



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

**TUESDAY 4 JUNE 2024
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON
& HYBRID MEETING FACILITY**

Committee Members Present:

Councillor N Hampshire (Convener)
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 C Yorkston

Other Councillors Present:

Councillor S Akhtar

Council Officials Present:

Mr K Dingwall, Service Manager – Planning
Mr C Grilli, Service Manager – Governance
Ms E Taylor, Team Manager – Planning Delivery
Ms J McLair, Planner
Mr M Mackowiak, Planner
Ms S Cheyne, Projects Officer – Landscape
Mr C Clark, Senior Environmental Health Officer
Mr J Canty, Transportation Planning Officer
Mr A Hussain, Transportation Planning Officer
Ms M Haddow, Transportation Planning Officer
Ms P Gray, Communications Adviser
Mr J Baker, Service Manager – Economic Development

Clerk:

Ms B Crichton

Visitors Present/Addressing the Committee:

Item 3: Mr T Thomas, Mr J Brand, Mr N De Freitas, Mr S Winpenny, Ms S Renton, Mr J Carson, Mr M Davies, and Ms L Shaw Stewart
Item 4: Mr J Scott, Mr B Hall, and Mr B Hickman
Item 5: M G Burborough, Ms J Bell, and Mr D Campbell

Apologies:

Councillor L Allan
Councillor J McMillan

Declarations of Interest:

None

Before the first item of business, Keith Dingwall, Service Manager – Planning, advised the meeting that the Planning Authority had become aware that an incorrect statement had been made regarding ownership of the land in the application site for Items 6 and 7. As the proper ownership notification had not been carried out, the applications could not be heard.

1. MINUTES FOR APPROVAL
a. Planning Committee, 7 May 2024

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

2. MINUTES FOR NOTING
a. Local Review Body (Planning), 29 February 2024

The Committee agreed to note the minutes.

b. Local Review Body (Planning), 21 March 2024

The Committee agreed to note the minutes.

3. PLANNING APPLICATION NO. 23/00753/PM: RELOCATION OF EAST LINKS FAMILY PARK TO EAST FORTUNE FARM AND ASSOCIATED WORKS, EAST FORTUNE FARM, EAST FORTUNE, ATHELSTANEFORD

A report had been submitted in relation to Planning Application No. 23/00754/PM. Julie McLair, Planner, presented the report, highlighting the salient points. She also stated that the current park could remain in authorised planning use, but not under the business name of East Links Family Park. She confirmed that the application was for an additional family park site and not for a replacement. The report recommendation was to refuse consent.

Officers responded to questions from Councillor Findlay. Ms McLair advised that the Council had sought legal advice, which had confirmed that a Section 75 legal agreement would have to be entered into if the applicant wished to secure the loss of any further agricultural land. She also confirmed that there had been no application or pre-application enquiry made regarding development of the East Fortune Hospital site. Mr Dingwall added that the hospital site was not allocated for development within the adopted East Lothian Local Development Plan 2018 (LDP), but was covered by Policy DC1, which was the countryside policy.

Responding to questions from Councillor McLeod, Ms McLair, along with Jon Canty and Morag Haddow, Transportation Planning Officers, explained that existing businesses such as Merryhatton Garden Centre and the Museum of Flight had been determined under previous policies. Although visitors to these attractions mainly travelled by car, these attractions had

not been subject to current assessment; concerns were raised about this application under current policies due to a lack of facilities for public transport access. Ms Haddow added that Merryhatton Garden Centre and the Museum of Flight were on a bus route, whereas the proposed family park site was a greater distance from the closest bus stop.

Grant Bell, managing director and business owner of East Links Family Park, spoke to the application. He said the business was about giving families access to farms, and there had been many farms considered for the move of the business from East Links. He reported there had been a good deal of involvement from various Council departments, and pointed out that the application was acceptable on all fronts other than transportation. He also pointed out that the LDP encouraged development proposals which contributed to sustainability, and he felt that LDP Policy 29 outweighed the first recommended reason for refusal. He also explained that 300,000 car miles per year would be saved by moving the premises closer to the centre of East Lothian. He felt the new family park would give East Fortune a sense of identity. He was content to accept planning conditions relating to speed controls. Addressing the fourth recommended reason for refusal, he advised that Lothian Buses passengers could ask to be set down or picked up anywhere along this route, and said the existing path could be updated and formalised. He advised that Hedderwick Hill bus stop was used rarely, but there would be a bus turning circle within the car park. He highlighted that there was a positive officer report, and he had been able to offer solutions to all recommended reasons for refusal. He said that the current site was recognised as one of the top farm attractions in the country, and 350 owner delegates had visited to learn from the running of the family park. He asked Members to allow him to continue with his commitment to, and investment in, the area.

Mr Bell answered questions from Councillor Collins. He advised that the area outside of the railway line would continue to have agricultural activities, with livestock, cropping, demonstrations, grazing, and experiences such as a 'potato week'. Responding to a question about safety, he said that agricultural machinery would not be taken out during agricultural hours, or if it had to be, a banksman would follow to ensure safety. He advised that the land would be sprayed before the park was opened. He stated that there were no badger sets on the land. He also advised that the railway line would run between the new sheds to allow visitors to view the livestock.

Responding to questions from Councillor McLeod regarding traffic and safety improvements, Mr Bell said that a 40mph speed limit had been considered at the pre-application stage. He advised that it would be possible to move the entrance to the east, which would give full 60mph visibility splays; he noted that this would be a positive for the park, but the existing caravan park entrance had been used to save farmland. He thought there would be advantages to there being signage and flower boxes at all three entries, giving a good sense of identity and improving safety. Tony Thomas, the applicant's agent, added that the speed survey at the caravan site showed that the average speed was below 30mph, and yet the applicant was being asked to meet standards for 60mph in terms of visibility splays. He added that road features meant cars travelled much more slowly than this around the main access at the east. He advised that there had been communication with Eve and Lothian Buses to try to deliver a better solution, since the existing bus stop for the X7 was half a mile from the front door and there was no existing footpath; he reported that a dedicated stop was being offered.

Mr Dingwall pointed out that Roads Services had specific requirements when moving down to a 40mph limit; the Council's position was that this site did not meet these requirements and a reduction in speed to 40mph was not supported.

Responding to a question from Councillor Findlay, Mr Bell said he was not aware of what would happen to the existing site. He advised that the quoted figure of 300,000 fewer car miles per year had been produced by a Sweco transport analysis to account for a shorter journey for visitors coming from Edinburgh and because the site would be close to the town.

Responding to questions from Councillor Akhtar, Mr Bell listed other farms considered and gave some of the reasons they had been unsuitable. He noted that other parts of the Council accepted the proposals, particularly Economic Development. Mr Bell said he was prepared to work with the Council to find solutions, and encouraged the Committee to consider which policies and aspects of the proposals outweighed specific policies and reasons for refusal. Mr Thomas added that a comprehensive traffic assessment showed there would be no traffic or safety issues, and that there would be no reason for visitors to travel through Athelstaneford to the farm. He said that there would be fewer than 200-300 visitors to the farm on most days.

Responding to Councillor McGinn's concerns about road safety, Mr Bell advised that the difference in the distance between the current and new sites and their nearest bus stops was only 10 metres. He also reiterated that the bus would be allowed to stop directly at the East Fortune entrance.

