

REPORT TO: PLANNING COMMITTEE

MEETING DATE: 28 March 2023

BY: Planning Service Manager

SUBJECT: Further Report of Handling of Planning Application No. 21/01608/PM – Erection of 86 houses, 4 flats and associated works, Land to the North of Castlehill, Main Street, Elphinstone, East Lothian

3

1 PURPOSE

- 1.1 This application was reported to the Planning Committee on 6th December 2022 and it was decided by the Committee that planning permission be granted for the development proposed subject to conditions and the satisfactory conclusion of a Section 75 Agreement designed to secure developer contributions towards education, transportation and sports changing room provision and to secure affordable housing within the site.
- 1.2 The Section 75 Agreement is close to being agreed.
- 1.3 The application is returned to Committee due to the adoption, by Scottish Ministers, on the 13th February 2023, of National Planning Framework 4 (NPF4). NPF4 supersedes National Planning Framework 3 and Scottish Planning Policy (SPP) (2014). Together with the adopted East Lothian Local Development Plan 2018 (ELLDP) and its supplementary guidance, it has now become the statutory development plan for East Lothian. The purpose of this report is to provide a further planning assessment of the application against the relevant policies of NPF4 and to make a recommendation to the Planning Committee based on that further assessment.

2 RECOMMENDATIONS

- 2.1 That Planning Committee agree to grant planning permission subject to:
1. The conditions set out in Appendix E; and
 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; and

(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.

- 2.2 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, Policy 18 of NPF4, and 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.
- 2.3 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.

3 BACKGROUND

- 3.1 The Planning Committee considered this application at their meeting on 6th December 2022 and decided that planning permission be granted for the development proposed subject to conditions and the satisfactory conclusion of a Section 75 Agreement. At the time of writing of this further Report of Handling, work on the drafting of the Section 75 Agreement is ongoing and is close to being concluded. A copy of the Report of Handling for application 21/01608/PM, which was considered at Planning Committee on the 6th December 2022, is attached as Appendix A. A copy of the Extract from the Minutes of that Meeting is attached as Appendix B.
- 3.2 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that a planning application be determined in accordance with the development plan, unless material considerations indicate otherwise. The Report of Handling considered by the Planning Committee on the 6th December 2022 concluded that the proposal was considered to be in accordance with the provisions of the stated relevant development plan policies and there were no material considerations which outweighed the proposal's accordance with the development plan. These material considerations included the 4 written representations received to it, all of which raised objections to the proposed development. A copy of the 4 written representations are attached as Appendix C.
- 3.3 The development plan in place at the time of the Planning Committee's consideration of the application on the 6th December 2022 was 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. A material consideration was Scottish Planning Policy: June 2014.

- 3.4 Since the adoption, by Scottish Ministers, on the 13th February 2023, of National Planning Framework 4 (NPF4), the development plan is now the adopted National Planning Framework 4 (NPF4) and the adopted East Lothian Local Development Plan 2018 (ELLDP) together with its supplementary guidance.
- 3.5 SPP 2014 has been superseded by NPF4. It no longer represents Scottish Ministers' planning policy and should not therefore form the basis for, or be a consideration to be taken into account, when determining planning applications. SESplan ceases to have effect and as such is no longer part of the development plan. All references to SPP 2014 and to the South East Scotland Strategic Development Plan (SESplan) in the original Planning Committee report considered on the 6th December 2022 are therefore no longer relevant in the consideration of this application.
- 3.6 The assessment of the proposals against the relevant policies and proposals of the adopted ELLDP, and the conclusions of that assessment, remains the same.
- 3.7 This further Report of Handling assesses the proposals against the policies of NPF4 which are now relevant to the determination of this application. The 33 policies of NPF4 are divided into the three overarching themes of Sustainable Places (Policies 1-13), Liveable Places (Policies 14-24) and Productive Places (Policies 25-33). NPF4 is designed to be read and applied as a whole, but in the case of this application Policies 1, 2, 3, 4, 5, 6, 7, 9, 12, 13, 14, 15, 16, 18, 20, 21, 22, 24 and 31 are all of some relevance to its determination.
- 3.8 The applicant has submitted a supporting Planning Statement containing their responses to the contents and requirements of NPF4 as it relates to their proposals and this is attached as Appendix D.

PLANNING ASSESSMENT IN RESPECT OF NPF4

Sustainable Places

- 3.9 Policy 1 of NPF4 states *“when considering all development proposals significant weight will be given to the global climate and nature crises”*. Policy 2 seeks to ensure that new development minimises emissions and adapts to the current and future impacts of climate change. Policy 3 aims to protect biodiversity, reverse biodiversity loss, deliver positive effects from development and strengthen nature networks and Policy 4 protects the natural environment and protected species.
- 3.10 The application is supported by a 'Statement on Energy' which sets out the measures to be taken to reduce the carbon emissions from the building and from the completed development which are designed to ensure compliance with the CO2 requirements of the Scottish Building Standards, and to meet the 15% reduction in carbon emissions from Low and Zero Carbon Generating Technologies (LZCGT) as required by the ELLDP. Roof mounted photovoltaic panels are to be installed on each dwelling and all properties will be provided with a 7kW Type 2 socketed or tethered outlet electric vehicle charger. Further electric vehicle charging is to be provided within the site for wider community use. In respect of biodiversity considerations, the application is supported by an Ecological Appraisal which confirms that there are no significant habitats or evidence of protected species within the site. The proposals include measures

for habitat creation to benefit and enhance biodiversity including the planting of native species rich hedgerow and tree planting and a woodland management plan has been submitted which sets out management measures to enhance the biodiversity of the site. On these climate change, nature and biodiversity considerations, the proposals comply with Policies 1, 2, 3 and 4 of NPF4.

- 3.11 Policy 5 provides significant protection for valued soils including prime agricultural land. As explained in the original Report of Handling (Appendix A), the application site is defined as being prime agricultural land capable of producing a moderate range of crops (Class 3:1). 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. Policy 5 of NPF4 also sets out circumstances where development proposals on prime agricultural land will be supported and although housing development is not listed as one of those circumstances, Policy 16 of NPF4 supports development proposals for new homes on land allocated in LDPs. The Scottish Government's Transitional Arrangements for NPF4 states that *"It is important to bear in mind NPF4 must be read and applied as a whole. The intent of each of the 33 policies is set out in NPF4 and can be used to guide decision making. Conflicts between policies are to be expected. Factors for and against development will be weighed up in the balance of planning judgement"*. In the circumstances of this application where it is to implement a proposal of the LDP, the proposal complies with Policy NH7 of the ELLP and, although not falling within the types of acceptable development listed in Policy 5, it does not conflict with NPF4 when read as a whole.
- 3.12 The proposals include the planting of woodland strips along the eastern and western boundaries of the site and further tree planting within the site. As such they comply with Policy 6, which aims to protect and expand forests, woodland and trees.
- 3.13 Policy 7 seeks to protect and enhance historic environment assets and states that *"Where there is potential for non-designated buried archaeological remains to exist below a site, developers will provide an evaluation of the archaeological resource at an early stage so that planning authorities can assess impacts"*. As set out in the original Report of Handling, the Council's Heritage Officer recommended that if planning permission is to be granted, a programme of archaeological works (Evaluation by trial trenching) should be carried out prior to the commencement of development. At their meeting on 6th December 2022 the Planning Committee agreed to impose a condition to secure this requirement. Since that decision of the Planning Committee, the applicant has carried out and reported on a programme of archaeological works and the Council's Heritage Officer has confirmed that the works and the reporting of them have been carried out to the requisite standard and that there will be no further archaeological work required. There is therefore no longer a need to impose a condition on a grant of planning permission requiring archaeological work to be carried out. The proposals comply with Policy 7 of NPF4.
- 3.14 Policy 9 promotes the use of brownfield, vacant and derelict land and empty buildings and states *"proposals on greenfield sites will not be supported unless the site has been allocated for development or the proposal is explicitly supported by policies in the LDP"*. As this site has been allocated for development in the ELLDP the proposal is not in conflict with Policy 9 of NPF4.
- 3.15 Policy 12 encourages sustainable waste management. Swept path analysis drawings submitted by the applicant as part of this application demonstrate that

waste servicing vehicles could satisfactorily negotiate the proposed development providing convenient access for the collection of waste and the Council have agreed that a condition be imposed if planning permission is to be granted to require bin storage facilities to be formed and made available for use prior to the occupation of the flatted units of the proposed development. The Council's Waste Services Manager has confirmed that the general collection and management of waste and recycling from the proposed development will be operated by the Council's Waste Services. In all of this the proposal complies with Policy 12 of NPF4.

- 3.16 Policy 13 seeks to facilitate a transition towards more sustainable, lower emissions travel including active travel and public transport. The proposals include provision for electric vehicle charging infrastructure for all residential properties and for wider, communal provision. They also include for cycle storage facilities for flatted properties, path provision throughout the site and connections to off site paths and traffic calming features. Parking provision is considered by the Council's Road Services to be acceptable in this location. The applicant has satisfactorily demonstrated, through their layout drawings and bus tracking/swept path analysis' carried out, that a bus could manoeuvre through the loop road design of the site and the Planning Committee, at their meeting on the 6th December 2022, agreed to impose conditions on a grant of planning permission requiring the provision of these sustainable transport measures and requiring details of bus stops and stances within the site to be submitted to and approved by the Planning Authority. In all of this the proposals comply with Policy 13 of NPF4.

Liveable Places

- 3.17 Policy 14 supports development proposals that are well designed and consistent with 'the six qualities of successful places' listed in the policy, which are healthy, pleasant, connected, distinctive, sustainable and adaptable. It states that development proposals that are poorly designed, detrimental to the amenity of the surrounding area or inconsistent with the six qualities of successful places, will not be supported. The proposed development has already been assessed to be an appropriate residential development of the site which, although bringing change to the western edge of Elphinstone, would be well designed and integrated into its landscape and settlement setting. The site is capable of accommodating all of the proposed development including vehicular and pedestrian access and amenity space without being an overdevelopment of it. The pattern and density of the proposed development would not be at odds with the existing patterns and densities of housing and other development within the village of Elphinstone. In all of this, the proposals are not inconsistent with the six qualities of successful places and as such comply with Policy 14 of NPF4.
- 3.18 Policy 15 seeks to encourage, promote and facilitate the creation of connected and compact neighbourhoods where people can meet the majority of their daily needs within a reasonable distance of their home, preferably by walking, wheeling or cycling or using sustainable transport options. Policy 16 encourages, promotes and facilitates the delivery of more high quality, affordable and sustainable homes, in the right locations, providing choice across tenures that meet the diverse housing needs of people and communities. It requires development proposals that include 50 or more homes to be accompanied by a Statement of Community Benefit which should explain the contribution of the proposed development to meeting local housing requirements, including affordable homes, providing or enhancing local infrastructure, facilities and services; and improving the residential amenity of the surrounding area.

