



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

TUESDAY 1 OCTOBER 2024
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON
& HYBRID MEETING FACILITY

Committee Members Present:

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

Other Councillors Present:

Councillor L Jardine

Council Officials Present:

Mr K Dingwall, Service Manager – Planning
Ms E Taylor, Team Manager – Planning Delivery
Mr C Grilli, Service Manager – Governance
Mr B Nicolson, Planner
Ms A Law, Planner
Mr N Millar, Planner
Ms M Haddow, Transportation Planning Officer
Ms P Gray, Communications Adviser
Mr E Hendrikson, Team Manager – Amenity Services
Ms J Newcombe, Biodiversity Officer

Clerk:

Ms B Crichton

Visitors Present/Addressing the Committee:

Item 1: Mr A Girling, Ms S Calder, Mr M Schonwalder, Ms E Hurley, Mr S Bell, Ms I Knox, Mr A Swan, and Ms J Bell
Item 3: Mr T Thomas, Mr P Gardner, and Ms M Marsh
Item 4: Mr D Romanes and Mr A Swan
Item 5: Mr D Baker and Ms J Bell
Items 6 & 7: Ms K McKenzie

Apologies:

None

Declarations of Interest:

Item 1 – Councillor Hampshire, due to having worked with community group who brought forward the application, and as a member of the Dunbar Community Development and Heritage Trust.

Item 3 – Councillor Allan, due to having expressed bias in her call-off statement.

Sederunt: Councillor Hampshire left the meeting.

1. PLANNING APPLICATION NO. 24/00126/P: FORMATION OF PUMP TRACK, SKATE PARK, BASKETBALL COURT, ERECTION OF CAFÉ BUILDING (CLASS 3), CHANGING ROOM BUILDING AND ASSOCIATED WORKS, LAND SOUTH OF HALLHILL SPORTS CENTRE, KELLIE ROAD, DUNBAR

A report had been submitted in relation to Planning Application No. 24/00126/P. Neil Millar, Planner, presented the report, highlighting the salient points. The report recommendation was to grant consent.

Officers responded to questions from Planning Committee Members and Councillor Jardine. Mr Millar confirmed that no floodlighting or external lighting had been proposed to serve the facilities. He advised that, to the best of his knowledge, there was no further development planned in this area following these proposals. He highlighted that changes were to be made to the parking area at Dunbar Primary School, and confirmed that the proposed development was far enough away so that there would be no encroachment on trees. Morag Haddow, Transportation Planning Officer, confirmed that the school car park was separate from the playground and the route children took to school.

Responding to further Member questions, Mr Millar highlighted that the Council's Structures and Flooding Team Manager had been satisfied that the applicant could submit a drainage plan to combat against surface water issues in the area. Ed Hendrikson, Service Manager – Amenity Services, confirmed that the asphalt surface would be inclusive for all wheel types, and discussed the use of other sites by all ages and genders. He also later discussed other sites which had been considered and not chosen, and gave reasons of accessibility and inclusion to explain why it had been felt that an upgrade from the current provision was necessary. Mr Millar highlighted the number of solar panels provided on various sections of the development, and advised that it had not been felt that environmental impact assessments, archaeological surveys and climate impact investigations had been required for these proposals. Jen Newcombe, Biodiversity Officer, also advised that other surveys from a previous application had been taken into account, as well as a deer impact survey.

Adrian Girling spoke to the application. He addressed concerns about the impact on wildlife, habitat, and the potential for antisocial behaviour. A pump track had been highlighted as part of an options appraisal, and it was felt the proposals provided a quality and diverse outdoor offering to promote recreation, relaxation, and learning. He highlighted survey results where a strong majority of respondents said that they or someone in their family would use the facility, and advised that, although opinion had been mixed regarding the location, another survey had shown a strong majority had supported there being a new skate park in Dunbar. He discussed the future of the project; to be a success, he said the project would require sustained effort and initial funding, and it was intended to follow plans through in a long-term and meaningful way. He indicated that stakeholders had worked together to ensure all voices were heard, and thought that the proposals were for a facility that they could make the community proud of.

Mr Girling responded to questions from Members. He advised that providing work experience to young people would be a focus of the café, as well as providing structure for young people in the evenings, and well-managed youth work. He thought the café was necessary as part of a broader facility including the children's play area. As many people would pass through the site on bikes, it was not expected that this would contribute to parking issues in the area. He felt that difficulties with antisocial behaviour could be mitigated by having a youth worker presence in the area. He said that giving young people a sense of ownership in the operation of the space would help to create a set of values that young people could act against, and this would be backed up by a supportive adult presence.

