravan park site, to the east side of the vehicular access road.

In January 2021, application 21/00094/CLU was registered for a certificate of lawfulness for an existing use for the land involving the stationing of caravans with unrestricted occupancy and the pre-existing unrestricted use of the site. Application 21/00094/CLU has been withdrawn by the applicant's agent.

In November 2022, retrospective planning permission (Ref. 22/01045/P) was granted for a wood store building that has been erected on the northern part of the rectangular shaped area of land that is at the southern end of the caravan park site, to the east side of the vehicular access road.

## **PROPOSAL**

Through this current application submitted under Section 42 of the Town and Country Planning (Scotland) 1997, permission is sought for the variation of conditions 1 and 4 of planning permission P/0411/90, and to remove or vary condition 3 of planning permission P/0411/90.

Conditions 1, 3 and 4 of planning permission P/0411/90 state:

Condition 1:

"The total number of static and touring caravans and tents to be accommodated on the site will not, at any time, exceed that which is specified in drawings nos. 1675/C/01 and 02 which are docketed to this planning consent and they will be disposed on the site together with the café/shop, workshop, garage and play area and toilet, shower, washing, a water supply, soil and waste-water disposal, and fire alarm and fighting facilities all in the manner shown in those drawings and in accordance with the current Model Standards of the Caravan Site and Control of Development Act.

Reason:

To ensure that the amount of caravans and tents on the site does not exceed the approved number and to ensure that the appropriate facilities are provided to an adequate level and at satisfactory locations all in respect of ensuring the caravan park is operated in an acceptable manner."

Condition 3:

"The part of the site between the existing house and café/shop and the A1 trunk road will be used solely as a temporary overspill area for touring caravans and tents, for accommodating both caravans which arrive late and tents on an occasional basis, and on that part of the site no single touring caravan and tent will remain for more than 24 hours.

Reason:

To minimise the visual impact of the use of the front part of the site in the interest of

safeguarding the rural character and amenity of the area."

Condition 4:

"Prior to the commencement of any part of the development and upgrading scheme which is the subject of this planning consent, a fully detailed landscape plan for the entire site, to include enhanced planting both with the site and along its boundaries will be submitted to and approved by the Director of Planning, and that landscaping will be completed in its entirety during the first full planting season following commencement of work to further develop and upgrade the site, and thereafter that planting will be maintained in accordance with a management plan which will also have received the prior approval of the Director of Planning.

Reason:

To ensure that the use of the site does not cause visual intrusiveness to the detriment of the rural character and amenity of the area."

A supporting Planning Statement, a Landscape Appraisal report (prepared by John Richards Landscape Architects, dated December 2020), a Landscape Management Plan (prepared by John Richards Landscape Architects), and two supplementary reports on Landscape Proposals (prepared by John Richards Landscape Architects, dated 3/6/21 and 20/1/22) have been submitted with the application.

In the supporting Planning Statement, the applicant advises that the site layout has differed to the 1990 approved layout for many years however does not know precisely when these layout variations first occurred. They note that the park has benefitted from a residential site licence for more than 10 years. These two applications (Refs. 21/00093/PM and 21/00092/PM) are proposed by the applicant to regularise the current site layout/development and also provide landscaping enhancements under the landscaping condition.

The Planning Statement states that it is clear from the 1967 planning consent that occupancy restrictions were not applied, and indeed that caravans on the park have benefitted from a residential site license for more than 10 years.

The supporting Planning Statement proposes that conditions 1, 3 and 4 should respectively be amended to read as follows:

Condition 1 - "The development shall be carried on in accordance with the site layout shown in the following drawings: MON 0000 Location Plan, MON 0001 CP Site Context Plan, MON 001C Landscape Strategy Plan and MON 002B South Area Landscape Plan, and shall be retained in this manner unless otherwise agreed in accordance with drawings which shall be submitted to and approved in writing by the Local Planning Authority. The total number of static and touring caravans to be accommodated on the site shall not, at any time, exceed 69 unless otherwise approved in writing by the Local Planning Authority in accordance with a revised layout scheme.

Reason: To ensure that the amount of caravans and tents on the site does not exceed the approved number and to ensure that the appropriate facilities are provided to an adequate level and at satisfactory locations all in respect of ensuring the caravan park is operated in an acceptable manner."

Condition 3 - "That part of the site between the existing house and the A199 road shall only be used and set out in accordance with the site layout shown on the following drawings: MON 0000 Location Plan, MON 0001 CP Site Context Plan, MON 001C Landscape Strategy Plan and MON 002B South Area Landscape Plan, and shall be

retained in this manner unless otherwise agreed in accordance with drawings which shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To minimise the visual impact of the use of the front part of the site in the interest of safeguarding the rural character and amenity of the area."

Condition 4 - "The site shall be landscaped in accordance with the landscaping scheme contained in the following documents and drawings: MON 0000 Location Plan, MON 0001 CP Site Context Plan, MON 001C Landscape Strategy Plan and MON 002B South Area Landscape Plan, 020 Hv St Prep Rb 2016, 021 Hv St - Bare Root, 023 Mixed Hedge Detail, Landscape Appraisal Report dated December 2020, and Landscape Management Plan dated 19 January 2021. The landscaping shall be completed in its entirety during the planting season ending on 31st March 2022 and thereafter that planting shall be maintained in accordance with the submitted Landscape Maintenance and Management Plan. The landscaping layout shall be retained in this manner unless otherwise agreed in writing in accordance with drawings which shall be submitted to and approved in writing by the Local Planning Authority.

Reason: As agreed with the applicant to ensure that the use of the site layout does not cause visual intrusiveness to the detriment of the rural character and amenity of the area."

The supporting statement purports that conditions 1, 3 and 4 of planning permission P/0411/90 fail to meet the relevant tests set out in Circular 4/1998. It is stated that planning permission P/0411/90 does not specify the total number of caravans permitted on the site, rather it only specifies the number of caravan pitches as it allows for an unrestricted number of caravans on the informal areas on the front of the site (southern end of the site between the existing house and the public road).

It is stated that the caravan park site layout has differed from that shown on the drawings docketed to the grant of planning permission P/0411/90 for many years and that the caravans on the site have benefited from a residential caravan site licence for more than 10 years.

It is further stated that condition 1 seeks to control the provision of facilities on the caravan park site, which are outwith planning controls (i.e. the provision of and position of café/shop, garage, workshop, fire safety equipment), and that in this the condition is 'ultra vires'. In the supporting statement the applicant's agent puts forward a case that conditions 1, 3 and 4 of planning permission P/0411/90 are ambiguous and that the Affidavit submitted with the application demonstrates how the site has been used for more than 10 years.

Since the application was registered the application drawings have been amended to:

- (i) reduce the number of caravan pitches from 70 to 69, comprising 66 static caravans, 1 smaller green coloured static caravan, and 2 touring caravans;
- (ii) clearly identify and label all buildings and structures on the caravan park site; and
- (iii) change the landscaping proposals to include the provision of a wildlife garden on an area of land previously detailed as an empty caravan pitch on the northeast part of the site.

These changes are shown on amended application drawings submitted by the applicant's agent.

Following comments received from the **Council's Landscape Officer (Policy and Projects)** Supplementary landscape proposals reports have been submitted for the application.

Drawing no. MON 0000 has been submitted with this application. That drawing is entitled 'Location Plan'. On it, each of the caravans on the caravan park site are annotated with the word 'house'. In planning terms, the structures on the site are caravans, and not houses. The agent for the application had advised that drawing no. MON 0000 would be updated to replace the word 'house' with 'caravan'. However, the agent now declines to amend the annotation on drawing no. MON 0000. That drawing should not therefore be docketed as part of a grant of planning permission.

The site area the subject of this application is more than 2 ha and therefore is a major development type. Section 35A (1) of The Town and Country Planning (Scotland) Act 1997 (as amended) requires the submission of a Proposal of Application Notice and notice of community consultation for major development types prior to the application for planning permission being made to the Council. However subsection 1A of Section 35A of the Act is clear that this requirement for public consultation does not apply to applications made under Section 42 of the Town and Country Planning (Scotland) Act 1997. As this application is one made under Section 42 of the Act then there was no statutory requirement for public consultation to be carried out.

Through separate application (Ref. 21/00093/PM), permission is sought under Section 42 of the Town and Country Planning (Scotland) Act 1997 for the removal of condition 2 of planning permission P/0411/90. Application 21/00093/PM stands to be determined on its own merits and is reported at this time on this Planning Committee Agenda.

## **EIA SCREENING**

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 1st July 2021, the Council issued a formal screening opinion to the applicant's agent. 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 application submitted under Section 42 of the Town and Country Planning (Scotland) for the variation of conditions 1, 3 and 4 of planning permission P/0411/90 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 Edinburgh and South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Development Plan 2018.

The purpose of the approved Edinburgh and 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 applications.

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

Relevant to the determination of the application are Policies DC1 (Rural Diversification), DC9 (Special Landscape Area), CH6 (Gardens and Designed Landscapes), DP2 (Design), NH8 (Trees and Development), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018.

Also material to the determination of the application is the Special Landscape Areas Supplementary Planning Guidance (adopted 30th October 2018) of the adopted East Lothian Local Development Plan 2018.

Revised Draft National Planning Framework 4 (NPF4) was published by the Scottish Government on the 08 November 2022. The Town and Country Planning (Scotland) Act 1997 (as amended) requires that NPF4 must be approved by the Scottish Parliament before it can be adopted by Scottish Ministers. On adoption the Scottish Government will commence the provisions in the Planning Act which will make NPF4 part of the statutory development plan. The Existing National Planning Framework 3 and Scottish Planning Policy remain in place until NPF4 has been adopted by Scottish Ministers.

## **REPRESENTATIONS**

Forty-five public representations have been received to the application. Forty-four of those public representations raise objection to the application and as summarised the main grounds of objection are:

- i. the caravan park is a residential park for retired/semi-retired people over 50 years of age and no children are allowed, and none of the proposals will have any benefits to the residents;
- ii. although planning permission has not been sought for the units on the front (between the house and the public road) and rear of the site, there is no objection to the 5 units on the front of the site and one of the units on the rear of the site as they are occupied and have been bought in good faith;
- iii. residents express a concern for a lack of care and all residents amenities on the site have now been removed without any consultation with residents;
- iv. no amenities for residents (no shop, green seating area, club room);
- v. it will be a blight on the amenity of the park;
- vi. the use of static and touring caravans which do not comply with BS3632 are not allowed as residential;
- vii. there will be an increase in traffic generation;
- viii. the site is not suitable for disabled people under the Disability Act;
- ix. the site, which had retrospective planning for a large shed was designed solely to house machinery;



x. no planning permission has been sought for the siting of units 2 and 3 Cedar on the northern part of the site and these units have led to the loss of mature trees and wildlife habitat, loss of privacy and an increased demand on water and sewage system;

xi. the units on the northern part of the site have resulted in loss of tree cover on the northern part of the caravan park site resulting in noise and dust from lorries accessing Geddes Markle Quarry having a harmful impact on existing caravans;

xii. devaluing of existing caravans as the caravan park becomes much less desirable by becoming a site for touring caravans.

Forty-three of the forty-four representations raising objection to the application are in the form of two different pro-forma letters.

Forty-two of the representations have been received from twenty-one representors.

The one remaining representation expresses support for the application, and comments that the park is a safe environment for mature residents and the owner/ manager has made significant changes and improvements to provide a post box, bus shelter, main road lighting and more importantly mains gas, which has made homes being heated more affordable addressing fuel poverty associated with bottled gas, and that the amenities available suit most residents who prefer privacy.

Compliance with guidelines and matters controlled under legislation other than planning (i.e. complying with BS3632) are not a material consideration in the determination of this planning application.

The matter of the impact of this planning application on the value of the existing caravans/mobile homes is not a material planning consideration in the determination of this planning application.

There is no planning control attached to the previous grants of planning permission that restricts the occupancy of the caravans at Monks Muir Caravan Site to a person(s) over the age of 50 who has retired or is semi-retired and has no children. Thus, these matters are not a material planning consideration in the determination of this planning application.

The use of the shed approved by the grant of planning permission 17/00414/P as part of the operation of the caravan park site is not a material planning consideration in the determination of this planning application.

This application pertains to the variation of conditions 1 and 4 and the variation or removal of condition 3 of planning permission P/0411/90. Although the conditions relate to the physical development on the site the application does not specifically propose the siting of caravans or any changes to the caravans as they exist on the site. Thus, the subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

## **COMMUNITY COUNCIL**

Dunpender Community Council (DCC), as a consultee on the application, raises objection to the application to vary conditions 1, 3 and 4 of planning permission P/0411/90, and as summarised their main grounds of objection are:

1) Loss of amenity green space - considerable frontage development on the site has taken

away the last communal green amenity space left on the site. This loss of green space is detrimental to health and well-being and, when possible, social interaction - especially important in these difficult times (Covid-19 pandemic). DCC believe that this situation does not meet the guideline standards developed by Scottish Government and the Scottish Confederation of Park Home Residents Association (SCOPHRA). Therefore DCC objects to this retrospective development application on the frontage of the Monks' Muir Park.

2) Loss of communal building - the communal building on the site has been lost for the use of residents and is now being used for private use only. DCC strongly feel that in post COVID times the building should be reinstated for the use of all residents. DCC believe that this situation does not meet the guideline standards developed by Scottish Government and SCOPHRA. Further space has also been lost to a shower block development. Therefore DCC objects to this retrospective development application on the grounds that essential communal residents' facilities have been lost.

3) Static caravan and other caravans on the frontage of the site - DCC objected to the industrial development of this frontage site back in 2017 (planning permission 17/00414/P). Their original objections still stand to the development of that part of the site. However, in addition, DCC are extremely upset that this area of the site (an industrial area) is currently being used for living in. This yard was built on a communal green space provided for residents. DCC believe that this ground should be reinstated as a green communal area. DCC believe that this situation does not meet the guideline standards developed by SCOPHRA. Therefore DCC objects to this site being used for any living purposes, even for caravans. The Monks' Muir Residents Association have outlined their concerns in an excellent submission made by their Chair. DCC agrees with all of their well-made points and gives them their fullest support on these matters.

## **CONSULTATIONS**

The **Council's Senior Environmental Health Officer** has no comment to make from a public health perspective regarding the application to vary conditions 1 and 4 and to vary or remove condition 3 of planning permission P/0411/90.

The **Council's Environmental Health Food and Safety Officer (Business Regulation)** advises that the current caravan site licence is based on the site being a residential site with no closure period, and the licence does not include provision for touring caravans and/or tents, and that if any touring caravans and/or tents were to be located on the site their occupancy should be restricted to prevent them being used as permanent residencies as such forms of accommodation are not suitable for use as a permanent residence.

The **Council's Road Services** has been consulted on the application and advises that the removal/variation of conditions 1, 3 and 4 would not have a detrimental impact on the surrounding road network, with regard to safety and parking provision, and therefore Road Services raise no objection to the planning application to vary conditions 1, 3 and 4 of planning permission P/0411/90.

The **Council's Landscape Officer (Policy and Projects)** advises that the site is located in the Lower Tyne Valley Plain landscape character area as identified in the Special Landscape Area Supplementary Planning Guidance (SPG), and that a feature of the landscape character area includes an abundance of mixed small-scale shelterbelts throughout the farmland which help to strengthen the chequerboard field pattern. The Landscape Officer notes that there has been a caravan park at this location for over thirty years and that for the majority of that time the caravans have been enclosed in a shelterbelt of woodland set between two arable fields, respecting the landscape character of the area.

The Landscape Officer raises concerns about the number of trees and lower level vegetation that has been removed from the boundaries of the site and from within the site, and how this has resulted in the loss of the shelterbelt within which the caravan park site was located, and the resulting detrimental visual impact from this which amounts to a loss of rural landscape character due to the removal of the trees and lower level vegetation and the additional development on the caravan park site. It is the Landscape Officer's opinion that the replacement of the shelter belt planting along the boundaries would not be possible, as the caravans are positioned close to the site boundaries.

The Landscape Officer recommends that condition 3 not be modified and that the static caravans on the southern part of the site be removed.

The landscape advice further is that the proposed landscape planting scheme is insufficient to address the loss of trees and lower vegetation on the site that formed the shelter belt and created the woodland feel to the area, providing a setting for the caravans. In her original comments, the Landscape Officer also comments that whilst overall the proposed landscape planting scheme is insufficient to reinstate the shelter belt feel to the site, the proposed landscape planting scheme does offer minimal landscape screening to the southernmost part of the western site boundary that would help to reduce the impact of the southern-most caravans in views from the A199 on the approach from the west.

The Landscape Officer goes on to advise that there is now an opportunity to reintroduce planting to the boundaries of the caravan park site to include evergreen and low level planting to help reinstate the shelter belt character of the site that would be in keeping with the landscape character of the area and reduce the detrimental landscape and visual impact created by the caravan park in its current form. The Landscape Officer further comments that it is important to include an on-going management plan to manage the trees and other vegetation on the site to avoid repeating the current situation.

The Landscape Officer recommends that condition 4 be retained and that a new landscape plan and management plan be submitted to introduce tree and low level vegetation planting along the site boundaries in order to reintroduce the shelter belt feel to the site.

## **PLANNING ASSESSMENT**

As the applicant advises, the site layout has differed to the 1990 approved layout for many years. This application (Ref. 21/00092/PM) and the associated application Ref. 21/00093/PM are proposed by the applicant to seek to regularise the current site layout/development on the caravan park site.

The existing caravan park, and thus the land of the application site, is located within the defined area for a National Gas Transmission Pipeline (the Gladsmuir to Aberlady Pipeline), and thus is an existing facility within the defined area for that pipeline. However, as the application does not propose any development to the established caravan park site, there is no requirement to consult on this matter.