Jamie Brand spoke in favour of the application. He said that diversification had been required in increasingly difficult circumstances in his family's 92-year history at the farm. He highlighted that the farm's achievements continued to be recognised, and said the family had integrity and took pride in the stock they produced. He felt that the farm's operations formed stark contrast to an intensive style of farming; he said this was worthy of preservation when considering the food miles involved in many people's weekly food shopping. He drew attention to educational benefits, including offering young people the opportunity to enjoy time in the countryside. He recalled East Fortune as a busy and vibrant community when he was growing up, without noticeable holdups or difficulty travelling. He commented on the current bus route as being a new modification which avoided the residential hub of East Fortune. He noted the importance of innovative approaches to teaching and learning to ensure young people did not lose connection with where food came from; he said the site could provide field-to-fork education, time spent outdoors, and accessibility to multiple facets of society. He said the new family park had the opportunity and potential to contribute to the rural economy.

Nico De Freitas spoke in favour of the application. He gave an account of his work in East Lothian representing tourism, golf, the Business Association, and licensing. Mr De Freitas said the park had brought families together, and described it as being at the core of East Lothian tourism. Although the family park had not brought in the revenue associated with golf and so on, he said it had still introduced families to the area and provided positive experiences. He felt that the site at East Links Family Park had been a great thing for East Lothian. Although there had been issues initially with transport and access, he said Mr Bell had made the project happen for East Lothian. Mr De Freitas said it would be a great loss to East Lothian if there were no family park. He expressed that if the current landlord wished to keep running the park on its current site, then this would only open more areas for people to enjoy East Lothian.

Simon Winpenny spoke against the application. He asked the Planning Committee to reject the plans which would rip up hundreds of metres of hedgerows and see the loss of prime agricultural land. He said that the plans did not constitute a relocation because there would be two near-identical facilities competing for business. He took issue with the idea that buses could be flagged down on the verge, and said that the Transport Assessment had been misleading as it had not been conducted in the summer. He highlighted that Transport Scotland's guidance said that one decibel would be added for every additional 100 cars, and he felt the assessments also ignored this issue. He raised concerns with road safety due to there being two blind S-bends and a blind junction. He spoke of family experience with a serious accident on this road and implored Members not to make the road more dangerous.

Susan Renton spoke against the proposals on behalf of Carol Leslie. Ms Renton said Ms Leslie had the Brands at East Fortune Farm as her neighbours, and had admired their farm shop. However, the new family park, which aimed to attract 100,000 visitors each year, would also attract an additional 60,000 car journeys each year. Ms Leslie wanted to point out that access to her house was already dangerous, and that it would be almost impossible for her to

get out of her car at peak periods. She felt the park should instead be sited on the edge of a town or city. Ms Leslie's home was just beyond the railway line and would suffer noise pollution from the park attractions and its visitors, particularly the entertainment area, which had been designed as a party and wedding venue. Ms Leslie felt the Council should prioritise the development of the brown field site, and highlighted some social problems since the introduction of free bus passes for young people. Ms Renton said that Ms Leslie was relying on Councillors to support the officer recommendation to refuse consent.

John Carson spoke against the application. He welcomed the officer recommendation for refusal. He said the serious concerns of Road Services about overreliance on the private car, road safety, and the lack of access by sustainable modes of transport were aligned with the views of the local community, but it was also felt that reasons for refusal should be wider than only transport issues. He reported that local people were horrified that prime agricultural land might be turned into park attractions and parking. He said that none of the circumstances highlighted by National Planning Framework 4 (NPF4) Policy 5 applied to the development. He felt the applicant had misled the Council into believing that Policy 29, relating to diversification of an existing rural business, applied. Mr Carson felt that the application should also be refused on the basis of protection of soils. He highlighted that no report detailing ecological and wildlife mitigations had been prepared; Mr Carson said this was due to a flawed Ecological Assessment Report, which claimed that there was little wildlife and no protected species in the area. He reported that local wildlife enthusiasts were incensed and had provided evidence of the presence of protected species, including badgers and water voles. He felt that the absence of a plan to deal with this wildlife, as well as the bats and birds using the site, was a serious omission. He noted that the report admitted a lack of Biodiversity Enhancement Plan. He felt that the wrongful use of prime agricultural land and failure to have meaningful ecological plans were clear breaches of NPF4 and should be added as reasons for refusal. Mr Carson also added that he had read James Findlay KC's opinion, which suggested the application was fatally flawed due to the material understatement of the area of land which would be subject to a change of use. He acknowledged that the Council had received legal advice to say that the application was valid, and he understood that the change of use was highly nuanced, but stated that this was one of two legal challenges the Council could face.

Morgwyn Davies spoke against the application on behalf of Haddington and District Community Council (H&DCC). He reported that many people had contacted H&DCC regarding the application, and all of them had been against the proposal. He highlighted some objections made to H&DCC, including that the railway would be very close to existing properties, and that rural farmland would be taken out of use. He noted that there would not be a great number of visitors outwith school holiday times. H&DCC also raised concerns about the development causing an increased reliance on car use, as only one bus currently went near East Fortune; he also pointed out that the bus stop was a 13-minute walk along a B-road with no pavement. He noted a discrepancy in the number of parking spaces, stated variously as 200 and 250 spaces. He questioned how realistic it would be to expect families to take two or three legs of public transport, and asserted that most would arrive by car. H&DCC were concerned with the local road network of B-roads, and the junction from the B1347 to the A199 was of particular concern to residents of Athlestaneford. He felt the application should be refused based on these travel concerns alone.

Linda Shaw Stewart spoke against the application on behalf of Dunspey Community Council (DCC). She said residents were concerned that the development would impact the area significantly, and were particularly alarmed about the impact this would have on East Linton and its connecting roads. She noted various pinch points which allowed only single-file traffic, and also advised that any parking restrictions necessitated by the development would be unpopular with residents. It was felt that returning traffic was likely to travel through East Linton. She said DCC was not persuaded by the Traffic Assessment, which did not consider overflow facilities. She asked Members to refuse the application and consider the traffic flow through East Linton.

Councillor Akhtar, Local Member, said she had attended two public meetings about the proposals and had listened to both sides of the argument. She said that the family park would not meet road safety requirements, and the proposals were therefore unacceptable on road safety grounds. She highlighted an increase in vehicle movements and an increased risk to cyclists, pedestrians, and vehicles, contrary to LDP policies T1, T2, 13b(1-2) and 13d. She also highlighted the significant level of local objection to the application, and the impact on the site itself and the surrounding villages. She highlighted that 461 of the 552 representations had been objections. She thought the increased car journeys would have a significant impact on residents, and she encouraged the Planning Committee to refuse the application on road safety grounds.

Councillor Findlay felt that the noise impact on residents had been underestimated. He also would not support the loss of further prime agricultural land. He was in favour of farm diversification, but felt this project constituted a change of use rather than diversification, and he would support the officer recommendation to refuse consent.

Councillor McLeod had received emails from constituents both in support of and against the family park relocation. He felt that the park's national awards and economic benefits were great advantages to East Lothian, and he would vote against the officer recommendation to refuse consent.