Sorcha Calder spoke in favour of the application. As a 14-year-old from Dunbar, she thought the proposals were a good idea for the youth of the town. She acknowledged that many teenagers were known for being antisocial, and considered this to be due to the teenagers having nothing to do. She pointed out that the increasing population meant that there were more children and young people who would also need something to do; she expressed that young people would be better to meet the kind people they would come across at skate parks, who would help them out, rather than other people who might lead them down a less healthy path. She pointed out that skateboarding was now an Olympic sport, that it brought people outside and helped greatly with mental health problems, and that it helped people to help themselves. She said a skate park provided a welcoming environment for people of different ages, and was good environment in which to make friends.

Max Schoenwalder spoke in favour of the application on behalf of Steven Ingle. He described skate parks as having kept him and his friends going through difficult upbringings, providing a place they could form a unique community and call home. He described his journey in voluntary work, and going on to create The Space with colleagues; he said that he and others would not have had such an impact in the community had it not been for these facilities. He felt that more facilities were needed for young people in the growing town. He discussed having approached farmers to discuss other locations, but asserted that this was the only place the facility could be sited. He referenced plans to plant more trees and to have a green space and planters within the development. He highlighted the benefits of having the skate park close to the primary school, and said that children who had previously learned skateboarding with a teacher still accessed the current facilities. He felt that the youth would rebel if they had nothing to do, and could only see positives if the proposals were to go ahead.

Eva Hurley spoke on behalf of the Dunbar Community Woodland Group. She said the group's purpose was to support wildlife and woodland; they would not want to stand in the way of something that supported the community, but was felt that the benefits of the proposals did not outweigh the overall dangers. She referenced a report from January 2020 to review the site's impact on biodiversity, and highlighted that Council officers had recommended that developers be encouraged to reduce habitat loss and respect wildlife corridors. She highlighted further concerns over loss of habitat and provided statistics relating to the decline and endangerment of species. She also highlighted significant issues with light pollution, and could not see where this harm could be mitigated. She said the group was aware of potential benefits and the need for provision for Dunbar's young people, but had serious concerns about the chosen location. It was felt that there would be creation of short-term dubious benefits at significant environmental cost, which would have a serious cost to the future of young people.

Responding to a question from Councillor Jardine, Ms Hurley advised that the group never had the opportunity to discuss the proposals because they had always been presented as a total package. She indicated that the group would be willing to look at any proposals and work with the community, but were not in favour of the proposals as they stood.

Simon Bell spoke against the application. He gave an account of his qualifications and experience, and indicated he was speaking professionally as a professor of landscape architecture. He had found the rebuttals to objections unconvincing, and felt that several

factors had been overlooked in the assessment of the application. He considered the site to be totally unsuitable due to being an important wet habitat. He raised concerns with displaced animals and a woodland island cut off from the wider landscape. He asserted that the area should not be used as a site to build on, and he was unconvinced by the biodiversity plan. He was concerned that noise would reflect off concrete structures and would transmit widely. He indicated that lighting would be required to be able to use facilities into the evenings, thus disturbing wildlife, and especially bats. He thought the site had been chosen as the only open area, and not because it had specifically clear merits. He felt that the reports had been complacent, and operations relied on goodwill, volunteers, and good behaviour. He also raised concerns with the drainage plan. He also felt that there was an obsession with sports facilities in Dunbar, and asserted that there should be greater focus on cultural activities.

Isobel Knox spoke against the application. She said she was friends with Mr Girling and Mr Schoenwalder and had great confidence that they would deliver for young people, but felt this site was the wrong place for a such a facility. She said the community woodland had a responsibility to encourage people to enjoy the woods. She felt that a youth café was not a good idea when there were already adjacent Hallhill facilities, and there had been an underused café at Bleachingfield. She noted issues with young people gathering and engaging in risky behaviour, which had to be brought to the attention of the emergency services. She felt it was unrealistic for youth workers to provide supervision until 10pm. She also noted that it would be expensive to bring electricity and water to the location. She asserted that the wildlife was already very stressed; she and felt that the best way to protect wildlife was to refrain from building on this site, and felt there were other areas of the town which would be better suited for the development.

Responding to a question from Councillor Cassini, Ms Knox indicated that a site next to Asda and McDonald's in Dunbar would be better suited, since young people already congregated there and there would be help from adults nearby should anything go wrong.

Alasdair Swan made representation on behalf of Dunbar Community Council (DCC). He reported that DCC had invited the young people of Dunbar to speak, as well as youth workers, and those who had worked hard to preserve the woodland. He said DCC had been impressed by the young people, and felt that the town should strive to deliver a first rate facility for them. He reported that the youth workers had explained the advantages of such a facility, and the significant reduction in antisocial behaviour that could be expected. DCC had also lodged its thoughts on some of the environmental issues. He reported that, with only one dissenting voice, DCC supported this project, and hoped that the Planning Committee would allow it to proceed.

