

REPORT TO: Planning Committee
MEETING DATE: 10 January 2023
BY: Executive Director for Place
SUBJECT: Application for Planning Permission for Consideration

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Application No. **18/00109/PM**

Proposal Erection of 171 houses, 24 flats, 14 business units (Class 4, 5, 6), 1 retail unit (class 1), restaurant (Class 3) / Bar (Sui Generis) and associated works

Location **Land at Windygoul
Elphinstone Road
Tranent
East Lothian**

Applicant Mactaggart & Mickel Homes Ltd

Per Iceni Projects

RECOMMENDATION Application Refused

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 development of this site was the subject of a Proposal of Application Notice (Ref: 17/00013/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 5 members of the community attended the pre-application consultation event which was held for one day at the Tranent Loch Centre on the 28th November 2017 and that those attendees made a number of queries and suggestions regarding the proposals. 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 on the proposals.

The application relates to some 8.9 hectares of agricultural land at Windygoul on the southern edge of Tranent, which is allocated by Proposal (PROP) TT3 of the adopted East Lothian Local Development Plan 2018 (the ELLDP) for employment use, infrastructure and associated works.

The application site is bounded to the north by the residential cul-de-sac of Sandee, part of the existing Windygoul residential area of Tranent. It is bounded to the west by the B6414 public road of Elphinstone Road and beyond by the countryside to the west of Tranent. It is bounded to the south by an access road which leads to Elphinstone Research Centre which is operated by Charles River Laboratories and which is situated immediately to the southeast of the application site and beyond that by the countryside to the south of Tranent. The access road also forms part of core path (route no. 345) which leads from Elphinstone to Tranent and which then turns northwards at the eastern boundary of the site and as such bounds the site to the east. Beyond that core path to the east the site is bounded by land which is allocated in the ELLDP under PROPS TT1 and TT2 for circa 550 homes, the expansion of Windygoul Primary School campus as well as other community uses, infrastructure and associated works. Planning permission in principle (reference 18/00937/PPM) has been granted for a residential development with associated access, SUDS, roads, open space, future school expansion site, sports pitch and landscape works on the land allocated by PROPS TT1 and TT2 and a number of detailed consents and approval of matters consents for some of the residential development, the SUDS and the road infrastructure and the extension of the primary school have also been granted. Development of that neighbouring allocated site is now well under way. .

The land of the site is generally flat and sloping downhill from the north to the south. The site is largely enclosed with post and wire fencing except on its northern boundary where it is enclosed with the various high timber boundary treatments of the residential properties of Sandee. There is some hedgerow cover around parts of the boundaries of the site. The site is highly visible being located immediately adjacent to the B6414 public road of Elphinstone Road.

The majority of the site is within an area identified by The Coal Authority as being a Coal Mining Development Low Risk Area. There is a small area in the far northwest corner of the site (a recorded mine shaft) which is identified by The Coal Authority as being of High Risk from former coal mining activities. Small pockets on land within and bounding the site are identified as being at risk from surface water flooding. 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.

PROPOSAL

Detailed planning permission is sought for the erection on the site of 171 houses, 24 flats, 14 business units (Class 4, 5, 6), 1 retail unit (class 1), a pub/restaurant (Sui Generis/Class 3) and associated works. The associated works include the provision within the site of roads, footpaths and car parking, the landscaping of the site, the provision of a sustainable urban drainage basin (SUDS) and the provision of open space and equipped play space within the site.

The application has been amended a number of times since its registration and those amendments include a reduction in the total number of residential units proposed from 203 to 195 units, revisions to the layout, the housing mix and tenures and the provision of business units, enlarging the areas of SUDS provision, removing proposed artwork, adjusting road layouts and landscape details. Further neighbour notification and advertisement of the proposals has been carried out where necessary following revisions made.

The proposed site layout plan shows how the proposed 195 residential units would be accommodated over the majority of the site along with associated access roads, parking areas, landscaping, open space, paths and a Sustainable Urban Drainage System (SUDS) basin. The residential units would comprise of 49 Affordable Housing units for social rent, 59 homes for mid-market rent and 87 houses for private sale with a range of house types being proposed. The residential units would all be two storey and would comprise of a mix of flats, terraced, semi-detached and detached houses. Of the 49 Affordable Homes for social rent, 24 would comprise of 1 bedroom flats and 25 would comprise of terraced or semi-detached 2-4 bedroom houses. The private housing for mid market rent and for sale would comprise of a mix of 2, 3 and 4 bedroom housing within 59 detached, 28 semi-detached and 59 terraced houses.

The business and commercial units would be located in the south west corner of the site and would consist of a Class 1 shop measuring some 372 square metres, a public house/restaurant measuring some 585 square metres, 12 business units (Class 4, 5, 6) each measuring some 92 square metres and 2 business units (Class 4, 5, 6) each measuring some 163 square metres. The proposed shop would be located in the south west corner of the site, the proposed restaurant to the north of it and the proposed business units would be arranged in two terraced rows, one attached to the east side of the proposed shop and one in a north to south orientation to the east of the proposed restaurant.

Vehicular, pedestrian and cycle access to the site would be taken by way of a new access into the site from the B6414 public road of Elphinstone Road to the west of the site. The proposed site layout details how the proposed access would be formed just south of the mid point of the site and would continue on as a 'Distributor Road' from its junction with Elphinstone Road at the western boundary of the site, along the full width of the site to the eastern boundary where it would merge with the approved primary spine road being formed through the adjoining residential site of PROP TT1. All of the site to the north of the proposed distributor road would be developed with residential units and the majority of the site to the south of the proposed distributor road would also be developed with residential units, with the proposed business units, the shop and restaurant/pub being located in the western end of the site to the south of the proposed distributor road. Bus stops are detailed along the proposed distributor road and a series of footpaths and shared use paths linking into land to the west, south, east and northeast of the site are proposed. Two equipped play areas would be formed, one on either side of the proposed distributor road and a series of parking courts to serve the residential and business/commercial uses are proposed around the site.

The application is also supported by a number of detailed drawings, supporting statements and reports including a Landscape Visual Impact Assessment (LVIA), Transport Assessment, Preliminary Ecological Appraisal, Design and Access Statement, Air Quality Assessment, Economic Impact and Employment Land Assessments, Planning Statement, Flood Risk Assessment, Site Investigations and Noise Impact Assessment, 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 11th January 2018 the Council issued a formal screening opinion to the applicant's agent. The screening opinion concludes that the proposed development is not likely to have a significant effect on the environment such that consideration of environmental information is required before any grant of planning permission. It is therefore the opinion of East Lothian Council as Planning Authority that there is no requirement for the proposed development to be the subject of an EIA.

DEVELOPMENT PLAN

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

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Development Plan (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 TT3: Employment at Windygoul South, Tranent, PROP CF1: Provision of New Sports Pitches and Changing Accommodation, PROP ED4: Tranent Cluster Education Proposals, 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 and PROP T28: Junction Improvements at Elphinstone Road and Edinburgh Road.

Relevant ELLDP Policies are TC1: Town Centre First Principle, EMP1: Business and Employment Locations, DP1: Landscape Character, DP2: Design, DP3: Housing Density, DP4: Major Development Sites, DP8: Design Standards for New Housing Areas, DP9: Development Briefs, HOU2: Maintaining an Adequate 5 Year Effective Housing Land Supply, 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, RCA1: Residential Character and Amenity, DCN2: Provision for Broadband Connectivity in New Development, SEH1: Sustainable Energy and Heat, SEH2: Low and Zero Carbon Generating Technologies, 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, T26: Transport Improvements at Tranent Town Centre, T31: Electric Car & Bus Charging Points, T32: Transport Infrastructure Delivery Fund 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.

