

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

**TUESDAY 5 MARCH 2024
VIA A DIGITAL MEETING FACILITY**

1a

Committee Members Present:

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

Other Councillors Present:

Councillor L Jardine

Council Officials Present:

Mr K Dingwall, Service Manager – Planning
Ms E Taylor, Team Manager – Planning Delivery
Mr B Nicolson, Planner
Mr D Irving, Senior Planner
Mr C Grilli, Service Manager – Governance
Ms J Lothian, Team Manager – Strategy, Policy & Development
Mr E Hendrikson, Team Manager – Active Business Unit
Jon Canty, Transportation Planning Officer
Mr R Yates, Transportation Planning Officer
Ms M Haddow, Transportation Planning Officer

Clerk:

Ms B Crichton

Visitors Present/Addressing the Committee:

Item 3: Mr S Allan and Ms J Bell
Item 4: Mr R Holder, Mr J Brindle, Mr J Aitken, and Mr R Henderson

Apologies:

None

Declarations of Interest:

None

1. MINUTES FOR APPROVAL: PLANNING COMMITTEE, 6 FEBRUARY 2024

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

2. MINUTES FOR NOTING: LOCAL REVIEW BODY (PLANNING), 16 NOVEMBER 2023

The Committee agreed to note the minutes.

3. PLANNING APPLICATION NO. 23/01439/P: ALTERNATIONS AND HEIGHTENING OF ROOF OF BUILDING TO FORM ONE FLAT AND ASSOCIATED WORKS, 50 SCHOOL BRAE, WEST BARNES

A report had been submitted in relation to Planning Application No. 23/01439/P. Bruce Nicolson, Planner, presented the report, highlighting the salient points. The report recommendation was to grant consent.

Officers answered questions from Members. Responding to a question from Councillor McMillan, Mr Nicolson advised that when judging against East Lothian's Local Development Plan (LDP), officers would have to conclude that the development did not offer an adequate level of parking, however, the National Planning Framework 4 (NPF4) supports low and no parking solutions proposals, particularly when there were good public transport links available. He pointed out that the development was on a main bus route and was well located for amenities and the railway station. He advised that NPF4 supported a reduction of car dominance and officers felt the site could support this principle.

Responding to further questions from Councillors Collins, Cassini, and Findlay, Mr Nicolson advised that a bathroom window did not cause overlooking as the applicant had proposed opaque glazing. He advised that safe access to the nearby substation would be retained during the construction period. He reported that the architect had advised that the shop would need to briefly close to protect health and safety while the existing roof was removed. He advised that construction deliveries would have to park on the street as this was the only place they could stop. He also advised that permits to carry out the work may have to be obtained from road services. Environmental health would enforce hours of operation, but had made no objections. He advised that the resident of the flat could decide to park in the street and use the parking area for other uses; a specific condition required the laying out of a parking space and maintaining it, but conditions could not force someone to park their car in the space.

Jacquie Bell made representation on behalf of West Barnes Community Council. She said that the village shop was a valued community resource, and the development had been proposed because the shop owner wished to build accommodation above the shop. She raised various concerns from the Community Council, which included: whether the current structure was strong enough to withstand the weight of the extension; road safety during the construction period, and a desire for hours of operation to be controlled due to proximity to the school; where construction workers would park; the lack of parking for a residential property; and whether the site was sufficient for the proposed drying green.

Councillor Hampshire pointed out that there was no objection from the community, and Ms Bell responded that some people had said they would object and then had not done so. She confirmed that the Community Council objected to the grant of the application.

Councillor Collins, Local Member, advised that she had called the application in after receiving four representations relating to the parking space and road safety during construction. She felt these points had been clarified for those who had raised concerns.

The Convener, also a Local Member, said the proposal represented an improvement to the shop building, which he felt did not look attractive in its current state. He welcomed the application, which would improve the look of the building and help the viability of the village shop. He felt the parking proposals were adequate and he would support the officer recommendation to grant consent.

Councillor McIntosh supported the application, and commended officers for applying NPF4's policy to reduce car dominance. She pointed out that the current owner would probably park the same car used to travel to work as when they were living there, so felt there would be no material change to the current setup.

Councillor McMillan was glad the Community Council had made Members aware of concerns relating to parking and access. He thought the shop owner had done a great deal in the community and he hoped the community would continue to support the shop. He said builders had to think about the safety of the community. He thought the proposals would be welcomed, and thought that the recommendation to grant consent on such a development was an opportunity to encourage use of public transport.

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

Decision

The Planning Committee agreed to grant the application, subject to the following:

- 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 be carried out until a schedule of materials and finishes has been submitted to and approved in writing by the Planning Authority.

Reason:

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

- 3 Prior to the occupation of the flat hereby approved the parking area, drying green and bin store shall be laid out and available for use by the occupants of the flat and thereafter retained as such unless otherwise approved by the Planning Authority.

Reason:

In the interests of the amenity of the occupants of the flat.

- 4 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.

4. PLANNING APPLICATION NO. 23/01266/PPM: PLANNING PERMISSION IN PRINCIPLE FOR RESIDENTIAL DEVELOPMENT, PUBLIC PARK, AND ASSOCIATED INFRASTRUCTURE, DOLPHINGSTONE, WALLYFORD

A report had been submitted in relation to Planning Application No. 23/01266/PPM. Daryth Irving, Senior Planner, presented the report, highlighting the salient points. The report recommendation was to refuse consent.

Officers answered questions from Members. Councillor McLeod asked for clarification that the site had never been intended for housing on the original masterplan, and had just been marked as green space and a play area. Mr Irving confirmed that the original masterplan marked the area as green space to serve the Dolphingstone site.

Jonathan Brindle spoke to the application. He advised that the proposals represented the final Phase 6 at Dolphingstone following a long-term masterplan site which had now seen considerable progress, including £25 million spent on site preparation alone, works by six different housebuilders, and at this point, 700 occupied new homes. He highlighted educational and community resources also coming forward, with the new Wallyford Primary, new secondary school, and floodlit pitches. He pointed out that there had never been any sustained local objection to any part of the developments. He said there had always been a strategy to make open space, and said the proposals were not about cramming in as many houses as possible. He said that Phase 6 land had always been intended to deliver houses, and residents would still have opportunity to use green spaces, playparks, and other proposed community facilities.

Robin Holder also spoke to the application. He added that the recommendation for refusal on the basis of a lack of open space was based on a flawed calculation by the planning officer. He stated that the proposals did provide enough open space, and argued that there were areas of open space which had not been counted. He pointed out that there were large areas of extensive open space immediately adjacent to the boundary of the site. He said there was significant overprovision of functional open space, and said the calculation did not include two grass pitches now being built to the north of the astro pitches, and there would also be a public park and a play area. He said that the areas of open space were superb community resources due to the proposed landscaping. He advised that the current permissions for the site did not secure permissions for the public park, and said these proposals would provide significant benefit to this corner of East Lothian. He shared a drawing of the site and highlighted sections which would be residential areas. He also highlighted areas of open space which the planning officer was not proposing to count as part of the calculation, including a community woodland, various sports pitches, and various play areas. He said the proposals would complete the overall development and provide a much-needed open space by bringing forward a public park. He also advised that matters relating to developer contributions had now been resolved.

Responding to questions from Councillor Gilbert, Mr Holder reiterated that the planning officer had taken an arbitrary boundary and excluded areas from the calculation. He advised that up to 150 houses would be built on the area, but expected that when detail was provided, the number would be closer to 100-130 houses.

Councillor Cassini asked about provision of housing which was in short supply in the area, such as those suitable for people with disabilities, and one- and two-bedroom properties. She also asked about the possibility of providing allotments. Mr Brindle and Mr Holder explained that the developer would have a detailed discussion with the Council to ascertain what was needed, and the variety of homes would have to accord with Council policies. They advised that there was provision for allotments at St. Clement's Wells, but felt allotments may be worth consideration when there was such significant demand.

Councillor McLeod asked why the site had not been included as housing in the masterplan. Mr Holder explained that there had been a previous educational constraint within Wallyford, but this was no longer an issue. He said it was felt that this development was required to complete the overall development.

Councillor McGinn asked about the junction where traffic would join the A199. Russell Henderson, representative of Ardent, stated that there would be no new junction developed. He advised that the junction had been tested to ensure traffic generated by the small additional area could be readily accommodated, and said transport officers had agreed that the impact on the A1 would be minimal.

Responding to questions from Councillor Collins, Mr Brindle advised that two new community grass pitches would be accessible at all times, and it was not yet clear whether two other pitches would be open at all times.

Responding to questions from Councillor McMillan, Mr Holder said that a wide variety of functional open space was needed. He said that the open space in question currently only had permission for a grassed area without provision for paths, seating, or other communal facilities. He said this had potential to become a large empty space which was unused. He advised that the application under discussion included a public park which was smaller than that space, but which included a play area, pathways, and landscaping. He argued that the proposal was for a better facility than was provided for currently. Mr Brindle added that when areas of open space did not have a clear purpose, they could end up being used to the detriment of the community. He asserted that by providing a clear purpose for the area, a much better facility could be brought forward for everyone.

Mr Dingwall provided clarity to a response provided by Mr Holder on the provision of open space. He read Condition 25, and confirmed that the Council's planning authority had control to secure the details and the implementation of that large area of open space (including provision of bins, benches, and a recreational path network, including a circular route), and that details of how the space would thereafter be maintained also had to be submitted.

Councillor McGinn asked about the proportion of car journeys coming from the new development, and Mr Holder provided some research data. He said that a lot of journeys would be internalised within the wider Dolphingstone site, and noted there would be a morning peak period associated with education. He advised that assessment indicated that the junction would be more than able to cope with the additional number of trips, and said this had been reflected in the Transport Scotland response to the proposals. He advised that a developer contribution to transport would also go towards mitigating any residual impact.

Councillor McGinn was concerned about the siting of the development, and would support the officer recommendation to refuse consent. He felt that there had been fantastic collaboration and communication between stakeholders until this point, and the wider site had seen new school provision and new opportunities for the growing community. He felt that the site had provision for open space and walking, and felt these proposals pushed what was acceptable. He also had concerns about road safety and capacity at the A199. He said he had been impressed by the work across the wider site.

Councillor McLeod said that he would welcome affordable housing, but was not convinced this proposal was needed; he could not support the application due to the loss of open space.

Councillor Collins compared the size of the park to Winterfield Park in Dunbar, and said that such an open space was essential for community health and wellbeing. She noted that the site had originally been designated as an open space such as would allow community gatherings and events. She would support the officer recommendation to refuse consent. She noted that approval of another 150 houses would put further pressure on the medical practice

in Musselburgh. She also felt that potential issues could be caused by the additional traffic. She felt that the open space would be of benefit to wildlife, children, and would enhance the whole area; and said that to lose the open space to housing would spoil the overall site.

Councillor Cassini said she could see the benefits of the proposed plans for the open space by the developers, but felt that, on balance, there were too many risks associated with building more houses on this site.

Councillor McMillan agreed with comments made by Councillor Collins. He felt that the current green space allowed the community to look after the site, and provided possibility to plan for other community spaces in the future. He would vote to retain this space. He said that proposals for the wider site had never been about cramming houses in, and he felt that these proposals would do just this. He felt that in granting the application, there would be a danger of losing a site which could become very precious to the community.

Councillor Gilbert stated that he would support the officer recommendation to refuse consent. He felt it was inappropriate to fill this site with houses when it had always been earmarked as green space throughout the wider planning process.

The Convener thought that East Lothian Developments Ltd. and the developers had done a great job in creating a fantastic extension to Wallyford, which he said had become one of the nicest towns in East Lothian. He felt that a park of the size previously proposed was needed to create a sense of community, and felt the original proposal was the right one for the site. He felt that building 150 houses on this area was the wrong proposal, and he would support the officer recommendation to refuse consent.

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

Decision

The Planning Committee refused planning permission in principle for the following reason:

- 1 Due to the lack of provision of sufficient quality, useable, multifunctional open space for formal and informal recreation and amenity value for the development proposed in this application and the wider Dolphingstone site the subject of planning permission in principle 15/00537/PPM which would arise as a direct result of the proposed residential development of the application site, the proposed development is contrary to Policy 21 of NPF4, Policy OS3 of the adopted East Lothian Local Development Plan 2018, the Council's Design Standards for New Housing Areas Supplementary Planning Guidance and the Council's approved East Lothian Open Space Strategy 2018.

Signed

Councillor Norman Hampshire
Convener of the Planning Committee

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

**TUESDAY 26 MARCH 2024
VIA A DIGITAL MEETING FACILITY**

1b

Committee Members Present:

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

Other Councillors Present:

Councillor G McGuire

Council Officials Present:

Mr K Dingwall, Service Manager – Planning
Ms E Taylor, Team Manager – Planning Delivery
Mr N Millar, Planning Officer
Mr D Taylor, Planning Officer
Ms J McLair, Planning Officer
Mr C Grilli, Service Manager – Governance
Ms M Haddow, Transportation Planning Officer
Mr J Canty, Transportation Planning Officer
Mr C Clark, Senior Environmental Health Officer
Ms P Gray, Communications Adviser

Clerk:

Ms F Currie (Minutes: Ms B Crichton)

Visitors Present/Addressing the Committee:

Item 1: Mr F Sykes, Mr G Gray, Mr S Pacitti
Item 3: Mr B Lindsay, Ms K Donald

Apologies:

Councillor N Gilbert
Councillor S McIntosh

Declarations of Interest:

None

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

A report had been submitted in relation to Planning Application No. 23/01448/P. Neil Millar, Planner, presented the report, highlighting the salient points. The report recommendation was to grant consent.

Fergus Sykes, agent, and Gordon Grey, architect were present to speak to the application. Mr Sykes noted that the principal change of use had been found to be acceptable, and stated that the development was in accordance with the Local Development Plan (LDP). He advised that the unit had been a family-run restaurant which had struggled with high costs in recent years, and had included takeaways with both collections and deliveries. He said the proposals would maintain the vitality and viability of the area, ensure continued occupation of the unit, provide an active frontage, and generate local employment. He highlighted the substantial investment to the Category B listed building, and advised that listed building consents for the works had already been approved. Speaking to potential impact on amenity, he highlighted that daytime and evening uses of the town centre were encouraged by policy, and a condition would limit the store opening hours to 11pm, in line with other operators in the area. He gave reassurance that the introduction of new equipment would have no detrimental impact on noise. He advised that odour control would be included in the work and no food would be fried. He said that illegal and dangerous parking were controlled by legislation outside of the planning system, however, he also advised that the busiest time for the unit would be after 5.30pm following the closing time of a number of other businesses and the end of parking restrictions. He also advised that the majority of orders would be deliveries. He advised that Dominoes had their own trained drivers who would be making deliveries much of the time, so it was unlikely that many drivers would have to park at the same time. He highlighted that the existing restaurant also provided a delivery service, and therefore the impact on the highway was not likely to be significant. He advised that the proposed use of a Dominoes takeaway did not serve alcoholic beverages, and since most orders were deliveries, the proposals would not encourage antisocial behaviour. He summarised that the proposed takeaway could be accommodated without causing harm to the local area. He also said the applicant would be willing to accept the suggested conditions, including the requirement for a green travel plan.

Responding to questions from Councillor Forrest, Mr Sykes said that there should be no parking in hazardous positions, and if this did happen, enforcement action could be taken. He said that servicing of lorries would be in accordance with the regulations of the area and would be similar to the current restaurant's operations, probably around three times per week. He indicated that the applicant would be willing to accept further conditions on this matter if necessary. Councillor Forrest responded by describing his observations of issues caused by deliveries to Dominoes in Musselburgh, and Mr Sykes agreed that it would be possible to seek to provide the delivery vehicle space off the road so as not to cause disruption to the highway.

Councillor McGinn described experiences with the Dominoes in Tranent where motorbike drivers parked on pavement, and asked whether Mr Sykes could speak with officers to take on lessons learned from these situations. He also asked that drivers be made very clearly aware that they must not park on dropped kerbs. Mr Sykes said he was willing to contact officers and would also provide details of the delivery driver training. He suggested that a servicing delivery plan could be required under conditions.

Responding to questions from Councillor McMillan, Mr Sykes said that specific timeframes could be set out under a servicing delivery plan to ensure minimal disruption, but pointed out that it was also easier for the applicant to receive deliveries at quieter times.

Mr Grey added that the Dominoes UK model showed that only around 15% of overall business was between 11am-5.30pm, and 70% of business was between 5.30pm-9pm. He said that

the impact on daytime parking should be minimal because only one delivery vehicle operated through the day, which could be an e-bike or scooter. He advised there was likely to be a maximum of two delivery cars following conclusion of parking restrictions.

Sabatino Pacitti spoke against the application, and said that numerous residents in adjoining properties were against the application. He considered there were shortcomings in the plans: he said the red line boundary did not identify the full extent of the operational site; and said the elevation plans did not show the relationship of the extract flue to residential windows in the rear of the courtyard. He said the extractions design would not appropriately dissipate odours and a much larger flue would be required; he felt this underplayed the likely visual impacts from the extraction system on the conservation area, and therefore he contended that proposals did not align with NPF4 and LDP policies relating to historic places and developments affecting conservation areas. He also raised concern with a lack of plans for waste disposal and to reduce internal noise. He felt that the proposal would adversely affect the health and wellbeing of nearby residents who would be affected by noise and odour, and said proposals conflicted with NPF4 and LDP policies relating to health and safety and noise.