Elphinstone is a village that has a primary school, community centre, public house and a small shop as well as sport, recreation and play facilities all of which are within a reasonable distance of the application site. The developer contributions to be secured through the Section 75 Agreement would contribute towards the refurbishment of the existing changing pavilion at the Elphinstone Playing Field and towards transport improvements including nearby at Tranent Town Centre. A wide range of employment, shopping, health and social care, education and other community facilities are available 2 miles away in Tranent which is accessible via public transport. In addition, and as referred to in the applicant's Planning Statement and in their Statement of Community Benefit contained within their Planning Statement (Appendix D), a range and mix of house types and tenures are proposed, including affordable and sustainable homes, improved areas of public open space and equipped play areas will be provided to benefit both the development proposed and the existing community and improved connectivity and linages will be established in association with the provision of new and improvement of existing public paths. In all of these considerations the proposals are consistent with Policies 15 and 16 of NPF4

- 3.19 Policy 18 requires development to take into account the capacity and any additional needs for community services and facilities, as part of the infrastructure first approach. This reflects Policy DEL1 of the ELLDP which stipulates that new housing will only be permitted where appropriate provision for infrastructure, required as a consequence of the development, is made. These infrastructure considerations have therefore already been assessed and the Planning Committee, at their meeting of 6th December 2022, have agreed that where applicable conditions will be imposed and also that a Section 75 Agreement designed to secure developer contributions towards education, transportation and sports changing room provision and to secure affordable housing within the site requires to be concluded prior to any grant of planning permission. The proposals therefore comply with Policy 18 of NPF4.
- 3.20 Policy 20 seeks to protect and enhance blue and green infrastructure and their networks. The proposed development would not result in fragmentation or net loss of any existing blue and green infrastructure and the overall integrity of the network will be maintained. The proposed development will incorporate new open space and landscaped areas which will respond to local circumstances and will include new and enhanced opportunities for access linked to wider networks. Woodland management and factoring arrangements for open space within the site have been included with the proposals. In all of this the proposal complies with Policy 20 of NPF4.
- 3.21 Policy 21 seeks to encourage, promote and facilitate spaces and opportunities for play, recreation and sport. The proposals include provision for inclusive formal and informal play for a variety of age groups within the site and include management and maintenance proposals for such play provision. The proposals comply with Policy 21 of NPF4.
- 3.22 Policy 22 seeks to strengthen resilience to flood risk by promoting avoidance as a first principle and reducing the vulnerability of existing and future development to flooding. The proposed drainage and flood prevention measures, including proposed sustainable urban drainage systems (SUDS), have already been assessed by the Council's Team Manager for Structures, Flooding & Street Lighting who has raised no objections on flood risk grounds. A condition requiring confirmation of Scottish Water's Technical Approval of the SUDS and a timetable for the installation of the approved SUDS system to be submitted to and approved in advance by the Planning Authority has already been agreed by the Council's

Planning Committee and subject to this condition being imposed on a grant of planning permission the proposals are consistent with Policy 22 of NPF4.

- 3.23 Policy 24 supports the delivery of digital infrastructure. Policy DCN2 of the ELLDP also supports the delivery of digital infrastructure and the applicant has already confirmed that their proposals are to have BT Openreach, Hyperoptic and Virgin broadband provision to the development, with every property having connection at habitation. The applicant has provided BT Openreach and Virgin's layout proposals for information and to demonstrate how digital infrastructure will be provided. The proposals therefore comply with the policy intent of Policy 24.

Productive Places

- 3.24 Policy 31 states that *“development proposals that involve a significant change to existing, or the creation of new, public open spaces will make provision for public art. Public art proposals which reflect diversity, culture and creativity will be supported”*. The proposals the subject of this application include for the creation of new, public open spaces and it would therefore be appropriate for artwork to be incorporated either as an integral part of the overall design or as a related commission. Were planning permission to be granted for the proposed development then the artwork(s) could be secured through the imposition of a planning condition. The applicant agrees that if considered necessary and or/appropriate in this particular location, such provision could be secured through the imposition of a condition on any decision to grant. Subject to this planning control being imposed the proposed development is consistent with Policy 31 of NPF4.

CONCLUSION

- 3.25 Assessment of the application against the relevant policies of NPF4 has required the addition of a condition requiring the provision of public art. Due to the submission of further details from the applicant the previously agreed condition on archaeological works is no longer necessary. A condition requiring the provision of footpaths/cycleways and external works such as offsite path links to connect to the off site path network has been amended following further consultation with the Council's Roads Services and in light of further details being submitted to Road Services on a suitable crossing of the B6414 to provide safe access to and from the primary school. All of the other conditions that were agreed by the Planning Committee on the 6th December 2022 have been reviewed and no further amendments are required as a result of the assessment of the proposals against NPF4.
- 3.26 In conclusion, and subject to the prior conclusion of a legal agreement and the imposition of the recommended conditions, the proposed development accords with the provisions of NPF4, as well as with the provisions of the ELLDP and its adopted supplementary guidance, and there are no material considerations which outweigh the proposal's accord with the Development Plan.

4 POLICY IMPLICATIONS

- 4.1 None.

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – None.
6.2 Personnel – None.
6.3 Other – None.

7 BACKGROUND PAPERS

- 7.1 None.

Appendix A: Report of Handling for application 21/01608/PM considered by the Planning Committee on 6th December 2022

Appendix B: Extract from the Minutes of the Planning Committee meeting of the 6th December 2022

Appendix C: Copies of the four written representations received (*n.b. these are available only to Councillors and can be found on the Councillors' shared area*)

Appendix D: The applicant's Planning Statement on NPF4

Appendix E: The recommended heads of terms for the legal agreement and recommended conditions to be imposed for planning permission 21/01608/PM.

AUTHOR'S NAME	Keith Dingwall/Linda Ritchie
DESIGNATION	Planning Service Manager/Senior Planner
CONTACT INFO	kdingwall@eastlothian.gov.uk 01620 827229 l.ritchie@eastlothian.gov.uk 01620 827245
DATE	17 March 2023

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

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

RECOMMENDATION Consent Granted

REPORT OF HANDLING

APPLICATION SITE

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

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

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

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

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

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

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

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

RELEVANT PLANNING HISTORY

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

PROPOSAL

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

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

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

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

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

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

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

The application is also supported by a number of detailed drawings and reports including a Design Statement, a Drainage Report, a Tree Survey and Arboricultural Impact Assessment, Woodland Management Plan Report, Preliminary Ecological Appraisal, Transport Assessment, Noise Assessment, Archaeological Report, Energy Statement, Remediation Method Statement and Site Investigation Reports, some of which have been updated or revised since registration of the application.

ENVIRONMENTAL IMPACT ASSESSMENT

Under the provisions of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 the proposed development falls within the category of a Schedule 2 Development, being one that may require the submission of an

Environmental Impact Assessment (EIA). Schedule 3 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 sets out the selection criteria for screening whether a Schedule 2 development requires an EIA. On the 6th October 2016 the Council issued a formal screening opinion on planning application 16/00970/PM with the conclusion that the proposed development is not likely to have a significant effect on the environment such that consideration of environmental information is required before any grant of planning permission and therefore it was the opinion of East Lothian Council as Planning Authority that there was no requirement for the development the subject of that application to be the subject of an EIA. The **Council's Policy and Projects Team** have again confirmed, in relation to this current application, that it is the opinion of East Lothian Council as Planning Authority that there is no requirement for the proposed development to be the subject of an EIA.

DEVELOPMENT PLAN

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

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Development Plan (ELLDP) 2018 together with its adopted supplementary guidance.

The purpose of the approved South East Scotland Strategic Development Plan (SESplan) is to set out the strategic planning framework to assist preparation of local development plans. Its policies are generally not relevant for assessing individual planning applications.

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

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

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

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

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

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

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

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

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

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

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

REPRESENTATIONS

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

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

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

place first;

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

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

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

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

COMMUNITY COUNCIL COMMENTS

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

PLANNING ASSESSEMENT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Policy OS3 of the ELLDP sets out the minimum requirement for on-site provision of open space which is 60m² per dwelling. This will consist of provision of formal and informal open space as well as space for equipped play areas in accordance with Policy OS4. The applicant has provided details that demonstrate that, not including the SUDS basin and the woodlands strips, the open space provision would amount to some 67m² per dwelling. The areas of open space shown to be provided would provide sufficient, usable areas of open space for informal recreation for the proposed development, consistent with Policy OS3 of the ELLDP.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

on development on prime agricultural land.

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

At its meeting on Tuesday 27th August 2019 the Council approved a motion declaring a Climate Emergency. Thereafter, at its meeting on Tuesday 3rd September 2019 the Council's Planning Committee decided that a condition requiring a developer to submit for the approval of the Planning Authority a report on the actions to be taken to reduce the carbon emissions from the building and from the completed development should be imposed on relevant applications for planning permission. This application is supported by a 'Statement on Energy' which has been amended by the applicant since the registration of the application. The 'Statement on Energy' submitted sets out the measures to be taken to reduce the carbon emissions from the building and from the completed development which are designed to ensure compliance with the CO2 requirements of the Scottish Building Standards, and to meet the 15% reduction in carbon emissions from Low and Zero Carbon Generating Technologies (LZCGT) as required by ELLDP. The Report sets out that roof mounted photovoltaic panels will be installed on each dwelling. This will ensure that both the private and affordable homes meet Bronze Active standard under Section 7 (Sustainability) of the building standards. In addition, the affordable dwellings will be designed to achieve Aspect Silver Level 1 & 2 in accordance with minimum funding requirements for affordable housing in Scotland.

