



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

**TUESDAY 20 AUGUST 2024
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON
& HYBRID MEETING FACILITY**

Committee Members Present:

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

Other Councillors Present:

Councillor S Akhtar

Council Officials Present:

Mr K Dingwall, Service Manager – Planning
Ms E Taylor, Team Manager – Planning Delivery
Mr C Grilli, Service Manager – Governance
Ms W McGuire, Head of Housing
Mr C Kiely, Planner
Mr B Nicolson, Planner
Mr J Allan, Planner
Mr S Robertson, Planner
Ms S Cheyne, Project Officer – Landscapes
Ms J Newcombe, Biodiversity Officer
Ms K Duckham, New Build Development Officer
Ms M Haddow, Transportation Planning Officer
Mr J Canty, Transportation Planning Officer
Mr A Hussain, Transportation Planning Officer
Mr S Cooper, Communications Adviser

Clerk:

Ms B Crichton

Visitors Present/Addressing the Committee:

Item 3: Mr M Hensman, Mr P Hardie, Ms S Forgie, and Mr M Davies
Item 4: Ms A Davidson, Mr P Meegan, and Ms J Bell
Item 5: Mr P Duncan
Items 6 & 7: Mr M Annan, Mr C Proudfoot, and Mr N Guy

Apologies:

Councillor K McLeod
Councillor N Gilbert

Declarations of Interest:

Items 5, 6, and 7: Councillor Forrest, due to previously having made comments of these developments prior to the retrospective applications being made.

**1. MINUTES FOR APPROVAL
a. PLANNING COMMITTEE, 4 JUNE 2024**

Due to a delay in producing and checking the draft minutes, the minutes of 4 June 2024 would be approved at the September meeting of the Planning Committee.

b. PLANNING COMMITTEE, 25 JUNE 2024

Due to a delay in producing and checking the draft minutes, the minutes of 25 June 2024 would be approved at the September meeting of the Planning Committee.

2. MINUTES FOR NOTING – LOCAL REVIEW BODY (PLANNING), 25 APRIL 2024

Members agreed to note the minutes.

3. PLANNING APPLICATION NO. 23/01367/PPM: PLANNING PERMISSION IN PRINCIPLE FOR THE REDEVELOPMENT OF EXISTING BUILDINGS, ASSOCIATED LANDSCAPE, ROADS, ACCESS, AND PARKING, FORMER HERDMANFLAT HOSPITAL, ABERLADY ROAD, HADDINGTON

A report had been submitted in relation to Planning Application No. 23/01367/PPM. Bruce Nicolson, Planner, presented the report, highlighting the salient points. The report recommendation was to grant consent.

Mr Nicolson responded to questions from Councillors McMillan and McIntosh. He confirmed that the site had not been allocated for housing under the East Lothian Local Development Plan 2018 (LDP), but the LDP specifically indicated the site would be suitable for housing should it become surplus to NHS requirements. He assured committee members that every option to minimise tree loss had been examined, and gave a detailed summary of some of the options considered. He said that real effort had been made to minimise land take, and pointed out that the development greatly exceeded open space requirements. He advised that even more trees would be retained if this became possible at the detailed plans stage. He explained that the listed buildings had been set to look over Haddington and to the Lammermuirs, so there had been a desire to retain the sense of openness. He also advised that building on woodland to the south provided opportunity to bring community use to the central area.

Responding to further questions from committee members, Mr Nicolson explained that the LDP's requirement for affordable housing was set at 25%. While 100% of the proposed housing would be affordable, there would have to be a reason that placed a burden on this site in particular to require more than 25% affordable housing under the LDP. Carlo Grilli,

Service Manager – Governance, advised that no Community Asset Transfer (CAT) application had been received for the woodland, so there was no formal process to follow.

Responding to further questions from Councillor Akhtar, Mr Nicolson gave an account of how community access to the site was being improved, including: an active travel route through the centre of the site; ramped access leading off the active travel route; opening up of the fence on the eastern boundary to make existing links more accessible; and a raised table for a more inviting crossing place. The development also aspired to link to the A199 and the county-wide active travel corridor. He described the site as being open to the public, but with semi-private garden space around the buildings. He advised that any additional opportunity to retain trees would be examined as each phase of development came forward, and a Woodland Management Plan would also be brought forward. Sarah Cheyne, Projects Officer – Landscape, added that the tree survey identified 570 trees, and 211 of these would be removed. She advised that new planting would increase the number of trees and improve woodland connectivity, linking the existing woodland areas to the north and south of the site.

Wendy McGuire, Head of Housing, introduced Martin Hensman of HUB Scotland. She also sought the Convener's permission to play a short video after Mr Hensman's presentation, and the Convener agreed.