Continuing, Mr Pacitti reported that he had received evidence of noise complaints from residents in the adjoining properties to Dominoes in Tranent. He said the outdoor risk assessment was also misleading and did not take into account the location of the extract flue in the courtyard. Mr Pacitti raised further concerns relating to parking and the bottleneck entrance on the High Street. He felt the assertion that there would be a single delivery car during the daytime was inaccurate, and said that Dominoes in Tranent operated five delivery cars during the daytime. He felt that mopeds, which often parked on pavements, would cause serious risk to pedestrians. He said that residents had issue finding parking, and said that this continued after 5.30pm. He said he had evidence of dangerous driving by Dominoes Tranent drivers. Finally, he suggested other options for a Dominoes with more adequate parking, such as the unused units at the retail park and on Whittingehame Drive.

Councillor McGuire, Local Member, explained that he had called the application in at the request of local residents and shop owners. As a resident of Haddington, he concurred with the comments made by the objector and the Council's Road Services, and noted issues of parking, traffic, and noise. He felt the location in a pinch point in the High Street was the wrong place, and felt that traffic issues even in the evenings had not been appreciated. He said that cars would be double and treble parked as people would not walk the length of the High Street to pick up a takeaway. He did not know how residents coped with the constant noise, traffic, and parking issues already. He felt that people were aware of the movements of wardens, and he described the traffic and parking as being horrendous on the days the wardens were not in the area. He thought that lorry deliveries at this pinch point was not suitable when buses and other large vehicles had to get down the High Street, and traffic was often backed up. He suggested that the takeaway business from the current operation was restricted compared to what Dominoes would offer, and he thought delivery scooters would block the pavements. He suggested that the retail park or Whittingehame Drive would be preferable sites. He said that no one wished to stop Dominoes coming to Haddington, but felt the location to be entirely inadequate, and he urged Committee Members to reject the application.

Councillor Allan felt that that parking was always a problem around the High Street because there were so many residents, and had observed that it did not get quieter in the evening. She felt there was already a pinch point that caused problems to buses trying to get through. She was very concerned about parking issues and agreed with Councillor McGuire's comments.

Councillor Findlay noted that when 70% of business was after 5.30pm, it would be unlikely that enforcement by traffic wardens and police would be possible. He said there was no problem with Dominoes coming to Haddington, but felt this site was the wrong place. He would vote against the officer recommendation to grant consent.

Councillor McMillan commented that although the officer report was clear and well written, it missed some local knowledge. He acknowledged the issues raised by Musselburgh and Tranent Ward Councillors. He also acknowledged previous work by the Council to widen pavements and control parking. He welcomed innovation and new national businesses that wished to set up and bring employment, but was concerned about the significant impact on local amenities when residents had to deal with car noise, traffic, antisocial behaviour to deal with. He said that behaviour of some drivers in Haddington was unacceptable and hoped that new regimes that would be considered for town centre parking would improve this. From what he could observe, local opinion, evidence from the antisocial behaviour in the town, and evidence from the Tranent and Musselburgh branches, he would vote against the officer recommendation to grant consent.

Councillor Collins had observed the traffic in Musselburgh, Tranent, and in Haddington around the existing and proposed Dominoes shops on a Friday night, and concluded that the traffic was horrendous. She felt there would be significant traffic issues in the evenings, and problems with delivery lorries though the day. She thought there would also be issues with antisocial behaviour and a loss of amenity associated with food odours. She would not support the application.

Councillor McGinn said that no one wanted empty units on the High Street, but felt that Dominoes had not learned from mistakes, particularly in Tranent; he said a multinational company should be able to consider their impact on the community. He acknowledged that the business would provide jobs and a service, but thought that this did not mitigate the impact on Tranent High Street, including the difficulties at the bus stop and for people crossing the road. He would vote against the officer recommendation to grant consent on the basis of traffic concerns and the behaviour of Dominoes delivery drivers. He said that the same dilemmas would be faced until the firm could learn from its previous mistakes.

The Convener commented that there were many fast food and takeaway businesses within town centres in East Lothian and issues of double parking when trying to access the premises, but he felt this was the fault of the drivers and not of the businesspeople. He noted that Dominoes was a national business operating effectively, and he acknowledged the officer support for the application. He thought that many local people would also welcome the business. He thought that the issues raised were best addressed by the police and antisocial behaviour team, and not by the business. He felt it was important not to send a message to businesses that they would be stopped locating in town centres, and suggested there may be an elitism towards the brand shown by objectors. He thought the business could operate in this location, and reiterated that other agencies would have to address issues on Haddington High Street and in Tranent and Musselburgh. He would support the officer recommendation to grant consent.

The Convener then moved to a roll call on the officer recommendation to grant consent, and votes were cast as follows:

Support:	4	(Councillors Hampshire, Forrest, McLeod, and Yorkston)
Against:	6	(Councillors Allan, Cassini, Collins, Findlay, McGinn, and McMillan)
Abstain:	0	

Decision

The Planning Committee refused the application for the following reasons:

1. The proposed hot food takeaway use would be likely to lead to irresponsible parking and waiting outside the premises. Such irresponsible parking could result could in congestion and overall would result in hazard to pedestrian and other road users in a heavily trafficked area. In this consideration, the proposed development is contrary to

Policy 27 of National Planning Framework 4 and Policies TC4 and T2 of the adopted East Lothian Local Development Plan 2018.

2. The proposed hot food takeaway would have a harmful impact on the amenity of neighbouring residents contrary to Policy TC4 of the adopted East Lothian Local Development Plan 2018.

The reasons for refusal were confirmed by roll call vote. Votes were cast as follows:

Support refusal reasons 1 & 2:	8 (Councillors Allan, Cassini, Collins, Findlay, Forrest, Hampshire, McMillan, and Yorkston)
Support only refusal reason 1:	1 (Councillor McGinn)
Support only refusal reason 2:	0
Against reasons for refusal:	1 (Councillor McLeod)
Abstain:	0

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

A report had been submitted in relation to Planning Application No. 23/00453/AMM. David Taylor, Planner, presented the report, highlighting the salient points. The report recommendation was to grant consent.

The Convener commented that the application represented another major part of the Blindwells site that would deliver more affordable housing within the area. The site was very close to the primary school and he felt sure the development would be delivered quickly because people would want to live in this location. He said the development would be another major step in the delivery of 1600 houses at Blindwells, and he thanked officers for bringing the application forward at this stage.

The meeting briefly returned to discussing Item 1 to agree reasons for refusal, as noted above.

The Convener then moved to a roll call vote on the officer recommendation to grant consent on Item 2, and Members unanimously voted in support of the officer recommendation.

Decision

The Planning Committee agreed 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 $D_{n,e,w}$ 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 OOB 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.

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

A report had been submitted in relation to Planning Application No. 23/00410/AMM. Julie McLair, Planner, presented the report, highlighting the salient points. The report recommendation was to grant consent.

Officers answered questions from Members. The Convener asked about the timeline for developing the access roads to the south and west of the development. Jon Canty, Transportation Planning Officer, advised that the design of the northwest part of the site would accommodate a turning head suitable for large rigid vehicles and refuse vehicles. Officers were therefore happy that the site would operate as a cul-de-sac. Regarding an adjacent town centre application currently with planning officers, the design of the area with car parking and access roads would not allow a through route between block 4A and the town centre. Therefore, the town centre design was problematic in terms of allowing a through route, but he advised that officers were happy that both sites could operate as cul-de-sacs and did not anticipate any problems from a roads and access perspective on that basis. Responding to further questions from the Convener, Mr Canty confirmed that a cul-de-sac could be accommodated for the number of units proposed because the access on the south was 5.5m wide with 2m wide footways on either side. He advised that it was generally accepted that a single point of access would be sought for a residential property development. He advised that a road through to the town centre could be accommodated for emergency vehicle access use only; officers would request a design suitable for fire and emergency access as a minimum requirement.

Bruce Lindsay, representative of Hargreaves, spoke to the application. He supported the comments in the officer report. He described the significance of the site as part of the continued investment and development at Blindwells. He said that the town centre application had now been validated and the developers were working on this closely with officers. He said that Places for People had given support to Plot 4A and said this was a crucial investment for their continued development in the area. He advised that the application followed the principles of Blindwells, which was for 30% of the site to be affordable housing; Hargreaves were very keen to support Places for People and their delivery of this development, which was hoped would continue beyond this site.

Responding to a question from the Convener, Mr Lindsay advised that the developers hoped to be on site for elements of the development later this year, and for substantial progress to have been made over the next 18-24 months. They also looked to deliver employment, retail, and residential units, so described the works as a complicated delivery programme, but still hoped to see progress within this timescale.

The Convener asked whether there was a start date for work on the Bankton Interchange. Mr Lindsay advised that stakeholders were now close to a series of technical solutions. He said

that the Hargreaves' commitment was unwavering, and it was hoped that these pre-contract works would be completed within the next few weeks. It was then hoped that the 15-week programme of works would begin in the spring or early summer.

Councillor McMillan was pleased to hear about the actions and developments coming forward to support a thriving community in Blindwells, and welcomed these applications. Councillor Forrest was pleased to hear that developers were listening, and that much needed one-bedroom units were starting to come forward in the county.

The Convener commented that the homes, and particularly the affordable homes coming forward, were desperately needed by East Lothian families. He said that as well as delivering new homes, there was a new quality community to build with job opportunities, a good environment, and a new primary school for the residents. He commented that it had been a long time in getting to this position and said it was positive that the development was now coming forward.

The Convener moved to a roll call vote on the officer recommendation to grant consent, and Members unanimously voted in support of the officer recommendation.

Decision

The Planning Committee agreed 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 Benchmark 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 OOBELTD.

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 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.

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.

4. PLANNING APPLICATION NO. 24/00085/PM: SECTION 42 APPLICATION TO VARY CONDITION 12 OF PLANNING PERMISSION 21/00449/PM, BLINDWELLS

A report had been submitted in relation to Planning Application No. 24/00085/PM. David Taylor, Planner, presented the report, highlighting the salient points. The report recommendation was to grant consent.

Officers answered questions from Members. Councillor McLeod asked about the status of the design for the Bankton roundabout. Mr Taylor advised that discussions were underway between the applicants and the agents, Transport Scotland, and BEAR Scotland. He advised that the works were required on the occupation of 235 dwellings across the site, and he understood there to be almost this number of occupations at this point. He advised that Road Services had required additional traffic surveys which had recently been completed, so assessment work was expected from the applicant in the next few weeks. Therefore, the actual design and appraisal process was still likely to be some months away. He said that the applicant may be able to provide an assessment to delay the trigger point from 235 units to 300 units, dependent on the satisfaction of the planning authority, Transport Scotland, and BEAR Scotland.

Responding to a question from Councillor Findlay, Mr Taylor advised that 234 residential units had been issued with completion certificates, but did not have a figure as to how many of these were currently occupied.

Responding to a question from the Convener, Keith Dingwall, Service Manager – Planning, said that while the number of completion certificates was currently under the limit of 235, the limit would soon be breached, and therefore officers had pressed Hargreaves to move forward on the road upgrades. He explained that the Planning Enforcement Charter stated that the Council should only take formal enforcement action should it be expedient to do so, and therefore the Council would weigh up the issues created by the breach and decide what was necessary, given the clear commitment from Hargreaves to move this on as quickly as possible. He noted that the application before Members did not seek to move back from the 235-unit limit, and only sought to ensure consistency with a condition already imposed elsewhere. Should there be a request made to push back to, for example, a 300-unit limit, then the planning authority would consult with Transport Scotland, and could refuse the request depending on their response. He reiterated that there were no delays being requested in the application before Members, and thus the officer recommendation was for approval.

The Convener commented on the vital importance of bringing forward this development because people, including those living in temporary accommodation in the community, were desperate for the houses. He said that Transport Scotland, Hargreaves, and anyone else involved in the final negotiations must work to find a solution as soon as possible to ensure the junction could accommodate as much traffic as possible.

The Convener moved to a roll call vote on the officer recommendation to grant consent, and Members unanimously voted in support of the officer recommendation.

Decision

The Planning Committee agreed to grant planning permission subject to the following conditions:

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

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

- 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

Signed

Councillor Norman Hampshire
Convener of the Planning Committee

DRAFT



**MINUTES OF THE MEETING OF THE
LOCAL REVIEW BODY**

**THURSDAY 18 JANUARY 2024
VIA THE DIGITAL MEETINGS SYSTEM**

2a

Committee Members Present:

Councillor L Allan

Councillor D Collins

Councillor C Yorkston (Chair)

Advisers to the Local Review Body:

Mr C Grilli, Legal Adviser to the LRB

Mr M Mackowiak, Planning Adviser to the LRB

Clerk:

Ms F Currie, Committees Officer

Apologies:

None

Declarations of Interest

None

Introductory Statement by the Legal Adviser

The Legal Adviser outlined the procedure for the Local Review Body to reach a decision on the planning application before it and reminded them that further advice would be provided on procedure, should they conclude they did not have enough information to determine the application today.

The Legal Adviser then invited nominations to chair the meeting. Councillor Allan nominated Councillor Yorkston, and this was seconded by Councillor Collins. It was agreed that Councillor Yorkston would chair the Local Review Body (LRB) on this occasion.

1. PLANNING APPLICATION NO. 21/01073/PP: PLANNING PERMISSION IN PRINCIPLE FOR THE ERECTION OF 1 HOUSE AND ASSOCIATED WORKS, LAND TO THE SOUTH WEST OF NEWMAINS, STENTON, DUNBAR, EAST LoTHIAN

The Chair invited the Planning Adviser, who had not been involved in the original decision, to present a summary of the planning policy considerations in this case.

The Planning Adviser provided a summary of the application site and location, as well as a detailed outline of the proposals and the planning history associated with the site. This included a previous planning permission in principle granted for 1 house (application 21/01072/PP). He highlighted the documents submitted by the applicant including a Design Statement prepared by the applicant's agent and a further supporting statement prepared by SAC Consulting (SRUC). Also submitted by the applicant on a confidential basis were two personal statements, Profit and Loss Accounts, a labour requirement assessment, a confidential Operational Needs Assessment, and a farm review scheme assessment dated 2010. Among other things, the documents assessed the required labour units for the management of the deer, cattle and arable enterprises of the farm. The supporting statement found that the existing farm operations had a justification for two full-time employees who would take over the work currently undertaken by the applicant and her husband. Due to the remote location, especially during inclement weather and the requirements for animal husbandry duties, the two workers would be required to live on the site.

The Planning Adviser reminded Members that section 25 of the Town and Country Planning (Scotland) Act 1997 required that the application be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan was National Planning Framework 4 (NPF4) and the adopted East Lothian Local Development Plan 2018 (LDP). He indicated that the following policies were relevant to this case: Policies 1 (Tackling the climate and nature crises), 2 (Climate mitigation and adaptation), 3 (Biodiversity), 4 (Natural Places), 5 (Soils), 7 (Historic assets and places), 14 (Design, quality and place), 17 (Rural homes), 22 (Flood risk and water management) and 29 (Rural development) of NPF4. Policies DC1 (Rural Diversification), DC4 (New Build Housing in the Countryside), DC5 (Housing as Enabling Development), DC9 (Special Landscape Areas), CH4 (Scheduled Monuments and Archaeological Sites), CH6 (Gardens and Designed Landscapes), DP2 (Design), T1 (Development Location and Accessibility), T2 (General Transport Impact), NH3 (Protection of Local Sites and Areas), NH7 (Protecting Soils) and OS2 (Change of use to Garden Ground) of the LDP 2018.

The Planning Adviser noted that no public representations to the application were received, and that Dunpendeer Community Council were consulted on the application, however no response was received from them. No consultees had objected to the proposals. All the responses received to this application had been summarised within the case officer's report.

The case officer had sought the advice of the Council's independent agricultural and rural advisor (Laurence Gould) on the conclusions reached in the Operational Needs Assessment submitted by the applicant. This advice had been thoroughly summarised in the case officer's report. The rural advisor had concluded that the existing agricultural business demonstrated that there was a need for an on-site presence for the management and well-being of the livestock, and a requirement for a total of two labour units, but that the applicant and her husband together would comprise one of those labour units. Although there was a need for two houses to support the existing business, the applicant's existing house was included as one of those houses. Therefore, it was the view of the rural advisor that there was only justification for one additional house, and not the two proposed houses within planning application 21/01072/PP (granted permission last year); and the current application 21/01073/PP.

The Planning Adviser noted that the case officer had conducted a detailed planning assessment of the proposals and had concluded that the principle of the development of one house on the application site was contrary to Policies 5 (Soils) , 17 (Rural Homes) and 29 (Rural Development) of NPF4 and Policies DC1, DC4 (New Build Housing in the Countryside) and DC5 (Housing as Enabling Development) of the adopted East Lothian Local Development Plan 2018.