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

Consideration must then be given to the potential impact of the proposed development on the infrastructure of the area. Policy DEL1 of the ELLDP stipulates that new housing will only be permitted where appropriate provision for infrastructure, required as a consequence of the development, is made. Proposal TT11 of the ELLDP stipulates that any development on the site is subject to the mitigation of any development related impacts, including on a proportionate basis for any cumulative impacts with other proposals including on the transport network, on education and community facilities, and on air quality as appropriate.

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

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

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

Provision for turning and parking areas to serve the existing playing field, along with proposed electric vehicle charging provision, are proposed to be provided within the application site, close to the southwest corner of the application site along with footpath provision to the adjacent playing fields all to allow convenient access to the playing fields. A timetable for the provision of this parking and turning facility can be secured by way of a condition on a grant of planning permission. The **Council's Team Manager – Active Business Unit** raises no objections to this proposed provision and in relation to developers contributions required towards refurbishment of the existing changing pavilion at the playing field, advises that a contribution of £298.67 per dwelling (a total of £26,880.30 for 90 residential units) is required for this proposal. The required payment of a financial contribution of a total of £26,880.30 towards the refurbishment of the existing changing pavilion at the Elphinstone playing field can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. The applicants confirm in writing that they are willing to enter into such an agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

RECOMMENDATION

It is recommended that planning permission be granted subject to:

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

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

Index but will be indexed from Q3 2022.

CONDITIONS

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

Reason:

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

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

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

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

Reason:

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

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

Reason:

To facilitate an acceptable archaeological investigation of the site.

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

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

Year 2023/24 - 40 residential units

Year 2024/25 - 40 residential units

Year 2025/26 - 10 residential units

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

Reason:

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

accords with the provision of education capacity.

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

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

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

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

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

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

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

Reason:

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

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

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

Reason:

In the interests of road and pedestrian safety.

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

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

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

Reason:

In the interests of road and pedestrian safety.

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

Reason:

In the interests of road and pedestrian safety.

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

Reason:

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

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

Reason:

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

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

Reason:

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

- 12 A Construction Method Statement to minimise the impact of construction activity on the amenity of the area, including from the effects of noise and dust, shall be submitted to and approved by the Planning Authority prior to the commencement of development. The

Construction Method Statement shall recommend mitigation measures to control construction traffic and shall include hours of construction work and routes of construction traffic to/from the site, delivery time restrictions and a health and safety method statement. It shall also make recommendations in respect of how building materials and waste will be safely stored and managed on site.

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

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

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

Reason:

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

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

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

Reason:

To minimise the environmental impact of the development.

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

Reason:

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

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

clad in more than one colour of roof tile. All such materials used in the construction of the houses, flats, garages and boundary treatments shall conform to the details so approved.

Reason:

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

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

Reason:

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

- 17 No development shall commence until temporary protective fencing has been erected in accordance with the docketed and stamped approved report titled; Tree Survey & Arboricultural Impact Assessment, Revision R3, dated 10 November 2022 and in the positions shown on docketed and stamped approved drawings titled: The Tree Survey Plan with drawing reference BS-020222_AIA_R1 and Landscape Proposal Plans numbered 231.24.01 - 231.24.06 Revision F and dated October 2022. The temporary protective fencing shall be erected to the specification shown on drawing titled; The Tree Survey Plan, survey reference BS_020422_A1A_R1 shall be erected prior to the commencement of development and shall remain intact and in place through to completion of development. All weather notices containing the wording "Construction exclusion zone - Keep out" shall be erected on said fencing. Within the fenced off areas the existing ground level shall neither be raised nor lowered, no materials, temporary buildings, plant, machinery or surface soil shall be placed or stored and no herbicides shall be used.

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

Reason:

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

- 18 No development shall take place on site until a person who, through relevant education, training and experience, has gained recognised qualifications and expertise in the field of trees in relation to construction, has been employed by the developer to monitor any works within the root protection area or canopy spread of trees on or adjacent to the application site. Arboricultural monitoring shall including the supervision and reporting to the Planning Authority on the installation of the required tree protection fencing and any development within the root protection area of trees shown to be retained and protected in strict compliance with docketed and stamp approved report titled : Tree Survey & Arboricultural Impact Assessment, dated April 2022 and drawings titled: The Tree Suvey Plan with drawing reference BS-020222_AIA_R1 and Landscape Proposal Plans numbered 231.24.01 - 231.24.06 Revision F and dated October 2022. All tree work shall be approved in writing by the Planning Authority before work is carried out.

Reason:

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

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

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

Reason:

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

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

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

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

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

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

Reason:

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

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

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

Reason:

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

Appendix B

Extract of the minutes from the meeting of the East Lothian Planning Committee meeting on 06/12/22

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

Extract of the minutes from the meeting of the East Lothian Planning Committee meeting on 06/12/22

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,

Extract of the minutes from the meeting of the East Lothian Planning Committee meeting on 06/12/22

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

Extract of the minutes from the meeting of the East Lothian Planning Committee meeting on 06/12/22

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

Extract of the minutes from the meeting of the East Lothian Planning Committee meeting on 06/12/22

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.

Appendix C – four written representations received

Appendix C is available only to Councillors, and can be found on the Councillors' Shared Area.

PLANNING STATEMENT – NPF4

21/01608/pm – Erection of 86 no. houses, 4 no. flats and associated works

On land

**To the North of Castlehill
Main Street
Elphinstone
East Lothian**

Prepared by

**Derek Scott Planning
Planning and Development Consultants**



**21 Lansdowne Crescent
Edinburgh
EH12 5EH
Tel No: 0131 535 1103
E-Mail: enquiries@derekscottplanning.com**

On behalf of

Bellway Homes Limited (Scotland East)

PLANNING STATEMENT

21/01608/pm – Erection of 86 no. houses, 4 no. flats and associated works on land to the North of Castlehill, Main Street, Elphinstone, East Lothian

TABLE OF CONTENTS

1.	Introduction	Page 3
2.	NPF4 – Policy Assessment	Page 5
3.	Conclusions	Page 14

LIST OF DOCUMENTS

- Document 1** – Copy of Report considered by East Lothian Council’s Planning Committee at meeting on 06th December 2022
- Document 2** – Copy of Approved Minute from Planning Committee Meeting on 06th December 2022
- Document 3** – Copy of Decision Notice relating to Planning Permission Reference Number 16/00970/PM
- Document 4** – Community Benefit Statement relating to Planning Application Reference Number 21/01608/PM

PLANNING STATEMENT – NPF4

21/01608/PM – Erection of 86 no. houses, 4 no. flats and associated works on land to the North of Castlehill, Main Street, Elphinstone, East Lothian

1. INTRODUCTION

- 1.1 This statement has been prepared by Derek Scott Planning, Chartered Town Planning and Development Consultants (Edinburgh and Dunfermline) on behalf of Bellway Homes Limited (Scotland East). It is in support of an application registered under Planning Application Reference Number 21/01608/PM on 04th March 2022 which had sought detailed planning permission for the erection of 86 no. dwelling houses, 4 no. flats and associated works on land to the north of Castlehill, Main Street, Elphinstone, East Lothian.
- 1.2 The application was reported to and considered by East Lothian Council’s Planning Committee on 06th December 2022 when permission, subject to conditions and the satisfactory conclusion of an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 relating to financial (developer) contributions, was granted.
- 1.3 Discussions and negotiations are continuing between the relevant parties on the content of that Section 75 Agreement with an expectation that it will be agreed shortly. In the interim, Scottish Ministers have, on 13th February 2023, adopted National Planning Framework 4 (NPF4) replacing that part of the development plan in East Lothian which had previously comprised the Strategic Development for Edinburgh and South East Scotland. The development plan for East Lothian since 13th February 2023, now comprises (i) NPF4, (ii) the East Lothian Local Development Plan 2018 (ELLDP) and (iii) any adopted supplementary guidance.
- 1.4 In a letter dated 8th February 2023 dealing with the transitional arrangements for NPF4, the Minister for Planning and the Chief Planner of Scotland gave the following advice to decision-makers in relation to the application of NPF4:

*‘Section 25 of the 1997 Act requires that decisions are made in accordance with the development plan unless material considerations indicate otherwise. **Application of planning judgement to the circumstances of an individual situation remains essential to all decision making, informed by principles of proportionality and reasonableness.** (highlighting added)*

- 1.5 This statement contains our responses to the contents and requirements of NPF4 within the context of:
- (a) the Committee Report and Decision made by members of the Planning Committee at its meeting on 06th December 2022 (See **Documents 1 & 2**);
 - (b) Policies and Proposals contained within the East Lothian Local Development Plan 2018 and associated Supplementary Guidance; and

- (c) the extant permission previously granted by the Council on 15th April 2021 for the erection of 76 no houses, 4 no. flats and associated works under the terms of Planning Permission Reference Number 16/00970/PM (See **Document 3**).

2. NPF4 – POLICY ASSESSMENT

- 2.1 NPF4, as noted, was adopted by Scottish Ministers on 13th February 2023 and contains 33 no. policies against which applications for development proposals now require to be assessed. Section 24(3) (i) of the Town and Country Planning (Scotland) 1997 Act states that ‘*in the event of any incompatibility between a provision of the National Planning Framework and a provision of a local development plan, whichever of them is the later in date is to prevail.*’ This means that if there is anything in LDP 2018 that is deemed to be incompatible with a comparable provision in NPF4, it is the provision in NPF4 that is to be taken into consideration by the Council in its decision-making, with the LDP policy in question being treated as having been effectively superseded. Within the context described, our comments on the policies referred to are outlined below:

Policy 1 – Sustainable Places

- 2.2 The application site is allocated for residential development in the East Lothian Local Development Plan and has the benefit of planning permission for the development of 80 no. residential units granted under the terms of Planning Permission Reference Number 16/00970/PM (See **Document 3**). As such it has already been recognised as a sustainable place for the scale and type of development proposed. Policy 16 in NPF4 on the subject of ‘*Quality Homes*’ also states under point (a) that ‘*Development proposals for new homes on land allocated in LDPs will be supported.*’ Characteristics of the development proposal supporting the global and nature crises including, inter-alia, the following:

- Community facilities including primary school, community centre, public house (Elphinstone Miner’s Welfare Social Club) and retail store (Roots & Shoots) are located in close proximity and assessable by foot, wheeling or bike from the proposed development. Other facilities in nearby Tranent are accessible via public transport.
- The adoption of a fabric first approach to sustainability which involves meeting the required carbon reduction by increasing thermal performance and minimising air infiltration in all dwellings proposed;
- The incorporation of Low and Zero Carbon Generating Technologies (LZCGT) in contributing towards the energy requirements of all properties;
- The embodiment of low energy LED lighting;
- The inclusion of EV Charging points within all of the dwellings proposed; and
- Additional planting proposed to facilitate habitat creation to benefit and enhance biodiversity.

