



## NOTICE OF THE MEETING OF THE PLANNING COMMITTEE

**TUESDAY 10 JANUARY 2023, 10.00am  
VIA A DIGITAL MEETING FACILITY**

---

### Agenda of Business

#### Apologies

#### Declarations of Interest

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

1. Minutes for Approval: Planning Committee, 6 December 2022 **(pages 1-26)**
2. Planning application no. 18/00109/PM: Erection of 171 houses, 24 flats, 14 business units (Class 4, 5, 6), one retail unit (Class 1), restaurant (Class 3)/Bar (Sui Generis) and associated works, Land at Windygoul, Elphinstone, Tranent **(pages 27-52)**
3. Planning application no. 22/00992/AMM: Approval of matters specified in Condition 1 of planning permission in principle 21/01474/PPM – relating to the detailed layout, siting, design and external appearance of the Onshore Substation and onshore transmission works associated with the Offshore Inch Cape Wind Farm, former Cockenzie Power Station site **(pages 53-64)**
4. Planning application no. 22/00180/PM: Erection of a school/children's nursery and associated works, Whitecraig Primary School, Whitecraig, Musselburgh **(pages 65-87)**

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

**4 January 2023**

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

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

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

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

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

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





## MINUTES OF THE MEETING OF THE PLANNING COMMITTEE

TUESDAY 6 DECEMBER 2022  
VIA A DIGITAL MEETING FACILITY

1

---

**Committee Members Present:**

Councillor N Hampshire (Convener)  
Councillor C Cassini  
Councillor J Findlay  
Councillor A Forrest  
Councillor N Gilbert  
Councillor C McGinn  
Councillor S McIntosh  
Councillor K McLeod  
Councillor C Yorkston

**Other Councillors Present:**

Councillor L Menzies

**Council Officials Present:**

Mr K Dingwall, Service Manager – Planning  
Ms E Taylor, Team Manager – Planning Delivery  
Ms S McQueen, Planner  
Ms J McLair, Planner  
Mr N Millar, Planner  
Mr C Kiely, Planner  
Mr C Grilli, Service Manager – Governance  
Ms M Haddow, Transportation Planning Officer  
Mr G McLeod, Transportation Planning Officer  
Ms A Stewart, Housing Enabler  
Mr D Ogilvie, Service Manager – Housing Strategy & Development  
Mr R Yates, Transportation Planning Officer  
Mr I Chalmers, Senior Engineer – Flood Protection  
Mr S Cooper, Team Manager – Communications  
Mr J Canty, Transportation Planning Officer

**Clerk:**

Ms B Crichton

**Visitors Present/Addressing the Committee:**

Item 2: Mr N Sutherland and Mr R Stevenson  
Items 3 & 4: Mr S Telfer, Mr J Cutler, and Mr J Swift  
Item 5: Mr H Harper, Mr M Lindsay, Mr S Baird, and Ms K Heaney  
Item 6: Mr B Weddell  
Item 7: Ms M Macsorley and Mr B Harley  
Item 8: Ms C Davie

**Apologies:**

Councillor D Collins  
Councillor J McMillan

**Declarations of Interest:**

Items 3 & 4 – Councillor Hampshire  
Item 6 – Councillor Forrest

**1. MINUTES OF PLANNING COMMITTEE MEETING, 1 NOVEMBER 2022**

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

**2. PLANNING APPLICATION NO. 22/00909/PM: SECTION 42 APPLICATION TO VARY CONDITION 3 OF PLANNING PERMISSION 21/00231/PM TO ALLOW SUNDAY WORKING DURING THE PERIOD OF TIME OF 0800 TO 1700 HOURS, SMEATON RECYCLING CENTRE, WHITECRAIG, MUSSELBURGH**

A report was submitted in relation to Planning Application No. 22/00909/PM. Ciaran Kiely, Planner, presented the report, summarising the key points. The report recommendation was to grant consent.

Officers and representatives of Hamilton Waste Management responded to questions from Members. Robin Stevenson, Managing Director, advised that the site had operated 47 of the last 52 Sundays at the expected level per the current application; complaints had not been raised with the site, nor concerns highlighted by SEPA.

Councillor Findlay expressed concern about the noise generated by loose chains on lorries, and asked about planning control over the recommended reduced number of HGV movements on a Sunday. Mr Kiely advised that any complaints would normally come through SEPA as the regulatory body, but he had not been made aware of complaints during the one-year trial period. Responding to further questions, Mr Kiely advised that two HGV movements per hour from 8am-5pm on a Sunday was significantly reduced when compared to the rest of the week, which allowed for 160 HGV movements per day. He advised that SEPA were a consultee and had licensed the facility for Sunday working on a permanent basis.

Neil Sutherland, agent, and Mr Stevenson were present on behalf of the applicant. Mr Stevenson provided background information on the site, which employed 125 local people and was the first waste management company in Scotland to become carbon neutral. It directed 98% of materials away from landfill, and produced solid recoverable fuel, helping to reduce the need for fossil fuels. SEPA monitored operations, including noise, and made regular checks and unannounced visits. He advised that the skip motor had been moving containers on the day of the site visit, and made a commitment to look at how the chains were being handled in response to Councillor Findlay's concerns. He reiterated the importance of Sunday working in enabling the company to bid for various contracts. Mr Sutherland drew attention to Policy 1 of National Planning Framework 4 (NPF4), which said that significant weight would be given to the global climate and nature crisis, which was relevant to the site's contribution to the circular economy. He also highlighted the contribution of the site's design in containing noise; SEPA monitored noise regularly and no requirements had been breached.

Mr Stevenson responded to questions from Members. He advised that complaints were handled by the Health and Safety Manager, and written confirmation would be sent to SEPA of direct complaints to the company. There was an email address available for the community to raise concerns and an open invitation for neighbours to come onsite. Mr Stevenson felt that neighbour comments that the site had not operated on Sundays reflected that disruption had not been caused.

Councillor McGinn, feeling there was some lack of communication about the success of the trial, suggested a continuation of the trial period. Mr Stevenson highlighted that there had been no parameters set as to the recording of data during the trial, but reiterated that no complaints had been received. He made clear that another temporary consent would not suit the business.

Councillor McLeod noted concern over the business's complaint handling, but was pleased to hear of contracts gained. They were a large employer in the area, and the thriving business fit well within the 'growing our economy' Council Plan aim. He would support the application. Councillor McGinn had been impressed by the company's environmental credentials.

Councillor McIntosh acknowledged concerns over noise, but felt a suitable balance had been struck by restricting HGV movements. She commented that the circular economy approach to recycling would help East Lothian and other local authorities meet carbon neutral targets. She would support the application.

Councillor Forrest had not supported the previous application and would not support the current application, and said that residents raised complaints regularly. He felt the two-decibel increase in noise was of significance in a countryside location, and did not have confidence in SEPA's complaint investigation.

The Convener was aware there were concerns over proposals, but recycling material required to be processed. He said there was no evidence that the level of noise on a Sunday was unacceptable in the location, and he would support the application. He also commented that communications should be ongoing with SEPA to ensure minimal residential disruption.

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

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

## DECISION

The Committee agreed to grant planning permission subject to the 9 undernoted conditions including varied Condition 3 of planning permission REF: 21/00231/PM:

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

Reason:

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

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

Reason:

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

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

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

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

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

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

Reason:

To ensure the site does not become contaminated.

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

Reason:

In the interest of the amenity of the area.

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

Reason:

In the interest of the amenity of the area.

**Sederunt:** Councillor Hampshire left the meeting, and the Committee agreed that Councillor Forrest would chair the meeting in the absence of the Convener and Depute Convener.

### **3. PLANNING APPLICATION NO. 21/00093/PM: SECTION 42 APPLICATION TO REMOVE CONDITION 2 OF PLANNING PERMISSION 90/00411/P, MONKS MUIR CARAVAN PARK**

A report was submitted in relation to Planning Application No. 21/00093/PM. Stephanie McQueen, Planner, referenced correspondence relating to the caravan site licence having expired and the site not being in line with Scottish Government guidelines. On the matter of the site licence, she advised that this was not a material consideration in the determination of the planning application, and the mobile homes: model standards for residential site licenses were controlled through the site licence process and not the planning process. Further, the agent had requested a change to recommended Condition 2, to remove a

reference to drawing number MON 1130 F Rev 1, which referred to the North East Site Layout Wildlife Garden, and Ms McQueen advised that this change could be accommodated. Ms McQueen then presented the report, summarising the key points. The report recommendation was to grant consent.

Responding to questions from Councillor Forrest, Ms McQueen advised that planning permission 90/00411/P ('the 1990 permission') had imposed an occupancy restriction that had not been imposed on previous permissions. Therefore, when the 1990 permission was granted, there were caravans on the site that had previously been occupied without restriction. These consents from the 1960s had not been revoked. Therefore, it would appear that the 1990 restriction had not been complied with due to earlier consents not having been revoked, and it would not therefore be unreasonable for Condition 2 of the 1990 permission to be removed. Monks Muir would remain a caravan park site, and the definition as to whether this was a park homes site fell within the licensing process rather than the planning process; she understood that a grant of planning permission meant that a licence could not be refused.

Sandy Telfer, agent, spoke to the application on behalf of the site owner, Bakersfield Properties Ltd. He highlighted that although planning applications 21/00093/PM and 21/00092/PM were being heard and determined separately, they stood or fell together. Unless all conditions were modified in accordance with both applications, the re-application of the historic 1990 conditions would render the development unworkable; it would not reflect the position at the caravan site and would place the site owner in an immediate breach of planning control. He noted that a detailed planning history of the site had been provided, but not the licensing history, which he felt was a relevant material consideration in the determination of an application which sought to remove seasonal occupancy restrictions. The licensing authority had issued a licence since 1970 for use as a caravan site, and in 2011, the council issued a site licence for both residential mobile homes (permitted to be occupied on an all year round basis) and holiday caravans (subject to seasonal occupancy restrictions). The site licence was renewed in 2015, which only referred to residential mobile homes. Mr Telfer then questioned how the licensing authority could grant a licence permitting static residential caravans to be occupied on a year-round basis when that would appear to breach of Condition 2 of the 1990 permission. He said the 1990 decision notice, found on the council's planning portal, indicated that it was granted unconditionally; although there was described on the planning portal a report of handling detailing conditions, Mr Telfer argued that interested parties were entitled to proceed on the basis of what was disclosed in the decision notice. He hoped that Members would accept that the Company Director's attitude to the licensing of the site was not as cavalier as it may have appeared. Mr Telfer explained that, should the current application be refused, the site licence that the applicant had already applied for would also be refused, because they would be unable to demonstrate that year-round occupation of the site had been authorised. Mr Telfer also asked Members to bear in mind that refusal of the licence would undermine the statutory protections in place for the 66 park home owners.

Responding to questions from Councillor McIntosh, Mr Telfer argued that on the face of it, the 1990 decision notice appeared to have been granted unconditionally, particularly when there were already caravans on site which could be occupied without restriction, and the site owner had taken this view. Ms McQueen advised that it was unusual for a 1990 decision notice to be scanned on the system, but earlier decision notice formats had conditions attached on a separate sheet of paper; she thought that the planning authority did indeed hold a 1990 decision notice with attached conditions. Keith Dingwall, Service Manager – Planning, questioned why an application had been made to vary conditions if a view had been taken that there were no conditions attached. He explained that the previous manager had been satisfied that the pre-1990 permissions did not contain any occupancy restrictions, and on that basis, caravans could be occupied year-round. Mr Dingwall reiterated the officer



recommendation that there was sufficient justification to agree to remove the occupancy condition.

Jim Cutler read a statement on behalf of the residents' association. All homes had a communal garden included in their package. Bakersfield Properties Ltd. had not kept to model standards in terms of communal space, which stated that one tenth of the useable site must be allocated for recreational use. Three years previously, site owners decided to redevelop the communal garden space, placing five static park homes on the site; these were sold without informing buyers no planning permission was in place. The residents' association would not be in favour of any residents losing their homes. He highlighted that Monks Muir was a residential static caravan park for over-50s, but two touring caravans had residents well below this age, and did not pay council tax. The SSPCA and dog warden were aware of dog breeding associated with the caravans, and he raised concern about the safety of children close to the busy road. He said the toilet and shower block had been built in a commercial yard used for storing machinery without consulting residents; was felt the building was detrimental and surplus to requirements. Mr Dingwall highlighted several concerns raised by Mr Cutler as not being material considerations in the determination of the planning application.

Jon Swift, representing Dunpender Community Council, spoke against the application. The community council wished to echo the residents' association's remarks. He commented on the extremely complex and anomalous planning history associated with the site. He highlighted that the residents' green space had been taken away, and that further development of the site, including five caravans and a yard, had seen the communal garden ruined. He said that numerous Scottish Government guidelines for caravan sites had been broken. He also questioned whether the community of residents continued to be allowed to use the amenity building.

Councillor Forrest proposed the recommended amendment to Condition 2, removal of the reference to drawing MON 1130 F Rev 1 (which referred to the North East Site Layout Wildlife Garden), and this was seconded by Councillor McGinn.

Councillor Forrest then moved to the vote on the report recommendation, to grant consent, taken by roll call. Members unanimously supported the officer recommendation.

## **DECISION**

The Committee agreed that planning permission be granted for the removal of Condition 2 of planning permission P/0411/90, subject to the following:

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

Reason:

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

2. That part of the site between the existing house and the A199 classified public road shall only be used and set out in accordance with the site layout shown on the following drawings: MON 001 F Rev 1 Landscape Strategy Plan and MON 002 B Rev 1 South Area Landscape Plan, and shall be retained

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

Reason:

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

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

Reason:

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

#### **4. PLANNING APPLICATION NO. 21/00092/PM: SECTION 42 APPLICATION TO VARY CONDITIONS 1, 4 AND 3 OF PLANNING PERMISSION 90/00411/P, MONKS MUIR CARAVAN**

A report was submitted in relation to Planning Application No. 21/00092/PM. Stephanie McQueen, Planner, presented the report, summarising the key points. The report recommendation was to grant consent.

Mr Telfer spoke to the application. He said that any attempt to plant trees along the boundaries, per the Landscape Officer's suggestion, would incur disruption to the entire site, including moving of caravans and service media; he hoped that Members would accept the alternative proposition made by the applicant. He highlighted that tabled objections from February 2021 included points which were not material planning considerations. He also highlighted that objectors did not seek for the five additional park homes to be removed. As part of the landscaping, a serviced plinth would be removed from the top end of the site and this would be reinstated as a landscaped garden area, which would improve the biodiversity of the area.

Responding to a question from Councillor Forrest, Mr Telfer advised that a number of trees would be placed in large planters and distributed to residents. He submitted that the introduction of more trees would exacerbate maintenance problems for elderly residents, including moss on roof tiles and leaves clogging drains. He advised that existing trees were inspected regularly by accredited tree surgeons.