Jacquie Bell made representation on behalf of West Barns Community Council (WBCC). She referenced the number of public objections, and that the Local Place Plan called for the area to be protected as green space and habitat. She raised concerns with the input of the Planning Committee Convener, Councillor Hampshire, to the application, and that it was completed by a trustee of the Dunbar Community Development and Heritage Trust. She noted that there had been no options appraisal or feasibility study, and raised concern over the use of the site for such extensive sports development, particularly in light of the findings of the Environmental Issues Report for Hallhill North in 2020. She also noted that other areas used by wildlife had been lost to housing and other development. She reported that an ecology study had found protected species, including bats. She raised concerns that the proposals breached National Planning Framework 4 (NPF4) Policy 3, and said there was no indication of who would pay for the mitigations proposed in the biodiversity report.

Councillor McMillan called out some of Ms Bell's comments on authorship of reports relating to the application. Mr Dingwall and Carlo Grilli, Service Manager – Governance, both indicated that they were satisfied that Councillor Hampshire had acted properly and competently in

making a declaration of interest and leaving the meeting, thereby having no influence over the decision on the application. Ms Bell apologised for these comments.

Ms Bell continued by questioning how the café would receive deliveries under the current parking strategy, and how an emergency vehicle could access the site. She raised further questions about the long-term viability of the provision at the site, particularly when the site would not be floodlit, and asked who would staff the café and how the employment of youth workers would be managed. She also questioned the long-term maintenance of the facility, and reported that residents had asked why old facilities could not be upgraded. She was concerned that it would be difficult to restore the land back to habitat should the facilities cease to be used. She also reported that the application had been considered by the group Planning Democracy.

Ms Bell responded to questions from Members. On the matter of community consultation, she advised that WBCC's views had been taken from the extensive survey undertaken for the Local Place Plan, and said anyone could have attended a public meeting had they wished to make representation about the application to WBCC. She indicated that the Planning Democracy group's view on the application was that the proposals were not appropriate in the woodland because of the impact on NPF4 Policy 3.

Councillor Jardine, Local Member, discussed previous involvement in bringing forward a skate park in another community, and appreciated the importance of young people being involved in decision making. She felt a balance had to be found, and although she was broadly supportive of the development, she had some concerns about the incorporation of the building, as she did not see the entire benefit of the café and changing facilities. She felt, with compromises, this was the right location, and encouraged Members to find a balance in the situation.

Councillor Collins, Local Member, reported that she had heard nothing but support for the new facility from young people. She felt that antisocial behaviour could be stopped by having a presence in the area, and referenced the impact of security cameras at the Herdmanflat Hospital site. She felt that a lot of young people could not handle the structured environments on offer in Dunbar, and said a diverse range of people could be found at skate parks and pump tracks. She referenced the success stories of some of Dunbar's adults who had used the skate park as young people. She advised that the site had been fields previously, and had only enjoyed the greater level of biodiversity more recently. She also pointed out that emergency vehicles would be able to gain access through the posts that would be erected. She felt that the proposals would reenergise the youth in the area.

Councillor Forrest welcomed the proposals. He referenced the community benefits of having such facilities available to young people, including the decrease in antisocial behaviour. He felt that young people should be allowed to show their creative talents and try out something new. He also thought the café would benefit parents bringing younger children to the facility.

Councillor McIntosh said the concerns that had caused her to call in the application had been answered. She did not agree that the proposals represented an overdevelopment of the site; she pointed out that the surrounding woods would be protected and there would be room for enhanced planting around the pump track and skate park. She asserted that assessments of biodiversity must be evidence-led, and pointed out that there were now too many deer. She thought that having a trusted adult on site would be of benefit. She supported the project to encourage young people to be active in a green space, and pointed out that a pump track was accessible to all ages. She also supported the inclusion of the café and toilets.

Councillor McGinn thought that the community was looking for these facilities, including the café and changing facilities. He had been moved by Ms Calder's representation and Councillor Collins' remarks about the benefits to young people in Dunbar. He agreed that diverse facilities

must be provided for young people. He hoped to see young people from the area at the Olympic Games in the future. He would support the application on the basis that the proposals would be beneficial to the mental health and wellbeing of young people.

Councillor McMillan commented on the commitment of Dunbar's Councillors to their community, and felt that Members had heard about a community finding a route to reach a consensus. Regarding Ms Hurley's comments, he felt it was a pity that there could not have been a greater dialogue about what people would have wanted to see. He thought that the proposals would represent an improvement to a wonderful community and an urban development in a rural setting. He had been hugely impressed by Ms Calder's comments and by the Olympic aspirations discussed. He discussed the role of the planning process as contributing to place, people, and play. He also reiterated that Councillor Hampshire had acted properly in making a declaration of interest.