Mr Hensman spoke to the application. He described the project as one of the most impactful affordable housing developments ever proposed in East Lothian, and provided figures to illustrate the significant number of over-55s awaiting housing. He highlighted the development's alignment with local and national policy and priorities, and provided background information on the site's purchase. He described the benefits of allowing council tenants to age in place and live independently, close to health facilities in the town. He advised that all homes would be compliant with housing for varying needs, would reflect the most recent dementia design guidance, and could be adapted for wheelchair use. He highlighted the suite of surveys supporting the application, and asserted that there would be a significant improvement on what currently existed on the site. He highlighted the place-based approach, and that the development would promote better connectivity and intergenerational interaction. He highlighted ways in which the development would promote a reduction of carbon emissions, such as: tree retention; reduced car parking; proximity to public transport and local services; and the construction of low-carbon housing. He said that community concerns had been responded to in detail; there had been engagement with the Community Council and Haddington Central Tenants and Residents' Association, and meaningful changes had been made in response to concerns. Although careful consideration had been given to reducing the number of units to increase green space, it was felt that this reduced the development's more impactful public benefits. He reiterated the benefits to residents and the wider community, and urged committee members to support the application. A video was then played to illustrate how parts of the finished site would look.

Mr Hensman and officers responded to questions from Planning Committee members and Councillor Akhtar. Mr Hensman confirmed that bike, scooter, and EV charging were included in the proposals. Ms McGuire advised that other innovative solutions may have to be considered to deliver as many affordable housing units as possible; this could result in bringing another partner on board, or small areas of sale. If land had to be sold to the private sector, they would still have to deliver affordable housing at a rate of at least 25%; however, she indicated that the intention remained to deliver 100% affordable housing across the site. Any sale of the land would have to go before a Council meeting, and would also have to receive consent from Scottish Ministers because it was Housing Revenue Account land.

Responding to further questions, Mr Hensman pointed out that the development was not a care village, but was affordable housing for general needs; it played on the wider advantages of bringing the community into the space to socialise. Responding to questions from Councillor McMillan around engagement of residents and the community, Mr Hensman highlighted the

different ways in which the woodland would be maintained, and highlighted the care the residents of Victoria Park had taken of their garden spaces as being a successful development for older people. Ms McGuire added that a great deal of consultation had been undertaken in developing the masterplan, and consultation would also continue in the next phase.

Responding to further questions, Mr Hensman highlighted the four existing entrances to the north of the site; a further five entrance points would be added, which had been considered against principles of 20-minute neighbourhoods. This improved connectivity was designed to encourage active travel, and there would be 1.6km of paths on the site. It had been determined that the site was unsuitable for allotments, but there would be various community growing spaces, and the Garleton Building was noted as a future community space.

Phil Hardie spoke against the application. He was a resident of Haddington, a director of Woodland Learning Adventures, and the treasurer of Haddington Community Woodlands, who had been created to facilitate the CAT for the southern part of the site. He indicated that the group was not opposed to the redevelopment of the existing buildings, but valued the southern part of the site as one of the last remaining green spaces in the northern half of Haddington. He said its value to the community was of a site of nature connection in an otherwise built-up environment, but the fragmented nature of the development would mean the site would no longer be an asset. He asserted biodiversity would be far greater if the area to the south remained free of concrete. He refuted that the site would function as a more effective green corridor following the development, since the proposals fragmented what was currently a unified area of green space and mixed habitat. He asked committee members to consider that the proposals did not meet NPF4 policies 1-6, 14-15, and 20; he provided examples, particularly highlighting policies against fragmenting habitat and green space, removing a community asset, and removing green infrastructure. He also asked committee members to consider the group's alternative proposal to enhance the existing woodland through a CAT application, which he said would meet the need to prioritise nature regeneration over further developments.

The Convener pointed out that this site had been a brown field site, and said there was an intent to protect as much of the land outwith the Haddington boundary as possible. Mr Hardie made suggestions for alternative places to site the 53 units which were planned to be situated on the proposed CAT area. He reiterated how the community valued the green space. He also reiterated how fragmented the plans were, and he thought that most retained green space in the central section would be private gardens and terraces; he felt it did not look inviting to use for socialising and exercising. The group hoped to raise the funds to develop this section as a community woodland and maintain the wild aspect of the area.

Responding to questions from Councillors Cassini and McMillan, Mr Hardie pointed to Gifford Community Woodland as being a well-managed and well-used site. If the CAT application were to be successful, a business plan would be developed, and funds would be raised to provide accessible paths and entrances. In his experience as an outdoor professional, he was aware that antisocial behaviour tended to disappear as soon as there was greater use of an area. He stated that Haddington Community Woodland wanted plans to be altered to allow time for the group to submit a CAT application for the southern part of the site.

Susan Forgie said she spoke on behalf of the Haddington Central Tenants and Residents Association (HCTRA) and on behalf of the community. She reported that the community was united in opposition to the development of the woodland to the south of the site, and valued this space for walking, for children to play, and to find peace and solitude. She advised that the development to the north of the site was supported by HCTRA, and they encouraged developers to increase housing density to the north of the site. She described the proposals as threatening a space which had been a sanctuary for the community since 1866, and she spoke of the community's deep connection to the woodland. It was felt that the proposals represented an overdevelopment of valuable open space, and indicated that a CAT

application should come forward to run the south part of the site as a community woodland; she reported that there were more than 200 supporters poised to become part of this charity. She said that the community did not feel genuinely consulted, particularly since the land was designated for housing long before the community had been consulted about its use. She reported that concerns had been raised about: the loss of green space and biodiversity; the increase in traffic and car parking; the three-storey buildings being out of character with the surrounding area; light pollution; the heightened density of housing; and the impact of the construction period on the community. She also raised concerns about fairness when the Council was both the developer and determining authority, and highlighted issues faced when lobbying elected officials. She asked committee members to reject the application as it stood so that a CAT application could be made.

