



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

**TUESDAY 28 MARCH 2023
VIA A DIGITAL MEETING FACILITY**

Committee Members Present:

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

Other Councillors Present:

Councillor C McFarlane

Council Officials Present:

Mr K Dingwall, Service Manager – Planning
Ms E Taylor, Team Manager – Planning Delivery
Mr C Grilli, Service Manager – Governance
Ms J McLair, Senior Planner
Mr D Irving, Senior Planner
Mr C Redpath, Team Manager – Roads Engineering
Mr N Morgan, Outdoor Access Officer
Mr M Greenshields, Senior Roads Officer
Ms M Haddow, Transportation Planning Officer

Clerk:

Ms B Crichton

Visitors Present/Addressing the Committee:

Ms M Houchin, Mr J Wright, Mr P Cooper, Mr A Shepherd

Apologies:

None

Declarations of Interest:

None

1. MINUTES OF PLANNING COMMITTEE MEETING, 7 MARCH 2023

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

2. PLANNING APPLICATION NO. 23/00059/P: CHANGE OF USE TO AGRICULTURAL LAND TO FORM CAR PARK, ERECTION OF GATES AND FENCING, HOPES ESTATE, YESTER, GIFFORD, HADDINGTON

A report was submitted in relation to Planning Application No. 23/00059/P. Julie McLair, Senior Planner, presented the report, summarising the key points. The report recommendation was to refuse consent.

Officers responded to questions from Members. Ms McLair, and Nick Morgan, Outdoor Access Officer, confirmed that Core Path 55 ran along the public road to the east of the application site. The right to responsible access was for non-motorised access, and they also confirmed that where the gates to the car park were formed did not impact upon the public road. Officers would address the applicant on the matter of fence posts remaining for a gate which would block a public road if closed. Ms McLair advised of an historic agreement with Scottish Water (SW) that the public could park on land they owned as long as SW vehicles had priority.

Councillors McGinn and McIntosh asked about the legality and enforcement for charging for parking within the county. Carlo Grilli, Service Manager – Governance, advised that there was no licensing requirement to charge for parking on private land and described types of charging regime; landowners were at liberty to set up a private charging regime over their land.

Officers responded to further questions from Members. Ms McLair advised that the current surface was loose chipping, a permeable surface, and permission to change the surface to tarmac would have to be sought from the planning authority. It would be possible to add a condition to remove permitted development rights on the car park, such as adding gates. Mr Grilli advised that any recourse to parking not be available at an advertised time would be a commercial matter between the landowner and permit holder.

Councillor McGinn asked about adding planning conditions that access must be available for owners to recover their vehicles. Mr Grilli advised that, provided times were made known that the car park would be closed, access to recover a vehicle was a commercial concern, and provided examples of other sites in East Lothian whereby cars could become stuck overnight. Ms McLair understood there to be concerns regarding the access road, but reminded Members that this was not part of the application and therefore not a valid reason to refuse consent.

Mr Dingwall, Service Manager – Planning, advised that countryside recreation was a category of development under Policy DC1, and therefore did not require justification despite there being another car park available. Ms McLair confirmed that the site would be considered brown field land once permission was granted for a car park; another application could be made for development on the land, but such an application would also have to be determined on its own merits.

John Wright, agent, spoke to the application. He highlighted that the council's adoption of the road had been to benefit the SW operation. He said the verge was not wide enough for parking in several places. He acknowledged an informal arrangement whereby cars could park on the SW car park, but said this made it difficult for SW vehicles to be given priority. SW's hands-off approach to managing this land had left the applicant to address activity from inconsiderate users, including overnight stays and blocking access for farming

activities. He said the car park would not restrict access, but rather would enable access to be controlled, safe, and manageable. He noted that the Gifford Post Office was open 7 days a week to obtain a permit, and permits clearly stated the opening days (Tuesday, Wednesday, Thursday, and Sunday) and times, and he said any night time parking would be unacceptable. Closures were for a sheep management program to control the population of tics. Gates were also required in a flood event. He said access to the SW car park would be suspended during maintenance work. He also noted that if planning permission were refused, the informal arrangement at the SW car park would be the only option for visitors.