The **Council's Road Services** has been consulted on the application and advises that the variation of conditions 1 and 4 and the removal or variation of condition 3 would not have a detrimental impact on the surrounding road network, with regard to safety and parking provision, and therefore Road Services raise no objection to this planning application to vary conditions 1 and 4 and to vary or remove condition 3 of planning permission P/0411/90. Accordingly, on transportation and road safety matters, the variation of conditions 1, 3 and 4 does not conflict with Policies T1 and T2 of the adopted East Lothian Local Development Plan 2018.

Local Development Plan Policy DC1 sets out criteria whereby development in the countryside may be supported in principle. It does not specifically refer to caravan park sites. As this planning application relates to an existing established operational caravan park site within this countryside location, there can be no objection in principle to the caravan park site in this countryside location.

The caravan park site at Monks Muir is a well-established facility operating in the countryside of East Lothian and with the benefit of a number of planning permissions has operated from this site stretching back to 1954. This current planning application relates only to the site area of the existing caravan park site at Monks Muir and does not propose to extend the site area from that already established by previous grants of planning permission.

The decision notices for the grants of planning permission (Refs. P/0236/63, P/0197/67, P/0230/70, P/0291/71, P/0289/76, P/041/78, P/0181/78, and P/0639/79), some of which pertain to the siting of additional caravans and/or tent pitches at Monks Muir caravan park, do not include any planning controls to restrict the occupancy of the caravans and/or tents.

Although unable to locate the decision notice for the 1954 grant of planning permission for the caravan park site (Ref. planning permission P/063/54), given that subsequent planning permissions did not include any conditions to control occupancy of the caravans on the caravan park site, it is likely that the 1954 grant of planning permission for the caravan park site (Ref: planning permission P/063/54) also did not include any such occupancy restriction. Thus, it would not be unreasonable to conclude that prior to the grant of planning permission P/0411/90 there was no planning control to restrict the occupancy of the caravans at Monks Muir Caravan Park.

It is worth noting that the park has benefitted from a residential site licence for more than 10 years.

The grant of planning permission P/0411/90 is for the redevelopment of the existing caravan and camping site at Monks Muir.

Condition 1 of planning permission P/0411/90 reads "The total number of static and touring caravans and tents to be accommodated on the site will not, at any time, exceed that which is specified in drawings nos. 1675/C/01 and 02, which are docketed to this planning consent, and they will be disposed on the site together with the café/shop, workshop, garage and play area and toilet, shower, washing, a water supply, soil and waste-water disposal, and fire alarm and fighting facilities all in the manner shown in those drawings and in accordance with the current Model Standards of the Caravan Sites and Control of Development Act. Reason: To ensure that the amount of caravans and tents on the site does not exceed the approved number and to ensure that the appropriate facilities are provided to an adequate level and at satisfactory locations all in respect of ensuring the caravan park is operated in an acceptable manner."

Condition 3 of planning permission P/0411/90 reads "The part of the site between the existing house and café/shop and the A1 trunk road will be used solely as a temporary overspill area for touring caravans and tents, for accommodating both caravans which arrive late and tents on an occasional basis, and on that part of the site no single touring caravan and tent will remain for more than 24 hours. Reason: To minimise the visual impact of the use of the front part of the site in the interest of safeguarding the rural character and amenity of the area."

Condition 4 planning permission P/0411/90 reads "Prior to the commencement of any part of the development and upgrading scheme which is the subject of this planning consent,

a fully detailed landscape plan for the entire site, to include enhanced planting both with the site and along its boundaries will be submitted to and approved by the Director of Planning, and that landscaping will be completed in its entirety during the first full planting season following commencement of work to further develop and upgrade the site, and thereafter that planting will be maintained in accordance with a management plan which will also have received the prior approval of the Director of Planning. Reason: To ensure that the use of the site does not cause visual intrusiveness to the detriment of the rural character and amenity of the area."

This planning application along with the associated planning application to remove condition 2 of planning permission P/0411/90 (Ref. 21/00093/PM) together seek to regularise the layout of the caravan park site and its operation to reflect the current layout of the caravan park site and the occupation of the caravans on the caravan park site.

This planning application (Ref. 21/00092/PM) seeks to vary the wording of conditions 1 and 4 of planning permission P/0411/90 and to vary or remove condition 3 of planning permission P/0411/90, all to reflect the current layout of the caravan park site, that being 67 static caravan pitches and 2 touring caravans, rather than the 51 static caravans and 15 touring caravans and capacity for further touring caravans and tents approved by the grant of planning permission P/0411/90, and to propose an additional landscaping scheme for the caravan park site.

The drawings docketed to the grant of planning permission P/0411/90 show a layout for the caravan park site comprising 51 static caravans and 15 serviced touring caravan pitches. All of those pitches are located on the land of the caravan park site that is located to the north of the existing house. Additionally, the docketed drawings of planning permission P/0411/90 show the area of land to the south of the existing house as being an area for touring caravans and occasional tents and the area of land to the southeast of the existing house is shown to be an overspill area for camping and late arrival touring caravans. An area of land of the northern part of the caravan park site, being roughly some 9.4% of the site area, is labelled as a play area.

Whilst condition 3 of planning permission P/0411/90 clearly stipulates that the southern part of the site shall only be used as an overspill area for touring caravans and tents with no touring caravan or tent remaining there for more than 24 hours, that condition does not make clear whether the area of the site referred to includes the land to the east side of the caravan park site access road.

Contrary to that stated in the supporting Planning Statement, only the caravan park site layout shown on the drawings docketed to the grant of planning permission P/0411/90 are relevant to the grant of planning permission P/0411/90. Other drawings submitted to that application having the same reference number as the docketed drawings but not docketed are not relevant, and it is only the docketed drawings that can be referred to.

Therefore notwithstanding that revised drawings received on planning permission P/0411/90 in September 1990 show an additional 4 serviced touring caravan pitches on the area of land to the south of the existing house, between it and the A199 classified public road (at that time the A1 Trunk Road) the overall total number of pitches identified on the caravan park site on the docketed drawings of planning permission P/0411/90 is 66 (being 51 static pitches and 15 serviced touring caravan pitches). The key of the docketed drawings for planning permission P/0411/90 do not specifically identify the static caravan pitches however the area for the serviced touring caravan pitches is labelled on the docketed drawing and thus it is not unreasonable to conclude that the larger rectangular shapes are the static caravan pitches, and furthermore the number of larger rectangular shapes corresponds with the number of static caravan pitches and the smaller

rectangles corresponds with the number of services touring caravan pitches in the drawing's key/legend.

The material considerations in the determination of this planning application are whether the current site layout and the amended landscape scheme for the site would be of an appropriate scale and character for this countryside location, would result in harmful impacts to the landscape character of the area, including the elements justifying designation of the Beanston Local Garden and Designed Landscape and the special character of the Garleton Hills Special Landscape Area, would result in harmful impacts to the amenity of neighbouring properties or users of the nearby public rights of way, whether the proposed development would have a harmful impact on the trees that are on or adjacent to the site and whether the development could be suitably serviced, and provided with a satisfactory means of vehicular access and provision for on-site parking.

The application drawings submitted with this planning application show the caravan site layout as being a total of 67 static caravans and 2 touring caravans, giving an overall total of 69 pitches. Of the 67 static caravans shown on the application drawings for this planning application, 5 of the static caravans are located on the area of land to the south of the existing house, between it and the A199 classified public road (formerly the A1 Trunk Road) and one static caravan is located on the southeast area of land of the caravan park site (still being land between the existing house and the A199 classified public road). The 2 touring caravans are also located on the southeast area of land of the caravan park site (still being land between the existing house and the A199 classified public road).

Thus, the current layout of the caravan park site amounts to an overall increase in the total number of caravans on the caravan park site from 66 to 69, being an increase of 3. This breaks down into an increase in the number of static caravan pitches from 51 to 67 (a 32% increase in static caravans) and a decrease in the number of touring caravan pitches from 15 to 2 (being an 86% decrease in touring caravan pitches).

The caravan park site has been in operation from this site at Monks Muir at varying densities for some 50 years and there are no specified planning controls relating to the size of each caravan unit. The majority of the static caravans that are now sited on the existing caravan park site have a larger footprint than the static caravans approved by the grant of planning permission P/0411/90. Nonetheless, by their dimensions, the units on the site are caravans that are capable of being moved. The caravans on the site are not dissimilar in size and appearance to other caravan sites in East Lothian.

In terms of the number of units, the increase in the total number of caravans on the caravan park site from 66 to 69 does not result in there being any perceptible change in the use of the site as a caravan park site.

However, as a consequence of their larger dimensions, the static caravans on the site now extend across the majority of the land of the caravan park site, including the land to the south and southeast of the existing house, between that house and the A199 classified public road, and the northern part of the site identified as play area on the drawings docketed to the grant of planning permission P/0411/90, and as a result of this and their resulting layout there is a perceivable visual impact associated with the change to the size, number and layout of the existing static and touring caravans on the site.

As a whole the caravan park site is visible in public views when approaching from the east and west along the A199 classified public road. It is also visible in public views in approaches from the north, northeast and northwest on the U157 public road, and from the public right of way/core path that approaches from the east from Pen Craig Wood/Brae and passes to the north of the caravan park site along the U157 public road, which provides

access to Markle Mains Quarry.

The caravan park site and surrounding landscape are located in the Lower Tyne Valley Plain landscape character area as identified in the Special Landscape Area Supplementary Planning Guidance (SPG) of the Local Development Plan, and is characterised as being gently undulating farmland with hedges and mixed small-scale shelterbelts which help to strengthen the chequerboard field pattern. The landscape of the Lower Tyne Valley Plain comprises a series of gently undulating east-west aligned ridges, rising gradually towards the fringes of the Lammermuir Hills to the south and with Pencraig ridge and the Garleton Hills forming the northern boundary of the area. In terms of built features, the main settlement in the area is Haddington consisting of a largely traditional core surrounded by 20th century housing development, and with the area also containing a scattering of farmsteads and small clusters of houses.

In the original submission, the application drawings propose the planting of 16 new trees along the east and west boundaries of the caravan park site and the addition of a new hedgerow along part of the west boundary of the southern part of the site. The majority of those new trees are proposed to be planted along the west and east boundaries of the southern part of the caravan park site, between the existing house and the A199 public road.

Since the Landscape Officer's initial comments, the landscaping proposals for the site have been amended and the number of trees to be planted has been reduced.

The applicant's agent advises that the written agreement between the owner of the site and the occupier(s) of each caravan pitch (Written Statement under the Mobile Homes Act 1983) are such that the owner cannot plant a tree(s) on any of the caravan pitches without the agreement of the relevant occupier. The applicant's agent further confirms that each caravan pitch extends east to west from the edge of the access road to the edge of the title boundary of the caravan park site and north to south to the shared boundary or boundaries of any adjoining caravan pitch. The agent further advises that the Written Statement under the Mobile Homes Act 1983 sets out that the occupier(s) are entitled to undisturbed possession of their caravan and caravan pitch during the terms of their agreement, save in specific circumstances set out in that agreement.

In light of this, the applicant's agent has advised that it is not possible to carry out the landscape scheme originally proposed and thus the landscape scheme has been amended.

The now proposed scheme of landscaping proposes identifies a total of 8 trees to be planted along the west and east boundaries of the southern part of the site between the existing house and the A199 public road, a new mixed species hedgerow is proposed along the west boundary of the southern area of garden of the existing house, a new tree would be planted adjacent to the eastern edge of the turning/parking area between No.1 Rowan and No.8 Aspen, and the empty caravan pitch at the northeast corner of the caravan park site would be planted as a wildlife garden. The proposed wildlife garden area would comprise of 8 new trees, mixed species hedgerows, wild-flower meadow and conservation grassland. The grassland and wild-flower meadow would be at its core and would be enclosed by the hedgerow on four sides with an opening towards its southwest corner allowing access, and the new trees would be planted around its edges.

The drawings docketed to the grant of planning permission P/0411/90 show existing shrubs and trees and proposed tree and shrub planting on the caravan park site. The site layout shown on the current application drawings shows that much of that existing tree and shrub cover has been removed in the intervening years. However, the trees on the

caravan park site are not protected by a tree preservation order or by virtue of being within a conservation area. Furthermore, condition 4 of planning permission P/0411/90 does not require the trees that were on the site at that time to be retained. Thus, there is no restriction to the removal of trees and shrubs from the caravan park site.

This application seeks to vary the wording of condition 4 of planning permission P/0411/90 to approved the landscaping layout detailed on the application drawings the subject of this current application. The now proposed landscaping scheme includes a total of 8 new trees to be planted along the west and east boundaries of the southern part of the site between the existing house and the A199 public road, a new hedgerow is proposed along the west boundary of the southern area of garden of the existing house, a new tree would be planted adjacent to the eastern edge of the turning/parking area between No.1 Rowan and No.8 Aspen, and the empty caravan pitch at the northeast corner of the caravan park site would be planted as a wildlife garden. The proposed wildlife garden area would comprise of 8 new trees, mixed species hedgerows, wild-flower meadow and conservation grassland.

The applicant's agent advises that in the context that there is no record of any landscaping scheme having been submitted in respect of condition 4 of planning permission P/0411/90, the proposed landscaping scheme is an improvement on no landscaping scheme at all.

The applicant's agent further advises that the applicant cannot plant a new tree on any of the caravan pitches without the agreement of the occupiers of the relevant caravan pitch and has provided evidence to demonstrate this. Furthermore, the applicant's agent has highlighted the age demographic of the occupiers of the caravans, with the average age being over 60, and advises that in many cases, due to the age and abilities of the occupiers, the caravan pitches have been laid out by their occupiers in a manner that requires little maintenance.

Nonetheless the applicant's agent advises that the applicant has approached the occupiers of 26 of the caravan pitches, being those pitches on which the Landscape Officer suggested the planting of a tree may have a beneficial impact on the landscape character on the caravan park to break up the massing of the caravans when viewed from the east and west, and asked those occupiers if they would be agreeable to have a tree on their property. The offer to the occupiers of the 26 caravan pitches was for the positioning of a tree within a large planter. The species of tree offered were Holly (*Ilex aquifolium*), Cherry (*Prunus 'spire'*) and Rowan (*Sorbus 'Autumn Spire'*). Each tree species would be planted as 'full standard' and would be planted in a 900mm by 900mm square planter with a height of 873mm, with an anticipated height of some 3 metres.

Of the 26 offers made to occupiers of the caravan pitches, the applicant's agent advises that 21 responses were received, and that those who did not respond were assumed to be declining the offer. Of the 21 responses, 13 confirmed that they did not wish to have a tree in a planter on their caravan pitch, and 8 confirmed that they would take up the offer for a tree in a planter on their caravan pitch. Those pitches that agreed to the offer were: 5 Rowan, 4 Oak, 6 Ash, 1 Beech, 6 Beech, 8 Beech, 2 Birch and 4 Birch. These caravan pitches are primarily on the southern half of the caravan park site. Three are on the west side of the caravan park site and five are on the east side of the caravan park site. Of the three on the western side of the caravan park site, two are on the area of land to the south of the existing house between it and the A199 public road. Five of the eight new trees in planters would be Holly (*Ilex aquifolium*), two would be Rowan (*Sorbus 'Autumn Spire'*) and one would be Cherry (*Prunus 'spire'*). The specific positions of the trees in planters have not been provided.

In addition, the hardstanding formed on the empty caravan pitch at the northeast corner of the caravan park site is to be removed and that pitch is proposed to be laid out as a wildlife



garden with trees, hedges and grassed areas.

The A199 classified public road from which Monks Muir caravan park site is accessed was formerly the A1 Trunk Road however now, although it remains a main route through East Lothian, it is a rural road. The new A1 Trunk Road is located some 35 metres to the south of the A199 classified public road and at the location of the caravan park site the two roads are separated by an intervening tree belt. As a result of that tree belt the caravan park site is not readily visible from the A1 Trunk Road.

In long range views when approaching from the east, the caravan park site sits in part in a dip in the undulating landform, and the intermittent trees along the east and west boundaries of the caravan park site, and along the north side of the A199 classified public road, and the tree belt some 140 metres further to the west on the west side of the U157 public road help to integrate the caravan park site into its landscape setting and help to break up the mass and number of the caravans on the site as well as providing a backdrop.

When approaching the caravan park site from the west along the A199 classified public road, the existing shelterbelt of trees on the west side of the U157 public road and the undulating landform help to screen the caravan park site in public views. Roadside boundary hedging on the east and south sides of the U157 public road to the west and north of the caravan park site and the existing stone wall and hedging and the intermittent trees on the east and west edges of the caravan park site help to integrate it into its landscape setting in these views.

Nonetheless as a result of their larger size, their increased number, and their layout on the caravan park site, the caravans and thus the caravan park site, are visible to a greater degree than would have been the case at the time of planning permission P/0411/90.

Although visible from the A199 classified public road and other surrounding public roads and footpaths, the caravan park site nonetheless sits within the undulating landscape of the Lower Tyne Valley Plain landscape character area and as a result of that undulating landform, the shelterbelt trees, the hedges, the existing trees on the boundaries of the caravan park site, and the stone wall, hedge and trees on the southern roadside boundary of the caravan park site, where the caravan park site, and thus the caravans, are visible in public views from the A199 public road and from the surrounding road and footpath network, the views of the caravan park site and caravans are relatively short duration views. Thus, in such relatively short duration views, the trees, hedges and boundary enclosures, and the low single storey height of the caravans, help to integrate the caravan park site and the caravans into their landscape setting, and due to their relatively short duration, such views are locally injurious for only a short time whilst passing the site. On balance the localised impact resulting from the larger caravan units and their dispersal across the caravan park site is not harmful to the wider landscape character of the area.