The development proposed, is not, as a consequence of the above considerations considered to conflict with the requirements of Policy 1 in NPF4 which in turn is not considered to be in conflict with the policies contained within the East Lothian Local Development Plan

Policy 2 – Climate Mitigation and Adaptation

- 2.3 The Report considered by the Planning Committee on 06th December 2022 (See **Document 1**) notes on Page 82 that the Council approved, on 27th August 2019, a motion declaring a Climate Emergency. Thereafter at a meeting of the Planning Committee on 03rd September 2019 it was 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 any

development should be imposed on any relevant permissions. Our client's application is supported by a 'Statement on Energy' which outlines the measures to be taken to reduce the carbon emissions from the building and from the completed development. These were adjudged in both the Committee Report and by the Planning Committee to be in accordance with Policies SEH1 on 'Sustainable Energy and Heat' and SEH2 on 'Low and Zero Carbon Generating Technologies' of the East Lothian Local Development Plan 2018. These considerations combined with the characteristics of the development highlighted in Section 2.2 under our assessment of Policy 1 facilitates a development that minimises emissions and adapts to the current and future impacts of climate change. The requirements of Policy 2 are not incompatible, nor do they conflict with the policies contained within the East Lothian Local Development Plan.

Policy 3 - Biodiversity

- 2.4 Policy 3 in NPF4 on 'Biodiversity' is generally compatible with the terms of Policy NH5 in the East Lothian Local Development Plan on 'Biodiversity and Geodiversity Interests, including Nationally protected species.' The Ecological Appraisal submitted in support of the application confirmed that there were no significant habitats within or in the vicinity of the site. In consultation with the Council's Biodiversity Officer proposals have been advanced within the application for habitat creation to benefit and enhance biodiversity including the planting of native species rich hedgerow, tree planting and a woodland management plan. The measures outlined will fulfil the requirements of Policy 3 in NPF4 by enhancing biodiversity and creating nature networks that are in a demonstrably improved state than without intervention.

Policy 4 – Natural Places

- 2.5 Policies contained within the East Lothian Local Development Plan on 'Natural Heritage' (NH1- Internationally Designated Sites (Ramsar), NH2 – Protection of Sites of Special Scientific Interest and Geological Conservation Review, NH3 – Protection of Local Site and Areas, NH4 – European Protected Species, NH5 – Biodiversity and Geodiversity Interests including Nation ally Protected Species and NH6 – Geodiversity Recording and Alternative Exposures) are generally compatible with Policy 4 on 'Natural Places' within NPF4. As noted in our response to Policy 3 in Paragraph 2.4 above, the Council's Biodiversity Officer raised no objection to the application as there were considered to be no significant ecological concerns on the site. No other concerns in relation to Natural Heritage Considerations have been raised within the Report considered by the Planning Committee on 06th December 2022 (See **Document 1**).

Policy 5 – Soils

- 2.6 Policy 5 in NPF4 on 'Soils' is considered to be generally compatible with Policy NH7 on 'Protecting Soils' in the East Lothian Local Development Plan. Whilst there is a general presumption in Policy 5 against the development of prime agricultural land with a limited number of exceptions that general presumption is considered to be overridden by the terms of Policy 16 in NPF4 which states that 'Development proposals for new homes on land allocated in LDPs will be supported.' Given that no concerns were raised in the Report considered by the Planning Committee on 06th December 2022 (See **Document 1**) in respect of Policy NH7; that the site is zoned for residential development in the local development plan; and that it already benefits from planning permission for the erection of 80 no. dwelling houses granted under the terms of Planning Permission Reference Number 16/00970/PM, the current

application is considered to be consistent with the terms of Policy 5 in NPF4 and should continue to be supported.

Policy 6 – Forestry, Woodland and Trees

- 2.7 Policy 6 in NPF4 on ‘*Forestry, Woodland and Trees*’ is considered to be generally compatible with the terms of Policy NH8 on ‘*Trees and Development*’ within the East Lothian Local Development Plan which the proposal was considered to be compliant within the Report considered by the Planning Committee on 06th December 2022. As noted on Pages 77 & 78 of that Committee Report (See **Document 1**) the Council’s Tree, Landscape Projects and Biodiversity Officers have not objected to the application proposals as they currently stand. The proposals are therefore considered to be in compliance with Policy 6 in NPF4.

Policy 7 – Historic Assets and Places

- 2.8 Policy 7 in NPF 4 on ‘*Historic Assets and Places*’ is considered to be generally compatible with the Cultural Heritage section of the Local Development Plan (Policies CH1- Listed Buildings, CH2 – Development in Conservation Areas, CH3 – Demolition of an unlisted building in a Conservation Area, CH4 – Scheduled Monuments and Archaeological Sites, CH5 – Battlefields and CH6 – Gardens and Designed Landscapes). Insofar as Historic Assets and Places are concerned archaeological considerations are of relevance. As noted on Page 81 of the Report considered by the Planning Committee on 06th December 2022 (See **Document 1**) the Council’s Heritage Officer recommended the imposition of a condition on any consent granted requiring a programme of archaeological work (evaluation by trial trenching) to be undertaken prior to the commencement of development. The condition referred to was incorporated as Condition No. 3 within the Planning Officer’s Recommendation. An intrusive archaeological evaluation (trail trenching) exercise has since been undertaken covering 8% of the site and a Data Structure Report issued to the Council. The proposals are considered to be in compliance with the terms of Policy 7 in NPF4.

Policy 8 – Green Belts

- 2.9 As the application site is contained in its entirety within the Elphinstone Settlement Envelope and specifically allocated for residential purposes (TT11) in the East Lothian Local Development Plan, Policy 8 relating to ‘*Green Belts*’ is not considered relevant to the determination of the application.

Policy 9 – Brownfield, vacant and derelict land and empty buildings

- 2.10 As the application site does not incorporate brownfield, vacant and derelict land or empty buildings, Policy 9 in NPF4 is not relevant in its determination.

Policy 10 – Coastal Development

- 2.11 As the application site is not located within a Coastal Area, Policy 10 on NPF4 is not relevant in its determination.

Policy 11 – Energy

- 2.12 Policy 11 in NPF 4 on ‘*Energy*’ relates to all forms of onshore and offshore renewable energy technologies and seeks all Councils to utilise their full potential for electricity and heat generation from renewable, low carbon and zero emission sources. As noted previously in our responses to Policies 1 and 2 of NPF4, the application proposals incorporate low and zero carbon generating technologies in the form of roof mounted photovoltaic panels on each of the

dwellings as per the requirements of Policies SEH1 ‘Sustainable Energy and Heat’ and SEH2 on ‘Low and Zero Carbon Generating Technologies.’ The proposals are as a consequence considered to be in compliance with Policy11 in NPF4.

Policy 12 – Zero Waste

- 2.13 Policy 12 in NPF4 on ‘Zero Waste’ is considered to be generally compatible with Policies W3 on ‘Waste Separation and Collection’ and W4 on ‘Construction Waste’ within the East Lothian Local Development Plan. No concerns were raised in the Report considered by the Planning Committee in respect of the application’s compliance with the policies referred to in the ELLDP and as a consequence the proposal is considered to be in compliance with Policy 12 in NPF4.

Policy 13 – Sustainable Transport

- 2.14 Policy 13 in NPF4 on ‘Sustainable Transport’ is considered to be generally compatible with Policies T1 on ‘Development Location and Accessibility;’ T2 on ‘General Transport Impact;’ and T4 on ‘Active Travel Routes and Core Paths as part of the Green Network Strategy.’ As noted on Pages 78 and 79 in the Report considered by the Planning Committee on 06th December 2022 (See **Document 1**) the application proposals were considered to be compliant with these policies and are therefore also considered to be compliant with the terms of Policy 13 in NPF4.

Policy 14 – Design, Quality and Place

- 2.15 Policy 14 in NPF4 on ‘Design, Quality and Place’ is generally compatible with the design related policies contained within the local development plan (Policies DP1 – Landscape Character, DP2 – Design, DP3 – Housing Density, DP4 – Major Development Sites, DP8 – Design Standards for New Housing Areas and DP9 – Development Briefs); the Council’s Supplementary Guidance on ‘Design Standards for New Housing Areas’ and the Adopted Development Brief for the site. As noted on Page 79 of the Report considered by elected members on 06th December 2022 (See **Document 1**)

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

The site is capable of accommodating all of the proposed development including vehicular and pedestrian access and amenity space without being an overdevelopment of it. The pattern and density of the proposed development would not be at odds with the existing patterns and densities of housing and other development within the village of Elphinstone. In all of this the proposals are consistent with SPP and Designing Streets/PAN67, Policies DP2, DP4, DP8, DP9 of the ELLDP and the Council’s adopted Development Brief for the site.’

The proposals are, as a consequence of the above considerations, considered to be in compliance with the terms of Policy14 in NPF4.