Councillor Collins commented that the relocated park looked the same as the current East Links Family Park. She raised concerns about the loss of 14.5 hectares of agricultural land; she advised that this land could not be used for crops as it would be impossible to spray the land around the family park. She also felt that there would be safety issues associated with the park being half a mile away from the bus stop at Merryhatton; she compared this with the current East Links site, where there were no blind corners or other safety concerns between the bus stop and the family park entrance. She felt that agricultural uses of the roads in conjunction with the family park uses could lead to safety issues, and would support the officer recommendation to refuse consent.

Councillor McIntosh agreed with the line in the report that it was “not normal practice for speed limit reductions to be implemented solely in order to mitigate a substandard development proposal”. She was also concerned about carbon emissions, and noted the proposals were not a relocation in planning terms and must be seen as an additional attraction. She said the development would encourage car dependency and had a significant number of car parking spaces. She also highlighted that East Lothian was quickly moving through its remaining carbon allowance; she felt such a development was one where the Council could change this trajectory, and said the Council must not permit development which would encourage further emissions. She asked whether protection of soils could be added as a further reason for refusal. She formally proposed Mr Dingwall's suggested wording for a fifth reason for refusal, noted below.

Councillor Cassini was in favour of diversification, but was unconvinced that the benefits of the project outweighed the drawbacks. She thought the educational uses were admirable, but also pointed out that the railway would impact on the privacy of local residents. She felt there was too great a loss of prime agricultural land, and highlighted the lack of plans for the management of existing wildlife. She would support the officer recommendation for refusal.

Councillor Forrest felt diversification was worthwhile, but said this project went too far. He was aware of farms which had diversified to include farm-to-fork education, but felt the proposals constituted an entirely new business. He would support the officer recommendation.

Councillor McGinn would also support the officer recommendation to refuse consent. He liked the concept of taking young people into working farms, but had too many safety concerns about the proposed area to be able to support the project.

The Convener said he understood the Brand family's desire to diversify their business, but said there was already a successful business in place. He felt the scale of the family farm was a huge step up compared to what was already on the proposed site. He could have supported a smaller tourism venture, but felt the traffic associated with the family park would have a significant impact on the local community, as visitors would have to travel long distances on the rural road network. For this reason, as well as reasons of safety relating to access and egress, he would support the officer recommendation.

Councillor Findlay seconded Councillor McIntosh's previously proposed additional reason for refusal, noted below. The Convener checked with all Members, and no one objected to this additional reason for refusal being added.

The Convener moved to a roll call vote on the officer recommendation to refuse consent. Councillor McLeod voted against the officer recommendation to refuse consent, and all other Members voted in support of the officer recommendation.

Decision

The Planning Committee refused planning permission for the following reasons:

- 1 The proposed family park would be a significant traffic generating use located in the countryside which would not be capable of being conveniently and safely accessed on foot, by cycle or by public transport and would increase reliance on the private car. Given all of this the proposal is contrary to Policies 13b(i), 13b(ii), 13d, 29(b) and 30(b) (iv) of National Planning Framework 4 and Policies T1 and T2 of the adopted East Lothian Local Development Plan 2018.
- 2 The proposed vehicular site access onto the B1377 to serve the proposed family park element of the scheme of development proposed cannot achieve the required visibility splay and as such would present an unacceptable road safety risk. Given this the proposal is contrary to Policy T2 of the adopted East Lothian Local Development Plan 2018.
- 3 The proposed vehicular site access onto the B1377 to serve the proposed caravan site element of the scheme of development proposed cannot achieve the required visibility splay and as such would present an unacceptable road safety risk. Given this the proposal is contrary to Policy T2 of the adopted East Lothian Local Development Plan 2018.
- 4 The proposed Family Park would be located within a rural location not well served by public transport. It would be a major development that would generate significant private car movements, with a consequential increase in carbon emissions. As such the proposal is contrary to Policy 30 part b) iv) of National Planning Framework 4.
- 5 The proposal would result in an unacceptable loss of prime agricultural land, contrary to Policy 5 of National Planning Framework 4, and Policy NH7 of the adopted East Lothian Local Development Plan 2018.

4. **CONSULTATION 23/00005/SGC: ENERGY CONSENTS UNIT (ECU) CONSULTATION: PROPOSED BATTERY ENERGY STORAGE SYSTEM ON LAND SOUTH-WEST OF INGLIS FARM, COCKENZIE – EAST LOTHIAN COUNCIL'S RESPONSE**

A report had been submitted in relation to East Lothian Council's response to consultation 23/00005/SGC for a 342MW battery energy storage system (BESS) measuring 15.2 hectares.

Marek Mackowiak, Planner, began by outlining a change to recommended Condition 16, outlined below. He then presented the report, highlighting the salient points. The report recommendation was to approve the Council's consultation response as outlined in the report.

Responding to a question from the Convener, Mr Mackowiak confirmed that the Scottish Fire & Rescue Service (SFRS) were not statutory consultees to these applications, and he had not heard of any movement on this matter. Mr Dingwall added that two of the most recent decision notices for BESS consents issued by the Energy Consents Unit (ECU) did not mention the issue of fire safety. He was not aware of discussion on this topic from the Scottish Government, but there had been some consideration through the Houses of Parliament that redefinition as a hazardous substance would require statutory consultation with health and safety, fire and rescue, and so on. The Convener added that the SFRS in this area had indicated it did not have some of the equipment needed to douse an onsite fire with cooling material; the Convener responded that we would have to ensure this was purchased.

Responding to a question from Councillor Gilbert, Mr Mackowiak advised that a House of Commons library paper from April 2024 confirmed that there had been one documented incident of BESS fire in the UK, when one of three battery containers had caught fire in Liverpool in 2020.

Councillor McIntosh asked whether it would be possible for the concern about fire to be one of the grounds for objection so that the onus would be on the applicant to address the risk. Mr Dingwall responded that the Planning Authority could only advise on material planning considerations in the assessment of such an application. He reiterated that the last two decisions he had read had not addressed fire risk, and recommended that it was not competent to recommend this as a reason for refusal. However, it was recommended that this be raised with the ECU, and that they must be satisfied that, (a) it is a material consideration and therefore the SFRS would be consulted and any recommendations taken in account, or (b) if the ECU concluded this was not a material consideration, they would have to be satisfied that it was covered by other legislation.

Councillor Yorkston felt the information in the report was somewhat scant, particularly when residents were so concerned about the development's proximity to the school and housing. He asked whether there would be scope to raise a condition to try to seek assurances with regards to fire risk. The Convener agreed and felt that the ECU should be satisfied that the SFRS had the ability to deal with any fire, and this advice to the ECU should be strengthened.

Councillor Yorkston said the community had strongly raised the issue of noise and the potential impact the development may have on the health of those living nearby. He asked about operational noise. Colin Clark, Senior Environmental Health Officer, advised that the report on noise would have considered the manufacturer-specified noise level. He noted that background noise varied through the day and was lower at night due to an absence of peak traffic; it was possible to do a statistical analysis based on the most frequent background noise.

Mr Clark responded to further questions on noise and other environmental health issues from Councillor Gilbert, and from Councillor Findlay on behalf of Councillor Bruce. He advised that the cumulative impact of the number of batteries had been taken into account, and noise reduction measures had also been factored in. He advised that details would need to be provided in a specific noise report, including how the noise level indicated would be achieved. He advised that in general, the maximum noise level would be to facilitate sleeping.

