



## NOTICE OF THE SPECIAL MEETING OF THE PLANNING COMMITTEE

**TUESDAY 26 MARCH 2024, 11.30am  
VIA A DIGITAL MEETING FACILITY**

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### Agenda of Business

#### Apologies

#### Declarations of Interest

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

1. Planning application no. 23/01448/P: Alterations and change of use to restaurant/café (Class 3) to hot food takeaway, 14 High Street, Haddington (**pages 1-10**)  
*Note: This application has been called off the Scheme of Delegation List by Councillor McGuire for the following reasons: Due to local concerns about the application, for example a high concentration of existing takeaway businesses in the area, concerns over noise and additional traffic in the area, and concerns over additional rubbish and waste outside the premises.*
2. Planning application no. 23/00453/AMM: Approval of matters specified in conditions 1(a) to (i), 1(l), 1(m), 1(o), 5, 6, 9, 22, 23, 26, 27 and 31(a) of planning permission 21/01580/PM - Erection of 158 houses, 16 flats and associated works, Blindwells (**pages 11-28**)
3. Planning application no. 23/00410/AMM: Approval of matters specified in conditions of planning permission 21/01580/PM – Erection of 101 houses, 39 flats and associated works, Blindwells (**pages 29-44**)
4. Planning application no. 24/00085/PM: Section 42 application to vary condition 12 of planning permission 21/00449/PM, Blindwells (**pages 45-52**)

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

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

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

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

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

**15 March 2024**

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restaurant/café (a Class 3 use) to a hot food takeaway (a Sui Generis use).

Planning permission is also sought for alterations to the building comprising of:

- (i) the re-painting of the ground floor frontage of the building in a dark grey colour;
- (ii) the re-painting of the entrance door timber frames within the front elevation of the building in a dark grey colour;
- (iii) the installation of an oven extract terminal on the rear (south) elevation of the single storey mono-pitched roofed component of the building;
- (iv) the replacement of the existing extract grille vent on the centre of the rear (south) elevation of the single storey mono-pitched roofed component of the building;
- (v) the replacement of an existing timber framed top hung casement window in the rear (south) elevation of the single storey mono-pitched roofed component of the building with a dark grey coloured timber framed top hung casement window within that existing opening;
- (vi) the replacement of the existing white painted solid timber door in the centre of the rear (south) elevation of the single storey mono-pitched roofed component of the building with a dark grey coloured solid timber door within that existing opening; and
- (vii) the replacement of the existing timber framed door in the east end of the rear (south) elevation of the building with a dark grey coloured, aluminium framed, acoustic louvre type door within that existing opening.

Through separate application 23/01526/LBC listed building consent is sought for alterations to building and installation of signage. A separate report on application 23/01526/LBC is, at this time, on the Council's Committee Expedited List.

Subsequent to the registration of this application, the applicant's agent has confirmed that the proposed opening hours of the hot food takeaway would be from 11am to 11pm Monday to Sunday. It is also advised that the precise number of delivery vehicles is unknown until the store becomes operational. However, based on similar stores, the applicant advises that there could be between six-to-eight drivers during the busiest evening periods (which are Friday's and Saturday's between 5pm and 9pm). After this time, and should trade/demand reduce, the number of drivers would revert to one or two until closing time. The applicant states that during the day, between 11am and 5pm, there would be one delivery car. On the busiest nights (Fridays and Saturdays between 5pm and 9pm) it is likely that the delivery service would operate using four mopeds, two electric cycle bikes and two cars. On the quieter nights (Mondays to Thursdays between 5pm and 9pm) it is likely that the delivery service would operate using three mopeds and two cars. The applicant advises that delivery drivers, at peak times, will only be making very short stops to the premise and will be out delivering pizzas for the majority of the time. Therefore, it is unlikely that there would be more than two, or at the very most three, drivers needing to park near the store at the same time during the busiest times. The applicant states that, based on the Domino's Model throughout the UK, business is quiet during the day hence the reason for only one daytime delivery vehicle. Percentage orders over operational hours are estimated as 15% between 11am and 5pm, 70% between 5pm and 9pm, and 15% between 9pm and 11pm. The applicant states that 80% of orders are placed online thereby minimising the number of customers visiting the property. The applicant notes that the surrounding on-street spaces along High Street in Haddington are unrestricted after 5.30pm Monday to Saturday and states that it is likely that the parking demand would be reduced and capacity increased after 5.30pm as a number of other businesses in the area would be closed and therefore the parking demand for those units would reduce. It is therefore anticipated that the surrounding on-street spaces can provide ample provision for delivery drivers to park within easy walking distance of the store and that Domino's require their delivery drivers to undergo driving training courses to prevent any unsafe or dangerous parking.

## **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.

Policies 1 (Tackling the climate and nature crises), 7 (Historic assets and places), 13 (Sustainable transport), 14 (Design, quality and place) and 27 (City, town, local and commercial centres) of NPF4 are relevant to the determination of this application. Policies CH1 (Listed Buildings), CH2 (Development Affecting Conservation Areas), TC2 (Town and Local Centres), TC4 (Hot Food Outlets), NH13 (Noise), DP5 (Extensions and Alterations to Existing Buildings) and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of the application.

Material to the determination of the application are Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires that in considering whether to grant planning permission for development which affects a listed building or its setting a planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires that a planning authority must pay special attention to the desirability of preserving or enhancing the character or appearance of the area in which the building is located.

Also material to the determination of the application is supplementary Planning Guidance (SPG) on 'Cultural Heritage and the Built Environment' adopted by the Council on 30th October 2018. The SPG states that painting external walls will only be supported where it is an established local practice accepted by the Council and, where appropriate, painting must respect the architectural features of a building or structure and that colours must harmonise on both the building itself and with adjacent buildings. It also provides policy guidance on replacement windows in buildings which are in a conservation area and/or buildings which are listed as being of special architectural or historic interest.

## **REPRESENTATION**

Nineteen objections, two representations and three letters of support to this application have been received. The main grounds of objection, as summarised, are:

- (i) the proposed change in use of the premises from a restaurant/café to a hot food takeaway will result in delivery vehicles being parked outside and/or near to the premises;
- (ii) this location is already congested from late afternoon with delivery vehicles from existing takeaways and given that Domino`s Pizza is essentially a delivery and collection service, which operates from 11am to 11pm, this will greatly increase the vehicle movements in the area which will be a danger to pedestrians and other motorists;
- (iii) if another pizza takeaway and delivery service is added to the area this will increase traffic and activity and will add to existing parking and congestion problems within the

east end of the High Street;

(iv) at peak times, especially at the weekends, vehicles are illegally parked in disabled parking bays, on double yellow lines or on parts of the pavement. Another fast food outlet will only add to this current problem;

(v) there are already a number of other pizza outlets operating within the High Street which are run by local businesses and are not a 'chain'. Allowing a national chain such as Domino's to move into the same street to sell pizza is likely to result in the loss of one or more of these local businesses;

(vi) the volume of refuse is likely to increase leading to potential issues with noise and activity and that there is potential for noise disruption to be caused by the external extractor fan to the detriment of nearby residents;

(vii) it is expected that the proposals will result in an increase in noise, odours and vibration from equipment, fridges, dish washers and machine operations which will be continuous throughout the day;

(viii) the proposals are likely to encourage antisocial behaviour in the immediate neighbourhood, noise nuisance, verbal abuse, youth gathering and loitering, criminal damage and littering;

(ix) An objector states that Domino's Pizza operates a franchise system and questions whether a franchisee has been identified and been given the go ahead by a bank for sound financial business practice and, if so, who checks references?;

(x) An objector states that the Domino's in Tranent uses the pavement to park delivery scooters and questions whether the pavement will be used along Haddington High Street for delivery vehicles;

(xi) a hot food takeaway would not be in keeping with the architectural, cultural or historic heritage of this Category B listed building;

(xii) the submitted location plan includes a complete fill which reduces the accuracy of the drawing and the application site boundary is not outlined in red on that drawing;

(xiii) the submitted block plan drawing does not identify all land and buildings within a 20 metre radius of the application site, does not include or specify boundary treatments or their heights and does not show where access arrangements for collection of waste bins will take place;

(xiv) the submitted elevation drawings do not illustrate all of the windows in the rear elevation of the building and do not show the relationship of the single storey west elevation with adjoining properties and their associated windows; and

(xv) the proposals fail to comply with relevant development plan policies.

In response to some of the points raised by the objectors as detailed above:

The matters of inconsiderate parking, illegal use of disabled parking bays, parking on double yellow lines and on the pavement by customers or by delivery drivers are matters controlled through legislation other than planning legislation.

There is no Policy in NPF4 or the adopted East Lothian Local Development Plan 2018 that limits the number of hot food takeaways in a particular area of East Lothian. Any planning application must be determined on its own merits in accordance with the Development Plan unless material planning considerations indicate otherwise.

The matter of there not being sufficient demand or need for this specific takeaway is not a material planning consideration relevant to the determination of this planning application.

Matters of anti-social behaviour, littering and/or refuse collection are controllable under legislation other than planning legislation.

The representations made to this application raise concerns with deliveries associated

with the hot food takeaway. They state that deliveries associated with the existing restaurant/café occur during the day, between 9am and 5pm, and thus request that the same hours be adhered to with the use of the premises as a hot food takeaway in order to ensure that neighbouring properties are not forced to endure noise and fumes from lorries (loading or unloading) outwith these hours.

Three letters of support to this application have also been received. One of them states that this proposal will bring more people and trade into the High Street and another pizza place is not going to impact the other takeaway service (or at least the ones that have any quality). It also states that as a delivery service, the proposals are not going to heavily impact upon other road users on the High Street and no such impacts are evident at the Domino's takeaway operating in Tranent and that the proposals will not increase the number of delivery vehicles as Domino's is replacing another food outlet that already exists there. The introduction of such a chain will not impact the historic character of the town and a number of shop fronts have been modernised to suit (e.g. Subway). The other letters of support state that Haddington needs more businesses and that a petition, opposing this change, seems to be misplaced on various grounds in that this will not be an additional pizza outlet nor an additional fast food outlet generating additional vehicle traffic.