Mr Cutler spoke against the application. He highlighted that the wildlife garden at the far end of the park had been used for recreational purposes until the site owners removed around 40 trees without relevant permissions. He reported that the residents' association had to carry out tree inspections because the site owners had been uninterested in undertaking further maintenance on overhanging branches.

Mr Dingwall said officers had been successful in securing additional planting, including the wildlife garden. He suggested that Members could amend Condition 3 to make clear that the wildlife garden must be for the use of residents and maintained thereafter as such.

Mr Swift spoke against the application on behalf of Dunderpender Community Council. He commented that the amenity of the site had been taken away, and said the proposed wildlife garden would be very small. He commented on the loss of trees within the site. He reiterated that mobile homes and yard had been placed on land that should have remained as green space.

Councillor McIntosh was concerned about the planning history associated with the site, with a tendency to apply for retrospective permissions or no permissions at all. She was concerned about reports of tree felling and caravans placed on land without planning permission, with the planning authority having to facilitate these works after the fact. On balance, she felt that residents' right to a home was of utmost importance, meaning she would reluctantly support the application, but nevertheless wished to register her concerns about the site owners' pattern of behaviour and her sympathy for objectors.

Councillor Cassini proposed that Condition 3 be amended, per Mr Dingwall's earlier suggestion, and this was seconded by Councillor McIntosh. Mr Dingwall proposed a form of words.

Councillor Forrest then moved to the vote on the report recommendation, to grant consent, taken by roll call. Members unanimously supported the officer recommendation.

## **DECISION**

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

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

Reason:

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

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

Reason:

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

3. The site shall be landscaped in accordance with the landscaping scheme contained in the following documents and drawings: MON 001 F Rev 1 Landscape Strategy Plan, MON 002 B Rev 1 South Area Landscape Plan and MON 1130 Rev 1 North East site Layout Wildlife Garden, MON 1150 Trees in Planters, MON 020 Heavy Standard Rootballed Tree, MON 021 Heavy Standard Bare Root Tree, MON 023 Hedge Details, and Landscape Management Plan dated 19 January 2021. Details of the

specific location of the 8 trees in planters shall be submitted to and approved in advance in writing by the Planning Authority prior to their placement on the site. The landscaping shall be completed in its entirety during the first planting and seeding season following this grant of planning permission and thereafter that planting shall be maintained in accordance with the submitted Landscape Maintenance and Management Plan. The Wildlife Garden shall be made available for use by residents of the caravan park and shall thereafter be retained as such. The landscaping layout shall be retained in this manner unless otherwise agreed in writing in advance by the Planning Authority in accordance with drawings which shall be submitted to and approved in writing by the Planning Authority.

Reason:

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

**Sederunt:** *Councillor Hampshire re-joined the meeting.*

**5. PLANNING APPLICATION NO. 21/010608/PM: ERECTION OF 86 HOUSES, FOUR FLATS AND ASSOCIATED WORKS, LAND TO THE NORTH OF CASTLEHILL, MAIN STREET, ELPHINSTONE**

A report was submitted in relation to Planning Application No. 21/010608/PM. Emma Taylor, Team Manager – Planning Delivery, presented the report, summarising the key points. The report recommendation was to grant consent.

Officers responded to questions from Members. Anna Stewart, Housing Enabler, advised that affordable housing would be delivered for social rent through the East Lothian Housing Association (ELHA). Morag Haddow, Senior Roads Officer, advised that a robust gateway to make clear that drivers were entering a village environment was sought (details to be agreed), and paths would also contribute to a reduction in speed. Mr Dingwall took note that Local Members wished to be consulted on the gateway. Ms Haddow also advised that a signal crossing would be installed in the vicinity of the school.

Responding to further questions, Ian Chalmers, Senior Engineer – Flood Protection, said that officers had met with the developer to consider temporary measures following the flooding around Tranent Road two weeks previously; this would involve a 1.5m bund along the length of the development and a sump pump. The developers had also performed inspections to identify whether any pipes and field drains had been broken. Sustainable Drainage System (SuDS) basins had been approved; officers were still in discussions with the developer around this longer-term measure. Mr Dingwall said that national guidance on flooding would not preclude development of these areas. This was an allocated site for housing with planning permission already in place. He highlighted consultee advice that the proposed flood prevention mitigations were suitable.

Responding to further questions, Ms Taylor said it was not unusual for the number of houses to be increased to make best use of land, there would still be adequate open space and play areas. Mr Chalmers advised that the drainage statement had been designed to industry standards to protect against a one-in-thirty-years critical flood event. Officers did not expect the increased housing to have an adverse impact on any flood risk. Mr Chalmers also described the agreed route for water to be directed. He expected that any SuDS pond would be lined, and thought the developer would have to consult SEPA if any kind of dirty water from the sump pump would be pumped into the system.

Councillors McGinn and McLeod were keen for the installation of a raised table to reduce speed. Ms Taylor advised of a suggested amendment to Condition 6 that traffic calming measures would be approved by officers, and said that Local Members could be consulted

on this. A Construction Methods Statement would detail the movements of construction traffic.

Henry Harper, Mark Lindsay, and Steven Baird were present on behalf of Bellway. Mr Lindsay said that factor units had been on site within two hours of the recent flood event. Bellway would begin by putting flood prevention measures in place, and some of this work had already begun. Mr Lindsay advised that garden areas would generally be split into private spaces. Bellway had already submitted play park designs for approval, but would take guidance as to policies in place. No factors had been arranged, but a tendering process would be undertaken after the grant of planning permission, and a plan had been submitted which detailed the factored areas of the site.

Councillor Menzies, Local Member, said that the application had caused confusion locally, having been made soon after the grant of planning permission to build 80 houses on the site. She spoke of Elphinstone as being a traditional village with only 270 homes, 83 of which were social housing, a small school, and the nearest GP surgery in Tranent. She described Elphinstone as a thriving and supportive community, and provided an account of community initiatives. She noted that when the overall 10-acre site was earmarked for development in 2018, only 80 homes were to be built on the site in total. She was concerned about the overdevelopment represented by the proposal to build 90 homes on just over half of this land, and the eventual impact of up to 180 new homes on the small village. She raised infrastructure issues relating to the size of the school, the need for more GP services, and the need for a supermarket/retail units to fit in with the 20-minute communities concept; she felt current proposals encouraged more car journeys. She highlighted Policy 5 guidance from NPF4, noting that the site was prime agricultural land. She acknowledged the need for additional housing in the county, but noted that local primary care services, roads, and schools were already struggling to cope. She asked Members to look out for the Elphinstone community by refusing the proposals.

**Sederunt:** *Councillor McIntosh left the meeting.*

The Convener highlighted that the site was earmarked for residential development by the Local Development Plan (LDP), and every community across East Lothian had to take a share of required 10,050 houses. He said current proposals served to maximise the number of properties on the available land at time of significant pressure on the county's housing stock.

Councillor McGinn was pleased the development included affordable housing for ELHA stock, to assist young people to stay in the village. He had worked with the village for a number of years to mitigate the impact of speeding. He would continue to respond to constituents' concerns, including on the impact of flooding, but he would support the proposals. Councillor McLeod agreed with Councillor McGinn's comments, and with the Convener's comments regarding the need to maximise properties on housing developments. He shared concerns over the impact of flooding and speeding; he would continue to work with the community on these issues, but would support the application.

Councillor Menzies agreed that more affordable housing was needed within rural communities. She thought that the original plan to build 80 houses on the site should remain in place, and felt there was no requirement to dig up rural communities when Blindwells could accommodate 7500 homes.

Councillor Forrest welcomed the affordable housing, giving people from the village the opportunity to stay there. He also welcomed Local Members' work to mitigate the impact of speeding.

Councillor Gilbert was concerned that the flooding issue remained unresolved, and that 10% more houses would be built than originally planned. He would not support the application.

The Convener commented that there had been many variations to the number of houses on developments across the county, and said planners had a responsibility to maximise housing on earmarked sites thus minimising development of open countryside. He noted the benefits of a growing community, including additional amenities, and providing a good social mix of local people and those from further afield. He sought a condition that the flooding issue be resolved prior to commencement of the development. Mr Dingwall therefore provided a suggested amendment to Condition 23; this was approved by the Convener and seconded by Councillor Forrest.

Councillor McLeod also proposed a previously suggested amendment to Condition 6, to add a raised table to mitigate speeding, and this was seconded by Councillor McGinn.

The Convener then moved to the vote on the report recommendation, to grant consent, including amendments to Conditions 6 and 23. This was taken by roll call.

For:	6	(Councillors Hampshire, Findlay, Forrest, McGinn, McLeod, and Yorkston)
Against:	2	(Councillors Cassini and Gilbert)
Abstentions:	0	

## DECISION

The Committee agreed that planning permission be granted subject to:

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

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

for Elphinstone Primary School and therefore will be subject to indexation using the BCIS All in Tender Price Index but will be indexed from Q3 2022.

## CONDITIONS

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

Reason:

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

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

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

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

Reason:

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

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

Reason:

To facilitate an acceptable archaeological investigation of the site.

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

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

Year 2023/24 - 40 residential units

Year 2024/25 - 40 residential units

Year 2025/26 - 10 residential units

(b) If fewer than the specified number of residential units is completed in any one year then those shall be completed instead at Year 2026/27 or beyond and not added to the subsequent year.

Reason:

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

- 5 Prior to the commencement of development a delivery schedule and phasing plans that establishes the phasing and timing programme for the proposed development shall be submitted to and approved in advance by the Planning Authority. It shall include the phasing

and timing for the provision of footpaths/cycleways and external works such as offsite path links. These path links shall include:

- (i) Three path connections from the west boundary of the site to connect to the core path to the west of the site;
- (ii) Two path connections from the east boundary of the site to connect to the woodland strip to the east of the site;
- (iii) A 2 metres wide, hard-surfaced, lit (street lighting) footpath suitable for walking and cycling to be formed from the southeast corner of the application site through the existing park to the south of it and connecting on to Main Street;

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

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

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

Reason:

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

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

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

Reason:

In the interests of road and pedestrian safety.

- 7 A visibility splay of 4.5 metres by 90 metres shall be provided and maintained on each side of the proposed access such that there shall be no obstruction to visibility above a height of 1.05 metres measured from the adjacent carriageway level within the area defined below:-

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



Reason:

In the interests of road and pedestrian safety.

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

Reason:

In the interests of road and pedestrian safety.

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

Reason:

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

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

Reason:

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

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

Reason:

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

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

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

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

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

Reason:

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

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

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

Reason:

To minimise the environmental impact of the development.

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

Reason:

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

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

Reason:

To ensure the development is of a satisfactory appearance in the interest of the amenity of the locality.

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

Reason:

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

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

Planning of site operations should take sufficient account of wide loads, tall loads and plant with booms, jibs and counterweights (including drilling rigs), in order that they can operate without coming into contact with retained trees.

Reason:

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

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

Reason:

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

- 19 No trees, shrubs or hedgerows which are to be retained on the site, other than the crab apple tagged 419 as shown on stamped approved and docketed drawing no, Landscape proposals Plan numbered 231.24.01 - 231.24.06, Revision F and dated October 2022 shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the previous written consent of the Planning Authority. All tree management works shall be carried out under the supervision of an appointed Arboricultural Consultant in compliance with British Standard 3998: 2010 "Tree work ~ Recommendations" Section 7, Pruning and related work and Figure 2 - Positions of final cuts; leaving an overall balanced tree shape on completion of the works.

Reason:

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

- 20 Unless otherwise approved in writing by the Planning Authority, the structural landscape planting (woodland planting on east and west boundaries) shall be implemented within 1 year of the commencement of development and all other new planting as shown on stamped approved docketed drawings titled; Landscape Proposal Plan numbered 231.24.01 -

231.24.06, Revision F and dated October 2022, shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner.

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

- 23 Prior to commencement of development, (a) confirmation of Scottish Water's Technical Approval of the Sustainable Drainage System (SuDS) details hereby approved shall be submitted to the Planning Authority, and (b) a timetable for the installation of the approved SuDS system shall be submitted to, and approved in writing by, the Planning Authority. The SuDS system shall thereafter be implemented in accordance with the details so approved.

Reason:

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

- 24 Prior to the occupation of any of the residential units hereby approved, a timetable for the provision of all of the play equipment and associated play surfacing, bin, bench and any

enclosure of the play area to be provided on the site and details of how the equipped play area is to be managed and maintained are to be submitted to and approved in advance by the Planning Authority and the play area shall thereafter be installed, surfaced, enclosed, managed and maintained in accordance with the details so approved and shall be used for such purposes at all times thereafter unless approved by the Planning Authority..

Reason:

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

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

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

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

Reason:

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

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

Reason:

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

**Sederunt:** Councillor Forrest left the meeting.

## **6. PLANNING APPLICATION NO. 22/00506/LBC: REPLACEMENT WINDOWS AND DOOR, 10 BALCARRES ROAD, MUSSELBURGH**

A report was submitted in relation to Planning Application No. 22/00506/LBC. Neil Millar, Planner, presented the report, summarising the key points. The report recommendation was to refuse consent.

Officers answered questions from Members. Mr Millar advised that there would be no energy efficiency difference between the proposed UPVC-framed windows and the previously proposed timber-framed windows. He also advised that all windows to be changed were currently aluminium-framed, but no grant of consent for the change to the current aluminium-framed windows had been found.

Brian Weddell was present on behalf of the applicant. He noted that the building had never been used as a dwelling home, and the proposed upgrade was part of a project to restore the building to its original purpose. He described the existing aluminium-framed windows as being ugly and having been installed poorly. Consent had been granted to replace with timber-framed sash and case windows, but the applicant had since become aware of appeals to allow the use of UPVC windows within the North Berwick conservation area. He pointed to the council's climate change strategy, and the application's opportunity to reduce maintenance costs and greenhouse gas emissions. The applicant would be happy to discuss design requirements with officers, and felt that UPVC-framed windows would not be detectable to the untrained eye. He argued that the proposed UPVC-framed windows would look significantly better than the current aluminium-framed windows. He pointed to several other properties with UPVC-framed sash and case windows, as well as appeals which had allowed for the installation of UPVC-framed windows.

Councillor Cassini commented on the similar look of UPVC- and wooden-framed windows, the significant difference in cost and maintenance requirements, and the fact they had the same energy efficiency. She supported the installation of UPVC-framed windows.

Mr Dingwall noted that a recent appeal case had been heard by the Local Review Body; the building in question were situated in the conservation area, but had not been listed as being of special architectural or historic interest. He noted that the planning authority had a responsibility to protect the special architectural and historic character of the area, and that all listed buildings were safeguarded; in such cases there was a presumption against the use of modern materials. He also advised that the Climate Officer had not found there to be any benefit to having UPVC-framed over timber-framed windows.