Mr Wright responded to questions from Members. He reiterated issue with SW vehicles having priority access if walkers left cars parked for extended periods. He pointed out that cars with permits may make multiple visits, and said more people would park on the verge or in a gateway if the car park did not exist. Money made from the sale of permits was donated to the local church. He noted that mobile connectivity in the area was poor, but the opportunity to apply online could be looked into, and opening times could also be looked at. He advised that estates workers passed the car park regularly and would check whether parked cars had permits displayed.

Responding to questions from Councillor Akhtar, Mr Wright accepted that SW had said that the public could park in the SW car park, but reiterated that it was difficult to achieve their stipulation that SW vehicles must have priority to park in this area when required. Responding to the community's feeling that the opening days and times were restrictive, Mr Wright felt that providing the car park could only enhance the public's access to the area, and reiterated that there were other agricultural uses of the land.

Responding to further questions, Mr Wright said that the problems associated with drug use etc. had not been as prevalent recently following the estate's contact with the police and the council's Access Officer, but he noted that it was difficult to get anyone to attend when the antisocial behaviour was underway due to the rural location. Ghost cameras had been considered but removed from the proposal. An enforcement query had been raised and the Enforcement Officer had requested that the works become regularised through a grant of planning permission. He agreed that given SW's position on their car park, this car park the subject of the application could be considered additional car parking.

Responding to further questions, Mr Wright clarified that around 20 permits per month were issued. Responding to Councillor McGinn's suggestion that the best way to encourage responsible use of the car park would be to only lock the gates between 10pm and 8am each day, Mr Wright said that the applicants encouraged access by avoiding aborted trips; he appreciated there were other options, but said that this was how the estate wished to operate the car park. He confirmed that the car park area was where sheep were gathered for treatment against tics and not where they were treated, so there was no risk to dogs. He highlighted the costs involved in installing a pay-to-enter barrier system. He said that removal of the gates would not be acceptable as the gates were required for sheep gathering and to close the area off in a flood event.

Alastair Shepherd spoke against the application. He was the path warden and walked the paths once or twice each month. He advised that walkers had parked in the SW car park without issue for decades prior to March 2020, and there had never been more than four or five cars. There was plentiful parking on the verge up to West Hopes, but people had been put off by a 'private road' sign. He had never seen evidence of the antisocial behaviour described by Mr Wright, and read from the path warden's report from March 2020 when the area was busier than it had ever been. Shortly after this time, the applicant closed the SW car park, mistakenly thinking he owned it, and Mr Shepherd persuaded SW that they did indeed own their car park land. Signs were erected which said 'Scottish Water – no parking', but Mr Shepherd reported that SW had not been responsible for these signs. Mr Shepherd reported that in recent weeks some of his acquaintances had been told by the applicant or

his representatives not to park in the SW car park. Mr Shepherd had persuaded SW to erect a sign to encourage parking, but it was removed the following day. He contended that if consent were granted without conditions, then the new car park would be used to control access, as had happened in the past. He felt that the car park in its current state discriminated against disabled people, and noted that Gifford Community Council were not in favour of the car park. He felt that conditions should be added that opening hours must be by arrangement with the council.

Councillor McMillan, Local Member, said that more dialogue was required between car park users and the applicant and agent. He said the issue was of responsible and reasonable public access. He noted the estate's recognition for the best of integrated sustainable upland management. He acknowledged issue with encouraging cars to access countryside locations, but felt that the current system with the car park was not right. He also felt that disabled access must be encouraged to the site, but the current system of permits was not inclusive. Community leaders wanted to encourage responsible access, and he would support the application, however, he wanted to encourage the applicant to accept hours of opening, suggesting 8am to 8pm. He thought the current system was in danger of discouraging use of the Hopes Estate, and he hoped that officers would word suitable conditions for opening times/days to encourage access but also protect the site's heritage. Councillor Akhtar, Local Member, and Councillors Allan and McIntosh supported these comments.

Councillor Cassini sought the removal of permitted development rights so that any changes would require approval from the planning authority.

Councillor McIntosh commented on misinformation regarding the availability of car parking, and highlighted that the SW car park was free to use and almost always available. She agreed that a condition regarding opening hours would be helpful. She noted that National Planning Framework 4 (NPF4) Policy 19 said that Local Development Plans should safeguard access rights and core paths and encourage new and enhanced opportunities for access links to wider networks; she said this case highlighted that this should be considered as part of the updated Local Development Plan. She suggested that the Visit East Lothian App could be expanded to other popular sites across the county.