Paragraph 28 of Scottish Planning Policy states that the planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost.

Paragraph 32 states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Proposals that accord with up-to-date plans should be considered acceptable in principle and consideration should focus on the detailed matters arising. For proposals that do not accord with up-to-date development plans, the primacy of the plan is maintained and this SPP and the presumption in favour of development that contributes to sustainable development will be material considerations.

It is stated in SPP that local development plans should allocate a range of sites for business, taking account of current market demand, location, size, quality and infrastructure requirements; whether sites are serviced or serviceable within five years; the potential for a mix of uses; their accessibility to transport networks by walking, cycling and public transport and their integration with and access to existing transport networks. The allocation of such sites should be informed by relevant economic strategies and business land audits in respect of land use classes 4, 5 and 6. Business land audits should be undertaken regularly by local authorities to inform reviews of development plans, and updated more frequently if relevant. Business land audits should monitor the location, size, planning status, existing use, neighbouring land uses and any significant land use issues (e.g. underused, vacant, derelict) of sites within the existing business land supply. New sites should be identified where existing sites no longer meet current needs and market expectations. Where existing business sites are underused, for example where there has been an increase in vacancy rates, reallocation to enable a wider range of viable business or alternative uses should be considered, taking careful account of the potential impacts on existing businesses on the site.

SPP states that development on prime agricultural land should not be permitted except where it is essential: as a component of the settlement strategy or necessary to meet an established need, for example for essential infrastructure, where no other suitable site is available; or for small-scale development directly linked to a rural business; or for the generation of energy from a renewable source or the extraction of minerals where this accords with other policy objectives.

In relation to new housing developments, SPP highlights that these 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 (TT3 Windygoul Employment Site, 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 six written representations received to this application, 5 of which raise objections to the proposed development and 1 of which supports the 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:

*The site is allocated as PROP TT3 in the ELLDP for employment use only, not housing or mixed use. The application disregards this and therefore approval should not be granted;

*There is a token amount of employment units to hide the fact that this is a residential proposal;
East Lothian Council needs to encourage businesses to the area for local employment;

*There are a number of affordable housing units in this plan, but where are the jobs for the people that would be moving into these properties;

*Concerns about traffic impacts, air quality impacts, impacts to local services, health care, schools, nurseries, sports facilities and public transport from the proposed development and in conjunction with the adjacent housing site;

*It is acknowledged in the ELLDP that the cumulative impact of the proposed sites in Tranent will require further expansion of Windygoul Primary School including its campus. The LDP contains provision for PROP TT2: Windygoul Primary School Expansion Land, a site of 1.24ha, sufficient to accommodate the additional non-denominational primary school requirements arising from the LDP housing allocations within the Windygoul Primary Zone. No provision is made within the LDP or indeed PROP TT2 : Windygoul Primary School Expansion Land to accommodate the amount of residential units proposed in this application. It is therefore suggested that there is no primary education capacity, planned or otherwise, to accommodate the pupil product arising from additional dwellings on the scale proposed in this application;

*Given the education issues raised in the point above and in view of the sites designation as employment, any such proposal for housing on land not allocated for residential development would require to comply with SDP Policy 7 and its associated criteria. In order to meet the SDP Policy 7 criteria the applicants would require to identify a shortfall in the 5 yr housing land supply and thereafter address any infrastructure which is required however the applicants acknowledge that the Council has a 5 year effective housing land supply at present and is not seeking to argue against this point. In respect of infrastructure the applicants planning statement proposes making contributions towards the primary education constraints identified in the LDP and their solution is simply to make additional contributions. However, the contributions in respect of Windygoul Primary School relate to the campus expansion, which is fixed in the LDP at 1.24ha. The payment of additional contributions in themselves cannot address the issue of further campus expansion which would be required to support the additional dwellings. In this case, the proposal has the potential to prejudice the delivery of TT1: Windygoul South in respect of education infrastructure and for this reason cannot meet the criteria set out in SESPlan Policy 7.

*Traffic impacts (volume of traffic on the B6414 Elphinstone Road due to the new spine road which would be used as a "rat run" to the south of Tranent missing out the town centre), increased accident risk to persons living along this new route, poor visibility on the north side of the proposed junction from the site to Elphinstone Road, effects of increased traffic when taken into account with the large amount of regular traffic using Elphinstone Road including major disruption at the roundabout and traffic lights at the Brig Inn all of which will contribute to higher noise levels and disturbance;

*The idea of linking Elphinstone Road and Ormiston Road would create an increase in traffic that the current roads system could not possibly cope with leading to hazardous

conditions for pedestrians, cyclists and vehicles alike, impacting on the Tranent community as a whole;

*The building works which could carry on for several years could cause noise, disturbance and nuisance and a health issue as wind in this area usually comes from the south west and west. Any building detritus will be blown towards the existing housing causing excessive dust build up;

*The lack of landscaping along the northern edge of the site does not accord with the Development Brief which states a 10m wide landscape edge should be provided incorporating a hedgerow and specimen tree planting. This constitutes a loss of privacy;

*Proposal to form pedestrian access to Sandee is not necessary when there are pedestrian accesses proposed to the east and west. This will increase footfall in a quiet cul-de-sac;

*Before any agreement for further housing in the area is given the necessary infrastructure and local services should be in place to avoid making things worse;

*In respect of the detailed layout and in particular the alignment of the distributor road, this location is not agreed with the developer of the adjoining site and that developer has worked on a masterplan for the TT1 Windygoul South site taking into account the Site Investigation, topographical survey and the requirements of the draft Development Brief provided with the proposed LDP and has concluded that the link road will require to be located further north than shown on the proposed site layout;

*The level of open space proposed within the development may not be sufficient to meet the Council's standards;

*The proposal for a retail unit and restaurant have the potential to impact upon the vitality and viability of the Tranent town centre. The Council should consider whether a retail impact assessment is required to support the inclusion of such uses. It is also the case that these uses are contrary to the provisions of the proposed LDP which allocates the site for employment uses;

*In respect of transport impacts, the Council's SYSTRA traffic model, upon which their developer contributions framework is based, will not have tested the implications of additional dwellings on the scale proposed in this application on the wider network and were certainly not taken into account in arriving at the contribution levels assumed for the various interventions which are identified in the LDP. The accompanying Transport Assessment appears to take no account of the allocation of housing at PROP TT1: Windygoul South or the proposed link road although the layout does make provision for a distributor road up to the eastern boundary of the site. Furthermore, the scoping of the TA suggests the use of a roundabout on the Elphinstone Road, to access the development and control traffic speeds on this road. The layout does not include a roundabout and no explanation for this is given in the TA;

*The strategic development plan (SESplan) requires the plan to support the delivery of additional employment land in East Lothian. In addition, the plan is required to ensure that it provides a range and choice of marketable sites to meet anticipated requirements. In order to comply with the requirements of the strategic development plan the Council must provide a range of employment sites to meet future employment needs. The protection of an employment allocation which can contribute towards a range and choice of employment sites throughout East Lothian should be maintained. The importance of maintaining the TT3 Employment allocation is further strengthened by the DPEA

Examination Report (March 2018) which recommended that the TT1 Windygoul South allocation be revised to be a residential allocation rather than for mixed-uses, thereby removing any possibility of employment uses on the adjacent TT1 site;

*Concerns about lack of any Drainage Impact Assessment to support the applicant's drainage strategy and impact on SUDS.