Responding to a question from Councillor Cassini, Ms Forgie acknowledged the difficulties the Council faced in providing affordable housing across East Lothian, but felt this one small area of woodland would not solve this problem.

The Convener responded to Ms Forgie's comments about the Council being both applicant and determining authority, and said the Planning Committee acted independently and determined each application on its merits. He pointed out that the land was a brown field site, and replacement of the previous building would allow older people to live in their community and would enhance the landscape and biodiversity. In response, Ms Forgie reiterated that the community was not averse to building housing near the town centre; she said that although it may not align with the Council's other priorities, the community firmly believed that the southern part of the site was best served as a community woodland, thus preserving the land for future generations.

Morgwyn Davies made representation on behalf of Haddington and District Community Council (H&DCC) He advised that he had attended community meetings to hear feedback and objections. He said H&DCC noted that the site was a brown field site, and had previously been a built-up site. He reported that, after careful discussion, and noting they had not received a great deal of feedback against the proposals, H&DCC had resolved to support the development. H&DCC felt that many of the concerns had been mitigated, and the site would still be largely open with paths. H&DCC also recognised the need for housing for elderly and disabled people, and noted that there was other open space nearby. H&DCC believed the sympathetic development would enhance the town.

Councillor Findlay asked about H&DCC's efforts to communicate with residents. Mr Davies advised that he had listened to people's concerns at public meetings, and one of the Community Councillors had spoken against the development. He reported that there had not been a great deal of feedback about this application overall.

Responding to a further question from Councillor Findlay, Mr Grilli reiterated that the potential CAT application was not relevant to this planning application. He also advised that approval of the planning application would not preclude a potential CAT application, or anything else happening on the site; in such a case, a revised or fresh planning application would have to come forward.

Councillor McMillan, Local Member, acknowledged the passion of community representatives. He highlighted NPF4's aspirations for places where people could live better and healthier lives. He referred to Herdmanflat as a manmade space and a previous medical facility, and agreed with Mr Davies' point about there being other green spaces in and around Haddington. He also felt it was important for residents to be able to remain in, or come back to, Haddington. He referred to Six Qualities of Successful Places, and was surprised that objectors recognised the need for the houses but felt the units should be built more densely. He thought the proposal took an informal open space and made it more accessible, and protected trees in a manmade space. He thought the proposals served to, strengthen the community, enhance the local

economy, encourage active travel, and would result in more trees. On balance, he would firmly support the proposals, which supported a Council priority, and were an opportunity to enhance the lives of everyone. He felt sure that the residents would make the community growing spaces work for them, and thought there was opportunity for community cohesion. Having listened, attended community events, and considered the objections, he still felt that the proposals were right for Haddington and East Lothian.

Councillor Akhtar, also a Local Member, felt that something had to happen to the site, and acknowledged problems with antisocial behaviour and deterioration to the current building. She reported that community members had spoken with her about the housing crisis, and said there was real need for specialised housing. She supported the development because the proposals would meet the needs of the community. She was content that the proposed mitigations would be effective in addressing the concerns raised. She supported the provision of houses which would be accessible, adaptable, and developed in a sympathetic manner.

Councillor Cassini said there was an overwhelming need for this kind of housing, and suggested that something similar would be beneficial on the Edenhall site to help people stay in the area they loved.

Councillor Forrest highlighted the benefits of biodiversity, connectivity, community integration, and future-proofed housing to support ageing in place. He supported the application.

Councillor Collins highlighted the new tree planting, which would enhance biodiversity, and pointed out aspects which would improve accessibility. She felt that a constant presence would continue to assist in decreasing antisocial behaviour. She would support the application.

Councillor McIntosh empathised with the community, who felt that the development signalled a loss of a wild and valued area, but she felt the proposals would still allow wildlife to thrive. She suggested that bridges could be built by offering community food growing spaces. She felt the development offered great green space for a range of ages to enjoy. During a housing emergency, she felt lower numbers of units would not achieve what the site sought to deliver.

Councillor Yorkston was in favour of housing which could be adapted according to need, and supported the dementia-friendly approach to development. He highlighted the high demand for this type of housing; although he appreciated that a CAT would be attractive to some of the community, he was concerned that it would remove 40% of the proposed units. He felt the proposals were sensitive, particularly because of their relatively low density on the site, and agreed that there needed to be a balance achieved. He supported the application.

Councillor Findlay would support the application, but expressed his hope that Council officers would take the CAT application seriously. He accepted that this type of housing was needed in Haddington and East Lothian, but hoped that local residents would be encouraged to continue giving their input.