Councillor McGinn said that all community members and visitors should have the right to roam, but understood that this could lead to dangerous parking and other problems. He would support the car park in trying to encourage access to an area of outstanding natural beauty, but only with the conditions laid out by Councillor McMillan. He was very concerned that previous signage had sought to discourage access.

The Convener said that actions had sought to restrict access to the area, and felt that if the applicant had been serious about minimising congestion, he would have made the car park available to all who wished to use it. Members were willing for the car park to be established with more generous opening hours. He noted that the SW car park was available at any time, as was access to the land, and said that any signage or gates which restricted access to the land had to be removed. He was happy to side with the Local Members, who would support the car park but with strong conditions regarding opening hours.

Mr Dingwall suggested wording based on Councillor McMillan's proposed condition, namely: the car park here proposed shall be open 0800 to 2000 (days of the week to be determined) unless approved in writing by the planning authority, for the reason of encouraging responsible access to the countryside. However, he noted Members' wish to work with the applicant to find a solution; he therefore suggested that Members could approve the application, subject to a condition being imposed regarding access, with final wording to be agreed between officers and Local Members following consultation with the applicant. To avoid the risk of non-determination, the decision notice would have to be issued by 8 April

2023; he therefore suggested that if agreement could not be reached with the applicant by this date, the decision would proceed on the basis that the car park would be open between 0800 and 2000. Councillor McMillan and Councillor Allan formally proposed and seconded this condition, respectively.

The Convener then moved to a roll call on the officer recommendation to grant consent. Members unanimously supported the officer recommendation.

DECISION

The Planning Committee granted planning permission, subject to the following:

Officers and Local Members would work with the applicant to try to reach agreement on the opening days and times of the car park. If no agreement could be reached by 8 April 2023, the following condition would be imposed:

1. The car park here proposed shall be open 0800 to 2000 daily unless approved in writing by the planning authority.

Reason
To encourage responsible access to the countryside.

3. 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

Due to an ecological matter that had been raised, a section of the officer report was delivered in private session and the webcast was paused.

PRIVATE

[Redacted content]

[Redacted content]

Following the section in private session and a break, the public meeting resumed.

PUBLIC SESSION

A further report of handling was submitted in relation to Planning Application No. 21/01608/PM. Mr Dingwall presented the remainder of the report, which concluded that the proposals were generally compliant with NPF4. The report recommendation was to grant consent.

Officers responded to questions from Members. Following a discussion regarding NPF4 Policy 13, Councillor McIntosh asked the planning authority to be more ambitious when considering future developments and the next local development plan, suggesting that spaces that might ordinarily be for visitor car parking be instead given over to bike hangars.

Councillor McGinn asked about work going on to the rear of Marchmont Court in Elphinstone regarding raising the ground level. Mr Dingwall confirmed the matter had been raised previously. He would check in with planning enforcement and would inform Councillor McGinn of the outcome.

Responding to questions from the Convener, Mr Dingwall advised that NPF4 stated that there should be support for allocated housing sites to be developed, and thus it followed that it would not be competent to refuse the proposal on the basis of NPF4 Policy 5. Mr Dingwall said there were other material considerations to consider, and therefore it was not the case that every application on primary agricultural land would be refused under NPF4. The new Local Development Plan would have to have due regard to NPF4, but local circumstances were still considered.

Megan Houchin spoke against the application on behalf of Rob Moore. She highlighted Policy 2 of NPF4 relating to climate mitigation; she felt that the photovoltaics and car charging ports being installed by the developer would be of limited use when many people could not afford an electric car, and felt that installing air source heat pumps would be of greater use. On NPF4 Policy 3, enhancing biodiversity, she hoped checks would be made to ensure indigenous and diverse planting appropriate for the site. On Policy 13, sustainable transport, she felt that car charging points still encouraged car use, and the developer contribution to transport improvements should be used to upgrade cycle paths to encourage use of the Wallyford transport hub. She also felt that cycle parking should be added to the development, particularly at the football pitch. On Policy 14, liveable places, she said roof levels should be lowered to blend in with the village, and felt slate should be used. She also felt that providing a majority of large homes was not appropriate for the needs of the county. On Policy 22, flood risk and water management, she said the drain at the corner of the site was draining very slowly, and felt the SUDS needs for the site should be revisited. On Policy 24, digital infrastructure, she said the junction box in the village would require to be upgraded as there were already broadband issues.

