

REPORT TO: Planning Committee
MEETING DATE: 26 March 2024
BY: Executive Director for Place
SUBJECT: Application for Planning Permission for Consideration

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Application No. **24/00085/PM**
Proposal Section 42 application to vary condition 12 of planning permission
21/00449/PM
Location **Blindwells**
Tranent
East Lothian

Applicant: Mr Gregor Robertson

RECOMMENDATION Consent Granted

REPORT OF HANDLING

As the area of the application site is greater than 2 hectares, what is 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 type proposal 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.

BACKGROUND

In May 2022 planning permission (ref: 21/00449/PM) was granted for the erection of 77 houses and associated works on land shown on the illustrative masterplan docketed to planning permission (Ref: 21/01580/PM) as Plot 11 to the west of the proposed Blindwells local centre.

Planning permission (ref: 21/00449/PM) was granted subject to a number of conditions.

Of those, condition 12 states:

"No part of the development hereby approved shall be occupied prior to the implementation and completion of works to upgrade Bankton Interchange to the satisfaction of the planning authority in consultation with Transport Scotland.

Reason

To mitigate the adverse impact of the development on the safe and efficient operation of

the trunk road network."

PROPOSAL

Through this application permission is now sought to vary condition 12 of planning permission 21/00449/PM to read:

"Unless otherwise agreed with the Planning Authority, after consultation with Transport Scotland, development of the application site shall be carried out in accordance with the following requirements:

a) Prior to the occupation of the 236th residential unit hereby approved, the proposed upgrade of the northern and southern roundabouts at Bankton Interchange to traffic signal control, generally as illustrated in WYG's Drawing No. SK002, shall be implemented to the satisfaction of the Planning Authority, after consultation with Transport Scotland.

b) Prior to the occupation of the 236th residential unit hereby approved, the proposed upgrade of the west facing slips at Bankton Interchange to Type B parallel merge / diverge arrangements, generally as illustrated in WYG's Drawing No. SK004, shall be implemented to the satisfaction of the Planning Authority, after consultation with Transport Scotland.

Reason:

To ensure that the design layout complies with the current standards and that the safety and free flow of traffic on the trunk road is not diminished".

The applicant's agent has provided a statement informing that the variation to condition 30 as applied for is proposed to ensure that the requirements of condition 12 of planning permission (ref: 21/00449/PM) for Plot 11 are consistent with the requirements of condition 30 of planning permission in principle 14/00768/PPM as amended by planning permission Ref: 21/01580/PM for the larger Blindwells development which states:

"Unless otherwise agreed with the Planning Authority, after consultation with Transport Scotland, development of the application site shall be carried out in accordance with the following requirements:

a) Prior to the occupation of the 236th residential unit hereby approved, the proposed upgrade of the northern and southern roundabouts at Bankton Interchange to traffic signal control, generally as illustrated in WYG's Drawing No. SK002, shall be implemented to the satisfaction of the Planning Authority, after consultation with Transport Scotland.

b) Prior to the occupation of the 236th residential unit hereby approved, the proposed upgrade of the west facing slips at Bankton Interchange to Type B parallel merge / diverge arrangements, generally as illustrated in WYG's Drawing No. SK004, shall be implemented to the satisfaction of the Planning Authority, after consultation with Transport Scotland.

Reason:

To ensure that the design layout complies with the current standards and that the safety and free flow of traffic on the trunk road is not diminished".

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 National Planning Framework 4 (NPF4) and the adopted East Lothian Local Development Plan 2018 (ELLDP).

In terms of Policies 1, 2 and 3 of NPF4, the contribution this development could make to addressing the climate and nature crises (Policy 1), to make adjustments or incorporate features that reduce greenhouse gas emissions (Policy 2), or to protect, conserve, restore and enhance biodiversity (Policy 3), is largely predetermined by the previous grants of planning permission 21/01580/PM and planning permission 21/00449/PM.

Therefore Policies 13 (Sustainable transport) and 18 (Infrastructure First) of NPF4 and PROP T17 (A1 Interchange Improvements) and Policy T2 (General Traffic Impacts) of the East Lothian Local Development Plan 2018 are relevant to the determination of the application.

REPRESENTATIONS

No letters of written representation have been received in relation to this application.