Five static caravans are now positioned on the southern part of the site on the west side of the access road of the caravan park site, between the existing house and the A199 classified public road. Those caravans are readily visible in public views from the A199 classified public road and from the U157 public road to the west of the caravan park site.

The south roadside boundary of the caravan park site is enclosed by a stone wall some 1.7 metres in height and a Lawson Cypress hedge some 3.0 metres in height, and there is a small group of predominantly evergreen trees on the west side of the access road to the west of the vehicular access from the public road. The southern end of the west boundary of the caravan park site is enclosed by a combination of a rubble stone wall and small shrubs.

The 5 static caravans that are positioned on this part of the site are readily visible in public views from the A199 and U157 public roads when approaching from the west. Such views as there are of the 5 static caravans that are positioned on this part of the caravan park site are of a relatively short duration, and in such views, the roadside boundary wall, Lawson Cypress hedging and the small group of trees to the west of the existing vehicular access, provide some screening and contribute towards the integration of the caravans into their landscape setting. In this context the views of the 5 static caravans are localised. Furthermore, the application drawings propose the planting of four additional trees and hedge planting on the western side of the southern part of the garden of the existing house, one additional tree to the east of the existing house, 3 additional trees on the east side of the caravan park access road, and the addition of two trees in planters on two of the caravan pitches on the west side of this area of the caravan park site. Such planting would further contribute to the integration of the caravans on this southern part of the site into their landscape setting and would help to break up the massing of some of the caravans. The requirement for such additional landscape planting could be secured through the variation of condition 4 of planning permission P/0411/90. Subject to the such planning control to secure the additional landscape planting, on balance the localised impact resulting from the siting of the 5 static caravans on the southern part of the site to the west side of the access road between the existing house and the A199 classified public road is not harmful to the wider landscape character of the area.

One static caravan and 2 touring caravans are now positioned on the southeast part of the caravan park site to the east of the vehicular access road. The southeast part of the caravan park site is enclosed along its roadside boundary with the A199 classified public road by a rubble stone wall some 1.7 metres in height behind which is a Lawson Cypress hedge some 2.0 metres in height, along its east and north boundaries by timber fencing some 1.7 - 1.85 metres in height, and along its west boundary with the internal access road of the caravan park site by a combination of 1.8 metre high timber fencing, a pedestrian gate, 1.35 to 1.65 metres high vehicular gates and a length of rubble stone wall some 1.6 metres in height. There is a further small group of trees located on the southeast part of the caravan park site adjacent to its west boundary, and further Lawson Cypress hedging along part of the east boundary of this part of the site and a tree also along the east boundary of this part of the caravan park site. As a result of these enclosures, by their small size, scale and massing, and in their positions on the southeast part of the caravan park site, the one static caravan and 2 touring caravans are not readily visible in public views from outwith the site, but rather are afforded a degree of containment by the existing boundary enclosures and vegetation. Any glimpsed views of them, are short duration and they are viewed in the context of the boundary enclosures and vegetation and do not have a harmful impact on the landscape character of the area.

The caravan park site is some 0.7 of a mile to the east of the Garleton Hills Special Landscape Area, defining features of which are the volcanic rocks of the Garleton Hills and scattered deciduous woodland areas. Due to the intervening undulating landscape, the shelterbelt on the west side of the U157 public road, and other intervening woodland areas, the caravan park site as it is laid out is partially visible in view of the Garleton Hills Special Landscape Area. However such views are of relatively short duration and thus are localised, and on balance due to their relatively short duration and localised nature, such views as there are of the caravan park site in the setting of the Garleton Hills SPA do not have a lasting long term impact on the Garleton Hills SPA and do not harm the special character of the SPA or its setting.

The Traprain and Tyne Valley SPA is located some 30 metres to the south of the caravan park site. There is an intervening treed area between the north edge of the Traprain and Tyne Valley SPA and the A199 classified public road. Due to the intervening tree cover between the caravan park site and the Traprain and Tyne Valley SPA, the caravan park

site is not readily visible from within the SPA, and thus, does not harm the special character of the SPA or its setting.

Due to the intervening land, the intervening shelterbelt of trees along the west side of the U157 public road, and the existing trees on the caravan park site, the caravans as they are now laid out on the caravan park site, do not appreciably alter the relationship between the caravan park site and the Beanston House and Beanston Mains Local Garden and Designed Landscapes respectively some 490 and 340 metres to the west and northwest of the caravan park site. Accordingly, in their positions on the caravan park site, the caravans do not harm the elements justifying the designation of the Beanston House and Beanston Mains Local Garden and Designed Landscapes.

On the foregoing visual impact considerations, although visible in public views from the surrounding road and footpath network, the caravan park site as it is now laid out with the increased number of caravans and the larger form of the majority of the caravans and their positioning on the caravan park site, is nonetheless afforded some degree of visual containment and back drop in such views by the local undulating landform, tree belt, trees and roadside hedges, and the proposed new tree and hedge planting would, in time, once established would help to improve the integration of the caravan park site into its landscape setting.

On balance, any short duration impact of the caravan park site as it is now laid out has little overall impact on the character of the wider area and nearby SLAs. Furthermore, the requirement for the additional landscape planting could be controlled through the rewording of condition 4, and in such context the visual impacts of the caravan park site as it is now laid out are not so injurious as to have a lasting harmful impact on the elements justifying the designation of the Beanston House and Beanston Mains Local Garden and Designed Landscapes or the special character or setting of the Garleton Hills SPA or the Traprain and Tyne Valley SPA.

Based on the planning assessment given above and subject to the aforementioned planning controls, the variation of conditions 1, 3 and 4 of planning permission P/0411/90 does not, on balance, conflict with Policies DC1, DC9, NH8, CH6, DP2, T1 and T2 of the adopted East Lothian Local Development Plan 2018, and the Special Landscape Areas Supplementary Planning Guidance (adopted 30th October 2018) of the adopted East Lothian Local Development Plan 2018.

The wording of conditions 1, 3 and 4 recommended to be respectively amended to read:

Condition 1 - "The development shall be carried on in accordance with the site layout shown in the following drawings: MON 0001 F Rev 1 Landscape Strategy Plan, MON 002 B Rev 1 South Area Landscape Plan and MON 1130 F Rev 1 North East Site Layout Wildlife Garden, and shall be retained in this manner unless otherwise agreed in accordance with drawings which shall be submitted to and approved in writing by the Local Planning Authority. The total number of static caravans to be accommodated on the site shall not at any time exceed 67, and the total number of touring caravans to be accommodated on the site shall not at any time exceed 2, unless otherwise approved in writing by the Local Planning Authority in accordance with a revised layout scheme. Reason: To ensure that the amount of caravans on the site does not exceed the approved number and to ensure that the appropriate facilities are provided to an adequate level and at satisfactory locations all in respect of ensuring the caravan park is operated in an acceptable manner."

Condition 3 - "That part of the site between the existing house and the A199 classified public road shall only be used and set out in accordance with the site layout shown on the

following drawings: MON 001 F Rev 1 Landscape Strategy Plan, MON 002 B Rev 1 South Area Landscape Plan and MON 1130 Rev 1 North East site Layout Wildlife Garden, and shall be retained in this manner unless otherwise agreed in accordance with drawings which shall be submitted to and approved in writing by the Local Planning Authority. Reason: To minimise the visual impact of the use of the front part of the site in the interest of safeguarding the rural character and amenity of the area."

Condition 4 - "The site shall be landscaped in accordance with the landscaping scheme contained in the following documents and drawings: MON 001 F Rev 1 Landscape Strategy Plan, MON 002 B Rev 1 South Area Landscape Plan and MON 1130 Rev 1 North East site Layout Wildlife Garden, MON 1150 Trees in Planters, MON 020 Heavy Standard Rootballed Tree, MON 021 Heavy Standard Bare Root Tree, MON 023 Hedge Details, and Landscape Management Plan dated 19 January 2021. Details of the specific location of the 8 trees in planters shall be submitted to and approved in advance in writing by the Planning Authority prior to their placement on the site. The landscaping shall be completed in its entirety during the first planting and seeding season following this grant of planning permission and thereafter that planting shall be maintained in accordance with the submitted Landscape Maintenance and Management Plan. The landscaping layout shall be retained in this manner unless otherwise agreed in writing in advance by the Planning Authority in accordance with drawings which shall be submitted to and approved in writing by the Planning Authority. Reason: As agreed with the applicant to ensure that the use of the site layout does not cause visual intrusiveness to the detriment of the rural character and amenity of the area."

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.

A revised version of Planning Series Circular 3/2013 (Development Management Procedures) was published by the Scottish Government in October 2022 (Circular 3/2022: Development Management Procedures). Annex I of the Circular gives guidance on applications for planning permission under section 42 of the Town and Country Planning (Scotland) Act 1997, as amended. The application that is the subject of this report is made under section 42 of the Act. Annex I states that "Planning authorities should attach to the new permission all of those conditions from the previous permission, where it is intended these should apply and ensure (where appropriate) that permission is granted subject to the conclusion of any appropriate planning obligation". In this case, planning permission is recommended to be granted subject to the applied for variation of conditions 1, 3 and 4. A further Section 42 Application (Ref. 21/00093/PM) for the removal of condition 2 is reported separately at this time on this Planning Committee Agenda.

Through separate application Ref. 21/00093/PM, which is reported at this time on this Planning Committee Agenda, permission is sought under Section 42 of the Town and Country Planning (Scotland) Act 1997 for the removal of Condition 2 of planning permission P/0411/90 to remove the occupancy restriction from the caravans on the site.

Therefore, if the Planning Committee is minded to grant planning permission for the variation of Conditions 1, 3 and 4 of planning permission P/0411/90 and to grant the removal of Condition 2 of planning permission P/0411/90 through separate planning application Ref. 21/00093/PM, which is reported at this time on this Planning Committee Agenda, then other than the varied conditions recommended through this current planning application Ref. 21/00093/PM no other conditions would apply.

However, if the Committee refuses the associated planning application Ref. 21/00093/PM then the original wording of condition 2 of planning permission P/0411/90 should also apply

to this grant of Section 42 application (Ref. 21/00092/PM) for the variation of Conditions 1, 3 and 4 of planning permission P/0411/90.

### **RECOMMENDATION:**

That planning permission for the variation of conditions 1, 3 and 4 of planning permission P/0411/90 be approved subject to the following:

a) If Planning Committee resolve to grant the removal of condition 2 of planning permission P/0411/90 through separate planning application Ref. 21/00093/PM then planning permission (Ref. 21/00092/PM) should be granted subject to the following conditions:-

1. The development shall be carried on in accordance with the site layout shown in the following drawings: MON 0001 F Rev 1 Landscape Strategy Plan, MON 002 B Rev 1 South Area Landscape Plan and MON 1130 F Rev 1 North East Site Layout Wildlife Garden, and shall be retained in this manner unless otherwise agreed in accordance with drawings which shall be submitted to and approved in writing by the Local Planning Authority. The total number of static caravans to be accommodated on the site shall not at any time exceed 67, and the total number of touring caravans to be accommodated on the site shall not at any time exceed 2, unless otherwise approved in writing by the Local Planning Authority in accordance with a revised layout scheme.

Reason:

To ensure that the amount of caravans on the site does not exceed the approved number and to ensure that the appropriate facilities are provided to an adequate level and at satisfactory locations all in respect of ensuring the caravan park is operated in an acceptable manner.

2. That part of the site between the existing house and the A199 classified public road shall only be used and set out in accordance with the site layout shown on the following drawings: MON 001 F Rev 1 Landscape Strategy Plan, MON 002 B Rev 1 South Area Landscape Plan and MON 1130 Rev 1 North East site Layout Wildlife Garden, and shall be retained in this manner unless otherwise agreed in accordance with drawings which shall be submitted to and approved in writing by the Local Planning Authority.

Reason:

To minimise the visual impact of the use of the front part of the site in the interest of safeguarding the rural character and amenity of the area.

3. The site shall be landscaped in accordance with the landscaping scheme contained in the following documents and drawings: MON 001 F Rev 1 Landscape Strategy Plan, MON 002 B Rev 1 South Area Landscape Plan and MON 1130 Rev 1 North East site Layout Wildlife Garden, MON 1150 Trees in Planters, MON 020 Heavy Standard Rootballed Tree, MON 021 Heavy Standard Bare Root Tree, MON 023 Hedge Details, and Landscape Management Plan dated 19 January 2021. Details of the specific location of the 8 trees in planters shall be submitted to and approved in advance in writing by the Planning Authority prior to their placement on the site. The landscaping shall be completed in its entirety during the first planting and seeding season following this grant of planning permission and thereafter that planting shall be maintained in accordance with the submitted Landscape Maintenance and Management Plan. The landscaping layout shall be retained in this manner unless otherwise agreed in writing in advance by the Planning Authority in accordance with drawings which shall be submitted to and approved in writing by the Planning Authority.

Reason:

To ensure that the use of the site layout does not cause visual intrusiveness to the detriment of the rural character and amenity of the area.

b) If Planning Committee resolve to refuse the removal of condition 2 of planning permission P/0411/90 through separate planning application Ref. 21/00093/PM then planning permission (Ref.

21/00092/PM) should be granted subject to the following conditions:

1. The total number of static and touring caravans and tents to be accommodated on the site will not, at any time, exceed that which is specified in drawings nos. 1675/C/01 and 02 which are docketed to this planning consent and they will be disposed on the site together with the café/shop, workshop, garage and play area and toilet, shower, washing, s water supply, soil and waste-water disposal, and fire alarm and fighting facilities all in the manner shown in those drawings and in accordance with the current Model Standards of the Caravan Sites and Control of Development Act.

Reason:

To ensure that the amount of caravans and tents on the site does not exceed the approved number and to ensure that the appropriate facilities are provided to an adequate level and at satisfactory locations all in respect of ensuring the caravan park is operated in an acceptable manner.

2. No static caravan will be occupied outwith the periods 1st March to 31st October and 15th December to 15th January annually, both sets of dates inclusive and during these periods their occupation by any one person either alone or as one of a group of people will be restricted to a period of not more than one month.

Reason

To ensure that the static caravans to be positioned on the site are not used as permanent residential accommodation.

3. The part of the site between the existing house and café/shop and the A1 trunk road will be used solely as a temporary overspill area for touring caravans and tents, for accommodating both caravans which arrive late and tents on an occasional basis, and on that part of the site no single touring caravan and tent will remain for more than 24 hours.

Reason:

To minimise the visual impact of the use of the front part of the site in the interest of safeguarding the rural character and amenity of the area.

4. Prior to the commencement of any part of the development and upgrading scheme which is the subject of this planning consent, a fully detailed landscape plan for the entire site, to include enhanced planting both with the site and along its boundaries will be submitted to and approved by the Director of Planning, and that landscaping will be completed in its entirety during the first full planting season following commencement of work to further develop and upgrade the site, and thereafter that planting will be maintained in accordance with a management plan which will also have received the prior approval of the Director of Planning.

Reason:

To ensure that the use of the site does not cause visual intrusiveness to the detriment of the rural character and amenity of the area.

**REPORT TO:** Planning Committee  
**MEETING DATE:** 6 December 2022  
**BY:** Executive Director for Place  
**SUBJECT:** Application for Planning Permission for Consideration

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5

Application No. **21/01608/PM**  
Proposal Erection of 86 houses, 4 flats and associated works  
Location **Land To The North Of Castlehill  
Main Street  
Elphinstone  
East Lothian**  
Applicant Bellway Homes Ltd (Scotland East)

**RECOMMENDATION** Consent Granted

## **REPORT OF HANDLING**

### **APPLICATION SITE**

As the area of the application site is greater than 2 hectares and also the proposal is for more than 49 residential units, the development proposed in this application is, under the provisions of The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, defined as a major development and thus it cannot be decided through the Council's Scheme of Delegation. The application is therefore brought before the Planning Committee for a decision.

As a statutory requirement for major development proposals the residential development of this site was the subject of a Proposal of Application Notice (Ref: 16/00016/PAN) and thus of community consultation prior to this application for planning permission being made to the Council.

As an outcome of that and as a statutory requirement for dealing with major development type applications a pre-application consultation report is submitted with this application. The report informs that it is estimated that some 100 members of the community attended the pre-application consultation event which was held for one day at the Elphinstone Community Centre on the 28th September 2016 and that those attendees made a number of queries and suggestions regarding the residential development of the site. The development for which planning permission is now sought is of the same

character as that which was the subject of the community engagement undertaken through the statutory pre-application consultation.

The application relates to some 10 hectares of farmland located immediately to the west of the village of Elphinstone. It is bounded to the north by further farmland, to the east by a woodland strip which currently forms the western edge of the village of Elphinstone and beyond that by the residential properties along the western side of Elphinstone. It is bounded to the south partly by a small public park and by the residential properties of Lynhaven and Marchwood Court and partly by the B6414 classified public road of Main Street beyond which lies Elphinstone Primary School and Community Centre, residential properties and an equestrian paddock. It is bounded to the west by a track which is designated a core path (route no. 458) and as a Right of Way (Elphinstone west end to Fa'side) and beyond that by the Elphinstone Football Ground, the residential property of Towerhill and further farmland.

The topography of the site is gently undulating and generally slopes uphill from the southeast to the north and northwest. The land continues to rise uphill to the north of the site. The site is most visible in the main approaches to Elphinstone from the west and the north and from the North Elphinstone to Fa'side Right of Way (Core Path 163) to the north of the site.

The western part of the site is within an area identified by The Coal Authority as being a Coal Mining Development High Risk Area. The eastern part of the site is within an area identified by The Coal Authority as being a Coal Mining Development Low Risk Area. The land of the application site is also within a wider area defined by the Macaulay Capability for Agriculture (LCA) classification system as being prime agricultural land.