Councillor McGinn asked about the physical barriers between the first row of batteries and the playground. Mr Mackowiak advised that there would be two earth bunds between the facility and the playground, and a smaller earth bund would be slightly north of the first battery compound. An acoustic fence was also proposed on the boundary of the compound to provide screening against noise from the batteries.

Jamie Scott, Planning Director for Pegasus Group, spoke to the application. He explained that the site would be a key piece of infrastructure supporting renewable energy development and improvement of the energy transmission network. He highlighted that almost the entire site had been allocated to support renewable energy related investment. He noted that the report acknowledged that all matters relating to biodiversity, landscape and visual impact, heritage, noise, flood risk, transport, roads and access, and fire safety had been addressed, or could be addressed, through planning conditions; he also pointed out that the ECU consultation had not received any objections on these matters. He said the applicant had worked hard to be a good and considerate neighbour, and gave an account of some of their engagement with the Planning Authority through the pre-application inquiry. The applicant was confident that the proposals would accommodate the link road without adverse effects on the trees or pedestrian safety, and he advised that the new road's design had been integral to the choices made. He said the applicant would be amenable to a condition to secure tree protection and mitigation. He stated that the proposed development did not encroach on the link road's footway. The applicant considered that any amendments required to landscaping plans could be addressed through a planning condition, and was willing to work with officers on this matter. He said concerns on design and safety grounds were recognised; the applicant had been proactive to ensure the design was appropriate, particularly in respect to the houses to the north. He also advised that detailed assessment of landscape, noise, and safety issues had been undertaken to evidence the compatibility of the scheme with the neighbouring land uses. He described the tree-planted bund and landscaping, along with the acoustic screening measures. He said the applicant agreed with the report recommendation that the ECU satisfy itself on the matter of safety, but he also highlighted agencies that had been consulted on safety, including the SFRS; there had been no objections on safety grounds to the Section 36 application. He gave reassurance that the applicant took safety seriously; he highlighted that the Battery Storage Safety Management Plan would provide a site-specific assessment and detail active detection for fire and thermal runaway, with active in-container water suppression if necessary to wholly contain fire risk. He summarised that all outstanding matters could be addressed, and asked Members to support the development, or, if they did support the officer recommendation, that the Chief Planning Officer be authorised to resolve these issues with the ECU.

Responding to a question from the Convener, Mr Scott advised that the Battery Storage Safety Management Plan detailed the measures for detection and in-container incident solutions. He reassured Members that this was a well-used and tested system. Should these measures fail, there was a safety plan in place, and the site had been designed for safe access for the SFRS and had an active water supply on site.

Responding to questions from Councillor McIntosh, Mr Scott said that battery storage was required across Scotland, and the main driver was grid capacity on the transmission network for electricity. There must be capacity to take electricity off and put back on, and Cockenzie had an accessible supply. He said that a site had to be found as close as possible to the grid connection to maximise the efficiency of the site to minimise electricity loss, thus providing the electricity at a lower cost. He summarised that this site was identified as being the most practical site. On the matter of research into the requirement for BESS sites, he advised that energy and electricity was considered primarily at a UK level, and the Scottish Government had their own policies for land use and planning. He advised that the UK transmission network could not currently operate to take in all renewables, and Cockenzie hosted the onshoring of two offshore wind farms. Therefore, the BESS facility was required so that the use of turbines did not have to be curtailed, and he was familiar with dozens of sites requiring a BESS facility. He agreed that both the Emergency Response Plan and a Safety Management Plan were required, but felt that integration of the documents allowed the issues to be connected.

Responding to questions from Councillor McGinn, Mr Scott advised that the facility would offtake energy from the network whenever there was a surplus in the system, and the energy could be recharged back to the grid when needed. He advised that there would be unclimbable

security fencing, as well as a CCTV network and detection system in place. There would also be acoustic fencing for containment of noise, and a bund with tree planting and other shrubs would assist integration into the locality. He advised that some work may be required to replace battery containers, but the lifespan could increase with further investment. Mr Scott could follow up with information detailing units would be used and their expected lifespan.

Responding to a question from Councillor McLeod, Mr Scott advised that no concerns had been raised with the ECU over the proximity of the site to the overhead lines. He advised that the Emergency Plan considered this and other technical safety points.

Responding to a question from Councillor Cassini, Mr Scott confirmed that the site was within a settlement boundary for energy related use. The construction of the site would incur a social and economic benefit, and the applicant was open to a planning condition requiring an appraisal of how local benefits could be derived from site construction and operation.

Responding to questions from Councillors Findlay and Yorkston, Mr Scott advised that the facility would not be an actively manned site, but the site would be constantly monitored, and incident response would be quick. He advised that lithium-ion batteries were the most used type of battery, with sites also in Angus and Dundee. The technology developer had committed to using lithium-ion batteries and technology would only improve over time.

Brian Hall spoke against the application. He lived at the southern end of Cedar Drive, and was concerned that the proposals would have an impact on a family member's health issues due to noise sensitivity. He noted that the Acoustic Design Report had been measured from the centre of the development, and not from the nearest point or the nearest source of noise. He said the 1120 air conditioning units would make the loudest noise and were also closest to residents. He asserted that the report should have considered distances from the highest source of disruptive noise. He also highlighted that the noise sensitive receptor had been placed at the most distant end of Cedar Drive from the units. He highlighted another company which kept BESS sites 250m from residential areas, even with noise mitigation. Mr Hall estimated that the distance of the edge of the facility to the school, houses, and so on, to be 50-100m, and he felt that the report did not reflect how noisy the facility would be. Mr Hall was concerned to report that SFRS representatives had indicated that they had learned a lot from a conversation he held with them. He noted that the application stated that any fire risk would be dealt with by aqueous suppression, but he stated that the mixing of water and hydrofluoric acid became very corrosive, could attack brickwork, and produced acid rain if ignited; he firmly stated that this could not be permitted to enter the environment. He felt that lessons learned from the BESS fire in Liverpool in 2020 had not been considered. From this specific type of battery, runoff water from such an incident would contain cobalt, and it was important that cobalt and hydrofluoric acid did not end up in the sewer system. He provided information on his background as an environmental chemist. He further noted that other facilities which had caused serious problems with fire had been only around 6% of the size of this proposed facility. He recommended that Planning Committee withheld their approval insofar as they were able.

Bryan Hickman spoke against the proposals on behalf of Cockenzie and Port Seton Community Council (C&PSCC). He said the community was against the BESS unit on the site, and felt that any community would object to such a facility being in the heart of their community. He reported that the Pegasus Group as part of their consultation had stated that they had wanted to build the BESS within the coal field, but had been directed by the Council to build on this site. Mr Hickman raised concern over risk management and emergency planning, which he described as generic documents which did not consider the site's specific risks. He said that C&PSCC wished to see an emergency evacuation plan; he was concerned that fumes generated could impact on the community, as the site was close to houses, a playground, businesses, a school, and a medical practice, and felt that there had been no consideration given to the setting should something go wrong. He said the proposals did not meet the requirements of NPF4 in terms of the impact on communities and individual

dwelling, including residential amenity, visual impact, noise, and shadow flicker. Mr Hickman referred to evidence from other BESS developers who would not have considered this site suitable for this type of development due to its proximity to housing and so on, and he highlighted their guidance that the development should be at a distance of 250m. He said that a fire involving lithium-ion batteries would affect housing, with the entire village having to be evacuated. He also raised concern over the loss of agricultural land, and felt that there was a more suitable brown field site within the coal field, which had the benefit of already being surrounded by bunds. He also raised concern over a lack of controls relating to explosion vents, fire detection and monitoring, and adequate spacing between containers. C&PSCC considered the technology to be hazardous and outdated, and saw no benefit to the development.