## **COMMUNITY COUNCIL COMMENTS**

Haddington Area Community Council, as a consultee to this application, object to this planning application. They state that a new takeaway premise at this location will increase the current problems with traffic flow due to the road being at its narrowest which is already a bottleneck for traffic coming into the High Street. They state that Domino's operate a home delivery service and that the number of vehicles, both cars and mopeds, will lead to more vehicles being parked where the road is at its narrowest which will impact the smooth flow of traffic coming into the High Street. They state that this application is likely to lead to an increase in noise pollution due to the coming and going of delivery drivers and the operating hours of the Domino's business. They also raise concern that the opening of another takeaway will lead to more people congregating at this end of the High Street and potentially resulting in anti-social behaviour.

## **PLANNING ASSESSMENT**

Haddington Town Centre is characterised by many of its ground floor shop fronts being painted in variety of colours. The painting of ground floor commercial premises within Haddington Town Centre is, therefore, an established local practice accepted by the Council. Many of those painted shop fronts are on buildings that are listed as being of special architectural or historic interest. The variety of colour of the shopfronts adds visual interest to the streetscape of the town centre and they do not appear harmfully intrusive or incongruous in relation to the variety of colours being displayed.

The external brick walls of the ground floor frontage of the building are already painted in a light grey colour. The proposed repainting of the brick walls of the front (north) elevation of the building in a slightly darker shade of grey would not detract, but rather would respect, the architectural features of it. It would also harmonise with the proposed dark grey painted finish to be applied to the existing fascia and door frames on the frontage of the building. The proposed re-painting of the frontage of the building would not appear at odds with the colours of other buildings and shop frontages within the streetscape. In all of this, these proposed alterations would not harm the special architectural or historic interest of the listed building or its setting. They would not detract from the character and appearance of the streetscape or of this part of the Haddington

## Conservation Area.

The proposed oven extract terminal would measure some 1.3 metres high, some 620mm wide and would have a galvanised finish. It would replace the existing smaller sized extract terminal that exists on the rear (south) elevation of the single storey mono-pitched roofed component of the building. Nevertheless, in its contained position on the rear of the building, the proposed oven extract terminal would not be visible from a public place and would not appear as a harmfully dominant or intrusive feature. Neither would the proposed extract grille vent to be installed on the centre of the rear (south) elevation of the single storey mono-pitched roofed component of the building (as a replacement for the existing extract grille vent that exists there). By virtue of their architectural forms, sizes, scales, proportions, materials and positions, these proposed alterations would not harm the special architectural or historic interest of the listed building or its setting. They would not be harmful to the character and appearance of this part of the Haddington Conservation Area.

The existing white painted timber framed window displayed within the rear (south) elevation of the mono-pitched roofed component of the building is of a modern casement type and style. The mono-pitched roofed component of the building is also of a modern architectural form. It is distinctly different to the character and appearance of the main building to which it forms a part. Nevertheless, the proposed replacement window would be of the same size, material, proportions, opening method and glazing pattern as the existing window to which it would replace. The only difference being that it would be painted in a dark grey colour. Notwithstanding this change, the proposed replacement window would not be visible from a public place. By virtue of its architectural form, size, scale, proportions, colour, glazing pattern or materials, the proposed replacement window would not have a significant visual impact on, and thus would not be harmful to, the character and appearance of the listed building or its setting. It would not be harmful to the character and appearance of this part of the Haddington Conservation Area.

The proposed replacement of the existing white painted solid timber door in the centre of the rear (south) elevation of the single storey mono-pitched roofed component of the building and for the installation of a dark grey coloured solid timber door within that existing opening would be of the same size, proportions and opening method as that of the existing door to which it would replace. The only difference being that it would be painted in a dark grey colour. Notwithstanding this change, the proposed replacement door would not be visible from a public place. Neither would the proposed replacement of the existing timber framed door in the east end of the rear (south) elevation of the building with a dark grey coloured, aluminium framed, acoustic louvre type door within that existing opening. By virtue of their architectural forms, sizes, scales, proportions, colours, glazing pattern or materials, these proposed alterations would not have a significant visual impact on, and thus would not be harmful to, the character and appearance of the listed building or its setting. They would not be harmful to the character and appearance of this part of the Haddington Conservation Area.

None of these proposed alterations would harm the privacy or amenity of a neighbouring residential property.

Policy 27 of NPF4 and Policies TC2 and TC4 of the adopted East Lothian Local Development Plan 2018 applies to Haddington Town Centre, an area it defines as being of mixed uses and one in which uses associated with a town centre will be acceptable in principle. These acceptable uses include retailing, business and office use, restaurants, leisure and entertainment, and the principle of a change of use from one of these uses to another will be supported. Hot food outlets are also supported in a town centre location.



Policy TC4 of the East Lothian Local Plan 2018 relates specifically to hot food takeaways. The policy state that within town centres hot food take-aways will be supported provided they will not result in significant impacts on local amenity, including cumulatively with other existing or consented take-aways in the area, and are consistent with other relevant Plan policies, including in relation to parking and road safety.

Although the ELLDP requires that the cumulative impact of hot food takeaways is considered, there is no development plan policy which seeks to control the number of hot food takeaway, or any other use class, within Haddington Town Centre. Furthermore, the premises were last in use as a restaurant/cafe with an element of hot food takeaway and an associated delivery service, albeit on a smaller scale than is proposed through this application. Therefore there would be no net increase in the number of hot food takeaways operating on Haddington High Street, if this application were to be approved. Consequently, the proposed change of use of the premises from a restaurant/café (a Class 3 use) to a hot food takeaway (a Sui Generis use) would be compatible with the Town Centre uses within the locality. The proposed change of use and would contribute to the viability and vitality of the Town Centre as a whole and would not undermine it. Accordingly, the principle of the proposed change of use does not conflict with Policy 27 of NPF4 or with Policies TC2 and TC4 of the adopted East Lothian Local Development Plan 2018.

The applicant has confirmed that the proposed opening hours of the hot food takeaway would be 11am to 11pm Monday to Sunday. In the interests of the amenity of nearby residential properties, it would be prudent to restrict the operating hours of the hot food takeaway to those applied for. This can reasonably be made a condition on a grant of planning permission.

The **Council's Senior Environmental Health Officer** advises that he has concerns regarding potential impacts upon neighbouring residential amenity due to cooking odours associated with the proposed takeaway and the low-level position of the flue terminal for the kitchen extract. However, he recommends that the ventilation system be designed and installed in accordance with the submitted report titled 'Ventilation Proposal' dated 15th November 2023 and that noise associated with any proposed plant and/or equipment shall not exceed Noise Rating curve NR25 at any Octave Band Centre frequency between the hours of 0700-2300 and Noise Rating curve NR20 between the hours of 2300-0700 within any neighbouring residential property, assuming windows open 50mm for ventilation. Subject to the imposition of these recommended controls, the use of the premise as a hot food takeaway and the operation of the proposed oven extract terminal would not give rise to a harmful loss of amenity to neighbouring and nearby residential properties. Accordingly, the proposals do not conflict with Policy NH13 of the adopted East Lothian Local Development Plan 2018.

The **Council's Antisocial Behaviour Team** advise that they have had no records of any incidents relating to any antisocial behaviour matters at this address and thus they raise no objection to this planning application.

The site is located on Haddington High Street where there is controlled parking between the hours of 8.30am and 5.30pm Monday to Saturday. However, the **Council's Road Services** state that they are concerned that the proposal will generate a higher level of traffic and short-term indiscriminate parking, compared to its current use as a café/restaurant, and that car-based customers picking up orders and delivery vehicles collecting orders and returning to the premises will exacerbate the on-going parking and traffic problems that exist within this part of the High Street. They also state that there is already localised congestion in the area with vehicles illegal parking on double yellow lines, mounting the footway and parking outside marked bays and double parking,

especially in the early evening which presents a conflict between cars and pedestrians. They state that the additional traffic that would be generated by this proposal, which includes the use of moped and electric cycle bikes, would compound the existing parking problems. Accordingly, the Council's Road Services advise that they do not support this planning application.

However, they also advise that, if it is minded to grant planning permission for the proposals then a Green Travel Plan (GTP) must be submitted to and approved in advance by the Planning Authority prior to the operation of the hot food takeaway use commencing. The GTP shall identify measures to reduce and mitigate the impact of traffic associated with the use of the hot food takeaway and shall consider travel behaviour of staff, walk-in customers as well as the impact of delivery vehicles. The Council's Road Services Officer also advises that bike racks would need to be provided on the footway build-out next to the premises with details of the location, number and design specification of the bike racks to be agreed in writing prior to their installation and prior to the operation of the hot food takeaway use commencing.

Notwithstanding what is stated by the Council's Road Services, these premises are located on Haddington High Street where there is controlled parking between the hours of 8.30am and 5.30pm Monday to Saturday. Any indiscriminate parking causing localised congestion in this part of the High Street is a matter controlled by legislation other than by Planning. Furthermore, the premises were last in use as a restaurant/café which offered an element of hot food takeaway and therefore, if planning permission were to be granted this would not increase the overall number of premises offering hot food takeaways on Haddington High Street. Moreover, as this was previously a café that offered a takeaway service, it would have already generated some traffic movements to and from it. Importantly if planning permission were to be granted for the change of use to a hot food takeaway, this would not necessarily result in the creation of new demand for hot food takeaways. Instead it is more likely that this premises would offer an alternative to customers already using the existing hot food takeaways operating on the High Street and would thereby cater for customers who may already be visiting the High Street or have ordered a delivery from them. Therefore, there is no evidence to suggest that the use of the premises as a hot food takeaway would exacerbate the existing parking problems within this part of the High Street. Furthermore, the premises are well located for walking and cycling within this part of the High Street and is located on a public transport route. Consequently there are alternative options available for the public visiting the premises, other than by car.