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

Decision

Planning Committee supported the officer recommendation to grant consent, subject to the following conditions:

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

Reason:

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

- 2 Prior to commencement of development hereby approved, a drainage layout plan and full details of the proposed Sustainable Drainage System scheme including a Surface Water Management Plan for the site, which both must meet the vesting requirements of Scottish Water and be in accordance with the Council's Supplementary Planning Guidance 'Sustainable Drainage Systems (SuDS)', shall be submitted to and approved by the Planning Authority. The development shall thereafter be carried out in strict accordance with the details and Surface Water Management Plan so approved, unless otherwise agreed in writing with the Planning Authority

Reason:

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

- 3 Prior to the commencement of development hereby approved, the details of the measures to be taken to enhance biodiversity within the application site shall be submitted to and approved by the Planning Authority which shall include a timetable for their implementation. Thereafter those measures identified to enhance biodiversity shall be carried out within the timescales stated unless otherwise agreed in writing by the Planning Authority.

Reason:

To enhance biodiversity in accordance with Policy 3 of NPF4.

- 4 Prior to the use of the pump track, skate park, basketball court, café and changing room buildings hereby approved all works shown on the docketed plan titled 'Proposed changes within the existing car park / grounds of Dunbar Primary School', shall be completed and brought into use in accordance with agreement by the Roads Authority and shall include:

- (i) 2 accessible parking spaces within the eastern end of the school car park (as shown within the area coloured in blue);
- (ii) the formation of a turning head within the southwest end of the school car park (in the location shown in yellow);

- (iii) the erection of new fencing and lockable gates at the western end of the car park (in the location shown in red); and
- (iv) the retention of the existing fence and gates at the eastern end of the car park and the retention of the existing turning head to the east of the car park (as shown in green).

Reason:

In the interests of road and pedestrian safety.

- 5 Prior to the commencement of development hereby approved, a Construction Method Statement to minimise the impact of construction activity on the safety and amenity of the area shall be submitted to and approved by the Planning Authority. The Construction Method Statement shall recommend mitigation measures to control noise, dust, construction traffic (including parking, routes to/from site and delivery times) and shall include hours of construction work and details of any temporary measures to be put in place throughout the duration of the construction process. The Construction Method Statement shall also make recommendations in respect of how building materials and waste will be safely stored and managed on site.

The recommendations of the Construction Method Statement shall be implemented prior to the commencement of development. Development shall thereafter be undertaken in accordance with the details so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

To minimise the impact of construction activity in the interests of the amenity of the area.

- 6 No work shall be carried out on the site unless and until an effective vehicle wheel washing facility has been installed in accordance with details to be submitted to and approved by the Planning Authority prior to its installation. The wheel washing facility shall be retained in working order and used such that no vehicle shall leave the site carrying earth or mud in their wheels in such a quantity which causes a nuisance or hazard on the road system in the locality.

Reason

In the interests of road safety.

- 7 Prior to the commencement of development hereby approved, 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. 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.

Sederunt: *Councillor Hampshire re-joined the meeting.*

2. PLANNING APPLICATION NO. 24/00117/PM: SECTION 42 APPLICATION TO REMOVE CONDITION 10D OF PLANNING PERMISSION IN PRINCIPLE 15/00670/PPM, LAND SOUTH OF TANTALLON ROAD, NORTH BERWICK

A report had been submitted in relation to Planning Application No. 24/00117/PM. Keith Dingwall, Service Manager – Planning, presented the report, highlighting the salient points. The report recommendation was to grant consent.

Officers responded to questions from Members. Mr Dingwall advised that the proposal was only to remove the requirement for the condition, and Dandara had given no indication as to their longer-term plans. Morag Haddow, Transportation Planning Officer, confirmed that the path had already been adopted by East Lothian Council, so it would be up to the Council

whether the path was removed. Mr Dingwall suggested that there could be potential for a future developer to link the path northwards, to Tantallon Road. Mr Dingwall referenced the site visit, when Members had seen a member of the public using a shortcut through a grassy field. He also highlighted land approved for Class 4 industrial units which had now lapsed; this could be looked at to give more direct access to the superstore, but could not get in the way of the operation of the units.

Responding to further questions, Mr Dingwall advised that he had contacted Tesco personally, and Tesco's Planning Manager had firmly set out Tesco's response. He confirmed the reason for the application; although Dandara had built a path, the condition under discussion required a connection to the Tesco store, which could not go ahead without Tesco's permission.

Councillor McIntosh was frustrated by the situation, and felt it made a mockery of the sustainable transport hierarchy. She noted that Tesco was mostly at fault, and felt that more powers were needed in this type of situation. She would not vote in support of the officer recommendation because she felt it was ridiculous not to have a path to link to the superstore.