Councillor McGinn would support the application, and said he felt heartened by the debate around biodiversity. He acknowledged the competing demand to maintain biodiversity and green spaces, but also to provide this type of housing.

Councillor Allan thought the development had been designed sensitively, and would like to see similar applications to promote a more inclusive society. She highlighted that 20-minute neighbourhoods were also important to older people.

The Convener indicated that he agreed with his colleagues' comments. He then moved to a roll call vote, and the Planning Committee members unanimously voted in support of the officer recommendation to grant consent.

Decision

Planning Committee agreed that Planning Permission in Principle be granted subject to:

1. The undernoted conditions and

2. A Legal Undertaking designed to secure from the applicant a financial contribution to the Council of £78,284.18 for the transport interventions, £187,050.00 for additional/upgraded sports facilities capacity in the Haddington area and the provisions of a minimum of 25% affordable housing provision on site.

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 The development shall generally accord with the approved drawings and strategies docketed to this planning permission in principle. The elements approved through the PPIP comprise:

Land Uses (Age restricted dwellings and community use (Garleton Building).

Masterplan Drawing REF: 12049-LD-PLN-001:

Building locations, level, heights and roof form:

Infrastructure, including, active travel routes, footpaths, recreational paths, roads, car parking, levels and adoption areas:

EV charging infrastructure locations (1 per parking space):

Outline Biodiversity Enhancement Plan:

Tree removal (worst case), protection, and compensatory planting strategy:

Open spaces, including, woodland, community orchard/garden, pétanque courts, central grassland, "play as you go" locations and semi-private space:

Drainage Strategy Plan including SUDS, swales and associated pipework:

Preliminary Drainage Proposal (Ref: HFH-GOO-ZZ-XX-DR-C-0500)

Reason:

To ensure the development is carried out in accordance with the consent.

- 3 The submission for approval of matters specified in conditions of this grant of planning permission in principle shall correspond with a development phase boundary (1-5) as set out in the approved phasing strategy and shall include details of:

o the siting, design and external appearance of all the residential units and any other buildings or structures which should generally accord with the Masterplan and Proposed Heights drawing docketed to this planning permission in principle;

o shared use routes, footpaths, roads, car parking, EV charging, lighting and adoption areas which should generally accord with the Masterplan and Road Adoption Layout docketed to this planning permission in principle;:

o landscaping, including woodland, tree, hedgerow, grassland and orchard planting, boundary treatments and hardsurfacing which should generally accord with the Masterplan docketed to this planning permission in principle;

o drainage works including swales and SUDS which should generally accord with the Drainage Strategy docketed to this planning permission in principle;

o "play and go" and seating provision;

o Tree removal which should generally accord with the Tree Removal plan docketed to this planning permission in principle ;

o Biodiversity enhancement which should accord with the OBEP docketed to this planning permission in principle:

o any artwork to be erected on the site;

o Detailed Energy Strategy.

Additionally, the matters listed below shall be included with the application for the matters specified in conditions in accordance with the phases specified.

- o New shared-use travel access point and pedestrian access point on Aberlady Road, including crossing facility. These shall form part of the phase 1 application;
- o New access points from existing footways on Herdmanflat to the active travel route on Hopetoun Mews. These shall form part of the phase 2 and 3 application and include details of boundary alterations and any required regrading;
- o New shared-use linkage from Hopetoun Mews to the A199. This shall form part of the phase 1 application;
- o New raised table junction at Hopetoun Mews and Lydgait, including access to private parking courtyard to west, and junction improvement at Lydgait and Aberlady Road. This shall form part of the phase 1 application.

No part of each phase of 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 and implemented in accordance with approved phasing strategy.

Reason:

To enable the Planning Authority to control the development in the interests of the amenity of the development and of the wider environment and in the interests of road safety.

- 4 Prior to the commencement of development on each phase, as set out on the approved phasing strategy, the applicant shall submit a Woodland Management Plan for the whole of the corresponding area of land. The Plan shall be approved by the Planning Authority prior to the commencement of development on the associated phase. The woodland shall be managed in accordance with the approved Woodland Management Plan unless agreed in writing by the planning authority.

Reason:

To ensure the Woodland is managed appropriately to provide amenity for the residents and wider community.

Prior to the commencement of development a woodland management plan for the woodland on the site shall be submitted to and approved in writing by the Planning Authority. The plan shall further the value of the resource for biodiversity as well as people, and shall include the following measures:

The requirements of the woodland management plan shall thereafter be carried out in accordance with the details so approved.

Reason:

To maximise the ecological potential of the proposed development.

- 5 Prior to the commencement of development on each phase, as set out on the approved phasing strategy, the applicant shall submit the contaminated land information detailed in parts 1-4 below. The details shall be approved by the Planning Authority prior to the commencement of development on the associated phase. The development shall be carried out in accordance with the approved details.

Part 1 - Contaminated Land Assessment

Based on the additional investigative works and monitoring carried out, a suitable Geo-environmental Assessment should be submitted which details the extent, scale and nature of any 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.

The Assessment must be undertaken by suitably qualified, experienced and competent persons and must be conducted in accordance with the relevant guidance and procedures.