In the one representation supporting the proposal, the reason given for supporting the proposal is because there are no proposals to form a link road from the proposed development into the road network of Sandee to the north of the site.

COMMUNITY COUNCIL COMMENTS

Tranent and Elphinstone Community Council, as a consultee on the application, raise objections to the planning application. The Community Council advise their grounds of objection and concerns are due to the current inefficiencies in the infrastructure to cope with the proposed development. Their concerns specifically relate to the roads, medical facilities, cemetery and schools within Tranent being unable to cope with the increase in population should this development be permitted to proceed. In particular, their concerns can be summarised as follows:

* This, along with other developments in and around Tranent, will put too much pressure on the traffic infrastructure particularly at the south end of Tranent between the Ormiston and Elphinstone Roads and at the junction at the Brig Inn. The Community Council consider that there will be issues to traffic flow at this junction and at Tranent High Street, Bridge Street and Church Street and state that any increase in traffic congestion will be a major issue to the community and will lead to traffic taking short cuts through roads which are not deemed appropriate to receive such traffic;

* Increased traffic and traffic congestion will lead to increased vehicle emissions, which will have a detrimental effect on the health of the community;

* There is already pressure on Tranent Medical Practice to meet current demand and following discussion with the surgery the Community Council are told that no improvement to the facility is being considered to accommodate this or other proposed developments;

* The current cemetery is already struggling to meet demand and it is no longer possible to purchase plots there;

* The site at Kingslaw is a much more viable site for development owing to its proximity to the A1 trunk road allowing for access roads to be more readily constructed to facilitate the development;

The Community Council also makes more general comments in their consultation response to the Council's Local Transport Strategy which do not relate specifically to this application. They conclude their comments by stating that in their opinion; much more consideration needs to be given to the needs of the community and the redevelopment of the town centre. In particular, the disused council properties which they feel should be a priority. They state that any further development and population increase would be detrimental at this time and that in order to sustain a community, there needs to be facilities for the whole community lest we run the risk of destroying the heart of the town and creating a commuter town devoid of community infrastructure and community spirit.

PLANNING ASSESSEMENT

The Council's adopted Development Brief for the site sets out guiding principles, and indicative design, to be followed, where possible. These include (1) site access being taken from the B6414 Elphinstone Road and the creation of an access corridor with a 6m wide sinuous carriageway, a 3m wide shared use path on one side and a 2m wide footway on the other, linking to Site TT1 (residential allocation). The access corridor will require a controlled crossing for the core path and should be designed to incorporate bus movements through the site and beyond to site TT1. (2) retention and enhancement of the existing hedgerow on the western boundary. Development fronting onto the B6414 should be appropriately designed and orientated. Buildings on this edge should be of a dark green, blue or grey colour and be of a maximum height of 2 storeys, to best fit into the rural landscape; (3) retention and enhancement of the existing hedgerow on the southern boundary of the site. The creation of a gateway to the development from the south and the extension of the 40mph speed limit on Elphinstone Road to the site boundary; (4) the safeguarding and upgrading of the core path along the eastern boundary of the site; (5) a 10m wide landscape edge should be provided along the northern boundary. Consideration should be given to the residential amenity impacts of development on the occupants of the houses to the north of the site; and (6) the site layout should allow pedestrian and cycling connectivity through the site to link to existing paths to the north that connect to Tranent.

The adopted Development Brief for the site has been written to correspond with the site's allocation for employment use hence why it suggests the use of dark green, blue or grey for buildings and a requirement for a 10m wide landscape edge to separate employment uses from the existing residential area to the north. These requirements would not necessarily apply to a residential development and as the majority of the site is proposed through this application to be developed for residential use, the proposals do not on the whole comply with the guiding principles of the adopted Development Brief. However the proposals for site access, the formation of a road through the site designed to link to the spine road of site TTI, the incorporation of bus stops, paths, the safeguarding and enhancement of the core path and some of the landscaping principles have been incorporated into the design and, where they haven't, they could be required through conditions imposed on a grant of planning permission.

The proposed development would be laid out with a permeable street pattern, links to the core path and other paths surrounding the site, road and pedestrian/cycle accesses and open spaces and play areas. There would be a broad mix of house types which would include flats, terraced, semi-detached and detached houses paying due regard to the existing built form and density to the north and east of the site. Rear parking courts are proposed in parts of the site layout to reduce the dominance of vehicle parking.

The architecture of the proposed houses and flats would be of a traditional pitched roof form and a relatively traditional design overall. Their design would not be dissimilar to the existing residential units to the north of the site, and those that are being developed to the east of the site. If planning permission is to be granted a condition can be imposed on the grant of planning permission for the proposed development to ensure that the finishing materials, colours and mix of colours to be used respect the character and appearance of this part of Tranent. A similar condition could be imposed requiring the finishing materials, colours and mix of colours to be used on the business units, shop and restaurant/pub to be approved in advance by the Planning Authority. Subject to such controls the proposed residential part of the proposed development would provide an attractive residential environment and the business, retail and pub/restaurant units would also be of a satisfactory design and finish. On these matters the proposed development would not conflict with Policies DP1, DP2, DP3, DP8 or with the Council's

'Design Standards for New Housing Areas' SPG.

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. There would also be sufficient distance between the proposed residential units and the other uses proposed for the site so as to not cause harmful overlooking or overshadowing from the other uses to the future occupants of the proposed residential units.

The proposed new houses and flats would be so sited, oriented and screened such as not to harm the privacy and amenity of existing or planned neighbouring or nearby residential properties through overlooking or overshadowing and in this respect would not conflict with Policy RCA1 of the ELLDP. Where rear garden boundaries face or run parallel with roads these would be enclosed by feature boundaries in either stone or stone with timber panel infills and not full height close board fencing. Securing appropriate boundary treatments is a matter which can be controlled by a condition on a grant of planning permission.

The proposed Site Layout plan details the areas of open space proposed throughout the site. These include open space around the two play areas proposed, strips of open space around the residential areas and a wider strip of open space along the full length of the eastern boundary of the site leading towards the SUDS basin at the northeast corner of the site. The applicants Planning Statement confirms that the proposed development includes for 60m² open space provision per dwelling and states that across the site, over 17,000 sqm of open space is proposed including provision of two play areas, an enhanced green core path route and a SUDS basin. This would be in accordance with Policy OS3 of the ELLDP. If planning permission is to be granted for the proposed development it would be prudent to impose a condition on a grant of planning permission to require that the SUDS remains free of enclosures to ensure it provides open space as intended by the applicant.

It is proposed to provide two equipped play areas within the site, one near the northwest corner of the site and one near the southern boundary of the site. Both of the play areas proposed would be easy and safe to reach on foot and would be well overlooked by surrounding dwellings. If planning permission is to be granted conditions can be imposed requiring full details of the play equipment and layout of the play areas, a timetable for their installation and arrangements for their maintenance to be submitted to and approved by the planning authority prior to the occupation of the residential units of the proposed development. Subject to such controls the proposed development is consistent with the requirements for play provision contained in Policy OS4 of the ELLDP.