Responding to a question from Councillor Findlay, the Convener said that the coal yard would require several years' worth of work before it would be suitable for businesses to locate there.

Following on from a question raised by Councillor Yorkston, the Convener and Mr Dingwall discussed additional wording to take account of local concerns over fire safety. Mr Dingwall reminded Members that the Council was not the competent authority in this case; Planning Committee was being consulted on the Council's consultee response, and Scottish Ministers would make the final decision. He highlighted the report recommendation to object to the proposals on the basis of the impact on trees and the footway, and advised that the ECU would give the applicant opportunity to resolve the issues. It was recommended that the Chief Planning Officer negotiate the issues with the applicant. He noted Members' concerns over fire risk and suggested a possible route to make the ECU aware of the strong concerns of the local community. He confirmed that the ECU was open with consultation responses, and it was the ECU's responsibility to decide what actions to take on the matter of fire safety.

Councillor Gilbert felt that fire risk was the crux of the matter, particularly given the proximity to housing. Responding to Councillor Gilbert's further points, Mr Dingwall suggested ways in which the Council could amend its response. He suggested that the strong concerns of local residents and the Planning Committee could be added to the recommendation that the ECU satisfy itself in the matter of fire risk. Mr Dingwall had asked the applicant whether the development could be moved further away, and reported that the development could not be moved because the proposed level of battery storage was required to conform to the terms of the licence. Councillor Gilbert responded that he would wish that fire risk and proximity to housing be made the primary concerns.

Councillor Collins raised concerns about the impact of a potential fire, citing the fire at the facility in Liverpool, and asked whether an emergency plan could be requested. She asked whether there was a safe space identified for evacuation, and thought that the Council should recommend this be put in place before the development commenced.

Councillor McGinn asked about noise monitoring, and enquired whether consideration of such sites could form part of future iterations of the LDP. He also commented that the Council had little agency over these decisions. The Convener responded that noise monitoring would be undertaken if there were complaints, and action would be taken if there were a breach in acceptable noise levels. He agreed that the next iteration of the LDP should consider the capacity of the countryside to facilitate these sites. Mr Dingwall mentioned that another issue being considered was the repowering of windfarms because of proposals with significantly higher turbines; he advised that a strategic approach would be taken to possibly commissioning another study, but acknowledged issues of cost and timescales when there were several proposals before us.

Councillor Findlay appreciated the need for this type of development, but felt it was much too close to housing in terms of noise and fire risk. He conveyed a condition Councillor Bruce wished to be added, which was that the UK National Fire Chiefs Battery Energy Store

Guidance be fully implemented. Mr Mackowiak responded that this guidance was referred to throughout the application, but it would be possible to recommend that the ECU was satisfied that the guidance was being complied with. Mr Dingwall added that it would be the decision of the ECU as to whether this was material, but the Council could signpost to the ECU that the Council recommended that the development complied with the standards in this guidance.

Councillor McIntosh expressed that she felt conflicted on some of these decisions, and thought there was a lack of a UK-wide plan to indicate how many BESS facilities would be needed, where they would be, or if such proximity to housing should be legal. She felt national-level strategic direction was missing, and that it would be useful to highlight to the ECU that there should be greater local agency in choosing sites and a greater energy strategy direction. She highlighted NPF4 Policy 11(c), which said that development proposals would only be supported where they maximised net economic impact. She acknowledged that the site was designated to support renewable energy under the LDP, but thought that battery storage was the least economically beneficial in terms of jobs. She commented that this development was too close to houses, particularly in light of guidance that such a development should be 250m from houses, and suggested that this be added as grounds for objection.

Responding to some of Councillor McIntosh's comments, Mr Dingwall pointed out that the applicant had offered to try to maximise local job opportunities, which would mainly come through the construction period. He suggested a further condition whereby details of the measures to try to seek to maximise local employment opportunities would be submitted to the Planning Authority. Regarding distances, Mr Dingwall referred to the National Fire Chiefs Council Grid Scale Battery Energy Storage System Planning Guidance for fire rescue services, and highlighted the section which said that distances between occupied buildings and BESS units would vary. The document stated that proposed distances should account for risk and mitigation, an initial minimum distance of 25m was proposed prior to any mitigation, and, if possible, buildings should be located upwind. On this basis, Councillor McIntosh was willing to withdraw her suggestion to add this as grounds for objection.

The Convener reminded Members that the ECU would take this decision, and while he understood there were concerns about this application, he pointed out that similar batteries were now being fitted to homes. He also pointed out that this type of energy storage was essential for renewable energy.

Mr Dingwall summarised the proposed changes suggested throughout the discussion. All changes are noted below at Recommendation 1 and Condition 17. The Convener formally proposed these amendments, and they were seconded by Councillor Yorkston.

The Convener moved to a roll call vote and Members unanimously agreed to approve Appendix 1 as the Council's consultation response, as amended by the proposal made by the Convener.

Decision

The Planning Committee agreed to approve Appendix 1 as the Council's consultation response, as follows:

1. Planning Committee noted the concerns of local residents on the matter of fire risk. East Lothian Council therefore recommends that the ECU should satisfy themselves that either:
 - a. the proposed BESS would not result in an unacceptable fire safety risk; or
 - b. that the matter of fire risk is competently dealt with under legislation.

East Lothian Council further recommends that a Safety Management Plan is required and that the Council recommends that prior consultation on this matter with the Health & Safety Executive is undertaken.

2. That the Scottish Government Energy Consents Unit is informed that East Lothian Council objects to the granting of consent under Section 36 of the Electricity Act 1989 for the reasons set out in the report.
3. That the East Lothian Chief Planning Officer be authorised to undertake any discussions with the Scottish Government Energy Consents Unit to resolve these objections and conditions to be attached to the consent if required.
4. That if consent is granted then it be subject to the following conditions:

REQUIRED CONDITIONS

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

Reason:

To ensure that the development is commenced within a reasonable period.

- 2 Prior to the commencement of development details of the finishing colours for all of the components of development shall be submitted to and approved in writing by the Planning Authority. Development shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of the visual amenity of the area.

- 3 Prior to the commencement of any development a report on the actions to be taken to reduce the Carbon Emissions 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 including the consideration of any opportunities for heat recovery systems, 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 Unless otherwise agreed in writing by the Planning Authority through the submission and approval of a Species Protection Plan prior to the commencement of development, no removal of hedgerow, trees or clearance of vegetation within the site shall take place during bird breeding season (which is March- August inclusive).

Reason:

In the interests of safeguarding biodiversity interests.

- 5 A Landscape and Ecological Mitigation and Management Plan (LEMMP) covering a 30 year period should be produced to detail enhancements for landscape and biodiversity mitigation and enhancement. This should be informed by the ecological survey work and consider the ongoing long-term management of biodiversity enhancement measures. To include:

- a. A full planting plan and planting schedule and specification
- b. A program of management, replacement planting, thinning and pruning with a typical 12 month cycle showing the detail and frequency of when different aspects of the landscape maintenance specification occur on site

Reason:

In the interests of safeguarding biodiversity interests.