Councillor Gilbert's impression was that modern UPVC-framed windows were virtually indistinguishable from timber-framed windows. He felt that any replacement windows in this building would be an improvement, particularly in the original colour of white. He noted also the applicant's willingness to work with officers in terms of design, and would not support the officer recommendation to refuse consent. Councillor McLeod noted the various types of windows on the street, and he would also vote against the officer recommendation.

Councillors McGinn and Findlay both noted the aesthetic improvement that would be provided by the installation of new UPVC-framed windows when compared to the current aluminium-framed windows, and would vote against the officer recommendation to refuse consent.

The Convener appreciated the authority's duty to protect listed buildings, but he felt the current windows detracted from the beauty of the building. He acknowledged the applicant's offer to have the windows designed to replicate the building's original windows. He would vote against the officer recommendation to refuse consent, to enhance the appearance of the building.

The Convener then moved to the vote on the report recommendation, to refuse consent, taken by roll call. Members voted unanimously against the officer recommendation, and therefore listed buildings consent was granted, subject to the standard time condition.

## DECISION

The Committee granted listed buildings consent, subject to the standard time condition.

*Sederunt: Councillor Forrest re-joined the meeting.*

### **7. PLANNING APPLICATION NO. 22/00990/P: ERECTION OF GARDEN ROOM/STORE AS CHANGES TO THE SCHEME OF DEVELOPMENT THE SUBJECT OF PLANNING PERMISSION 13/00650/P, PLOT 2 – LAND SOUTH OF TURNER'S HOUSE, HIGH ROAD, SPOTT, DUNBAR**

A report had been submitted in relation to Planning Application No. 22/00990/P. Neil Millar, Planner, presented the report, summarising the key points. The report recommendation was to grant consent.

Officers answered questions from Members. Responding to questions from the Convener, Mr Millar advised that the condition attached to planning permission 13/00650/P, which remained effective, stated that a beach hedge would be erected around the north boundary of the plot, and the house would not be occupied until the beach hedging had been planted. Mr Millar advised that the house was unoccupied, and so no breach of Condition 5 had occurred. Another condition stated that neither house would be occupied until the pathway was in place, but one house was occupied and the path was unfinished; although this was concerning, Mr Millar understood this would be rectified in the near future.

The Convener commented that the development had caused significant disruption to properties to the north, due to water ingress and materials coming from the site encroaching onto their land. The Convener sought a condition that the full hedge should be planted prior to commencement of construction of a further building on the site.

Councillor Cassini agreed that a condition relating to hedge planting should be in place, and sought an additional condition that the pathway be finished prior to further construction.

Mr Dingwall clarified that planning permission 13/00650/P required that neither property be occupied until such time as the path had been completed, and said that the planning authority would take up this issue separately. He also reminded Members that conditions should only be imposed where necessary for the proposed development. It could be argued that a hedgerow may be required to limit the visual impact of the garden room, but advised that a path should not be required when Members were considering only a garden room as part of the current application.

The Convener would still wish for planning control to take action against the developer on the matter of the path. He formally proposed a condition that no work should take place on the garden room until such time as the beach hedge had been planted in full, to protect the privacy of the occupants of the neighbouring property. This was seconded by Councillor Cassini. Mr Dingwall suggested that officers would formulate the wording for a condition, similar to that contained within planning permission 13/00650/P, to be approved by the Convener at a later date.

The Convener then moved to a roll call vote on the report recommendation, to grant consent, with an additional condition that the hedge must be planted in its entirety prior to construction of the garden room. Members unanimously supported the officer recommendation.

## DECISION

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

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

Reason:

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

- 2 Prior to the commencement of development of the garden room/store hereby approved, beech hedging shall be planted along the north and east boundaries of the rear garden of the house. The beech hedging shall be planted as 90-150cm whips at 300mm centres in two rows and shall be protected by staked 'tubex' or similar until established. The beech hedging shall be allowed to grow to and thereafter be maintained at a minimum height of 1.8 metres above ground level where it is to be planted.

Reason:

In the interest of the landscape character and appearance of the area.

## 8. **PLANNING APPLICATION NO. 22/00682/AMM: APPROVAL OF MATTERS SPECIFIED IN CONDITIONS OF PLANNING PERMISSION 21/01580/PM – THE ERECTION OF PRIMARY SCHOOL AND ASSOCIATED WORKS, BLINDWELLS, TRANENT**

A report was submitted in relation to Planning Application No. 22/00682/AMM. Julie McLair, Senior Planner, presented the report, summarising the key points. The report recommendation was to grant consent.

Officers answered questions from Members. Responding to a question about the efficiency of aluminium-framed windows, Ms McLair advised that an Energy Efficiency Report had been submitted, taking into account building materials and ensuring maintenance was subject to minimum carbon efficiency requirements. The area to the east of the school site would be delivered in Phase 3 of the development of the Blindwells site, but the developer and Amenity Services Officer had discussed an area at Princes Park to the west of the school site, and a further area to come forward as part of Phase 1 of the build.

Councillor Yorkston welcomed the development, in particular the garden for children with additional support needs. He commented on the school's contribution to building a sense of community in the new town. Councillors Forrest and McLeod also welcomed the school and the opportunity to build safe routes for active travel prior to housing coming forward around the site.

Councillor McGinn also welcomed the development, and commented that high standards would be achieved for the school's pupils. The Convener commented that the development would be a great achievement for East Lothian, with every department of the council involved in bringing forward the new town at Blindwells.

The Convener then moved to the vote on the report recommendation, to grant consent, taken by roll call. Members unanimously voted to support the officer recommendation.

## DECISION

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



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

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

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

Reason:

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

- 2 A schedule of materials and finishes, including their colours, to be used on the exterior of the primary school building hereby approved shall be submitted to and approved in advance by the Planning Authority prior to their use in the development. The colour of the materials and finishes used shall accord with the schedule and samples of them so approved.

Reason:

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

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

Reason:

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

- 4 Prior to commencement of development a noise assessment shall be carried out and submitted for approval to assess impacts of noise associated with any proposed plant/equipment serving the school. The assessment report shall include details of any mitigation measures that may be required to ensure noise associated with the operation of any plant and/or equipment associated with the operation of the school building hereby approved shall not exceed Noise Rating Curve NR25 at any octave band frequency between the hours of 0700 and 2300 within any neighbouring residential property, with all measurements to be made with windows open at least 50mm.

Reason:

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

- 5 Prior to the installation of any artificial lighting or floodlights being erected to serve the two sports pitches hereby approved, a lighting assessment shall be submitted to and approved in writing by the Planning Authority. The design and construction of any proposed floodlighting shall take account of the Guidance contained within Annex 1 to Appendix 2 of Scottish Government Guidance to Accompany the Statutory Nuisance Provisions of the Public Health etc (Scotland) Act 2008 to ensure that the following criteria be met prior to any external lighting becoming operational:

- (i) Light Trespass (onto windows) of neighbouring residential properties, measured as Vertical Illuminance in Lux, (Ev), shall not exceed 10 between the hours of 0700-2300 and shall not exceed 2 between the hours of 2300-0700.

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

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

Reason:

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

- 6 All new planting, seeding and turfing as detailed on drawing numbers 1952-RAF-XX-XX-D-L-01003-PLANTING PLAN-2130 Rev P06 titled 'Planting Plan' and 1952-RAF-XX-XX-D-L-01001-LANDSCAPE LAYOUT P1-2130 Rev P18 titled 'Landscape Layout Phase 1' docketed to this planning permission shall be carried out in the first planting season (between November and February) following the completion of the development hereby approved. Any new trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

Reason:

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

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

- (i) mitigation measures to control noise, dust, construction traffic (including routes to/from site and delivery times);
- (ii) hours of construction work;
- (iii) routes for construction traffic;
- (iv) how building materials and waste will be safely stored and managed on site; and
- (v) wheel washing facilities or alternative facilities to prevent deleterious materials being carried onto the public road on vehicle tyres.

Thereafter, the Construction Method Statement shall be implemented and complied with in accordance with the approved details for the period of construction of the development hereby approved and the wheel washing facilities or any alternative facility so approved shall be provided and maintained in working order during the period of construction operations at the site.

Reason:

To minimise the impact of construction traffic in the interests of road and pedestrian safety in the locality and relative to school generated vehicle and pedestrian movements.

- 8 Prior to the commencement of use of the primary school building hereby approved, the proposed access roads, parking spaces, cycle parking and footpaths shall have been constructed on site in accordance with the docketed drawings.

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

Reason:

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

- 9 Prior to the commencement of use of the primary school building hereby approved, a School Travel Plan shall be submitted to and approved in writing by the Planning Authority. The School Travel Plan shall have particular regard to provision for walking, cycling and public

transport access to and within the site, including the identification of appropriate Safer Routes to School, and will identify the measures to be provided, the system of management, monitoring, review, reporting and duration of the plan.

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

Reasons:

In the interest of road safety.

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

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

Reason:

In the interests of road and pedestrian safety.

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

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

Reason:

In the interests of road and pedestrian safety.

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

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

Reason:

In the interests of road and pedestrian safety.

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

Reason:

In the interests of pedestrian and road safety.

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

Reason:

In the interests of pedestrian and road safety.

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

objectives and remediation criteria as well as details of the procedures to be followed for the verification of the remedial works. It should also ensure that the site will not qualify as contaminated land under Part2A of the Environmental Protection Act 1990 in relation to the intended use of the land following development. The Statement must be submitted to the Planning Authority for approval.

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

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

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

Reason:

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

Signed

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

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

---

**2**

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 60m<sup>2</sup> 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/m<sup>2</sup>.
- 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/m<sup>2</sup>.
- 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 100m<sup>2</sup> 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.

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

---

**3**

Application No. **22/00992/AMM**

Proposal Approval of matters specified in condition 1 of planning permission in principle 21/01474/PPM - relating to the detailed layout, siting, design and external appearance of the Onshore Substation and onshore transmission works associated with the Offshore Inch Cape Wind Farm

Location **Former Cockenzie Power Station Site  
Prestonpans  
East Lothian**

Applicant Inch Cape Offshore Limited

Per Savills

**RECOMMENDATION** Consent Granted

### **REPORT OF HANDLING**

Although this application is for the approval of matters specified in condition 1 of planning permission in principle 21/01474/PPM it has to be determined as a major development type application because the area of the application site is greater than 2 hectares. Accordingly, the application cannot be decided through the Council's Scheme of Delegation. It is therefore brought before the Planning Committee for a decision.

### **APPLICATION SITE**

This application relates to some 2.47 hectares of land to the north of the B1348 Edinburgh Road that forms a part of a larger area of land to the south and west of the site of the former Cockenzie Power Station for which approval in principle has been granted for onshore transmission works associated with the Inch Cape Offshore Wind Farm comprising the construction, operation and decommissioning of an onshore substation, electricity cables and associated infrastructure. The application site is located

to the southwest of that larger area of land and extends west from the eastern boundary of the former power station site. A coastal path which incorporates a part of the John Muir Way runs to the north of the site.

The nearest residential properties to the site are located at Edinburgh Road, Hawthorn Terrace and Whin Park to the southeast, West Harbour Road to the east and Atholl View to the southwest, albeit the properties on Atholl View have little interaction with the site due to the intervening bund. Also the residential properties of The Antiquaries are located to the west of the site. In addition to residential properties, the Whin Park industrial estate is located to the southeast of the site.

## **RELEVANT PLANNING HISTORY**

Cockenzie Power Station was a coal-fired power station, which was in operation until 2013.

In October 2011 the Scottish Government granted planning permission (Ref: IEC/CKE/001) under Section 36 of the Electricity Act 1989 to Scottish Power for the conversion of the power station building and operation of it as a Combined-Cycle Gas Turbine plant (CCGT) on the land of the former Cockenzie Power Station site. The Power Station has since been demolished.

In August 2015 Scottish Power announced that they would not be progressing with the development of a CCGT on the application site.

In March 2018 Scottish Power sold the former Cockenzie Power Station site to East Lothian Council. The land sold to the Council, which has an area of nearly 100 hectares, includes Preston Links and land to the south of the Cockenzie Coal store. The area of land sold to East Lothian Council also includes the current application site.

Inch Cape Offshore Windfarm, located some 15 kilometres off the Angus coast, was consented by the Scottish Ministers on 10 October 2014 under section 36 of the Electricity Act 1989.

In September 2014 planning permission in principle (ref: 14/00456/PPM) was granted to Inch Cape Offshore Limited (ICOL) for the onshore electrical transmission infrastructure (on-shore cables and substation) associated with the Inch Cape Offshore Wind Farm on land to the immediate east of Prestonpans and to the south of the former Cockenzie Power Station Coal Store. That approved infrastructure would have facilitated the transmission of power from the proposed Inch Cape off shore wind farm to the national electricity grid. That approved onshore electrical transmission infrastructure consisted of up to four export cables from the off shore wind farm that would be brought ashore at the beach adjacent to Preston Links to underground structures, known as transition pits. The on-shore cables would run underground from the proposed transition pits to a proposed electrical sub-station positioned on land to the south of the Cockenzie Coal Store. ICOL subsequently chose not to submit details for approval of matters specified in conditions, and planning permission in principle 14/00456/PPM expired in September 2017.

In February 2018 ICOL instead submitted a new application for planning permission in principle (ref: 18/00189/PPM) for the onshore electrical transmission infrastructure (on-shore cables and substation) associated with the Inch Cape Offshore Wind Farm on the site of the former Cockenzie Power Station. This comprised of the construction, operation and decommissioning of an onshore substation, electricity cables and associated infrastructure required to export electricity from the Inch Cape Offshore Wind Farm to the National Electricity Transmission System.



On the 9 April 2018 a Direction under the terms of the Town and Country Planning (Scotland) Act 1997 was issued by the Scottish Ministers. This directed East Lothian Council to refer to them for determination the application for planning permission in principle (ref: 18/00189/PPM). In February 2019, Scottish Ministers granted planning permission in principle for the development. In accordance with the timescales and other limitations stipulated by section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended) and extended by The Town and Country Planning (Miscellaneous Temporary Modifications)(Coronavirus)(Scotland) Regulations 2021 further details of this development, including details of the layout, siting, design and external appearance of the onshore substation approved as part of that permission were required to form the subject of future approval of matters specified in conditions applications. No approval of matters specified in conditions applications have been submitted.

In August 2021 planning permission in principle (ref: 21/00290/PPM) was granted to Seagreen 1A Limited for onshore infrastructure for the export of electricity from the Seagreen Offshore Wind Farm located in the outer Firth of Forth and Firth of Tay to landfall at Cockenzie. This comprised of an onshore substation, underground electricity cables and associated temporary and permanent infrastructure on land to the west and south of the former Cockenzie Power Station site to export that electricity into the national electricity transmission network.