The Council's **Landscape Projects Officer** has been consulted and having considered the proposals for the landscaping of the site and the impact of the proposals on the its wider landscape setting he advises that he does not object to the proposals and is generally content with the landscaping proposals for the site. However he makes a number of recommendations for changes to be made to the landscaping of the site and for further details to be submitted in order to fully assess the landscape proposals in conjunction with details on underground services, street lighting etc. in order to ensure such servicing would not have an impact on the final position of the proposed planting. If planning permission is to be granted for the proposed development a condition can be imposed on the grant of planning permission requiring an amended landscape scheme for the site to incorporate the recommendations of the Council's Landscape Project Officer. Subject to such controls the proposals would not conflict with Policies DP1 or

NH8 of the ELLDP

The Council's **Biodiversity Officer**, having considered the proposals and the submitted Preliminary Ecological Appraisal, raises no objection to the application, is satisfied the proposal would not have a harmful impact on existing wildlife or on the biodiversity of the area. The proposals therefore don't conflict with Policy NH5 of the ELLDP, which generally presumes against new development that would have an unacceptable impact on the biodiversity of an area.

The Council's **Access Officer** has been consulted on the proposals and has stressed the importance, and the policy requirements, to safeguard and upgrade the core path on the eastern boundary of the site. This requirement can be dealt with through a condition on a grant of planning permission if planning permission is to be granted for the proposed development. The Council's Access Officer otherwise states he's disappointed by the proposed provision of open space throughout the site and the provision for non-motorised transport. He notes that the majority of paths proposed throughout the site are adjacent to the roads and he would have been keen to see better active travel routes and informal areas for walking dogs. Notwithstanding these comments he does not object to the proposed development. Subject to the aforementioned condition being imposed, in respect of active travel routes and core paths the proposal does not conflict with Policy T4 of the ELLDP.

The Council's **Road Services** have considered the Transport Statement submitted with the application and generally agree with its findings. They raise no objection to the layout of the proposed development, of the site access from Elphinstone Road, of parking provision proposed or of the likely impacts of additional traffic generation on the existing local road network. Road Services recommend that the following requirements be met through conditions if planning permission is to be granted for the proposed development:

- *the provision of continuous footways on both sides of streets where houses are to be accessed;
- * The provision of details demonstrating that all road and path connections from the site to external destinations can be made smoothly and without abrupt changes in level or direction. This shall include details of the distributor road connection to the distributor road within allocated site TT1, the 2 metres wide core path along the eastern boundary of the site tying in with the 2 metres wide path approved to be provided on the boundary of the adjacent site (TT1);
- * The provision of a right hand turning lane from Elphinstone Road into the site, a new signalised crossing of the distributor road within the site and a gateway feature on Elphinstone Road at the south west corner of the site incorporating a change in speed limit to 40mph;
- * The submission of Road Safety Audits;
- *The replacement of the existing raised table crossing on Gavin's Lee with one in line with the path proposed from the application site all as detailed within the Transport Assessment Addendum – Appendix 2;
- *The dimensions of driveways and parking areas meeting minimum Road Services standards;
- *The provision of cycle parking for flatted dwellings;
- *the completion of footpaths and path connections prior to occupation of residential units;
- *Provision for bus shelters where bus stops are proposed;
- * Provision of detailed swept path analysis of the proposed road layout;
- * The provision of electric vehicle charging throughout the proposed development;
- * The submission of a Quality Audit'
- *The approval of a Green Travel Plan for the site; and

* The submission and approval of a Construction Method Statement prior to the commencement of any development of the site.

These requirements of Road Services can be secured by conditions on a grant of planning permission for the proposed development. With the imposition of conditions to cover these recommendations of Road Services, the proposed development does not conflict with Policies T1, T2, T31 or W3 of the ELLDP.

Immediately to the south east corner of the application site lies the Elphinstone Research Centre which is operated by Charles River Laboratories as a research facility which includes many labs on site as well as a clinical waste incinerator. Elphinstone Research Centre is regulated by SEPA and the clinical waste incinerator, abatement and waste handling areas of that site is authorised by SEPA and has a permit to operate under SEPA's Pollution Prevention and Control (PPC) regulations to operate there.

The Council's **Senior Environmental Health Officer** and the Scottish Environmental Protection Agency (SEPA) have both made comments on noise, air quality and odour matters having considered the proposals and the Noise Impact and Air Quality Impact Assessments submitted.

SEPA advise that while they have not received many complaints regarding the Elphinstone Research Centre in respect of odour or noise (they state the site does not tend to be noisy but it does have fans running when the incinerator is in operation), even with the use of best industrial practice, mitigation and odour abatement techniques, it is possible there may be residual impacts outwith the regulated site's boundary. Such impacts may not necessarily represent non-compliance with the site licence conditions and therefore cannot always be controlled by SEPA. SEPA therefore advise It is important that the planning authority fully considers whether it is appropriate for the proposed development to be sited adjacent to a regulated site, and if the proposal is compatible with existing and proposed adjacent land use, and whether there are adequate separation distances between the sites or incorporated within the layout of the proposed development, for example to mitigate where possible for process failures which could generate odour problems. SEPA states that as this is a matter on which they consider the planning authority must make an informed decision on, they do not object to the development proposal in this situation.

On air quality matters SEPA state that they do not object to the proposed development on air quality grounds but strongly recommend that good practice to reduce emissions and exposure is incorporated into all developments so as not to contribute to a creeping baseline, leading to the declaration of an 'Air Quality Management Area' in Tranent. They recommend that this should include the applicant being encouraged to commit to installing electric vehicle 7Kw chargers as part of the development design.

The Council's Senior Environmental Health Officer has also provided comments on odour, noise and air quality considerations.

In terms of odour, the Council's Senior Environmental Health Officer raises no concerns that operations carried out at the Research Centre will result in harmful odour impacts on the future occupants of the residential development proposed. He advises that details of any extraction system to be used within the proposed pub/restaurant on the site including efflux velocities of stack emissions and any odour control measures to be implemented In the form of primary, secondary and tertiary treatments and location of any extract vents should be submitted to the planning authority for approval prior to operation of the pub/restaurant premises and that any such extraction system be maintained to ensure its continued satisfactory operation. This is a matter which can be imposed as a condition

on a grant of planning permission.

In terms of air quality, the Council's Senior Environmental Health Officer advises that he agrees with the conclusions of the applicant's technical studies which are that the development, including in conjunction with the committed developments in the Tranent cluster, will not have a significant impact upon local air quality, in particular on Tranent High Street. He advises that no exceedances of Air Quality Objectives are predicted to arise. The Council's Senior Environmental Health Officer does nevertheless agree with SEPA that it would be good practice for the developer to incorporate electric vehicle charging provision within the proposed development. The Council's Senior Environmental Health Officer raises no concerns that operations carried out at the Research Centre will result in harmful air quality impacts on the future occupants of the residential development proposed.