The Convener responded to some of Ms Houchin's points. He said that the planning authority could not specify what technology was to be provided for digital infrastructure. He said that electric car usage would increase going forward and gas boilers in new houses were allowed until 2024. He advised that landscape officers did check the planting. He would ask officers to look at the path to the station and upgrade this to encourage active travel to Wallyford Station, and agreed that cycle parking should be considered.

Councillor McLeod referred to his comments from the December 2022 meeting, when the application was last considered. He said that housing was needed in the area, but encouraged the installation of a raised table to prevent speeding.

Councillor McIntosh thanked Ms Houchin for her points and thought that this type of debate around place-making should be encouraged. She shared Ms Houchin's frustration regarding

the installation of gas boilers in new homes. She said that those without an electric car would still benefit from the solar panels. She hoped that in future, developers could be asked to contribute more to blue and green infrastructure in town centres to boost biodiversity and help deal with any flood risks; this would be in line with several NPF4 policies.

Councillor McGinn had also previously raised issues regarding a speed table and the impact of flooding, but felt the developer had responded well to issues of flooding. He was concerned to hear that the SUDS ponds may be reaching capacity, and asked the developer to take action on this. He thought that Core Path 168 may require some work to be brought up to standard.

The Convener agreed that it would be useful for the village to have direct access for active travel to Wallyford Station, and asked the officers check what work may be required on this path. He referred to the previous approval of the application in December 2022, and was pleased that it had now been considered against NPF4.

The Convener then moved to a roll call on the officer recommendation to grant consent, as well as the other recommendations contained within the report. Members unanimously supported the officer recommendation.

DECISION

The Planning Committee granted planning permission, subject to the following:

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 otherwise 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 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.

- 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.

Sederunt: *Councillor McMillan left the meeting.*

4. PLANNING APPLICATION NO. 22/00749/AMM: APPROVAL OF MATTERS SPECIFIED IN CONDITIONS OF PLANNING PERMISSION IN PRINCIPLE 15/00537/PPM – RELATING TO INFRASTRUCTURE INCLUDING ACCESS, DISTRIBUTOR ROADS, LANDSCAPING, SUDS PROVISION AND ASSOCIATED WORKS, LAND LOCATED TO THE SOUTH AND EAST OF WALLYFORD AND AT DOLPHINGSTONE

A report was submitted in relation to Planning Application No. 22/00749/AMM. Daryth Irving, Senior Planner, presented the report, summarising the key points. The report recommendation was to refuse consent.

Officers responded to questions from Members. Mr Irving referred to the drainage masterplan, which provided details of surface water management and SUDS ponds. He advised that the Flooding and Structures Officer had been satisfied with the details, and said that plans should not lead to any undue surface water going onto the A199. SEPA had also been satisfied with the drainage arrangements. Mr Irving said that the potential educational value of the SUDS ponds had not been considered as part of the application, but instead

had been designed to enhance the landscaping of the wider site; he suggested that the applicant may wish to consider this.

Councillor McGinn raised potential issues with the new junction, particularly with traffic turning right to come out of the new development. Marshall Greenshields, Senior Roads Officer, highlighted the reduction in the speed limit at this site, and said a ghost island would be installed to assist with the right turn out of the junction; officers were satisfied that these arrangements would be adequate. As part of the approval, an independent audit would be required. The audit would look at the initial design and would follow the phases of the development, enabling recourse to any issues once the junction was in operation. The design was to push traffic towards the A1 more quickly than travelling through Wallyford. A pedestrian island would also be installed to enable safe crossing to the bus stops, helping the environment feel more urban and thus decreasing traffic speeds.

Responding to questions from the Convener, Mr Irving said that officers had looked for proposals to enhance the biodiversity of the site, and the Convener felt that the SUDS ponds always retaining some water would help to increase this biodiversity.