If it is concluded by the Reporting that remediation of the site is not required, then Parts 2 and 3 of this Condition can be disregarded.

Part 2 - Remediation Statement

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 as well as details of the procedures to be followed for the verification of the remedial works. It should also ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land following development. The Statement must be submitted to the Planning Authority for approval.

Part 3 - Validation Report

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

Part 4 - 'Unforeseen' 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 development.

Reason:

To ensure the ground conditions are suitable for development.

- 6 Prior to the occupation of any part of development in phase 2 the applicant shall submit detailed proposals for the central grassland/open space and pétanque court area. These proposals may be prepared in collaboration with the local community (The Community Council and/or other bodies agreed with the Planning Authority). The detailed design may include, but not be restricted to, opportunities for organised occasional use of the space, landscaping, earthworks, biodiversity enhancements, planting and opportunities for public art.

Reason:

To ensure the central space encourages public use and wider community involvement.

- 7 Prior to the commencement of development a Construction Environmental Management Plan (CEMP) shall be submitted to, and approved by the planning authority,

The CEMP shall include, but not be limited to:

1. The specific mitigation measures to be implemented to control impacts from noise and dust during the construction phase;
2. Measures to minimise the impact from waste construction materials, including measures on the storage of waste;
3. Measures to minimise the impact from construction traffic on road safety and residential amenity (as per the phasing strategy);
4. Temporary measures to control surface water drainage during the construction the SuDS.

The CEMP should also take account of the following guidance:

- o BS 5228-1:2009+A1:2014 "Code of practice for noise and vibration control on construction and open sites.
- o The Institute of Air Quality Management Guidance on the assessment of dust from demolition and construction (2014)

All construction works shall be carried out in accordance with the approved CEMP.

Reason:

To enable the Planning Authority to consider this matter in further detail.

- 8 The residential units hereby approved shall be occupied only by persons over 55 years of age.

Reason:

The applicant has proposed housing for an aging population. The educational authority would not be able to accommodate any children generated by this residential development without contributions to enable the development of additional educational accommodation. If all housing units occupancy is restricted to an age where there would be no school age children generated from the development then no additional educational accommodation would be necessary.

- 9 Each application for matters specified in conditions shall be accompanied by an updated phasing strategy document which sets out:

Sequence of buildings and infrastructure;
Construction traffic routing (restricted to existing Aberlady Road only);
Temporary access arrangements for existing and new residents (walking, wheeling and driving);
Active travel routes;
Walking and cycling connections at site boundaries;
Roads;
Landscaping and open space including "play as you go" and seating;
Biodiversity enhancement;
Off site infrastructure improvements, set out in the reserved matters.

The updated phasing plan for each Approval of Matters Specified in Conditions shall be approved by the Planning Authority prior to the commencement of development on the associated phase. The development shall thereafter be carried out in accordance with the approved phasing plan, unless otherwise approved in writing in advance by the Planning Authority.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the good planning of the site and road safety.

- 10 No development shall take place on a respective phase of development (as set out in the phasing strategy) until the applicant has undertaken and reported upon a programme of archaeological work (Historic Building recording and Archaeological trial trenching) in accordance with a written scheme of investigation which has been submitted by the applicant (or their agent) and approved by the planning authority. Where the programme of works is submitted on a phased basis each phase shall include all area required for any temporary works, including construction access provision.

Reason:

To enable the Planning Authority to consider this matter in further detail.

- 11 Prior to commencement of development details of signage and minor improvements to the walking route from Hopetoun Mews to the access to Tesco supermarket on Fortune Avenue shall be submitted for the approval of the Planning Authority. The approved details shall be carried out prior to the occupation of the first residential units or otherwise agreed in writing by the Planning Authority.

Reason:

To improve the accessibility of the site from the town centre by active travel.

- 12 Wheel washing facilities must be provided and maintained in working order during the period of operation of the site. All vehicles must use the wheel washing facilities to prevent deleterious materials being carried onto the public road on vehicle tyres.

Reason:

To ensure road safety is not compromised.

- 13 Prior to commencement of development a programme for monitoring the condition of the public road to be used by construction traffic for the period of development hereby approved, shall be submitted to and approved in writing by the Planning Authority.

The programme should include details of the inspection schedule and of the commitment by the developer for repairs to be made to the aforementioned roads, including emergency repairs for more serious damage to the road surface that could represent a significant road safety risk. Any non-emergency remedial works shown by the monitoring as arising from the construction of the development shall be undertaken by the applicant within three months of the completion of the final monitoring undertaken.

Reason:

To ensure road safety is not compromised.

- 14 Prior to the commencement of development the details of the following offsite measures, including a timetable for their implementation shall be submitted to and approved by the Planning Authority:

- * A new shared-use travel access point on Aberlady Road, including crossing facility -(between Baird Terrace and Hopetoun Drive (raised table or signalised crossing):
- * A raised table at the junction of Hopetoun Mews with Lydgait (raised table crossing) and access to the adjacent factored parking courtyard
- * The junction improvement at Lydgait and Aberlady Road;
- * New access points from existing footways on Herdmanflat to the active travel route on Hopetoun Mews, and include details of boundary alterations and any required regrading.
- * A new shared-use linkage from Hopetoun Mews to the A199.