The Convener agreed with Councillor McIntosh's comments, however, he felt that the Planning Committee should still uphold the officer's recommendation. He agreed that the Planning Authority should have powers in such situations and that there should be a path link.

Councillor Findlay would vote against the officer recommendation. He felt the condition should remain in place and that work should be done with Tesco to encourage development of the path, however unlikely they were to agree. He did not think the section of path already developed should be removed.

The Convener moved to a roll call vote on the officer recommendation to grant consent. Votes were cast as follows:

Support:	8	(Councillors Hampshire, Allan, Collins, Forrest, McGinn, McLeod, McMillan, and Yorkston)
Against:	3	(Councillor Cassini, Findlay, and Gilbert)
Abstentions:	1	(Councillor McIntosh)

Decision

Planning Committee supported the officer recommendation to grant consent, subject to the following conditions:

- 1 The submission for approval of matters specified in conditions of this grant of planning permission in principle in accordance with the timescales and other limitations in Section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended) shall include details of the siting, design and external appearance of the residential and business units, the means of access to them, the means of any enclosure of the boundaries of the site and the landscaping of the site. Those details shall generally comply with the Indicative Development Framework docketed to this planning permission in principle, but additionally shall comply with the following design requirements:
 - a. The residential dwellings shall be no more than two storeys in height other than those adjacent to Tantallon Road which shall be one storey in height (including for accommodation in the roof space) and the external finish to their walls shall be predominantly rendered and coloured in accordance with a co-ordinated colour scheme that respects the layout of the development. The buildings for Class 4 use shall be no more than one storey in height and shall be finished in a co-ordinated scheme of materials and colour finishes to minimise their visual impact in the landscape;

- b. Other than in exceptional circumstances where the layout or particular building type does not permit, the residential units shall be orientated to face the street;
- c. There shall be no integral garages, unless it can be justified as an exceptional design feature, or where the house and garage would not be on a primary street frontage;
- d. The detailed design of the layout shall otherwise accord with the principles set out in the Council's Design Standards for New Housing Areas and with Designing Streets;
- e. Notwithstanding that shown in the Indicative Development Framework docketed to this planning permission in principle, there shall be at least a 9 metres separation distance between the windows of a proposed new building and the garden boundaries of neighbouring residential properties and an 18 metres separation distance between directly facing windows of the proposed new building and the windows of existing or proposed neighbouring residential properties;
- f. Notwithstanding that shown in the Indicative Development Framework docketed to this planning permission in principle, the SUDS provision for the development if retained in the position shown shall be a dry retention basin not requiring fencing and maintainable as a managed recreational area; otherwise the SUDS provision shall be accommodated in an alternative position or by other means as agreed in writing with the Planning Authority.
- g. Notwithstanding that shown in the Indicative Development Framework docketed to this planning permission in principle, the southern boundary of the site shall be fully enclosed by a post and wire fence and by the planting of a mixed native species hedgerow along the post and wire boundary fence.
- h. Notwithstanding that shown in the Indicative Development Framework docketed to this planning permission in principle, site access to the business use on the northwestern part of the site shall be taken from a point along either the north or west boundaries of that part of the site, in accordance with details to be agreed in advance with the Planning Authority;
- i. a detailed vehicle tracking (swept path) for both the residential and business areas shall be provided using the large design rigid vehicle for the whole site. For the avoidance of doubt the Design Vehicle to be used is the "Large Rigid Vehicle" as outlined in the Freight Transport Association's document "Designing for Deliveries" and for the business area the vehicle tracking (swept path) should also include tracking for the "Design Articulated Vehicle".
- j. access to the residential area to be accessed directly from the A198 shall be taken via a priority junction with corner radii of 10.5 metres on either side of the junction. Visibility splays of 4.5m by 90m in both directions shall be provided and maintained at the proposed site access junction so that no obstruction lies within them above a height of 1.05 metres measured from the adjacent carriageway surface;
- k. access to the business area to be accessed directly from the A198 shall be taken via a priority junction with corner radii of 10.5 metres on either side of the junction. Visibility splays of 4.5m by 70m in both directions shall be provided and maintained at the proposed site access junction so that no obstruction lies within them above a height of 1.05 metres measured from the adjacent carriageway surface;
- l. the proposed development shall provide footpath links within the development to the northern and western edges of the development and, where required by the Council's Road Services and Access Officer, to the existing footpath network in the area to provide appropriate routes to primary and secondary schools and to play facilities at Recreation Park to the north;
- m. parking for the residential development hereby approved shall be provided at a rate as set out in the East Lothian Council Standards for Development Roads- Part 5 Parking Standards;
- n. all access roads shall conform to East Lothian Council Standards for Development Roads and Design Standards for New Housing Areas in relation to roads layout and construction, footways and footpaths, parking layout and number, street lighting and traffic calming