In February 2022 planning permission (Ref: 21/01448/P) was granted to Swift TG Energy (Scotland) Ltd for the erection of 1 wind turbine, welfare units, plant equipment, fencing and gates for a temporary period of 18 months on land within the former Cockenzie Power Station site to the east of the site of this application.

In March 2022 planning permission in principle (ref: 21/01474/PPM) was granted ICOL for renewal of planning permission in principle 18/00189/PPM for proposed onshore transmission works associated with the Inch Cape Offshore Wind Farm comprising the construction, operation and decommissioning of an onshore substation, electricity cables and associated infrastructure required to export electricity from the Inch Cape Offshore Wind Farm to the National Electricity Transmission System. Proposal submissions indicated a sub-station with a maximum footprint of some 2.5 hectares (excluding the embankment and landscaping) enclosed by security fencing, and two gates, access road, car park, electricity transformation equipment, a switchgear building and a control building. The largest building being the enclosure for two harmonic filters, which would be combined with the switchgear and control building. Two offshore export cables from the Inch Cape offshore wind farm would be brought ashore on the northwest boundary of the application site, under the existing sea wall, to the immediate east of Preston Links.

Condition 1 of planning permission in principle (Ref: 21/01474/PPM) states:

'The submission for approval of matters specified in conditions of this grant of planning permission in principle in accordance with the timescales and other limitations in section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended) shall include details of the layout, siting, design and external appearance of the Onshore Substation, electricity cables and associated infrastructure, the means of access to them, the means of any enclosure of the boundaries of the site and landscaping (including landscape and visual mitigation) of the site in accordance with the matters listed below.

No work shall begin until the written approval of the authority has been given, and the development shall be carried out in accordance with that approval.

a) Details of the finished ground levels and finished floor levels of the buildings;

- b) The total height of any building shall not exceed 12.3 metres from the finished ground levels, as approved. The finished ground level shall be no higher than the adjacent average road level of Edinburgh Road;
- c) The proposed route of the temporary rerouted Coastal Path incorporating the John Muir Way within the northern section of the application site boundary;
- d) Details of the proposed colour treatment of the Onshore Substation and any other landscape and visual mitigation (which shall include architectural mitigation) to be incorporated into its design and external appearance;
- e) Details of all external lighting proposed;
- f) Details of the area of the Onshore Substation, which is not to exceed 2.5ha in total as shown on the drawing titled "Maximum Onshore Substation Area" docketed to planning permission in principle 18/00189/PPM and 21/01474/PPM;
- g) The layout shall ensure that the Onshore Substation is located outside the area identified as "No Onshore Substation Development" on the drawing titled "Maximum Onshore Substation Area" docketed to this planning permission in principle and to planning permission in principle 18/00189/PPM, and the Onshore Substation shall be located within the area identified as "Onshore Substation Site" on the said drawing as close to the south-western boundary of the Application Site as can be accommodated by the approved landscaping (including landscape and visual mitigation); and
- h) Details of landscape and visual mitigation (including architectural mitigation) shall not be submitted for approval under this condition 1 without consultation first having been carried out with the Planning Authority, NatureScot, Cockenzie and Port Seton Community Council and Prestonpans Community Council.

In this condition, the Onshore Substation means all the electrical equipment, ancillary equipment and internal roads to be located within the perimeter security fence, as indicatively described in paragraph 8 (Project Elements) of Chapter 5 of the Environmental Impact Assessment Report docketed to planning permission in principle 18/00189/PM and also to the addendum to that EIA Report (November 2021) docketed to this planning permission in principle.

**Reason:**

To ensure that the matters referred to are given full consideration in the interests of the visual amenity of the area and to accord with section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.'

The above condition remains outstanding and is required to be addressed by the applicant prior to the commencement of any development of the site. A number of pre-commencement conditions imposed on the grant of planning permission in principle (Ref: 21/01474/PPM) have been addressed by the applicant.

**PROPOSAL**

The approval of matters specified in condition 1 of planning permission in principle (Ref: 21/01474/PPM) is now sought for the detailed layout, siting, design and external appearance of the Onshore Substation, electricity cables and associated infrastructure, the means of access to them, the means of any enclosure of the boundaries and a scheme of landscaping for the site of this application at the Former Cockenzie Power Station and thus on part of the larger site to which planning permission in principle (Ref: 21/01474/PPM) applies.

The proposed Onshore Substation area would have a footprint of 2.47 hectares and would be sited to the southwest of the wider site of the Former Cockenzie Power Station. The proposed location of the substation is to the southwest of that indicated on drawings docketed to planning permissions in principle (Ref: 18/00189/PPM) and (Ref:

21/01474/PPM) however it remains within the "Maximum Onshore Substation Area" as shown on those drawings.

Proposal submissions show the Onshore Substation comprising of buildings to house electricity transformation equipment consisting of a large roughly L-shaped steel-framed pitched roof building to the northwest of the substation area and a steel-framed flat roof building to the southeast and an attached small pitched roof building to the south of the site. Transformation equipment would also be sited within open areas of the site. Finished floor levels of the buildings are shown as being some 1500mm higher than finished ground levels within the site. The proposed layout further provides details of proposed offshore export cables that will run underground from a point to the northwest of the site to the Onshore Substation and the proposed interconnector route that will run underground between the Onshore Substation to a grid connection point consisting of an existing substation building within the wider site for the onshore transmission works and to the south of the B1348 Edinburgh Road. The layout also includes underground cables that will run between the substation buildings on site. Those cables will be laid within shallow troughs capped with a concrete tile.

The substation building proposed for the northwest of the site would be some 95 meters in length and would project some 78.5 meters to the east at its widest point. It would be some 12 meters to ridge height and would provide a control area, a switchgear hall and harmonic filters. It would feature three roller shutter doors and windows on its north and south elevations, two roller shutter doors, windows and external transformation equipment on its west elevation and a roller shutter door, windows and extract vents on its east elevation.

The building to the southeast would be some 106 meters wide and would project north for some 78 meters. It would be some 10.7 meters in height and would house a number of electricity transformation reactors. It would feature four roller shutter doors and external transformation equipment on its south elevation. The combined pitched roof building to the south would function as an SVC building. It would be some 19 meters wide, some 8.3 meters to its ridge height and would project out some 2.2 meters to the south. It would feature a roller shutter door on its west elevation and door openings within its south and east elevations.

The external walls of the buildings would be finished in vertical steel composite cladding panels composed of a mix of colours to include ice blue (RAL 238010), albatross (RAL 2408005), goosewing (RAL 7038), meadowland (RAL 1008020,) moorland green (RAL 1006020) and olive green (RAL 1003020) and arranged to provide a wave design.

The proposed location of the substation is to the southwest of that indicated on drawings docketed to planning permissions in principle (Ref: 18/00189/PPM) and (Ref: 21/01474/PPM). Further to consultations between applicants and the Council's **Landscape Projects Officer**, NatureScot and local community councils on details of landscape and visual mitigation and architectural mitigation, and taking account of a reduction in the land available for bunding and planting, proposed landscape planting for the site involves areas of native shrub mix planting and coastal grassland mix to the northwest of area of the proposed substation

It is proposed that the Onshore Substation will be enclosed by a 2.4 meters high galvanised steel palisade fence. Double gates will facilitate access from the B1348 Road to the south. Internal access roads and a vehicle parking area will also be laid out within the site.

Manual and sensor controlled external lighting will be located across the site and will be

mounted on individual columns and on buildings and structures.

During construction of the offshore export cables from the Inch Cape offshore wind farm to the northwest of the application site it will be required to close-off a section of the coastal footpath to the north and east of the site incorporating the John Muir Way on grounds of public safety. It is proposed that during periods of closure the coastal path will be diverted south from the northwest of the site onto the existing footpath to the north of the B1348 public road to link with the existing John Muir Way to the east of the former Cockenzie Power Station site.

A Landscape and Visual Impact Assessment has been submitted in support of the application. It contains chapters on the detailed design for the Onshore Substation and on cumulative landscape and visual effects.

A Design Evolution Statement has been submitted with the planning application. The Statement provides information on the principles and approach that have guided the design process.

A Lighting Plan and a Proposed Diversion Plan have also been submitted in support of the application.

Under the provisions of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 the proposed development falls within the category of a Schedule 2 Development, being one that may require the submission of an Environmental Impact Assessment (EIA). Schedule 3 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 sets out the selection criteria for screening whether a Schedule 2 development requires an EIA. The matter of the requirement for an Environmental Impact Assessment (EIA) was considered through the determination of the grant of planning permission in principle (Ref: 21/01474/PPM), which includes the provision of an Onshore Substation on the site of the current application. That Environmental Impact Assessment (EIA) considered landscape, transportation, air quality, noise and cultural heritage matters. The proposal for the Onshore Substation has not changed significantly from the indicative details provided with planning permission in principle (Ref; 21/01474/PPM) and thus considered in the Environmental Impact Assessment (EIA) submitted with that application. Therefore, there is no requirement for the proposed Onshore Substation development to be the subject of an EIA.

## **DEVELOPMENT PLAN**

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

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

Policies 1B (The Spatial Strategy: Development Principles), 9 (Infrastructure), and 10 (Sustainable Energy Technologies) of the approved South East Scotland Strategic Development Plan (SESplan) are relevant to the determination of the application.

Proposals EGT1 (Land at Former Cockenzie Power Station) and EGT3 (Forth Coast Area of Co-ordinated Action), and Policies DC6 (Development in the Coastal Area), DC9 (Special Landscape Areas), OS1 (Protection of Open Space), NH1 (Protection of Internationally Designated Sites), NH2 (Protection of Sites of Special Scientific Interest

and Geological Conservation Review Sites), NH11 (Flood Risk), CH5 (Battlefields), T2 (General Transport Impact), T4 (Active Travel Routes and Core Paths as part of the Green Network Strategy), DP1 (Landscape Character) and DP2 (Design) of the adopted East Lothian Local Development Plan 2018 (ELLDP) are relevant to the determination of the application.

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

Material to the determination of the application is the Scottish Government's National Planning Framework 3 and Scottish Planning Policy: June 2014.

National Planning Framework 3 (NPF3) refers to the Cockenzie area with regard two national developments. These are National Development 3 (Carbon Capture and Storage Network and Thermal generation) and National Development 4 (High Voltage Electricity Transmission Network). NPGF3 recognises Cockenzie, and the Forth coast extending to Torness, as a potentially important energy hub. There are significant plans for offshore wind to the east of the Firths of Forth and Tay. Proposals for grid connections for these projects are now emerging, requiring undersea cabling connecting with converter stations and substations. The Scottish Government want developers to work together to minimise the number and impacts of these developments by combining infrastructure where possible. Whilst Cockenzie is safeguarded as a site for future thermal generation, it may present significant opportunities for renewable energy-related investment. Developers, East Lothian Council and the key agencies, including Scottish Enterprise should work together to ensure that best use is made of the existing land and infrastructure in this area. Given the particular assets of Cockenzie, if there is insufficient land for competing proposals, priority should be given to those which make best use of this location's assets and which will bring the greatest economic benefits. Whilst National Developments references a Scotland wide rather than a specific location, Cockenzie is nonetheless referenced as within an area of co-ordinated action for energy related development. This ties into the reference in paragraph 3.41 of NPF3 to renewable energy related investment on the site. The need for such development is established through the statement of need and description which states that this infrastructure is vital in meeting national targets for electricity generation, statutory climate change targets and the security of energy supplies.

Scottish Planning Policy on renewable energy states that planning must facilitate the transition to a low carbon economy. The planning system should support the development of a diverse range of electricity generation from renewable energy technologies - including the expansion of renewable energy generation capacity. The consideration of applications for proposals for energy infrastructure developments will vary relative to the scale of the proposal and area characteristics but are likely to include the scale of contribution to renewable energy generation target, landscape and visual impacts, historic environment, effects on the natural heritage and water environment, amenity and communities, and any cumulative impacts that are likely to arise.

Scottish Planning Policy advises that there is a presumption in favour of development that contributes to sustainable development, the presumption in favour of sustainable development is a material consideration in favour of the proposal. Whether a proposed development is sustainable development should be assessed according to the principles

set out in paragraph 29.

Scottish Planning Policy further contains policy on protection of environmental assets including cultural assets, landscape and biodiversity. Scottish Planning Policy further states that planning authorities should seek to protect, conserve and, where appropriate, enhance the key landscape characteristics and special qualities of sites in the Inventory of Historic Battlefields.

Also relevant to the determination of the application is the Council's Special Landscape Areas Supplementary Planning Guidance adopted by the council on 30th October 2018.

## **REPRESENTATIONS**

None.

## **COMMUNITY COUNCIL COMMENTS**

Prestonpans and Cockenzie & Port Seton Community Councils have been consulted on the application and have commented on the following matters:

\*a further Environmental Study is required to address the noise and light impacts of the proposed onshore substation;

\*confirmation required on whether the site perimeter fence shown on submitted drawings is new or existing and if it is located on existing western boundary of wider site;

\*proposed landscape planting for west of site is inappropriate and additional landscaping areas are required to north of the application site; and

\*continued public use of John Muir Way to the north of the site during period of footpath closure.

## **PLANNING ASSESSMENT**

The principles of the siting of an Onshore Substation, electricity cables and associated infrastructure, the means of access to them, the means of any enclosure of the boundaries of the site and landscaping (including landscape and visual mitigation) are already decided by the grants of planning permission in principle (18/00189/PPM) and (Ref: 21/01474/PPM). These include a sub-station with a maximum footprint of some 2.5 hectares (excluding the embankment and landscaping) enclosed by security fencing, and two gates, access road, car park, electricity transformation equipment, a switchgear building and a control building.

Therefore, in the determination of this application the Council, as Planning Authority, can only concern itself with the layout, siting, design and external appearance of the Onshore Substation, electricity cables and associated infrastructure, the means of access to them, the means of any enclosure of the boundaries of the site and landscaping (including landscape and visual mitigation) of the site. In this regard the detailed proposals have to be considered against relevant development plan policy and the requirements of condition 1 attached to planning permission in principle (Ref: 21/01474/PPM).

The layout proposed through this approval of matters application for the Onshore Substation, electricity cables and associated infrastructure, the means of access to them, the means of any enclosure of the boundaries of the site and landscaping of the site is broadly consistent with the indicative layout docketed to planning permission in principle (Ref: 21/01474/PPM).

The proposed substation is an essential component to enable the Inch Cape Offshore

Windfarm to connect into the national electricity grid.

Amongst other matters policy DP1 of the ELLDP requires that all new development, with the exception of changes of use and alterations and extensions to existing buildings, must be well integrated into its surroundings by responding to and respecting landform.