Therefore the proposed change of use would not either individually or cumulatively with the other hot food takeaways on the High Street, have a significant impact on the local amenity of this part of the High Street. Accordingly, and subject to the provision of a Green Travel Plan and details of the bike racks being submitted to and approved in writing by the Planning Authority prior to the operation of the hot food takeaway use commencing, the proposals would not conflict with Policies 27 or 13 of NPF4 or with Policies TC4, T1 and T2 of the adopted East Lothian Local Development Plan 2018.

Policy 1 of NPF4 aims to encourage, promote and facilitate development that minimises emissions and adapts to the current and future impacts of climate change. Given the nature and scale of this change of use application, and as the proposal would have a neutral impact in terms of Policy 1 of NPF 4.

On these considerations, the proposals do not conflict with Policies 1, 7, 13, 14 and 27 of National Planning Framework 4 and Policies CH1, CH2, TC2, TC4., NH13, DP5 and T2 of the adopted East Lothian Local Development Plan 2018. The proposals are also consistent with the Council's supplementary Planning Guidance on 'Cultural Heritage and

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

## **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 The hot food takeaway hereby approved shall only operate between the hours of 11:00 and 23:00, Monday to Sunday.

Reason:

In the interests of the residential amenity of surrounding residential properties.

- 3 No use shall be made of the hot food takeaway hereby approved unless and until the extract ventilation system is installed, in accordance with the docketed report titled 'Ventilation Proposal' dated 15th November 2023, and made operational and any cooking process reliant on that extract system shall cease to operate if at any time the extract equipment ceases to function to the approval of the Planning Authority.

Reason:

To safeguard the amenity of nearby residential properties against odour nuisance from the use of the hot food takeaway.

- 4 Noise from the operation of any plant and/or equipment associated with the use of the hot food takeaway hereby approved shall not exceed Noise Rating curve NR20 at any octave band frequency between the hours of 2300-0700 and Noise Rating curve NR25 at any octave band frequency between the hours of 0700-2300 within any residential property with all measurements to be made with windows open at least 50mm.

Reason:

To safeguard the amenity of the occupants of nearby residential properties.

- 5 Prior to the hot food takeaway hereby approved being brought into use a Travel Plan shall be submitted to and approved in writing by the Planning Authority. The Travel Plan shall include details of the measures to be provided to reduce and mitigate the impact of traffic associated with the use of the hot food takeaway and shall consider travel behaviour of staff, walk-in customers as well as the impact of delivery vehicles, together with the management, monitoring, review and reporting of information for implementation for the duration of the Plan.

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

Reason:

In the interests of road safety and to encourage active and sustainable travel to and from the site.

- 6 Prior to the hot food takeaway hereby approved being brought into use, details of the exact location, number and design specification of bike racks shall be submitted to and approved in writing by the Planning Authority.

Thereafter, the bike racks shall be installed in the location shown for them and retained in

place in their entirety in accordance with the details of them so approved.

Reason:

To ensure the provision of adequate cycle parking facilities are available in the interests of road safety.

**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. **23/00453/AMM**

Proposal Approval of matters specified in conditions 1(a) to (i), 1(l), 1(m), 1(o), 5, 6, 9, 22, 23, 26, 27 and 31(a) of planning permission 21/01580/PM - Erection of 158 houses, 16 flats and associated works

Location **Blindwells  
Tranent  
East Lothian**

Applicant Avant Homes

Per Turley

**RECOMMENDATION** Consent Granted

## **REPORT OF HANDLING**

Although this application is for the approval of matters specified in conditions of planning permission in principle 21/01580/PM it has to be determined as a major development type application because the area of the application site is greater than 2 hectares and the residential units applied for greater than 49. Accordingly the application cannot be decided through the Council's Scheme of Delegation. It is therefore brought before the Planning Committee for a decision.

## **BACKGROUND**

The allocated land constituting the Blindwells site is in close proximity to the settlements of Prestonpans, Tranent, Cockenzie and Port Seton. It is within the inventory boundary of the Battle of Prestonpans, a battlefield included within the Inventory of Historic Battlefields. A Scheduled Ancient Monument, known as the Seton West Mains Enclosures 500M SW Of, is located some 300 meters to the northwest.

A Development Framework for the allocated land at Blindwells was approved by the Council on the 08th of June 2010. It sets out the role of the new settlement in the

settlement hierarchy and its characteristics in terms of service provision, the consequent scale and range of development/ land uses expected, and how the Council requires it to be developed in terms of infrastructure and design requirements.

Planning permission in principle 14/00768/PPM was granted in May 2018 for the creation of a mixed-use community on land at Blindwells which is located in close proximity to the settlements of Prestonpans, Tranent, Cockenzie and Port Seton. Elements of the proposed settlement include up to 1600 residential units, a school campus, 10 hectares of employment land, a local centre with commercial units, a supermarket, a park and ride facility, playing fields, open space, allotments, a cemetery, landscaping, roads, footpaths and associated infrastructure provision.

Planning permission 14/00768/PPM was granted subject to the prior conclusion of a Section 75 legal 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 20/000001/OBL 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. Additionally, the masterplan docketed to planning permission (Ref: 14/00768/PPM) indicates the parts of the wider Blindwells development that will provide for affordable housing.

The indicative masterplan approved with planning permission in principle (ref: 14/00768/PPM) splits the housing development of the wider Blindwells site of 1600 houses into 11 phases of development and sets out the number of housing completions for each phase of development in each audit year.

Since the granting of planning permission in principle 14/00768/PPM a number of detailed planning applications (18/00420/P, 18/00725/AMC, 18/00825/AMC, 19/00242/AMC, 19/00620/AMM, 19/00900/AMM, 19/01068/AMM, 20/01030/PM, 21/00308/AMM, 21/01580/PM) have been granted for various schemes of development including road infrastructure, landscaping and residential units within the western part of the wider Blindwells site, referred to as Phase 1. These planning permissions grant approval for 480 residential units, a number of which have been completed and are now occupied.

Planning permission (Ref: 20/01030/PM) was granted in December 2020 to amend condition 30 (Transport Scotland Requirements) of planning permission in principle (Ref: 14/00768/PPM) to delay the timing of the interventions required to be undertaken amongst other things to the Bankton Interchange and its slip road until prior to the occupation of the 236th house on the larger Blindwells site. That approval created a new planning permission for the Blindwells development. An Indicative Masterplan docketed to planning permission in principle (Ref: 20/01030/PM) again shows how the various components of development could be accommodated on the site to include up to 1600 residential units, a school campus, 10 hectares of employment land, a local centre with commercial units, a supermarket, a park and ride facility, playing fields, open space, allotments, a cemetery, landscaping, roads, footpaths and associated infrastructure provision.

In June 2022 planning permission (ref: 21/01580/PM) was granted under section 42 of

Town and Country Planning (Scotland) Act 1997 for variation to conditions 1, 13, 30 and deletion of condition 31 of planning permission 20/01030/PM.

Planning permission (ref: 21/01580/PM) again created a new planning permission for the Blindwells development. That approval replaced the approved Masterplan docketed to planning permission in principle (ref: 14/00768/PPM) and planning permission (ref: 20/01030/PM) with a new indicative Masterplan showing how the various components of development could be accommodated on the site to include residential, employment, education and commercial uses with park and ride and rail halt facilities and associated works on land at Blindwells.

## **SITE CONTEXT**

This planning application relates to some 4.4 hectares of land at Blindwells identified as Plot 5B. It forms part of a larger area of land allocated by Proposal BW1 (Blindwells New Settlement) of the adopted East Lothian Local Development Plan 2018 for a mixed development including circa 1,600 homes, no less than 10 hectares of serviced employment land, a local centre, education and community facilities, infrastructure and associated works.

The application site occupies a central position within the Blindwells site. It is bounded to the west by areas of open space with land beyond identified as plots 3AA/3AB and 3BA/3BB and approved for residential development within planning permission (ref: 21/00308/AMM). It is bounded to the east by an internal link road with land of the primary school approved by planning permission (ref: 22/00682/AMM) beyond. To the south are further areas of open space. To the north is a distributor spine road beyond which is an area of land identified as Plot 5A that is to be the subject of residential development associated with development proposed within this application further to completion of required ground surcharging works.

## **PROPOSAL**

Planning permission is sought through this application for the approval of matters specified in conditions 1(a) to (i), 1(l), 1(m), 1(o), 5, 6, 9, 22, 23, 26, 27 and 31(a) of planning permission 21/01580/PM - Erection of 158 houses, 16 flats and associated works.

Of the 174 residential units proposed within this application 52 are proposed as affordable housing. In this regard the proposal is consistent with the indicative masterplan docketed to planning permission (Ref: 21/01580/PM) and with policy HOU3 (Affordable Housing Quota) of the adopted East Lothian Local Development Plan 2018. A condition can reasonably be attached to any grant of planning permission to ensure that the 52 units proposed as affordable housing are operated as such.

The application proposes a scheme of development composed of 17 different house types and 2 flatted building types. All of the residential units proposed for the site would be 2-storey in height. Of the 158 houses proposed for the site 60 would be detached and 98 would be semi-detached/terraced. In terms of size 29 of the houses would be 2-bedroom, 69 would be 3-bedroom, 36 would be 4-bedroom and 24 would be 5-bedroom. The proposed 16 flats would be composed of four 1-bedroom cottage flats provided within two 2-storey flatted blocks and twelve 2-bedroom cottage flats within six 2-storey flatted blocks.