measures. This shall include for a co-ordinated design to accommodate street trees and swales;

o. driveways shall have minimum dimensions of 6 metres by 3 metres. Double driveways shall have minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11 metres length. Pedestrian ramps to houses may encroach by up to 300mm on the width (but not the length) provided they are no greater than 150mm in height above the adjacent driveway surface;

p. within residential private parking areas the minimum dimensions of a single parking space shall be 2.5 metres by 5.0 metres. All visitor parking spaces within these areas shall be clearly marked for visitors with the remaining private parking spaces allocated to individual dwellings;

q. vehicle accesses to private parking areas (i.e. other than driveways) shall be via a reinforced footway crossing and have a minimum width of 5.5 metres over the first 10 metres to enable adequate two way movement of vehicles;

r. cycle parking be included at a rate of 1 space for each unit of any flatted accommodation in the form of 1 locker per flat or communal provisions in the form of a lockable room or shed;

s. vehicle parking and cycle parking for the business units shall conform with East Lothian Council Standards for Development Roads;

t. the garden boundary treatments of the development that are publicly visible shall be stone or rendered walls, or hedges, and all residential units and other buildings shall have appropriate boundary treatments on their frontages;

u. a toddlers play area shall be provided within the application site. Details of the toddlers play area, including the equipment to be provided within it and a timetable for its implementation, shall be submitted to and approved in advance by the Planning Authority and the play area shall be installed in accordance with the details so approved;

v. acoustic screening measures shall be provided along the boundary of residential properties with the supermarket site to the north, in accordance with acoustic and landscape details to be agreed with the Planning Authority including for their implementation prior to the occupation of any residential property;

Reason:

To enable the Planning Authority to control the development in the interests of the amenity and visual quality of the development and the area, of the setting of the scheduled monument of North Berwick Law and in the interests of road safety.

- 2 No more than 125 residential units are approved by this grant of planning permission in principle. Unless otherwise approved in writing by the Planning Authority: those residential units shall be completed in accordance with the applicant's proposed phasing of the site: year 1 – 24 residential units; year 2 – 24 residential units; year 3 – 24 residential units; year 4 – 38 residential units; year 5 – 15 residential units; and any slippage in any single year shall revert to year 6 or beyond, and not be added to the subsequent year.

Reason:

To ensure sufficient education capacity can be provided for the pupil product of the development.

- 3 No development shall take place until there has been submitted to and approved in writing by the Planning Authority a scheme of landscaping. The scheme shall be generally based on the landscape proposals shown in principle on the docketed Indicative Development Framework, and shall otherwise accord with requirements of Condition 1 above. It shall include for tree and hedge planting along the northern boundary with the Tesco site, tree planting along the internal roads and within the internal open spaces and the planting of a mixed native species hedgerow along the southern boundary of the site.

It shall also provide details of: the height and slopes of any mounding on or recontouring of, the site; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. The scheme shall also 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 details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of ten years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

Reason:

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

- 4 No development shall be commenced unless and until a delivery plan for the Class 4 business units hereby approved has been submitted to and agreed in writing with the Planning Authority. Thereafter, the business units shall be delivered in accordance with the delivery plan so agreed.

Reason:

In the interests in securing the delivery of the Class 4 business units in accordance with the aims, objectives and targets of the Council's Economic Development Strategy 2012 -22.

- 5 Prior to the commencement of development at the application site, a scheme to connect to the public waste water network shall be submitted for the written approval of the planning authority, in consultation with Scottish Water. The scheme must demonstrate appropriate alignment of the phasing and timing of the development with the provision of secondary treatment by Scottish Water at the North Berwick Waste Water Treatment Works.

Reason:

To protect people and the environment from the impact of waste water and ensure that the development can be serviced by the public waste water sewerage scheme.

- 6 No development shall take place on the proposed site until the applicant has undertaken and reported upon:

(a) a programme of archaeological work (Field Walking Survey and Evaluation) in accordance with a written scheme of investigation which has been submitted by the applicant (or their agent) and approved by the planning authority; and

(b) a Heritage assessment of the potential impacts upon the Scheduled Monument of North Berwick Law has been carried out to inform the detailed master planning of the development. This shall follow the guidelines and methodologies outlined in Managing Change in the Historic Environment – Setting Historic Scotland 2010.

Reason:

In the interests of archaeological and natural heritage.

- 7 A Green Travel Plan shall be submitted to and approved by the Planning Authority prior to (i) the occupation of any of the residential units hereby approved and (ii) the business units coming into operation. The Green Travel Plan shall have particular regard to provision for walking, cycling and public transport access to and within the site, and will include a timetable for its implementation, details of the measures to be provided, the system of management, monitoring, review, reporting and duration of the Plan.