Policy DP2 requires, amongst other matters, that the design of all new development, with the exception of changes of use and alterations and extensions to existing buildings, must be appropriate to its location in terms of its positioning, size, form, massing, proportion and scale and ensure privacy and amenity, with particular regard to levels of sunlight, daylight and overlooking, including for the occupants of neighbouring properties.

The site proposed for the substation is located to the southwest of the wider site of the former Cockenzie Power Station. The proposed substation would be within a wider area that remains characterised by energy related infrastructure, notably the existing substation building on the south side of Edinburgh Road. The application site is enclosed by existing fencing and some structural vegetation. The proposed landscape planting to the northwest of substation area would contribute to the containment of impacts on neighbouring seascape, landscape and visual receptors. The proposed substation buildings would be set back from the B1348 road thereby avoiding structures projecting closer to that road. The design of the external wall finishes of the proposed buildings, along with their alignment south to north, would reduce the apparent mass and volume of the buildings in views experienced by road users on the B1348 public road whilst focusing the greatest extent of building facades within enclosed site areas.

When seen in this context, the proposed substation would not appear as an incongruous or alien feature. It would not harm the landscape character and visual amenity of this part of Cockenzie.

The proposed substation would be located at a considerable distance away from residential properties in the area. It would not give rise to a harmful loss of privacy or amenity to any residential property. The Council's **Senior Environmental Protection Officer** raises no objection to the proposed development.

In all of the above the proposals are consistent with policies DP1 and DP2 of the ELLDP.

The Council's **Biodiversity Officer** has been consulted and raises no objection to the application. She does however raise some concerns over proposed ecological scrapes as shown on submitted drawings in relation to their proximity to proposed areas of scrub and their effect on wader species and advises maintenance of the scrapes to prevent scrub encroachment. The Biodiversity Officer's consultation response has been forwarded to agents for the applicants.

The Council's **Landscape Project Officer** raises no objection to the application. She does however recommend that further information is submitted concerning plant specification, species mix and long term management of any approved planting. These matters can be secured by the imposition of a condition of the approval of matters specified in conditions for the proposed Onshore Substation.

The Council's **Access Officer** has been consulted on the application. He advises that he has engaged in discussions with applicants and accepts the requirement for the closure of the coastal footpath running to the north and east of the site during construction of the offshore export cables to the northwest of the application site. He is generally satisfied with the diversion route proposed. He recommends however that the proposed diversion route should be finished in a permeable hardsurface and that it should only operate

during periods when those works are undertaken within the area of the coastal footpath. He further recommends that unaffected areas of the walkway to the north of the site should remain accessible to members of the public during any works undertaken and that a signage strategy to provide details of signage to be displayed at each access point to the diversion route prior to and during the operational period of the proposed diversion is submitted for planning authority approval. These matters can reasonably be controlled by a condition attached to an Approval of Matters.

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

The proposals are therefore consistent with policies T4 and OS1 of the ELLDP.

The Council's Roads Services have been consulted on the application and raise no objection.

The proposals are as such consistent with policy T2 of the ELLDP.

Historic Environment Scotland were consulted and raise no objection.

The Council's **Archaeology and Heritage Officer** has been consulted and offers no comments in relation to the Historic Environment.

Scottish Water raise no objections to the application having undertaken a Water Capacity Assessment that confirms that there is currently sufficient capacity in the Castle Moffat Water Treatment Works and a Waste Water Capacity Assessment confirming sufficient capacity for a foul only connection in the Edinburgh PFI Waste Water Treatment works to service the proposed development.

Scottish Water raise no objection to the application.

The Council's **Flooding and Structures Officer** has been consulted and advises that whilst a Flood Risk Assessment was submitted as part of planning permission in principle (Ref: 21/01474/PPM) for the wider site of the Former Cockenzie Power station, a Surface Water Drainage Strategy/Layout is required to be submitted for the application site.

That requirement can reasonably form the subject of a condition attached to an approval of matters.

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

## **RECOMMENDATION**

That Approval of Matters specified in conditions for the detailed layout, siting, design and external appearance of the Onshore Substation and onshore transmission works be granted subject to the following conditions:

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

Reason:



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

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

The above mentioned details shall include a final site setting-out drawing to a scale of not less than 1:200, giving finished ground levels of the development relative to existing ground levels of the site and of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing.

Reason:

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

- 3 Notwithstanding that which is stated on the drawings docketed to this approval of matters specified in conditions, a detailed specification of all external finishes of the proposed development shall be submitted to and approved by the Planning Authority prior to the use of the finishes in the development. All such materials used in the construction of the development shall conform to the details so approved.

Reason:

To ensure the development is of a satisfactory appearance in the interest of the amenity of the locality.

- 4 The submitted landscape information is not hereby approved. Instead, and prior to the commencement of development, a scheme of landscaping taking account of the detailed layout of the Onshore Substation hereby approved shall be submitted to and approved in writing by the Planning Authority.

The scheme shall provide details of the height and slopes of any mounding on or recontouring of the site, species, habitat, siting, planting distances and a programme of planting. It should also address long term management of the approved planting.

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

Reason:

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

- 5 Prior to the commencement of any development of the offshore export cables from the Inch Cape offshore wind farm to the northwest of the application site and the closure of the coastal footpath to the north, details of the footpath diversion to be provided shall be submitted to and approved by the Planning Authority.

The details submitted shall comply with the following requirements:

- i) the section of the coastal footpath to the north to be closed-off shall include only that area of development of the offshore export cables from the Inch Cape offshore wind farm to the northwest of the site and public access to the remaining areas of coastal footpath shall be retained;
- ii) during periods when no development of the offshore export cables from the Inch Cape offshore wind farm is undertaken the coastal footpath will remain fully in use;

- iii) a signage strategy to ensure that adequate signage shall be erected at each access to the footpath diversion at least 14 days prior to its implementation and for the duration of its use to include information on the diversion route, the dates during which it will operate and contractor contact details; and
- iv) all areas of the footpath diversion shall be finished in a permeable hardsurface.

Thereafter the footpath diversion shall be available for use by the public for the duration of the construction phases of the offshore export cables from the Inch Cape offshore wind farm to the northwest of the application site unless otherwise agreed by the Planning Authority.

Reason:

To safeguard safe access by members of the public.

- 6 No development shall take place on site unless and until a Surface Water Drainage Strategy/Layout Plan has been submitted to and approved in writing by the Planning Authority. Thereafter the drainage of the site shall be as laid out in accordance with the details so approved.

Reason:

To ensure the proposed development would be acceptable in terms of flood risk in the surrounding area.

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

---

**4**

Application No. **22/00180/PM**  
Proposal Erection of school/children's nursery and associated works  
Location **Whitecraig Primary School and Land to the South West of  
Whitecraig Primary School  
Whitecraig  
Musselburgh  
East Lothian  
EH21 8NG**

Applicant East Lothian Council  
Per East Lothian Council

**RECOMMENDATION** Consent Granted

## **REPORT OF HANDLING**

### **DESCRIPTION OF APPLICATION**

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

As a statutory requirement for major development proposals this development proposal was the subject of a Proposal of Application Notice (Ref: 21/00006/PAN) and thus of community consultation prior to this application for planning permission being made to the Council. Community consultation was undertaken in accordance with the Scottish Government's temporary requirements on pre-application consultations for public events during the coronavirus (covid-19) emergency.

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 the consultation process included an online public consultation 'drop-in' event on 26th November 2021 between 12 noon and 2.00pm. The event was advertised via social media and notices were placed in the East Lothian Courier on 4th November 2021, and A4 poster notices were placed within local civic centres across the greater Musselburgh area from 1st November 2021. The report advises that, following the public event, on 29th November 2021, the public consultation slides were made available to view on the East Lothian Citizen Hub Space and that social media notices were issued on that day inviting members of the public to return their feedback by 10th December 2021 with responses to be sent to a project dedicated email address. The Report informs that only one person attended the online public consultation event. The report further informs that the feedback was collated and the main issues raised in the feedback included:

Positive response that the project was drawing inspiration from the village's mining heritage;

A safer signalised pedestrian and cyclist crossing along Whitecraig Road was felt necessary;

A link-up between the future school and the recently opened Community Centre would be great to establish;

2-3 year olds identified as the part of the community in particular need, including establishing what access to early years centre could be provided for community day care, parents and toddler group and how this could be linked with the facility currently provided at the Community Centre, and to include outdoor provisions and spaces; and  
New school feels like a considerable upgrade on the current facilities and would be greatly welcomed by the community.

Based on the response received to the public consultation event, the following have been incorporated into the development proposals:

To improve pedestrian and cyclist safety, a four-way signalised junction with Whitecraig Road has been proposed;

The landscaping proposals include a series of different outdoor play spaces to be provided within the early years garden and primary school playground to future proof the space for a multitude of school and community user group needs and requirements; and

A community entrance is included on the northeast façade of the proposed school building. This door would be operated on a control managed basis to allow access for pre-confirmed Community User Groups at times and days of the week to be agreed by East Lothian Council Education.

The development for which planning permission is now sought is of the same character as that which was the subject of the community engagement undertaken through the statutory pre-application consultation of the proposal.

The application site is an area of some 2.33 hectares of land, including the existing Whitecraig Primary School campus, a narrow strip of land to the southwest of the existing school campus, and a part of the A6094 classified public road including the existing roundabout located to the northwest of the existing school campus. The majority of the site is presently in use as the existing Whitecraig Primary School and its playgrounds, playing fields and associated hardstanding areas. The narrow rectangular shaped area of land of the application site, which is attached to the southwest side of the existing school campus site, and is presently agricultural land, along with a further area of land to the southeast along the southwest side of the playing fields that are located to the southeast of the school campus site is allocated by Proposal (PROP) MH15 (Whitecraig Primary School Expansion Land) of the adopted East Lothian Local Development Plan 2018 (ELLDP) as expansion land for Whitecraig Primary School.

The application site is bounded to the north/northwest by a combination of the A6094 classified public road known as Whitecraig Road, commercial and residential properties on the south and north sides of that public road, and a woodland area, including part of the Dalkeith House (Palace) Inventory Garden and Designed Landscape, the River Esk Special Landscape Area, and part of the Edinburgh Green Belt. To the east/northeast are residential properties of Whitecraig Crescent. To the southeast are a recreation ground and playing fields. To the west/southwest the site is bounded by a combination of the A6094 classified public road and further agricultural land that is allocated by Proposal (PROP) MH13 (Land at Whitecraig South) of the adopted East Lothian Local Development Plan 2018 (ELLDP) for a mixed use development including homes, a small local centre, the expansion of the primary school campus and provision of other community uses, infrastructure and associate works.

The land of the site is generally level, although there is a slight downwards slope towards the northwest corner of the site. The existing school buildings, playgrounds and car parking area are positioned on the east/northeast half of the site, with the playing fields located on the western half of the site. There is a row of existing trees along the southwest boundary of the existing school campus, further trees, shrubs and hedging on parts of the north/northwest area of the site and on parts of the north/northwest boundary of the site, and to the south and southeast of the existing school buildings.

The properties of St John's Church, and Nos. 95A, 95B, 97-99 and 101-105 Whitecraig Road, located to the north of the application site are identified as being within the Local Centre of Whitecraig.

The application site is part of the designated area of Pinkie Battlefield. It is also part of a larger area that is identified by the Coal Authority as being potentially at high risk from past mining related activity. Although the majority of the application site is already in use as the existing Whitecraig Primary School campus, all of the land of the application site (including the existing school campus and the additional narrow strip of land to the southwest of it) is defined by the Macaulay Capability for Agriculture (LCA) classification system as being Land Capable of Supporting Arable Agriculture Class 2, that being prime agricultural land capable of being used to produce a wide range of crops. A small part of the northwest part of the site, being part of the A6094 classified public road, is identified as being at medium to low risk of river flooding, and in addition parts of the northwest area of the site and parts of the eastern half of the site are identified as being susceptible to surface water flooding.

Outwith the site to the northwest on the opposite side of the A6094 classified public road is agricultural land and woodland, including part of the Dalkeith House (Palace) Inventory Garden and Designed Landscape, the River Esk Special Landscape Area, part of the Edinburgh Green Belt and local biodiversity sites.

A core path passes across the northwest part of the site, being that part of the site which includes the roundabout junction and footpaths of the A6094 classified public road and along the footpath on the south side of the A6094 classified public road to the north of the site along Whitecraig Road.

The application site, and wider areas of land to the northwest of the site, is identified as being part of the Green Scotland Network.

The northwestern part of the application site, being that part of the site which includes the public road on the north side of the roundabout junction of the A6094 classified public road, is within an area identified as being of residential character and amenity.

A low pressure gas main is identified as being in the public road on the north side of the roundabout junction of the A6094 classified public road.

The application site is within the Edinburgh Airport Safeguarding Zone identified by Local Development Plan Policy OI3.

## **PROPOSAL**

Detailed planning permission is sought for the erection of a new 8 classroom Primary School building with integrated Early Years Centre. The proposed new school would replace and expand the existing Primary School to accommodate growth in the area, as well as enhancing community facilities. The proposed new school is designed to initially accommodate 8 classrooms with the capacity to increase to 10 classrooms over time. It would incorporate an Early Years Centre and is envisaged to be an integrated facility within the area; an educational facility that will also provide community learning. The proposed Primary School building with integrated Early Years Centre will include a multi-purpose hall and resource centre. Detailed planning permission is also sought for associated playgrounds, an artificial sports pitch, car parking and service access, electric vehicle chargers, cycle shelters, sprinkler housing, air source heat pump compound, bin storage, boundary enclosures, play equipment, landscaping and SUDS.

The proposed Primary School with Early Years Centre building would be erected on the west part of the site. The building would have a rectangular shaped footprint and would be predominantly two storeys in height, with a roof ridge height of some 12.1 metres above ground level. In order to break up the massing of the building it has been designed as a series of rectangular shaped forms. Four of the rectangular shaped components would be of equal size and would have dual pitched roofs and two narrower rectangular forms would have flat roofs. The roof ridges of the dual pitched roofed parts of the proposed building would run on a northwest to southeast alignment. On the southeast side of the proposed building there would be two components at single storey height with a roof terrace on top of each of them which would form outdoor classroom areas. There would be a further single storey component at the northeast corner of the proposed school building. The walls of the building would primarily consist of a charcoal grey coloured brick with the upper levels around the single storey components proposed to be clad with a 'copper' coloured Rainscreen exterior cladding board. The same 'copper' coloured Rainscreen exterior cladding board would be used as accent detail at ground floor level elsewhere on the building and 'copper' coloured picture framing would be used on the surround of some of the windows. The dual pitched roofs would be clad with PVC Plastisol coated, boxed profile, Trapezoidal metal roofing sheet in 'black' and flat roofed areas would be finished with a single ply roofing membrane. Large, aluminium framed glazed openings are proposed across the building. The curtain walling and frames of the windows and the external doors would be coloured 'black'. Some of the flat roofed areas of the building would accommodate plant with associated safety barriers.