The application site is allocated for housing development by Proposal TT11 (Elphinstone West) of the adopted East Lothian Local Development Plan 2018 (ELLDP).

## **RELEVANT PLANNING HISTORY**

On the 15th April 2021, following the conclusion of a Section 75 Agreement, detailed planning permission (reference 16/00970/PM) was granted for the erection on the southern part of this same application site of 76 houses, 4 flats and associated works. That development has not been implemented to date and remains extant until the 15th April 2024.

## **PROPOSAL**

Planning permission is now sought through this current application for the erection on the application site of 86 houses, 4 flats and associated works. The associated works include the provision within the site of 15 car parking spaces to serve the Elphinstone Football Ground, the planting of woodland strips, the provision of a sustainable urban drainage basin (SUDS) and the provision of open space and equipped play space within the site. The proposals all relate to the southern half of the site (an area of some 4.9 hectares) with the northern half of the site labelled "future development under separate application". No application has been submitted to date for that part of the site. This current application occupies roughly the same area of the site as the proposed development the subject of planning permission 16/00970/PM and is therefore promoted as an alternative to that 80 unit development rather than additional development.

Since the registration of the application, a number of non-material amendments have been made to the proposals resulting in the submission of revised site layout and landscaping plans, road and footpath layouts, SUDS details and amendments to house



types and designs. These revisions include changes to the layout to allow for electric vehicle charging facilities to be provided for all homes; the adjustment to the road layout and provision of bus stances to allow buses to be able to access and manoeuvre around the site; changes in house types proposed resulting in a decrease in the number of detached units being proposed; changes to boundary treatments, landscaping revisions and communal landscape maintenance details.

The proposed development site layout plan shows how the proposed 86 houses and 4 flats would be accommodated on the site along with associated access roads, parking areas, landscaping, open space, paths and a Sustainable Urban Drainage System (SUDS) basin. The houses would comprise of a mix of 34 detached, 25 semi-detached and 27 terraced houses. The houses would all be two-storey. The 4 flats would be contained within 1, two-storey flatted building.

In terms of size, of the proposed 86 houses 36 would contain 4 bedrooms, 41 would contain 3 bedrooms and 9 would contain 2 bedrooms. All of the 4 flats would contain 2 bedrooms.

13 of the terraced houses, 6 of the semi-detached houses and the 4 flats would be affordable housing units. The remaining 67 houses would be private houses for sale. The private houses would comprise of 8 different house types.

Vehicular, pedestrian and cycle access to the site would be taken by way of a new access into the site from the B6414 Main Street to the south of the site. The proposed access would continue northwards through the middle of the site with residential properties being formed on either side of it to create the main residential street with a series of shorter streets being formed on either side of it. Built development would be concentrated towards the centre of and along the southern side of this bottom half of the overall allocated site with the easternmost and westernmost sides of the site being laid out as open space which would include a shallow sided SUDS detention basin being formed in the eastern part of the site and woodland strips being planted along the majority of the eastern and western boundaries of the site. The top half of the application site would remain undeveloped. A total of 15 car parking spaces to provide parking provision for the adjacent football ground would be formed along with electric vehicle charging provision in the southwest corner of the application site. Footpaths would be formed throughout the site and these would connect to the core path at the western boundary of the site and to the existing woodland strip to the east of the site as well as on to Main Street. It is also proposed that a shared use footpath would be formed along the north side of the public road of Main Street between it and the site of the proposed residential development and that a footpath would be formed along the east side of the small park adjoining the southern boundary of the site connecting the site to this park and to Main Street beyond.

The application is also supported by a number of detailed drawings and reports including a Design Statement, a Drainage Report, a Tree Survey and Arboricultural Impact Assessment, Woodland Management Plan Report, Preliminary Ecological Appraisal, Transport Assessment, Noise Assessment, Archaeological Report, Energy Statement, Remediation Method Statement and Site Investigation Reports, some of which have been updated or revised since registration of the 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). 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 the 6th October 2016 the Council issued a formal screening opinion on planning application 16/00970/PM with the conclusion 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 and therefore it was the opinion of East Lothian Council as Planning Authority that there was no requirement for the development the subject of that application to be the subject of an EIA. The **Council's Policy and Projects Team** have again confirmed, in relation to this current application, that it is 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 (ELLDP) 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.

Relevant ELLDP Proposals are PROP TT11: Elphinstone West, PROP T9: Safeguarding of Land for Station Car Parks – Musselburgh, Longniddry, Drem, PROP T10: Safeguarding of Land for Platform lengthening – Musselburgh, Prestonpans, Longniddry, Drem and Dunbar, PROP T15: Old Craighall Junction Improvements, PROP T17: A1 Interchange Improvements (Salters Road, Dolphinstone Interchange, Bankton Interchange and Gladsmuir), PROP T21: Musselburgh Urban Traffic Control System, PROP T27: Tranent Town Centre One-Way System, PROP T28: Junction Improvements at Elphinstone Road and Edinburgh Road, PROP CF1: Provision of New Sports Pitches and Changing Accommodation and PROP ED4: Tranent Cluster Education Proposals,

Relevant ELLDP Policies are DP1: Landscape Character, DP2: Design, DP3: Housing Density, DP4: Major Development Sites, DP8: Design Standards for New Housing Areas, DP9: Development Briefs, HOU3: Affordable Housing Quota, HOU4: Affordable Housing Tenure Mix, OS3: Minimum Open Space Standard for New General Needs Housing Development, OS4: Play Space Provision in New General Needs Housing Development, CH4: Scheduled Monuments and Archaeological Sites, RCA1: Residential Character and Amenity, DCN2: Provision for Broadband Connectivity in New Development, W3: Waste Separation and Collection, NH5: Biodiversity and Geodiversity Interests, including Nationally Protected Species, NH7: Protecting Soils, NH8: Trees and Development, NH10: Sustainable Drainage Systems, NH11: Flood Risk, NH12: Air Quality, NH13: Noise, T1: Development Location and Accessibility, T2: General Traffic Impacts, T4: Active Travel Routes and Core Paths as part of the Green Network Strategy, T31: Electric Car & Bus Charging Points, T32: Transport Infrastructure Delivery Fund, SEH1: Sustainable Energy and Heat, SEH2: Low and Zero Carbon Generating Technologies and DEL1: Infrastructure and Facilities Provision.

Revised Draft National Planning Framework 4 (NPF4) was published by the Scottish

Government on the 08 November 2022. The Town and Country Planning (Scotland) Act 1997 (as amended) requires that NPF4 must be approved by the Scottish Parliament before it can be adopted by Scottish Ministers. On adoption the Scottish Government will commence the provisions in the Planning Act which will make NPF4 part of the statutory development plan. The Existing National Planning Framework 3 and Scottish Planning Policy remain in place until NPF4 has been adopted by Scottish Ministers.

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

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

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

Also material is East Lothian Councils approved Developer Contributions Framework Supplementary Guidance (SG) and the approved Supplementary Planning Guidance (SPG) on:

- (i) 'Design Standards for New Housing Areas'. The SPG expands on policies that are set out in the adopted ELLDP. It seeks to raise awareness of the unique characteristics and attributes of East Lothian, how these can be used positively to create new places both small scale and large, and the technical aspects of design that are required to deliver great new places;
- (ii) 'Affordable Housing'. The SPG supplements relevant LDP policies in relation to the delivery of affordable housing; and
- (iii) 'Sustainable Drainage Systems (SuDS)'. The SPG supplements relevant LDP policies regarding SuDS and flood risk management and links with wider Council policies, strategies and priorities.

Also material to the determination of the application is the non-statutory Development

Brief (TT11 Elphinstone West, Tranent) which was adopted by the Council on 30 October 2018.

## REPRESENTATIONS

Material to the determination of the application are the written representations received to it. There have been four written representation received to this application, all of which raise objections to the proposed development. Copies of the written representations are contained in a shared electronic folder to which all Members of the Committee have access.

The main grounds of objection in respect of the proposed development are summarised below:

- \*Concerns that development of the site could lead to excess surface water run off and flooding issues to neighbouring property;
- \*Concerns that the proposed woodland along the east boundary might not be established per the plans;
- \*Concerns that the proposed development will cause overlooking and would detract from neighbours privacy;
- \*Too large an increase to the village which would significantly affect those already living in this traditional community;
- \*It is not a good location for development due to site constraints;
- \*The Transport Assessment Report, the Tree Survey, the Archaeological Report and the Noise Assessment Report submitted with the application are out of date and not fit for purpose;
- \*No information on what will be done to mitigate impacts of construction work and increased traffic on the listed and older buildings around the site, through the village over a long period of time and what provision will be put in to minimise the construction impact on road safety, air quality and road quality;
- \*Elphinstone needs more larger 3 or 4 bed affordable homes not more smaller ones as the plan suggests;
- \*There would be impacts on utilities provision and broadband services;
- \*What increase in public transport, healthcare resources or access to it, school expansion and community centre accessibility is planned?;
- \*What consideration/plans are in place to avoid disturbance of local and protected wildlife species that live in the development area?;
- \*What guarantee of jobs / apprenticeships for local people will there be during the construction?;
- \* Concerns that the expansion of Tranent and Elphinstone is destroying the character of these settlements and could lead to a reduction in countryside between these two settlements;
- \* This development would have a direct, detrimental impact on neighbouring property and would be detrimental to the visual appearance and the setting of the village;
- \* The proposed housing is not low rise housing in keeping with the majority of homes in Elphinstone but instead is at least double story (plus higher flats) with high pitched roofs housing solar panels;
- \*Open views will be replaced by high built houses which is very likely to have an impact on light and air quality;
- \*Concerns about off site paths cutting through the existing 'play area' at Waterloo Place;
- \*The location of the proposed development close to the primary school, along with the existing traffic coming to the primary school, will lead to more problems to the traffic situation, particularly at the beginning and end of the school day;
- \*There is a lack of infrastructure and amenities in the village and no additional housebuilding whatsoever should be planned, let alone built, until they are at least put in

place first;

\*The proposals should be fully rejected by East Lothian Council, who should be fighting to retain the unique characteristics of this and other rural villages in East Lothian, at all costs.

Where relevant, reports initially submitted with the application have been revised and updated if the information within them has been deemed to be out of date.

Matters of construction management can be dealt with through planning controls on a grant of planning permission and can otherwise be investigated by colleagues in Protective Services and Road Services using legislation other than planning legislation.

The possibility of jobs/apprenticeships for local people during the construction is not a material consideration in the determination of an application for planning permission

## **COMMUNITY COUNCIL COMMENTS**

Tranent and Elphinstone Community Council have been consulted on the application. No response has been received from them.

## **PLANNING ASSESSEMENT**

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

The land of this application site is the allocated housing site of Proposal TT11: Elphinstone West. Proposal TT11 of the ELLDP allocates the whole of the allocated site for a residential development of circa 80 homes. However, what is proposed in this current application is a total of 90 homes on only part of the overall allocated site.

The development proposed in this application occupies approximately half of an allocated housing site (TT11 Elphinstone West) in the ELLDP. Proposal TT11 of the ELLDP allocates the whole of the allocated site for a residential development of circa 80 homes and thus the Council recognises its potential for residential development for circa 80 homes. However, what is proposed in this current application is a total of 90 homes on only part of the overall allocated site. The Design Statement submitted with the application provides indicative details for the overall allocated site that demonstrates that, even with significant landscaping along the northern boundary of the overall allocated site in accordance with the Development Brief, further residential development could be accommodated on the northern part of the allocated site subject to a future planning application which could therefore take the total amount of residential development across the overall site significantly above the circa 80 homes allocation. Therefore, the current application must not only be considered in isolation but in relation to the potential implication it would have in combination with future development proposals in the remainder of the allocated site to the north. It is also relevant to note that some other allocated sites of the ELLDP have seen planning permissions granted for a higher number of housing units than their site allocation and some have seen planning permissions granted for a smaller number of housing units than their site allocation.

The **Council's Policy and Projects Manager**, in consultation on the previous planning application for this site (16/00970/PM), advised that the allocation of site TT11 for 80 units was based at that time on potential constraints identified early on in the local

development plan preparation process including school capacities, coal mining development high risk area and the layout and massing of the existing village. However, he advised in his response to that previous application which was for 80 units, that should the delivery of 80 units across only the southern part of the allocation fit with the existing village in terms of massing and design, there should be no policy impediment to granting consent. Indeed, he advised, a higher density goes part way to fulfilling the requirement for higher densities under Policy DP3 of the ELLDP. The indicative masterplanning of the overall site provided in the applicant's Design Statement and the proposed layout of this application demonstrates that the proposed development could at some future date be integrated into the wider allocated site.

The Council's Policy and Projects Manager, in consultation on this current application, again states that accepting higher overall housing numbers is, if there is no impediment on other grounds such as educational or road capacity, supported as an efficient use of land. However, this must be consistent with achieving good design, including the requirements of the design brief. The Council's Policy and Projects Manager raised a number of design concerns to the proposals as initially submitted and these have largely been taken account of by the applicant in the revisions made to the proposals since the initial registration of the application.

It is now necessary to consider the design and layout of the proposal against Council policies and other material consideration to ascertain whether the site can accommodate the proposed number of units. The impact of the proposal on infrastructure and facilities will then be considered.

The adopted Development Brief for the site sets out guiding principles, and indicative design, to be followed, where possible. These include (i) taking site access from the B6414 and providing a shared use path between the B6414 and the application site; (ii) provision of a formal landscaped edge and gateway at the southwest corner of the site which will become the new edge to the built settlement; (iii) providing a well designed and well landscaped SUDS to create an appropriate landscape edge ; (iv) providing new landscaped edges along the east and west boundaries of the site and (v) connecting the development site to the existing core paths and other path networks in the vicinity of the site.

The proposed development of the application site would, with its permeable street pattern, links to the core path, road and pedestrian/cycle accesses and open spaces, be a distinctive yet attractive urban expansion of Elphinstone. The overall layout of the proposed development is very similar to that approved by the grant of planning permission 16/00970/PM with the vehicular access into the site from Main Street, the street pattern, the woodland strips, siting of the SuDS, open space areas and communal parking to serve the neighbouring sports pitch all being in a similar positioning to that previously approved. In response to planning officer comments and consultation responses the applicant has revised the house type mix to include a greater mix of semi-detached and terraced homes and fewer detached homes to take better due regard to the existing built form of the settlement and neighbouring residential developments. Along the main, central street of the development and along the site frontage with the B6414 Main Street the proposed housing is shown as being laid out with rear driveways and rear parking courtyards to emphasis pedestrian/cycle use and reduce the dominance of vehicle parking.

Policy DP3 of the ELLDP states that new housing sites will be expected to achieve a minimum average density of 30 dwellings per hectare (net) using a full range of housing types and sizes. This is to ensure efficient use of land and other resources and create mixed communities with a full range and choice of house types and sizes. The applicant

has provided confirmation that the net density of the proposed development area is 3.266 hectares so the development proposed through this application is, at approximately 30 dwellings per hectare, of a density consistent with that set out in Policy DP3. The proposed development would be of a pattern and density not out of keeping with patterns and densities of housing and other development in Elphinstone. It is of relevance that to achieve a higher density would result in greater housing numbers, which would be further at odds with the site's allocation.

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

The proposed housing development would provide an attractive residential environment. The houses and flats are shown to be laid out in such a way that adheres to the normally accepted privacy and amenity criteria on overlooking and overshadowing, whilst affording the future occupants of the houses and flats an appropriate level of privacy and residential amenity.

The proposed new houses and flats would be so sited, oriented and screened such as not to harm the privacy and amenity of existing neighbouring or nearby residential properties through overlooking or overshadowing and in this respect would not conflict with Policy RCA1 of the ELLDP.

Policy OS3 of the ELLDP sets out the minimum requirement for on-site provision of open space which is 60m<sup>2</sup> per dwelling. This will consist of provision of formal and informal open space as well as space for equipped play areas in accordance with Policy OS4. The applicant has provided details that demonstrate that, not including the SUDS basin and the woodlands strips, the open space provision would amount to some 67m<sup>2</sup> per dwelling. The areas of open space shown to be provided would provide sufficient, usable areas of open space for informal recreation for the proposed development, consistent with Policy OS3 of the ELLDP.

It is proposed to provide equipped play provision on site. The play park is proposed to be sited in the south east corner of the site in what is described in the site layout as an 'extended park' as it will be situated adjacent to the existing park to the south of the site. The equipped play park would contain 7 items of play equipment, a bench and a bin all to be provided on a suitable play surface. The applicant has confirmed that they will appoint a factor to take on the management and maintenance of the equipped play area. The **Council's Team Manager – Strategy, Policy & Development** has been consulted on the equipped play proposals and having reviewed the information provided she has confirmed that she is satisfied with the play equipment proposed and that the play area would satisfy the needs of children with a range of abilities and ages. She also welcomes the applicant's confirmation that the play area will be factored. A condition can be imposed on a grant of planning permission to ensure that the play park is provided and factored as set out in the proposals submitted with this application. Subject to this control the proposed play provision is consistent with Policy OS4 of the ELLDP.

The **Council's Biodiversity Officer** has confirmed that there are no significant habitats within the site, through there are individual trees along the field boundaries which should be retained and enhanced. The Council's Biodiversity Officer makes recommendations for habitat creation to benefit and enhance biodiversity including the planting of native species rich hedgerow and tree planting and recommends the submission of a woodland

management plan to include management measures to enhance the biodiversity of the site. In response to comments made by the Council's Biodiversity Officer the applicant has submitted an updated Tree Survey, revised landscape proposals, a revised Woodland Management Plan and a revised and updated Preliminary Ecological Appraisal (PEA) which identifies any ecological constraints on site. The Council's Biodiversity Officer, having reviewed these details raises no objections to the proposed development and, in respect of the revised and updated PEA report, has confirmed that the report is satisfactory and there are no significant ecological concerns on the site. The proposals are therefore consistent with Policy NH5 of the ELLDP.