Policy 15 – Local Living and 20-minute neighbours

- 2.16 Whilst the concept or branding of ‘Local Living and the 20 minute neighbourhoods’ is perceived by some as ‘new’ the principles associated with them have been long embodied in good planning practice and in the preparation of local development plans and allocation of sites for development and other purposes. Insofar as the concept or branding relate to our client’s

application proposal, it is important to acknowledge that the site is allocated for residential development in the local development plan and furthermore that Policy 16 on 'Quality Homes' clearly states that 'Development proposals for new homes on land allocated for housing in LDPs will be supported.' Within that context the development proposed offers the following attributes insofar as the principles of local living are concerned:

- (i) A wide range and mix of house types are proposed in both the private and affordable sectors;
- (ii) The site is/will be accessible by walking, wheeling, and cycling to local community facilities including the primary school, community centre, public house (Elphinstone Miner's Social Welfare Club) and retail store (Roots & Shoots);
- (iii) Wider commercial and community facilities in Tranent and beyond are accessible via public transport;
- (iv) Improved areas of public open space and equipped play areas will be provided to benefit both the development proposed and the existing community; and
- (v) Improved connectivity and linkages will be established in association with the provision of new and improvement of existing public paths.

The proposals are, as a consequence of the above considerations, considered to be in compliance with Policy 15 in NPF4.

Policy 16 – Quality Homes

- 2.17 Policy 16 in NPF4 on 'Quality Homes' is generally compatible with the policies on Housing (including Affordable Housing), Design and Delivery as contained within the East Lothian Local Plan. As noted on a number of occasions previously Policy 16 (a) states that 'Development proposals for new homes on land allocated for housing in LDPs will be supported.' Policy 16(b) identifies a new requirement not specifically contained in the Local Development Plan as follows:

'Development proposals that include 50 or more homes and smaller developments if required by local policy or guidance, should be accompanied by a Statement of Community Benefit. The statement will explain the contribution of the proposed development to:

- i. meeting local housing requirements, including affordable homes;*
- ii. providing or enhancing local infrastructure, facilities and services;*
- iii. improving the residential amenity of the surrounding area.'*

- 2.18 Whilst a 'Statement of Community Benefit' has not previously been submitted in support of the application such a statement is now attached as **Document 4** highlighting the following benefits;

- The delivery of a wide range and mix of houses (private and affordable) which will contribute to meeting local housing requirements.
 - 90 residential units in total (86 no. houses and 4 no. flats)
 - 67 private units for sale by Bellway and 23 affordable units (social rented) to be developed for East Lothian Housing Association

- Proposed houses comprise 36 no. four bedroom homes, 41 no. 3 bedroom homes and 9 no. two bedroom homes. Flats comprise 4 no. two bedroom properties.
- Developer contributions to be made towards education facilities (primary and secondary) serving the catchment; towards the refurbishment of the existing changing facilities at the Elphinstone Playing Field; and towards transportation improvements at Old Craighall Junction, Salter's Road Interchange, Bankton Interchange, Musselburgh Town Centre Improvements, Tranent Town Centre Improvements and Rail Network Improvements.
- Developer contributions towards Elphinstone Primary School will result in substantial upgrades to existing facilities. New pupils generated by the development proposed will also increase the school roll and contribute to sustaining and supporting the continued existence of the school within the village.
- Fifteen car parking spaces (with provision of EV ducting) are being provided within the site to serve the adjacent Elphinstone Football Ground.
- The provision of gateway and traffic calming features on the B6414 which will reduce traffic speeds through the village.
- The provision of a new pedestrian crossing in the vicinity of the school to facilitate improved crossing arrangements from one side of the B6414 to the other.
- The provision of flagged bus stops for the potential future extension to existing bus services in the village.
- The provision of public open space incorporating an equipped play area for use by residents of the proposed development and the wider community.
- The alleviation of a long-standing issue with surface water drainage in proximity to the application site.
- The implementation of planting proposals for the purposes of habitat creation to the benefit and enhancement of biodiversity credentials.

2.19 The benefits of the proposed development to the local community were recognised by a number of Councillors at the Planning Committee Meeting on 06th December 2022 (See **Document 2**)

- Councillor McGinn was pleased that the development included affordable housing for East Lothian Housing Association stock, to assist young people to stay in the village.
- Councillor Forrest welcomed the affordable housing, giving people from the village the opportunity to stay there. He also welcomed Local member's work to mitigate the impact of speeding.
- The Convenor (Councillor Hampshire) noted the benefits of a growing community, including additional amenities, and providing a good social mix of local people and those from further afield.

- 2.20 As a consequence of the considerations outlined above the application proposals are considered to be compliant with the terms of Policy 16 in NPF4.

Policy 17 – Rural Homes

- 2.21 As the application proposals are allocated for residential development in the East Lothian Local Development Plan and lie within the designated Elphinstone Settlement Envelope, the terms of Policy 17 in NPF4 on ‘*Rural Homes*’ are not relevant to its determination.

Policy 18 – Infrastructure First

- 2.22 The terms of Policy 18 in NPF4 on ‘*Infrastructure First*’ is generally compatible with the terms of Policy DEL1 on ‘*Infrastructure and Facilities Provision*’ in the East Lothian Local Development Plan. The report on the application considered and approved by the Planning Committee on 06th December 2022 (See **Document 1**) confirms that the impacts arising from the development proposed can be satisfactorily mitigated through the payment of developer contributions towards various infrastructural requirements and through the imposition of conditions on any consent granted. The application proposals are therefore considered to be compliant with the terms of Policy 18 in NPF4.

Policy 19 – Heating and Cooling

- 2.23 The requirements of Policy 19 in NPF4 on ‘*Heating and Cooling*’ are generally compatible with the terms of Policy SEH1 on ‘*Sustainable Energy and Heat.*’ The Report considered by the Planning Committee on 06th December 2022 (See **Document 2**) notes that the application proposals are in compliance with the terms of Policy SEH1 and therefore also considered to be in compliance with the terms of Policy 19 in NPF4.

Policy 20 – Blue and Green Infrastructure

- 2.24 The requirements of Policy 20 in NPF4 on ‘*Blue and Green Infrastructure*’ are generally covered and compatible within policies relating to Natural Heritage, Open Space and Play Provision and Design as contained within the East Lothian Local Development Plan. The blue and green infrastructure elements of the proposal have been considered acceptable and compliant with policies in the LDP and are also considered to be compliant with Policy 20 in NPF4.

Policy 21 – Play, Recreation and Sport

- 2.25 The terms of Policy 21 in NPF4 on ‘*Play, Recreation and Sport*’ are generally compatible with policies contained in the East Lothian Local Development Plan on Open Space and Play Provision (Policies OS3 and OS4). The Report on the application as considered by the Planning Committee on 06th December 2022 notes that the application proposals are compliant with the terms of both Policy OS3 and OS4. As a consequence, they are also considered to be compliant with the terms of Policy 21 in NPF4.

Policy 22 – Flood Risk and Water Management

- 2.26 The terms of Policy 22 in NPF4 on ‘*Flood Risk and Water Management*’ are general compatible with the terms of Policies NH10 on ‘*Sustainable Drainage Systems*’ and NH11 on ‘*Flood Risk*’ within the East Lothian Local Development Plan. The Report on the application as considered by the Planning Committee on 06th December 2022 (See **Document 1**) has confirmed that the Council’s Team Manager for Structures, Flooding and Street Lighting had no objection to the proposals on flood risk grounds and no objections to the siting and design of the SUDS Basin.

The proposals were consequently considered to be in compliance with the terms of Policies NH10 and NH11 and therefore similarly compliant with the terms of Policy 22 in NPF4.

Policy 23 – Health and Safety

- 2.27 There are several policies in the East Lothian Local Development Plan relating to the health and safety issues referred to in Policy 23 of NPF4 on ‘*Health and Safety.*’ Such policies include Policy NH12 on ‘*Air Quality,*’ Policy NH13 on ‘*Noise*’ and Policy OI1 on ‘*Pipeline Consultation Zone.*’ The Report considered by the Planning Committee on 06th December 2022 did not consider the proposals to contravene any of the policies referred to and as such the proposals are considered to be also in compliance with the terms of Policy 23 in NPF4.

Policy 24 – Digital Infrastructure

- 2.28 The terms of Policy 24 in NPF4 on ‘*Digital Infrastructure*’ are generally compatible with Policies DCN1 on ‘*Digital Communications Networks*’ and DCN2 on ‘*Provision for Broadband Connectivity in New Development*’ in the East Lothian Local Development Plan. As noted on Page 82 of the Report considered by the Planning Committee on 06th December 2022 (See **Document 1**), ‘*the applicant has confirmed that their proposals are to have BT Openreach, Hyperoptic and Virgin broadband provision to the development, with every property having connection at habitation*’ thus rendering the proposals compliant with the terms of both NPF4 (Policy 24) and the LDP.

Policy 25 – Community Wealth Building

- 2.29 As the application proposals relate to a residential development comprising private and affordable housing the terms of Policy 25 in NPF4 are not considered to be of relevance to the application proposals.

Policy 26 – Business and Industry

- 2.30 As the application proposals relate to a residential development comprising private and affordable housing the terms of Policy 26 in NPF4 on ‘*Business and Industry*’ are not considered to be of relevance to the application proposals.

Policy 27 – City, Town and Commercial Centres

- 2.31 As the application proposals relate to a proposed residential development located on a site outside any area defined as a city, town or commercial centre, they will not result in an adverse impact on the vitality or viability of such centres. The terms of Policy 27 in NPF4 are, as a consequence not considered to be of relevance to the proposals.

Policy 28 – Retail

- 2.32 As the application proposals relate to residential development the terms of Policy 28 in NPF4 on ‘*Retail*’ are not considered to be of relevance to the proposals.

Policy 29 – Rural Development

- 2.33 As the application proposals relate to a site allocated for residential development within the Elphinstone Settlement Envelope as defined in the East Lothian Local Development Plan, the terms of Policy 29 in NPF4 on ‘*Rural Development*’ are not considered to be of relevance to its determination.

Policy 30 – Tourism

- 2.34 As the proposals relate to a proposed residential development the terms of Policy 30 in NPF4 on ‘*Tourism*’ are not considered to be of relevance to the determination of the application.

Policy 31 – Culture and Creativity

- 2.35 Policy 31(a) in NPF4 on ‘*Culture and Creativity*’ require development proposals that involve a significant change to existing, or the creation of new public open spaces, to make provision for public art. Whilst the development brief for the application site adopted by the Council does not require the provision of public art, such provision could be secured through the imposition of a condition on any decision to grant if considered necessary and or/appropriate in this particular location.