Reason:

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

- 8 A Construction Method Statement to minimise the impact of construction activity on the amenity of the area shall be submitted to and approved by the Planning Authority prior to the

commencement of development. The Construction Method Statement shall recommend mitigation measures to control construction traffic and shall include hours of construction work, routes for construction traffic and details of wheel washing facilities to be provided. 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 minimise the impact of construction activity in the interests of the amenity of the area.

- 9 Unless otherwise approved in writing by the Planning Authority the allotments hereby approved shall be provided and made available for use prior to the occupation of 60 residential units of the development.

Reason:

In the interests of the amenity of the area.

- 10 Prior to the occupation of any of the residential units hereby approved or any use being made of the business units, all roads and footpaths, including external footpaths as required shall be completed and brought into use in accordance with a phasing of them as agreed with the Roads Authority:

a. a signal-controlled pedestrian crossing shall be provided over Dunbar Road (A198) in a position between Glenburn Road and Heugh Road;

b. the existing footway along the site frontage on Tantallon Road shall be replaced and upgraded to include dropped kerb crossings over the A198 to allow barrier free access to the existing bus stops on this part of Tantallon Road;

c. a pedestrian route shall be provided through the business land to the west of the site to allow connection to Heugh Road from the residential units on the site;

Details of the new signal controlled pedestrian crossing, the upgraded footway and the crossing points and the provision of a pedestrian link to the adjoining business land use shall be submitted to and approved in advance by the Planning Authority. Development shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of road safety and to enable safe access to schools.

- 11 Details of the proposed integrated sustainable urban drainage scheme (SUDS) for the application site shall be submitted to and approved in writing by the Planning Authority following consultation with the Scottish Environment Protection Agency and such detail shall provide for two levels of treatment. Details shall include:

- o Results of any investigation of the receiving watercourse and culvert upstream of Tantallon Road as per the recommendations provided in SEPA's consultation response dated 29 September 2015;
- o Amended details of the proposed SUDS system including adoption and maintenance Arrangements; and
- o Details of flow paths with regards to exceedance flood events

The integrated sustainable urban drainage scheme (SUDS) for the application site shall thereafter be fully implemented in accordance with the details so approved.

Reason:

To ensure the provision of a satisfactory sustainable urban drainage scheme for the application site.

- 12 The design and installation of any plant or equipment associated with the operation of each of the Class 4 business units shall be such that noise emanating from them shall not exceed Noise

Rating Curve NR25 at any Octave Band Frequency when measured within any existing or proposed neighbouring residential property assuming windows open at least 50mm.

Reason:

To ensure the Class 4 business units do not harm the amenity of nearby residential properties.

- 13 No residential unit shall be occupied unless and until details of artwork to be provided on the site or at an alternative location away from the site have been submitted to and approved by the Planning Authority and the artwork as approved shall be provided prior to the occupation of the final residential unit approved for erection on the site.

Reason:

To ensure that artwork is provided in the interest of the visual amenity of the locality or the wider area.

3. PLANNING APPLICATION NO. 24/00527/P: ERECTION OF ONE HOUSE AND ASSOCIATED WORKS, LAND TO THE EAST OF ST. ANDREW'S HOUSE, ST. ANDREW STREET, NORTH BERWICK

A report had been submitted in relation to Planning Application No. 24/00527/P. Bruce Nicolson, Planner, presented the report, highlighting the salient points. The report recommendation was to refuse consent.

Responding to a question from Councillor McMillan, Mr Nicolson advised that the land was clearly a garden; it had been part of a 2005 application, and the piece of land at that point had been consented as garden ground.

Tony Thomas, the applicant's agent, spoke to the application. He described the proposals as an attractive new urban gap site which would enhance the immediate streetscape. He described the current view of two large blank gables through to untidy elevations of high street, and the buildings as being inconsistent with one another and failing to enhance the character of the area. He informed Members of the architect's other designs. He suggested that amenity space was not required when open space was available nearby. He described the property as not being overbearing or overly dominant; he compared neighbouring properties, and highlighted that efficient use of land was to be encouraged in an urban setting. He asserted that the site would encourage active travel, and noted the close proximity of the bus stops and train station. He also highlighted green heating systems from which the property would benefit. He advised that the site would benefit from a dedicated parking space, which currently belonged to 69 High Street, also owned by the applicant. He advised that the parking space was originally formed as part of the development of Kirk View, and the relevant planning condition only required that the parking space must remain a parking space; he argued that the parking space becoming part of this development would have a much better relationship to its property. He advised that, if successful, the applicant would sell no. 69 to help fund the development, and the parking space would flip to the new property. He asserted that a buyer of a flatted property on the high street would not expect a dedicated parking space, and felt the addition of a car would be insignificant to the daily fluctuation of traffic in the area. He indicated that the applicant would accept a condition to help increase biodiversity value, such as a requirement for bat and bird boxes. He summarised that the proposals were for an attractive energy-efficient home which was an appropriate use of the gap site in North Berwick.