In respect of landscape matters the existing mature tree cover which bounds much of the eastern boundary of the site would, in part, soften and serve to integrate the proposed development into its landscape setting, breaking up the massing of the proposed development whilst gently introducing an additional extent of urban development on to this western edge of Elphinstone. The setting of the proposed development would be further enhanced by the applicant's proposals to plant a 20 metres wide woodland strip along most of the western boundary of the site, a 10 metres wide woodland and mixed hedgerow strip along the eastern boundary of the application site which would tie into the existing woodland strip along this edge and other areas of landscaping throughout the site including along the roadside frontage of the site (southern boundary) and throughout the development.

The applicant has taken into consideration a number of comments of the **Landscape Projects Officer** in the submission of revised drawings to incorporate enhanced landscape planting within the site, including street trees, hedges to front gardens, and in incorporating landscaping proposals for the proposed SUDS basin and has revised and updated various reports including a Woodland Management Plan, a Preliminary Ecological Appraisal, a Tree Survey and an Arboricultural Impact Assessment. The applicant has also submitted full details of servicing and drainage details in order to demonstrate that these would not impact on the landscaping proposed and full details of the communal areas within the site and which areas would be factored and which would be under private ownership and private maintenance. The Landscape Projects Officer does not object to the proposed development and makes a number of recommendations for conditions to be imposed relating to matters such as the protection of existing trees during the course of development, arboricultural monitoring and the implementation of the proposed landscaping. Where relevant, these matters can be made conditions of a grant of planning permission.

In addition to the Council's Landscape Officer's comments, the **Council's Tree Officer** welcomes the proposed buffer strip between the existing woodland to the east and the proposed houses being within the proposals for the site and also welcomes the extension of planting into the site between the existing woodland and the proposed housing. He also advises that he's happy to see that a tree protection plan for trees outwith the site has been submitted. Only one tree, a minor Crab Apple specimen, on the south (roadside) perimeter of the site will be lost to the proposed development.

On the above landscape and tree protection considerations, the proposed development is consistent with Policies DP1 and NH8 of the ELLDP.

The **Council's Road Services** have considered the details of the application and raise no objection to the proposed development, being satisfied that it could be accessed safely and would not lead to a road or pedestrian safety hazard. They raise no objection to the principles of layout of the proposed development, of the site access from the B6414 classified public road of Main Street, of parking provision or of the likely impacts of additional traffic generation on the existing road network. The details of layout of the



proposed development, of the site access from the B6414 classified public road of Main Street and of parking provision are all consistent with the adopted Development Brief.

The Council's Road Services Officer has advised that she has discussed the proposed development with the local bus operator (Prentice) and they have expressed an interest in running their bus service through the proposed development. Road Services have confirmed that the applicants have satisfactorily demonstrated, through their layout drawings and bus tracking/swept path analysis' carried out, that a bus could manoeuvre through the loop road design of the site (using the loop on the eastern side of the proposed road layout). As recommended by Road Services a condition can be imposed on a grant of planning permission requiring details of bus stops and stances within the site to be submitted to and approved by the Planning Authority.

The Council's Road Services further recommend a number of transportation requirements which can be met through the imposition of conditions on a grant of planning permission for the proposed development. These include the introduction of a 'gateway' feature designed to slow traffic on the B6414 at the southwestern site boundary, a shared use path (3m wide) on the north side of the B6414 and a 2m wide, hard surfaced and lit path along the eastern edge of the existing park at the southeast corner of the site, all as per the Design Brief, and a suitable crossing point of the B6414 to be installed in the vicinity of the primary school, submission of a Travel Plan, a Construction Method Statement and road safety audits, implementation of proposed electric vehicle charging proposals and provision of cycle parking for flatted properties.

With the imposition of conditions to cover these recommendations of Road Services, the proposed development does not conflict with Policies T1, T2 or T31 of the ELLDP

The applicant has provided swept path analysis drawings which demonstrate to the satisfaction of the Council's Road Services that large vehicles, including waste service vehicles, could satisfactorily negotiate the proposed development. The proposal complies with Policy W3 of the ELLDP.

The **Council's Access Officer** has been consulted and comments that it is a shame there will be no good pedestrian access towards the east of the site and that it would be nice if the path down the east side of the existing park to the south east of the site was hard surfaced. Footpath links to the east and west of the site as well as alongside the main access to the site are proposed and these will allow for pedestrian and cycle access to the wider area including the core path to the west of the site and the playing fields beyond it and to allow access into the woodland strip to the east of the site. The applicant is not proposing to carry out any new footpath works within the existing woodland strip where an informal path already exists. The application does however include a proposal to provide a hard surfaced footpath linking the southeastern end of the site through the small public park to the south of it and on to the existing footpath to the south of the park. A condition can be attached requiring details of this and other footpaths to be submitted, agreed and implemented. Subject to this control, in respect of active travel routes and core paths the proposal does not conflict with Policy T4 of the ELLDP.

In all of this the proposal would be an appropriate residential development of the site and whilst it would bring change to the western edge of Elphinstone it would be well designed and integrated into its landscape and settlement setting.

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

existing patterns and densities of housing and other development within the village of Elphinstone. In all of this the proposals are consistent with SPP and Designing Streets/PAN67, Policies DP2, DP4, DP8, DP9 of the ELLDP and the Council's adopted Development Brief for the site.

The **Council's Protective Services Manager** has been consulted on the application and the **Council's Senior Environmental Health Officer** has responded to advise he has no comments or objection to the proposed development, being satisfied that occupants of the proposed development would enjoy sufficient amenity and the proposals would not result in harm to the amenity of any neighbouring land use. He does not raise any concerns in relation to noise or air quality matters. The proposals therefore comply with Policies NH12 and NH13 of the ELLDP.

In relation to considerations of contaminated land issues, the **Council's Environment Protection Officer (Contaminated Land)** advises he has reviewed the Site Investigation Report and the Remediation Method Statement prepared by the applicants consultants and submitted with the application and he is satisfied that the investigation and assessment has been carried out in accordance with best practice guidelines and the relevant standards and there is no requirement for any further investigative works to be undertaken. He agrees with the findings that there are no potentially unacceptable risks to the proposed residential development from any on-site contaminants contained within the soils on the site, with the risk to the water environment being assessed as low. He further advises that the gas risk assessment carried out has identified the western part of the site as requiring gas or radon protection measures to be installed in properties in this part of the site. To this end the Remediation Statement submitted details the measures to be implemented for the site and also confirming the validation procedures to be undertaken in order to verify these measures. The Council's Environment Protection Officer (Contaminated Land) recommends that a condition be imposed on a grant of planning permission requiring that on completion of the remedial works and prior to occupation of the residential units, a Verification Report shall be submitted confirming that all the remedial measures have been successfully carried out. He further recommends that the condition should also be that in the event that 'unexpected' ground conditions (contamination) are encountered at any time when carrying out the 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 revise the Remediation Strategy should the reporting determine that additional 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. This requirement can be secured through a condition attached to a grant of planning permission for the proposed development.

The Council's Protective Services Manager has no further comments on the proposed development.

As part of the site is within a Coal Mining Development High Risk Area, The Coal Authority has been consulted on the application. The Coal Authority initially objected to the application on the grounds of lack of information relating to potential coal mining features and hazards. In response to that objection the applicant submitted a Site Investigation Report in support of the application which details investigatory works carried out at the application site and an additional parcel of land to the north. The report indicates that there are shallow coal mine workings beneath the western portion of the site. It concludes that in parts of the site these workings pose a risk to surface stability and require remediation by means of drilling and grouting prior to the commencement of development. The Coal Authority advise that they concur with the recommendations of

the Site Investigation Report, that coal mining legacy poses a risk to the proposed development and that remedial measures are necessary to ensure the safety and stability of the proposed development. The Coal Authority confirm that they therefore withdraw their objection to the proposed development subject to conditions being imposed on a grant of planning permission to ensure a scheme of proposed remedial works for past shallow coal workings be submitted to and approved in writing by the Planning Authority and thereafter implemented prior to the commencement of development. This can be required by a condition on a grant of planning permission.

Scottish Water have been consulted on the proposals. They raise no objection and have provided comments relevant to servicing the proposed development which have been forwarded to the applicant for their information. It is the responsibility of the developer to make separate application to Scottish Water for permission to connect to the public waste water and water networks.

Details of the Sustainable Urban Drainage System (SUDS) and other drainage details have been submitted with this application. These details have been revised during the course of the application following consultation with the **Council's Team Manager for Structures, Flooding & Street Lighting** and the **Council's Landscape Officer**. The SUDS basin proposed is of a shallow design and incorporates landscaping to enhance its appearance. A pumping station initially proposed has now been omitted from the proposed scheme of development. Drainage provision has also been amended since initial submission of the application.

The Council's Team Manager for Structures, Flooding & Street Lighting confirms that he is now satisfied with the revised proposals and clarifications on drainage matters provided in revised details submitted. He therefore raises no objections on flood risk grounds. The Council's Team Manager for Structures, Flooding & Street Lighting raises no objections to the siting and design of the SUDS basin. He advises that it would be prudent for a condition to be imposed stating that no construction works can begin prior to the Council receiving Scottish Water's Technical Approval of the design of the SUDS basin. This matter can be secured through a condition on a grant of planning permission. The proposals are therefore consistent with Policies NH10 and NH11 of ELLDP and with the Council's SPG on 'Sustainable Drainage Systems (SuDS)'.

The **Council's Heritage Officer** advises that although there are no known buried archaeological remains located within the application site, there are a number of known remains, including Scheduled Monuments, in the immediate vicinity. He advises that the area of the application site does not appear to have been subject to any development previously which suggests that any remains present may survive and be impacted upon by the proposed development. Because of this the Heritage Officer recommends that if planning permission is to be granted for this proposal, a programme of archaeological works (Evaluation by trial trenching) should be carried out prior to the commencement of development. This requirement can be secured through a condition attached to a grant of planning permission in for the proposed development. This approach is consistent with Scottish Planning Policy: June 2014, Planning Advice Note 2/2011: Planning and Archaeology and with Policy CH4 of the ELLDP.

The land of the application site is defined by the Macaulay Capability for Agriculture (LCA) classification system as being Land Capable of Supporting Arable Agriculture Class 3:1, that being prime agricultural land capable of producing a moderate range of crops. Policy NH7 of the ELLDP states that development on prime agricultural land will not be permitted unless in the particular circumstances listed in the Policy. One of those circumstances is if it is to implement a proposal of the plan, which this application is. The proposal does not therefore conflict with Policy NH7 of the adopted ELLDP or with SPP

on development on prime agricultural land.

Policy DCN2 of the ELLDP requires that development proposals of 5 or more homes, shall as part of the development make provision for deliverable opportunities for digital infrastructure to the proposed new homes or business premises as relevant, particularly provision for ducting and fibre or wiring for broadband connectivity. The applicant has confirmed that their proposals are to have BT Openreach, Hyperoptic and Virgin broadband provision to the development, with every property having connection at habitation. The applicant has provided BT Openreach and Virgin's layout proposals for information and to demonstrate how digital infrastructure will be provided.

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 application is supported by a 'Statement on Energy' which has been amended by the applicant since the registration of the application. The 'Statement on Energy' submitted sets out the measures to be taken to reduce the carbon emissions from the building and from the completed development which are designed to ensure compliance with the CO2 requirements of the Scottish Building Standards, and to meet the 15% reduction in carbon emissions from Low and Zero Carbon Generating Technologies (LZCGT) as required by ELLDP. The Report sets out that roof mounted photovoltaic panels will be installed on each dwelling. This will ensure that both the private and affordable homes meet Bronze Active standard under Section 7 (Sustainability) of the building standards. In addition, the affordable dwellings will be designed to achieve Aspect Silver Level 1 & 2 in accordance with minimum funding requirements for affordable housing in Scotland.

In respect of electric vehicle charging provision, the 'Statement on Energy' confirms that all properties will be provided with a 7kW Type 2 socketed or tethered outlet charger. A separate site layout drawing submitted with the application demonstrates that all 90 residential units, whether they have in curtilage parking or off-curtilage parking, will be provided with such charging provision. In addition to this private charging provision the 'Statement on Energy' and the EV Charging Site Layout drawing confirm that a Public Destination charger will be provided within the communal parking court in the south west corner of the site. The **Council's Road Services** have confirmed that they are satisfied with the electric vehicle charging measures proposed. Subject to a condition being imposed on a grant of planning permission for this proposed development to ensure that the proposed actions to be taken to reduce the carbon emissions from the building and from the completed development, including the proposals for Electric Vehicle Charging Provision are implemented on site, the proposals are consistent with Policies SEH1 and SEH2 of the ELLDP.

Consideration must then be given to the potential impact of the proposed development on the infrastructure of the area. Policy DEL1 of the ELLDP stipulates that new housing will only be permitted where appropriate provision for infrastructure, required as a consequence of the development, is made. Proposal TT11 of the ELLDP stipulates that any development on the site 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, on education and community facilities, and on air quality as appropriate.

The East Lothian Council Health and Social Care Partnership have been consulted on the application but have not provided any comments on it nor have they provided any

requirement for capital contributions for infrastructure as a result of the proposals. Although they have not commented directly on this application, the East Lothian Council Health and Social Care Partnership will have taken the allocation of this site for circa 80 residential units into account in planning for health care at the time of its allocation in the ELLDP.

PROP CF1: Provision of New Sports Pitches and Changing Accommodation of the ELLDP requires development proposals for 5 or more homes to make provision for the delivery of new sports pitches and changing accommodation in the relevant contribution zone as set out in Appendix 1 of the Plan and in the Supplementary Guidance: Developer Contributions Framework. The new facilities to be provided, and the sites within which they are to be delivered are identified in Part A of PROP CF1 and include at the site of PROP TT11 provision for turning and parking areas for the existing playing field and contribution towards refurbishment of the existing changing pavilion located at the playing field.

Provision for turning and parking areas to serve the existing playing field, along with proposed electric vehicle charging provision, are proposed to be provided within the application site, close to the southwest corner of the application site along with footpath provision to the adjacent playing fields all to allow convenient access to the playing fields. A timetable for the provision of this parking and turning facility can be secured by way of a condition on a grant of planning permission. The **Council's Team Manager – Active Business Unit** raises no objections to this proposed provision and in relation to developers contributions required towards refurbishment of the existing changing pavilion at the playing field, advises that a contribution of £298.67 per dwelling (a total of £26,880.30 for 90 residential units) is required for this proposal. The required payment of a financial contribution of a total of £26,880.30 towards the refurbishment of the existing changing pavilion at the Elphinstone playing field 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 confirm in writing that they are willing to enter into such an agreement.

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 (DCF) Supplementary Guidance.

The **Council's Road Services** advises that the contributions required for each transport intervention are as detailed below:

- \*Improvements to Old Craighall Junction (PROP T15): £244
- \* Improvements to Salters Road Interchange (PROP T17): £952
- \* Improvements to Bankton Interchange (PROP 17): £3,728
- \* Musselburgh Town Centre improvements (PROP T21): £1,457
- \* Tranent Town Centre Improvements (PROP T27 and T28): £8,138
- \* Rail Network Improvements (PROP T9 and T10): £1,234

The total contribution required for transportation improvements resulting from cumulative impacts of the development is therefore £15,753.

The total developer contributions towards the transportation interventions of £15,753

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

The **Council's Executive Director for Education and Children's Services** informs that the application site is located within the school catchment areas of Elphinstone Primary School and Ross High School, Tranent. She advises that there will be a requirement to expand both the primary and secondary school capacity to accommodate children that could arise from the proposed development. Thus she would object to the application on the grounds of lack of permanent capacity at those schools unless the applicant makes a financial contribution to the Council of £876,670.00 towards the provision of additional primary school accommodation and a contribution of £445,770.00 towards the provision of additional secondary school accommodation within the catchment.

The required payment of a financial contribution of a total of £1,322,440.00 towards the provision of additional educational accommodation can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the payment of the required contribution towards educational accommodation, the proposal is consistent with Policy ED1 of the ELLDP, which stipulates that new housing will only be permitted where appropriate provision for infrastructure required as a consequence of the development is made. This will include funding necessary school capacity. The applicants confirm in writing that they are willing to enter into such an agreement.

The applicant has submitted details of their proposed housing completion rate which details their intention to complete the development over the course of 3 years with habitations beginning in 2023/24. The **Council's Planning Obligations Officer** in consultation with the Council's Executive Director for Education and Children's Services confirms that there is sufficient education capacity to deal with the applicant's proposed housing completions. A condition can be imposed on a grant of planning permission to ensure that housing completions on the site do not exceed those proposed by the applicant. This will ensure that sufficient education capacity can be provided for the pupil product of the development.

The **Council's Economic Development & Strategic Investment Manager** advises that in accordance with the Council's Affordable Housing Policy, 25% of the proposed 90 residential units require to be affordable housing units. The affordable housing component of the proposed housing development is 23 units. The Economic Development & Strategic Investment Manager advises that the mix, size and location of the 23 affordable units to be provided on the site is acceptable. The affordable housing is sufficiently integrated into the overall development. The terms for the provision of this affordable housing requirement can be the subject of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the Council securing the affordable housing requirement, which the applicant is willing to do, the proposal would be consistent with Policies HOU3 and HOU4 of the ELLDP and the Council's adopted SPG on Affordable Housing.