The building is designed and positioned with its principal entrance on its southwest side addressing its car park and a pedestrian access plaza that would in the future lead from the future Whitecraig South development to the southwest (ELLDP Proposal PROP MH13). It would also have a secondary entrance on its northeast side addressing the access from the existing community and a further access to the Early Years Centre on its northwest elevation. The principal entrance is designed to be approached from the staff and visitor car park on the northwest part of the site, which itself is accessed directly from the A6094 classified public road. The building is arranged over two storeys with classrooms, nursery/Early Years accommodation and multi-purpose hall positioned around the outer edges of a central double height atrium area comprising resource

centre and dining room area.

The playground areas would be primarily located to the south and part southeast and southwest sides of the proposed school building away from vehicular access routes. The nursery/Early Years playground and garden would be located to the north of the proposed building. The playground areas would include a variety of outdoor play equipment, as well as covered play, outdoor classroom space, games court, equipment storage and an ASN Garden. The artificial sports pitch would be located on the eastern part of the site.

The majority of the existing row of trees along the southwest boundary of the existing school site would be removed to facilitate the erection of the new school. At its southern end, five trees of that row of trees would be retained. Existing trees on the north, south and east parts of the site would be retained. A new tree belt would be planted along the southwest boundary of the new school site and further tree planting and other landscaped areas would be provided throughout the site.

The main vehicular access to the proposed school and Early Years Centre would be taken from the A6094 classified public road (Whitecraig Road). A new access would be formed on the south side of the existing roundabout. To facilitate this the existing roundabout would be removed and a new four-way signalised junction would be formed with the vehicular access to the school being the southern arm of that new junction. The existing vehicular access to the school, which is located between St Johns Church and Nos. 101 to 105 Whitecraig Road, would be retained as a secondary staff and service vehicular access to the school site.

The main vehicular access from the southern arm of the new four-way signalised junction would lead to the main school car park to be formed on the northwest part of the school site. A total of 29 vehicle spaces, including accessible spaces are to be provided in this car park. Four of those spaces, including two accessible spaces, are to be equipped with Electric Vehicle (EV) charging infrastructure. The accessible vehicle spaces would be located closest to the principal school entrance. The secondary staff and service vehicular access would lead to a small 8 vehicle space car park, the kitchen entrance, bin storage area, air source heat pump and sprinkler tank enclosures. Secure and covered cycle parking facilities for staff, pupils and visitors would be located on the south side of the main car park and to the east side of the proposed school building between it and the pedestrian access from Whitecraig Crescent to the east.

Pedestrian access into the site would be from the east from Whitecraig Crescent and from the north from the A6094 classified public road. The arrival plaza on the west side of the proposed school would provide pedestrian and cycle access from the main school car park and in the future would provide a pedestrian/cycle access from the future Whitecraig South development to the southwest.

As well as detailed architectural and landscape architecture drawings, the application is also supported by, amongst other documents, a Transport Assessment, a Sustainability Planning Statement, a Flood Risk Assessment, an Engineering Report including drainage strategy, Ground Investigation and Remediation Strategy Reports, a Road Safety Audit, a SUDS Design Statement, a Landscape Design Statement, a Design and Access Statement, and a Schematic Drainage Layout.

Since the registration of the application a number of non-material amendments have been made to the proposals resulting in revisions to hard and soft landscaping proposals, and revisions to the design and finishing of parts of the proposed building.

In addition, the proposed sprinkler tank enclosure has been relocated to the northeastern part of the site and an air source heat pump enclosure has also been added on the northeastern part of the site adjacent to the proposed sprinkler tank enclosure. These two enclosures would be positioned close to the north boundary of the site and immediately to the south of existing residential properties. The relocation of the sprinkler tank enclosure and the addition of the air source heat pump enclosure was a significant change to the application and because of this the application was again advertised and the neighbours were again notified.

To facilitate the erection of the proposed Primary School building with integrated Early Years Centre, the existing 5 classroom school would be demolished and removed. The proposed replacement school building is positioned on the site so as to allow the existing school to continue to be used during the construction of the proposed new Primary School building with integrated Early Years Centre, thereby reducing the disruption to the existing school.

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 29 July 2021, the Council issued a formal screening opinion to the applicant. The screening opinion concludes that it is East Lothian Council's view that the proposed development is not likely to have a significant effect on the environment such that consideration of environmental information is required before any grant of planning permission. It is therefore the opinion of East Lothian Council as Planning Authority that there is no requirement for the proposed new Primary School building with integrated Early Years Centre 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 Edinburgh and South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Development Plan 2018 (ELLDP) together with its adopted supplementary guidance.

The purpose of the approved Edinburgh and South East Scotland Strategic Development Plan (SESplan) is to set out the strategic planning framework to assist preparation of local development plans. Its policies are strategic in nature and have been transposed into LDPs. Therefore they are not generally used in the assessment of individual planning applications.

Policies SECF1 (Safeguarded Education and Community Facilities), RCA1 (Residential Character and Amenity), T1 (Development Location and Accessibility), T2 (General Transport Impact), T4 (Active Travel Routes and Core Paths as part of the Green Network Strategy), T31 (Electric Car & Bus Charging Points), DC7 (Development in the Edinburgh Green Belt), DC9 (Special Landscape Areas), DC10 (Green Network), SEH2 (Low and Zero Carbon Generating Technologies), W3 (Waste Separation and Collection), W4 (Construction Waste), NH7 (Protecting Soils), NH8 (Trees and Development), NH10 (Sustainable Urban Drainage Systems), NH11 (Flood Risk), NH13 (Noise), CH4 (Scheduled Monuments and Archaeological Sites), CH5 (Battlefields), CH6



(Gardens and Designed Landscapes), DP1 (Landscape Character), DP2 (Design) and DP4 (Major Development Sites) are relevant to the determination of the application.

Proposals (PROP) MH13: Land at Whitecraig South, MH15: Whitecraig Primary School Expansion Land and ED1 (Part C) are relevant to the determination of the application.

Also relevant to the determination of the application is the Council's approved non-statutory Supplementary Planning Guidance (SPG) document on Sustainable Drainage Systems (SuDS) and on Special Landscape Areas.

Also material to the determination of the application is the approved development brief for Proposals MH13: Whitecraig South and MH15: Whitecraig Primary School Expansion Land. The development brief sets out the land uses expected for the allocated site and how the Council requires the site to be developed.

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

Also material to the determination of the application is Scottish Planning Policy: June 2014.

Paragraph 80 of SPP states that development on prime agricultural land should not be permitted except where it is essential:

- o 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
- o for small-scale development directly linked to a rural business; or
- o for the generation of energy from a renewable source or the extraction of minerals where this accords with other policy objectives.

SPP also states that planning authorities should protect archaeological sites and monuments as an important finite and non-renewable resource and preserve them in situ wherever possible. Where in situ preservation is not possible, planning authorities should, through the use of conditions or a legal obligation, ensure that developers undertake appropriate excavation, recording, analysis, publication and archiving before and/or during development. Planning Advice Note 2/2011: Planning and Archaeology similarly advises.

## **REPRESENTATIONS**

One representation has been received to the application. That representation neither objects to nor supports the proposed development, rather it comments that existing road side parking for existing properties on Cowpits Road would be lost when the existing roundabout is change to a four-way signalised junction, which would result in 15m parking restrictions on all approaches to the new junction.

## **COMMUNITY COUNCIL**

Whitecraig Community Council have been consulted on the application however no response has been received from them.

## PLANNING ASSESSMENT

The primary material consideration in the determination of this application is whether or not the proposed development accords with development plan policies 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 land of the application site is either already in use as part of the existing Whitecraig Primary School campus (Policy SECF1) or is land allocated within the ELLDP for the expansion of that existing school campus (Proposals (PROP) MH13 and MH15). Thus, the land of the application site is an allocation of the ELLDP which provides part of the plan's strategy. As the application site is identified in the ELLDP as being safeguarded for education and for education expansion, there cannot in principle be any objection to the erection on the land of the application site of a new/replacement school to serve the Whitecraig community, and thus the development of the land the subject of this application for a new/replacement school is, in principle, in accordance with Proposals (PROP) MH13 and MH15, and also with Policy SECF1, which safeguards land allocated for education and community facilities for such uses, and Proposal (PROP) ED1 (Part C) which states that the Council will provide additional pre-school and primary school campus land at Whitecraig Primary School as part of the allocation to the west of the existing campus.

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 2, that being prime agricultural land capable of being used to produce a wide range of crops. Policy NH7 of the ELLDP states that development on prime agricultural land will not be permitted unless in the particular circumstances listed in the Policy. One of those circumstances is if it is to implement a proposal of the plan, which this application is. The proposal does not therefore conflict with Policy NH7 of the adopted ELLDP or with SPP on development on prime agricultural land.

A small part of the northwest part of the site, being part of the public road on the north side of the roundabout junction of the A6094 classified public road, is within an area identified as being of residential character and amenity by ELLDP 2018 Policy RCA1. That part of the site would remain in use as part of the public road and footpath and thus would not conflict with ELLDP 2018 Policy RCA1.

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

In that statement it is explained that design objectives of the proposed replacement school are to create an architectural project that responds to its context, responds to the

language of its local history, provides thermal efficiency through form factor, is environmentally responsive, adopts a holistic design solution, creates inspiring places to learn, had articulated elevations, adopts a creative landscape approach and is a safe place to play.

The statement explains that the building has been positioned so as to improve connection to the existing community and to also allow connectivity to the adjacent future site of the Whitecraig South development. It is explained that the building has been designed to take note of the local character and history, using the language and materiality of colliery architecture within the building form and material palette but applying a modern twist and that this has resulted in a building with bold and distinctive features but with a simple materials palette. The statement explains that the geometry and massing of the building reflect the forms and articulation of colliery architecture attributed to Whitecraig's past and the charcoal and contrasting copper colours of the external finishes are representative of industrial materials, such as coal and copper. It is explained that the approach taken is to create a simple, elegant yet bold building which embodies a strong sense of identity; a robust, durable building acting as a focal point within a central location of the expanded Whitecraig community. The statement goes on to explain that, for the user, the building is designed to provide a warm and welcoming environment from which all points of the building can easily be orientated and accessed.

The statement further explains that the strategy for delivering the new Whitecraig Primary School revolves around the ability to be able to keep the existing school running during the construction phase in order to minimise disruption to the community. To this end, the works would comprise two phases: Phase 1 construction works on the new school building, car park and playground on the southwest part of the site, and Phase 2 upon occupation of the new school building the demolition of the existing school and the completion of the remainder of the works on the eastern part of the site.

The buildings in the surrounding area are predominantly residential properties and are predominantly two storeys in height with dual pitched and piended or gabled roof forms. They are predominantly finished in render with natural slate, plain red clay tile or concrete tile roofs. Some of the buildings have front facing projecting gable details and some have brick or stone architectural details. To the north of the application site is the building of the former St Johns Church, which is no longer in active use as a church. That building is a high single storey structure with white rendered walls, a natural slated dual pitched roof and stone window and door surrounds. Further east on the north side of Whitecraig Road are contemporary single storey large commercial premises. The existing school building is two storey and single storey in height with a combination of dual pitched and flat roofs. It is finished externally in a red/brown brick with brown painted timber board cladding detail.

In all of this, there is a mixed architectural form, and there is little uniformity or contextual cues from which the proposed building can take reference.

Although set back from the public road, the proposed school would occupy what is at present a prominent position on the western approach into Whitecraig, and would at present be prominent in approaches from that direction. In time, however, once the Whitecraig South development is completed, the proposed school would be bounded on its south/southwest side by further mixed use development.

The proposed new/replacement school would be predominantly two storey in height with some single storey components, and at a maximum height of some 12.1 metres from its roof ridge to ground level, the proposed school building would be higher than the surrounding and nearby buildings. It would have a roughly rectangular shaped footprint

measuring some 45 metres by some 48 metres. Due to its footprint size and its proposed height, the proposed school building would be a large building with a noticeable physical presence, and would introduce a significant built form into the landscape of the surrounding area. Furthermore, by the nature of its proposed use and functionality, the proposed school building would not be a small building. However, the proposed school building has been designed as a series of rectangular shaped forms and this form and design helps to break up the massing of the proposed building. Although the proposed school building would be readily visible in the approaches from the west, it would be set back from the adjacent public roads of Whitecraig Crescent, Whitecraig Road and the A6094, and on its north and east sides it would be positioned behind the existing buildings that respectively front onto Whitecraig Avenue and Whitecraig Crescent, in a not dissimilar manner to that of the positioning of the existing school. In all of this, although the proposed school building would be a significant structure that would be of a greater scale and massing than the existing houses and buildings in the surrounding area, by virtue of its height, scale, massing, architectural form and positioning, the proposed school building would not appear overly dominant and intrusive within the streetscape, and would not have such a presence as to appear harmfully obtrusive in its setting or so as to be harmful to its landscape setting but rather it would sit comfortably alongside the existing houses and buildings of this western part of Whitecraig, and would act as a focal point within this part of the community. In time, with the development of Whitecraig South to the southwest/southeast of the application site, and in its position to the south of the local centre of Whitecraig, the proposed school building, the existing local centre to the north of it, and the playing fields to the southeast of it would be a central location within the community of Whitecraig.

Due to its height and its positioning relative to neighbouring residential properties the proposed school building would not appear harmfully overbearing or dominant when viewed from those neighbouring residential properties.

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

The Commission for Architecture and Built Environment report 'Creating Excellent Primary Schools: a guide for clients' states that "well-designed buildings lift the spirits and aspiration of everyone who uses them and provide facilities that are fit for purpose, inclusive and built to last".

The proposed school building would be of a modern contemporary architectural style and would be of a distinctive architectural form and appearance reflective of its functional purpose as a school with early years centre. It would be confident in its design and would have a distinct physical presence within the streetscape appropriate to a school building.

Its palette of external finishes of brick, 'Rainscreen' exterior cladding board, metal roof cladding, curtain walling (as relevant) for its external walls and roofs, and aluminium framed windows and doors would be appropriate to its modern architectural style and its functional use as a school building. Although the use of a dark charcoal grey brick and 'copper' coloured 'Rainscreen' cladding board for the finishes of the external walls and black roof cladding are significantly different from any materials or colours in the locality, those proposed materials and colours would contrast harmoniously with the existing external finishes and colours of the nearby and neighbouring buildings. Furthermore, it is

not uncommon for school buildings to use both distinctive design and colours in their architectural form and appearance. A planning condition can be imposed requiring a schedule and/or samples of the external materials to be approved by the Planning Authority in advance of their use on the building to ensure they are of a finishing quality and colour appropriate to their surroundings.