Main vehicular access to the site is taken from 2 points formed to the north of the application site. Additional pedestrian footpath access is proposed at points to the north,

south, east and west.

The submitted details also include for internal roads, parking courts, boundary treatments, landscaping and areas of open space.

The application is supported by a Planning Statement and a Design and Access Statement.

The application is further supported by the following documents:

- \*Drainage Statement
- \*Drainage Strategy;
- \*Flood Risk Assessment;
- \*Geo-Environmental Assessment;
- \*Landscape and Habitat Management Plan;
- \*Landscape Design and Access Statement and Outline Specification;
- \*Landscape Maintenance Visit Schedule;
- \*Ecology Report;
- \*Transport Assessment; and
- \*Acoustic Report.

When this application was first registered it proposed the development of not only Plot 5B but also Plot 5A which is on the north side of the distributor road and which is also in the control of the applicant. Together the 2 plots proposed a total of 342 residential units. However, due to delays in the remediation of the land of Plot 5A the application has been amended and the houses and flats proposed for plot 5A have been deleted from this application. Therefore the number of residential units now proposed through this application has been amended to 158 houses and 16 flats.

Also since the application was first registered updated drawings have been submitted to provide details of:

- changes to the proposed affordable housing mix;
- revised site layout drawings;
- revised scheme of landscaping;
- flood mitigation measures;
- vehicle swept path details;
- a Foundation Zone Plan; and
- acoustic mitigation measures.

## **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).

NPF4 Policies 1 (Tackling the climate and nature crisis), 2 (Climate Mitigation and adaptation), 3 (Biodiversity), 4 (Natural Places), 5 (Soils), 7 (Historic Assets and Places), 9 (Brownfield, vacant and derelict land and empty buildings), 12 (Zero Waste), 13 (Sustainable Transport), 14 (Liveable Places), 15 (Local living and 20 min neighbourhoods), 16 (Quality Homes), 18 (Infrastructure First), 21 (Play, recreation and sport), 22 (Flood Risk and Water Management) and 24 (Digital infrastructure) are relevant to the determination of this application.



Also relevant to the determination of the application are Proposal BW1 (Blindwells New Settlement) and Policies HOU1 (Established Housing Land), HOU3 (Affordable Housing Quota), HOU4 (Affordable Housing Tenure Mix), DP1 (Landscape Character), DP2 (Design), DP3 (Housing Density), DP4 (Major Development Sites), DP8 (Design Standards for New Housing Areas), DP9 (Development Briefs), CH5 (Battlefields), W3 (Waste Separation and Collection), OS3 (Minimum Open Space Standards for New General Needs Housing), OS4 (Play Space Provision in new General Needs Housing Development), NH10 (Sustainable Drainage Systems), NH11 (Flood Risk), DCN2 (Provision for Broadband Connectivity in New Development), DEL1 (Infrastructure and Facilities Provision), SEH1 (Sustainable Energy and Heat), SEH2 (Low and Zero Carbon Generating Technologies), T1 (Development Location and Accessibility), T2 (General Transport Impact) and T31 (Electric Car & Bus Charging Points) of the ELLDP.

Also material to the determination of this application is the Scottish Government Policy Statement entitled "Designing Streets". It provides an overview of creating places, with street design as a key consideration. It advises on the detail of how to approach the creation of well-designed streets and describes 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 to the determination of the application is the approved masterplan for the site as approved by the grant of planning permission in principle (ref: 21/01580/PM). The masterplan sets out the land uses expected for the allocated site and how the Council requires the site to be developed.

Also material to the determination of the application is Supplementary Planning Guidance (SPG) on 'Design Standards for New Housing Areas' adopted by the Council in May 2020. The SPG expands on policies that are set out in the ELLDP.

## **REPRESENTATIONS**

No public objection to this application has been received.

## **COMMUNITY COUNCIL**

None.

## **PLANNING ASSESSMENT**

The principle of the erection of up to 1600 houses on the wider Blindwells site the subject

of Proposal BW1 of the adopted East Lothian Local Development Plan 2018 has been approved through the grant of original planning permission in principle (ref: 14/00768/PPM), subsequent planning permission (ref: 20/01030/PM) and planning permission (ref: 21/01580/PM) following technical assessments which demonstrate that local and wider infrastructure, subject to financial contributions and conditions, can accommodate such level of development. Through the assessment of planning application (ref: 21/01580/PM) it has been concluded that the residential development of the site the subject of this application is acceptable. There can therefore be no objection in principle to the erection of the 158 houses, 16 flats now proposed on this particular part of the larger Blindwells site.

Therefore, in the determination of this application the Council, as Planning Authority, can only concern itself with the siting, design and external appearance of the development, the means of access to the site and the means of any enclosure of the boundaries of the site. In this regard the detailed proposals have to be considered against relevant development plan policy and the Illustrative Masterplan and relevant conditions 1(a) to (i), 1(l), 1(m), 1(o), 5, 6, 9, 22, 23, 26, 27 and 31(a) attached to planning permission (ref: 21/01580/PM).

The proposed layout is broadly consistent with the layout shown in the Illustrative Masterplan docketed to planning permission (ref: 21/01580/PM). The docketed masterplan provides details of mixed development approved that includes circa 1,600 homes, no less than 10 hectares of serviced employment land, a local centre, education and community facilities, infrastructure and associated works. Occupants of the residential units would be located within a reasonable distance of employment, shopping, health/social care facilities and childcare that could be easily accessed by sustainable or active travel methods.

The range of house types and flatted blocks proposed would give a variation of architectural form to the development, which coupled with the orientation and layout of the buildings, would give a degree of variety of appearance to the development. The architecture of the proposed buildings is of a relatively traditional pitched roof form. The proposed buildings, due to their positioning on the application site and by virtue of their height, size and scale, and architectural design would satisfactorily integrate into their surroundings and would not appear as prominent or intrusive features. This would ensure a visually attractive and cohesive development, with the proposed buildings visible, but not appearing incongruous or intrusive in their surroundings. The proposed materials palette comprises white and cream render, red multi-facing brick and a mix of red and grey concrete roof tiles. A condition can be imposed on any grant of planning permission to require the submission of a scheme of final finishes with a palette of colour of materials for the houses and flatted buildings.

In all of this, subject to the imposition of the above condition, the proposed residential units would, by virtue of their size, scale, height, design, finishes and layout, integrate and sit comfortably with the built architectural form and layout of the existing development of the area and would be an appropriate residential development of the site.

The other components of the proposed development would not be harmful to the character and appearance of the area.

The proposed housing development would provide an attractive residential environment for future residents of the proposed houses.

The houses and flatted blocks are largely shown to be laid out in such a way that

adheres to the normally accepted privacy and amenity criteria on overlooking and overshadowing. The occupants of each of the new residential units would be afforded an appropriate level of privacy and residential amenity. In the interests of safeguarding the amenity of the future occupiers of the proposed flats it should be made a condition of the grant of planning permission for the proposed development that bin storage facilities for the proposed flats be formed prior to the occupation of those residential units.

The proposed development would be consistent with Policy DP3 of the ELLDP, as the proposed development would achieve a minimum average density of at least 30 dwellings per hectare (net).

The application 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 proposed positioning of the 174 residential units and other components of the development would not prejudice the form of development of the remainder of the 1600 houses approved in principle by the grant of planning permission in principle (ref: 14/00768/PPM), planning permission (ref: 20/01030/PM) and planning permission (ref: 21/01580/PM).

On these considerations of design, layout and amenity, the proposals are consistent with Policies 14, 15 and 16 of NPF4 and with Policies DP2 and DP4 of the ELLDP, the Scottish Government Policy Statement entitled "Designing Streets", the Masterplan approved by planning permission 21/01580/PM and the Council's Supplementary Planning Guidance on 'Design Standards for New Housing Areas'.

The **Council's Landscape Officer** has been consulted and advises that he is generally satisfied with the proposed landscape details. Subject to the proposed scheme of landscaping being carried out in accordance with a timetable that shall be submitted to and approved by the Planning Authority prior to the commencement of development, which can be made a condition of a grant of planning permission, he raises no objection to the proposed development.

The site that is the subject of this approval of matters application includes small areas of land shown on the indicative masterplan docketed to planning permission (ref: 21/01580/PM) as being the location for areas of open space. However this site is not shown on the masterplan to have any areas for play area provision within it. The masterplan does show that there are to be more substantial areas of open space adjacent to the north, south and west of the site that would include local parks.

The **Council's Acting Principal Amenity Officer** has been consulted on the application and has provided no comment.

Consequently, although the proposed development does not include the provision of formal play area provision, this is consistent with the docketed masterplan. On this consideration the proposed development is consistent with Policies OS3 and OS4 of the adopted East Lothian Local Development Plan 2018 and with the indicative masterplan docketed to planning permission (ref: 21/01580/PM).

On all of these foregoing findings on matters of design, density, layout, landscaping and amenity the details submitted for approval are consistent with NPF4 Policies 13, 14, 15 and 16 and Policies DP1, DP2, DP3 and DP4 of the ELLDP, the council's approved Development Framework for Blindwells and the Scottish Government's Designing Streets.

The **Council's Senior Environmental Health Officer** has been consulted on the

application. He advises that he is satisfied with proposed glazing and ventilation noise mitigation measures. He recommends that all habitable rooms of plots 186-206, 217-236 and 289-297 and identified by a purple dot on application drawing no. 22054(PL)004C titled 'Acoustic Model' will require a 8.8mm laminated glass-12mm air cavity -10.8mm laminated glass or an acoustically equivalent glazing unit which provides a minimum RTRA of 55dB in order to offer compliance with the local authority criteria and that all facades should be fitted with attenuated trickle ventilation with a minimum acoustic rating  $D_{n,e,w}$  55 dB in the open position. These matters can form a condition attached to a grant of planning permission.

Subject to the above controls the Council's Senior Environmental Health Officer raises no objection to the application.