The Planning Adviser then summarised the applicant's submission, noting that the applicant had indicated that neither she nor her husband were able to continue with the heavy manual work of the farm. While remaining committed to the business, they could only undertake a restricted range of duties and the operational needs assessment had confirmed a requirement for 2 additional staff. The assessment had justified the need for two homes for these workers and there were no buildings on the farm which could be converted to new accommodation. The submission also included a critique and rebuttal of the report received from the Council's rural advisor. In particular, the statement on accommodation requirements which the applicant felt to be wholly inaccurate. The applicant had presented evidence that two additional workers were required, with the support of the applicant and her husband This would require two additional homes on the farm to accommodate these two workers and enable the applicant and her husband to continue to occupy Newmains House. Furthermore, the applicant had highlighted that Newmains House had been purchased as an independent residential home within Newmains Steading and was not an asset of the farm business.

The Planning Adviser summarised several of the other points made within the applicant's submission, including comments by the agent.

He concluded his presentation by reminding Members that they had the option of seeking further information, if required.

In response to questions from Members, the Planning Adviser provided information on the location and relevance of the previous planning permission granted for erection of 1 house. He confirmed that the applicants would accept a condition added to this planning permission to ensure that the new house was the property of the farm business, and that they would continue to reside in the existing house.

The Chair asked his colleagues to confirm that they had attended the site visit and if they were satisfied that they had sufficient information before them to determine the application. They confirmed this to be the case.

The Chair then invited Members to give their views on the application.

Councillor Collins provided some background to the calculations from the farm management handbook and confirmed that the information provided in the appeal submissions was

accurate. She commented that working with deer and cattle could be extremely dangerous and the specified level of staff was appropriate. She stated that staff needed to be on site for health and safety reasons and to ensure easy access to the animals, and the business would be able to employ an additional two staff which would benefit the local economy. For these reasons she was minded to uphold the appeal.

Councillor Allan was grateful for the background provided by Councillor Collins on the working arrangements on the farm. She was reassured that the proposed house would belong to the farm and, on these grounds, she would be minded to uphold the appeal.

The Chair echoed his colleagues' remarks. He indicated that he had had concerns that the proposed house, if not part of the farm, might be sold and then further houses might need to be built. He asked for confirmation regarding the condition to ensure the house was owned by the farm. If this could be added, he would be minded to uphold the appeal.

Councillors Collins added that it would encourage future generations to join the business, if there was a house linked to the business.

The Planning Advisor confirmed that a similar condition was added to the previous planning permission and such a condition could also be added here; that the house could only be used by an agricultural worker. The Legal Adviser confirmed the terms of the proposed condition which formed part of the suggested conditions provided by the planning officer.

The members of the LRB confirmed their decision via roll call vote. They agreed unanimously to uphold the appeal and to grant planning permission subject to the conditions provided by the planning officer.

Decision

The ELLRB agreed unanimously to uphold the appeal and to grant planning permission in principle subject to the following conditions:

1 The development hereby approved shall begin before the expiration of 5 years from the date of this permission.

Reason:

Pursuant to Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended.

2 Notwithstanding the submitted indicative drawings, and for avoidance of doubt, the indicative design proposal plans submitted as part of this Planning Permission in Principle application do not represent an approved scheme and all matters are reserved. The submission for approval of matters specified in conditions of this grant of planning permission in principle in accordance with the timescales and other limitations in section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended) shall include details of the siting, design and external appearance of the house, the existing and finished site and floor levels in relation to Ordnance Datum, the details of waste management and recycling facilities, the details of surface water management, drainage arrangements, and SUDS proposals, the hard and soft landscaping of the site, the means of access to it and the means of any enclosure of the boundaries of the site and those details shall accord with the following principles of development for the site:

a. The house shall be designed with a pitched roof(s) and such roof(s) shall be clad with natural slates or natural red clay pantiles, or a mix of natural slates and natural clay pantiles, with any pantiles being kept to lower sections of roof;

b. The external walls of the house shall be finished either wholly with natural local red sandstone, or a combination of natural local red sandstone and a wet dash or textured render. Any render used shall not be a white or pale coloured render;

- c. The house shall be designed to complement the existing local traditional architectural vernacular, character and appearance of neighbouring and nearby buildings, and shall include traditional components and styles of design;
- d. The house shall be designed so that areas of glazing are generally of a traditional size and scale and so that any such glazing and, if relevant, any photovoltaic panels are positioned to minimise their visual impact in views of the site;
- e. The house shall be provided with parking spaces within the curtilage of the house at a rate of 150% for a house of 5 habitable rooms or fewer (minimum 2 spaces), or 225% for a house of 6 or more habitable rooms, formed either as a driveway or accessed from a driveway, and those parking spaces shall each have minimum dimensions of 2.5 metres by 5 metres, and sufficient on-site turning and manoeuvring space shall be provided to enable a vehicle to enter and leave the public road in a forward gear;
- f. The provision of visibility splays measuring 2 metres by 120 metres to each side of the junction of the vehicular access road with the U179 public road;
- g. A minimum of the first 2 metres of the vehicular access road measured back from its junction with the U179 public road and for its full width shall be hard-formed across its full width;
- h. The means of enclosing the boundaries of the site shall be shown and the house shall not be occupied until the approved means of enclosure has been erected or planted; and
- i. A scheme of landscaping for the site.

No part of the development hereby approved shall be begun on the site until all of the above details have been submitted to and approved in writing by the Planning Authority. The development shall be carried out in accordance with the details so approved.

Reason:

In order to enable the Planning Authority to consider these matter/s in detail to ensure that adequate and satisfactory provision is made for the accommodation of vehicles clear of the highways in the interests of road safety, and to enable the Planning Authority to control the development in the interests of safeguarding the character and appearance of the area and the privacy and amenity of neighbouring residential properties and of occupiers of the new house and the impact of the proposed development on the Whittingehame to Deuchrie Special Landscape Area and the Danskin to Whitecastle Special Landscape Area, and the setting of the Whittingehame Local Garden and Designed Landscape.

3 Prior to the commencement of the development hereby approved on the site, a suitable Geo-Environmental Assessment of the site shall be carried out, and the findings report of that assessment shall be submitted to and approved in advance in writing by the Planning Authority. The scheme shall include details of the following:

- Phase I - A preliminary investigation incorporating a desk study, site reconnaissance, development of a conceptual model and an initial risk assessment.
- Phase II - A site survey (ground investigation, gas monitoring, and sample analysis) and risk evaluation. This phase is required if the Phase I investigation has indicated that the site is potentially contaminated, and the degree and nature of the contamination warrants further investigation. The Phase II investigation shall include survey of the extent, scale and nature of contamination, and reporting on the appropriate risk assessment(s) carried out with regards to Human Health, the Water Environment and Gas Characteristic Situation as well as an updated conceptual model of the site, and an appraisal of the remediation methods available and proposal of the preferred option(s).
- Phase III - Where risks are identified, a Remediation Strategy shall be produced detailing and quantifying any works which must be undertaken in order to reduce the risks to acceptable levels and make the site suitable for the proposed use. The Remediation Strategy 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 Remediation Strategy shall be submitted to and approved in advance in writing by the Planning Authority.

The Desk Study and Ground Investigation shall be undertaken by suitably qualified, experienced and competent persons and shall be conducted in accordance with the Environment Agency's Contaminated Land Report 11, Model Procedures for the Management of Land Contamination, CLR11. Should remedial works be required then, prior to the site being occupied, a Validation Report shall be submitted to the Planning Authority for approval confirming that the works have been carried out in accordance with the Remediation Strategy.

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

Before the proposed house hereby approved is occupied the measures to decontaminate the site shall be fully implemented as approved by the Planning Authority.

Reason

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

4 The details to be submitted pursuant to condition 2 above shall include full details of the surface water management strategy including the proposed sustainable urban drainage scheme (SUDS) for the site. The surface water management strategy including the proposed sustainable urban drainage scheme (SUDS) for the site shall thereafter be fully implemented in accordance with the details as approved by the Planning Authority.

Reason:

To ensure the provision of a satisfactory sustainable urban drainage scheme for the application site in the interests of flood prevention, environmental protection and the long-term amenity of the area.

5 Prior to the commencement of the development hereby approved, details of wheel washing facilities to be installed on the site shall be submitted to and approved in advance in writing by the Planning Authority. The wheel washing facilities shall be provided and maintained in working order during the period of construction of the site. All vehicles must use the wheel washing facilities to prevent deleterious materials being carried onto the public road on vehicle tyres. Thereafter, the Wheel Washing Facilities shall be implemented and complied with in accordance with the approved details for the period of construction of the development hereby approved.

Reason:

In the interests of road and pedestrian safety.

6 The occupation of the house hereby approved shall be restricted to a person(s) solely or mainly employed in the agricultural business of Newmains Farm operated from the agricultural unit at Newmains, or the dependant of such a person.

Reason:

To comply with the Council's Policy for the erection of new houses in the countryside.

7 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 and timescales so approved.

Reason:

To minimise the environmental impact of the development.

8 Prior to the commencement of development a detailed statement on the measures to be implemented to enhance biodiversity on the site, including appropriate measures to conserve, restore or enhance biodiversity on the site and a timescale for their implementation shall be submitted to and approved in advance in writing by the Planning Authority. Thereafter, the measures to conserve, restore or enhance biodiversity on the site shall be implemented in accordance with the details and timescale so approved.

Reason:

In the interests of enhancing the biodiversity on the site

2. PLANNING APPLICATION NO. 23/00373/P: ERECTION OF 1 REPLACEMENT HOUSE AND ASSOCIATED WORKS, TRABROUN FARMHOUSE, HUNTINGDON, MACMERRY EH41 3SX

The Chair invited the Planning Adviser, who had not been involved in the original decision, to present a summary of the planning policy considerations in this case.

The Planning Adviser provided a summary of the application site and location, as well as a detailed outline of the proposals and the planning history associated with the site. This included an application for the erection of one house which had been withdrawn prior to determination, and planning permission granted in 2021 for the erection of one house, garage and associated works on land north of Trabroun Farm.

The Planning Adviser referred Members to the case officer's summary of the main points of the applicant's supporting statement submitted with the original planning application.

He reminded Members that section 25 of the Town and Country Planning (Scotland) Act 1997 required that the application be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan was National Planning Framework 4 (NPF4) and the adopted East Lothian Local Development Plan 2018 (LDP). The following policies were identified as being relevant to this case: Policies 7 (Historic assets and places), 17 (Rural homes) and 29 (Rural development) of NPF4. Policies DC1 (Rural Diversification), DC3 (Replacement Dwelling in the Countryside), DC4 (New Build Housing in the Countryside), DC5 (Housing as Enabling Development), CH1 (Listed Buildings), CH6 (Gardens and Designed Landscapes), DP1 (Landscape Character), DP2 (Design), T1 (Development Location and Accessibility), and T2 (General Transport Impact) of the LDP 2018.

The Planning Adviser noted that no public objections had been received against the application and one representation in support of the application had been submitted. There had been no objections to the proposal from the Council's internal consultees.

He noted that the case officer had conducted a detailed planning assessment of the proposal and had concluded that the proposed scheme of development for a replacement house on this rural site located within the East Lothian countryside did not meet the circumstances specified in Policies 7, 17 and 29 of NPF4 and Policies CH1, DC1, DC3, DC4, DC5, DP1 and DP2 of the adopted ELLDP 2018. The case officer had concluded that the proposal was not in accordance with the Development Plan and there were no material planning considerations that outweighed that fact.

The Planning Adviser summarised the main points of the applicant's appeal submission which included an assessment of the proposals against relevant planning policy. It noted that the existing house was not listed and had several serious structural and energy efficiency defects. While it was a larger footprint, the proposed house was largely single storey and would remain subservient to the existing steading, while also being far more energy efficient. The estimated costs to rectify the defects of the existing property were deemed unviable when set against the property's market value. The materials of the proposed replacement house would ensure that it was more sympathetic to its surroundings than the existing house which was, in the applicant's opinion, a discordant and incongruous feature.

The Planning Adviser concluded his presentation by reminding Members that they had the option of seeking further information, if required.

The Planning Adviser responded to questions from Members providing further context on the issue of like for like development and confirming that this had been explored in detail by the planning case officer. He indicated that the beech hedge was to be retained but that some of the upper parts of the new house would still be visible from the road. He also provided details of the construction of the existing house.

The Chair asked his colleagues to confirm that they had attended the site visit and if they were satisfied that they had sufficient information before them to determine the application. They confirmed this to be the case.

The Chair then invited Members to give their views on the application.

Councillor Collins commented that the construction of the proposed new build would be more complementary to the surrounding farm buildings than what was there at present; and it would be far more energy efficient. She said that the cost of stripping back and re-insulating and re-cladding the existing house would be similar to that of building a new house. She noted that the beech hedge was quite high and very little of the new house would likely to be visible from the road. She thought that the proposed house would be beneficial from the point of view of the applicants' planning for succession/retirement from the business and, for these reasons, she was minded to support the application.

The Chair said he had had some concerns regarding the proposed size of the new house, but he welcomed the positioning and quality of the new building compared to the existing house. He was minded to support the application.

Councillor Allan agreed with her colleagues and was minded to support the application. She did not think that the existing house would be missed and, regarding future proofing of the farm business, she agreed that these proposals were a positive step.

The members of the LRB confirmed their decision via roll call vote. They agreed unanimously to uphold the appeal and to grant planning permission subject to the conditions suggested by the planning case officer.

Decision

The ELLRB agreed, unanimously, to uphold the appeal and to grant planning permission subject to the following conditions:

1. Site Setting out

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 house and garage 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. Schedule of materials

A schedule and/or samples of all of the external finishing materials and finishing colours to be used in the external finishes of the house and garage hereby approved shall be submitted to and approved in writing by the Planning Authority prior to their use in the development. Thereafter, the external finishing materials and colours used shall accord with the schedule and samples so approved.

Reason:

To ensure the satisfactory appearance of the development in the interest of safeguarding the character and appearance of the area.

3. Site Access, parking and turning

Prior to the occupation of the house hereby approved the vehicular access, turning and parking arrangements shall be laid out and made available for use, as shown in docketed drawing no.R532 PL08A and thereafter the access, turning and parking areas shall be retained for such uses, unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure the provision of an acceptable standard of vehicular access, turning and parking in the interests of road safety.

4. Geo-Environmental Assessment

Prior to any site development works a suitable Geo-Environmental Assessment must be carried out, with the Report(s) being submitted to the Planning Authority for approval. It should include details of the following:

- (i) A Preliminary Investigation incorporating a Phase I Desk Study (including site reconnaissance, development of a conceptual model and an initial risk assessment);
 - (ii) A Ground Investigation comprising a survey of the extent, scale and nature of contamination, and an updated conceptual model of the site. It is required if the Desk Study has indicated that the site is potentially contaminated and the degree and nature of the contamination warrants further investigation;
 - (iii) An appraisal of the remediation methods available and proposal of the preferred option(s).
- (a) Prior to any works beginning on site (and where risks have been identified), a detailed Remediation Statement should be produced that shows the site is to be brought to a condition suitable for the intended use by the removal of unacceptable risks to all relevant and statutory receptors. The Statement should detail all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. It should also ensure that the site will not qualify as contaminated land under Part2A of the Environmental Protection Act 1990 in relation to the intended use of the land following development. The Statement must be submitted to the Planning Authority for approval.
- (b) 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 commencement of the new use of the land.

Reason:

To ensure that the site is clear of any contamination found to be present prior to the use of the building approved.

5. Carbon Emissions

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.

3. PLANNING APPLICATION NO. 23/00664/P: FORMATION OF DORMERS, 7 QUEENS DRIVE, PENCAITLAND EH34 5AW

The Chair invited the Planning Adviser, who had not been involved in the original decision, to present a summary of the planning policy considerations in this case.

The Planning Adviser provided a summary of the application site and location, as well as a detailed outline of the proposals.

He reminded Members that section 25 of the Town and Country Planning (Scotland) Act 1997 required that the application be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan was National Planning Framework 4 (NPF4) and the adopted East Lothian Local Development Plan 2018 (LDP). The following policies had been identified as being relevant to this case: Policies 14 (Design, quality and place) and 16 (Quality Homes) of NPF4; and DP5 (Extensions and Alterations to Existing Buildings) of the LDP 2018.

The Planning Adviser highlighted the case officer's assessment of the proposals against the relevant planning policies. The case officer had noted that the windows to be formed within the rear (south) elevation of the proposed dormer, would face over the rear garden of the applicant's house and therefore they would not allow for harmful overlooking of any neighbouring residential properties. Also, owing to its size, form, orientation and position, the proposed dormer would not give rise to a harmful loss of sunlight or daylight received by any neighbouring residential properties. On these considerations of privacy and amenity the case officer had concluded that the proposals would not conflict with Policy DP5 of the LDP.

However, the case officer had concluded that the proposed large 'box type' dormer would, due to its size, scale, design, proportions, massing, and position, be a radical alteration to the rear elevation roof slope of the house that would be a harmfully dominant, intrusive and incongruous feature. It would be harmfully disproportionate to, and result in a gross overdevelopment of, the rear (south) facing pitched roof slope. Moreover, as the proposed dormer would project above the main ridgeline of the roof it would be an alien feature that would be out of keeping with the character and appearance of the house. Consequently, the proposed dormer would not be subservient to, or in keeping with, the character and appearance of the house. It would instead be harmful to the character and appearance of the house contrary to Policies 14 and 16 of NPF4 and Policy DP5 of the adopted East Lothian Local Development Plan 2018. In conclusion, the case officer had noted that the proposed dormer failed to accord with the provisions of the stated relevant development plan policies and there were no material considerations which would outweigh that fact.