The offsite measures shall thereafter be installed in accordance with the approved details and in the timescales so approved.

Reason:

In the interests of road safety and sustainable travel.

- 15 No residential unit within phase 2 shall be occupied unless and until details of artwork to be provided on the site have been submitted to and approved by the Planning Authority. The artwork as approved shall be provided prior to the occupation of the final residential unit approved for erection on phase 2.

Reason:

To ensure that artwork is provided in the interest of the visual amenity of the locality and the wider area within an appropriate timescale.

- 16 Each phase of development shall be carried out in strict accordance with the Drainage Strategy and Preliminary Drainage Proposal (Ref: HFH-GOO-ZZ-XX-DR-C-0500) docketed to this planning permission in principle. Prior to the commencement of development, full details of the finalised SUDS scheme 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:

To ensure adequate protection of the water environment from surface water run-off.

- 17 Prior to the commencement of development, details of how the areas of open space and "play and go" areas are to be maintained shall be submitted to and approved in advance by the Planning Authority. The maintenance of the openspace and play area shall accord with the details so approved.

Reason:

To ensure the satisfactory maintenance of open space and equipped play areas, in the interests of the amenity of the area.

- 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 The only trees to be removed are those identified for removal on the 'Tree Removals, Protection and Planting Strategy' drawing numbered 12049-LD-PLN-103 rev D. 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" has been installed, approved by the arboriculturist and confirmed in writing by the Planning Authority. The fencing must be fixed into 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 must be as indicated on the drawing 'Tree Removals, Protection and Planting Strategy' drawing numbered 12049-LD-PLN-103 rev D, shall be positioned outwith the Root Protection Area (RPA) as defined by BS5837:2012 for all trees and approved in writing by the Planning Authority. Where construction space is required within the Root Protection Areas the ground should be protected in accordance with section 6.2.3 Ground protection during demolition and construction of BS5837:2012 approved by the arboriculturist and confirmed in writing by the Planning Authority.

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.

4. PLANNING APPLICATION NO. 24/00421/ADV: DISPLAY OF ADVERTISEMENT (RETROSPECTIVE), LAND TO NORTH OF 3 JAMES KIRK WAY, DUNBAR

A report had been submitted in relation to Planning Application No. 24/00421/ADV. Scott Robertson, Planner, presented the report, highlighting the salient points. The report recommendation was to grant consent.

Paul Meegan spoke against the application. He reported that Taylor Wimpey had applied for planning permission only after involvement from Planning Enforcement; he felt Taylor Wimpey had tried to bypass the planning process, and suggested this may have been because they

did not own the land. He reported Taylor Wimpey had failed to seek his permission as one of the landowners, and he felt the company had shown a lack of respect for the planning process and to the residents. He also highlighted the erection of 20 lamppost signs and road signs. He advised that the large sign was removed following involvement from the Planning Enforcement Officer. He also raised concerns over road safety, as the large sign restricted the line of sight to drivers approaching from James Kirk Way, and he felt the sign could also distract drivers.

Jacque Bell spoke against the application. She had been surprised to see the sign having been erected, without permission, in an area more than 500m from the building site. She objected because application had been submitted retrospectively, and she noted another retrospective application as having had to be made on Belhaven Road. She noted further marketing signs near Asda and along Brodie Road, which also lacked the correct permissions. She highlighted that residents paid a factor fee for an open site and playpark, and that Taylor Wimpey had not been granted residents' permission to erect the sign. She raised concerns with road safety and parking, since there was no safe crossing point here, and specifically with the volume of HGVs using the road. She reported that residents regularly raised concerns about HGV drivers speeding and using phones while driving. It was felt that the density of information on the sign was distracting, and the sign would also impact sightlines. She also suggested that Taylor Wimpey might consider paying rental on the piece of land.

Responding to questions from Councillors Findlay and McGinn, Ms Bell said that road safety concerns about the four-way junction would remain even if Taylor Wimpey received landowners' permission. Ms Bell was not aware of any conversations with the factors.

The Convener commented that the sign should never have been erected without permission, and Taylor Wimpey should have known that consent was required; however, he also noted that officers were content that the sign did not cause road safety issues.

Various committee members indicated that they would support the application, but encouraged Taylor Wimpey to seek the landowners' permission.

Councillor Collins, Local Member, reported that four members of the public had asked her to call the application in, due to concerns that HGV drivers would not see between the signs from their heightened driving position. She also acknowledged that Taylor Wimpey had failed to seek the landowners' permission, and would not support the application.

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

Support: 9 (Councillors Hampshire, Cassini, Allan, Findlay, Forrest, McGinn, McIntosh, McMillan, and Yorkston)

Against: 1 (Councillor Collins)

Abstain: 0

Decision

Planning Committee agreed to grant the application subject to the following condition:

- 1 This grant of express consent shall expire on 9th July 2029, or on completion of sale of the last property to be erected on the land of the housing development to which the advertisements relate, whichever is the sooner, after which date the advertisements shall have been removed from the site and the land made good to the agreement of the Planning Authority.