The proposals are therefore consistent with NPF4 Policy 14 and Policy NH13 of the ELLDP.

Historic Environment Scotland raise no objection to the principles of the proposed development. They advise that the proposed development has the potential to impact upon:

- Seton Castle (formerly known as Seton House) with retaining terrace and walls, Listed Building (category A);
- Seton Collegiate Church, Scheduled Monument;
- Seton West Mains, enclosures 500m SW of Scheduled Monument;
- Greenykes, enclosure 310m SSE of Scheduled Monument; and
- Greenykes, enclosure 200m W of Scheduled Monument.

Historic Environment Scotland do not however consider any of the above to be of such a level as to warrant their objection. On this consideration the proposed development proposals would not have a significant adverse effect on the key features of the listed building or the scheduled monument. On this consideration the proposal is consistent with NPF Policy 7 and Policy CH5 of the ELLDP.

The **Council's Archaeology and Heritage Officer** has been consulted and has responded no comment.

The **Council's Road Services** have been consulted on the application and are generally satisfied with the detailed proposals for site access, layout arrangements and mixture of in-curtilage and on street car parking for residents and visitors. They do not object to the application on the grounds of road safety although they do recommend the following:

- i) submission for approval of details of all electric vehicle charging points and required infrastructure prior to commencement of any development, along with a timetable for provision;
- ii) submission of a Quality Audit, to include a Road Safety Audit, 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;
- iii) private driveways for the proposed houses shall have minimum dimensions of 6 metres by 3.3 metres. Double driveways shall have minimum dimensions of 6 metres width by 6 metres length or 3.3 metres width by 11 m length. All driveways shall be fully hard formed with a gradient no greater than 10%.
- iv) 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; and
- v) 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), hours of construction work and how building materials and waste will be safely stored and managed on site.

All of these requirements can reasonably be made conditions of a grant of planning permission for the proposed housing development.

On these foregoing transportation and other access considerations the proposed residential development is consistent with NPF4 Policies 13, 14 and 15 and Policies T1, T2 and T31 of the ELLDP.

Transport Scotland have been consulted and raise no objection to the proposals.

The **Council's Waste Services Manager** has been consulted and has no comment other than to stipulate that plots 173-182, 200-203 and 217-221 should present containers for emptying at the kerbside of the main thoroughfare rather than being set back in access areas or car parking areas.

The proposals are therefore not inconsistent with NPF4 Policy 12 and Policy W3 of the ELLDP.

The Scottish Environment Protection Agency (SEPA) have been consulted and advise that they have no concerns over proposals from a flood risk perspective subject to proposals aligning with the drainage strategy approved by planning permission (ref: 21/01580/PM) for the wider Blindwells site.

The **Council's Senior Engineer – Flooding** has been consulted on the application. Having perused the submitted Drainage Strategy and Flood Risk Assessment he confirms that he has no objection to the proposals on grounds of flood risk.

On the foregoing drainage considerations the proposed details are consistent with NPF4 Policy 22 and Policies NH10 and NH11 of the ELLDP.

Scottish Water as a consultee on the application advise that they have no objection to the proposal.

The Coal Authority were consulted on the application and initially raised objection on grounds that it was not demonstrated that the proposed development would avoid the high wall(s) associated with the former surface extraction operations. Further to the submission of drawing no. 21-169-300 rev C titled 'Foundation Zone Plan' the Coal Authority is satisfied that appropriate foundations will be incorporated into the design of those buildings that will span the high wall and that mitigation in the form of ground surcharging has been undertaken. The Coal Authority is satisfied that the development can be made safe and stable and, subject to controls to ensure that such mitigating measures are implemented prior to the commencement of any development, has withdrawn its objection to the application.

A condition can reasonably be imposed on a grant of planning permission requiring that development approved is carried out in accordance with the details shown on drawing ref 21-169-300 rev C titled 'Foundation Zone Plan'.

The Council's Contaminated Land Officer was consulted on the application and, taking into account the findings of the submitted Geo-Environmental Assessment, advises that the reporting has been carried out in accordance with best practice guidelines and the relevant standards. He confirms that he is in agreement with the findings of the report

that the site investigations have not identified any significant soil / made ground contamination that could impact upon human health or the water environment and notes that a topsoil layer has been recommended for gardens and areas of soft landscaping, with confirmatory testing carried out to confirm suitability. He further notes that gas monitoring and risk assessment carried out have identified the site as falling within a Characteristic Situation 2, with recommendations being made for gas protection measures to be installed in any new builds, and that the reporting recommended that additional investigative works were required with regards to establishing the specific gas regimes for Plot 5A to confirm that Characteristic Situation 2 protection measures are appropriate.

He therefore recommends that prior to the commencement of any development a Remediation Statement is submitted for planning authority approval that shows 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 should detail all works to be undertaken, proposed remediation objectives and remediation criteria as well as details of the procedures to be followed for the verification of the remedial works. It should also ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land following development.

Following completion of measures identified in the approved Remediation Statement, a Verification Report should be submitted that demonstrates the effectiveness of the remediation carried out. It must be approved by the Planning Authority prior to commencement of the new use of the land and the protection measures shall be implemented as so approved. In the event that unexpected ground conditions (contamination) are encountered at any time when carrying out the development further site investigations and subsequent risk assessment will be undertaken and, if necessary, a Remediation Strategy and a Verification Report be submitted confirming the satisfactory completion of these remedial works.

These recommendations can reasonably be secured by the imposition of a condition on any planning permission granted for the proposed development.

Subject to this planning control the Contaminated Land Officer raises no objection to the proposed development.

The **Council's Biodiversity Officer** offers no comment on the application. However a condition can be attached to any grant of planning permission requiring the submission for approval of a Biodiversity Enhancement Plan. Subject to the imposition of that planning control the proposals would not conflict with Policy 3 of NPF4.

At its meeting on Tuesday 27 August 2019 the Council approved a motion declaring a Climate Emergency. Thereafter, at its meeting on Tuesday 3 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 buildings and from the completed development should be imposed on relevant applications for planning permission, which should include the provision of electric car charging points. Such a condition should be imposed on a grant of approval of matters for this proposed development.

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).

The **Council's Planning Obligation Officer** advises that this application is covered by a S75 agreement associated with 14/00768/PPM as it was modified through the S75A application 22/00002/OBL. The planning obligations within the agreement relate to planning permissions 14/00768/PPM, 20/01030/PM and 21/01580/PM. This residential proposal the subject of this application will therefore be legally required to contribute towards infrastructure and community facilities in line with the S75 agreement.

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

#### **RECOMMENDATION:**

That approval of matters specified in conditions 1(a) to (i), 1(l), 1(m), 1(o), 5, 6, 9, 22, 23, 26, 27 and 31(a) of planning permission 21/01580/PM for the erection of 158 houses, 16 flats and associated works be granted subject to the following conditions:

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

Reason:

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

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

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

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

- 4 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 blocks 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 blocks 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 buildings, 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 flatted blocks 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.

- 5 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 1.8m high fences within the rear gardens of the residential units, 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.

- 6 Prior to the occupation of the last residential unit hereby approved the proposed access roads, parking spaces and footpaths shall have been constructed on site, in accordance with the docketed drawings and 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 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 and bicycle parking in the interests of road safety.

- 7 No development shall be commenced on site unless and until written evidence that a contract has been entered into for the provision as affordable housing of 52 of the residential units hereby approved has been submitted to and agreed by the Planning Authority.

Reason:

In order to ensure that 52 of the residential units hereby approved are operated as affordable housing and that the development is therefore compliant with Policy HOU3 of the adopted East Lothian Local Development Plan 2018.



- 8 Prior to their occupation, the windows and other glazed openings of all habitable rooms of the houses hereby approved for plots 186-206, 217-236 and 289-297 and identified by a purple dot on docketed drawing no. 22054(PL)004C titled 'Acoustic Model' shall be fitted with glazing designed to have a glazing specification of 8.8mm laminated glass-12mm air cavity -10.8mm laminated glass or an acoustically equivalent glazing unit which provides a minimum RTRA of 55dB in order to offer compliance with the local authority criteria. All facades shall be fitted with attenuated trickle ventilation with a minimum acoustic rating Dn,e,w 55 dB in the open position.

Such glazing shall thereafter be retained or replaced to an equivalent standard unless otherwise approved by the Planning Authority.

Reason:

In the interests of protecting the residential amenity of the occupiers of the houses from noise generated by use of the A1 trunk road.

- 9 All planting, seeding or turfing comprised in the details of landscaping on docketed drawing nos. 5695-OOB-ZZ-00-DR-L-0001 rev P06, 5695-OOB-ZZ-00-DR-L-0004 rev P06, 5695-OOB-ZZ-00-DR-L-0030 rev P06, 5695-OOB-ZZ-00-DR-L-0031 rev P06, 5695-OOB-ZZ-00-DR-L-0032 rev P06, 5695-OOB-ZZ-00-DR-L-0033 rev P06, 5695-OOB-ZZ-00-DR-L-0034 rev P06 and 5695-OOB-ZZ-00-DR-L-0035 rev P06 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 Report no. 5695-OOB-XX-XX-RP-L-0002\_P02 titled 'Landscape and Habitat Management Plan' dated September 2022 by OOBÉ Ltd.

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.

- 10 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.

- 11 Prior to the commencement of development details of the bin storage facilities for the flatted buildings 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.
- 12 Prior to commencement of development, a Factoring Plan shall be submitted clearly indicating the different responsibilities for long term maintenance including: private and shared private areas, factored areas, and prospectively adoptable roads.

Reason

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

- 13 Prior to the commencement of development a Quality 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. It shall include a Road Safety Audit 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

Reason:

In the interests of road and pedestrian safety.