In terms of noise, the Council's Senior Environmental Health Officer advises that without any mitigation measures, noise impacts on occupiers of the proposed housing could potentially arise from road traffic to the west, from the Elphinstone Research Centre to the southeast as well as the proposed business and commercial units within the proposed development. For those reasons the applicant's consultants have carried out and submitted to the planning authority a Noise Impact Assessment which the Council's Senior Environmental Health has reviewed. The Council's Senior Environmental Health Officer advises that he agrees with the conclusions of the Noise Impact Assessment submitted which are that with the necessary mitigation in place, there would be no harmful noise impacts on the future occupants of the residential development proposed. In order to mitigate against these potentially harmful noise impacts the Council's Senior Environmental Health Officer recommends that if planning permission is to be granted for the proposed development, conditions covering the following measures are imposed:

- a) A 2m high acoustic barrier shall be provided along the Western and Northern boundaries of the rear gardens of plots 148-151 as shown in Appendix C of Bureau Veritas' Technical Report Ref 6473667/rmg/R1 of 2nd February 2018 (plots 38-41 as detailed on the revised 'Site Layout' plan revision AB). The barrier shall be constructed so that it is continuous, close boarded so that it has no holes or gaps and has a minimum surface mass of 10kg/m².
- b) The glazing and acoustic specification of bedrooms and living rooms of Plots 131-137, 148-151 and 153-155 as shown in Appendix C of Bureau Veritas' Technical Report Ref 6473667/rmg/R1 of 2nd February 2018 (plots 21-27, 38-41 and 142-144 as detailed on the revised 'Site Layout' plan revision AB) shall meet the requirements of Table 6.3 of Bureau Veritas' Technical Report Ref 6473667/rmg/R1 of 2nd February 2018.
- c) Noise from any associated plant/equipment serving the proposed business/industrial, commercial units and also the pub/restaurant shall not exceed Noise Rating curve NR20 at any octave band frequency between the hours of 2300-0700 and Noise Rating curve NR25 at any octave band frequency between the hours of 0700-2300 within any residential property. All measurements to be made with windows in properties of noise sensitive receptors open at least 50mm.
- d) The boundaries of the external eating/drinking area serving the proposed pub/restaurant shall be provided with an acoustic barrier 1.8m high. The barrier shall be constructed so that it is continuous, close boarded so that it has no holes or gaps and has a minimum surface mass of 10kg/m².
- e) Any external eating/drinking area associated with the proposed pub/restaurant shall only be used between the hours of 1100-2000 hours on any day.

f) Any external eating/drinking area associated with the proposed pub/restaurant shall not be used unless and until any doors providing access to the beer garden have been provided with a self-closing mechanism. Any such doors shall remain self closing and shall not be retained in a continuous open position thereafter unless otherwise approved by the Planning Authority

Subject to the imposition of the aforementioned conditions relating to noise and odour impacts future residents would benefit from a satisfactory level of privacy and residential amenity and the residential development of the site would not prejudice ongoing operation of the Research Centre. On these counts and subject to the aforementioned controls the proposals would not conflict with Policies NH12 and NH13 of the ELLDP.

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**. The SUDS basin proposed incorporates landscaping to enhance its appearance. The detailed SUDS design drawing states that the side slopes of the SUDS shall be a minimum 1:4 gradient to allow for easy access and to reduce health and safety concerns.

On flood risk, foul and surface water drainage matters, The Scottish Environment Protection Agency (SEPA) raise no objections. SEPA have provided regulatory advice on these and other matters for the applicant's attention and their comments have been forwarded to the applicant's agent.

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.

The Council's Team Manager for Structures, Flooding & Street Lighting has reviewed all of the proposed drainage and SUDS details submitted and raises no objections on flood risk grounds. He 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 development 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)'.

As the application site is within a Coal Mining Development Referral Area the Coal Authority have been consulted on the application. A Report on Site Investigations has been submitted with the application. The Coal Authority concurs with the applicant's technical consultants that coal mining legacy potentially poses a risk to the proposed development and that remedial measures are required to ensure the safety and stability of the proposed development. Should planning permission be granted for the proposed development, the Coal Authority recommends that a condition be imposed requiring the treatment of the recorded mine entry in the manner set out by the applicant's technical consultants prior to the commencement of development on site. This can be required by a condition if planning permission is to be granted for the proposed development.

In relation to considerations of contaminated land issues, taking account of the historic

uses of the site and the possibility of associated contamination issues, a condition should be imposed if planning permission is to be granted requiring that a Geo-Environmental Assessment be carried out by the applicant with the Report on it submitted to and approved by the Planning Authority prior to any site development works taking place. This requirement can be secured through a condition attached to a grant of planning permission for the proposed development.

Policy DCN2 of the ELLDP requires that development proposals of 5 or more homes, or proposals for employment generating uses with a floor area of 100m² or larger, 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. If planning permission were to be granted for this proposed development a condition could be imposed on it requiring details of the digital infrastructure to be submitted to and approved by the Planning Authority prior to the commencement of any development.

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. These actions would be expected to include the provision of electric vehicle charging within the development to serve the residential, business and commercial uses proposed. If planning permission were to be granted for this proposed development such a condition should be imposed. Subject to compliance with this condition the proposed development would not conflict with Policies SEH1 or 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 TT3 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 and on air quality as appropriate.

The matter of sporting infrastructure is assessed towards the end of this report.

The East Lothian Council Health and Social Care Partnership have been consulted on the proposed development but they have not provided any comments on it nor have they advised on the ability of its health and social care services to support this proposed residential development which is not part of the housing strategy of the ELLDP.

Policy T32 of the ELLDP specifically relates to the package of transportation interventions to mitigate the cumulative impact of development on the transport network which have been identified by the Council in consultation with Transport Scotland. In line with Policy DEL1, relevant developments are required to contribute to the delivery of these transportation interventions, on a proportionate, cumulative pro-rata basis, as set out in Developer Contributions Framework Supplementary Guidance.

The Council's **Planning Obligations Officer** in consultation with the Council's **Road Services**, advises that for the combined business/commercial elements of the development proposal the contributions required for each transport intervention are as detailed below:

- *Improvements to Old Craighall Junction (PROP T15): £21.81
- * Improvements to Salters Road Interchange (PROP T17): £85.57
- * Improvements to Bankton Interchange (PROP 17): £335.10
- * Musselburgh Town Centre improvements (PROP T21): £130.88
- * Tranent Town Centre Improvements (PROP T27 and T28): £731.56
- * Rail Network Improvements (PROP T9 and T10): £110.98

The Council's Planning Obligations Officer in consultation with the Council's Road Services, advises that for the residential development the contributions required for each transport intervention are as detailed below:

- *Improvements to Old Craighall Junction (PROP T15): £593.86
- * Improvements to Salters Road Interchange (PROP T17): £2,321.21
- * Improvements to Bankton Interchange (PROP 17): £9,086.65
- * Musselburgh Town Centre improvements (PROP T21): £3,550.06
- * Tranent Town Centre Improvements (PROP T27 and T28): £19,836.82
- * Rail Network Improvements (PROP T9 and T10): £3,006.90

The total contribution required for transportation improvements resulting from cumulative impacts of the development is therefore £39,811.41.

The total developer contributions towards the transportation interventions of £39,811.41 (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. Indexation will be applied from the date of adoption of the Developer Contribution Framework Supplementary Guidance (March 2019) using BCIS All-in Tender Price Index.

Network Rail have been consulted on the application and they advise that they welcome the approach taken by East Lothian Council in Policy DEL1: Infrastructure and Facilities Provision of the ELLDP and in its Developer Contributions Framework in mitigating impacts from development on transport network capacity and contributing to sustainable economic growth. They agree with the recommendations of the Council's Planning Obligations Officer in respect of Rail Network Improvement Contributions and are content that these can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. They make no other comments on the application.