COMMUNITY COUNCIL COMMENT

None

PLANNING ASSESSMENT

The site of this application is the subject of planning permission (ref 21/00449/PM) that grants approval for 77 residential units. Development has been implemented and a number of those residential units have been completed and are now occupied. The requirement for the wording of condition 12 of planning permission (ref: 21/00449/PM) arose from the consultation response on planning application (ref: 21/00449/PM) received from Transport Scotland at the time of determination, which differed from the wording of condition 30 of planning permission 21/01580/PM and was more restrictive.

Therefore the intent of the variation of condition 12 of planning permission (ref: 21/00449/PM) is to ensure that the condition is consistent with the requirements of condition 30 of planning permission (ref: 21/01580/PM) and has equal flexibility should any element of it need to be revisited.

Transport Scotland have been consulted on the application and raise no objection to the proposed variation of the condition.

The **Council's Roads Services** have been consulted and have raised no objection.

On the above considerations the proposed development does not conflict with Policy 13 of NPF4 or with Proposal T17 or Policy T2 of the East Lothian Local Development Plan 2018.

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.

A revised version of Planning Series Circular 3/2013 (Development Management Procedures) was published by the Scottish Government in September 2015. Annex I of the Circular gives guidance on applications for planning permission under section 42 of the Town and Country Planning (Scotland) Act 1997, as amended. The application that

is the subject of this report is made under section 42 of the Act. Annex I states that "Planning authorities should attach to the new permission all of those conditions from the previous permission, where it is intended these should apply and ensure (where appropriate) that permission is granted subject to the conclusion of any appropriate planning obligation". Therefore, planning permission should be granted for the applied for variation to the wording of Condition 12 of planning permission 21/00449/PM and subject to all of those conditions from that planning permission where it is intended these should apply. In this case, all the other conditions should continue to apply.

Planning permission in principle 14/00768/PPM was granted following the conclusion of a Section 75 Agreement to secure (i) 30% affordable housing provision; (ii) financial contributions towards (a) primary and secondary education, (b) community sports facilities, (c) equipped play (d) allotments, (e) cemetery plots and (f) maintenance depot; (iii) transfer to the Council, at no cost, ownership of the (a) site for the new primary school, (b) sites for the equipped play areas, (c) site of the community sports facilities, (d) sites for allotment and cemetery plots and (e) site for a new rail halt; and (iv) the provision of the bus services to Cockenzie Primary School, St Gabriel's Primary School, Preston Lodge High School and Prestonpans Railway Station.

In March 2020 a Section 75A Agreement was concluded to modify the planning obligations associated with the planning permission in principle for the Blindwells development of 1,600 homes (Ref: 14/00768/PPM).

In August 2022 works to modify the legal agreement associated with planning in principle (Ref: 14/00768/PPM), planning permission (Ref: 20/01030/PM) and planning permission (ref: 21/01580/P) were concluded to ensure that the 77 residential units approved by planning permission (ref: 21/00449/PM) could not be built without fulfilling the related planning obligations and would therefore be proportionally liable for the obligations set out in that agreement.

In conclusion, the proposed variation to condition 12 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:

That planning permission be granted 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:

- 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 Other than in exceptional circumstances where the layout or particular building type does not permit, the approved residential units shall be orientated to face the street. Notwithstanding that shown on the docketed site plan where a building is located on a corner of more than one street, it shall have enhanced gable(s) to ensure it has an active elevation to each street it faces;

Reason:

In the interests of ensuring active frontages and to enhance character and appearance of the area.

- 3 Notwithstanding that which is stated on the drawings docketed to this planning permission, a detailed specification of all external finishes of the houses and flatted block of the proposed development 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 flatted block 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, 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 and flats shall conform to the details so approved.

Reason:

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

- 4 Notwithstanding that shown on the drawings docketed to this approval of matters, all semi private and defensible spaces in front of or to the side of the residential units hereby approved and to the side of parking courtyards shall be enclosed by walls/hedges/fences/ or railings to define areas of private space from public space.

Details of the form and appearance of all boundary treatments, including the 1.8m high fences within the rear gardens of the houses, shall be submitted to and approved by the Planning Authority prior to the occupation of the first house.

A timetable for the provision of those boundary treatments shall be submitted to and approved in advance by the Planning Authority and 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 appropriate boundary enclosures and in the interest of safeguarding the privacy and amenity of future residents of the development.

- 5 Prior to the commencement of development details of all electric vehicle charging points and required infrastructure, along with a timetable for provision, shall be submitted to and approved in writing by the Planning Authority. Such provision shall involve engagement with electricity providers to ensure that the entire electricity supply infrastructure will have sufficient capacity to enable all chargepoints to operate simultaneously.