- 14 Prior to the occupation of any of the residential units hereby approved a Residents Travel Pack with information for residents to encourage use of sustainable modes of transport such as trains, buses, cycling and walking shall be submitted to and approved by the Planning Authority. The Residents Travel Pack will 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.

Reason:

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

- 15 A Construction Method Statement to minimise the impact of construction activity on the safety and amenity of the area 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 noise, dust, construction traffic (including routes to/from site) and shall include hours of construction work and routing of traffic. The Construction Method Statement shall also provide details of utility/service drainage connections.

The Construction Method Statement shall also make recommendations in respect of how building materials and waste will be safely stored and managed on site.

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.

- 16 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.

- 17 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.

- 18 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.

- 19 Private driveways for the houses hereby approved shall have minimum dimensions of 6 metres by 3.3 metres. Double driveways shall have minimum dimensions of 6 metres width by 6 metres length or 3.3 metres width by 11 m length. All driveways shall be fully hard formed with a gradient no greater than 10%.

Reason

In the interests of road and pedestrian safety.

- 20 The development hereby approved shall be carried out in accordance with the mitigating details as shown on docketed drawing no. 21-169-300 rev C titled 'Foundation Zone Plan'

Reason:

To ensure that the buildings and associated works hereby approved can be made safe and stable in the interests of the safety and amenity of future residents and occupiers of the development.

21 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 2021/22	-	120 residential units
Year 2022/23	-	130 residential units
Year 2023/24	-	110 residential units
Year 2024/25	-	120 residential units
Year 2025/26	-	120 residential units
Year 2026/27	-	120 residential units
Year 2027/28	-	120 residential units
Year 2028/29	-	120 residential units
Year 2029/30	-	120 residential units
Year 2030/31	-	150 residential units
Year 2031/32	-	150 residential units
Year 2032/33	-	150 residential units
Year 2033/34	-	70 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 2036 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.

22 Unless otherwise agreed with the Planning Authority, after consultation with Transport Scotland, no part of the proposed development hereby approved shall be occupied until the requirements specified in Condition 30 of planning permission 21/01580/PM are implemented to the satisfaction of the Planning Authority, after consultation with Transport Scotland, those requirements being:

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.

23 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 interest of road safety.

- 24 Details of measures to protect and enhance biodiversity on the application site shall be submitted to and approved by the Planning Authority. The measures as so approved shall be implemented prior to any occupation of any house erected on the site and shall thereafter be retained, unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of protecting and enhancing biodiversity on the site and within the surrounding area.



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

3

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Application No. **23/00410/AMM**

Proposal Approval of matters specified in conditions of planning permission 21/01580/PM – Erection of 101 houses, 39 flats and associated works

Location **Blindwells  
Tranent  
East Lothian**

Applicant Hargreaves Services (Blindwells) Limited

Per Turley

**RECOMMENDATION** Consent Granted

## REPORT OF HANDLING

### BACKGROUND

Although this application is for the approval of matters specified in conditions of planning permission in principle 14/00768/PPM it has to be determined as a major development type application because the area of the application site is greater than 2 hectares and the number of dwellings detailed is greater than 49. Accordingly, the application cannot be decided through the Council's Scheme of Delegation. It is therefore brought before the Planning Committee for a decision.

The allocated land constituting the Blindwells site is in close proximity to the settlements of Prestonpans, Tranent, Cockenzie and Port Seton. It is within the inventory boundary of the Battle of Prestonpans, a battlefield included within the Inventory of Historic Battlefields. A Scheduled Ancient Monument, known as the Seton West Mains Enclosures 500M SW Of, is located some 300 meters to the northwest.

A Development Framework for the allocated land at Blindwells was approved by the Council on the 8th June 2010. It sets out the role of the new settlement in the settlement hierarchy and its characteristics in terms of service provision, the consequent scale and

range of development/ land uses expected, and how the Council requires it to be developed in terms of infrastructure and design requirements.

Planning permission in principle 14/00768/PPM was granted in May 2018 for the creation of a new settlement that could comprise residential, employment, education and commercial uses with park and ride and rail halt facilities and associated works all on land at Blindwells, which is located in close proximity to the settlements of Prestonpans, Tranent, Cockenzie and Port Seton.

The indicative masterplan approved with planning permission in principle 14/00768/PPM shows how the various components of development could be accommodated on the site including how the site could be accessed at three points from the A198 road, to the west of the application site. It shows how one of the accesses could be taken from the Bankton Interchange, which is at the southwest edge of the site. The northernmost proposed access is shown to involve the upgrading of the existing vehicular access into the site. It is further indicated that the third access could be formed at a central point on the western boundary of the site, in a position opposite an existing vehicular access that serves the former St Joseph's School.

Since the granting of planning permission in principle 14/00768/PPM a number of detailed planning applications and Section 42 applications to vary conditions of planning permission in principle 14/00768/PPM (18/00420/P, 18/00725/AMC, 18/00825/AMC, 19/00242/AMC, 19/00620/AMM, 19/00900/AMM, 19/01068/AMM, 20/01030/PM, 21/00308/AMM, 21/00120/AMM and 21/01580/PM, 22/00682/AMM, 23/00011/AMC) have been granted for various schemes of development including road infrastructure, landscaping, residential units, a car park and a primary school. These planning permissions have been implemented with road infrastructure including the three access roads off the A198 into the site, landscaping and residential units having been undertaken within the western part of the Blindwells site and a number of residential units are now occupied.

The granting of planning permission 21/01580/PM in varying conditions 1, 13, 30 and deleting condition 31 of planning permission 20/01030/PM had the effect of granting a new planning permission in principle for the Blindwells site through planning permission 21/01580/PM.

## **PROPOSAL**

Approval of matters is now sought for the erection of 101 houses, 39 flats and associated works constituting phase 4 of the phasing plan approved within planning permission in principle 21/01580/PM.

Within Approval of Matters (Ref 19/00620/AMM) planning permission is granted for 2 main distributor spine roads providing access to the wider Blindwells site from the A198 Road to the west at a point to the north opposite an existing vehicular access on the A198 Road that serves the former St Joseph's School, and from Bankton Interchange to the south.

The application site occupies a central position within the wider Blindwells site. It is 3.3 hectares in size and is located to the immediate east of the area identified on the approved masterplan for the Blindwells town centre, to the immediate south of the Princes Loch park area, to the north of the central distributor road and to the west of a landscaped area with land allocated for future residential development beyond.

The planning permission in principle for the wider Blindwells site was granted subject to



the prior conclusion of a Section 75 legal 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 20/000001/OBL 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. Additionally, the masterplan docketed to planning permission (Ref: 14/00768/PPM) indicates the parts of the wider Blindwells development that will provide for affordable housing.

Of the 140 units proposed within this application 98 are proposed as private for sale and 42 are proposed as affordable housing. In this regard the proposal is consistent with the indicative masterplan docketed to planning permission in principle 21/01580/PM and with policy HOU3 (Affordable Housing Quota) of the adopted East Lothian Local Development Plan 2018. A condition can reasonably be attached to any grant of planning permission to ensure that the 42 units proposed as affordable housing are operated as such.

Main vehicular, pedestrian and cycle access to the site would be taken from an access point in the south east corner taken off the central distributor road which runs to the immediate south of the application site. Additional pedestrian footpath access would be provided at points to the north, east and west connecting into the previously approved path network of the adjacent sites previously approved through the grant of the phase 2 infrastructure permission 21/00120/AMM. The layout of the site is such that vehicular and pedestrian access could also be provided within the north east corner of the site to the west into the area allocated on the approved masterplan for the town centre.

The submitted details also include for internal roads, parking courts, boundary treatments, and landscaping.

Since the application was first registered updated drawings have been submitted providing details of changes to the house types proposed and housing mix.

The application is supported by a Planning Statement, Transport Statement, Ecological Appraisal, Design and Access Statement, Environmental Noise Assessment, Drainage Statement and Flood Risk Assessment, Landscape Design and Access Statement, Landscape and Habitat Management Plan, and Geo-Environmental Assessment.

## **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 National Planning Framework 4 (NPF4) which was adopted by The Scottish Government on the 13th February 2023 and the adopted East Lothian Local Development Plan 2018 (ELLDP).

Relevant NPF4 Policies are 1 (Tackling the climate and nature crisis), 2 (Climate Mitigation and adaptation), 3 (Biodiversity), 12 (Zero waste), 13 (Sustainable Transport), 14 (Design Quality and Place), 15 (Local living and 20 min neighbourhoods) and 16 (Quality homes).

Also relevant to the determination of the application are Proposal BW1 (Blindwells New Settlement) and Policies HOU1 (Established Housing Land), HOU3 (Affordable Housing Quota), HOU4 (Affordable Housing Tenure Mix), DP1 (Landscape Character), DP2 (Design), DP3 (Housing Density), DP9 (Development Briefs), CH5 (Battlefields), T1 (Development Location and Accessibility), T2 (General Transport Impact), W3 (Waste Separation and Collection), OS3 (Minimum Open Space Standards for New General Needs Housing), NH10 (Sustainable Drainage Systems) and NH11 (Flood Risk) of the ELLDP.

Material to the determination of the application is the non-statutory Development Framework for Blindwells New Settlement which was approved by the Council on 8th June 2010 and the Supplementary Guidance (SPG) on 'Design Standards for New Housing Areas' adopted by the Council in May 2020. The SPG expands on policies that are set out in the ELLDP.

Also material to the determination of this application is Scottish Government Advice given in Planning Advice Note 67: Housing Quality. 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 to the determination of this application is the Scottish Government Policy Statement entitled "Designing Streets". It provides an overview of creating places, with street design as a key consideration. It advises on the detail of how to approach the creation of well-designed streets and describes the processes which should be followed in order to achieve the best outcomes.

Also material to the determination of the application is the approved masterplan for the site as approved by the grant of planning permission in principle 21/01580/PM. The masterplan sets out the land uses expected for the allocated site and how the Council requires the site to be developed.