Policy 32 – Aquaculture

- 2.36 As the proposals relate to a proposed residential development the terms of Policy 32 in NPF4 on ‘*Aquaculture*’ are not considered to be of relevance to the determination of the application.

Policy 33 – Minerals

- 2.37 As the proposals relate to a proposed residential development the terms of Policy 33 in NPF4 on ‘*Minerals*’ are not considered to be of relevance to the determination of the application.

3. CONCLUSIONS

3.1 Having assessed the application proposals against all policies contained in National Planning Framework 4 (NPF4) and the East Lothian Local Development Plan 2018 (both documents comprising the ‘*development plan*’) it is considered that they are compliant with both. Furthermore, policies in the former (NPF4), insofar as they relate to the application proposals, are not considered to materially conflict or contradict with those in the latter (ELDP). Where requirements differ (e.g. provision of public art) they can be addressed, but only if considered appropriate, through the imposition of conditions on any decision to grant. A community benefit statement is attached (See **Document 4**)

3.2 Other key considerations in support of the application include the following:

- The application proposals relate to a site allocated for residential development in the East Lothian Local Development Plan.
- Members of the Council’s Planning Committee decided to grant planning permission for the development proposed subject to conditions and a Section 75 Agreement at its meeting on 06th December 2022 (See **Document 2**) concluding in the process that the proposal was ‘*considered to be in accordance with the provisions of the stated relevant Development Plan policies,*’ part of which comprised the East Lothian Local Development Plan.
- Policy 16 of NPF4 states, inter-alia, that ‘*development proposals for new homes on land allocated for housing in LDPs will be supported.*’
- There is an extant planning permission for 80 no. residential units on the site granted under the terms of Planning Permission Reference Number 16/00970/PM on 15th April 2021.

3.3 In light of the above considerations and the additional information contained within this statement there are no valid reasons to withhold permission for the application proposals as applied for and in respect of which the Council were previously minded to grant.

Signed



Derek Scott

Date 23rd February 2023

Copyright © Derek Scott Planning 2023

No part of this statement may be reproduced, distributed, or transmitted in any form or by any means, including photocopying, recording or other electronic or mechanical methods, without the prior permission of Derek Scott Planning except in the case of brief quotations in reviews and certain other non-commercial uses permitted by copyright law.



Document 1

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

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

RECOMMENDATION Consent Granted

REPORT OF HANDLING

APPLICATION SITE

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

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

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

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

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

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

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

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

RELEVANT PLANNING HISTORY

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

PROPOSAL

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

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

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

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

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

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

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

The application is also supported by a number of detailed drawings and reports including a Design Statement, a Drainage Report, a Tree Survey and Arboricultural Impact Assessment, Woodland Management Plan Report, Preliminary Ecological Appraisal, Transport Assessment, Noise Assessment, Archaeological Report, Energy Statement, Remediation Method Statement and Site Investigation Reports, some of which have been updated or revised since registration of the application.

ENVIRONMENTAL IMPACT ASSESSMENT

Under the provisions of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 the proposed development falls within the category of a Schedule 2 Development, being one that may require the submission of an

Environmental Impact Assessment (EIA). Schedule 3 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 sets out the selection criteria for screening whether a Schedule 2 development requires an EIA. On the 6th October 2016 the Council issued a formal screening opinion on planning application 16/00970/PM with the conclusion that the proposed development is not likely to have a significant effect on the environment such that consideration of environmental information is required before any grant of planning permission and therefore it was the opinion of East Lothian Council as Planning Authority that there was no requirement for the development the subject of that application to be the subject of an EIA. The **Council's Policy and Projects Team** have again confirmed, in relation to this current application, that it is the opinion of East Lothian Council as Planning Authority that there is no requirement for the proposed development to be the subject of an EIA.

DEVELOPMENT PLAN

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

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Development Plan (ELLDP) 2018 together with its adopted supplementary guidance.

The purpose of the approved South East Scotland Strategic Development Plan (SESplan) is to set out the strategic planning framework to assist preparation of local development plans. Its policies are generally not relevant for assessing individual planning applications.

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

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

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

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

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

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

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

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

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

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

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

REPRESENTATIONS

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

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

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

place first;

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

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

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

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

COMMUNITY COUNCIL COMMENTS

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

PLANNING ASSESSEMENT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Policy OS3 of the ELLDP sets out the minimum requirement for on-site provision of open space which is 60m² per dwelling. This will consist of provision of formal and informal open space as well as space for equipped play areas in accordance with Policy OS4. The applicant has provided details that demonstrate that, not including the SUDS basin and the woodlands strips, the open space provision would amount to some 67m² per dwelling. The areas of open space shown to be provided would provide sufficient, usable areas of open space for informal recreation for the proposed development, consistent with Policy OS3 of the ELLDP.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

on development on prime agricultural land.

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

At its meeting on Tuesday 27th August 2019 the Council approved a motion declaring a Climate Emergency. Thereafter, at its meeting on Tuesday 3rd September 2019 the Council's Planning Committee decided that a condition requiring a developer to submit for the approval of the Planning Authority a report on the actions to be taken to reduce the carbon emissions from the building and from the completed development should be imposed on relevant applications for planning permission. This application is supported by a 'Statement on Energy' which has been amended by the applicant since the registration of the application. The 'Statement on Energy' submitted sets out the measures to be taken to reduce the carbon emissions from the building and from the completed development which are designed to ensure compliance with the CO2 requirements of the Scottish Building Standards, and to meet the 15% reduction in carbon emissions from Low and Zero Carbon Generating Technologies (LZCGT) as required by ELLDP. The Report sets out that roof mounted photovoltaic panels will be installed on each dwelling. This will ensure that both the private and affordable homes meet Bronze Active standard under Section 7 (Sustainability) of the building standards. In addition, the affordable dwellings will be designed to achieve Aspect Silver Level 1 & 2 in accordance with minimum funding requirements for affordable housing in Scotland.

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

Consideration must then be given to the potential impact of the proposed development on the infrastructure of the area. Policy DEL1 of the ELLDP stipulates that new housing will only be permitted where appropriate provision for infrastructure, required as a consequence of the development, is made. Proposal TT11 of the ELLDP stipulates that any development on the site is subject to the mitigation of any development related impacts, including on a proportionate basis for any cumulative impacts with other proposals including on the transport network, on education and community facilities, and on air quality as appropriate.

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

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

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

Provision for turning and parking areas to serve the existing playing field, along with proposed electric vehicle charging provision, are proposed to be provided within the application site, close to the southwest corner of the application site along with footpath provision to the adjacent playing fields all to allow convenient access to the playing fields. A timetable for the provision of this parking and turning facility can be secured by way of a condition on a grant of planning permission. The **Council's Team Manager – Active Business Unit** raises no objections to this proposed provision and in relation to developers contributions required towards refurbishment of the existing changing pavilion at the playing field, advises that a contribution of £298.67 per dwelling (a total of £26,880.30 for 90 residential units) is required for this proposal. The required payment of a financial contribution of a total of £26,880.30 towards the refurbishment of the existing changing pavilion at the Elphinstone playing field can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. The applicants confirm in writing that they are willing to enter into such an agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

RECOMMENDATION

It is recommended that planning permission be granted subject to:

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

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

Index but will be indexed from Q3 2022.

CONDITIONS

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

Reason:

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

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

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

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

Reason:

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

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

Reason:

To facilitate an acceptable archaeological investigation of the site.

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

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

Year 2023/24 - 40 residential units

Year 2024/25 - 40 residential units

Year 2025/26 - 10 residential units

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

Reason:

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

accords with the provision of education capacity.

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

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

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

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

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

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

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

Reason:

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

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

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

Reason:

In the interests of road and pedestrian safety.

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

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

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

Reason:

In the interests of road and pedestrian safety.

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

Reason:

In the interests of road and pedestrian safety.

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

Reason:

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

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

Reason:

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

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

Reason:

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

- 12 A Construction Method Statement to minimise the impact of construction activity on the amenity of the area, including from the effects of noise and dust, shall be submitted to and approved by the Planning Authority prior to the commencement of development. The

Construction Method Statement shall recommend mitigation measures to control construction traffic and shall include hours of construction work and routes of construction traffic to/from the site, delivery time restrictions and a health and safety method statement. It shall also make recommendations in respect of how building materials and waste will be safely stored and managed on site.

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

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

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

Reason:

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

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

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

Reason:

To minimise the environmental impact of the development.

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

Reason:

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

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

clad in more than one colour of roof tile. All such materials used in the construction of the houses, flats, garages and boundary treatments shall conform to the details so approved.

Reason:

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

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

Reason:

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

- 17 No development shall commence until temporary protective fencing has been erected in accordance with the docketed and stamped approved report titled; Tree Survey & Arboricultural Impact Assessment, Revision R3, dated 10 November 2022 and in the positions shown on docketed and stamped approved drawings titled: The Tree Survey Plan with drawing reference BS-020222_AIA_R1 and Landscape Proposal Plans numbered 231.24.01 - 231.24.06 Revision F and dated October 2022. The temporary protective fencing shall be erected to the specification shown on drawing titled; The Tree Survey Plan, survey reference BS_020422_A1A_R1 shall be erected prior to the commencement of development and shall remain intact and in place through to completion of development. All weather notices containing the wording "Construction exclusion zone - Keep out" shall be erected on said fencing. Within the fenced off areas the existing ground level shall neither be raised nor lowered, no materials, temporary buildings, plant, machinery or surface soil shall be placed or stored and no herbicides shall be used.

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

Reason:

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

- 18 No development shall take place on site until a person who, through relevant education, training and experience, has gained recognised qualifications and expertise in the field of trees in relation to construction, has been employed by the developer to monitor any works within the root protection area or canopy spread of trees on or adjacent to the application site. Arboricultural monitoring shall including the supervision and reporting to the Planning Authority on the installation of the required tree protection fencing and any development within the root protection area of trees shown to be retained and protected in strict compliance with docketed and stamp approved report titled : Tree Survey & Arboricultural Impact Assessment, dated April 2022 and drawings titled: The Tree Suvey Plan with drawing reference BS-020222_AIA_R1 and Landscape Proposal Plans numbered 231.24.01 - 231.24.06 Revision F and dated October 2022. All tree work shall be approved in writing by the Planning Authority before work is carried out.