In summary, although the number of units proposed is significantly higher than the pro rata number that would be expected on this part of the site, the site is capable of

accommodating the proposed development including vehicular and pedestrian access and amenity space. A grant of planning permission for the proposed development in the context of the site being part of housing allocation PROP TT11 of the East Lothian Local Development Plan, and in that its impacts in respect of amenity and technical considerations are acceptable in themselves, or can be mitigated through the appropriate use of planning conditions and necessary developer contributions, would not be inconsistent with Scottish Planning Policy: June 2014, with the relevant policies of the East Lothian Local Development Plan 2018 or with its adopted supplementary guidance.

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.

## **RECOMMENDATION**

It is recommended that planning permission be granted subject to:

1. The undernoted conditions.
2. The satisfactory conclusion of an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997, or some other legal agreement designed to secure from the applicant:
  - (i) a financial contribution to the Council of £1,322,440.00 towards the provision of additional primary and secondary school accommodation within the catchment;
  - (ii) the provision of 23 affordable housing units within the application site;
  - (iii) a financial contribution to the Council of £26,880.30 towards the refurbishment of the existing changing pavilion at the Elphinstone Playing Field;
  - (iv) a financial contribution to the Council of £15,753 for transport improvements to Old Craighall Junction, Salters Road Interchange, Bankton Interchange, Musselburgh town centre improvements, Tranent town centre improvements and rail network improvements;.
3. That in accordance with the Council's policy on time limits for completion of planning agreements it is recommended that the decision should also be that in the event of the Section 75 Agreement not having been executed by the applicant, the landowner and any other relevant party within six months of the decision taken on this application, the application shall then be refused for the reason that without the developer contributions to be secured by the Agreement the proposed development is unacceptable due to a lack of sufficient primary and secondary school capacity within the catchment, a lack of provision of affordable housing, a lack of sports infrastructure improvements and a lack of roads and transport infrastructure contrary to, as applicable, Policies DEL1, HOU3, HOU4 and Proposals T9, T10, T11, T15, T17, T21, T27, T28, ED4 and CF1 of the adopted East Lothian Local Development Plan 2018.

All contribution prices apart from the Primary school contribution are taken from East Lothian Local Development Plan's Supplementary Guidance: Developer Contributions Framework adopted in March 2019 and these costs will be subject to indexation from March 2019 using the BCIS All in tender price index prior to payment. The primary school extension has been part of a re-appraisal of the options for Elphinstone Primary School and therefore will be subject to indexation using the BCIS All in Tender Price

Index but will be indexed from Q3 2022.

## 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 No development shall take place on the site until the applicant has, through the employ of an archaeologist or archaeological organisation, undertaken and reported upon a programme of archaeological work (8% Archaeological Evaluation by trial trench) in accordance with a written scheme of investigation to be submitted to and approved in advance by the Planning Authority.

Reason:

To facilitate an acceptable archaeological investigation of the site.

- 4 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 2023/24 - 40 residential units

Year 2024/25 - 40 residential units

Year 2025/26 - 10 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 2026/27 or beyond and not added to the subsequent year.

Reason:

To ensure that the completion rate of residential development within the application site



accords with the provision of education capacity.

- 5 Prior to the commencement of development a delivery schedule and phasing plans that establishes the phasing and timing programme for the proposed development shall be submitted to and approved in advance by the Planning Authority. It shall include the phasing and timing for the provision of footpaths/cycleways and external works such as offsite path links. These path links shall include:

(i) Three path connections from the west boundary of the site to connect to the core path to the west of the site;

(ii) Two path connections from the east boundary of the site to connect to the woodland strip to the east of the site;

(iii) A 2 metres wide, hard-surfaced, lit (street lighting) footpath suitable for walking and cycling to be formed from the southeast corner of the application site through the existing park to the south of it and connecting on to Main Street;

It must also include for public road links, including paths, to local services, schools and the public road network. It shall further include the provision of the 15 car parking spaces and associated electric vehicle charging point to serve the playing field, drainage infrastructure, landscaping and open space. The details to be submitted shall also include construction phasing plans.

The details to be submitted shall include tree protection measures and temporary protective fencing to be put in place prior to the construction of the 2 metres wide, hard surfaced, lit footpath to be formed from the southeast corner of the application site through the existing park to the south of it and connecting on to Main Street and the measures so approved shall remain intact and in place through to the completion of the footpath and its lighting.

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

Reason:

To enable the Planning Authority to control the development of the site in the interests of the good planning of the site and to ensure the retention of trees which are an important landscape feature of the area.

- 6 Prior to the commencement of development, details, including a timetable for their implementation, showing compliance with the following transportation requirements shall be submitted to and approved in writing in advance by the Planning Authority.

No residential unit hereby approved shall be occupied unless and until (i) a gateway feature is installed at the western end of the south boundary of the site, (ii) a 3 metres wide, lit (street lighting) shared use path is provided on the north side of the B6414 along the full length of this site boundary to tie into the existing footway and (iii) a suitable crossing of the B6414 is provided in the vicinity of the primary school. Details of the proposed gateway feature, the raised table, the shared use path and the crossing shall be submitted for approval by the planning authority along with a Road Safety Audit of the proposals. These measures shall be implemented in accordance with the details as approved by the planning Authority.

Reason:

In the interests of road and pedestrian safety.

- 7 A visibility splay of 4.5 metres by 90 metres shall be provided and maintained on each side of the proposed access such that there shall be no obstruction to visibility above a

height of 1.05 metres measured from the adjacent carriageway level within the area defined below:-

- a) A line 4.5 metres long measured along the access road from the nearside edge of the main road carriageway.
- b) A line 90 metres long measured along the nearside edge of the main road carriageway from the centre of the access road in both directions.
- c) A straight line joining the termination of the above two lines.

Reason:

In the interests of road and pedestrian safety.

- 8 Prior to the commencement of development a timetable for the implementation of the recommendations made in the Quality Audit hereby approved shall be submitted to and approved by the Planning Authority. Thereafter the recommendations shall be implemented in accordance with the detailed design stages and the full audit process completed through the design and implementation stages including post construction/occupation with measures to make good any issues raised being fully implemented.

Reason:

In the interests of road and pedestrian safety.

- 9 Unless otherwise agreed in writing by the Planning Authority prior to the occupation of any residential unit, a pair of bus stops shall be provided, one on either side of the primary spine road running through the site in accordance with details, showing the locations and details of the bus stops with associated hard surfaced stances, to be submitted to and approved in advance of their construction by the Planning Authority.

Reason:

To ensure the provision of adequate bus stop provision in the interests of the residential amenity of the future occupants of the development hereby approved.

- 10 Prior to the occupation of any of the flats hereby approved bin storage facilities and cycle storage facilities shall have been formed and made available for use. The cycle parking shall be in the form of 1 locker per flat or communal provisions in the form of a lockable room or shed in accordance with details to be submitted to and approved in writing by the Planning Authority. Thereafter, the storage facilities shall be retained in use as bin and cycle storage areas.

Reason:

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

- 11 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.

- 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 and shall include hours of construction work and routes of construction traffic to/from the site, delivery time restrictions and a health and safety method statement. 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 or alternative 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 or alternative facilities to prevent deleterious materials being carried onto the public road on vehicle tyres.

The Construction Method Statement shall also provide details of utility/service drainage connections, including what temporary measures shall be put in place to control surface water drainage during the construction of the Sustainable Urban Drainage System.

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 The actions to be taken to reduce the carbon emissions from the building and the provisions for private electric vehicle charging all as detailed in the 'Statement on Energy' and on drawing titled 'Site Layout EV Charging' with drawing number ELPH/DL/003 docketed to this planning permission shall be fully implemented on site prior to the occupation of the last residential unit hereby approved and thereafter shall be retained unless otherwise approved in writing by the Planning Authority.

Notwithstanding that stated on drawing titled 'Site Layout EV Charging' with drawing number ELPH/DL/003 docketed to this planning permission, details of the public electric vehicle charging point(s) to be provided in the communal car parking area in the south west corner of the site shall be submitted to and approved in writing by the Planning Authority. The details to be submitted shall include a timetable for provision. Development shall thereafter be carried out in accordance with the details so approved and shall be retained unless otherwise approved in writing by the Planning Authority.

Reason:

To minimise the environmental impact of the development.

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

Reason:

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

- 15 Notwithstanding that which is stated on the drawings docketed to this planning permission a detailed specification of all external finishes of the houses, flats, garages and boundary treatments hereby approved shall be submitted to and approved by the Planning Authority prior to the use of the finishes in the development. The external finishes of the houses and flats shall be in accordance with a co-ordinated scheme of materials and colours that shall in detail promote render as the predominant finish to the walls of the houses, 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, flats, garages and boundary treatments 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.

- 16 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.

- 17 No development shall commence until temporary protective fencing has been erected in accordance with the docketed and stamped approved report titled; Tree Survey & Arboricultural Impact Assessment, Revision R3, dated 10 November 2022 and in the positions shown on docketed and stamped approved drawings titled: The Tree Survey Plan with drawing reference BS-020222\_AIA\_R1 and Landscape Proposal Plans numbered 231.24.01 - 231.24.06 Revision F and dated October 2022. The temporary protective fencing shall be erected to the specification shown on drawing titled; The Tree Survey Plan, survey reference BS\_020422\_A1A\_R1 shall be erected prior to the commencement of development and shall remain intact and in place through to completion of development. All weather notices containing the wording "Construction exclusion zone - Keep out" shall be erected on said fencing. Within the fenced off areas the existing ground level shall neither be raised nor lowered, no materials, temporary buildings, plant, machinery or surface soil shall be placed or stored and no herbicides shall be used.

Planning of site operations should 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.

Reason:

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

- 18 No development shall take place on site until a person who, through relevant education, training and experience, has gained recognised qualifications and expertise in the field of trees in relation to construction, has been employed by the developer to monitor any works within the root protection area or canopy spread of trees on or adjacent to the application site. Arboricultural monitoring shall including the supervision and reporting to the Planning Authority on the installation of the required tree protection fencing and any development within the root protection area of trees shown to be retained and protected in strict compliance with docketed and stamp approved report titled : Tree Survey & Arboricultural Impact Assessment, dated April 2022 and drawings titled: The Tree Suvey Plan with drawing reference BS-020222\_AIA\_R1 and Landscape Proposal Plans numbered 231.24.01 - 231.24.06 Revision F and dated October 2022. All tree work shall be approved in writing by the Planning Authority before work is carried out.

Reason:

To ensure the retention and maintenance of the trees adjacent to the site which are an important landscape feature of the area.

- 19 No trees, shrubs or hedgerows which are to be retained on the site, other than the crab apple tagged 419 as shown on stamped approved and docketed drawing no, Landscape proposals Plan numbered 231.24.01 - 231.24.06, Revision F and dated October 2022

shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the previous written consent of the Planning Authority. All tree management works shall be carried out under the supervision of an appointed Arboricultural Consultant in compliance with British Standard 3998: 2010 "Tree work ~ Recommendations" Section 7, Pruning and related work and Figure 2 - Positions of final cuts; leaving an overall balanced tree shape on completion of the works.

Reason:

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

- 20 Unless otherwise approved in writing by the Planning Authority, the structural landscape planting (woodland planting on east and west boundaries) shall be implemented within 1 year of the commencement of development and all other new planting as shown on stamped approved docketed drawings titled; Landscape Proposal Plan numbered 231.24.01 - 231.24.06, Revision F and dated October 2022, shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner.

Any trees or plants which within a period of ten years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation. The developers Landscape Architect, shall carry out a site inspection once the scheme of landscaping has been implemented and shall report on such inspection to the Planning Authority within 6 months of the scheme of landscaping being implemented. All defects identified by the developers Landscape Architect shall be rectified by the developer within two years of the occupation of the last house or flat in the development.

The scheme of landscaping shall be maintained in accordance with docketed and stamp approved report titled; Communal Landscape Maintenance with appended plans titled; Communal Landscape plans numbered 231.24.07 - 231.24.08

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 and to improve the biodiversity value of the area.

- 21 The approved scheme of landscaping shall be maintained and managed in compliance with the docketed and stamped approved report titled : Communal Landscape Maintenance. The scheme of landscaping shall thereafter be maintained and managed in accordance with the detail so approved unless otherwise agreed in writing by the Planning Authority. The developer shall include a copy of the communal landscape maintenance report and communal landscape plans numbered 231.24.07 - 231.24.08 dated November 2022 in the hand over documents to the management Factor and the owners of properties within the development. Within the missives, the final land use plan and deed of conditions shall be based on the aforementioned report and plans.

Reason:

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

- 22 Unless otherwise approved by the Planning Authority all of the open space and communal landscape as detailed in the docketed and stamped approved drawing titled; Landscape proposals plans numbered 231.24.01 - 231.24.06 Revision F, dated October 2022 and Communal Landscape plans numbered 231.24.07 - 231.24.08 dated November 2022 and the report titled; Communal Landscape Maintenance shall be retained and maintained as such by a Factor or a Residents Association n in accordance with details to be submitted to and approved by the Planning Authority prior to the occupation of any residential units hereby approved.

Reason:

To ensure the retention and maintenance of landscaping and open space on the site in the interest of amenity.

- 23 Prior to commencement of development of the Sustainable Drainage System (SuDS) on site, confirmation of Scottish Water's Technical Approval of the SuDS details hereby approved shall be submitted to the Planning Authority. Thereafter, the approved details shall be implemented as approved.

Reason:

To ensure that the final SuDS design complies with 'Sewers for Scotland 4' and can be vested by Scottish Water in the interest of flood prevention, environmental protection and the long term amenity of the area.

- 24 Prior to the occupation of any of the residential units hereby approved, a timetable for the provision of all of the play equipment and associated play surfacing, bin, bench and any enclosure of the play area to be provided on the site and details of how the equipped play area is to be managed and maintained are to be submitted to and approved in advance by the Planning Authority and the play area shall thereafter be installed, surfaced, enclosed, managed and maintained in accordance with the details so approved and shall be used for such purposes at all times thereafter unless approved by the Planning Authority..

Reason:

To ensure the satisfactory provision of adequate and suitable play provision and the future maintenance of it within the development.

- 25 All of the gas prevention measures (gas and radon) as identified in the Site Investigation Report and Remediation Method Statement docketed to this planning permission shall be carried out on site in accordance with the terms of those Reports prior to the commencement of any other development on the site. On completion of the remedial works and prior to the occupation of any residential unit, a Validation Report shall be submitted to and be approved by the Planning Authority confirming that the works have been carried out in accordance with the Remediation Strategy.

In the event that 'unexpected' ground conditions (contamination) are encountered at any time when carrying out the development hereby approved, work on site shall cease and the issue shall be reported to the Planning Authority immediately. At this stage a further Site Investigation and subsequent Risk Assessment may have to be carried out, if requested by the Planning Authority. It may also be necessary to modify the Remediation Strategy should the reporting determine that additional measures are required. It should also be noted that a Verification Report would also need to be submitted confirming the satisfactory completion of all these remedial works.

If no 'unexpected' ground conditions are encountered during the development works, then this should be confirmed to the Planning Authority prior to occupation of the new builds.

Reason:

To ensure that the site is clear of contamination and that remediation works are acceptable prior to the occupation of any of the residential units.

- 26 All of the remedial treatment works to address land instability arising from shallow coal mining legacy as identified in the Site Investigation Report docketed to this planning permission shall be carried out on site in accordance with the terms of that Report prior to the commencement of any other development on the site. On completion of the remedial works and prior to the occupation of any residential unit, a signed statement or declaration prepared by a suitably qualified person confirming that the site has been made safe and stable for the development hereby approved and confirming the completion of the remedial works and any mitigatory measures necessary to address the

risks posed by past coal mining activity shall be submitted to and approved in writing by the Planning Authority and any mitigation works identified shall thereafter be fully implemented as so approved.

Reason:

To ensure that the site is clear of coal mining features and hazards prior to the occupation of any of the buildings.





**REPORT TO:** Planning Committee  
**MEETING DATE:** 6 December 2022  
**BY:** Executive Director for Place  
**SUBJECT:** Application for Planning Permission for Consideration

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6

Application No. **22/00506/LBC**  
Proposal Replacement windows and door  
Location **10 Balcarres Road  
Musselburgh  
East Lothian  
EH21 7SD**

Applicant Musselburgh Old Course Golf Club  
Per PSAS

**RECOMMENDATION** Application Refused

## **REPORT OF HANDLING**

### **PROPOSAL**

The property to which this application relates is a two storey, stone built, semi-detached building which is listed as being of special architectural or historic interest (Category B). So too are its lengths of low stone wall that enclose the east and north boundaries of its open plan front garden. The building is located close to, but is outwith, the Musselburgh Conservation Area.

In August 2021, listed building consent (Ref: 21/00836/LBC) was sought for the replacement of all of the existing single glazed aluminium framed windows with double glazed UPVC framed windows displayed within the front (east), side (south) and rear (west) elevations of the building. The proposals also included the replacement of an aluminium framed glazed door with a UPVC framed glazed door located at first floor level in the rear (west) elevation of the building. Listed building consent 21/00836/LBC was withdrawn by the applicant's agent in November 2021 following discussions with the **Council's Planning Service** team in which it was advised that the use of modern materials such as UPVC would neither preserve nor enhance the character and appearance of the listed building.

In December 2021, listed building consent (Ref: 21/01329/LBC) was granted for the replacement of (i) all of the existing single glazed aluminium framed windows with double glazed timber framed sash and case windows within the front (east), side (south) and rear (west) elevations of the building; and (ii) an aluminium framed glazed door with a timber framed glazed door located at first floor level within the rear (west) elevation of the building. Listed building consent 21/01329/LBC has not been implemented but remains extant until 15th December 2024.