By virtue of its size, height and its contemporary architectural design and appearance, the proposed school building would have a distinct physical presence within the streetscape. It would contrast harmoniously with the surrounding architecture and would nonetheless be appropriate to its location. It would add, in a complementary way, to the variety of architectural form and design of Whitecraig. Consequently the proposed school building, by virtue of its architectural form, design and external finishes would not look out of place in the streetscape. It would not appear harmfully incongruous, exposed or an over development of the land upon which it would be built. By its positioning, design, architectural form and finishing materials, the proposed school building would not be harmful to the character and appearance of the area.

Seen as they would be in their immediate relationship with the proposed school building, the proposed playgrounds, playing fields, associated hardstanding, cycle shelters, sprinkler housing, air source heat pump enclosure, boundary fencing and walls, and landscaping would not be inappropriate development for a school campus. They would not, together with the proposed school building, appear harmfully incongruous, exposed or an over development of the land upon which they would be built. They would not be harmful to the character and appearance of the area.

The proposed school building would be positioned on the site such that its windows and glazed doors would be more than 18 metres away from the boundaries of the site and thus so that its windows and glazed doors would be more than 9 metres and more than 18 metres away from the gardens or windows of any existing or proposed residential properties. Such separation distances meet the Council's standard of acceptable privacy distances respectively between facing windows and private amenity space and between facing windows in neighbouring properties.

By its positioning, height, orientation and distance away from existing buildings and houses, the proposed school and its associated works, including cycle shelters, sports pitches, refuse storage, sprinkler housing and air source heat pump compound, would not give rise to harmful loss of daylight or sunlight to any neighbouring existing or proposed residential property.

The Council's **Senior Environmental Health Officer** has commented on the application and raises concerns regarding noise. In relation to noise the Council's Senior Environmental Health Officer advises that there is the potential for noise from plant and equipment used in association with the proposed school, including but not exclusively roof mounted plant and equipment, the sprinkler tank and air source heat pump enclosures, to result in harm to the amenity of nearby housing. As such he advises that a condition should be imposed requiring that noise associated with any plant and/or equipment does not exceed Noise Rating Curve NR25 at any Octave Band Centre Frequency within any residential property assuming windows within neighbouring sensitive receptor properties are open 50mm for ventilation purposes. This matter can be controlled through a condition of a grant of planning permission. Subject to such control, the proposals do not conflict with Policy NH13 of the adopted East Lothian Local Development Plan 2018.

The Council's Senior Environmental Health Officer also advises that there may be impacts from artificial lighting/floodlights associated with the sports pitches on the

existing housing to the north, northwest, northeast and east. A lighting assessment has been submitted with the application. The Council's Senior Environmental Health Officer advises that with regards to artificial lighting/floodlights, it is recommended that light trespass onto windows of neighbouring residential properties, measured as Vertical Illuminance in Lux, (Ev), shall not exceed 10 between the hours of 0700-2300 and shall not exceed 2 between the hours of 2300-0700. The Senior Environmental Health Officer advises that he is satisfied that the submitted lighting assessment demonstrates that the daytime criteria (07.00 to 23.00 hours) of 10 Lux will be met however the night time criteria (23.00 to 07.00 hours) of 2 Lux may not be met. Therefore, he recommends that a condition be imposed to restrict the operation of the floodlights to that they would only operate between 07.00 to 23.00 hours on any day. This matter can be controlled through a condition of a grant of planning permission.

On these foregoing amenity considerations, the proposed school building and its associated structures, by virtue of their size, height, layout, design and orientation, would have no significant harmful impact on the privacy or residential amenity of the occupants of adjoining residential properties.

On all of the foregoing considerations of layout, design and amenity, the proposals are consistent with Policies DP1, DP2, DP4 and NH13 of the adopted East Lothian Local Development Plan 2018.

Historic Environment Scotland have been consulted on the application and have no comment to make regarding the potential impact of the proposals on the designated area of the Battle of Pinkie or Dalkeith House (Palace) Inventory Garden and Designed Landscape.

The Council's **Archaeology Officer** advises that although the application site is within the area designated for the Battle of Pinkie, it lies at the very edge of the designated area and not in an area considered to be where fighting occurred. Furthermore, the proposed development would be viewed in the context of the existing built form of Whitecraig and would not impact on the character or understandability of the battle landscape. The Archaeology Officer goes on to comment that given that the majority of the proposals lie within the area of the existing school grounds, which have previously been developed and landscaped there is a relatively low potential for buried remains to be uncovered. Accordingly, the Archaeology Officer raises no objection to the proposals.

As sympathetic development within the urban envelope of Whitecraig and within the allocated expansion of Whitecraig through the ELLDP 2018, the proposed school and associated development would not have a significant adverse affect on the key features of Pinkie Battlefield or archaeological assets, and would not conflict with Policies CH4 and CH5 of the adopted East Lothian Local Development Plan 2018, Scottish Planning Policy: June 2014 and PAN 2/2011: Planning and Archaeology.

As sympathetic development within the urban envelope of Whitecraig and within the allocated expansion of Whitecraig through the ELLDP 2018, the proposed school and associated development would not have a significant adverse affect on the landscape setting of Dalkeith House (Palace) Inventory Garden and Designed Landscape and thus would not conflict with Policy CH6 of the adopted East Lothian Local Development Plan 2018.

Only a very small part of the public road of the A6094, being part of the northwest part of the application site, is identified as being within the Edinburgh Green Belt. That part of the site would continue to be used as part of the public road through changes to the existing roundabout junction to form a four-way signalised road junction. Such works to

the public road are required as part of the proposed development to improve vehicular and pedestrian access to the proposed new/replacement school. They would not change the relationship between this part of the Edinburgh Green Belt and the built form of Whitecraig. Accordingly, the proposed development would not harm green belt objectives or the character or appearance of the local area, and would not conflict with Policy DC7 of the adopted East Lothian Local Development Plan 2018.

As sympathetic development within the urban envelope of Whitecraig and within the allocated expansion of Whitecraig through the ELLDP 2018, the proposed school and associated development would not conflict with the Statement of Importance of the Esk Valley Special Landscape Area and would not harm the special character of the area or the setting of the Esk Valley Special Landscape Area. Accordingly, the proposed development would not conflict with Policy DC9 of the adopted East Lothian Local Development Plan 2018.

The application site, and wider areas of land to the northwest of the site, is identified as being part of the Green Scotland Network (GSN). The GSN aspires that "by 2050 Central Scotland has been transformed into the place where the environment adds value to the economy and where peoples' lives are enriched by its quality", improving connectivity, growth, balance, active travel, belonging and nature. Although within what is identified as being the GSN, the existing school site is not publicly accessible and nor would be the proposed school site. The development briefs for the school expansion (Proposals MH13 and MH15) do not specifically identify the land of the school expansion site as being required to deliver part of the GSN. Nor does the GSN specifically identify green network measures that are required to be delivered on the land of the application site. The existing core footpath that passes across the northwest part of the application site and along Whitecraig Road to the north of the application site would be retained and available for use. The proposed development includes a variety of landscape planting including of the SuDS area on the northwest part of the site and along the southwest boundary of the site all of which would, in time, contribute towards green infrastructure on the school site. Accordingly, the proposed development does not conflict with Policies DC10 and T4 of the adopted East Lothian Local Development Plan 2018.

The core footpath that passes across the northwest part of the site, being that part of the site which includes the roundabout junction and footpaths of the A6094 classified public road and along the footpath on the south side of the A6094 classified public road to the north of the site (Whitecraig Road) would remain available through the development proposals. Thus, the proposals would not conflict with Policy T4 of the adopted East Lothian Local Development Plan 2018.

The Council's **Access Officer** has been consulted on the application and has no comment to make regarding the proposals.

The proposals include the provision of a new vehicular access to the proposed school that would be taken from the A6094 classified public road (Whitecraig Road). The existing roundabout junction would be removed and a new four-way signalised junction would be formed with the new vehicular access to the school forming the southern arm of that new junction. The existing vehicular access to the school, which is located between St Johns Church and Nos. 101 to 105 Whitecraig Road, would be retained as a secondary staff and service vehicular access to the school site.

The Council's **Road Services** advise that the Transport Assessment submitted in support of the application satisfactorily demonstrates that the proposed development could be safely accessed by all modes of transport and that generated vehicular traffic would not significantly adversely impact on the operation of the local road network. Road

Services note that the proposals include enhanced provision for pedestrians and cyclists including widened and shared use footways, signal controlled crossings and wide shared use footways within the site.

Road Services further advise that the alterations to the current 3-arm roundabout to replace it with a 4-arm signal controlled junction with controlled pedestrian crossings on all approaches is acceptable. They also confirm that the use of the existing vehicular access as a separate service access for the proposed school is acceptable, and that swept path assessments demonstrate that large vehicles will be able to manoeuvre safely through the signalised junction and service access arrangements.

The Council's Road Services advise that they are satisfied with the proposals for site access, parking provision (including the number of parking spaces to be provided), servicing and emergency access and manoeuvrability, electric charging and pedestrian and cyclist provision.

Subject to the following matters being controlled by conditions, the Council's Road Services raise no objection to the proposed development:

- 1) Prior to the development being brought into use, a School Travel Plan shall be submitted to and approved by the Planning Authority in consultation with Road Services and thereafter the approved School Travel Plan shall be implemented;
- 2) No part of the development shall be brought into use until the proposed signalised junction as shown on G3 Consulting Engineers Drawing No. J5278-sk001 Rev G has been installed, made operational, been subject to an independent Stage 3 Road Safety Audit and any points raised by that Audit satisfactorily addressed;
- 3) Installation of double yellow line restrictions on the east side of Cowpits Road in line with the extents shown on G3 Consulting Engineers Drawing No. J5278-sk001 Rev G to maintain forward visibility to the signalised junction. A Traffic Regulation Order will need to be progressed; and
- 4) A Construction Method Statement to be submitted to and approved by the Planning Authority in consultation with Road Services. The Construction Method Statement shall recommend mitigation measures to control construction traffic, noise and dust and shall include hours of construction work and details of wheel washing facilities to be provided. Wheel washing facilities must be provided and maintained in working order during the period of operation of the site. All vehicles must use the wheel washing facilities to prevent deleterious materials being carried onto the public road on vehicle tyres.

Subject to these recommended controls being imposed on a grant of planning permission, the proposals do not conflict with Policies T1, T2 and W4 of the adopted East Lothian Local Development Plan 2018.

On the matter of the comments raised in the public representation, the Council's Road Services advise that double yellow lines would be used on the east side of Cowpits Road between the proposed signalised junction and the southernmost disabled parking bay, but that these double yellow lines would not prevent access to existing driveways on the east side of Cowpits Road. Road Services further advise that based on the current Highway Code, vehicles should not be parked on the approach to the current roundabout junction in order to keep that junction approach clear and the use of double yellow lines in the new signalised junction would reinforce this. Road Services comment that they have not observed parked vehicles to the south of the southern-most driveway entrance on the east side of Cowpits Road on the junction approach and thus would not expect



the proposed signalised junction to change the parking arrangements of the residents of that part of Cowpits Road.

The part of the application site that is susceptible to fluvial flooding from the River Esk located some 190 metres to the northwest of the application site is a small part of the northwest side of the public road and footpath of the existing roundabout junction. That part of the site would continue to be in use as part of the public road and footpath through this application. Thus there would be no change to its use as part of the development proposals.

A Flood Risk Assessment, Drainage Calculations, Surface Water Management details and SuDS Design Statement have been submitted in support of the application.

The Council's **Flooding Officer** notes that sewers that pass through the site will be diverted, grubbed up (etc) and comments that a Risk Assessment and Construction Management Plan will be required for such works. This requirement can be controlled through a condition of a grant of planning permission.

The sustainable urban drainage system (SuDS) for the treatment of surface water from the proposed development would be in the form of a SuDS detention basin, permeable paving, and swales.

The Council's Flooding Officer raises no objection to the application on flood risk grounds and confirms that he has reviewed the Flood Risk Assessment, Drainage Calculations, Surface Water Management details and SuDS Design Statement, and associated application drawings. He confirms that a Rainfall Climate Change Allowance of 35% has been incorporated within the details submitted and the associated calculations for attenuation volumes are acceptable. The Council's Flooding Officer confirms that the proposed drainage/SuDS arrangements are designed to an acceptable standard. Subject to the aforementioned planning control, the proposals do not conflict with Policies NH10 and NH11 of the adopted East Lothian Local Development Plan 2018 or with the Council's approved non-statutory Supplementary Planning Guidance (SPG) document on Sustainable Drainage Systems (SuDS).

The Council's **Waste Services** raise no objection to this application subject to the turning area marked on the swept path analysis drawing being marked as 'keep clear' or 'no parking'. This matter can be controlled through a condition of a grant of planning permission. Accordingly, the proposed development does not conflict with Policy W3 of the adopted East Lothian Local Development Plan 2018.

The Council's **Head of Education** raises no objection to this application.

Although the site is within the area identified as being the Edinburgh Airport Safeguarding Zone, the proposed development is not for wind turbine development and there is no requirement to consult under ELLDP Policy OI3.

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

The Coal Authority have been consulted on this application and advises that following consideration of the Report on Site Investigation (prepared by G3 Consulting Engineers, dated February 2022), the content of which confirms site investigations across the site, they are satisfied that the issue of the potential for coal mining legacy to affect the proposed development has been adequately investigated, and that for the purposes of this planning application it has been demonstrated that the application site is safe and stable for the proposed development. Accordingly, the Coal Authority raise no objection

to the proposed development.

The Coal Authority do however not that there is the potential for mine gases to exist and that such risk should be considered by the Local Planning Authority. This matter is considered below by the Council's **Environmental Health Officer (Contaminated Land)**.

The Coal Authority also note that where SUDS are proposed as part of a development scheme consideration should be given to the implications of this in relation to the stability and public safety risks posed by coal mining legacy, and that the developer should seek their own advice from technically competent persons to ensure that a proper assessment has been made of the potential interaction between hydrology, the proposed drainage system and ground stability. A copy of The Coal Authority's comments has been forwarded to the applicant's agent for their information.