Reason:

In the interest of safeguarding the visual amenity of the area and pursuant to Part V 18(1) of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984.

Sederunt: Councillor Forrest left the meeting.

5. PLANNING APPLICATION NO. 24/00405/P: ERECTION OF PORTACABIN AND ASSOCIATED WORKS (RETROSPECTIVE), MUSSELBURGH RACECOURSE, 3 MILLHILL, MUSSELBURGH

A report had been submitted in relation to Planning Application No. 24/00405/P. Ciaran Kiely, Planner, presented the report, highlighting the salient points. The report recommendation was to grant consent.

Responding to a question from Councillor McGinn, Mr Kiely advised that the application had been made retrospectively following input from Planning Enforcement.

Philip Duncan spoke to the application. He said he was happy with the recommended conditions. He addressed a letter which had been submitted by a resident; he noted that some points were not relevant to planning, and would be taken up outwith the meeting. He said that the Racecourse was aware of the neighbour and had tried to improve things for them.

Mr Duncan responded to questions from committee members. He advised that work was ongoing with companies to consider best use of space for the welfare of staff, following removal of the portacabin in two years. He reassured committee members that future planning permissions would be sought in good time, and referred to changing and improving processes in this area. He took on board committee member concerns about the high number of retrospective applications; he understood that following due process was expected, and would discuss this with the Racecourse Director. He advised that the portacabin had mains water next to it, and staff used water from the internal buildings. He also advised that consideration would be given to alternative provision for staff before removal of the portacabin.

Councillor McGinn would support the officer recommendation, but raised issue with the number of retrospective planning applications coming from the Musselburgh Racecourse. He reported that some residents felt the Racecourse was a law unto itself, and hoped that advice would be taken to cease submission of retrospective planning applications.

Councillor McIntosh, Local Member, echoed Councillor McGinn's comments. She suggested that a meeting of the Musselburgh Racecourse and Council officers to consider application timescales might be beneficial, and encouraged the Racecourse to open a dialogue prior to removal of the portacabin. She thought the portacabin could not be easily seen behind the fencing, and was content to support the officer recommendation.

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

Decision

Planning Committee agreed to grant the application subject to the following condition:

- 1 This planning permission is granted for a temporary period of time only. The portacabin and fencing hereby approved shall be removed entirely from the land on which it is sited, and the land restored to its former condition within 2 years from the date of the grant of this planning permission. Within this time period, consideration should be made to a permanent solution for staff welfare on the site.

Reason:

The building, in terms of its form and appearance, is not appropriate for siting as a permanent structure and in the interests of protecting the character and appearance of the Musselburgh Conservation Area and the setting of the adjacent Category B listed building at No. 1 Linkfield Cottage.

6. PLANNING APPLICATION NO. 24/00237/P: INSTALLATION OF VENT AND AIR CONDITIONING UNIT (RETROSPECTIVE), 82-84 HIGH STREET, MUSSELBURGH

A report had been submitted in relation to Planning Application No. 24/00237/P. James Allan, Planner, presented the report, highlighting the salient points. The report recommendation was to grant consent.

Michal Annan spoke to the application, and provided context to the air conditioning unit situation. He explained that a unit had been in place when he had purchased the property in 2015, but a leak in 2021 had prompted its replacement with the most effective and environmentally friendly model available. At this time, a neighbour had requested repositioning, and Mr Annan had agreed to move the unit to the bars of his own window at additional expense. Following this, Mr Annan had been made aware that his actions had contravened the property's C-listed status, however, it had also been unacceptable to move the unit back to its original position. He explained that the nail bar tenants had turned the unit off following neighbour complaints about its noise, but he reported that there had also been complaints about fumes. Mr Annan advised that Council officers had indicated that the system would be required to be boxed in from the close to the front of the building, and, following this work, the unit was now used regularly. He reported that the proprietor at no. 82b would not communicate with him. He advised that, since this time, he had also purchased the property at no. 82a. He asserted that the unit was effective in getting rid of any smell of fumes from the nail bar. He advised that the garish green signage had been painted black, and apologised that he had been unaware of the requirement for planning permission. He advised that the protruding sign had not been in place when he purchased the property.

Mr Annan responded to questions from committee members. He explained that he had two of the four shares in the ownership of the communal stair where the unit was stored. He said he had not spoken with the owners of no. 82. He gave an account of his communication with the owners of no. 82b, but said they had not communicated with him since making a complaint about the unit. He explained that the high positioning of the unit meant that it caused no issues to neighbours. He also reported that the contractor had advised that it would be impossible to bring the ducting out of a window in this instance. He indicated he would paint the whole close if the neighbours would agree.