- 6 Prior to the commencement of development a Public Access Management Plan shall be submitted to and approved in writing by the Planning Authority. The Public Access Management Plan shall include the following details:

- (i) Measures to manage and control the speeds of construction traffic, including advisory speed limit signage on the local road network; and
- (iii) Details of any temporary and permanent infrastructure that will be delivered to ensure the safe and convenient active travel routes in the local area, including a timetable for the implementation of the measures.

Thereafter, the Public Access Management Plan shall be implemented and complied with in accordance with the approved details, unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure the safe continuation of public access and amenity.

- 7 No external lighting shall be installed on site unless and until details of it have been submitted to and approved by the Planning Authority.

Reason:

In the interests of the visual amenity of the area.

- 8 Prior to the commencement of development, a Construction Traffic Management and Routing Plan (CTMRP) for the construction phase of the development shall be submitted to and approved in writing by the Planning Authority in consultation with Transport Scotland. The CTMRP shall, unless otherwise approved in writing by the Planning Authority, include the following details:

(i) All vehicles likely to access the site must have room to turn within the site to avoid the need for reversing out onto the public road (existing and proposed public road)

(ii) a dilapidation survey of the construction traffic access route

(iii) The core paths and permissive route shown on the Landscaping plan must remain accessible at all times or an appropriate alternative pedestrian route provided.

(iv) As noted by Transport Scotland the Abnormal Loads Assessment Report is outstanding and will be required for approval prior to commencement of development

(v) Prior to the movement of any abnormal load, any accommodation measures required on the local road network, including the removal of street furniture, junction widening and traffic management must be the subject of a Road Safety Audit, and subsequently approved and implemented to the satisfaction of the Planning Authority. Any resultant reinstatement works should be approved at the same time and be implemented within the agreed timeframe.

(vi) Temporary measures will be necessary to deal with surface water run-off during construction of the site, in accordance with the requirements of the Water Environment (Controlled Activities) (Scotland) Regulations 2005 and General Binding Rules.

(vii) details of temporary signage in the vicinity of the site warning of construction traffic;

(viii) details of wheel washing facilities which must be provided and maintained in working order during the period of construction and/or decommissioning of the site. All vehicles must use the wheel washing facilities to prevent deleterious materials being carried onto the public road on vehicle wheels;

(ix) details of how the behaviour of contractor and subcontractor drivers will be monitored and enforced with particular regards to vehicle speeds; and

(x) a Staff Travel Plan to include measures to minimise dependency on the private car to and from the construction compounds.

The development shall thereafter be carried out in accordance with the approved CTMRP unless otherwise approved in writing by the Planning Authority.

Thereafter the approved programme of monitoring shall be implemented. Any remedial works required to those public and trunk roads shown by the monitoring as arising from the construction of the development shall be undertaken by the applicant within 3 months of the completion of the final monitoring undertaken, unless an alternative means of securing the works is approved in writing by the Planning Authority. Any damage to the road surface as a direct result of the construction process of the development that is identified during the monitoring which could result in a significant risk to road safety shall be repaired immediately.

Reason:

In the interests of road safety and in the interest of the promotion of sustainable modes of transportation.

9 Prior to the commencement of development, the following details shall be submitted to and approved by the Planning Authority:

- The submission of Micro Drainage or similar calculations; and
- clarification that the new drainage can tie into the existing drain on the southern side of the site.

Development shall thereafter be carried out in accordance with the details so approved.

Reason:

To ensure the development is appropriately protected against flood risk and does not give rise to increased flood risk elsewhere.

10 There shall be no commencement of development until the applicant has undertaken and reported upon a Programme of Archaeological Work (5% Evaluation by archaeological trial trench) of the area of the development which lies outside the former coal store with a written scheme of investigation which has been submitted by the applicant (or their agent) and approved by the Planning Authority.

Reason:

In the interests of archaeological and natural heritage.

11 The Development will disconnect from the grid and cease to import or export electricity no later than the date falling forty years from the date of Final Commissioning. The total period for operation of the Development, decommissioning and restoration of the Site in accordance with this condition shall not exceed forty-one years and six months from the date of Final Commissioning without prior written approval of the Scottish Ministers in consultation with the Planning Authority.

Reason:

To ensure the development only operates within its designed and planning lifespan.

12 If the Development fails to export electricity via the grid connection for a continuous period of twelve months, then it shall be deemed to be redundant and unless otherwise agreed in writing with the Planning Authority, the Company shall undertake the decommissioning, restoration and aftercare of the Site as required by other stated conditions.

Reason:

To ensure that if the Development becomes redundant the equipment is removed from the site, in the interests of safety, amenity and environmental protection.

13 No development shall commence unless and until a Decommissioning, Restoration and Aftercare Strategy has been submitted to, and approved in writing by, the Planning Authority. The strategy shall include measures for the decommissioning of the Development and restoration and aftercare of the site, and shall include, without limitation, proposals for the removal of the above ground elements of the Development, confirmation of the status of subterranean elements of the Development (retention, removal, or other such proposal), the treatment of ground surfaces, the management and timing of the works and environmental management provisions.

Unless the Development has been deemed to be redundant under condition 12, no later than twelve months prior to decommissioning of the Development or the expiry of the section 36 consent (whichever is the earlier) a Detailed Decommissioning, Restoration and Aftercare Plan, based upon the principles of the approved Decommissioning, Restoration and Aftercare Strategy, shall be submitted for the written approval of the Planning Authority.

If the Development has been deemed to be redundant under condition 12, no later than twelve months from the date the Development has been deemed to be redundant, a Detailed Decommissioning, Restoration and Aftercare Plan, based upon the principles of the approved Decommissioning, Restoration and Aftercare Strategy, shall be submitted for the written approval of the Planning Authority.

The Detailed Decommissioning, Restoration and Aftercare Plan shall provide updated and detailed proposals, in accordance with relevant guidance at that time, for the removal of above ground elements of the Development, the treatment of ground surfaces, confirmation of the status of subterranean elements of the Development (retention, removal, or other such proposal), the management and timing of the works and environment management provisions which shall include (but is not limited to):

- (a) a site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases);
- (b) details of the formation of any construction compounds, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
- (c) a dust management plan;
- (d) details of measures to be taken to prevent loose or deleterious material being deposited on the local road network, including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
- (e) a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
- (f) details of measures for soil storage and management;
- (g) a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
- (h) details of measures for sewage disposal and treatment;
- (i) temporary site illumination;
- (j) the construction of any temporary access into the site and the creation and maintenance of associated visibility splays;
- (k) details of watercourse crossings; and
- (l) a species protection plan based on surveys for protected species carried out no longer than eighteen months prior to submission of the plan.

The Development shall be decommissioned, the site restored, and aftercare undertaken in accordance with the approved Detailed Decommissioning, Restoration and Aftercare Plan, unless and until otherwise agreed in writing in advance with the Planning Authority.

Reason:

To ensure the decommissioning and removal of the Development in an appropriate and environmentally acceptable manner and the restoration and aftercare of the site, in the interests of safety, amenity and environmental protection.

- 15 No development shall commence unless and until a bond or other form of financial guarantee in terms reasonably acceptable to the Planning Authority which secures the cost of performance of all decommissioning, restoration and aftercare obligations are submitted to the Planning Authority.