Listed building consent is now sought for the replacement of (i) all of the existing single glazed aluminium framed windows displayed within the front (east), side (south) and rear (west) elevations of the building with UPVC frames; and (ii) the existing aluminium framed glazed door with a UPVC framed glazed door located at first floor level in the rear (west) elevation of the building.

The existing windows displayed within the front (east), side (south) and rear (west) elevations of the building are all white coloured, single glazed, top hung, aluminium framed windows of a 1 over 1 glazing pattern. It is proposed to replace the existing windows with UPVC framed, double glazed windows with a different opening method (in that the bottom window panes are proposed to be open outwards as opposed to them being fixed).

The existing glazed door, located at first floor level, in the rear (west) elevation of the building also has white coloured aluminium frames. It is proposed to replace the existing glazed door with a glazed door with UPVC frames.

## **DEVELOPMENT PLAN**

Material to the determination of the application is Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Scottish Government's policy on development affecting a listed building given in the Historic Environment Policy for Scotland (HEPS): April 2019 and Scottish Planning Policy: June 2014.

The Historic Environment Policy Statement and Scottish Planning Policy echo the statutory requirements of Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that in considering whether to grant listed building consent for any works to a listed building the planning authority shall have special regard to the desirability of preserving the building or any features of special architectural or historic interest which it possesses.

Policy CH1 (Listed Buildings) of the adopted East Lothian Local Development Plan 2018 is relevant to the determination of this application.

Also material to the determination of the application is supplementary Planning Guidance (SPG) on 'Cultural Heritage and the Built Environment' adopted by the Council on 30th October 2018. The SPG expands on policies that are set out in the East Lothian Local Development Plan 2018 provides policy guidance on replacement windows in buildings which are listed as being of special architectural or historic interest.

## **REPRESENTATION**

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

(i) the proposed UPVC framed replacement windows are unacceptable and would

neither preserve nor enhance the special architectural or historic interest of this B-listed building contrary to Policy CH1 of the adopted East Lothian Local Development Plan 2018;

(ii) the existing windows within the building should be replaced with timber framed sash and case windows (as was approved in application 21/01329/LBC) to reinstate the original materials and opening methods of the existing windows within the building which are major elements of its special architectural and historic character; and

(iii) both the existing aluminium framed windows and the proposed UPVC framed windows mar the quality of the building which is a fine example of a purpose-built golf club and occupies a prominent position with the streetscape.

## **COMMUNITY COUNCIL**

None.

## **PLANNING ASSESSMENT**

Historic Environment Scotland (HES), in their consultation response to this application, state that 10 Balcarres Road was built as the clubhouse for the Edinburgh Burgess Golfing Society in 1875. They state that, at some point, the original windows (which are presumed to have been timber with sashes) have been replaced with aluminium examples that detract from the building's character. They state that their preference would be for the proposed replacement windows to be replaced with timber sashes as was approved in December last year. They also state that even if only the front windows were replaced in timber this would be a considerable conservation gain. HES note that the proposed replacement windows are top hung UPVC windows with limited detail provided. They state that the proposed replacement UPVC framed windows would adversely affect the character of the building. However, they state that if the principle of replacement plastic units is viewed as being acceptable, the replacement windows should take the form of vertically sliding sashes with further details being provided on the design, sections and placement of units in the walling.

The listed building occupies a prominent position on the west side of Balcarres Road. The existing windows displayed within the front (east), side (south) and rear (west) elevations of the building are of a non-traditional aluminium frame construction which detract from the special architectural or historic interest of the listed building. So too does the aluminium framed glazed door located at first floor level in the rear (west) elevation of the building. With the exception of the aluminium framed windows and aluminium framed glazed door, the existing building displays traditional features and materials including pitched roof slopes clad in slates and external stone walls. These features are defining characteristics of the special architectural or historic interest of it.

With regard to listed buildings the policy guidance set out in the SPG states that original windows should be retained and, where necessary, repaired. Only where repair is shown to be impossible should replacement be accepted. Replacement windows will normally be required to exactly match the original window in all respects, including proportions of the window opening, opening methods, materials, colour, astragal profile if appropriate and glazing. Permission will not be granted for a replacement window that is visibly different to an existing original window.

It is proposed to replace the existing aluminium framed windows within the front (east), side (south) and rear (west) elevations of the building with non-traditional UPVC frames. The proposed UPVC framed windows would be double glazed (instead of single glazed) and their bottom panes would open outwards (as opposed to them being fixed). Notwithstanding that the existing aluminium framed windows displayed within the

building are not the original windows designed for it, the proposed replacement UPVC framed windows would, due to the different construction material of their frames and due to the bottom panes of them being of a different opening mechanism, significantly change the character and appearance of the listed building in a manner that would seriously harm the integrity and special architectural or historic interest of it. Accordingly, the proposed replacement windows would have a significant visual impact on, and thus would be harmful to, the special architectural or historic interest of the listed building. They would harmfully disrupt and draw focus from the architectural form, character and integrity of the listed building. They would not preserve or enhance, but instead would be harmful to, the special architectural or historic interest of the listed building.

It is also proposed to replace the existing aluminium framed glazed door located at first floor level within the rear (west) elevation of the listed building. It would be of the same size and proportions of the existing door to which it would replace with the only difference being that it would be have UPVC frames. However, the modern UPVC framing of it would change the character and appearance of the listed building in a manner that would harm the integrity and special architectural or historic interest of it. Accordingly, the proposed replacement door would not preserve or enhance, but instead would be harmful to, the special architectural or historic interest of the listed building.

On these considerations, the proposals are contrary to Policy CH1 of the adopted East Lothian Local Development Plan 2018, the Historic Environment Policy for Scotland (HEPS): April 2019, the Council's supplementary Planning Guidance on 'Cultural Heritage and the Built Environment' and with Scottish Planning Policy: June 2014.

In conclusion, the proposals are considered not to be in accordance with the provisions of the stated relevant Development Plan policies and there are no material considerations which outweigh the fact that the proposals do not accord with the Development Plan.

#### **REASONS FOR REFUSAL:**

- 1 The proposed replacement UPVC framed windows would, due to the different construction material of their frames and due to the bottom panes of them being of a different opening mechanism, have a significant visual impact on, and thus would be harmful to, the special architectural or historic interest of the listed building. They would not preserve or enhance, but instead would be harmful to, the special architectural or historic interest of the listed building contrary to Policy CH1 of the adopted East Lothian Local Development Plan 2018, the Historic Environment Policy for Scotland (HEPS): April 2019, the Council's supplementary Planning Guidance on 'Cultural Heritage and the Built Environment' and with Scottish Planning Policy: June 2014.
- 2 The proposed replacement UPVC framed door would change the character and appearance of the listed building in a manner that would harm the integrity and special architectural or historic interest of it. It would not preserve or enhance, but instead would be harmful to, the special architectural or historic interest of the listed building contrary to Policy CH1 of the adopted East Lothian Local Development Plan 2018, the Historic Environment Policy for Scotland (HEPS): April 2019, the Council's supplementary Planning Guidance on 'Cultural Heritage and the Built Environment' and with Scottish Planning Policy: June 2014.

**REPORT TO:** Planning Committee  
**MEETING DATE:** 6 December 2022  
**BY:** Executive Director for Place  
**SUBJECT:** Application for Planning Permission for Consideration

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7

Application No. **22/00990/P**

Proposal Erection of garden room/store as changes to the scheme of development the subject of planning permission 13/00650/P

Location **Plot 2 - Land South Of Turners House  
High Road  
Spott  
Dunbar  
East Lothian**

Applicant Mrs Michelle MacSorley

Per William Harley

**RECOMMENDATION** Consent Granted

## **REPORT OF HANDLING**

### **PROPOSAL**

In June 2014, planning permission (Ref: 13/00650/P) was granted for the erection of 2 detached houses and associated works on an area of scrubland located to the south of Turner's House (formerly known as 'The Steading'), High Road, Spott. Planning permission 13/00650/P has been implemented.

This application relates to the one and a half storey detached house, and its garden, which occupies the eastern part of the site the subject of planning permission 13/00650/P. It is referred to as 'Plot 2' and has yet to be occupied. The property is located within a predominantly residential area as defined by Policy RCA1 of the East Lothian Local Development Plan 2018. It is located within Spott Conservation Area and within the Doonhill to Chesters Special Landscape Area. The 'Turner's House', is listed as being of special architectural or historic interest (Category C).

The property is bounded to the east by a neighbouring residential property, to the south by an access road which leads to Spott Farm, to the west by the neighbouring residential property named 'Treetops' and to the north by the neighbouring residential property named 'Turner's House' which is listed as being of special architectural or historic interest (Category C).

Planning permission is now sought, as design changes to the scheme of development the subject of planning permission 13/00650/P, for the erection of a single storey flat roofed garden room/store building within the rear garden of the house referred to as 'Plot 2'.

## **DEVELOPMENT PLAN**

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

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

There are no relevant policies of the approved South East Scotland Strategic Development Plan (SESplan). Policies CH1 (Listed Buildings), CH2 (Development Affecting Conservation Areas), DC9 (Special Landscape Areas) and DP2 (Design) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of this application.

Material to the determination of the application are Section 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Scottish Government's policy on development affecting a listed building and within a conservation area given in Scottish Planning Policy: June 2014.

Scottish Planning Policy echoes the statutory requirements of Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that in considering whether to grant planning permission for development which affects a listed building or its setting a planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

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

## **REPRESENTATION**

One objection to this application has been received. The main grounds of objection are:

(i) the proposed garden room/store building will, due to its elevated position within the application site, result in a loss of privacy to the house and garden of a neighbouring

residential property;

(ii) the proposed garden room/store building will detract from the view of Turner's House, a listed building;

(iii) the beech hedge has yet to be planted on Plot 2 and will take several years before it provides any level of screening. The planting conditions imposed on the grant of planning permission 13/00650/P stipulates that each of the two approved houses within the site shall not be occupied unless and until the beech hedge has been planted along the boundaries of its plot. It states that the western most house within the site has been occupied for nearly a year.

In response to point (iii) raised by the objector above, Condition 5 of planning permission 13/00650/P states that the house to be erected on the eastern part of the site (which is the house the subject of this planning application) shall not be occupied unless the beech hedging has been planted along the length of the west, north, east and south boundaries of its plot as shown in docketed drawing AL(0)101 Revision F. It states that the beech hedging shall be allowed to grow to and thereafter maintained at a minimum height of 1.8 metres.

Whilst the beech hedge serving plot 2 has yet to be implemented, the house within the eastern part of the site remains unoccupied and thus there has been no breach of Condition 5 of planning permission 13/00650/P at this time. Moreover, any alleged breach of any condition on the grant of planning permission 13/00650/P would be a matter for the **Council's Planning Enforcement Officer** to investigate.

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

## **COMMUNITY COUNCIL COMMENTS**

None.

## **PLANNING ASSESSMENT**

The proposed single storey flat roofed garden room/store building would be rectangular in shape and would measure some 4.6 metres long (measured to its roof overhang), some 3.2 metres wide (measured to its roof overhang) and some 2.4 metres high measured to the upper surface of its flat roofed top above ground level. Its flat roofed top would be clad in a grey coloured single ply roofing membrane. Its external walls would be clad in untreated horizontal timber boarding. It would have timber framed glazed doors formed within its front (southeast) elevation. Its rear (northwest) and side (northeast and southwest) elevations would take the form of solid timber walls. It would be located some 2.3 metres away from the rear (northwest) elevation of the house at its northeast end.

The proposed garden room/store building would, due to its architectural form and external materials, be architecturally different from the applicant's house which has pitched roof slopes clad in slates and external rendered walls. However, due to its single storey height and of its size and scale, the proposed garden room/store building would not be inappropriate for its rear garden setting. By virtue of its architectural form, size, scale, height, proportions and materials, the proposed garden room/store building would be well absorbed into its surroundings. It would not appear as a harmfully dominant, intrusive or incongruous feature. It would not result in an overdevelopment of the rear garden of the house. It would not be harmful to the character and appearance of the house or to the character and appearance of this part of the Spott Conservation Area. It would not harm the integrity of the scheme of development approved by the grant of planning permission 13/00650/P.

The proposed garden room would not, due to its low height and relatively small size and scale, and of its positioning behind the Turner's House, harmfully impact on the setting or primacy of that neighbouring house, which is listed as being of special architectural or historic interest (Category C).

The glazed doors to be formed in the front (southeast) elevation wall of the proposed garden room/store building would face towards the rear gable end of the house and thus they would not allow for harmful overlooking of any neighbouring residential properties.

There is no proposal to form windows or other glazed openings within the rear (northwest) or side (northeast and southwest) elevations of the proposed garden room/store building. However, as the applicant's property is within the Spott Conservation Area where permitted development rights have been removed, the formation of any windows or other glazed openings within them, or within any other part of the southeast elevation of the proposed garden room/store building, would require planning permission and as such they would be within the control of the Planning Authority.

Owing to its size, form, position and orientation, the proposed garden room/store building would not give rise to a harmful loss of sunlight or daylight received by any neighbouring residential properties.

By their nature and scale these proposals would not have a detrimental impact on the Doonhill to Chesters Special Landscape Area.

On these considerations, the proposed garden room/store building is consistent with Policies CH1, CH2, DC9 and DP2 of the adopted East Lothian Local Development Plan 2018 and with Scottish Planning Policy: June 2014. Therefore, the proposal is considered to be in accordance with the provisions of the stated relevant Development Plan policies and there are no material considerations which outweigh the proposal's accordance with the Development Plan.

As otherwise relevant the conditions attached to planning permission 13/00650/P remain effective and must be complied with.

#### **CONDITION:**

- 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.



**REPORT TO:** Planning Committee  
**MEETING DATE:** 6 December 2022  
**BY:** Executive Director for Place  
**SUBJECT:** Application for Planning Permission for Consideration

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8

Application No. **22/00682/AMM**  
Proposal Approval of matters specified in conditions of planning permission 21/01580/PM -The erection of primary school and associated works  
Location **Blindwells  
Tranent  
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 21/01580/PM it has to be determined as a major development type application because the area of the application site is greater than 2 hectares. Accordingly the application cannot be decided through the Council's Scheme of Delegation. It is therefore brought before the Planning Committee for a decision.

## **APPLICATION SITE**

This planning application relates to some 4.252 hectares of land at Blindwells. It forms part of a larger area of land allocated by Proposal BW1 (Blindwells New Settlement) of the adopted East Lothian Local Development Plan 2018 for a mixed development including circa 1,600 homes, no less than 10 hectares of serviced employment land, a local centre, education and community facilities, infrastructure and associated works. The current application site occupies a central position within the wider Blindwells site which is currently under development, with the application site being located within the Phase 2 development area. While the area around the application site is currently under development it would be bound to the north by a distributor road which would run east-west within the Blindwells site approved through the grant of planning permission

21/00120/AMM, to the west by an internal link road which would run north-south within part of the Phase 2 (central) part of the Blindwells site approved through permission 21/00120/AMM, to the south partly by a distributor road which would run east-west approved through permission 21/00120/AMM. The stamped approved masterplan for the wider Blindwells site approved through planning permission 21/01580/PM indicates that the area to the south east of the current application site would be the location for the Town Park with the area to the east being indicated as the area for three full size sport pitches within the Town Park. The Town Park and sport pitches are located within the Phase 3 part of the wider Blindwells development site and to date no detailed application for these facilities has been submitted. Any future application for these facilities will be determined on its own merit.

## **PLANNING HISTORY**

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

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

Since the granting of planning permission in principle 14/00768/PPM a number of detailed planning applications and Section 42 applications to vary conditions of planning permission in principle 14/00768/PPM (18/00420/P, 18/00725/AMC, 18/00825/AMC, 19/00242/AMC, 19/00620/AMM, 19/00900/AMM, 19/01068/AMM, 20/01030/PM, 21/00308/AMM, 21/00120/AMM and 21/01580/PM) have been granted for various schemes of development including road infrastructure, landscaping and residential units. These planning permissions have been implemented with road infrastructure including the three access roads off the A198 into the site, landscaping and residential units having been undertaken within the western part of the Blindwells site and a number of residential units are now occupied.

The granting of planning permission 21/01580/PM in varying conditions 1, 13, 30 and deleting condition 31 of planning permission 20/01030/PM had the effect of granting a new planning permission in principle for the Blindwells site through planning permission 21/01580/PM.

The site to which this application relates comprises part of the Phase 2 development area of the BW1 allocation, specifically the site for the proposed new primary school.

## **PROPOSAL**

The approval of matters specified in conditions of planning permission in principle 21/01580/PM is now sought for the erection of a primary school campus and associated works on land within the Phase 2 part of the Blindwells development site and thus on part of the larger site to which planning permission in principle 21/01580/PPM and the

masterplan docketed to that permission apply.

A Design and Access statement submitted by the agent advises that due to the extent of the development plans for the Blindwells site which will take many years to complete, the new school has been designed to be built in 2 phases, the timing of the construction of Phase 2 will depend on how quickly the development build out is achieved by the developers.

The proposed school campus the subject of this current application will form Phase 1 of the school development. Phase 2 will add a third stream to the primary school with an additional 150 pupils accommodated. Any works associated with Phase 2 will be submitted under a separate planning application at the point in time that this development becomes necessary.

The proposed school campus the subject of this current application will form Phase 1 of the school development and comprises a new 14 no. classroom primary school (to cater for 420 pupils), an early years facility/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 a central part of the Blindwells site. The building would be roughly rectangular in shape. The north elevation of the proposed school would face towards, and would be served by, a new distributor road the details of which have been approved through the grant of planning permission 21/00120/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 west elevations. The north end of the west elevation of the proposed school would contain two main entrances; one serving the primary school component of the building and the other serving the early years facility/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 clad in 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, three 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 (including Head Teacher Office, School Office, Janitor Office), a reception, medical room, circulation spaces, playrooms and lift and stair access to upper floor. The first floor level of the building would be served by three separate internal staircases and a lift and would contain twelve classrooms, toilets, a deputy head teacher office, a nurture room, a library and a 'movement and dance' room.