## **REPRESENTATIONS**

No public objection to this application has been received.

## **COMMUNITY COUNCIL**

Cockenzie and Port Seton Community Council and Longniddry Community Council have both been consulted on the application however neither Community Council has provided a response or made any comment on the application.

## PLANNING ASSESSMENT

By the grant of planning permission in principle 21/01580/PM approval has been given for the principle of the erection of up to 1600 houses on the wider Blindwells site the subject of Proposal BW1 of the adopted East Lothian Local Development Plan 2018, following technical assessments which demonstrated that local and wider infrastructure, subject to financial contributions and conditions, can accommodate such level of development. There can therefore be no objection in principle to the erection of the 101 houses, 39 flats now proposed on this particular part of the larger Blindwells site.

Therefore, in the determination of this application the Council, as Planning Authority, can only concern itself with the siting, design and external appearance of the development, the means of access to the site and the means of any enclosure of the boundaries of the site. In this regard the detailed proposals have to be considered against relevant development plan policy, and the Illustrative Masterplan and conditions attached to planning permission in principle 21/01580/PM.

The proposed layout is broadly consistent with the layout shown in the Illustrative Masterplan docketed to planning permission in principle 21/01580/PM.

The houses, flatted blocks and associated areas of ground, in their proposed groupings, orientations, and layout would be consistent with the principles of the Scottish Government Policy Statement entitled "Designing Streets". The proposed layout of roads, pathways and parking spaces would also generally be consistent with those principles.

The range of house types proposed would give a variation of architectural form to the development, which coupled with the orientation and layout of the buildings, would give a degree of variety of appearance to the development. The architecture of the proposed houses is of a relatively traditional pitched roof form. The proposed houses, due to their positioning on the application site and by virtue of their height, size and scale, and architectural design would satisfactorily integrate into their surroundings and would not appear as prominent or intrusive features. This would ensure a visually attractive and cohesive development, with the proposed houses visible, but not appearing incongruous or intrusive in their surroundings.

A condition can be imposed on any grant of planning permission to require the submission of a scheme of final finishes with a palette of colour of materials for the houses and flatted buildings, allowing for some use of reconstituted stone, providing it is limited to a distinctively complete feature of the houses and flatted buildings and respectful of their design integrity. In all of this, subject to the imposition of the above condition, the proposal would be an appropriate residential development of the site.

The other components of the proposed development would not be harmful to the character and appearance of the area.

The proposed housing development would provide an attractive residential environment for future residents of the proposed houses. The houses and flatted blocks are largely shown to be laid out in such a way that adheres to the normally accepted privacy and amenity criteria on overlooking and overshadowing. The occupants of each of the new residential units would be afforded an appropriate level of privacy and residential amenity. In the interests of safeguarding the amenity of the future occupiers of the proposed flats it should be made a condition of the grant of planning permission for the proposed development that bin storage facilities for the proposed flats be formed prior to the occupation of those residential units.

The proposed development would be consistent with Policy DP3 of the adopted East Lothian Local Development Plan 2018, as the proposed development would achieve a minimum average density of at least 30 dwellings per hectare (net).

The masterplan docketed to planning permission in principle 21/01580/PM indicates how areas of formal and informal open space could be located throughout the Blindwells allocated site.

The site that is the subject of this approval of matters application is not shown on the masterplan to have any areas for play area provision within it. The masterplan does show that there is to be a substantial area of open space to the immediate north of the site adjacent to Princess Loch that would include a local park with formal play area and also to the south of the site on the opposite side of the distributor road which is to be known as Princess Park which is also to have a formal play area.

Consequently, although the proposed development does not include the provision of formal play area provision, this is consistent with the docketed masterplan. On this consideration the proposed development is consistent with Policies OS3 and OS4 of the adopted East Lothian Local Development Plan 2018 and with the indicative masterplan docketed to planning permission in principle 21/01580/PM .

On all of these foregoing findings on matters of design, density, layout, landscaping and amenity the details submitted for approval are consistent with Policies DP1, DP2, DP3 and DP4 of the adopted East Lothian Local Development Plan 2018, the Council's approved development framework for Blindwells and the Scottish Government's Designing Streets.

The application 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 proposed positioning of the 140 residential units and other components of the development would not prejudice the form of development of the remainder of the 1600 houses approved in principle by the grant of planning permission in principle 21/01580/PM.

A mixture of in-curtilage and on street car parking for residents and visitors is proposed throughout the development with provision for electric vehicle charging points for each residential unit.

The **Council's Road Services** have been consulted on the application and are generally satisfied with the detailed proposals for site access, layout arrangements and parking. However Road Services advise that the turning head within the north-western corner of the application site requires to have an adoptable footpath with appropriate landscaping along the western edge to prevent vehicular access to the west as Road Services advise that a vehicular link between this residential site and the town centre site located to the west would present road safety issues. As such Road Services recommend that a condition be attached to any grant of planning permission to secure this arrangement as well as the following requirements:

- (i) all adoptable footpaths shall be 2m wide;
- (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;
- (iii) within private parking areas, the minimum dimensions of a single parking space shall

be 2.5 metres by 5 metres. All visitor parking spaces within these areas shall be clearly marked for visitors with the remaining private parking spaces allocated to individual dwellings;

(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. This can be reduced to a minimum length of 5 metres on the proviso that there is adequate road space to manoeuvre in adjacent to the parking bay;

(v) Vehicle access to private parking areas shall be via a reinforced footway crossing and have a minimum width of 5.5m over the first 10m to enable adequate two movement of vehicles;

vi) a Travel Information Pack with information for residents to encourage use of sustainable modes of transport such as trains, buses, cycling and walking shall be submitted to and approved by the Planning Authority prior to construction commencing. The Travel Information Pack will 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;

vii) Prior to commencement of development, a Quality Audit to independently assess walking, cycling, access and road safety aspects within and around the development should be submitted and approved by the planning authority. This will be reviewed after construction is substantially complete and the developer required to make good any issues.

viii) 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.

ix) a Road User Safety Audit to independently assess walking, cycling, access and road safety aspects within and around the development should be submitted and approved by the planning authority prior to construction commencing. This will be reviewed after construction is substantially complete and the developer required to make good any issues;

All of these requirements can reasonably be made conditions of an approval of matters specified in conditions for the proposed housing development.

Transport Scotland have been consulted on the application and raise no objection to it provided no part of the proposed development shall be occupied until the proposed upgrades to Bankton Interchange, as specified in Condition 30 of planning permission 21/1580/PM, are implemented to the satisfaction of the Planning Authority, after consultation with Transport Scotland. This condition is required given that Transport Scotland are aware that current housing completions on the wider Blindwells site are currently approaching the occupation limit stated in Condition 30 of planning permission 21/01580/PM and as such the occupation of any units in the scheme of development the subject of this application requires the works to the Bankton Interchange to have been undertaken. As such it is reasonable to impose the required condition on this grant of approval of matters.

On these foregoing transportation and other access considerations and subject to the aforementioned conditions the proposed residential development is consistent with Policies T1 and T2, of the adopted East Lothian Local Development Plan 2018.

The **Council's Landscape Officer** as a consultee on the application confirms that the landscape planting proposals detailed on the submitted drawings; Planting Strategy Ref: 5398-OOB-4A-00-DR-L-0006; Planting Strategy Sheet 1 Ref: 5398-OOB-4A-00-DR-L-0007 Rev. P05; Planting Strategy Sheet 2 Ref: 5398-OOB-4A-00-DR-L-0008 Rev. P05; Planting Strategy Sheet 3 Ref: 5398-OOB-4A-00-DR-L-0009 Rev. P05 are satisfactory and as such raises no objection to the application.

The **Council's Housing Enabler Officer** within The Council's Strategy & Development Department as a consultee on the application advises that 30% of the total number of houses proposed, being 42, are to be provided for affordable housing provision with the mix of types of units, as amended, having been agreed with the Council. The preferred tenure for this site will be social rent through East Lothian Council. Accordingly, the Council's Strategy & Development Department support the application.

The **Council's Waste Services Manager** has been consulted and has no comment other than to stipulate that plots 72-82 should present containers on the main thoroughfare rather than in parking areas and plots 113-140 should present containers at the front of their property and not in the car parking area at the rear.

The Coal Authority has been consulted on the application and have responded stating that the Coal Authority notes the Geo-Environmental Assessment (October 2022, prepared by Waterman Infrastructure & Environment Ltd), which has been submitted in support of this planning application. On the basis that the report is able to confirm that shallow coal mine workings do not pose a risk to the development and that none of the buildings would straddle the high wall of the former surface extraction, the Planning team at the Coal Authority has no objections to this planning application.

The **Council's Senior Environmental Health Officer** as a consultee on the application has no adverse comment to make on the application, being satisfied that the development would not have an adverse impact on any neighbouring land uses.

The **Council's Contaminated Land Officer** has been consulted on the application and advises he has reviewed the Geo-Environmental Assessment Report submitted and is satisfied with the reporting and agrees with the findings. The recommendations are therefore (for the Plot 4A development) that a series of specific gas monitoring standpipes are installed and monitored following the completion of any ground improvement works (grouting). What is also required is for a Remedial Statement to be submitted detailing all the measures necessary (including gas protection measures and proposals for clean cover layers) and listing the validation procedures to be followed. There is also a requirement for a Verification Report to be submitted and approved to confirm the satisfactory completion of the remedial works (prior to the occupation of the new dwellings). Accordingly the Council's Contaminated Land Officer recommends that the following condition be attached to any grant of consent:

**Part 1 - Gas Monitoring and Assessment:**

Prior to any development commencing (other than ground preparation works) and in order to assess the current gas regime on the proposed development site, additional gas monitoring should be carried out. Following the requisite number of monitoring rounds an updated Gas Risk Assessment Report should be submitted to the Planning Authority for approval.