The Planning Adviser summarised the applicant's appeal submission which made the following points: the proposed dormer was situated to the rear of the property and would not be readily visible from the street except partially when viewed down the driveway; it would not be a dominant feature given its position on the rear roof slope facing a rear private garden; and, as the dormer was situated to the rear of the property, it would not be harmful to the character and appearance of the house or surroundings. The applicant also stated that the existing character of the house would be maintained, remaining as a single storey cottage when viewed in the context of the street, and therefore well integrated into its surroundings. The formation of the full width dormer to the rear would provide much needed additional bedroom space to allow a family with children to inhabit the property. When viewed from the street, the new ridge flashing would not be alien but rather appear as a traditional replacement ridge roll flashing. Lastly, the house was not within a conservation area and was not a listed building.

The Planning Adviser concluded his presentation by reminding Members that they had the option of seeking further information, if required.

The Planning Adviser responded to questions from Members confirming that there were no other houses in the neighbourhood with dormers of similar size to that proposed in the application.

The Chair asked his colleagues to confirm that they had attended the site visit and if they were satisfied that they had sufficient information before them to determine the application. They confirmed this to be the case.

The Chair then invited Members to give their views on the application.

Councillor Allan said she had walked around the neighbourhood and had observed that there were no dormers of a similar size to the one proposed in this application. She felt that it would be out of proportion to the house, and it would be partly visible from the road. She was minded to support the original decision of the planning officer, and would have preferred to see something more in proportion with its surroundings.

Councillor Collins agreed that the proposed dormer was extremely large and not in proportion to the building. She noted that there was a dormer on the house next door, but this was smaller and more complementary to the house. She would be supporting the original decision of the planning officer.

The Chair said he was of a similar opinion. While he could understand the need for additional space for the family, he felt the scale of the proposed dormer meant that it would no longer be subservient to the house. For these reasons, he was minded to support the original decision of the planning officer.

The members of the LRB confirmed their decision via roll call vote. They agreed unanimously to dismiss the appeal and to refuse planning permission.

Decision

The ELLRB agreed, unanimously, to dismiss the appeal and to refuse planning permission for the reasons set out in the planning case officer's report.

Signed

Councillor Colin Yorkston
Chair of Local Review Body (Planning)



**MINUTES OF THE MEETING OF THE
LOCAL REVIEW BODY**

**THURSDAY 25 JANUARY 2024
VIA THE DIGITAL MEETINGS SYSTEM**

2b

Committee Members Present:

Councillor L Allan
Councillor J Findlay (Chair)
Councillor A Forrest
Councillor K McLeod

Advisers to the Local Review Body:

Ms F Haque, Legal Adviser to the LRB
Ms J Squires, Planning Adviser to the LRB

Clerk:

Ms F Currie, Committees Officer

Apologies:

None

Declarations of Interest

None

Introductory Statement by the Legal Adviser

The Legal Adviser outlined the procedure for the Local Review Body to reach a decision on the planning application before it and reminded them that further advice would be provided on procedure, should they conclude they did not have enough information to determine the application today.

The Legal Adviser then invited nominations to chair the meeting. Councillor Allan nominated Councillor Findlay, and this was seconded by Councillor McLeod. It was agreed that Councillor Findlay would chair the Local Review Body (LRB) on this occasion.

The Planning Adviser made some introductory remarks on the status of the development plan which was common to all of the applications being considered. She reminded Members that section 25 of the Town and Country Planning (Scotland) Act 1997 required that planning applications be determined in accordance with the development plan unless material considerations indicated otherwise. The decision takers should therefore first consider whether, taking into account the development plan as a whole, the proposal does or does not accord with it. They should then identify all other material considerations – things that had not previously been considered through the development plan – and decide if they were of such weight that they would override the priority which was given to the development plan by statute. The development plan for the area was National Planning Framework 4 (NPF4) and the East Lothian Local Development Plan (LDP).

1. PLANNING APPLICATION NO. 23/00451/P: ERECTION OF PORCH AND FORMATION OF DORMERS, 36 MONKTONHALL TERRACE, MUSSELBURGH EH21 6ES

The Chair invited the Planning Adviser, who had not been involved in the original decision, to present a summary of the planning policy considerations in this case.

The Planning Adviser informed Members that the original application had sought planning permission for works including a porch and dormers to the front, side, and rear of the house. Planning permission had been granted for the works; however, a condition was placed on the consent that permission be not granted for the dormer formed on the front roof slope. Most of the works shown in the application therefore had permission and could not now be revisited through this review. The review covered only the matter of the condition preventing construction of the front dormer.

She provided details of the location of the property and its surroundings, as well as the size, style and materials for the proposed dormer.

The Planning Adviser then summarised the case officer's assessment of the application against relevant planning policies, including Policy 14 (Design, Quality and Place), and Policy 16 (Quality homes) of NPF4, and Policy DP5 (Alterations and extension to existing buildings) of the adopted LDP 2018. The case officer had considered the dormer would be contrary to Policy 14 of NPF4 and DP5 of the LDP, as it would be seen in context of the other houses of Monktonhall Terrace, none of which had a front dormer. The dormer would therefore disrupt the form and appearance of the front elevation of roof slopes and would not be in keeping with them. It would have a detrimental impact on the character of the house and the appearance of the surrounding area. The dormer was therefore excluded from planning consent for the development by condition as contrary to NPF4 Policy 14 and ELLDP Policy DP5. The case officer had also noted in his report that it would set an undesirable precedent for neighbouring

properties which, if followed, would be to the detriment of the character and appearance of the surrounding area.

The Planning Adviser then summarised the applicant's submission in which he had argued that the semi-detached building of which his property formed part was the only one of its kind on Monktonhall Terrace, the others being four in a block type with different roof shapes and designs. The red sandstone terrace buildings to the north were completely different. The southern flats though of similar period to his, were of different colours and different positions relative to the street, with no standard street frontage. Therefore, he considered that the proposal was not out of keeping. Furthermore, the size, form, proportion and scale of the proposed dormer was appropriate to the house as it was identical to the approved rear dormer. He considered the dormer was in keeping with the six qualities of successful places. He stated that it used natural materials (the materials detailed on the drawings are slate and upvc) and that the design complemented local architectural styles and would allow his family to remain in the area. The plan would increase the efficiency of the home as further insulation and glazing had been added. Therefore, he considered the proposal was in line with NFP4 Policy 16, as it did not have a detrimental impact on the character of the house and improved its environmental quality. The appellant noted that a front dormer had been approved on a house on this road, so there is existing precedence.

The Planning Adviser said she agreed with the case officer that the proposed dormer would be out of keeping with the existing housing in Monktonhall Terrace. The local architectural style was of monoplane roof slopes, which the proposed dormer would disrupt. The proposal would also, in her view, in combination with the consented dormers, have the effect of altering the massing of this building to the detriment of the building itself and the street scene. This would reduce the sense of place of this building group and the street in general.

She noted the applicant's statement that the proposal would increase the efficiency of his home but that he had not submitted any further information in support of this. The rear dormer although identical had limited visibility from public areas, which the case officer had taken into consideration when approving it. The approved dormer on another house on the street was on an originally single storey building.

The Planning Adviser concluded her presentation by reminding Members that it was open to them to retain the condition or to remove it. If they supported the removal of the condition, it was open to them to allow the dormer subject to appropriate conditions.

In response to questions from Members, the Planning Adviser confirmed that planning permission had been granted for dormers to the side and rear of the property, as part of this application. She also advised that any installation of Velux windows, as a potential alternative to a dormer, would likely require separate planning permission.

The Chair asked his colleagues to confirm that they had attended the site visit and if they were satisfied that they had sufficient information before them to determine the application. They confirmed this to be the case.

The Chair then invited Members to give their views on the application.

Councillor Forrest stated that having viewed the site, he agreed with the decision of the planning officer. The proposed dormer would adversely affect the current street view and would set an unhelpful precedent. He was minded to support the original decision of the planning officer and would make no change to the condition of planning permission.

Councillor McLeod noted that the dormer on the house next door was well sheltered from view, as was a similar dormer on a nearby property. He considered that the proposed dormer

would be out of character with its surroundings, and he agreed with the original decision of the planning officer and would not propose to make any change to the condition of planning permission.

Councillor Allan said she also agreed with the planning officer. While she could understand the need for additional space and light, she did not think that the proposed dormer would be in keeping with surrounding buildings and would be too prominent. She was minded to support the original decision of the case officer and to make no change to the condition of planning permission.

The Chair agreed with his colleagues and with the original decision of the planning officer. He was of the view that the condition of planning permission should remain unchanged.

The Legal Adviser confirmed that the LRB members had agreed unanimously to refuse the appeal and to make no change to the condition of planning permission.

Decision

The ELLRB agreed unanimously to refuse the appeal and to make no change to the condition of planning permission.

2. PLANNING APPLICATION NO. 23/00514/P: CHANGE OF USE OF GYPSY/TRAVELLER PITCHES FOR ERECTION OF 1 HOUSE AND ASSOCIATED WORKS, LAND AT MUIRPARK STEADING, TRANENT, EAST LoTHIAN

The Chair invited the Planning Adviser, who had not been involved in the original decision, to present a summary of the planning policy considerations in this case.

The Planning Adviser informed members that this case was an appeal against refusal of an application for erection of one house and associated works. She outlined the reasons for refusal and provided details of the site and its surroundings. She advised that recently permission had been granted for a change of use to a house from a utility block on adjacent land. The proposal site lay between this house and another existing house and was enclosed by stone walls and fencing. Access would be taken through the existing internal driveway.

She confirmed that no representations had been received from members of the public and there had been no objections to the application from any internal or external consultee. However, the Coal Authority and Contaminated Land Officer had suggested conditions and the Biodiversity Officer, Flood Officer and Scottish Water had made recommendations.

The Planning Adviser summarised the case officer's assessment of the proposals against relevant planning policies. The case officer had found that the proposal would accord with policies on design and transportation. He had considered that subject to imposition of a condition on biodiversity enhancement, the proposal would accord with biodiversity policy. However, he had found the principle of erection of a house to be in conflict with LDP Policies DC1, DC4 and DC5, as well as NPF4 Policy 17. He therefore refused the application for the reasons set out in the original decision notice.

The Planning Adviser then turned to the applicant's submission which noted that Muirpark was historically a large steading and argued that designation of the land as countryside is outdated. The application site was previously developed and could accommodate the new home and the proposals met design and siting criteria. The land was not in agricultural use and there were no inappropriate or adverse amenity impacts. The applicant considered that the Council had not taken on board the reasons the original application for a gypsy travellers' site was

upheld at appeal by the Reporter. The applicant stated that the site was not appropriate or attractive as a destination for mobile travellers and that the operation of travellers' pitches was not currently viable. The applicant went on to argue that the case officer had not taken sufficient account of LDP policy DP7 and the benefits of the proposals in terms of NPF4 policies 14-16. The applicant's submission provides rebuttal of the case officer's assessment of the proposals against relevant planning policy. It argues that the site was not consistent with the definition of countryside contained in the LDP. The proposal was acceptable under NPF4 Policy 17a, as it fell into at least 4 of the categories. The proposal was also supported by NPF4 Policy 9. The applicant therefore considered that the proposal accorded with the development plan.

The Planning Adviser stated that she agreed with the case officer's assessment in terms of Policies DP1 and 2 of the LDP on design, and Policies T1 and T2 of the LDP on transport issues. Also, policies in NPF4 13, 14, 15 and 16 which were intended to ensure that development proposals improved the quality of the area in which they were located and contributed to local living. She noted that the case officer listed policy on soil as being relevant but did not discuss this further. The appellant considered this may have been included in error. The Planning Adviser noted that the soil is assessed as Class 2. She considered the application of relevant planning policy and whether there may be any relevant material considerations that could override the provisions of planning policy protecting prime agricultural land.

The Planning Adviser set out where she disagreed with the case officer on his assessment of planning policy, referring in particular to NPF4 Policies 1, 2, 3 and 17 and LDP Policies DC1, DC4 and DC5, and where issues might be addressed through the imposition of conditions, should planning permission be approved. She highlighted the opposing view of the case officer and the applicant on whether the site should be considered as countryside. She pointed out that, in the plan led system, which policies apply to which land was decided through the Local Development Plan process. The forum for dispute was that process. Once the LDP was adopted the matter was settled. Proposals in areas shown as countryside, as this site was, must be considered with regard to relevant countryside policies.

She noted a similar disagreement between the case officer and applicant regarding the application of policies on brownfield land. NPF4 Policy 17 defined brownfield land as previously developed land. This land had a gravel surface but had no built development, and in her view did not constitute brownfield land. She added that even if considered brownfield land, the land would return to its natural state without intervention and so did not fall into Category 2 of the policy. She stated that the position regarding brownfield land as it applied specifically to rural homes was set out in Policy 17 of NPF4, and the general policy towards brownfield land in Policy 9 should not override this. In any event, she said that the site should not be considered as brownfield land due to the lack of operational development that had taken place on the site.

She noted that the case officer had also refused the application as against LDP Policy DC5. The applicant had argued that Policy DC5 was not relevant, and she agreed with this view. Policy DC5 could not be applied, other than to note that this policy did not lend the proposal any support as the proposal was not for enabling development.

The Planning Adviser concluded her presentation by reminding Members that it was open to them to uphold the appeal, or to refuse it for the reasons given by the case officer or any valid planning reason. Should Members be minded to refuse the application for the reasons given by the case officer, she advised the removal of the reference to Scottish Planning Policy, as this was no longer in force. Should Members be minded to uphold the appeal, the case officer had suggested conditions; although proposed Condition 3 required additional wording to make it clear whether the 'satisfactory appearance' referred to the area, site or building.

The Planning Adviser and Legal Adviser responded to questions from Members relating to conditions of planning permission, previous permissions granted for the site; issues around rainwater drainage and right of access to the site from the main road (A199).

The Chair asked his colleagues to confirm that they had attended the site visit and if they were satisfied that they had sufficient information before them to determine the application. They confirmed this to be the case.

The Chair then invited Members to give their views on the application.

Councillor McLeod said he was aware of the history of the site and he referred to house building in the area in recent years. He had some concern about the possibility of future applications for housing on the site and he had noted the advice regarding right of access to the site. On balance, he was minded to uphold the appeal and to grant planning permission.

Councillor Allan said she had found the site visit helpful and while she had some concerns about access to the property, she acknowledged the advice given by officers. She could see no reason to refuse the application and was therefore minded to uphold the appeal.

Councillor Forrest said that, in his view, the site was in the countryside and could potentially be returned to prime agricultural land, if not developed. He was concerned that to grant planning permission could set an unhelpful precedent and was therefore minded to support the original decision of the planning officer.

The Chair noted Councillor Forrest's view regarding the site being in the countryside, but he considered it unlikely that the site could be returned to prime agricultural land. He noted the previous use as a gypsy/traveller site and was minded to uphold the appeal.

The Legal Adviser asked the LRB members to review the suggested conditions of planning permission provided by the case officer. The Planning Adviser reiterated her suggestion of a small change to the reason for condition 3 to read: "To ensure the satisfactory appearance of the area."

The Legal Adviser confirmed that the LRB members had agreed, by a majority of three to one, to uphold the appeal and to grant planning permission subject to the conditions recommended by the planning officer and including the suggested revision to condition 3.

Decision

The ELLRB agreed, by majority, to uphold the appeal and to grant planning permission 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 house and garage 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. A schedule and/or samples of all of the external finishing materials and finishing colours to be used in the external finishes of the house and garage hereby approved shall be submitted to and approved in writing by the Planning Authority prior to their use in the development. Thereafter, the external finishing materials and colours used shall accord with the schedule and samples so approved.

Reason: To ensure the satisfactory appearance of the site.

4. Prior to the occupation of the house hereby approved the vehicular access, turning and parking arrangements shall be laid out and made available for use, as shown in docketed drawing no. 23029-PO1 rev C and thereafter the access, turning and parking areas shall be retained for such uses, unless otherwise approved in writing by the Planning Authority.

Reason: To ensure the provision of an acceptable standard of vehicular access, turning and parking in the interests of road safety.

5. Prior to the commencement of development a scheme of intrusive investigations shall be carried out on site to establish the risks posed to the development by past shallow coal mining activity. All remedial stabilisation works and/or mitigation measures to address land instability arising from shallow coal mining legacy shall be implemented on site in full in order to ensure that the site is made safe and stable for the development proposed. All remedial works shall be carried out in accordance with authoritative UK guidance.

Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site has been made safe and stable for the approved development shall be submitted to and approved in advance in writing by the Planning Authority in consultation with the Coal Authority. This document shall confirm the completion of the remedial works and any mitigating measures necessary to address the risks posed by past coal mining activity.

Reason

To ensure that adequate remediation of coal mining legacy on the site has been undertaken prior to the occupation of the flatted building hereby approved.

6. Prior to the commencement of development, to ensure that the site is clear of contamination, a Geo-Environmental Assessment shall be carried out and the following information shall be submitted to and approved by the Planning Authority:

- Phase I - A preliminary investigation incorporating a desk study, site reconnaissance, development of a conceptual model and an initial risk assessment.
- Phase II - Incorporating a site survey (ground investigation and sample analysis) and risk evaluation. It is required if the Phase I investigation has indicated that the site is potentially contaminated, and the degree and nature of the contamination warrants further investigation.
- Phase III - Where risks are identified, a Remediation Strategy should be produced detailing and quantifying any works which must be undertaken in order to reduce the risks to acceptable levels.