Noel Guy spoke against the application. He said that he would have no problem with the situation if there were no fumes, no nuisance odour, no damage to the character or structure of his home, or impact on his health. He reported that, even after the works in response to the abatement notice from Environmental Health, the issues had not been resolved. He anticipated a third winter where every window in his home would have to be open to mitigate the fumes and nuisance odour produced by the business. He reported that the air quality remained poor, even following the works, as remarked upon by an Environmental Health Officer in April 2024, and causing serious concerns about the build-up of chemicals and fire safety. He highlighted that the planning process was not followed, including there being no notification or consent sought from the other owner-occupiers, who all suffered from the impact on their properties and a reduction in light. He also highlighted that the terms of the property's title deeds precluded the applicant from siting these works in the communal area. He felt the applicant's actions made a farce of the planning process, and questioned whether such works would be entertained in any other area of East Lothian. He said he would support a safe and discreet solution, and suggested the applicant could run the ducting from above their own front door. He asked committee members to refuse the application, or to make recommendations for amendment to the proposals. He also refuted Mr Annan's statement that he had not engaged with him at all, and said he had asked Mr Annan to communicate in writing.

The Convener advised Mr Guy that the Planning Committee could only consider the visual impact and other planning matters, and could not consider legal aspects in relation to title deeds.

Mr Guy responded to questions from committee members. He reported that he had never been asked to give his permission for the siting of the vent in the communal area. He also reported that there had been no response when he had contacted Mr Annan about previous issues.

The Convener noted that the matter of ownership was not for consideration by the Planning Committee. He described the shop front as being attractive, and felt the proposals were acceptable. He also noted Environmental Health's advice that there was no detriment to neighbouring properties. He would support the officer recommendation.

Councillor McGinn felt that there were no issues with the application in planning terms, however, he was seriously concerned that no permission had been sought to carry out this work, and with the lack of written communication with neighbours. He asked whether Environmental Health Officers could visit the property in the winter to check whether neighbours were suffering from a build-up of fumes. Mr Dingwall responded that planning permission could be granted on a temporary basis, but noted that representation from Environmental Health had indicated that the proposals were acceptable on amenity grounds and should be supported.

Councillor McMillan was concerned about fire risk and the potential build-up of chemicals, and commented that anyone opening or growing a business should ask appropriate questions around safety and building control. He also encouraged dialogue between neighbours.

Councillor Cassini, Local Member, felt she would have to support the application, but said this was against her better judgement because the applicant had carried out the without asking permission; she was concerned that others would follow suit.

In addition to their other comments, Councillors McMillan, Findlay, and Cassini also indicated that they would support the grant of a temporary permission.

The Convener pointed out that although retrospective applications were discouraged, they still had to be determined in the same way as new applications.

Following various Planning Committee members indicating that they would support a temporary permission, Mr Dingwall provided a suggested wording, noted below.

Responding to a question from Councillor McMillan, Mr Dingwall advised that the condition would allow the vent for one year from a planning perspective, but Environmental Health could require more urgent action to be taken if they considered the vent to be unacceptable. Colin Clark, Senior Environmental Health Officer, advised that there was an abatement notice in place on the premises, so further action would be taken if odour nuisance persisted. He was not aware that any complaints had been received since April. He understood there to be a significant improvement to any odours when the unit was in use, and said issues had arisen when the tenants had switched the unit off.

Mr Dingwall's recommended wording of the condition, noted below, was formally proposed and seconded by Councillors McGinn and Findlay, respectively. The Convener then moved to a roll call vote, and committee members unanimously voted in support of the officer recommendation to grant consent, subject to the proposed condition.

Decision

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

- 1 Planning permission for a vent is granted for a temporary period of one year from the date of this planning permission. After the date, unless further planning permission is granted, then the vent shall be removed from the application site within that one-year period.

Reason

To allow the Council to monitor the development in the interests of the amenity of neighbouring residential properties.

7. PLANNING APPLICATION NO. 24/00238/LBC: INSTALLATION OF VENT, AIR CONDITIONING UNIT, ERECTION OF SIGNAGE AND PAINTING OF FRONTAGE OF BUILDING (PART RETROSPECTIVE), 82-84 HIGH STREET, MUSSELBURGH

A report had been submitted in relation to Planning Application No. 24/00238/LBC. James Allan, Planner, presented the report, highlighting the salient points. The report recommendation was to grant consent.

Mr Annan spoke to the application. He advised that the tenant had been unaware that changing the signage had not been allowed, since the dibond sign had been the same size as the previous sign. He advised that no further lighting was sought. He also advised that there had been damage to the stonework at the front of the building following erection of scaffolding, and Mr Dingwall responded that this damage was a separate matter.

The Convener commented that the main issue around the applications had been in relation to the vent, and he was happy to support the officer recommendation in this case.

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

Decision

Planning Committee agreed to grant the application subject to the following condition:

- 1 Listed building consent is not hereby granted for the internally illuminated projecting box sign on the front (north) elevation of the building.

Reason:

The projecting box sign is harmful to the special architectural or historic interest of the listed building and harmful to the character and appearance of the Musselburgh Conservation Area. It is Contrary to Policy 7 of National Planning Framework 4, Policies CH1 and CH2 of the adopted East Lothian Local Development Plan 2018, The Cultural Heritage and the Built Environment Supplementary Planning Guidance and the Historic Environment Policy for Scotland (HEPS): April 2019

Signed

Councillor Norman Hampshire
Convener of the Planning Committee