Transport Scotland have been consulted on the application and they too advise that they welcome the approach taken by East Lothian Council in Policy DEL1: Infrastructure and Facilities Provision of the ELLDP and in its Developer Contributions Framework in mitigating impacts from development on transport network capacity and contributing to sustainable economic growth. They agree with the recommendations of the Council's Planning Obligations Officer in respect of strategic transport network contributions towards improvements at the Old Craighall, Salter's Road and Bankton trunk road junctions and are content that these can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. They make no other comments on the application

The Council's Planning Obligations Officer in consultation with the Council's **Executive Director for Education and Children's Services** informs that the application site is located within the school catchment areas of Windygoul Primary School and Ross High School, Tranent. PROP TT2 provides for the expansion of Windygoul Primary School campus in line with PROP ED4 to accommodate the impacts generated by PROP TT1

and other housing sites in the school's catchment area.

The Council's Planning Obligations Officer in consultation with the Council's Executive Director for Education and Children's Services advises that since this application was registered the Developer Contribution Framework (DCF) Supplementary Guidance (SG) has been adopted and the Council has purchased the additional school land identified on page 43 of the DCF as being required to increase the area of the Windygoul Primary Campus to accommodate development and therefore costs set out in the Planning Obligation Officer/Executive Director for Education and Children's Services Response reflect those as well as the capital per unit costs set out on page 43 of the DCF SG.

The Council's Planning Obligations Officer in consultation with the Council's Executive Director for Education and Children's Services advises that financial contributions are required to provide additional capacity at Windygoul Primary School and Ross High School to accommodate development in these catchments. They advise that the Developer Contribution Framework Supplementary Guidance (page 43) identifies these contribution levels as follows:

Secondary School Ross High: £4,953.00 Per Unit (£965,835 For 195 Units)

Primary School Windygoul PS: £6,672.00 Per Unit (£1,301,040 For 195 Units)

Total £2,266,875

It is further recommended that, as per all SG:DCF based contributions, indexation will be applied from March 2019 to dates of payment using BCIS All-in Tender Price Index.

The required financial contribution towards the provision of additional accommodation at Windygoul Primary School and Ross High School 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.

In terms of additional campus land at Windygoul Primary School the Council's Planning Obligations Officer in consultation with the Council's Executive Director for Education and Children's Services advises that the land cost for the primary school has been worked out individually for the site and the indexation of the land cost is different. The Council purchased the 1.105ha required to sufficiently expand the Windygoul PS campus in May 2022 from Walker Group, owner of allocated housing site TT1 Windygoul South. The 1.105ha of land was valued by the DV at £1,525,000. The existing school campus was in deficit by 0.5ha and therefore the Council was required to pay that proportion of the site value = £690,045.25. The remaining value of the site (£834,954.75) is entirely the responsibility of new development and therefore that cost should be proportionally covered by catchment development, including this proposal, if permitted. Factoring in the 561 units permitted at site TT1 and the 120 units allocated at site TT4, the total number of catchment units is 876. Therefore the financial contribution sought from this proposal is £953.14 per unit (£185,863.22 in total). The Council has forward funded the purchase of the part of the site associated with development and therefore there is a borrowing cost that needs to be covered. This borrowing cost should be reflected by interest due on the payable contribution. The £185,863.22 sought should be subject to interest from May 2022 (date of site acquisition) to the date of payment using the Public Works Loan Board (PWLB) 30 Year Maturity Rate at the date of payment, to reflect the Council borrowing during that period.

The required payment of a financial contribution of a total of £185,863.22 (subject to interest from May 2022) towards the provision of additional campus land at Windygoul Primary School 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 Council's Planning Obligations Officer in consultation with the Council's Executive Director for Education and Children's Services advises that Education and Children's Services do not object to the application providing the applicant enters into a Section 75 Agreement to secure the above education contributions to increase the capacity required to accommodate the pupils generated from the proposed development. The Section 75 Agreement would set out the agreed approach and provisions of payment.

As per the Adopted Supplementary Guidance: Developer Contributions Framework, all financial developer contributions will be increased in line with indexation from March 2019 using the All-in Tender Price Index published by the Building Cost Information Service (BCIS) Limited for the Royal Institution of Chartered Surveyors. The exception in this instance is the Windygoul School Campus Land Contribution, which will be subject to interest from May 2022 using Public Works Loan Board (PWLB) 30 Year Maturity Rate until the due date of payment as set out in the subsequent S75 legal agreement.

The applicant has confirmed that they are willing to enter into an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement to secure the Transportation and Education Provision contributions detailed above.

The Council's Executive Director for Education and Children's Services has considered the applicant's proposed housing completion rates in the context of the projected cumulative impact on the school estate arising from committed housing sites in the Windygoul Primary School and Ross High School catchment areas. The impact on the schools has been assessed based on the phasing provided by the applicant and is based on the completion rate of 40 dwellings in year 2023/24, 38 dwellings in year 2024/25, 44 dwellings in year 2025/26, 50 dwellings in year 2026/27, 23 dwellings in year 2027/28. 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 the rates set out above. This will ensure that sufficient education capacity can be provided for the pupil product of the development.

The Council's **Housing Enabler** advises that in accordance with the Council's Affordable Housing Policy, 25% of the proposed 195 residential units require to be affordable housing units. The applicant is proposing that as well as the 49 affordable housing units required by the Council's Affordable Housing Policy, a further 59 of the total number of dwellings on the site would be provided for mid market rent, and as such an over provision of affordable housing, which equates to 55% of the total number of residential units proposed being delivered as affordable housing with a mix of tenures proposed to be delivered through social rent and mid market rent, is being proposed by the applicant. The Council's Housing Enabler advises that the Housing Strategy and Development Service generally welcome an over provision of affordable units if residential development of the site is to progress however they also acknowledge that the site is allocated in the ELLDP for economic use. If planning permission were to be granted the terms for the provision of the affordable housing proposed 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, the proposal would be consistent with Policies HOU3 and HOU4 of the ELLDP and the Council's adopted SPG on Affordable Housing.

Notwithstanding the aforementioned design, visual impact, open and play space, landscape, access, road safety, amenity, infrastructure and other technical considerations, the primary material consideration in the determination of this application is whether or not the principle of the proposed development accords with development plan policy and other supplementary planning guidance and if not, whether there are material considerations that outweigh any conflict with the development plan and other supplementary planning guidance.

East Lothian Council adopted its Local Development Plan on 27 September 2018. The ELLDP sets out a development strategy for the future of East Lothian to 2024 and beyond, as well as a detailed policy framework for guiding development. It sets out the Council's settled view of where new development should and should not occur, including housing, education, economic and retail development, new transport links, and other infrastructure. The application site is an allocation of the plan which provides part of the plan's strategy.

The application site is allocated by 'PROP TT3: Employment at Windygoul South, Tranent' of the ELLDP for employment use, infrastructure and associated works. PROP TT3 advised that Policy EMP1 of the ELLDP applies to the site. Policy EMP1 states that within areas allocated for business and employment, uses within Classes 4, 5 and 6 of the Town and Country Planning (use Classes)(Scotland) Order 1997 are supported. Policy EMP1 further states that other employment generation uses may also be supported in these locations subject to the town centre first principle (Policy TC1) and provided there would be no amenity conflicts or other unacceptable impacts.

The Class 4, 5 and 6 Business Units proposed for the site are uses which are supported by the site's allocation. The shop unit and the pub/restaurant are not uses which fall within Classes 4, 5 or 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 but they are employment generation uses and therefore may also be supported, subject to the town centre first principle and provided there would be no amenity conflict or other unacceptable impacts. As detailed elsewhere in this report the Council's Senior Environmental Health Officer does not raise concerns on amenity conflict subject to the imposition of conditions to control noise and odour emissions.