Should remedial works be required then, prior to any residential units being occupied, a Validation Report shall be submitted to and be approved by the Planning Authority confirming that the works have been carried out in accordance with the Remediation Strategy.

The presence of any previously unsuspected or unforeseen contamination that becomes evident during the development of the site shall be brought to the attention of the Planning Authority. At this stage,

further investigations may have to be carried out to determine if any additional remedial measures are required.

Reason:

To ensure that the site is clear of contamination and that remediation works are acceptable prior to the occupation of the house hereby approved.

7. 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.

8. Prior to the 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.

3. PLANNING APPLICATION NO. 23/00722/P: CHANGE OF USE OF FLAT TO SHORT TERM HOLIDAY LET (RETROSPECTIVE), FLAT 6, 139 NEW STREET, MUSSELBURGH EH21 6DH

The Chair invited the Planning Adviser, who had not been involved in the original decision, to present a summary of the planning policy considerations in this case.

The Planning Adviser informed Members that this was an appeal against refusal of planning permission for a change of use of flat to short term holiday let. She outlined the reason for refusal as set out in the original decision notice and provided details of the property, location and short term let business use. She confirmed that a short term let licence had been applied for and was, at the time of this meeting, still in the process of being determined.

The applicant had indicated that they were unaware of any noise or antisocial behaviour issues arising from the use of the flat for short term lets. Turnover of guests was relatively infrequent at this property. Changeover and cleaning were usually done during the day and most guests arrived with a rucksack or small suitcase. The absence of complaints about short term lets overall, reported in East Lothian's consultation on short term let control area, was noted. The applicant therefore considered that the proposal complied with LDP Policies RCA 1 and NPF4 Policy 30 Part e(1). For part 2 of Policy 30, the planning statement argued that compared to the total number of houses in Musselburgh the loss of one flat to the housing supply was negligible. A Report for the Association of Scotland's Self Caterers and Professional Association of self caterers and the VisitScotland factsheet were submitted in support of the application. The applicant's planning statement also referred to work undertaken for Edinburgh Council showing the benefit of short term lets. Together these demonstrated the economic benefits of short term lets. The planning statement also considered that the proposal complied with policy on sustainable transport.

The Planning Adviser stated that five objections had been made to the planning application and she summarised the comments which included: disruption from buzzing and knocking

other flat doors; increased comings and goings, and at anti-social hours; compromised security and potential risk to elderly residents who may be vulnerable; incorrect disposal of waste; short term let use bringing in people who did not care about the residents or properties; police incidents and anti-social behaviour; existing case law in East Lothian prohibiting holiday lets on common stairs; damage to common parts; disturbance from the balcony and music occasionally played at night; and significant effects on amenity and health.

She noted that the Council's Road Services Asset and Regulatory Manager had no objection. The Council's Protective Services did not object but noted that use for short term holiday let could result in future guests in the accommodation misusing and abusing the property in a manner that was antisocial and could result in significant impact upon amenity of neighbours. However, it could not be assumed that this would occur, and it would not be possible to impose any enforceable conditions to protect amenity of neighbours. The Council's Anti-Social Behaviour Team had nothing on their register. No police incidents of anti-social behaviour had been reported.

The Council's Economic Development Manager had been consulted but did not respond. The Council's Housing Strategy and Development Team noted that East Lothian had a high housing need with limited supply. They objected to the application as Musselburgh was part of a constrained housing system, and housing need outstripped supply. They added that there was an existing concentration of short term lets in the area; and the property was not an established short term let. They also provided further research carried out for Edinburgh Council which had found that residential use of 3 bed properties in Edinburgh Eastern constituency had brought in an annual GVA of almost twice that of short term let use.

The Planning Adviser summarised the case officer's assessment of the application. He had noted that change of use to holiday accommodation attracted visitors and encouraged them to stay in East Lothian, supporting the wider economy of East Lothian. The case officer had also considered the impact of change of use on the amenity of existing residential properties. He had considered that short term lets resulted in turnover of people over short time periods, changing the nature of comings and goings to the property itself and the communal areas. Visitors would have luggage and may come and go at antisocial hours, leading to a level of disturbance not associated with long term residential use, harming the amenity of residents. Cleaning and maintenance needs also increased activity levels. Allowing frequently changing guests access to otherwise secure areas changed the actual and perceived level of security for residents. The property at 139 New Street contained a number of long-term residents who shared a communal entrance, stair and hallway. The case officer therefore considered the use incompatible with and harmful to their amenity, contrary to Policy 30E of NPF4 and RCA1 of the LDP.

The Planning Adviser then summarised the applicant's review statement. The applicant had reiterated several points, including that no direct complaints had been made to the management company or themselves concerning noise, litter or anti-social behaviour. The review statement also reiterated points relating to additional comings and goings (e.g. cleaners), no issues having been reported by the Police or Council; concerns about safety and security of residents within the shared stairway. It noted that people entering and leaving did not need to pass close to the doors of other flats, while noise mitigation was good as it was a modern building. Furthermore, short term lets in common stairs were not prohibited in East Lothian. The applicant had confirmed that guests must arrive before 10pm; and had noted that residents could also come and go at anti-social hours. The applicant added that granting a temporary consent would be possible if there was any doubt about the possible impact on amenity. The applicant considered that if there was a housing shortage in Musselburgh, it was not caused by short term lets as the numbers were low. The applicant did not intend to let the property on a long-term basis so it would remain empty for long periods otherwise. Their statement referred to the comments of the Economic Development and Regeneration

Manager on economic benefit. The Report for the Association of Scotland's Self Caterers and VisitScotland factsheet were also submitted in support of the appeal.

The Planning Adviser reminded Members of her initial comments on the status of the development plan. She agreed with the applicant and the case officer that policy on transport was met. There was no specific policy on short term lets within the LDP however it stated that a range of hotel, guest house and other accommodation attracted visitors and encouraged them to stay and benefit the East Lothian economy. The East Lothian Economic Development Strategy 2012-21 identified tourism as one of the strengths of the East Lothian economy, and a source of employment opportunities. In her view, the most relevant planning policies were Policy RCA1 which sought to protect residential amenity and NPF4, Policy 30E, which specifically covered short term lets. Policy 30E included two criteria which must both be met for the use of an existing building as a short term let to be supported. The first was that the proposal must not result in an unacceptable impact on local amenity or the character of a neighbourhood area and was similar to the test of LDP Policy RCA1. The second test of Policy 30E was whether or not the loss of residential accommodation was outweighed by demonstrable economic benefits. She outlined how the tests should be applied.

The Planning Adviser concluded her presentation by reminding Members that, if they were minded to uphold the appeal, the case officer had suggested conditions limiting the number of guests and record keeping which they may wish to consider. Similar controls had been introduced by the DPEA in other cases in Scotland.

The Planning Adviser responded to questions from Members. She outlined the tests in relation to residential amenity; and considering demonstrable economic benefit against loss of housing supply. She also confirmed that there was another short term let within the same block. In response to a question on the representations received, the Clerk confirmed that objections received from interested parties included those who lived in close proximity to the property.

The Chair asked his colleagues to confirm that they had attended the site visit and if they were satisfied that they had sufficient information before them to determine the application. They confirmed this to be the case.

The Legal Adviser asked the LRB members to consider the suggested conditions of planning permission as part of their comments, should they be minded to grant planning permission.

The Chair then invited Members to give their views on the application.

Councillor Forrest said that his main focus was residential amenity. He noted the difficulties of encouraging residents to report complaints due to the transient nature of short term lets. He considered that noise and disturbance in the stair was impossible to avoid, and that residential amenity would be adversely affected. He would be supporting the original decision of the planning officer.

Councillor McLeod agreed with his colleague's views on the impact on residential amenity and, for that reason, he would be supporting the original decision of the planning officer.

Councillor Allan referred to the comments provided by the Council's Housing Team who stated that the economic benefits provided by short term lets did not currently outweigh the loss of residential accommodation in East Lothian. For this reason, she would be supporting the original decision of the planning officer.

The Chair agreed with his colleagues' regarding the impact on residential amenity. However, he understood the economic development point of view and the need, more

generally, to balance all of these issues when considering short term lets. On this occasion, he would be supporting the original decision of the planning officer.

The Legal Adviser confirmed that the LRB members had agreed unanimously to uphold the decision of the planning case officer to refuse planning permission.

Decision

The ELLRB agreed, unanimously, to refuse the appeal and to refuse planning permission for the reasons set out in the original decision notice.

4. PLANNING APPLICATION NO. 23/00824/P: CHANGE OF USE OF FLAT TO SHORT TERM HOLIDAY LET (RETROSPECTIVE), FLAT 4, 133 NEW STREET, MUSSELBURGH EH21 6DH

The Chair invited the Planning Adviser, who had not been involved in the original decision, to present a summary of the planning policy considerations in this case.

The Planning Adviser informed Members that this was an appeal against refusal of planning permission for a change of use of flat to short term holiday let. She outlined the reason for refusal as set out in the original decision notice and provided details of the property, location and short term let business use. She confirmed that a short term let licence had been applied for and was, at the time of this meeting, still in the process of being determined.

The applicant had indicated that they were unaware of any noise or antisocial behaviour issues arising from the use of the flat for short term lets. Turnover of guests was relatively infrequent at this property. Changeover and cleaning were usually done during the day and most guests arrived with a rucksack or small suitcase. The absence of complaints about short term lets overall, reported in East Lothian's consultation on short term let control area, was noted. The applicant therefore considered that the proposal complied with LDP Policies RCA 1 and NPF4 Policy 30 Part e(1). For part 2 of Policy 30, the planning statement argued that compared to the total number of houses in Musselburgh the loss of one flat to the housing supply was negligible. A Report for the Association of Scotland's Self Caterers and Professional Association of self-caterers and the VisitScotland factsheet were submitted in support of the application. The applicant's planning statement also referred to work undertaken for Edinburgh Council showing the benefit of short term lets. Together these demonstrated the economic benefits of short term lets. The planning statement also considered that the proposal complied with policy on sustainable transport.

The Planning Adviser stated that nine representations had been made to the planning application and she summarised the comments which included: disruption; increased comings and goings, and at anti-social hours; compromised security and potential risk to elderly residents who may be vulnerable; incorrect disposal of waste; short term let use bringing in people who did not care about the residents or properties; anti-social and suspicious behaviour; and significant effects on amenity and health. One representation had stated that they had left their home in Edinburgh as there were only holiday lets in the tenement, which had destroyed the community.

She noted that the Council's Road Services Asset and Regulatory Manager had no objection. The Council's Protective Services did not object but noted that use for short term holiday let could result in future guests in the accommodation misusing and abusing the property in a manner that was antisocial and could result in significant impact upon amenity of neighbours. However, it could not be assumed that this would occur, and it would not be possible to impose any enforceable conditions to protect amenity of neighbours. The Council's Anti-Social

Behaviour Team had nothing on their register. No police incidents of anti-social behaviour had been reported.

The Council's Economic Development Manager had been consulted but did not respond. The Council's Housing Strategy and Development Team noted that East Lothian had a high housing need with limited supply. They objected to the application as Musselburgh was part of a constrained housing system, and housing need outstripped supply. They added that there was an existing concentration of short term lets in the area; and the property was not an established short term let. They also provided further research carried out for Edinburgh Council which had found that residential use of 3 bed properties in Edinburgh Eastern constituency had brought in an annual GVA of almost twice that of short term let use.

The Planning Adviser summarised the case officer's assessment of the application. He had noted that change of use to holiday accommodation attracted visitors and encouraged them to stay in East Lothian, supporting the wider economy of East Lothian. The case officer had also considered the impact of change of use on the amenity of existing residential properties. He had considered that short term lets resulted in turnover of people over short time periods, changing the nature of comings and goings to the property itself and the communal areas. Visitors would have luggage and may come and go at antisocial hours, leading to a level of disturbance not associated with long term residential use, harming the amenity of residents. Cleaning and maintenance need also increased activity levels. Allowing frequently changing guests access to otherwise secure areas changed the actual and perceived level of security for residents. The property at 139 New Street contained a number of long-term residents who shared a communal entrance, stair and hallway. The case officer therefore considered the use incompatible with and harmful to their amenity, contrary to Policy 30E of NPF4 and RCA1 of the LDP.

The Planning Adviser then summarised the applicant's review statement. In it, the applicant had expressed surprise at the issues raised having had no direct complaints from neighbours. The review statement also reiterated points relating to additional comings and goings (e.g. cleaners), and that no issues had been reported by the Police or Council. There had been no evidence put forward to show that the short term let was the source of the problems raised by residents. The age of residents was not relevant and permanent residents could also come and go at anti-social hours. The applicant added that granting a temporary consent would be possible if there was any doubt about the possible impact on amenity. The applicant considered that if there was a housing shortage in Musselburgh, it was not caused by short term lets as the numbers were low. They referred to the comments of the Economic Development and Regeneration Manager regarding a short term let application at 139 New Street which stated that there were demonstrable local economic benefits delivered by all types of short term let.

The Planning Adviser reminded Members of her initial comments on the status of the development plan. She agreed with the applicant and the case officer that policy on transport was met. There was no specific policy on short term lets within the LDP however it stated that a range of hotel, guest house and other accommodation attracted visitors and encouraged them to stay and benefit the East Lothian economy. The East Lothian Economic Development Strategy 2012-21 identified tourism as one of the strengths of the East Lothian economy, and a source of employment opportunities. In her view, the most relevant planning policies were Policy RCA1 which sought to protect residential amenity and NPF4, Policy 30E, which specifically covered short term lets. Policy 30E included two criteria which must both be met for the use of an existing building as a short term let to be supported. The first was that the proposal must not result in an unacceptable impact on local amenity or the character of a neighbourhood area and was similar to the test of LDP Policy RCA1. The second test of Policy 30E was whether or not the loss of residential accommodation was outweighed by demonstrable economic benefits. She outlined how the tests should be applied.

The Planning Adviser concluded her presentation by reminding Members that, if they were minded to uphold the appeal, the case officer had suggested conditions limiting the number of guests and record keeping which they may wish to consider. Similar controls had been introduced by the DPEA in other cases in Scotland.

In response to a question from the Chair, the Clerk confirmed that the representations received were from individuals who lived locally. There were no other questions.

The Chair asked his colleagues to confirm that they had attended the site visit and if they were satisfied that they had sufficient information before them to determine the application. They confirmed this to be the case.

The Chair then invited Members to give their views on the application.

Councillor Forrest said that residential amenity was even more of an issue with this application, due to the location of the property within the stair. He was concerned about noise disturbance and did not consider the use of the underground car park to be a mitigating factor. He also offered a general comment on the desirability of purpose-built accommodation for short term lets but accepted that this was unlikely and short term lets in residential settings would always be an issue.

Councillor Allan agreed with her colleague's remarks and was also minded to support the original decision of the planning officer.

Councillor McLeod also echoed his colleagues' views. He believed that there were similar considerations in this, and the previous application and he was minded to support the original decision of the planning case officer.

The Chair also concurred with his colleagues and was minded to support the original decision of the planning officer.

The Legal Adviser confirmed that the LRB members had agreed unanimously to uphold the decision of the planning case officer to refuse planning permission.

Decision

The ELLRB agreed, unanimously, to refuse the appeal and to refuse planning permission for the reasons set out in the original decision notice.

Signed

Councillor Jeremy Findlay
Chair of Local Review Body (Planning)

REPORT TO: Planning Committee
MEETING DATE: 7 May 2024
BY: Executive Director for Place
SUBJECT: Application for Planning Permission for Consideration

3

Note: This application has been called off the Scheme of Delegation List by Councillor Findlay for the following reasons: There are issues of neighbour privacy that need to be considered by the Planning Committee.

Application No. **24/00114/P**
Proposal Installation of CCTV cameras and lighting (Retrospective)
Location **East Gate
Hummel Road
Gullane
EH31 2BG**

Applicant Mr Simon McIntosh

RECOMMENDATION Grant Permission Retrospectively

REPORT OF HANDLING

PROPOSAL

The property to which this application relates to is a two-storey semi-detached house and its garden ground located within a predominantly residential area as defined by policy RCA1 of the adopted East Lothian Local Development Plan 2018. It is also within Gullane Conservation Area.

The property is bounded to the north, south and west by neighbouring residential properties and to the east by the public road of Hummel Road.

Planning permission is sought retrospectively for:

- (i) The installation of four ring CCTV camera lights, two within the south elevation, one within the east elevation and one within the north elevation of the house;
- (ii) The installation of six Astro Richmond lights, two within the south elevation and four within the east elevation of the house; and
- (iii) The installation of four Astro Dartmouth lights within the north elevation of the

house.

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.

Policies 7 (Historic Assets and Places), 14 (Design, Quality and Place) and 16 (Quality Homes) of NPF4 and Policies CH2 (Development Conservation Areas) and DP5 (Extension and Alterations to Existing Buildings) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of the application.

Material to the determination of the application is Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

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.