**Part 2 - Remediation Statement**

Prior to any development works beginning on site (and where risks have been identified), a detailed Remediation Statement should be produced that shows the site is to be brought to a condition suitable for the intended use by the removal of unacceptable risks

to all relevant and statutory receptors. The Statement should detail all works to be undertaken, proposed remediation objectives and remediation criteria as well as details of the procedures to be followed for the verification of the remedial works. It should also ensure that the site will not qualify as contaminated land under Part 2A 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.

#### Part 3 - Validation Report

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

#### Part 3 - 'Unexpected' Contamination

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

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

These recommendations can reasonably be secured by the imposition of a condition on any approval of matters for the proposed development. Subject to this planning control the contaminated land officer raises no objection to the proposed development.

The **Council's Biodiversity Officer** offers no comment on the application. A condition can reasonably be attached to any grant of planning permission requiring the submission of a biodiversity enhancement plan. Subject to the imposition of that planning control the proposals do not conflict with Policy 3 of NPF4.

Historic Environment Scotland raise no objection to the proposed development, advising that whilst the development has the potential to impact upon the Prestonpans Battlefield landscape, the Greendykes Scheduled Monument, Seton Collegiate Church and Seton Mains West Enclosures scheduled ancient monument, they do not consider this to be of such a level as to warrant their objection. On this consideration the proposed development would not have a significant adverse effect on the key features of the Battlefield.

The Scottish Environment Protection Agency (SEPA) have been consulted and advise that they have no concerns over proposals from a flood risk perspective subject to proposals aligning with the drainage strategy approved by planning permission (ref: 21/01580/PM) for the wider Blindwells site.

The **Council's Senior Engineer – Flooding** has been consulted on the application. Having perused the submitted Drainage Strategy and Flood Risk Assessment he confirms that he has no objection to the proposals on grounds of flood risk.

On the foregoing drainage considerations the proposed details are consistent with NPF4

Policy 22 and Policies NH10 and NH11 of the ELLDP.

Scottish Water as a consultee on the application advise that they have no objection to the proposal.

At its meeting on 27 August 2019 the Council approved a motion declaring a Climate Emergency. Thereafter, at its meeting on 3 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 buildings and from the completed development should be imposed on relevant applications for planning permission, which should include the provision of electric car charging points. Such a condition should be imposed on a grant of approval of matters for this proposed development.

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).

The **Council's Planning Obligation Officer** advises that this application is covered by a S75 agreement associated with 14/00768/PPM as it was modified through the S75A application 22/00002/OBL. The planning obligations within the agreement relate to planning permissions 14/00768/PPM, 20/01030/PM and 21/01580/PM. This residential proposal the subject of this application will therefore be legally required to contribute towards infrastructure and community facilities in line with the S75 agreement.

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

#### **RECOMMENDATION:**

That approval of matters in conditions of planning permission 21/01580/ for the erection of 101 houses, 39 flats and associated works be granted subject to the following conditions:

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

Reason:

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

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

The above mentioned details shall include a final site setting-out drawing to a scale of not



less than 1:200, giving:

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

- 4 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 blocks 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 blocks 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 buildings, 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 flatted blocks 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.

- 5 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 1.8m high fences within the rear gardens of the residential units, 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

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

- (i) all adoptable footpaths shall be 2m wide;
- (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;
- (iii) within private parking areas, the minimum dimensions of a single parking space shall be 2.5 metres by 5 metres. All visitor parking spaces within these areas shall be clearly marked for visitors with the remaining private parking spaces allocated to individual dwellings;
- (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. This can be reduced to a minimum length of 5 metres on the proviso that there is adequate road space to manoeuvre in adjacent to the parking bay;
- (v) Vehicle access to private parking areas shall be via a reinforced footway crossing and have a minimum width of 5.5m over the first 10m to enable adequate two movement of vehicles;
- vi) a Travel Information Pack with information for residents to encourage use of sustainable modes of transport such as trains, buses, cycling and walking shall be submitted to and approved by the Planning Authority prior to construction commencing. The Travel Information Pack will 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;
- vii) Prior to commencement of development, a Quality Audit to independently assess walking, cycling, access and road safety aspects within and around the development should be submitted and approved by the planning authority. This will be reviewed after construction is substantially complete and the developer required to make good any issues.
- viii) 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. One electric vehicle charging point will be required for each residential dwelling.
- ix) a Road User Safety Audit to independently assess walking, cycling, access and road safety aspects within and around the development should be submitted and approved by the planning authority prior to construction commencing. This will be reviewed after construction is substantially complete and the developer required to make good any issues;

The housing development 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 road and pedestrian safety.

- 7 Notwithstanding that shown on the drawings docketed to this permission the turning head located in the north-western corner of the site shall have an adoptable footpath and appropriate landscape treatment on the western edge, to prevent vehicular access to the west. A detailed drawing showing this arrangement shall be submitted to the Planning Authority for approval prior to commencement of development.

Reason:

In the interests of pedestrian and road safety.

- 8 Prior to the occupation of the last residential unit hereby approved the proposed access

roads, parking spaces and footpaths shall have been constructed on site, in accordance with the docketed drawings and 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 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 and bicycle parking in the interests of road safety.

- 9 No development shall be commenced on site unless and until written evidence that a contract has been entered into for the provision as affordable housing of 42 of the residential units hereby approved has been submitted to and agreed by the Planning Authority.

Reason:

In order to ensure that 42 of the residential units hereby approved are operated as affordable housing and that the development is therefore compliant with Policy HOU3 of the adopted East Lothian Local Development Plan 2018.

- 10 All planting, seeding or turfing comprised in the details of landscaping on docketed drawing nos. 5398-OOB-4A-00-DR-L-0001 rev P06, 5398-OOB-4A-00-DR-L-0006 rev P05, 5398-OOB-4A-00-DR-L-0007 rev P05, 5398-OOB-4A-00-DR-L-0008 rev P05 and 5398-OOB-4A-00-DR-L-0009 rev P05 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 Report no. 5398-OOB-XX-RP-RP-L-0001\_P02 titled 'Landscape and Habitat Management Plan' dated September 2022 by OOBÉ Ltd.

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.

- 11 Prior to the commencement of development details of the bin storage facilities for the flatted buildings 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.

- 12 Prior to commencement of development, a Factoring Plan shall be submitted clearly indicating the different responsibilities for long term maintenance including: private and shared private areas, factored areas, and prospectively adoptable roads.

Reason

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

- 13 A Construction Method Statement to minimise the impact of construction activity on the safety and amenity of the area 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 noise, dust, construction traffic (including routes to/from site) and shall include hours of construction work and routing of traffic. The Construction Method Statement shall also provide details of utility/service drainage connections.

The Construction Method Statement shall also make recommendations in respect of how building materials and waste will be safely stored and managed on site.

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.

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

Part 1 - Gas Monitoring and Assessment:

Prior to any development commencing (other than ground preparation works) and in order to assess the current gas regime on the proposed development site, additional gas monitoring should be carried out. Following the requisite number of monitoring rounds an updated Gas Risk Assessment Report should be submitted to the Planning Authority for approval.

Part 2 - Remediation Statement

Prior to any development works beginning on site (and where risks have been identified), a detailed Remediation Statement should be produced that shows the site is to be brought to a condition suitable for the intended use by the removal of unacceptable risks to all relevant and statutory receptors. The Statement should detail all works to be undertaken, proposed remediation objectives and remediation criteria as well as details of the procedures to be followed for the verification of the remedial works. It should also ensure that the site will not qualify as contaminated land under Part 2A 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.

Part 3 - Validation Report

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

Part 3 - 'Unexpected' Contamination

In the event that 'unexpected' ground conditions (contamination) are encountered at any time when carrying out the permitted development, work on site shall cease and the issue shall be reported to the Planning Authority immediately. At this stage a Site Investigation and subsequent Risk Assessment may have to be carried out, if requested by the Planning Authority. It may also be necessary to submit a Remediation Strategy should

the reporting determine that remedial measures are required. It should also be noted that a Verification Report would also need to be submitted confirming the satisfactory completion of these remedial works.

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

**Reason**

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

- 15 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.

- 16 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 2021/22	-	120 residential units
Year 2022/23	-	130 residential units
Year 2023/24	-	110 residential units
Year 2024/25	-	120 residential units
Year 2025/26	-	120 residential units
Year 2026/27	-	120 residential units
Year 2027/28	-	120 residential units
Year 2028/29	-	120 residential units
Year 2029/30	-	120 residential units
Year 2030/31	-	150 residential units
Year 2031/32	-	150 residential units
Year 2032/33	-	150 residential units
Year 2033/34	-	70 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 2036 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.

- 17 Unless otherwise agreed with the Planning Authority, after consultation with Transport Scotland, no part of the proposed development shall be occupied prior to the implementation and completion of the works to upgrade the Bankton Interchange to the satisfaction of the Planning Authority and Transport Scotland.

**Reason:**

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

the trunk road network.

- 18 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.

- 19 Unless otherwise agreed by the Planning Authority, no residential unit shall be occupied unless and until measures within the docketed Waterman 'Blindwells Plot 4A Drainage Strategy and Flood Risk Assessment' September 2022 and shown on docketed drawing no. 17684-WIE-92-ZZ-DR-C-00801 Rev. P04 have been implemented to the satisfaction of the Planning Authority following consultations with SEPA, to accord with the Drainage Strategy approved within planning permission in principle (Ref: 21/01580/PPM) and any variations to that consent.

Reason:

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

- 20 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.

- 21 Prior to commencement of development, details of measures to protect and enhance biodiversity on the application site shall be submitted to and approved by the Planning Authority. The measures as so approved shall be implemented prior to any use being made of the agricultural building hereby approved and shall thereafter be retained, unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of protecting and enhancing biodiversity on the site and within the surrounding area.

**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