



**MINUTES OF THE MEETING OF THE  
PLANNING COMMITTEE**

**TUESDAY 6 DECEMBER 2022  
VIA A DIGITAL MEETING FACILITY**

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**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 Dunder 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 other approved in writing by the Planning Authority.

Reason:

To minimise the environmental impact of the development.

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

Reason:

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

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

Reason:

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

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



Reason:

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

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

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

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

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

- 23 Prior to commencement of development, (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