REPRESENTATIONS

A total of two written letters of objection have been received in relation to the application, both of received from the same objector. A copy of each written representation is attached to this Scheme of Delegation List for members to view. The main grounds of objection can be summarised as follows:

- (i) There is limited information and evidence associated with the application there are no site plans, elevations or photographs to show the exact range and impact of the cameras;
- (ii) There is no police evidence to substantiate the applicant's justification that the cameras are required due to a number of recent break-ins locally;
- (iii) The camera units have not been orientated towards their context and surroundings. There is no substantial assessment of the development context or management of the system as required by policies and regulations, the information provided to the council is wholly inadequate and does not ensure privacy;
- (iv) In this case the CCTV being operated illegally in planning and legal terms is infringing on the objector's privacy rights;
- (v) The CCTV has an audio function and not only is the applicant filming but is also capable of listening in to private conversations. The cameras are causing light pollution in the rear garden, spilling into the objector's property;
- (vi) The objector seeks assurances that the operation of the CCTV is monitored to ensure privacy, cameras at the back door and bathroom are removed and relocated, other cameras operated are manually angled away from the property and outdoor private areas of the objector;
- (vii) The planning enforcement officer has been complicit in facilitating this latest application, without due regard to the loss of privacy and amenity to the objector. The officer has neglected to consider the basic planning policy requirements in relation to adjacent residential properties;
- (viii) The application does not respect its context or create a sense of safety and security for the objector and most significantly it does not ensure privacy and amenity regarding overlooking which fails to comply with policy DP2;
- (ix) Guidance on installing CCTV cameras is covered by class 72 of the Town and Country Planning (General Permitted Development and Use Classes Scotland)

Amendment Order and specifies planning requirements regarding intrusion and inconvenience to neighbours;

(x) The application is contrary to policies DP2, DP5, DP7 and CH2 of the East Lothian Local Development Plan and contrary to policies 7, 14, 16, 23 and 24 of NPF4;

(xi) There is no information on visual or amenity impacts or how these have been minimised through careful siting design and technical considerations contrary to Policy 24 of NPF;

(xii) By virtue of its positioning, orientation and range the application as lodged infringes the objector's liberties and there is no indication provided in relation to impact on privacy and amenity;

(xiii) As the application is within a Conservation Area, it does not accord with the provisions of the Listed Buildings and Conservation Areas (Scotland) Act 1997, and in particular Section 64. It also does not follow Historic Environments Scotland Policy (Managing Change) on Setting;

(xiv) The application is also contrary to East Lothian Supplementary Guidance in relation to Heritage and the Built Environment and Residential Design;

(xv) The Council does not have specific guidance on CCTV systems and therefore needs to treat any contentious applications with due diligence. East Lothian Council should refuse the application until it is satisfied of these matters and how the system can be controlled; and

(xvi) The applicant's statement that the cameras are not directed towards the private gardens of neighbouring properties is untrue.

The application drawings are sufficient to allow the determination of this planning application.

There is no requirement in planning legislation for an applicant to have to justify the need for a development the subject of a planning application.

The matter of the recording of images and sound by CCTV cameras and how images captured by the cameras are used is controlled through Data Protection legislation and not through planning legislation. Therefore, these matters are not material planning considerations relevant to the determination of this planning application.

The role of the planning enforcement officer is not to assess the appropriateness of any development. The role of the planning enforcement officer is to ascertain whether a breach of planning control has taken place. In this case, a breach of planning control had taken place and a retrospective planning application has been submitted. The Town and Country Planning (Scotland) Act 1997 allows for the determination of applications for works that have already been carried out.

The matters raised in relation to class 72 of the General Permitted Development Order (GPDO) are not relevant in the determination of this application. The GPDO sets out what requires planning permission and does not impact on the assessment of any planning application submitted to the Council.

Policies DP2 and DP7 of the East Lothian Local Development Plan are not relevant to the determination of this planning application.

Policies 23 and 24 of NPF4 are not relevant in the determination of this planning application.

PLANNING ASSESSMENT

The lighting units that have been installed on the applicant's house are small in size and

scale. They are discreetly positioned on the south, east and north elevations of the house and are only visible in limited public views from Hummel Road to the east of the site. Therefore, and due to their small size and scale they are not seen to be harmful to the character or appearance of the house, the wider area or harmful to the character and appearance of this part of the Gullane Conservation Area.

The four ring CCTV camera lights are primarily black in colour and thus are distinguishable against the light coloured render of the external walls of the house. However, by virtue of their small size and scale they do not appear as harmfully prominent, intrusive, or incongruous additions to the house. As small sympathetic additions to the building they do not harm the character and appearance of the house or the character and appearance of this part of the Gullane Conservation Area.

The applicant has confirmed that the use of the CCTV cameras is to cover their own garden ground. Furthermore, the use of the cameras does not allow for any overlooking of any neighbouring properties that is significantly different to overlooking already possible from the first floor windows of the applicant's house. Notwithstanding this, the matter of how any images captured by the cameras is used, falls to be considered under Data Protection legislation other and as such it is not a relevant consideration in the determination of this planning application.

The **Council's Senior Environmental Health Officer** has not raised any objection to the application.

The proposals do not conflict with policies 7, 14 and 16 of NPF4 and policies CH2 and DP5 of the adopted East Lothian Local Development Plan 2018. 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 proposal's accordance with the Development Plan.

CONDITION:

- 1 None.

REPORT TO: Planning Committee
MEETING DATE: 7 May 2024
BY: Executive Director for Place
SUBJECT: Application for Planning Permission for Consideration

4

Application No. **23/01253/AMM**

Proposal Approval of matters specified in conditions 1a, 1b, 1c, 1d, 1e, 1f, 1g, 1h, 1i, 1j, 1k, 1l, 1m, 11 and 17 of planning permission in principle 18/00937/PPM for the erection of 92 houses and associated works

Location **Land At Windygoul South
Tranent
East Lothian**

Applicant Avant Homes Scotland

RECOMMENDATION Consent Granted

REPORT OF HANDLING

Although this application is for the approval of matters specified in conditions of planning permission in principle 18/00937/PPM it must 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.

BACKGROUND

On the 19th December 2019 planning permission in principle 18/00937/PPM was granted for a residential development of 561 residential units with associated access, SUDS, roads, open space, future school expansion site, sports pitch and landscape works all on the allocated housing site TT1 and allocated Windygoul Primary School Expansion site TT2 at Windygoul South, Tranent. Docketed to that planning permission in principle is an indicative site plan/masterplan which shows how in principle, the development would be accommodated on the application site.

Since then a number of detailed planning permissions and approval of matters consents have been granted for residential units including affordable housing units, access roads, SUDS and associated works on various parts of the wider site the subject of planning permission in principle 18/00937/PPM and the masterplan docketed to that planning

permission in principle.

PROPOSAL

Through this current application the approval of matters specified in conditions 1a, 1b, 1c, 1d, 1e, 1f, 1g, 1h, 1i, 1j, 1k, 1l, 1m, 1n and 17 of planning permission in principle 18/00937/PPM is sought for the erection of 92 houses on another part of the land to which the planning permission in principle and the masterplan docketed to that permission apply. This now proposed housing site is located towards the southeastern end of the overall site and to the south of the spine road which runs through the site. It is bounded on all sides by the remainder of the site the subject of planning permission in principle 18/00937/PPM. Immediately to the north it is bounded by the new spine road of the overall site and its associated landscaped edges. To the east it is bounded by land which is identified in the masterplan docketed to planning permission in principle 18/00937/PPM as being open space with equipped play provision. To the south and west it is bounded by land which is to become the landscaped perimeter edge of the wider Windygoul South site the subject of planning permission in principle 18/00937/PPM and beyond that to the south and west by agricultural land.

The eastern part of the application site is within an area identified by The Coal Authority as being a Coal Mining Development High Risk Area. The western part of the site is within an area identified by The Coal Authority as being a Coal Mining Development Low Risk Area. A small area of land within the site is identified as being at risk from surface water flooding.

Since the registration of the application, a number of non-material amendments have been made to the proposals resulting in the submission of revised site layouts, colours of finishing materials, landscaping, boundary treatments, parking, road surfacing and road and footpath layouts. Also since the registration of the application, further details on drainage arrangements and broadband connectivity have been submitted.

The development site layout plan shows how the proposed 92 houses would be accommodated on the site along with associated detached garages, boundary treatments, access roads and areas of open space, landscaping and footpaths. The houses would comprise of a mix of 66 detached and 26 semi-detached of 10 different house types. All of the houses would be two-storey in height.

In terms of size, of the proposed 92 houses 28 would contain 5 bedrooms, 25 would contain 4 bedrooms and 39 would contain three bedrooms. All of the houses would be private houses for sale.

Vehicular access to the site would be taken by way of two separate accesses which would be formed directly from the new spine road the subject of planning permission 19/00378/P which lies to the north of the site. The proposed accesses would continue southwards and would branch off to form a series of streets throughout the site. Residential properties would generally face towards the streets and the majority of the proposed residential properties would have in curtilage parking, with the exception of two semi-detached houses at the northwestern end of the site which would have off street parking provided immediately to the rear of them. Visitor parking would also be provided. Footpaths would be formed throughout the site and these would connect to the wider site the subject of planning permission in principle 18/00937/PPM to connect the development the subject of this application to areas of open space and other parts of the residential development the subject of that planning permission in principle and beyond. The submitted details also include for, detached garages, boundary treatments and landscaped open space within the site.

The application is supported by a number of detailed drawings and reports including a Site Investigation Report, Coal Mining Risk Assessments, a Landscape and Visual Impact Assessment, Noise, Odour and Air Quality Impact Assessments, and other related background reporting.

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 adopted National Planning Framework 4 (NPF4) and the adopted East Lothian Local Development Plan 2018 (ELLDP) together with its adopted supplementary guidance.

NPF4 Policies 1 (Tackling the climate and nature crisis), 2 (Climate Mitigation and adaptation), 3 (Biodiversity), 7 (Historic Assets and Places), 13 (Sustainable Transport), 14 (Design, quality and place), 15 (Local living and 20 minute 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.

Relevant ELLDP Policies and Proposals are PROP TT1: Housing at Windygoul South, Tranent, Policy T1: Development Location and Accessibility, Policy T2: General Transport Impact, Policy DP1: Landscape Character, Policy DP2: Design, Policy DP3: Housing Density, Policy DP4: Major Development Sites, Policy DP8: Design Standards for New Housing Areas, Policy DP9: Development Briefs, Policy DCN2: Provision for Broadband Connectivity in New Development, Policy HOU3: Affordable Housing Quota, Policy W3: Waste Separation and Collection, Policy SEH2: Low and Zero Carbon Generating Technologies, Policy OS3: Minimum open Space Standards for New General Needs Housing, Policy OS4: Play Space Provision in New General Needs Housing Development, Policy CH4: Scheduled Monuments and Archaeological Sites, Policy NH10: Sustainable Urban Drainage Systems, Policy NH11: Flood Risk, Policy NH12: Air Quality and Policy NH13: Noise.

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: Housing Quality explains how Designing Streets 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 non-statutory Development Brief (TT1 - Windygoul South, Tranent) which was adopted by the Council on 30 October 2018, the Council's approved non-statutory Supplementary Planning Guidance (SPG) on 'Design Standards for New Housing Areas' adopted by the Council in May 2020 and the approved masterplan for the site as approved by the grant of planning permission in principle 18/00937/PPM. The masterplan sets out the land uses expected for the allocated site and how the Council requires the site to be developed.

REPRESENTATIONS

No written representations have been received to this application.

COMMUNITY COUNCIL COMMENTS

Tranent and Elphinstone Community Council have been consulted on the application but have not provided any comments on it.

PLANNING ASSESSMENT

By the grant of planning permission in principle 18/00937/PPM, approval has been given for the principle of the erection of 561 residential units over the wider allocated site following technical assessments which demonstrated that local and wider infrastructure, subject to financial contributions and conditions, can accommodate such level of development. The indicative site plan docketed to planning permission in principle application 18/00937/PPM is indicatively detailed down to the level of individual house plots and house types which could be accommodated on the overall site the subject of that planning permission in principle and the detailed layout the subject of this current application shows a layout, a density, overall number of units and house types that are broadly consistent with the indicative layout docketed to permission in principle 18/00937/PM for this part of the Windygoul South site. Full regard has therefore been had to the terms of the approved site layout drawing that relates to the wider site and the development now proposed is in conformity with the overall provisions of that approved site layout drawing. There can therefore be no objection in principle to the erection of the 92 houses now proposed on this particular part of the site.

This application seeks approval of matters consent for the matters specified in conditions 1a, 1b, 1c, 1d, 1e, 1f, 1g, 1h, 1i, 1j, 1k, 1l, 1m, 1n and 17 of planning permission in principle 18/00937/PPM. These conditions relate to the height, finishing, layout and design of the residential units, the parking rate, roads layout and other transportation requirements, the boundary treatments to be erected and the landscaping for the site. Therefore, in the determination of this application the Council, as Planning Authority, can only concern itself with these matters. In this regard the detailed proposals have to be considered against relevant development plan policy and conditions attached to planning permission in principle 18/00937/PPM.

The proposed houses, due to their positioning on the application site and by virtue of their height, size and scale, architectural design and finishes would satisfactorily integrate into their surroundings and would not appear as prominent or intrusive features. The other components of the proposed development would not be harmful to the character and appearance of the area. Residential properties would generally face towards the streets.

The architecture of the proposed houses is of a relatively traditional pitched roof form.

Render is proposed as the predominant wall finish with facing brick basecourses. Three different colours of render, three colours of facing brick and two different colours of roof tile are proposed to add visual interest to the development. Differing house types would also add visual interest to the development. In all of this the proposal would be an appropriate residential development of the site. It would be well designed and integrated into its landscape and settlement setting.

The proposed development would provide an attractive residential environment for future residents of the proposed houses. The units are shown to be laid out in such a way that adheres to the normally accepted privacy and amenity criteria on overlooking and overshadowing, whilst affording the future occupants of the houses an appropriate level of privacy and residential amenity. The proposed new houses would be so sited, oriented and screened such as not to harm the privacy and amenity of existing or future neighbouring or nearby residential properties through overlooking or overshadowing.

The **Council's Access Officer** has been consulted but has not provided any comments on the application. Footpath links to the wider residential site the subject of planning permission in principle 18/00937/PPM are proposed and they will allow for pedestrian and cycle access to the wider area and will allow for good connectivity with the remainder of the Windygoul South site.

In respect of landscape matters the applicant has taken into consideration the comments of the **Council's Landscape Projects Officer** in the submission of revised drawings to incorporate enhanced landscape planting within the site which will benefit biodiversity. The provision, maintenance and retention of a scheme of landscaping of the site can be made a condition of an approval of matters consent. On this consideration the proposed development is consistent with Policy 3 of NPF4 and Policy DP1 of the ELLDP.

The **Council's Road Services** have considered the details of the application and raise no objection to the proposed development, being satisfied that it could be accessed safely and would not lead to a road or pedestrian safety hazard. They recommend a number of transportation requirements which, where relevant, can be met through a conditional approval of matters consent for the proposed development. With the imposition of conditions to cover these recommendations of Roads Services, the proposed development does not conflict with Policies T1 or T2 of the ELLDP.

Swept path analysis drawings demonstrating how the site can be serviced for waste collection have been submitted as part of the application. The **Council's Waste Services** have been consulted on the proposals and have confirmed they have no objections to the layout of the proposed development being satisfied that waste vehicles can access and service the site satisfactorily. The Council's Waste Services have provided advice, which has been forwarded to the applicant, on marking or providing signage in turning areas to state that no parking should take place in these areas to allow waste collection vehicles sufficient space to manoeuvre. The Council's Road Services are also satisfied that it has been satisfactorily demonstrated that the site can be serviced for waste collection, or other large, vehicles. The proposal complies with Policy W3 of the ELLDP.

In relation to considerations of contaminated land issues, the **Council's Environment Protection Officer (Contaminated Land)** advises he has previously reviewed a Site Investigation Report which formed part of planning permission in principle application 18/00937/PPM and which covered this and the wider site to which this application relates. He advises that the Site Investigation Report findings indicated that there were no potential pollutant linkages associated with the proposed development site. However, given that reporting was carried out some 6 years ago and considering other specific

circumstances relating to this site, including that the former Calaverock Pit and railway siding along with its associated mine buildings and spoil is situated within the north-central part of the site, there has been a variety of groundworks both on the site and in close proximity to it (both earthworks and ground stabilisation) which could potentially have altered the contamination issues impacting on the site and may have contributed towards localised contamination of the soil, and given the nature of the development (residential units), he advises it would be prudent to impose a condition if approval of matters consent is to be granted requiring a Geo-Environmental Assessment be carried out to determine the ground conditions and potential contamination issues impacting on the site and thereafter that its findings is satisfactorily reported on to the Planning Authority and any necessary measures carried out on site. This requirement can be secured through a condition attached to an approval of matters consent for the proposed development.

The **Council's Senior Environmental Health Officer** raises no objection to the proposed development, being satisfied that it would not result in harm to the amenity of any neighbouring land use and future residents of the proposed development would also benefit from a satisfactory level of amenity.

Matters of drainage and flood risk concerning the wider allocated site were fully considered in the assessment of the planning permission in principle application 18/00937/PPM. The principle, and subsequently the detail, of the provision of a sustainable urban drainage scheme (SUDS) detention basin to serve the wider development has already been approved by the grant of planning permission in principle 18/00937/PPM and the detailed planning permission 19/00379/P.