The value of the financial guarantee shall be agreed between the Company

and the Planning Authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional as being sufficient to meet the costs of all decommissioning, restoration and aftercare obligations.

The financial guarantee shall be maintained in favour of the Planning Authority until the date of completion of all decommissioning, restoration and aftercare obligations.

The value of the financial guarantee shall be reviewed by agreement between the Company and the Planning Authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional no less than every five years and increased or decreased to take account of any variation in costs of compliance with decommissioning, restoration and aftercare obligations and best practice prevailing at the time of each review.

Reason:

To ensure that there are sufficient funds to secure performance of the decommissioning, restoration and aftercare conditions attached to this deemed planning permission in the event of default by the Company.

- 16 Prior to the commencement of development, a further noise report shall be submitted to and approved by the Planning Authority. The further noise report shall:
- a) Specify the detailed engineering that is required to provide the following levels of attenuation:
 - Battery Containers: -30 dB,
 - Inverters: -16 dB,
 - Transformers: - 4 dB,
 - Substation Transformers: 0 dB;
 - b) Provide details of a 4m high bund that will be installed to the north boundary of the compound to provide further attenuation to the houses of Inglis Farm, The Chimneys and Cedar Drive. All perimeter fencing around the equipment compounds will be 4m acoustic fencing as outlined in Figure 6 of Ian Sharland Ltd's Noise Report of 14th January 2024; and
 - c) Demonstrate that the following noise limits can be met:
 - For operational noise, the Rating Level, LArTr, of noise associated with the operation of the proposed facility when measured at least 3.5m from the façade of any neighbouring residential property in freefield conditions, shall be no more than 5dB (A) above the background noise level, LA90,T. All measurements to be made in accordance with BS 4142: 2014+A1:2019 "Methods for Rating and Assessing Industrial and Commercial Sound".

The further noise report shall also contain a timetable for the implementation of all necessary mitigation measures.

Development shall thereafter be carried out in accordance with the further noise report so approved, and operational noise from the battery energy storage system shall comply with the noise limits set out above.

Reason:

To safeguard the amenity of nearby noise sensitive properties.

- 17 Prior to the commencement of development details of the measures to seek to maximise local employment opportunities shall be submitted to and approved by the Planning Authority. Those measures shall include a timetable for implementation. The development shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of maximising local employment opportunities.

Sederunt: Councillor Gilbert left the meeting.

5. PLANNING APPLICATION NO. 23/01477/P: ERECTION OF ONE HOUSE, WIDENING OF VEHICULAR ACCESS, AND ASSOCIATED WORKS, BONARD, BELHAVEN ROAD, DUNBAR

A report had been submitted in relation to Planning Application No. 23/01477/PP. Emma Taylor, Team Manager – Planning Delivery, presented the report, highlighting the salient points. The report recommendation was to grant consent.

Responding to questions from Councillor McIntosh, Ms Taylor highlighted difficulties with policy which said that developments should seek to use materials, in that planning authorities had no way to understand which materials from an existing building might be reused. However, she noted that a number of other measures designed to reduce the carbon footprint of the development had been added to the recommended conditions. She explained that it would be difficult to measure how much material was reused and whether this was the best possible solution. She advised that a discussion had been held with the applicant regarding retaining the existing building, which would have been the Planning Authority's preference. The applicant had responded that retaining the existing building was not feasible, and had submitted a cost analysis. She noted that the Scottish Government had acknowledged that there was no way to measure embodied carbon, and said that planning authorities would have to be educated and trained in how to implement this guidance.

Georgia Burborough, the applicant's agent, spoke to the application. She provided background information on the existing house, which she said had been built in the early 1900s and purchased by the current owner in 2021 in a state of severe disrepair. She listed some of the issues making the house uninhabitable, such as damp, black mould, and a compromised roof. She described the proposed new home and associated works, which she said would improve the aesthetic appeal of the site and represented sustainable and considered use of the land. She noted that justification was not required for demolition of the existing house because it was neither in a conservation area nor a listed building, but the applicant had nevertheless considered retention and refurbishment; a cost plan had been submitted which showed that refurbishment would be prohibitively expensive, and she noted that viability was a material planning consideration. She also noted that operational benefits would result in greater carbon efficiency. She said the applicant and contractors were committed to sustainable practices, including reuse of materials from the demolished building, where feasible. She highlighted features of the Belhaven Conservation Area Character Statement which had been incorporated into the development. She advised that the new building would be set back in line with the original building and with the neighbouring house to the east; this would allow for generous gardens on all sides, landscaping to provide aesthetic value, habitat for local wildlife, and would meet requirements for preserving residential amenity of the neighbouring sites. She advised that the design had taken cues from nearby houses. She also advised that the stone boundary wall would be slightly altered to improve access, but the stone features would be retained and rebuilt. She summarised that the building would make a positive visual impact on the character of the Belhaven Road area.

Responding to questions from Councillor Collins, Ms Burborough advised that restoration cost would be significantly higher than three- and four-bedroom newbuilds in Dunbar were selling for, and said the existing property would not qualify for any kind of grant to help with these costs. She also described the extent of the restoration required for the derelict building.

Jacquie Bell spoke against the application. She reported that people had contacted her about the future of Bonard and they felt it was important that the future of the historic building should be decided by Planning Committee. She felt that Bonard, with its prominent position, had value

to the conservation area, despite its setting not being within the conservation area. She said that community members with architectural restoration experience disagreed with the applicant's position that it should be demolished because it would not be financially viable to renovate the property. However, should it not be feasible to restore the house, it was felt that the new building should reflect the architecture of the original building; it was not felt that the proposals fit the genius loci of the surroundings. She noted that there were some modern dwellings near the conservation area, but that they were not as prominent as Bonard. She also felt that it would be beneficial for any newbuild to make provision for bat and bird boxes. She questioned whether the access gate had to be altered since it matched the cobbled area on the external pavement. She said the determination should retain as many trees as possible and replant with native species. She also raised the possibility of a hedgehog highway on the site. She thought conditions would be required to protect residential amenity and school pupils from lorry movements on this busy section of road during construction. She also asked that the trees' root systems be protected from the works.

Sederunt: *Councillors McIntosh and McLeod left the meeting.*

David Campbell spoke against the application on behalf of the Architectural Heritage Society of Scotland (AHSS). He commented that the AHSS felt it had been a thorough report, but which did not do justice to the quality of the existing house. He explained that the house was Georgian gothic in spirit and had to be older than the stated year of 1907. He felt that the pictures made the house look to be in a poorer state than was the case. He said that relevant policies showed that Scotland wanted to be famous for good design, for conservation areas to be preserved and improved, and for design to reinforce Scottish design and identity. He felt the design for the new house could have done better than only some stonework around the front door. He felt that the proposals constituted the loss of a great asset and replaced it with something ordinary. He felt the demolition of the historic house had been treated blandly in the report, and asserted that it was worth preserving. He highlighted various issues with the existing house he felt could be addressed, such as water ingress where the original house met the extension. He said the AHSS felt the plans were objectionable.

Councillor Collins asked how the AHSS would suggest the restoration would be funded when Bonard was not a listed building and would therefore not qualify for any grants. Mr Campbell pointed out that the demolition would also have significant cost, and this money could have gone towards the deferred maintenance costs. He asserted that an old house could be made efficient.