Robin Holder, agent, and Philip Cooper, on behalf of Taylor Wimpey, were present to answer Member questions. Mr Holder highlighted that the council's development brief had insisted on access to the A199 from the site. Mr Cooper highlighted that Condition 12 of the permission in principle was for a priority junction rather than a roundabout. At pre-application meetings, the planning authority had requested that SUDS proposals be improved, and the developer had added a boardwalk, landscaping, high-value planting, and introduced a play area around the site. The SUDS basins were to be lined, and the large size was to cope with climate change allowances under new regulations. Water sitting in the SUDS basin would discharge, but risk assessments were required by SEPA and the developer would comply with any requirements. Councillor Forrest raised maintenance issues with SUDS basins and gully clearing on the developer's other sites, and Mr Cooper advised that the developer would be responsible for maintaining the SUDS basins and landscaping. The developer would look to undertake gully clearing and to manage silt run into water courses.

Responding to further questions, Mr Cooper said that play areas were phased within the development; they would come forward in a timely manner when it was safe for play areas to come into use. Councillor Forrest asked the developers to consider play areas that would develop children's dexterity and development. Mr Holder said that a full transport assessment had been submitted with the planning permission in principle, and the junction that came forward was compliant with the council's requirements following their evaluation of the document.

Councillor McGinn, Local Member, remained concerned about the traffic flow coming out of the development and turning right. He would support the application, but had reservations about this junction and thought this would have safety and financial implications in the future.

Councillors McLeod and Forrest shared concerns about flooding and traffic, but would support the application. Councillor Forrest also raised concern that the development would cause further stress on the Riverside Medical Practice in Musselburgh if a surgery was not opened in Wallyford.

The Convener commented on the further infrastructure that was greatly needed within the county due to the significant population growth. He said that Transport Scotland needed to work with the council to ensure safe access to the A1. He would support the application.

The Convener then moved to a roll call on the officer recommendation to grant consent. Members unanimously supported the officer recommendation.

DECISION

The Planning Committee granted planning permission, subject to the following conditions:

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

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

Reason:

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

- 2 Prior to the commencement of development:

(i) a timetable for the provision of the new 3 metre wide footway along the south side of the A199 public road over the full extent of the application site frontage shall be submitted to and approved by the Planning Authority;

(ii) a timetable for the provision of the east and west bound bus stops with shelters on the A199 and the new centre island on the A199 shall be submitted to and approved by the Planning Authority; and

(iii) a timetable for the provision of the new stone rubble wall to be built along the south side of the new 3 metre wide footway shall be submitted to and approved by the Planning Authority. The new stone rubble wall shall, as far as possible, be constructed of stone salvaged from the existing wall on north application site frontage that is to be removed to facilitate the new footway.

Development shall thereafter be carried out in full accordance with the timetables so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of road safety, sustainable transport and the amenity of the area.

- 3 Notwithstanding that which is shown on the drawings docketed to this approval of matters specified in conditions permission, 2 large play areas (formal play area and natural play area) and 1 toddlers play area shall be provided on the application site.

The large formal play area shall be provided on the area shown for it on the docketed masterplan layout drawing no. A/02/02 C and will be equipped as shown on the docketed Dolphingstone Main Play Area drawing by Kompan.

Prior to the commencement of development details of the large natural play area and the toddlers play area shall be submitted to and approved by the Planning Authority. The submitted details shall comply with the following requirements:

(i) one large natural play area with equipment suitable for children aged 0 - 15 years shall be provided on the area shown for it on docketed masterplan layout drawing no. A/02/02 C. This shall generally accord with the detail for it shown on the docketed Dolphingstone Natural Play Area drawing by Kompan, but will include additional play equipment suitable for children aged 8 - 15 years; and

(ii) one toddlers play area with equipment suitable for children aged 0 - 8 years shall be provided within development area Phase 2A as shown on docketed drawing no. A/02/01.1D, unless otherwise agreed in writing with the Planning Authority.

The submitted details shall include details of all play equipment, play surfacing, bins and benches to be installed in each play area.