The Council's **Contaminated Land Officer** has reviewed the Geo-Environmental Site Investigation Report and the Remediation Strategy Report for the site, which have been submitted with the application, and advises that he is satisfied that the reporting has been carried out in accordance with best practice guidelines and the relevant standards. The Council's Contaminated Land Officer agrees with the findings of the Geo-Environmental Site Investigation Report and recommendations. He further advises that the Remediation Strategy Report suitably details the remedial works to be undertaken to address the issue of localised PAH impacted made ground identified on the site, and provides information on both the validation procedures and criteria to be followed. On completion of the remedial works and prior to occupation of the school, a Verification Report should be submitted confirming that all remedial measures have been successfully carried out. To this end The Council's Contaminated Land Officer recommends a condition be attached to any grant of planning permission to secure that the remediation of the site is carried out in accordance with the Remediation Strategy submitted and that a Verification Report should be submitted confirming that all remedial measures have been successfully carried out. This matter can be controlled through a condition of a grant of planning permission.

There is a row of existing trees along the southwest boundary of the existing school campus, further trees, shrubs and hedging on parts of the north/northwest area of the site and on parts of the north/northwest boundary of the site, and to the south and southeast of the existing school buildings. To facilitate the erection of the proposed school building the majority of the existing row of trees along the southwest boundary of the existing school site would be removed. At its southern end, five trees of that row of trees would be retained. Further existing trees on the north, south and east parts of the site would also be retained. A new tree belt would be planted along the southwest boundary of the new school site and further tree planting and other landscaped areas would be provided throughout the site.

ELLDP 2018 Policy NH8 does not generally support the loss of trees that make a positive contribution to the landscape character of the area unless in the case of individual trees or groups of trees, their loss is essential to facilitate development that would contribute more to the good planning of the area than would retaining the trees or group of trees. In the case of this application, the proposed school is allocated development that is necessary for the wider development of Whitecraig and will provide a necessary infrastructure facility.

Whilst the loss of the trees from the site is unfortunate it is proposed that a new tree belt would be planted along the southwest boundary of the new school site and further tree planting and other landscaped areas would be provided throughout the site.

The landscape advice is that the proposed landscape planting throughout the site, including a high number of trees that in time would mitigate for the loss of the existing trees, and the landscaping of the SuDS area is satisfactory, and that the protection of the trees to be retained on the site is also adequate.

Accordingly, the Council's **Landscape Officer** raises no objection to the proposed development. It would be prudent to ensure that the proposed planting shown on the application drawings is carried out in the first planting season (between October and March) following the completion of the development and that temporary protective fencing is erected to protect any retained trees. These matters can be controlled by conditions on a grant of planning permission.

Subject to these recommended controls being imposed on a grant of planning permission, the proposals do not conflict with Policy NH8 of the adopted East Lothian Local Development Plan 2018.

The Council's **Tree Officer** comments that maintenance and aftercare of playground features such as 'Willow domes, arches and tunnels' is not factored into the maintenance requirements of new schools and inevitably these features become overgrown and unusable.

This matter is for the education service as the operator of the proposed school to consider and these comments have been passed to the applicant's agent.

The Council's **Biodiversity Officer** notes that some of the existing trees would be removed from the site to facilitate the proposed development but comments that the proposed tree planting will mitigate for the loss of those existing trees from the site. The Biodiversity recommends that the tree felling be undertaken outwith the breeding bird season (March to August inclusive) unless it can be demonstrated that no nesting birds are present. This matter can be controlled by a condition on a grant of planning permission. Subject to such control the proposed development would not have a harmful impact on biodiversity considerations.

The Council's **Amenity Services** and **Sport, Countryside and Leisure Services** have been consulted on the application and have no comments to make on the proposals.

The Council's **Estates Department** has been consulted on the application and has no comments to make on the proposals.

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

This planning application is supported by Design and Access Statement and a Sustainability Planning Statement, which outline the design approach, and the measures to be taken, in order to minimise the carbon footprint and the carbon emissions from the build. These reports explain the building fabric performance, mechanical and electrical building services, and sustainability statement for the proposed development. They explain that high efficiency LED lighting would be used throughout, that high efficiency air source heat pumps will deliver heating and hot water throughout the proposed building, and that mechanical ventilation heat recovery systems will be provided. The Statements

explain that the development proposals will achieve compliance with 'Section 6' of the Scottish Technical Standards and also satisfy the technical requirements of the East Lothian Local development Plan, specifically Policy SEH2 'Low and Zero Carbon Generating Technologies'. It is stated that the project has been designed with a fabric first approach to minimise the energy consumption and carbon emissions of the development. The project aspirations are for a Passivhaus principles approach to minimise the building's energy demand. In addition, provision is to be made for Electric Vehicle Charging within the main car parking area of the site and the Council's Road Services have advised they are satisfied with such proposals. Subject to a condition being imposed on a grant of planning permission for this proposed development to ensure that the proposed actions to be taken to reduce the carbon emissions from the building and from the completed development, including the proposals for Electric Vehicle Charging Provision are implemented on site, the proposals are consistent with Policies SEH2 and T31 of the East Lothian Local Development Plan 2018.

In summary, the proposed development is well designed for its place and its function and the site is capable of accommodating all of the proposed development. A grant of planning permission for the proposed development in the context of the site being allocated for the primary school expansion established by PROP ED1 (Part C), MH13 and MH15 of the ELLDP 2018, and in that its impacts in respect of amenity and technical considerations are acceptable in themselves, or can be mitigated through the appropriate use of planning conditions would not be inconsistent with Scottish Planning Policy, with the relevant policies and proposals of the East Lothian Local Development Plan 2018 or with its adopted supplementary guidance.

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

## **RECOMMENDATION:**

That planning permission for the proposed primary school and its associated works be granted subject to the following conditions:

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

Reason:

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

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

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

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

Reason:

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

- 3 Prior to any works beginning on site (and where risks have been identified), the remediation of the site shall be carried out in accordance with the Remediation Strategy docketed to this grant of planning permission unless otherwise approved in writing by the Planning Authority in consultation with the Council's Contaminated Land Officer.

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

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

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

Reason:

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

- 4 Prior to the commencement of use of any part of the school hereby approved, the proposed signalised junction also hereby approved, shall have been installed, made operational, and been subject to an independent Stage 3 Road Safety Audit and any points raised by that Audit satisfactorily addressed. The proposed signalised junction shall be laid out in accordance with the details for it shown on docketed drawing no. J5278-sk001 Rev G (G3 Consulting Engineers drawing) unless the Planning Authority agree to any variation.

Double yellow line restrictions shall be installed on the east side of Cowpits Road in line with the extents shown on docketed drawing no. J5278-sk001 Rev G (G3 Consulting Engineers drawing) in order to maintain forward visibility to the signalised junction. A Traffic Regulation Order will need to be progressed.

Thereafter the proposed signalised junction shall be retained for such use unless the Planning Authority agree to any variation.

Reason:

In the interests of road and pedestrian safety.

- 5 Prior to the commencement of development, a Construction Method Statement which sets out how the impact of construction activity on the safety and amenity of the area will be mitigated shall be submitted to and approved in advance in writing by the Planning Authority. The Construction Method Statement shall include details of:

(i) mitigation measures to control noise, dust, construction traffic (including routes to/from site and delivery times);

- (ii) hours of construction work;
- (iii) routes for construction traffic;
- (iv) how building materials and waste will be safely stored and managed on site; and
- (v) wheel washing facilities or alternative facilities to prevent deleterious materials being carried onto the public road on vehicle tyres.

Thereafter, the Construction Method Statement shall be implemented and complied with in accordance with the approved details for the period of construction of the development hereby approved and the wheel washing facilities or any alternative facility so approved shall be provided and maintained in working order during the period of construction operations at the site.

Reason:

To minimise the impact of construction traffic in the interests of road and pedestrian safety in the locality and relative to school generated vehicle and pedestrian movements.

- 6 Prior to the development hereby approved being brought into use, a School Green Travel Plan shall be submitted to and approved in writing in advance by the Planning Authority in consultation with the Council's Road Services. The School Travel Plan shall have particular regard to provision for walking, cycling and public transport access to and within the site, including the identification of appropriate Safer Routes to School, and will identify the measures to be provided, the system of management, monitoring, review, reporting and duration of the plan.

Thereafter, the approved School Green Travel Plan shall be implemented prior to the use of the primary school building hereby approved.

Reasons:

In the interest of road safety.

- 7 Prior to the commencement of the development hereby approved, a detailed Construction Risk Assessment and Method Statement for the proposed works to the culverts on the application site shall be submitted to and approved in advance in writing by the Planning Authority. Amongst other details, the Construction Risk Assessment and Method Statement shall include a timetable for the implementation of the works to the culverts. The development shall thereafter be carried out in strict accordance with the detailed Construction Risk Assessment and Method Statement so approved, unless otherwise agreed in writing by the Planning Authority.

Reason:

To ensure that development is not at risk from flooding.

- 8 Prior to the commencement of development on the site, full details of the proposed Sustainable Drainage System (SuDS) including a Surface Water Management Plan for the development shall be submitted to and approved in writing by the Planning Authority.

The details shall include confirmation of Scottish Water's technical approval of the SuDS proposals, if relevant.

Thereafter, the approved details shall be implemented as approved, unless otherwise agreed in writing with the Planning Authority.

Reason:

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

- 9 Prior to the commencement of use of the primary school hereby approved, the proposed access roads, parking spaces, cycle parking and footpaths shall all have been constructed on site in accordance with the docketed drawings.

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

Reason:

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

- 10 Prior to the commencement of use of the school hereby approved, the turning head of the vehicular access from Whitecraig Road (Service Vehicular Entrance) shall be marked out as a 'keep clear' or 'no parking' area to ensure that there would be no obstruction to vehicular manoeuvres, and details of the marking out of that 'keep clear' or 'no parking' area shall be submitted to and approved in advance in writing by the Planning Authority in consultation with Road Services and Waste Services prior to the works being carried out. Thereafter, the 'keep clear' or 'no parking' area shall be marked out in accordance with the details so approved and shall be retained as such in perpetuity unless otherwise approved by the Planning Authority.

Reason:

In the interests of road safety and to ensure adequate turning and manoeuvring space on the site.

- 11 Any proposed plant/equipment associated with the operation of the school hereby approved shall be selected, designed and located so as to ensure that any noise emanating therefrom shall not exceed Noise Rating Curve NR25 at any octave band frequency within any neighbouring residential property, with all measurements to be made with windows open at least 50mm.

Reason:

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

- 12 The design and construction of the floodlighting of the artificial sports pitch hereby approved shall take account of the Guidance contained within Annex 1 to Appendix 2 of Scottish Government Guidance to Accompany the Statutory Nuisance Provisions of the Public Health etc (Scotland) Act 2008 to ensure that the following criteria be met prior to any external lighting becoming operational:

(i) Light Trespass onto windows of neighbouring residential properties, measured as Vertical Illuminance in Lux, (Ev), shall not exceed 10 Lux between the hours of 07.00 and 23.00 on any day and shall not exceed 2 Lux between the hours of 23.00 to 07.00.

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

The floodlights of the artificial sports pitch of the development hereby approved shall only operate between 07.00 and 23.00 hours on any day.

Reason:

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

- 13 A schedule and samples, of materials and finishes, including their colours, to be used on the exterior of the primary school building hereby approved shall be submitted to and approved in advance in writing by the Planning Authority prior to their use in the development. Thereafter, the materials and finishes, including their colour(s), used shall accord with the schedule and samples of them so approved.

Reason:

To enable the Planning Authority to control the materials, finishes and colours to be used

to achieve a development of good quality and appearance in the interest of the visual amenity of the area.

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

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

Reason:

To minimise the environmental impact of the development.

- 15 Other than the trees, as detailed on docketed drawing no. L(94)010 rev P04, that are to be removed, all other existing trees on the application site shall be retained and shall not be damaged or uprooted, felled, lopped or topped without the prior written consent of the Planning Authority.

Reason:

In order to ensure the retention and health of trees or shrubs on and adjacent to the application site which are important to the landscape character of the area.

- 16 No development shall take place on the site until temporary protective fencing has been erected and installed and confirmed in writing by the Planning Authority to protect the retained trees on the site. The temporary protective fencing shall be erected in the positions shown for it on the drawings docketed to this grant of planning permission, unless otherwise approved in writing by the Planning Authority.

The temporary protective fencing shall comprise Heras, or similar approved, weld mesh enclosed panels joined together with a minimum of two anti-tamper couplings, and supported on preformed weighted footings, stayed and fixed into the ground to withstand impact from machinery and access into the construction exclusion zone, in accordance with British Standard BS5837: 2012 "Trees in relation to design, demolition and construction". The temporary protective fencing shall be 2.3 metres in height, erected prior to works commencing, kept in good condition through the works and shall be retained on site fully intact through to the completion of the site development. The position of this temporary protective fencing shall be outwith the root protection area (RPA) as defined by BS5837:2012 for the existing retained trees.

All weather notices shall be erected on the fencing referred to in paragraphs 1 and 2 of this condition with words such as "Construction exclusion zone - Keep out" and the fencing shall remain on site and intact through to completion of the development.

Within the fenced off areas creating the construction exclusion zones the following prohibitions shall apply:-

- No vehicular or plant access;
- No raising or lowering of the existing ground levels;
- No mechanical digging or scraping;
- No storage of temporary buildings, plant, equipment, materials or soil;
- No hand digging;
- No lighting of fires; and
- No handling, discharge or spillage of any chemical substance, including cement washings.

Planning of site operations shall take sufficient account of wide loads, tall loads and plant with booms, jibs and counterweights (including drilling rigs), in order that they can operate without coming into contact with retained trees.



Reason:

In order to ensure the protection of the trees within and adjacent to the application site in the interests of safeguarding the landscape character of the area.

- 17 Any works within the root protection area of any retained tree shall be dug and backfilled by hand. Within such hand dug operations, tree roots exceeding 25mm diameter shall be avoided. If roots exceeding 25mm diameter are encountered the excavation shall be backfilled and lightly compacted immediately and another hole dug. Any tree roots 25mm in diameter or smaller encountered shall be cleanly cut.

Reason:

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

- 18 All planting, seeding or turfing comprised in the approved details of the landscaping scheme shown in the drawings docketed to this grant of planning permission shall be carried out in the first planting and seeding season (October - March) following the school building being brought into use or the completion of the development hereby approved, whichever is the sooner.

Any trees or plants which die, are removed or become seriously damaged or diseased within a period of 10 years shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

Reason:

To ensure the implementation of landscaping in the interests of the character, appearance and amenity of the area.

- 19 Any tree felling shall not be carried out during the bird breeding / nesting season (March to August, inclusive each calendar year) unless it is implemented wholly in accordance with a Species Protection Plan which shall be submitted to and approved in writing in advance by the Planning Authority, and thereafter, the development shall be carried out in accordance with the Species Protection Plan so approved, or it has been demonstrated to the satisfaction of the Planning Authority that no nesting birds are present prior to works commencing and the Planning Authority have approved such details in writing in advance.

Reason:

To ensure the protection of wildlife and biodiversity from significant disturbance arising from the construction associated with the development hereby approved.