Reason:

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

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

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

Reason:

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

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

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

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

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

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

Reason:

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

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

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

Reason:

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



Document 2

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.

Document 3

App No. 16/00970/PM

EAST LoTHIAN COUNCIL

DECISION NOTICE

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

**TOWN AND COUNTRY PLANNING
(DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATIONS 2008**

Highland Residential Developments Ltd
c/o EMA Architecture and Design
42 Charlotte Square
Edinburgh
EH2 4HQ

APPLICANT: Highland Residential Developments Ltd

With reference to your application registered on 12th December 2016 for planning permission under the above mentioned Acts and Regulations for the following development, viz:-

Erection of 76 houses, 4 flats and associated works
at
Land To The North Of Castlehill
Main Street
Elphinstone
East Lothian

East Lothian Council as the Planning Authority in exercise of their powers under the above-mentioned Acts and Regulations hereby **GRANT PLANNING PERMISSION** for the said development in accordance with the particulars given in the application, the plan(s) docketed as relative hereto and the conditions set out below:-

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 buildings 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 No development shall take place on the proposed site until the applicant has, through the employ of an archaeologist or archaeological organisation, undertaken and reported upon a programme of archaeological work (Evaluation by trial trenching) in accordance with a written scheme of investigation which the application will submit to and have approved in advance by the Planning Authority.

Reason:

To facilitate an acceptable archaeological investigation of the site.

- 3 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 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.

- 4 Prior to the commencement of development a Remediation Strategy detailing the exact gas prevention measures (gas & radon) and detailing and quantifying any works to be undertaken in order to reduce the risks to acceptable levels shall be submitted to and approved by the Planning Authority. Any identified remediation measures shall thereafter be carried out.

Should remedial works be required then, prior to any residential units being occupied, 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.

The presence of any previously unsuspected or unforeseen contamination that becomes evident during the development of the site shall be brought to the attention of the Planning Authority. At this stage, further investigations may have to be carried out to determine if any additional remedial measures are required.

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.

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

(a) Housing completions in any one year (with a year being defined as being from 1st April to 31st March the following year) shall not exceed the following completion rates:

Year 2020/21 - 20 residential units
Year 2021/22 - 30 residential units
Year 2022/23 - 30 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 2023/24 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.

- 6 Prior to the commencement of development, a scheme of remedial works to treat past shallow coal mine workings shall be submitted to and approved in writing by the Planning Authority and thereafter shall 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.

- 7 Prior to commencement of development on site, full details of the proposed Sustainable Drainage System (SuDS) 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.

Thereafter, the approved details shall be implemented as approved.

Reason:

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

- 8 Prior to the commencement of development, a report on the actions to be taken to reduce the Carbon Emissions from the build and from the completed development shall be submitted to and approved in writing by the Planning Authority. This shall include the provision of renewable technology for all new buildings, where feasible and appropriate in design terms, and new car charging points and infrastructure for them, where feasible and appropriate in design terms. The details shall include a timetable for implementation. Development shall thereafter be carried out in accordance with the report so approved.

Reason:

To minimise the environmental impact of the development.

- 9 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.

- 10 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.

(i) No residential unit hereby approved shall be occupied unless and until (i) a gateway feature is installed at the western end of the south boundary of the site, (ii) a raised table is incorporated at the site entrance, (iii) 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 (iv) a suitable crossing of the B6414 is provided in the vicinity of the primary school. Details of the proposed gateway feature, the raised table, the shared use path and the crossing shall be submitted for approval by the planning authority along with a Road Safety Audit of the proposals. These measures shall be implemented in accordance with the details as approved by the planning Authority.

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

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

(iv) all prospectively adoptable parking bays (i.e. that will form part of the public road) shall have minimum dimensions of 2.5 metres by 6 metres;

All roads and paths shall conform to the Councils Standards for Development Roads.

The residential development shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of road and pedestrian safety.

- 11 Prior to the occupation of the last house or flat hereby approved, the proposed access roads, parking spaces, 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 residential use of the houses and flats and shall not be adapted or used for other purposes without the prior written approval of the Planning Authority.

Reason:

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

- 12 No work shall be carried out on the site unless and until an effective vehicle wheel washing facility has been installed in accordance with details to be submitted to and approved by the Planning Authority prior to its installation. Such facility shall be retained in working order and used such that no vehicle shall leave the site carrying earth and mud in their wheels in such a quantity which causes a nuisance or hazard on the road system in the locality.

Reason:

In the interests of road safety.

- 13 Notwithstanding that detailed on the drawings docketed to this planning permission at least one electric vehicle charging point shall be provided at the parking area which is to serve the playing field adjacent to the site. Prior to the commencement of development details of the electric vehicle charging point(s) 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 to approved and shall be retained unless otherwise approved in writing by the Planning Authority.

Reason:
In the interests of sustainability.

- 14 Prior to the occupation of any of the residential units hereby approved a Green Travel Plan shall be submitted to and approved by the Planning Authority prior to the occupation of any of the residential units hereby approved.

The Green Travel Plan shall have particular regard to provision for walking, cycling and public transport access to and within the site, and will include a timetable for its implementation, details of the measures to be provided, the system of management, monitoring, review, reporting and duration of the Plan and details of how it will be distributed to residents.

Thereafter, the Green Travel Plan shall be implemented in accordance with the details so approved.

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

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

The Construction Method Statement shall include details of:

- * Mitigation measures to control noise, dust, construction traffic (including routes to/from site and delivery times).
- * Hours of construction work
- * Routes for construction traffic
- * Wheel washing facilities.

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 retain control of the operation of construction in the interest of environmental and residential amenity.

- 16 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.

- 17 Notwithstanding that which is stated on the drawings docketed to this planning permission a detailed specification and samples 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.

Notwithstanding that which is detailed on boundary treatment drawings docketed to this planning permission the southernmost boundary treatment of the rear gardens of plots 67-80 shall be a 1.8 metres high reconstituted stone boundary wall and not a 1.8 metres high timber fence as detailed in the drawings.

The external finishes of the houses and flats shall be in accordance with a co-ordinated scheme of materials and colours that shall be submitted to and approved in advance by the Planning Authority. This co-ordinated scheme shall in detail promote render as the predominant finish to the walls of the houses and flats, 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.

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.

- 18 A timetable for the provision of the erection of the boundary enclosures 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.

- 19 No development shall take place until there has been submitted to and approved in writing by the Planning Authority a scheme of landscaping. The scheme shall provide details of: the height and slopes of any mounding on or re-contouring of the site including SUDS basin/ponds details; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. Non-thorn shrub species should be located adjacent to pedestrian areas. The scheme shall include indications of all existing trees and hedgerows on the land, details of any to be retained, and measures for their protection in the course of development. Specific planting details shall include hedges to front gardens. The scheme shall include a timetable for implementation of landscaping, and this scheme shall show that the structural landscape planting (proposed woodland planting on east and west boundaries) shall be implemented within 1 year of the commencement of development and shall include a tree

protection and maintenance plan to safeguard new structural tree planting during the course of development.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with the details so approved, including the timetable for implementation. Any trees or plants which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar species and final size, unless the Planning Authority gives written consent to any variation. No trees or shrubs, detailed in the approved landscaping plans to be retained on the site, shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the previous written consent of the Planning Authority. All existing and new planting comprised in the scheme of landscaping shall be retained and maintained unless the Planning Authority gives written consent to any variation.

The structural woodland planting to be provided along the east and west boundaries of the site shall be managed in accordance with a long term woodland management plan to be submitted to and approved by the Planning Authority prior to the commencement of development. The woodland management plan shall include both short and long term management objectives and shall include a program of thinning.

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.

- 20 Prior to the commencement of development, a communal landscape plan clearly identifying all landscape factored areas shall be submitted to and approved by the Planning Authority. The plan shall be scaled (minimum 1:250) and shall include a colour coded key clearly identifying the boundaries of house plots, all landscape features such as woodland, meadows, trees and tree tag numbers, hedges, lawns, shrubs and SUDs.

Thereafter the maintenance of all communal landscape areas, and hedges to private front gardens, shall be adopted and maintained by a Factor or a Residents Association 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 on the site in the interest of amenity.

- 21 No development shall take place on site until temporary protective fencing in accordance with Figure 2 of British Standard 5837_2012 "Trees in relation to design, demolition and construction" has been installed, approved and confirmed in writing by the Planning Authority. The fencing must be fixed in to the ground to withstand accidental impact from machinery, erected prior to site start and retained on site and intact through to completion of development. The position of this fencing must be as indicated on a tree protection plan to be submitted to and approved by the Planning Authority in advance of the erection of the fencing. The fencing as approved shall be positioned outwith the Root Protection Area (RPA) as defined by BS5837:2012 for all trees and approved in writing by the Planning Authority.

All weather notices shall be erected on said fencing with words such as "Construction exclusion zone - Keep out". Within the fenced off areas creating the Construction Exclusion Zones the following prohibitions must apply:-

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

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

In order to protect retained hedgerows and trees from damage.

- 22 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 in close proximity of trees on the site including the installation of the 'Terram' cellular confinement system and the installation of the tree protection fencing. All tree work should be carried out in accordance with BS3998: 1989 'Recommendations for Tree Work' and must 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.

The report on this application is attached to this Decision Notice and its terms shall be deemed to be incorporated in full in this Decision Notice.

Details of the following are given in the application report:

- the terms on which the Planning Authority based this decision;
- any variations made to the application in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997; and
- where applicable the summary of the terms of any agreement entered into under Section 75 of the Town and Country Planning (Scotland) Act 1997.

A copy of the Section 75 Agreement can be inspected in the application file at Environment Reception, John Muir House, Haddington.