The playground areas would be primarily located to the south of the proposed school building and would include various play equipment on hard and soft landscaped areas. Two 2 grass sports pitches would be provided within the southern part of the school site, a basketball court would be provided within the eastern part of the school site, while a five lane 100 metre running track, green gym/activity trail, natural play/activity trail,

outdoor learning/amphitheatre, play mounds, sloping amenity grass, learning/productive growing areas, Additional Support Needs (ASN) garden would all be provided within the school grounds. The boundary perimeters of the site would be landscaped with trees and planting.

A detached single storey flat roofed sprinkler tank building would be located within the northern part of the site adjacent to the northern site boundary. 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 be positioned to the east of it.

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 while a lower 1.2 metre high fence would enclose the early years centre/nursery outdoor playground and the ASN garden. Three gates would be located within the south, west and east 1.8 metre high boundary fence enclosures to provide access for future pedestrian access footpaths into the school site as development of the Blindwells site progresses.

Vehicular access to the proposed school building would be served by the new distributor road to the north of the site approved through the grant of planning permission 21/00120/AMM with access into the site being located within the northeast corner. The car park area would be surfaced in permeable block paving and would provide 32 staff spaces, 3 accessible spaces plus 3 visitor spaces (5 of which would be EV charging bays). A drop off layby for Additional Sport Needs would be provided within the car park area.

The principle pedestrian entrance to the school would be in the north-western corner of the site. Two covered cycle racks would be located adjacent to the main entrance and two cycle racks would be provided adjacent to the future entrance which would be provided on the western boundary.

The submitted drawing titled 'Landscape layout Phase 2' identifies an area to the east side of the proposed school building that could be used in the future to accommodate a school extension(s). It also shows where an additional 10 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 have 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 original planning permission in principle 14/00768/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 original planning permission in principle 14/00768/PPM. The proposal for the school site has not changed significantly from the indicative details provided with planning permission in principle 14/00768/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 relevant policies of the approved South East Scotland Strategic Development Plan (SESplan). Relevant to the determination of the application are Proposal BW1 (Blindwells New Settlement), Proposal ED3 (Blindwells Cluster Education Proposals), Policies CH4 (Scheduled Monuments and Archaeological sites), CH5 (Battlefields), DP1 (Landscape Character), DP2 (Design), DP4 (Major Development Sites), DP9 (Development Briefs), SEH2 (Low and Zero Carbon Generating Technologies), T1 (Development Location and Accessibility), T2 (General Transport Impact), T31 (Electric Car and Bus Charging Points), NH10 (Sustainable Drainage Systems) and NH11 (Flood Risk) of the adopted East Lothian Local Development Plan 2018.

Revised Draft National Planning Framework 4 (NPF4) was published by the Scottish Government on the 08 November 2022. The Town and Country Planning (Scotland) Act 1997 (as amended) requires that NPF4 must be approved by the Scottish Parliament before it can be adopted by Scottish Ministers. On adoption the Scottish Government will commence the provisions in the Planning Act which will make NPF4 part of the statutory development plan. The Existing National Planning Framework 3 and Scottish Planning Policy remain in place until NPF4 has been adopted by Scottish Ministers.

## **REPRESENTATIONS**

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

## **COMMUNITY COUNCIL**

None.

## **PLANNING ASSESSMENT**

The principles of the means of accessing of the proposed Blindwells site are already decided by the grant of planning permission in principle 21/01580/PM. These include that vehicular and pedestrian access to the site shall be taken from the A198 public road to the west of the site as detailed in the indicative masterplan approved through the granting of planning permission 21/01580/PM. This masterplan also provided details of the alignment of the proposed roads to serve the Blindwells site along with areas of housing, a school campus including sports pitches, a local centre, landscaped areas and parks and areas for SuDS.

By the grant of planning permissions in principle 21/01580/PM approval has been given for the principle of the creation of a new settlement that could comprise residential, employment, education and commercial uses with park and ride and rail halt facilities and associated works all on land at Blindwells. There can therefore be no objection in principle to the proposed Primary School associated with the new settlement on the site.

Therefore, in the determination of this application the Council, as Planning Authority, can only concern itself with the siting, design and external appearance of the development and the landscaping of the site. In this regard the detailed proposals have to be considered against relevant development plan policy and the indicative masterplan layout and conditions attached to planning permission in principle 21/01580/PM.

The layout proposed through this approval of matters application for the proposed Primary School within the application site is broadly consistent with the indicative masterplan layout docketed to planning permission in principle 21/01580/PM.

Through the previous grant of the aforementioned detailed planning permissions the Phase 1 part of the Blindwells site is underdevelopment with the road infrastructure and landscaping undertaken, houses under construction and a number of houses completed and already occupied. The Phase 1 part of the Blindwells site occupies the western most part of the wider site which provides access into the site in the form of three distributor roads off the A198. Through the grant of planning permission 21/00120/AMM planning permission has been granted for the internal road infrastructure, drainage and landscaping within the Phase 2 part of the Blindwells site. The Phase 2 part of the Blindwells site occupies the central part of the Blindwells site immediately to the east of Phase 1. The internal road infrastructure, drainage and landscaping the subject of planning permission 21/00120/AMM for the Phase 2 part of the site will connect into and continue the road infrastructure, drainage and landscaping approved within the Phase 1 part of the site through the grant of planning permission 19/00620/AMM.

With the proposed Primary School the subject of this current application occupying a central location within the Phase 2 part of the site it will be accessed and served by the road infrastructure approved through the previous grant of planning permission 21/00120/AMM.

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 Blindwells primary school and early years facility aims to address the pre-school and primary education requirements arising from the housing development in the Blindwells areas as identified in the adopted East Lothian Local Development Plan 2018. The primary school site is at the heart of the masterplan and will have a key role in the formation of a successful and vibrant neighbourhood acting as an anchor point between the varying character areas and uses across the masterplan.

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 it was important that the overall strategy, including the building's location within the site, responded to and integrated with the wider Blindwells masterplan. It has been recognised in the proposals that this site and the school will act as a terminating feature to Princes Park, a linear green corridor within the masterplan. It states that to strengthen the relationship between

the school and the park and to ensure that priority of sustainability and pedestrian and cyclists is conveyed, the car park and drop off areas are minimal and pushed behind the school, hidden from the main frontage. Car parking will also be reserved for staff use only. It also states that the school's sports pitches are located at the southern end of the site, adjacent to the Blindwell's community pitches which offers a comfortable and strong adjacency as well as the opportunity for sharing facilities. Sandwiched between the pitches and the building is the playground, a mixture of hard and soft landscaping with an uncompromised southern aspect.

In terms of design, it states that brick has been chosen as the main material to reference local developments and the historic brick manufacturing within East Lothian's industrial past. The use of the contrasting, pre-cast colonnade and stringer course around the building suitably introduces a contrasting pallet without singling out any separate portions of the building in order to convey a cohesive approach to the 'ownership' of the building and unify the different stages of learning. The pre-cast elements are further enhanced around entrances and feature a timber-effect cladding to create warmth to the entrances and act as a wayfinding tool within the elevation. It also states that brick offers a high quality, long lasting, durable finish that will reduce life cycle costs and minimise maintenance costs. It is also a reusable material which could be recycled in the future, in particular during the phase 2 strategy. The form of the building itself, in particular, the 'sawtooth' roof is another link to the industrial heritage of the area of Blindwells.

It states that the development proposals shall achieve compliance with 'Section 6' of the Scottish Technical Standards and also satisfy the technical requirements of the East Lothian Local development Plan, specifically Policy SEH2 'Low and Zero Carbon Generating Technologies'. The project aspirations are for a Passivhaus principles approach to minimise the building's energy demand.

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 Blindwells.

The proposed school building would be positioned within the central part of the wider Blindwells site. In such a position, occupying as it would a prominent site adjacent to the new distributor road, Princes Park and the Town Park and in close proximity to the local centre and employment land of the indicative masterplan layout, the proposed school building would be readily visible in public views from within the Blindwells site and also visible in longer views from the A1 trunk road to the south.

The proposed school building would present its main entrance elevation to the west towards an internal link road from which pedestrian and cycling access would be taken while its north elevation would face towards the new distributor road to the north that would provide vehicle access to the staff car park and ASN drop off area.

The proposed school building would be predominately two storeys in height and would have an irregular largely square shaped footprint that would measure at most some 56 metres by 60 metres and some 12.4 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 Blindwells new settlement. 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 employment land and the high/medium density housing indicatively shown to be positioned to the south, west and north of it in the indicative masterplan of planning permission in principle 21/01580/P, 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, open spaces in the form of Princes Park and the Town Park and the road network within the site. 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, pre-cast feature elements and timber effect rainscreen 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 its 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, basketball court, 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 21/01580/P, which would be located to the south, west and north 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 21/01580/P.

On all of the foregoing considerations of layout, design and amenity, the proposals are consistent with Proposal BW1 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 BW1 allocation and the indicative Blindwells Masterplan attached to planning permission in principle 21/01580/P.



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 **Council's Flooding Officer** raises no objection to the application and confirms that he has reviewed the updated drainage strategy report and the most recent drainage layout and detail plans. He confirms that a Rainfall Climate Change Allowance of 40% has been incorporated within the report and the associated calculations for attenuation volumes are acceptable. He advises that it would be appropriate for Scottish Water to be kept fully informed of the Drainage Strategy proposed for this site in view of connection to their 'adopted' system within the current Blindwells Masterplan and Overall Site Drainage and SuDS strategies.

Scottish Water have been consulted on this application and raise no objection to it.

The Scottish Environment Protection Agency (SEPA) have been consulted on the application and do not raise any objection to it.

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

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

Historic Environment Scotland have been consulted on this application and advise that they do not have any comments to make on the proposal. Accordingly, the proposals do not conflict with Policies CH4 and CH5 of the adopted East Lothian Local Development Plan 2018.

The Coal Authority have been consulted on this application and originally objected to it on the grounds that the applicant had not demonstrated that the school building would avoid the high wall of the former surface extraction. However, following the submission by the applicant's agent of a detailed drawing which clearly shows the school development avoiding the highwall of the former surface extraction the Coal Authority were re-consulted on the application and withdrew their original objection. As such the Coal Authority has no objection to the application.

The **Council's Contaminated Land Officer** has reviewed the Geo-Environmental Assessment for the site and has advised that he is satisfied that the reporting has been carried out in accordance with best practice guidelines and the relevant standards. The Council's Contaminated Land Officer agrees with the findings of the report and recommendations. He advises that what is now required is for a Remediation Statement to be submitted detailing the exact measures to be implemented for the site and also confirming the validation procedures to be undertaken in order to verify these measures. On completion of the remedial works and prior to occupation of the dwellings, a Verification Report should be submitted confirming that all remedial measures have been successfully carried out. To this end The Council's Contaminated Land Officer recommends a condition be attached to any grant of planning permission to secure this requirement. This matter can be controlled through a condition of a grant of planning permission.

The **Council's Senior Environmental Health Officer** has commented on the application and raises concerns regarding noise. In relation to noise the Council's Senior Environmental Health Officer 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. As such he advises that prior to commencement of development a noise assessment shall be carried out to assess impacts of noise

associated with any proposed plant/equipment serving the school. The assessment report shall also include details of any mitigation measures that may be required to ensure noise associated with any plant and/or equipment does not exceed Noise Rating Curve NR25 at any Octave Band Centre Frequency within any residential property assuming windows within neighbouring sensitive receptor properties are open 50mm for ventilation purposes.

The Council's Senior Environmental Health Officer also advises that there may be impacts from any artificial lighting/floodlights associated with the sports pitches on proposed housing. Accordingly, he advises that a lighting assessment, including an iso-contour plan, be submitted prior to the commencement of development. In particular, he advises that 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 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 Officer** has been consulted on this application and has advised he is satisfied with the planting plan detailed and as such raises no objection to the application. 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 six recommendations in Section 6 which advise that the following be provided:

- i) signalised crossings of the core road network;
- ii) raised table across the vehicular site access;
- iii) provision of bus stops on the core road;
- iv) TROs in the form of double yellow lines or school keep clear zig-zags and school ahead warning signage;
- v) Adoption of the core roads adjacent to the school;
- vi) Introduction of a Junior Roads Safety Officer Scheme.

Road Services advise that the transport statement makes reference to the works that are required to facilitate the proposed Primary School. The internal site design is such that once the site plan has been formally agreed, this will illustrate the detail of the requirements for active travel modes into the school, vehicular access for staff / visitors and servicing, car and cycle parking (including accessible spaces and electric vehicle charging points). The external infrastructure requirements have been agreed through ongoing discussions and with the Section 42 Phase 2 Infrastructure Application permission 21/00120/AMM and will be formalised in the relevant Road Construction Consents. Notwithstanding this, Road Services recommend that the following planning conditions be attached to any grant of planning permission to ensure the delivery of certain key items:

- i) Prior to the commencement of development an updated Transport Statement with relevant appendices detailing all up to date drawings and plans as development of the site progresses. This should make reference to the modal shift targets of the Travel Plan that will seek to significantly reduce the number of vehicle trips to the Primary School in favour of active and sustainable modes;
- ii) Prior to the commencement of development details of the proposed signalised crossings, raised tables and bus stop locations on the adjacent core road network shall be submitted to and approved by the Planning Authority to ensure the appropriate safe routes to school are catered for;
- iii) Prior to the commencement of development details of the waiting restrictions on the core roads in the vicinity of the school, via an appropriate Traffic Regulation Order, shall be submitted to and approved by the Planning Authority to ensure that direct parent drop off / collection of pupils by car does not take place;
- iv) Prior to the commencement of development details of the electric vehicle charging facilities shall be submitted to and approved by the Planning Authority;
- v) Prior to the commencement of development a Stage 2 Road Safety Audit of the roads directly adjacent to the school, including the vehicular and pedestrian / cycle accesses shall be undertaken and submitted to and approved by the Planning Authority;
- vi) Prior to the opening of the school details of the proposed measures to accommodate the additional support needs for pupils with disabilities who require direct access or supported travel, to include pick-up / drop-off (including parents / carers), shall be submitted to and approved by the Planning Authority;
- vii) Prior to the opening of the school a full Travel Plan document setting out initiatives to encourage active and sustainable travel to the school, shall be submitted to and approved by the Planning Authority;
- viii) Prior to the commencement of development a Construction Method Statement (CMS) to minimise the impact of construction activity on the amenity of the local area shall be submitted to and approved by the Planning Authority. The CMS shall recommend mitigation measures to control noise, dust, construction traffic and shall include 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. This shall include delivery/access time restrictions to/from the site; periods of potential traffic control and any temporary traffic signals on the public road; details of pedestrian refuge zones and how pedestrian/cycle/vehicle conflicts will be controlled.

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 primary school and associated structures 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 commencement of development a noise assessment shall be carried out and submitted for approval to assess impacts of noise associated with any proposed plant/equipment serving the school. The assessment report shall include details of any mitigation measures that may be required to ensure 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.

- 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 All new planting, seeding and turfing as detailed on drawing numbers 1952-RAF-XX-XX-D-L-01003-PLANTING PLAN-2130 Rev P06 titled 'Planting Plan' and 1952-RAF-XX-XX-D-L-01001-LANDSCAPE LAYOUT P1-2130 Rev P18 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.

- 7 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.

- 8 Prior to the commencement of use 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.

- 9 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.

- 10 Prior to commencement of development details of the proposed signalised crossings, raised tables and bus stop locations on the adjacent core road network including a timetable for their implementation shall be submitted to and approved by the Planning Authority to ensure the appropriate safe routes to school are catered for.

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 commencement of development details of the waiting restrictions on the core roads in the vicinity of the school, via an appropriate Traffic Regulation Order, including a timetable for their implementation shall be submitted to and approved by the Planning Authority to ensure that direct parent drop off / collection of pupils by car does not take place.

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.

- 12 Prior to commencement of development details of the electric vehicle charging facilities including a timetable for their implementation and availability for use shall be submitted to and approved by the Planning Authority.

The electric vehicle charging facilities shall thereafter be carried out in accordance with the details and timetable so approved and those areas of land shall not thereafter be used for any other purposes than for electric vehicle charging facilities.

Reason:

In the interests of road and pedestrian safety.

- 13 Prior to the commencement of development a Stage 2 Road Safety Audit of the roads directly adjacent to the school, including the vehicular and pedestrian / cycle accesses shall be undertaken and submitted to and approved by the Planning Authority.

Reason:

In the interests of pedestrian and road safety.

- 14 Prior to the commencement of use of the primary school building hereby approved details of the proposed measures to accommodate the additional support needs for pupils with disabilities who require direct access or supported travel, to include pick-up / drop-off (including parents / carers), shall be submitted to and approved by the Planning Authority.

Reason:

In the interests of pedestrian and road safety.

- 15 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 as well as details of the procedures to be followed for the verification of the remedial works. 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. The Statement must be submitted to the Planning Authority for approval.

The approved Remediation Statement must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out the agreed remediation. Following completion of the measures identified in the approved Remediation Statement, a Validation Report should be submitted that demonstrates the effectiveness of the remediation carried out. It must be approved by the Planning Authority prior to the use of the new development.

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.

If no 'unexpected' ground conditions are encountered during the development works, then this should be confirmed to the Planning Authority prior to the use of the new development.

Reason:

To ensure that the site is appropriately remediated and is clear of any contamination found to be present prior to the use of the building approved.