Policy TC1: 'Town Centre First Principle' of the ELLDP seeks to direct retail, commercial leisure, office and other development that would attract a significant footfall to town centres. The policy also gives qualified support to the consideration of out of centre locations. The supporting text states "a flexible and realistic approach will be taken to the application of this policy".

Both the retail unit and the pub/restaurant proposed through this application are small scale development which would not generate a high level of footfall. The pub/restaurant would have a gross floor area of some 585 square metres and the shop just under 400 square metres. The shop is described in the applicant's planning statement as a local neighbourhood facility. Given the small scale nature of the proposed pub/restaurant and the shop proposed it is not necessary to look at a sequential assessment of alternative locations, as would be the case for larger proposals. Consequently, the proposed pub/restaurant and shop are not contrary to the site's allocation or to Policy EMP1 or TC1 of the ELLDP and are not inconsistent with the overall objective of encouraging

economic growth in suitable locations.

However, the proposed Class 4, 5 and 6 Business Units, the shop and the pub/restaurant would occupy a very small part of the overall site. The majority of the site would be occupied by a residential development of 195 units. Residential uses fall within Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997. Neither PROP TT3 or Policy EMP1 of the ELLDP give support to a residential use on any part of the application site. The housing element of the proposed development would be sited on and thus would result in the loss of land within the application site that is part of the established employment land supply and is allocated by the adopted ELLDP for employment use to in part meet the identified need for business land in East Lothian to enable and sustain the economy of East Lothian.

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. Given that this proposal is primarily for a residential development of the application site it does not implement a proposal of the plan. On this basis, the loss of 8.9 hectares of prime agricultural land is contrary to Policy NH7 of the adopted ELLDP and SPP on development on prime agricultural land.

The housing element of the proposed development is therefore contrary to PROP TT3 and Policies EMP1 and NH7 of the adopted ELLDP.

Notwithstanding this, it is necessary to consider whether there are material considerations in this case that outweigh development plan policy.

The applicant has submitted a series of reports and other documents to support their proposals for residential development on this site. These include an 'Economic Impact Statement (August 2019)', 'Windygoul Tranent Employment Land Assessment (August 2019)', a 'Response to East Lothian Council Covid-19 Recovery and renewal Ambition, Windygoul South' report, a letter from Places for People Capital which confirms their support for the proposed mid market rental homes proposed for the site and other supporting information.

In their supporting information the applicant's consultants claim that development of a hypothetical 1 hectare employment project at this site is commercially unviable. Their view is that the size of the proposed development site is equivalent to a large town / city estate and is disproportionate to its long term market potential in South Tranent. They claim that it is highly unlikely that this site will be developed for commercial property uses.

Furthermore the applicant's agent considers that the LDP allocation of a total of 231 hectares of employment land, 63.9 hectares of which are new allocations, is significantly in excess of the South East Scotland Strategic Development Plan (SDP) (June 2013) which sets a requirement for 76 hectares of employment land to be allocated in East Lothian to meet demands.

As such the applicant considers a mixed use development to be an appropriate development of the site and they propose that they would develop and own the proposed business units (15,500sqft of business space over 14 units). This space would be let out and operated by their own commercial division. They state that this would secure the

delivery of part of this site for employment uses and would provide small commercial units for which there is some demand. They consider that development of the proposed homes would enable the delivery of these commercial units and to secure this the applicant would be willing to accept a legal agreement or condition restricting the completion of the residential element of the development to such a time as the commercial units are delivered.

The applicants state that their mixed-use proposal would:

- Deliver employment uses on this site, of a scale for which there is agreed demand in East Lothian;
- Remove the servicing and ownership constraints affecting the delivery of this whole site for employment uses;
- Compensate for the loss of the full employment site;
- Deliver the western portion of the proposed link road to tie in with the Walker site and to alleviate traffic concerns around Windygoul Primary School;
- Deliver a fully serviced site for a family pub / restaurant;
- Deliver a fully serviced site for a local convenience retailer for the wider masterplan area, to be built by the applicant once an occupier is found (for example in Symington, South Ayrshire, where the applicant successfully delivered a CoOp) ;
- Deliver 108 affordable homes comprising 49 new homes for social rent by Hillcrest HA or other RSL and 59 homes for mid-market rent by Places for People Capital;
- Deliver 89 new private homes;
- Provide payment of approximately £2.3m in developer contributions.

The applicants consider that the proposed commitment to develop the commercial units would be a significant material consideration as this would ensure the delivery of employment uses on the site. It should be noted that the applicant propose to develop and own the proposed business units and propose to deliver a fully serviced site for the pub/restaurant use and retail use but they do not necessarily propose to build these commercial units. They consider that the proposed development would secure delivery of 15,500 sqft of commercial space with economic benefits including supporting 145 FTE jobs, £9.9 million total net GVA generated in Scotland once fully operational and £70,000 uplift in business rate payments to East Lothian annually once all commercial space is occupied. They consider that the housing element of the mixed-use proposal would directly enable commercial development to take place and would contribute to the Council's Economic Development Strategy.

In terms of their proposals to provide 55 % affordable housing on the site the applicants consider this to be a significant material consideration in light of the existing and future affordable housing need and what they describe as the very limited delivery of affordable housing units across the Council in recent years.

The applicant's agent considers that "The proposed development can make a positive contribution to the council's recovery from the COVID-19 pandemic particularly in relation to the Council's target areas for recovery of economy, community, health & social care, education and environment and infrastructure. The benefits of the proposed development are significant and include delivery of affordable and private for sale homes in a location which meets the Scottish Government desire for the creation of 20 minute neighbourhoods. The proposed development would also provide improved transport links, new business space and a significant level of direct and indirect economic benefit to East Lothian Council."

In response to the applicants case the Council's **Policy and Project Manager**, having considered the proposals and the applicant's supporting information point out that

Paragraph 93 of Scottish Planning Policy identifies that the planning system should allocate sites that meet the diverse needs of the different sectors and sizes of businesses which are important to the plan area in a way which is flexible enough to accommodate changing circumstances and allow the realisation of new opportunities. In order to satisfy this requirement the ELLDP allocates TT3 Windygoul South Employment Site to help deliver its employment need over the plan period.

The Policy and Projects Manager explains that the ELLDP went through thorough examination and as part of the examination process there was an objection to the allocation on the grounds that there was no need for further employment land as there is a lack of demand and employment opportunities at Macmerry and Elphinstone Road have not been utilised.

In response to the argument about the lack of need the Reporter agreed that the majority of land in existing industrial areas is in employment use, while accepting that from time to time there may be vacancy in these established areas. However, in order to comply with the requirements of the Strategic Development Plan the LDP should respond to the diverse needs and locational requirements of different sectors by ensuring that there is a generous range and choice of employment sites which are highly accessible to communities across in East Lothian. Therefore the Reporter considered that the Council must provide a range of employment sites to meet future employment needs within Tranent and throughout East Lothian. The Reporter found no reason to disagree with the councils approach and concluded that the site will support the requirement to ensure that there is a range and choice of employment sites across the area.