The docketed plans to which this decision relate are as follows:

<u>Drawing No.</u>	<u>Revision No.</u>	<u>Date Received</u>
--------------------	---------------------	----------------------

16064(PL)100	-	29.11.2016
16064(PL)101	-	29.11.2016
16064(PL)102	-	29.11.2016
16064(PL)103	-	29.11.2016
16064(PL)108	-	29.11.2016
16064(PL)110	-	29.11.2016
16064(PL)111	-	29.11.2016
16064(PL)112	-	29.11.2016
16064(PL)120	-	29.11.2016
16064(PL)130	-	29.11.2016
16064(PL)131	-	29.11.2016
16064(PL)132	-	29.11.2016
16064(PL)140	-	29.11.2016
16064(PL)141	-	29.11.2016
16064(PL)141	-	29.11.2016
16064(PL)142	-	29.11.2016
16064(PL)142	-	29.11.2016
16064(PL)143	-	29.11.2016
16064(PL)150	-	29.11.2016
16064(PL)151	-	29.11.2016
16064(PL)152	-	29.11.2016
16064(PL)153	-	29.11.2016
16064(PL)280	-	29.11.2016
16064(PL)281	-	29.11.2016
16064(PL)282	-	29.11.2016

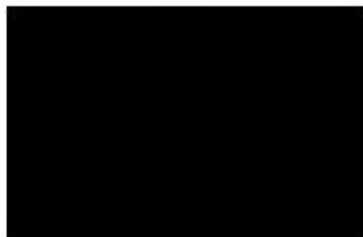
16064(PL)283	-	29.11.2016
16064(PL)900	-	29.11.2016
16064(PL)901	-	29.11.2016
16064(PL)902	-	29.11.2016
16064(PL)903	-	29.11.2016
16064(OS)001	A	09.12.2016
E10920/1501	A	09.12.2016
E10920/1502	A	09.12.2016
E10920/1503	A	09.12.2016
16064((PL)018	D	13.06.2019
16064(PL)050	B	13.06.2019
16064(PL)160	-	13.06.2019
16064(PL)161	-	13.06.2019
16064(PL)162	-	13.06.2019
16064(PL)170	-	13.06.2019
16064(PL)171	-	13.06.2019
16064(PL)172	-	13.06.2019
16064(PL)001	D	07.10.2019
16064(PL)010	E	07.10.2019
16064(PL)011	G	07.10.2019
16064(PL)012	E	07.10.2019
16064(PL)015	E	07.10.2019
16064(PL)016	E	07.10.2019
E10920/1001	F	07.10.2019
E10920/1002	F	07.10.2019

E10920/1003	F	07.10.2019
E10920/2001	E	07.10.2019
E10920/2002	E	07.10.2019
E10920/2003	E	07.10.2019
E10920/2004	A	07.10.2019
E10920/2005	-	07.10.2019

ADVISORY NOTES

1. In accordance with Section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), the development to which this planning permission relates must commence within **THREE YEARS** of the date of this decision notice. **If development has not commenced within this time period, then this planning permission will lapse.**
2. It should be understood that this permission does not carry with it any necessary consent or approval for the proposed development under other statutory enactments.

15th April 2021



Keith Dingwall
Service Manager - Planning

NOTES ABOUT APPEAL OF DECISION

If the applicant is aggrieved by the decision of the Planning Authority to grant permission for the proposed development subject to conditions, the applicant may appeal to the Scottish Ministers under Section 47 of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this decision notice. The notice of appeal should be addressed to Planning and Environmental Appeals Division, Scottish Government, Ground Floor, Hadrian House, Callendar Business Park, Callendar Road, Falkirk FK1 1XR. A copy of the notice of appeal must at the same time be sent to Development Management, East Lothian Council, John Muir House, Brewery Park, Haddington, East Lothian EH41 3HA.

If permission to develop land is refused or granted subject to conditions, whether by the Planning Authority or by the Scottish Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the Planning Authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

TOWN AND COUNTRY PLANNING

(DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATIONS 2008

Section 27A (1) of the above-mentioned Act requires that Notice of Initiation of Development must be served to the Council **prior** to the start of development for which planning permission is granted. Failure to do so is a breach of planning control under section 123(1) of the above Act and may result in the Council taking enforcement action.

NOTICE OF INITIATION OF DEVELOPMENT

Notice is hereby given that the under-mentioned scheme of development is expected to commence on
...../...../20.....

Planning authority reference: **16/00970/PM**

Date of decision notice: **15th April 2021**

Address/Location of site:

**Land To The North Of Castlehill
Main Street
Elphinstone
East Lothian**

Name and address of developer:

Name and contact details of site agent:

Owner of land (if not as above):

Signed:

Print Name:

Date:

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

TOWN AND COUNTRY PLANNING

(DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATIONS 2008

Section 27B (1) of the above-mentioned Act requires that this notice must be served to the Council on completion of the approved scheme of development.

NOTICE OF COMPLETION OF DEVELOPMENT

Notice is hereby given that the under-mentioned scheme of development was completed on/...../20....

Planning authority reference: **16/00970/PM**

Date of decision notice: **15th April 2021**

Address/Location of site:

**Land To The North Of Castlehill
Main Street
Elphinstone
East Lothian**

Name and address of developer:

Owner of land (if not as above):

Signed:

Print Name:

Date:

**EAST LoTHIAN COUNCIL
DEVELOPMENT MANAGEMENT**

INFORMATION NOTE TO APPLICANT

Please note that Section 27C (1) of the Town and Country Planning (Scotland) Act 1997 requires that for development belonging to the categories of national developments, major developments and bad neighbour developments the person (s) carrying out the development must, for the duration of the development, display at the site a notice of a prescribed form as set out in Schedule 7 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008. As the development for which planning permission reference has been granted is a national/major/bad neighbour development you are required to display such a notice, a template copy of which is attached to this information note for your use.

The notice must be displayed in a prominent place at or in the vicinity of the site of the development, be readily visible to the public and printed on durable material. Failure to do so is a breach of planning control under section 123(1) of the Town and Country Planning (Scotland) Act 1997 and may result in the Council taking enforcement action.

NOTICE

DEVELOPMENT IN PROGRESS

NATIONAL/MAJOR/BAD NEIGHBOUR DEVELOPMENT

(Delete as applicable)

Development at

Notice is hereby given that planning permission has been granted subject to conditions/unconditionally to:

name/address of developer

on/...../..... by East Lothian Council (reference):/...../.....

The development comprises (description).....

Further information regarding the planning permission including the conditions, if any, on which it has been granted can be obtained during office opening hours (0900 – 17.00 Monday to Thursday and 0900 – 1600 on Fridays) at East Lothian Council, Environment Reception, John Muir House, Haddington EH41 3HA Tel. 01620 827216. Alternatively the information can be viewed at: www.eastlothian.gov.uk

Document 4

Statement of Community Benefit

21/01608/PM – Erection of 86 no. houses, 4 no. flats and associated works on land to the North of Castlehill, Main Street, Elphinstone, East Lothian

The application proposed by Bellway Homes (East Scotland) under the terms of Planning Application Reference Number 21/01608/PM relating to the erection of 86 no. dwelling houses and 4 no. flats on land to the north of Castlehill, Main Street, Elphinstone, East Lothian will deliver the following community benefits:

- The delivery of a wide range and mix of houses (private and affordable) which will contribute to meeting local housing requirements.
 - 90 residential units in total (86 no. houses and 4 no. flats)
 - 67 private units for sale by Bellway and 23 affordable units (social rented) to be developed for East Lothian Housing Association
 - Proposed houses comprise 36 no. four bedroom homes, 41 no. 3 bedroom homes and 9 no. two bedroom homes. Flats comprise 4 no. two bedroom properties.
- Developer contributions to be made towards education facilities (primary and secondary) serving the catchment; towards the refurbishment of the existing changing facilities at the Elphinstone Playing Field; and towards transportation improvements at Old Craighall Junction, Salter's Road Interchange, Bankton Interchange, Musselburgh Town Centre Improvements, Tranent Town Centre Improvements and Rail Network Improvements.
- Developer contributions towards Elphinstone Primary School will result in substantial upgrades to existing facilities. New pupils generated by the development proposed will also increase the school roll and contribute to sustaining and supporting the continued existence of the school within the village.
- Fifteen car parking spaces (with provision of EV ducting) are being provided within the site to serve the adjacent Elphinstone Football Ground.
- The provision of gateway and traffic calming features on the B6414 which will reduce traffic speeds through the village.
- The provision of a new pedestrian crossing in the vicinity of the school to facilitate improved crossing arrangements from one side of the B6414 to the other.
- The provision of flagged bus stops for the potential future extension to existing bus services in the village.
- The provision of public open space incorporating an equipped play area for use by residents of the proposed development and the wider community.
- The alleviation of a long-standing issue with surface water drainage in proximity to the application site.

Statement of Community Benefit

21/01608/PM – Erection of 86 no. houses, 4 no. flats and associated works on land to the North of Castlehill, Main Street, Elphinstone, East Lothian

- The implementation of planting proposals for the purposes of habitat creation to the benefit and enhancement of biodiversity credentials.

Appendix E

Appendix E - The recommended heads of terms for the legal agreement and recommended conditions to be imposed for planning permission 21/01608/PM

It is recommended that planning permission be granted subject to:

1. The undernoted conditions.

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

(i). a financial contribution to the Council of £1,322,440.00 towards the provision of additional primary and secondary school accommodation within the catchment;

(ii) the provision of 23 affordable housing units within the application site;

(iii) a financial contribution to the Council of £26,880.30 towards the refurbishment of the existing changing pavilion at the Elphinstone Playing Field; and

(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.

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, Policy 18 of NPF4 and 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.

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 buildings 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 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.

4 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 between the northwest corner of the extended park/play area within the site to the southern edge of the site to the west of the property of 'Lynhaven' 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 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.

- 5 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.

- 6 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.

- 7 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.

- 8 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.

- 9 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.

- 10 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.

- 11 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.

- 12 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.

- 13 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.

- 14 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.

- 15 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.

- 16 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.

- 17 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.

- 18 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.

- 19 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.

- 20 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.

- 21 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.

- 22 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.

- 23 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.

- 24 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.

- 25 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.

- 26 Unless otherwise agreed in writing by the Planning Authority no residential unit shall be occupied unless and until details of artwork to be provided on the site or at an alternative location away from the site have been submitted to and approved by the Planning Authority. The details shall include a timetable for the provision of the artwork.

The artwork shall thereafter be provided in accordance with the details so approved.

Reason:

To ensure that artwork is provided in the interest of the visual amenity of the locality or the wider area.

END