The Scottish Environmental Protection Agency (SEPA) and the **Council's Team Manager for Structures, & Flooding** have been consulted on this current application and in response to a request from the Council's Team Manager for Structures & Flooding the applicant has submitted further drainage details which confirm that the surface water from this site would connect to the SUDS Basin approved by the grant of planning permission 19/00379/P. Having assessed the revised information submitted, the Council's Team Manager for Structures & Flooding has confirmed that he raises no objections and has no comments to make on drainage or flood risk grounds. SEPA raise no objections on flood risk grounds or any other environmental matters. They have provided regulatory advice which has been forwarded to the applicant for their information. The proposals are consistent with Policies NH10 and NH11 of the ELLDP.

Scottish Water have been consulted on the proposals. They raise no objection and have provided comments relevant to servicing the proposed development which have been forwarded to the applicant for their information.

On all of these foregoing findings on matters of density, design, layout, road, pedestrian, cyclist and other transportation design considerations, drainage, landscaping and amenity, and subject to the imposition of conditions, the proposed development is not inconsistent with the conditions imposed on the planning permission in principle 18/00937/PPM or with the indicative layout/masterplan docketed to that planning permission in principle. It is not inconsistent with NPF4 Policies 13, 14, 15, 16 or 22. Nor is it inconsistent with Proposal TT1 or Policies DP1, DP2, DP3, DP4, DP8, DP9, NH12, NH13, T1 or T2 of the ELLDP, the Council's adopted development brief for the site, the Council's adopted SPG on 'Design Standards for New Housing Areas' or the Scottish Government Policy Statement entitled "Designing Streets" or its PAN 67.

The **Council's Heritage Officer** has been consulted on this current application as the area of the wider site lies in an area which contains previously identified cropmarks of a

putative prehistoric enclosure. The Council's Heritage Officer has not provided any comments on this current application but on previous applications for the wider allocated site he has advised he has no comments to make in relation to the Historic Environment being satisfied that the area has been previously mitigated archaeologically with an evaluation and excavation having already taken place. On this consideration the proposed development does not conflict with Policy 7 of NPF4 or Policy CH4 of the ELLDP.

Areas of landscaped open space are proposed to be created on the site of this current application however most open space provision and the formal play provision are to be formed elsewhere on the wider Windygoul south site, including in an area immediately to the east of the site of this application. In terms of open space and formal play provision the details for this site are consistent with the indicative details shown for this area of the wider site in the indicative site plan docketed to planning permission in principle application 18/00937/PPM and therefore the proposals are consistent with Policy 21 of NPF4 and Policies OS3 and OS4 of the ELLDP.

Part of the site of this current application lies within a Coal Mining Development High Risk Area and the remainder within a Low Risk Area. Condition 9 of planning permission in principle 18/00937/PPM requires the investigation and remediation of mining legacy affecting the wider site the subject of planning permission in principle 18/00937/PPM. The Coal Authority has been consulted on this current application and they have replied noting that this application seeks approval of matters consent for matters specified in conditions 1, 11 and 17 of planning permission in principle 18/00937/PPM and not Condition 9. They advise they have separately commented to the Planning Authority on matters relating to Condition 9. In respect of this current application, The Coal Authority advise the layout appears to avoid building over, or within the zones of influence of, the two mine entries present in this part of the site and they assume that the applicant's geotechnical consultants are satisfied that the zones of influence identified around these two features are adequate. On the basis that this is the case, and cognisant that layout is the only issue of interest for The Coal Authority in respect of these conditions, The Coal Authority confirms that they have no objection to the layout proposed and relevant elements of Condition 1.

In accordance with Policy DCN2 of the ELLDP the applicant has confirmed in writing to the Planning Authority that they will be installing BT Openreach telecoms and broadband connections to the houses within the site. This is consistent with Policies 24 of NPF4 and DCN2 of the ELLDP.

At its meeting on Tuesday 27th August 2019 the Council approved a motion declaring a Climate Emergency. Thereafter, at its meeting on Tuesday 3rd September 2019 the Council's Planning Committee decided that a condition requiring a developer to submit for the approval of the Planning Authority a report on the actions to be taken to reduce the carbon emissions from the building and from the completed development should be imposed on relevant applications for planning permission, including applications for the approval of matters specified in conditions of a planning permission in principle. Such a condition should be imposed on an approval of matters consent for this proposal, were that to be the decision. Subject to such a condition being imposed the proposals are consistent with Policies 1 and 2 of NPF4 and Policy SEH2 of the ELLDP.

The mechanisms to secure sports pitch provision, the transfer of land for additional school campus provision, financial contributions towards primary and secondary school provision, transport improvements, allotment provision, path provision and the provision of 141 units of affordable housing on the overall planning permission in principle site have already been secured through the grant of planning permission in principle

18/00937/PPM. The masterplan docketed to planning permission in principle 18/00937/PPM indicates the parts of the wider Windygoul development that will provide for affordable housing. There is no affordable housing allocated for this part of the site in that docketed masterplan. In this regard the proposal is consistent with the indicative masterplan docketed to planning permission in principle 18/00937/PPM and not inconsistent with Policy 18 of NPF4 or Policy HOU3 of the ELLDP.

In summary, the site is capable of accommodating the proposed development including vehicular, pedestrian and cycle access and landscaped open space. An approval of matters consent for the proposed development in the context of the site being part of housing allocation PROP TT1 of the East Lothian Local Development Plan, and in that its impacts in respect of amenity and technical considerations are acceptable in themselves, or can be mitigated through the appropriate use of planning conditions, would not be inconsistent with National Planning Framework 4, with the Scottish Government's "Designing Streets" or PAN 67, with the relevant policies and proposals of the East Lothian Local Development Plan 2018 or with its adopted supplementary planning guidance or with the principles established by the grant of planning permission in principle 18/00937/PM.

RECOMMENDATION

That Approval of Matters Consent 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 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.

- 3 Prior to the commencement of development, to ensure that the site is clear of contamination, a Geo-Environmental Assessment shall be carried out and the following information shall be submitted to and approved by the Planning Authority:

- o Phase I - A preliminary investigation incorporating a desk study, site reconnaissance, development of a conceptual model and an initial risk assessment.

- o Phase II - Incorporating a site survey (ground investigation and sample analysis) and risk evaluation. It is required if the Phase I investigation has indicated that the site is potentially contaminated and the degree and nature of the contamination warrants further investigation.

- o Phase III - Where risks are identified, a Remediation Strategy should be produced detailing and quantifying any works which must be undertaken in order to reduce the risks to acceptable levels.

Should remedial works be required then, prior to any residential units being occupied, a Validation Report shall be submitted to and be approved by the Planning Authority confirming that the works have been carried out in accordance with the Remediation

Strategy.

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

Reason:

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

- 4 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.

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

The Construction Method Statement shall include details of:

- * Mitigation measures to control noise, dust, construction traffic (including routes to/from site and delivery times).
- * Hours of construction work
- * Routes for construction traffic
- * Wheel washing facilities or alternative facilities to prevent deleterious materials being carried onto the public road on vehicle tyres.

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 and the wheel washing facilities or any alternative facility so approved shall be provided and maintained in working order during the period of construction operations at the site.

Reason:

To minimise the impact of construction traffic in the interests of road and pedestrian safety in the locality.

- 6 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.

Reason

In the interests of road and pedestrian safety.

- 7 Prior to the occupation of any of the houses hereby approved, a timetable for the provision of all boundary treatments, including the erection of the 1.8 metre high boundary enclosures for the rear gardens of the houses hereby approved, shall be submitted to and approved in advance by the Planning Authority and development shall thereafter be carried out in full accordance with the timetable so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

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

- 8 All the open space recreation areas detailed on the docketed drawings, including all of the benches proposed to be installed in them, shall be available for use prior to the occupation of the last house on the site. The open space recreation areas and benches, when provided, shall be used and retained for such purposes at all times thereafter unless agreed in writing by the Planning Authority.

Reason:

To ensure the satisfactory laying out of all areas of open space in the interest of the amenity of the future occupants of the dwellings hereby approved.

- 9 Prior to the occupation of the last house hereby approved, the proposed access roads, parking spaces and footpaths shall have been constructed on site in accordance with the docketed drawings.

Those areas of land shall not thereafter be used for any other purpose than for accessing and for the parking of vehicles in connection with the residential use of the houses and shall not be adapted or used for other purposes without the prior written approval of the Planning Authority.

Reason:

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

- 10 All planting, seeding or turfing comprised in the details of landscaping on docketed drawing nos. 53.88.01c; 53.88.02c; 53.88.03c and 53.88.04c 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 landscape drawings.

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.

REPORT TO: Planning Committee
MEETING DATE: 7 May 2024
BY: Executive Director for Place
SUBJECT: Application for Planning Permission for Consideration

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Note: This application has been called off the Scheme of Delegation List by Councillor McFarlane for the following reasons: I believe it would be beneficial for the Committee to visit the site and fully discuss this application because there are a mix of ages and styles of properties, and other infills, already on this street.

Application No. **23/00484/P**
Proposal Erection of one house and associated works
Location **Garden Ground to the Rear of 1A
West Bay Road
North Berwick
East Lothian**

Applicant Mr Gary Henderson and Ms Linda Stone
Per Somner Macdonald Architects

RECOMMENDATION Application Refused

REPORT OF HANDLING

PROPOSAL

This application relates to the garden ground of the flatted property of 1A West Bay Road, which is to the north side of the flatted building of 1 West Bay Road. The flatted building contains a total of 4 flats, including the applicant's flat. It is within a predominantly residential area as defined by Policy RCA1 of the adopted East Lothian Local Development Plan 2018. The application site falls within the North Berwick Conservation Area.

The application site is bounded to the east by the public road of West Bay Road and to the south, west and north by neighbouring residential properties.

PLANNING HISTORY

In November 2020 planning permission (Ref: 20/00936/P) was granted for the addition of

an extension to the north elevation of the flatted building, the formation of balcony, steps, vehicular access, hardstanding area and erection of a retaining wall all within the garden ground to the north side of the flatted building. Planning permission Ref: 20/00936/P has not been implemented and has now lapsed.

PROPOSAL

Planning permission is now sought for the erection of one house with associated parking, hardstanding, fencing and gates on the garden ground to the northwest of the flatted building of 1 West Bay Road.

Planning permission is also sought for the formation of two off-street parking spaces with associated hardstanding, steps and retaining wall on the area of garden ground to the northeast of the flatted building. These proposed parking spaces would serve the existing flatted property of 1a West Bay Road, North Berwick.

The garden ground to the north side of the flatted building rises up from West Bay Road and currently comprises a sloping driveway leading to three parking spaces for three of the flats within the flatted building. Beyond the three parking spaces is the area of garden ground on which the proposed house would be erected. That area of garden ground also slopes upwards (westwards) and is not flat. It presently has an area of stepped decked terraces on it.

The proposed house would be located on the area of garden ground that presently has the stepped decked terrace on it. To facilitate the erection of the house the decked terrace would be removed and the land beneath in part levelled. The rear (west) elevation of the proposed house would be built into and in part sit upon the steeply sloping banking comprising the western side of the application site.

The proposed house would be a two storey, detached flat roofed, house that would have a length of some 10.7 metres; a width of some 5.7 metres and would have a height of some 5.7 metres.

The proposed house would be of a contemporary form and finish, comprising two flat roofed components that would sit one upon the other. It would be finished externally in a grey composite cladding with a dark grey uPVC flat roof membrane. The flat roof of the upper component of the house would have two rows of PV panels located on it that which would have a length of some 8 metres and a height of some 1.07 metres. The proposed window and door frames would be of grey powder coated aluminium construction, with the exception of the front entrance door which would be of composite construction. The proposed fascias, trims and rainwater goods would be of grey powder coated aluminium construction. The proposed balcony to the front (east) of the house would be enclosed by a 1.5-metre-high obscure glazed glass balustrade to its side (north) and side (south) components and a 1.1-metre-high balustrade to its front (east) component. The proposed areas of hardstanding would comprise of textured paving and the proposed parking space for the house would comprise of monobloc paving.

The proposed house would comprise of a vestibule, hall, two bedrooms with associated en-suites and storage areas at ground floor level. At first floor level the proposed house would comprise of an open plan living, kitchen and utility area and a bathroom. At first floor level access will be provided to the balcony to the front (east) elevation of the proposed house.

Access to the proposed house would be taken by the existing sloping vehicular access which serves the flatted building of 1 West Bay Road and which leads to three parking

spaces. One of those parking spaces is currently associated with the applicant's flat but will become the parking space for the proposed house. Paving would be provided from this parking space to the front and sides of the proposed house.

Amenity space for the proposed house will be provided in the form of a first-floor balcony which would be on the front (east) elevation of the proposed house and a terrace to the rear (west) side of the proposed house respectively. Two further small strips of garden would be situated to the sides of the house.

The north and west boundaries of the property would utilise the existing high stone wall, which varies in height due to the sloping nature of the site. To the south the submitted drawings indicate a 1.8-metre-high close boarded timber fence with associated gate would be provided. A gate would also be provided to the north of the house to allow access to the EV charging point and refuse and recycling storage.

In conjunction with the proposal to erect the house and to compensate for the loss of the parking space for the applicant's flat, it is proposed to provide 2 new parking spaces for this flat on the area of hardsurfaced area of garden ground to the east (front) of the flatted building. To facilitate the formation of these parking spaces, it is proposed to remove part of the existing low stone boundary wall that encloses the front (east) boundary and to remove the existing hardstanding, steps and a section of low fencing in the applicants' front garden. Two off-street spaces with associated steps and retaining wall would be formed on that area of garden ground. The proposed area of hardstanding would comprise of monobloc. The proposed retaining wall would have a height of some 1.1 metres.

A supporting statement has been submitted alongside the application which, in summary notes the applicants' flatted property was granted planning permission (ref: 20/00936/P) for 'Extension to flat, formation of balcony, steps, vehicular access, hardstanding area and erection of retaining wall'. Subsequent to the grant of this planning permission the applicant has reconsidered that their long-term needs would be best met by no longer aiming to stay in their current property, 1A West Bay Road, but instead seek to construct a new, smaller, energy efficient dwelling, making use of their largely unused private rear garden. The supporting statement notes there is a variety of built forms. To the south is a modern brick built, flat roofed, two storey block of flats of West Bay Court; to the north there is a modern detached house, built on land to the side of another neighbouring Victorian villa; and further along West Bay Road to the north are more modern detached single storey houses. The supporting statement concludes that there is not a consistent built form on the west side of West Bay Road, rather a series of different styles, each reflecting the era in which it was constructed. Therefore, the house proposed as part of this planning application can be regarded as following in, and being consistent with, that established pattern of development. Furthermore, the proposed house would be set back from the site boundaries with properties to the north, west and south of the application site and therefore, the house would not be readily apparent in the overall streetscape. The proposed house has been designed to have a contemporary architectural form, proportions and detailing that would sit comfortably within the surrounding area and would not noticeably change the character of the area or be harmful to the character and appearance of the North Berwick Conservation Area.

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), 3 (Biodiversity), 7 (Historic Assets and Places), 13 (Sustainable Transport), 14 (Liveable Place) and 16 (Quality Homes) of NPF4 and Policies CH2 (Development Affecting Conservation Areas), DP2 (Design), DP7 (Infill, Backland and Garden Ground Development), RCA1 (Residential Character and Amenity), T1 (Development Location and Accessibility) 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 is Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that a planning authority must have regard to the desirability of preserving or enhancing the character or appearance of a conservation area in exercising its responsibilities in the determination of any application for planning permission for development affecting a conservation area.

Planning Advice Note 67: Housing Quality 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.

COMMUNITY COUNCIL

In their capacity as a consultee North Berwick Community Council raise questions regarding the proposed development. In summary, these are (i) does the in-fill proposed house constitute overdevelopment of the plot; (ii) does the substantial overshadowing of the neighbouring house and garden set a precedent for future applications; and (iii) does this in-fill development enhance, or at least preserve the character of the conservation area.

REPRESENTATIONS

A total of 27 representations have been received in relation to this planning application 26 of which raise objection to it. However, as neighbours were re-notified, five objectors made more than one objection. In summary, the main grounds of objection are:

- i) The proposed house is intrusive, out of keeping and inappropriate to West Bay Road and the North Berwick Conservation Area;
- ii) The labelling of the drawings is inaccurate and the drawings do not all tie in and

are misleading;

- iii) Building close to boundary wall would make maintenance difficult;
- iv) The form, mass, scale and design of the proposed house bears no relationship to nearby properties;
- v) The proposed house would be an overdevelopment of the site and would not respect the building line of West Bay Road;
- vi) If approved it would set a precedent for future infill development;
- vii) The proposed design and materials are inappropriate for the locality and North Berwick Conservation Area;
- viii) There is no mention of what will happen to the telephone pole situated within the site;
- ix) An objector requests a condition be applied if approved that telephone cables be routed below ground;
- x) Loss of privacy and amenity to neighbouring properties;
- xi) Loss of sunlight and daylight to neighbouring properties;
- xii) The drawings do not show the proposed house in relation to neighbouring properties;
- xiii) There would be a clear view of the proposed house from neighbouring properties and gardens;
- xiv) The application form and land ownership certificate are allegedly incorrect;
- xv) A parking space is proposed on land allegedly not owned by the applicant;
- xvi) No topographical survey, design statement or heritage statement has been submitted;
- xvii) The plans do not show the proposed garden ground for the house and existing property 1A West Bay Road;
- xviii) Insufficient parking for the proposed house;
- xix) Increase in demand for on-street parking on West Bay Road;
- xx) Loss of garden space/habitat for wildlife;
- xxi) Access to the house is via a shared driveway;
- xxii) The proposed house has insufficient garden ground;
- xxiii) Concern is raised regarding the stability of the stone boundary wall and garden ground of neighbouring properties;
- xxiv) A noise impact assessment should be submitted alongside the application due to

proposed house proximity to neighbouring properties;

xxv) The red line boundaries on the submitted drawings allegedly do not reflect the ownership shown on title deeds;

xxvi) There is no red line linkage between the car parking space and the public road;

xxvii) Construction of the house may be impossible given the narrow width of the car space access to the proposed plot;

xxviii) The decking on the site of the proposed house is allegedly unauthorised in Planning terms;

xxix) The proposal does not include provision for rainwater runoff;

xxx) The off-street parking space with electric car charging is not of a suitable size to accommodate a vehicle; and

xxxi) An objector notes they did not receive a neighbour notification regarding the planning application.