The play areas shall thereafter be installed, surfaced and enclosed in accordance with the following timetable, unless otherwise agreed in writing with the Planning Authority:

- (i) the large natural play area being provided prior to the occupation of the 31st residential unit on development area Phase 2A as shown on docketed drawing no. A/02/01.1D;
- (ii) the large formal play area being provided prior to the occupation of the 31st residential unit on development area Phase 4 as shown on docketed drawing no. A/02/01.1D, and;
- (iii) the toddlers play area being provided prior to the occupation last residential unit on development area Phase 2A as shown on docketed drawing no. A/02/01.1D.

The play areas shall be used solely for such purposes at all times thereafter unless approved in writing by the Planning Authority, and shall be managed and maintained in accordance with that detailed in the docketed 'Dolphingstone Landscape Planting and Maintenance Proposals' report dated February 2023 by Bindley Associates.

Reason:

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

- 4 Prior to the commencement of development, a timetable for the provision of the large area of open space at the northeast corner of the site as shown on the drawings docketed to this approval of matters specified in conditions permission shall be submitted to and approved by the Planning Authority. The submitted timetable shall show the open space being provided in a timely manner relative to the completion of the residential developments within the development phases as shown on docketed drawing no. A/02/01.1D.

Thereafter, the area of open space shall be formed in accordance with the timetable so approved and shall be used solely for such purposes at all times thereafter unless approved in writing by the Planning Authority.

The open space shall be managed and maintained in accordance with that detailed in the docketed 'Dolphingstone Landscape Planting and Maintenance Proposals' report dated February 2023 by Bindley Associates.

Reason:

To ensure the satisfactory provision of adequate open space within the development.

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

Reason:

To ensure that development is not at risk from flooding.

- 6 The development shall comply with the following transportation requirements:

(i) notwithstanding that which is shown on the drawings docketed to this approval of matters specified in conditions permission, speed humps that do not form part of an uncontrolled crossing shall not be formed;

(ii) notwithstanding that which is shown on the drawings docketed to this approval of matters specified in conditions permission, the hatch markings on the A199 proposed ghost island shall be orientated and provided in accordance with Traffic Signs Manual Chapter 5 Road Markings, and;

(iii) uncontrolled pedestrian crossing points on the proposed road shall be coincident with raised tables and flat top speed humps.

Reason:

In the interests of road safety.

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

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

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

Reason:

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

- 8 Prior to the commencement of development a Quality Audit shall be shall be submitted to and approved by the Planning Authority, which shall be undertaken for the preliminary and detailed design of all roadworks, footways and cycle paths within the development hereby approved. The Quality Audit shall include swept path assessments for refuse collection and fire appliance access.

Reason:

In the interests of road and pedestrian safety.

- 9 Prior to the commencement of development a Stage 1 and Stage 2 Road Safety Audit shall be submitted to and approved by the Planning Authority, which shall be undertaken for the preliminary and detailed design of all roadworks, footways and cycle paths within the development hereby approved, and shall include an implementation programme describing when measures identified in the audits will be provided in relation to construction of the proposed development.

Immediately following completion of the development, the date of which shall be provided in writing to the Planning Authority, a Stage 3 Road Safety Audit shall be submitted to and approved by the Planning Authority.

12 months following approval of the Stage 3 Road Safety Audit a Stage 4 Road Safety Audit shall be submitted to and approved by the Planning Authority.

All the Road Safety Audits shall be carried out in accordance with GG119 Road Safety Audit Rev 1, or as amended by latest version.

Reason:

In the interests of road and pedestrian safety.

- 10 All planting, seeding or turfing comprised in the details of landscaping on drawing nos. 1857/08 Rev D, 1857/09 Rev B, 1857/10 Rev B, 1857/11 Rev B, 1857/12 Rev B, 1857/13 Rev B and 1857/14 Rev D all docketed to this approval of matters specified in conditions permission shall be carried out in accordance with a timetable that shall be submitted to and approved by the Planning Authority prior to the commencement of development.

Any trees or plants comprised in the details of landscaping 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.

The design of all landscaping must be carried out in conjunction with the design and positioning of all services, and sufficient space must be made available to accommodate the full establishment of all landscaping work without impacting on any services.

All the new planting shall be maintained in accordance with the maintenance and management programme as detailed in the docketed 'Dolphingstone Landscape Planting and Maintenance Proposals' report dated February 2023 by Bindley Associates.

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.

Signed

Councillor Norman Hampshire
Convener of the Planning Committee