The Policy and Projects Manager notes that the applicant states that the Kingslaw appeal in 2019 (PPA-210-2071) was dismissed and planning permission in principle was refused by the DPEA for a mixed use development consisting of residential and commercial use with associated works (planning application reference 16/00671/PPM). The Policy and Project Manager considers that the applicant views this as meaning that 4.4ha of employment land is 'still' available for employment uses and therefore there is no need for the Windygoul South Employment land allocation. However, both of these sites are allocated in the LDP for employment land in their entirety and the decision at Kingslaw simply upholds this position.

The Policy and Projects Manager notes the applicant's argument that there is an over generous supply of employment land in East Lothian. Notwithstanding this, the Policy and Projects Manager comments that it does not then require the need for an alternative use such as housing instead. The proposal is to provide 195 housing units including 108 (55%) affordable units. This would be made up of 49 social rent and 59 mid-market rent and 87 private sale. However, any housing on this site would simply supplement an already generous housing land supply, for which sufficient sites have been allocated in the LDP and which currently exceeds the five year requirement of Scottish Planning Policy and Policy HOU2 of the ELLDP. As a consequence, he advises that 'windfall' housing or additional affordable units should not be given any weight as a material consideration and any allocation for an alternative use of this site should be argued through the next LDP.

On the applicant's claim that the provision of 55 % affordable housing on the site should be considered to be a significant material consideration in light of the existing and future affordable housing need and what they describe as the very limited delivery of affordable housing units across the Council in recent years the Council's Policy and Projects Manager comments that while any additional affordable housing would be welcome on a site allocated for housing, this site is not a housing site therefore additional affordable housing is not required. He points out that Proposal TT1 (housing land at Windygoul

South), adjacent to the current proposed site, is allocated for residential use that can yield 550 homes, of which approximately 141 affordable homes will be delivered in the Tranent area. This site has planning permission and is in the process of being delivered. In addition to housing land at TT1 - Windygoul South the ELLDP allocates TT4 (Lammermoor Terrace) for circa 120 homes, TT5 (Bankpark Grove) for circa 80 houses and TT7 (Macmerry North) for circa 150 homes. He considers that these sites will all yield affordable housing in accordance with Policy HOU3 and within the Tranent area.

In relation to the applicant's references to "20 minute neighbourhoods" and other emerging NPF4 references, the Council's Policy and Projects Manager notes that although the Council are currently preparing a new LDP that looks to incorporate the new legislation that is set out in the Planning Act 2019 and the emerging NPF4, the current ELLDP 2018 is the existing legislative plan under which this application must be assessed. As noted earlier in this report 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.

The site plays a part in East Lothian's economic development strategy 2012 to 2022 and supports the economic spatial strategy of the Strategic Development Plan and Local Development Plan. The Council's **Economic Development Manager** notes that Tranent is in an excellent location with good access to the A1 corridor and is currently expanding with new housing developments, most pertinent of which is the Windygoul Site TT1 allocated for 550 homes. Employment land does not come forward all at the same time in the way that housing land usually does and therefore it is important that a range of employment sites is available to meet future employment needs.

The Council's Economic Development Manager notes that in order to meet the continued need for employment land and premises in East Lothian the ELLDP continues to allocate the application site in its entirety for employment use by its proposal TT3. This was endorsed by the Reporters in their Examination Report and approved by East Lothian Council. The Economic Development Manager confirms that having considered the proposals and supporting information submitted by the applicant they continue to support the development of the full site for employment uses. They consider there is an acknowledged shortage of employment land to meet demand and they do not support the residential development of the site.

As set out above, consideration must be given to the potential impact of the proposed development on the infrastructure of the area.

The Council's Planning Obligations Officer in consultation with the Council's **Amenity Services** advise that in terms of Sports Pitches and Changing Accommodation this residential site requires to be dealt with as a windfall site, as this site was assessed in the ELLDP as employment land and did not take into consideration the requirement to provide sports and changing accommodation for people generated from this proposed 195 housing units. The Council's Amenity Service have advised that if the development of this site for 195 residential units had been included within the ELLDP, Amenity Services would have sought a further full grass pitch and two team changing pavilion to be provided within the site. However, as a windfall development it is important to secure relevant contributions consistent with other developments within East Lothian.

The Council's **Planning Obligations Officer** in consultation with the Council's **Amenity Service** therefore advises that a sporting contribution from the proposed development is necessary on the basis of the total number of units contributing towards a full size grass sports pitch and associated 2 team changing pavilion based on the Local Development Plan costs of £450,000 for changing facilities and £185,000 for grass pitch and pro-rotas to this development. Taking a pro-rata approach this requires the applicant to provide a sport contribution of £247,650 indexed linked from March 2019 until date of payment using the BCIS All-in Tender Price Index. The Council's Planning Obligations Officer advises the Council would use this sports contribution in Tranent to enhance the sporting facilities on Council land to accommodate this residential development.

The Council's Amenity Services advise that they would object to this application if the sport provision contribution is not provided and secured through a Section 75 Agreement to ensure that there is sports facilities provision to accommodate the development within Tranent.

The necessary developer contributions towards sports provision of £247,650 (index 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. Indexation will be applied from the date of adoption of the Developer Contribution Framework Supplementary Guidance (March 2019) using BCIS All-in Tender Price Index.

However, the applicant has confirmed that they are not willing to enter into an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement to secure the Sports Provision contributions detailed above, as they are of the view that there is no policy requirement for a contribution towards sports pitch provision for the proposed development.

On the matter of policy, 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. This includes windfall proposals. This is also confirmed in the Developer Contributions Framework Supplementary Guidance. Proposal TT3 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. 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.

In this case the proposed development is a windfall proposal. Moreover based on the advice of the Council's Planning Obligations Officer in consultation with the Council's Amenity Service there is a justified requirement for a sports contribution of £247,650 indexed linked from March 2019 until date of payment using the BCIS All-in Tender Price Index. Without such contribution the proposal is unacceptable due to the lack of sports infrastructure, contrary to Policy DEL1 and Proposals TT3 and CF1 of the adopted East Lothian Local Development Plan 2018.

In conclusion, the residential development proposed in this application is significantly contrary to the development plan, specifically Proposals TT3, CF1 and Policies EMP1, NH7 and DEL1 of the East Lothian Local Development Plan and also contrary to Scottish Planning Policy: June 2014. The benefits of the proposed new business and other commercial units and the applicant's proposals for delivery of these and the applicant's

proposals to deliver 55% affordable housing on the site do not outweigh these provisions of the development plan and the loss of the remainder of the allocated business site to housing. There are no other material considerations which outweigh the proposals non-compliance with the Development Plan.

If approved the proposed housing development would set an undesirable precedent for the development of new housing on land elsewhere in East Lothian that is allocated for employment use, the cumulative effect of which would be the depletion of the Council's supply of established land for employment use to the detriment of the economy of East Lothian.

RECOMMENDATION

It is recommended that planning permission be refused for the following reasons:

- 1 The proposed residential development would result in the loss of employment land that is part of the established employment land supply of Tranent, to the detriment of East Lothian's economy, contrary to Proposal TT3 and Policy EMP1 of the adopted East Lothian Local Development Plan and Scottish Planning Policy: June 2014.
- 2 The proposed residential development would lead to an unacceptable loss of prime agricultural land, contrary to Policy NH7 of the adopted East Lothian Local Development Plan 2018 and Scottish Planning Policy: June 2014.
- 3 Without the developer contributions towards sports provision the proposed development is unacceptable due to a lack of sports infrastructure and is therefore contrary to Policy DEL1 and Proposals TT3 and CF1 of the adopted East Lothian Local Development Plan 2018.