Subsequent to the registration of the application the agent has provided multiple amended drawings to address issues regarding inaccuracies and the drawings are now deemed sufficient to assess the proposal and to determine this application. Upon receipt of these drawings the application was re-advertised and neighbours were re-notified.

Furthermore, subsequent to the registration of the application the agent has submitted a copy of his clients Title Deeds to address the alleged land ownership issues. The red line boundary shown on the submitted drawings tie in with the land owned by the applicant on that submitted Title Deed Plan and the application form and land ownership certificate are deemed sufficient to enable to determination of this planning application. Any further disputes regarding land ownership would be a civil matter between affected parties. This is not a matter relevant to the determination of this planning application.

Neighbours within a 20 metres bubble of the application site have been sent neighbour notifications. Furthermore, a site notice has been placed in close proximity to the site and the application was advertised in the East Lothian Courier in accordance with the Council's statutory duties.

Whilst it is noted that access to the proposed house would be via a shared driveway this matter of access to build the proposed house and access it is a civil matter between affected parties and is not a material consideration in the determination of this planning application. Furthermore, this area of shared land is not required to be included in the red line boundary on the submitted drawings.

The maintenance of the proposed house in relation to it being built close to boundary walls is not a material planning consideration in the determination of this planning application.

The comments received regarding to a precedent being set for similar in-fill development if this planning application were to be approved is not a material consideration in the determination of this planning application as each case is determined on its own merits.

Subsequent to the registration of the application the agent has submitted amended drawings which show the existing telephone pole within the site being re-located and a

proposed site plan.

The loss and/or obstruction of a private view is not a material consideration in the determination of this planning application.

The lack of a topographical survey, design statement or heritage statement does not preclude the determination of this planning application. If approved a condition could be imposed to require site setting out details. Furthermore, the application is accompanied by a Supporting Statement.

The stability of the stone boundary walls and neighbouring garden ground as a result of any work to build the proposed house is a civil matter between affected parties and is not a material consideration in the determination of this planning application.

A Noise Impact Assessment is not deemed a requirement to assess and determine this planning application as it is not of a scale and nature that requires such an assessment.

The alleged unauthorised decking on the site of the proposed house has been passed on to the Planning Enforcement Officer to investigate accordingly. This matter is not relevant to the determination of this planning application.

If planning permission were to be granted for the proposed house it could be made a condition of that grant of planning permission that details of the measures to be installed to prevent surface water run off be submitted to and approved prior to development commencing.

The other points raised in the aforementioned objections are addressed in the assessment below.

PLANNING ASSESSMENT

The Council's Senior Environmental Health Officer has been consulted on the application and advises he has no comments relating to the proposed development.

Scottish Water have been consulted on the application and advise there is currently sufficient capacity in the Castle Moffat Water Treatment Works to serve the proposed development. Furthermore, it is advised there is currently sufficient capacity for a foul only connection in the North Berwick Waste Water Treatment works to service the proposed development. However, it is advised that further investigations may be carried out once a formal application is submitted to Scottish Water.

The Council's Road Services have been consulted on the application and note the proposed parking provision and access are acceptable and note the inclusion of an EV charger to the proposed house. They raise no objection to the application being satisfied that the proposals are not contrary to Policy 13 of NPF4 or Policy T1 and T2 of the adopted East Lothian Local Development Plan 2018.

The Council's Biodiversity officer has been consulted on the application and advises she has no objection to this proposal, as development of the garden ground will not significantly impact on priority or protected habitats or species. Subject to a condition being attached to any grant of planning permission requiring the submission of a biodiversity enhancement plan the proposals are not contrary to Policy 3 of NPF4.

The Council's Flooding Officer has been consulted on the application and advises that as the site is not at risk of flooding, he raises no objections to the proposed development on

the grounds of flood risk.

The Council's Landscape Department have been consulted on the application and advise they have no comments to make regarding the proposed development.

The proposed formation of 2 off-street parking spaces which would serve the flatted property of 1a West Bay Road with their associated hardstanding, steps and retaining wall in the garden to the east of the site would be readily visible from public views. However, there are a number of residential properties in the locality that have hard surfaced parking spaces formed in their roadside boundaries. They are a part of the established character of this part of the Conservation Area. The proposed new parking spaces would be seen in relation to the existing vehicular accesses and parking spaces in the locality. In the context of its surroundings, such an additional parking spaces would not appear as an alien or incongruous feature. In such circumstances the proposed vehicular access would not harm the setting of the flatted building, the appearance of the streetscape or the character and appearance of this part of the North Berwick Conservation Area.

The proposed area of hardstanding, comprising of mono-block paving, for use as a driveway and to accommodate two off-street car parking spaces within the front garden of the applicant's flat would, by virtue of its extent, form, materials and positional relationship with the proposed vehicular access, be appropriate to its place and in keeping with its surroundings. It would not be harmful to the setting of the flatted building or to the character and appearance of this part of the North Berwick Conservation Area. The use of it would not give rise to a harmful loss of privacy or amenity to any neighbouring residential properties.

The proposed lengths of retaining walls with steps would replace the existing lengths of timber fencing and concrete steps located within part of the front garden of the applicant's flat. By their extent, form, materials and positions, the proposed lengths of retaining walls with steps would be appropriate to their place, in keeping with their surroundings and would not be harmful to the setting of the flatted building or to the character and appearance of this part of the North Berwick Conservation Area.

The application site is part of a wider area characterised as being of residential character and amenity by Policy RCA1 of the adopted East Lothian Local Development Plan 2018. Policy RCA1 does not actively promote the development of land for new residential development. The principal purpose of Policy RCA1 is to ensure that the predominantly residential character and amenity of existing housing areas is safeguarded from the adverse impacts of uses other than housing. However, Policy RCA1 does state that proposals for new development will be assessed against appropriate local plan policies, which in the case of infill, backland and garden ground development is Policy DP7 of the adopted East Lothian Local Development Plan 2018.

The site is within a predominantly residential area with residential properties to the north, south and west of it. The erection of a house on the site would amount to infill housing development within this part of North Berwick and therefore Policy DP7 would apply.

With respect to infill, backland and garden ground development Policy DP7 of the ELLDP requires that the following design principles are met:

1. The site can accommodate the entire development, including an appropriate amount of open space, satisfactory vehicle and pedestrian access, car parking and where necessary vehicle turning space; and

2. The occupants of existing neighbouring development experience no significant loss of privacy and amenity and occupants of any new development must also enjoy privacy and amenity; and

3. The scale, design and density of the proposed development will be sympathetic to its surroundings, overdevelopment of the site will be unacceptable and landscape and boundary features important to the character of the area must be retained where possible; and

4. There will be no material loss of greenfield land or open space important to the character or recreation and amenity requirements of the area, and no loss of important physical or natural features.

Policy DP2 of the adopted ELLDP requires that all new developments must be well designed and sets out a number of design principles. Amongst these are the requirement that all new development must be appropriate to its location in terms of its positioning, size, form, massing, proportion and scale and use of a limited palette of materials and colours that complement its surroundings and retain physical or natural features that are important to the amenity of the area or provide adequate replacements where appropriate.

Therefore, the principal determining factor in this case is whether, having regard to national and local planning policy and guidance and other material considerations the principle of a new house and the works associated with it would be acceptable, with due regard to its potential impact on the character and residential amenity of the area, including the impact on the character and appearance of the North Berwick Conservation Area. Furthermore, due regard has to be placed on the impact of the proposed development on neighbouring residential properties.

Policy DP7 amongst other things requires that the occupants of existing neighbouring properties experience no significant loss of privacy and amenity from new development and that the occupants of any new development must also enjoy privacy and amenity.

In assessing whether or not a proposed new development would result in harmful overlooking and therefore loss of privacy to existing neighbouring residential properties it is the practice of the council, as a planning authority to apply the general rule of 9 metres separation distance between the windows of a proposed new development and the garden boundaries of neighbouring residential properties and an 18 metres separation distance between directly facing windows of the proposed new development and the windows of existing residential properties.

In relation to the above, the glazed openings to be formed at ground and first floor level to the front (east) elevation of the proposed house would face over the garden ground of the proposed house, beyond to a shared driveway with parking spaces, beyond to West Bay Road and would not fall within 18 metres of any directly facing windows of any neighbouring residential properties. Whilst these glazed openings would overlook a shared driveway and parking spaces these are areas of ground that do not benefit from any significant degree of privacy at present. They would not allow for harmful overlooking of any neighbouring residential properties.

The glazed openings to be formed at ground floor level in the side (south) elevation of the proposed house would face onto a 1.8-metre-high timber fence and as such would not allow for any harmful overlooking of any neighbouring residential properties.

The glazed opening to be formed at first floor level in the side (south and north)

elevations of the proposed house would be set some 1.5 metres above the finished floor level of the proposed house. At such a height above finished floor level they would not allow for harmful overlooking of the neighbouring residential properties to the south and north.

The glazed opening to be formed at ground floor level in the side (north) elevation would face onto the high stone wall boundary treatment and as such would not allow for any harmful overlooking of any neighbouring residential properties.

The glazed opening to the rear (west) elevation of the proposed house would face onto to the high stone wall boundary treatment and as such would not allow for any harmful overlooking.

The use of the terrace area to the rear of the proposed house would be enclosed by a mix of high stone wall boundary treatment and high fencing and as such the use of it would not allow for any harmful overlooking.

The first floor balcony to be formed on the front (east) elevation of the proposed house would have a 1.5-metre-high opaque glazed screen enclosing its side (north) and side (south) components and as such these screens would prevent harmful overlooking of neighbouring residential properties. The front (east) component of the balcony would feature a 1.1-metre-high clear glazed balustrade. However, this would face over a shared driveway, parking spaces and onto West Bay Road and as such the use of the proposed balcony would not give rise to any harmful overlooking of any neighbouring residential properties.

On the matter of the impact of the proposed house on daylight and sunlight on neighbouring properties, guidance is taken from "Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice" by P.J. Littlefair.

Application of the 25-degree daylight test to the neighbouring residential property of 3 West Bay Road indicates the proposed house would fail in relation to the conservatory situated to the rear of 3 West Bay Road. However, when the 25-degree daylight test is applied to the conservatory of that residential property it fails in respect of the existing high stone wall boundary treatment and as such there would be no harmful loss of daylight to 3 West Bay Road.

Application of the 25-degree daylight test to the 1C West Bay Road indicates the proposed house would not result in a harmful loss of daylight to that neighbouring residential property.

Furthermore, application of the 45-degree daylight test indicates there would be no harmful loss of daylight to any neighbouring residential properties.

The sunlight test has been undertaken on March 21st in line with the guidance set out in "Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice" by P.J. Littlefair. The sunlight test indicates the proposed house would cast a shadow on the garden ground of 8 York Road between the hours of 08.00 and 11.00. The sunlight test also indicates the proposed house would cast a gradual shadow over the garden ground of 3 West Bay Road between the hours of 10.00 and 16.00. However, the guidance states that at least half of a garden should receive at least two hours of sunlight on 21st March. Therefore, the proposed house by virtue of its size, form and positioning would not allow for a harmful loss of sunlight to any neighbouring residential properties.

Notwithstanding all of the above it must now be established whether the building of a

house on this application site would, as required by Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, preserve or enhance the character or appearance of the conservation area, and thereafter whether this form of development would be consistent with national and local planning policy or if not whether there are any material considerations that would outweigh the fact that it would not accord with planning policy.

The land of the application site is garden ground within the confines of the predominantly residential area of North Berwick. It is part of the curtilage of the detached flatted building of 1 West Bay Road which is to the south of the application site. The site for the proposed house is a sloped site which presently has a stepped decked terrace on it. Due to the sloping nature of the application site the proposed house would be constructed on land the ground level of which would be some 2.3 metres higher than the level of West Bay Road. Due to the higher ground level of the site and of its positioning within the garden the proposed house would be readily visible from public views from West Bay Road.

It would in terms of its design and external finishes be of a contemporary form and finish that would be very different in character and appearance to the form and appearance of the other houses and buildings of West Bay Road. Its flat roofed boxed form and appearance and its use of modern non-traditional materials would be at odds with the built form of this part of West Bay Road. Consequently, the proposed house would not be of a design or appearance that would be sympathetic to its setting or well-integrated into its surroundings. Instead it would be of a form and character inappropriate for this part of the North Berwick Conservation Area. Therefore, the proposed house would have an adverse effect on and would neither preserve nor enhance but would be harmful to the character and appearance of this part of the North Berwick Conservation Area contrary to NPF4 Policies 7, 14 and 16 and Policies CH2, DP2 and DP7 of the adopted East Lothian Local Development Plan 2018.

Policy DP7 amongst other things requires that a site for a new development is of sufficient size so that it can accommodate the entire development, including an appropriate amount of open space.

The proposed house would be erected on a tightly constrained site and would occupy most of the plot. Consequently there would be little land on which to form any useable garden ground for the occupants of the proposed house. Whilst it is proposed to form a first floor balcony on the front elevation of the building due to its location on the front of the house, that balcony would not be an area that would have any degree of privacy. Therefore and as the other areas of ground would not be of sufficient size or positioning to afford the occupants of the house any private amenity as useable garden ground the proposed house would be a cramped form of infill development that would be contrary to Policy DP7 of the adopted East Lothian Local Development Plan.

Policy DP7 also requires that consideration must be given to the impact of a development on the occupants of neighbouring properties and that they should experience no significant loss of amenity. The proposed house would be constructed on land the ground level of which would be some 2.3 metres higher than the ground level of the neighbouring house of 3 West Bay Road to the north. It would be so positioned to sit alongside and only some 3.14m away from the conservatory attached to the side and rear elevations of that property. Consequently, due to the difference in ground levels although only some 3m in height when measured from the ground level of the application site, the proposed house would be some 5.1m higher than the ground floor level of the neighbouring house of 3 West Bay Road.

Due to this difference in ground levels and of its proximity to that neighbouring house, the

proposed house would have an overly dominant and overbearing impact on the neighbouring house of 3 West Bay Road to the north and in particular on the conservatory attached to the side and rear elevations of that neighbouring house. This would harm the residential amenity of the occupants of that neighbouring house contrary to Policy DP7 of the adopted East Lothian Local Development Plan 2018.

The proposed house is contrary to Policy 7 (Historic Assets and Places) of NPF4 and Policies CH2 (Development Affecting Conservation Areas), DP2 (Design), DP7 (Infill, Backland and Garden Ground Development), of the adopted East Lothian Local Development Plan 2018. In conclusion, the proposal is considered not to be in accordance with the aforementioned provisions of the stated relevant Development Plan policies and there are no material considerations which outweigh the proposal's discordance with the Development Plan.

REASONS FOR REFUSAL

- 1 The proposed house would in terms of its design and external finishes be of a contemporary form and finish that would be very different in character and appearance to the form and appearance of the other houses and buildings of West Bay Road. Its flat roofed boxed form and appearance and its use of modern non-traditional materials would be at odds with the built form of this part of West Bay Road. Consequently, the proposed house would not be of a design or appearance that would be sympathetic to its setting or well-integrated into its surroundings. Therefore, the proposed house would have an adverse effect on and would neither preserve nor enhance but would be harmful to the character and appearance of this part of the North Berwick Conservation Area contrary to NPF4 Policies 7, 14 and 16 and Policies CH2, DP2 and DP7 of the adopted East Lothian Local Development Plan 2018.
- 2 Due to the difference in ground levels with, and of its proximity to the neighbouring house to the north of 3 West Bay Road, the proposed house would have an overly dominant and overbearing impact on that neighbouring house and in particular on the conservatory attached to the side and rear elevations of that neighbouring house. This would harm the residential amenity of the occupants of that neighbouring house contrary to Policy DP7 of the adopted East Lothian Local Development Plan 2018.
- 3 The proposed house would be erected on a tightly constrained site and would occupy most of the plot. Consequently there would be little land on which to form any useable garden ground for the occupants of the proposed house. Therefore there would be no area of garden ground of sufficient size or positioning to afford the occupants of the house any private amenity space as useable garden ground. Consequently as the application site cannot accommodate the entire development of a suitably proportioned house with private garden space the proposal is contrary to Policy DP7 of the adopted East Lothian Local Development Plan 2018.