The installation of all electric vehicle charging points and required infrastructure shall thereafter be carried out in accordance with the details so approved unless otherwise agreed in writing with the Planning Authority.

Reason

In the interests of sustainability.

- 6 The development shall comply with the following transportation requirements:
- i) a Quality Audit, to include a Road User Safety Audit, shall be submitted for Planning Authority approval prior to the commencement of development to independently assess walking, cycling, access and road safety aspects within and around the development and to provide details of raised tables across the estate roads;
 - ii) submission for approval of a Residents Travel Pack prior to first occupation of the first dwelling on the site providing information for residents to encourage use of sustainable modes of transport such as trains, buses, cycling and walking. The Residents Travel Pack shall thereafter be provided to the occupants of each new residential unit; and
 - iii) submission for approval of a Construction Method Statement prior to commencement of any development to provide details of mitigation measures to be implemented during construction works to control noise, dust, construction traffic (including parking, routes to/from site and delivery times) and hours of construction work. Construction of the site shall thereafter be carried out in accordance with the Construction Method Statement so approved.

Reason:

In the interests of pedestrian and road safety.

- 7 Prior to the commencement of development details of the bin storage facilities for the flatted building hereby approved shall be submitted to and approved in advance by the Planning Authority. Prior to the occupation of any of the flats the bin storage facilities shall have been formed in accordance with the approved details and made available for use. Thereafter, the storage facilities shall be retained in use solely as bin storage areas.

Reason:

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

- 8 Prior to the commencement of any part of the development hereby approved details shall be submitted for the approval of the Planning Authority of foundation or other mitigating works proposed for structures spanning the area of former highwall, as shown on docketed drawing no.17684-WIE-95-ZZ-DR-C-020 P01 titled 'Plot 11 Proposed Layout Showing Highwall Extents'. The details submitted shall include a timetable for the provision of all mitigation works.

The approved foundation or other mitigating works shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of the safety and amenity of future residents and occupiers of the development.

- 9 To ensure that the site is clear of contamination, the following requirements shall be complied with:

*Prior to any works beginning on site (and where risks have been identified), a detailed Remediation Statement shall be produced and submitted for the prior approval of the Planning Authority. The Statement shall show how the site is to be brought to a condition suitable for the intended use by the removal of unacceptable risks to all relevant and statutory receptors. The Statement shall detail all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. It shall also ensure that the site will not qualify as contaminated land under Part2A of the Environmental Protection Act 1990 in relation to the intended use of the land following development. The Statement must be submitted to the Planning Authority for approval;

*Prior to the commencement of any of the new uses hereby approved, and following completion of the measures identified in the approved Remediation Statement, a Validation Report demonstrating the effectiveness of the remediation carried out shall be submitted to and approved by the Planning Authority.

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

Reason

To ensure that the site is clear of contamination prior to the occupation of any of the buildings.

- 10 Prior to the commencement of development details shall be submitted to and approved by the Planning Authority of overlying subsoil/topsoil to be provided to the front and back gardens of the houses hereby approved on a plot by plot basis and on all soft landscaping areas to ensure the provision of a layer of subsoil/topsoil of at least 600 mm in thickness. Thereafter the subsoil/topsoil shall be provided in accordance with the details so approved unless otherwise agreed in writing by the Planning Authority.

Confirmatory testing for both subsoil and topsoil materials is to be included within the Remediation Strategies being produced for the development site, with validation of these results being included within subsequent Verification Reports.

Reason

To ensure the provision of a suitable growing medium for garden areas and other areas of soft landscaping.

- 11 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

- 12 Unless otherwise agreed with the Planning Authority, after consultation with Transport Scotland, development of the application site shall be carried out in accordance with the following requirements:

a) Prior to the occupation of the 236th residential unit hereby approved, the proposed upgrade of the northern and southern roundabouts at Bankton Interchange to traffic signal control, generally as illustrated in WYG's Drawing No. SK002, shall be implemented to the satisfaction of the Planning Authority, after consultation with Transport Scotland.

b) Prior to the occupation of the 236th residential unit hereby approved, the proposed upgrade of the west facing slips at Bankton Interchange to Type B parallel merge / diverge arrangements, generally as illustrated in WYG's Drawing No. SK004, shall be implemented to the satisfaction of the Planning Authority, after consultation with Transport Scotland.

Reason:

To ensure that the design layout complies with the current standards and that the safety and free flow of traffic on the trunk road is not diminished