Councillor Collins reported having received several emails requesting she call in the application. She had felt conflicted because the house had been a part of Dunbar for such a long time. She pointed out that there was extensive damage to the building, and it had been neglected for at least ten years. The use of non-breathable concrete had also not helped, and the sandstone had absorbed water and begun to crumble. She described the extensive damage to the interior and exterior of the house, and acknowledged that it would cost a great deal of money to restore. She noted that there was also subsidence from the extension, and felt there was not enough there to make restoration of the property worthwhile. She agreed that the applicant would have to demolish and rebuild.

Councillor Forrest felt that a line had to be drawn at work that was not economically viable. If the property was only demolished, then a gap would sit on the site. He would support the officer recommendation to grant consent.

The Convener understood the community's wish to save the old building, but Bonard was in very poor condition after years of neglect. He said that the building could be saved, but would cost such a great deal of money that no one would be willing to invest in the building. He agreed that it would cost more to restore than the house would be worth. On the site visit, he

had also noticed indications that young people had accessed the building. He would be willing to allow demolition of the existing building.

The Convener then moved to 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 consent, 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 take place on site unless and until final site setting out details have been submitted to and approved by the Planning Authority.

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

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

Reason:

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

- 3 In the event of the presence of any previously unsuspected or unforeseen ground conditions (contamination) of the land on the application site being found at any time when carrying out the development hereby approved, work on site shall not begin, or shall cease to continue, until a scheme to deal with contamination on the site has been submitted to and approved in advance in writing by the Planning Authority. The scheme shall contain details of the proposals to deal with contamination to include:

- 1 the nature, extent and type(s) of contamination on the site,
- 2 measures to treat/remove contamination to ensure the site is fit for the use proposed,
- 3 measures to deal with contamination during construction works,
- 4 condition of the site on completion of decontamination measures.

The scheme to deal with contamination shall include a Site Investigation and subsequent Risk Assessment, a Remediation Strategy and Verification Report, if relevant.

Before any one of the flats is occupied the measures to decontaminate the site shall be fully implemented as approved by the Planning Authority.

If no previously unsuspected or unforeseen ground conditions (contamination) are encountered during the development works, then this should be confirmed to the Planning Authority prior to occupation of the new dwellings.

Reason:

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

- 4 Noise associated with the operation of the air source heat pump hereby approved shall not exceed Noise Rating curve NR20 at any octave band frequency between the hours of 2300 -

0700 and Noise Rating curve NR25 at any octave band frequency between the hours of 0700 - 2300 within any existing residential property. All measurements to be made with windows open at least 50mm.

Reason:

In the interests of safeguarding the amenity of the occupiers of the neighbouring residential properties from noise associated with the air source heat pump.

- 5 Prior to the occupation of the house hereby approved, the access, parking and turning areas shown on docketed drawing no. 5765 PH3 rev G shall have been formed and made available for use, and thereafter the access, parking and turning areas shall be retained for such uses unless otherwise approved in advance in writing by the Planning Authority.

On-site parking spaces for 2 vehicles shall be provided within the site and each parking space shall have minimum dimensions of 2.5 metres by 5.0 metres.

On-site turning space for vehicles shall be provided within the site to enable vehicles to access and egress the site in a forward gear.

The first 2 metres of the altered vehicular access hereby approved measured from the edge of the public road shall be hard formed over the full width of the vehicular access and driveway,

Any gates installed at the altered vehicular access hereby approved shall not open over the public footway.

Reason:

To ensure that adequate and satisfactory provision is made for access, parking and turning in the interests of road safety.

- 6 Prior to the occupation of the house hereby approved a 7kW rated Type 2 electric vehicle charging point for at least one car and infrastructure for it shall be installed and available for use and thereafter shall be retained for use, unless otherwise agreed by the Planning Authority.

Reason:

To minimise the environmental impact of the development.

- 7 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.

- 8 Prior to commencement of development on the site, a survey for breeding birds, including an assessment of the structures and any mature trees, shall be submitted to and approved in writing in advance by the Planning Authority. Where the survey establishes that there is a breeding bird interest, no development shall be carried out during the bird breeding / nesting season (March-August, inclusive) unless it is implemented wholly in accordance with a Species Protection Plan which shall be submitted to and approved in writing in advance by the Planning Authority, and thereafter, the development shall be carried out in accordance with the Species Protection Plan so approved.

Reason:

To ensure the protection of wildlife and biodiversity from significant disturbance arising from the demolition and construction associated with the development hereby approved.

- 9 Only the trees identified for removal in the (as revised) Tree Survey and Arboricultural Impact Assessment - Tagged 518, 521, 522, 526, 533 and 534 - appended to this planning permission shall be felled. No trees detailed in this Tree Survey and Arboricultural Impact Assessment to

be retained on the site, shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the previous written consent of the Planning Authority. If any tree to be retained on the site is damaged or dies within 10 years of first planting then replacement planting will be required.

All site works must be undertaken in accordance with the requirements of the Method Statement (as revised) of the Tree Survey and Arboricultural Impact Assessment appended to this planning permission.

Reason

In the interests of safeguarding the landscape character of the area.

- 10 A scheme of landscaping shall be submitted to and approved in writing by the Planning Authority. The scheme shall provide details of tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. The scheme shall include five number small species trees along the northern site boundary such as rowan, cherry and hawthorn. The scheme shall include indications of all existing trees and hedgerows on the land, details of any to be retained, and measures for their protection in the course of development.

All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding season following the completion of the development or occupation of the house hereby approved, whichever is the sooner in accordance with the approved scheme of landscaping. Any trees, hedges or plants which die, are removed or become seriously damaged or diseased within ten years 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.

Reason:

In the interest of the landscape setting of the house.

- 11 All site works must be undertaken in accordance with the requirements of the Method Statement (as revised) of the Tree Survey and Arboricultural Impact Assessment appended to this planning permission.

No development shall take place on site until temporary protective fencing in accordance with Figure 2 of British Standard 5837_2012 "Trees in relation to design, demolition and construction" and ground protection has been installed, approved by the arboriculturist and confirmed in writing by the Planning Authority. The fencing must be fixed in to the ground to withstand accidental impact from machinery, erected prior to site start and retained on site and intact through to completion of development. The position of this fencing and ground protection must be as indicated on the drawing 'Tree Protection Plan' numbered 23_5837_08_32 rev 2 (as revised) of the Tree Survey and Arboricultural Impact Assessment as defined by BS5837:2012 for all trees.

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

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

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

Reason

In order to form Construction Exclusion Zones around retained trees and protect retained trees from damage.

6. PLANNING APPLICATION NO. 24/00237/P: INSTALLATION OF VENT AND AIR CONDITIONING UNIT (RETROSPECTIVE), 84 HIGH STREET, MUSSELBURGH

An incorrect statement had been made regarding ownership of the land in the application site. As the proper ownership notification had not been carried out, the application could not be heard.

7. PLANNING APPLICATION NO. 24/00238/LBC: INSTALLATION OF VENT, AIR CONDITIONING UNIT, ERECTION OF SIGNAGE AND PAINTING OF FRONTAGE OF BUILDING (PART RETROSPECTIVE), 84 HIGH STREET, MUSSELBURGH

An incorrect statement had been made regarding ownership of the land in the application site. As the proper ownership notification had not been carried out, the application could not be heard.

Signed

Councillor Norman Hampshire
Convener of the Planning Committee