Responding to a question from Councillor Findlay, Mr Thomas suggested that no. 69 could be bought by someone without a car. He also said that, although the area was particularly busy over the summer, there were not issues with parking throughout the rest of the year.

Phil Gardner spoke against the application. He welcomed the planning officers' assessment and five primary reasons for refusal. He advised that the access to the site from Law Road was for pedestrian use only, and was clearly too narrow to bring building materials to the site. He noted problems with the only vehicle access from St. Andrew's Street, in that there was on-street parking and two disabled bays in regular use. He said that any contractor vehicle would block St. Andrew's Street, and a solution would have to be found since the parking spaces were used for the day centre. He also felt there were safety issues associated with the use of the nearby nursery's use of the pavement. If Members were minded to approve the application, then he strongly recommended that a Construction Methods Statement (CMS) would be needed to consider activity, mitigation, and how waste would be dealt with on such a tight site; he also felt the absence of a CMS should form an additional reason for refusal. He highlighted that the application was unclear as to whether the current nine-metre long retaining wall would be removed, and said that a further ten metres of retaining wall would be required, causing issues of noise, vibration, and disturbance to neighbours.

Marian Marsh spoke against the application. She introduced herself as a North Berwick resident and a chartered town planner. She stated objections on the basis of policy issues, and commented on the ways in which the proposals were inconsistent with East Lothian Local Development Plan 2018 (LDP) policies DP1 and DP2. She also asserted that the proposals were inconsistent with policy DP7, on the basis that: it did not provide appropriate vehicular access and parking; there was a significant loss of privacy and amenity; the scale was not sympathetic in its surroundings; and there was a loss of green space. She referred to a submitted photograph to illustrate that the site had been a garden 70 years ago, and was not a brown field site. She highlighted that, by building on the whole of the site, the proposals were also inconsistent with NPF4 Policy 3. She pointed out that parts of the construction phase would lead to temporary closure of the blue badge spaces, bus drop off site, and narrow pavement route to the day centre and nursery. She also pointed out that two properties were being created without amenity space. She highlighted that the property would overshadow the Kirk View shared garden, and that a tree was being felled. She also noted that the development would come right up to the wall of Kirk View, thus disrupting an elderly resident. She concluded by reiterating her previous points, and giving her view that the development had no design consideration for its surroundings other than to fill the space.

Councillor Findlay explored the various reasons for refusal, and felt that some were subjective or not fully convincing; however, he felt that the second reason for refusal was entirely appropriate. He agreed that the proposals represented an overdevelopment of an extremely constrained site. He was not against infills in principle, but felt that this clearly should be garden land.

Councillor McMillan thought that the design was a matter of taste. He referenced PAN 67, and noted that he did not feel the development was appropriate in its positioning, size, scale, form, and massing. He felt the application would not improve or enhance the area, and agreed that it would be an overdevelopment of the small site. He would support the officer recommendation to refuse consent.

Councillor McIntosh was convinced by Mr Thomas' argument that the parking space would revert to the new house and leave a flat in the high street without a parking space; she felt that car-free transport was to be encouraged in any case. However, in all other matters, she agreed with the officer's assessment. She felt that the last reason for refusal relating to there being no ability to deliver biodiversity enhancements was the most important. She was also concerned about the cumulative effect of paving over sites within town centres, leaving ground which could no longer be able to absorb extreme amounts of rainfall, in contravention of NPF4 Policy 2.

The Convener supported infill development in gap sites in principle, however, he commented that there was a demand on parking spaces in the area throughout the year. Although the design was not to his taste, he accepted that a modern design within a conservation area

could be acceptable, but he felt that the size of the property was much too large for the area of land. He also felt that limited parking issues, and issues whereby sunlight would be blocked from the small piece of open space available to residents were also of significance. He did not accept that the lack of parking was acceptable for the size of this house, and he would support the officer's reasons for refusal.

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

Decision

Planning Committee supported the officer recommendation to refuse consent for the following reasons:

- 1 The proposed house would not be of an architectural form, scale, design and massing that would be sympathetic to its surroundings. It would not be appropriate to its location in terms of its positioning, size, form, and massing and would neither preserve nor enhance but would be harmful to the character and appearance of this part of the North Berwick Conservation Area contrary to Policies 14 and 7 of NPF4 and Policies CH2, DP7 and DP2 of the ELLDP.
- 2 The proposed house would be erected on a tightly constrained site and would occupy most of the plot. Consequently, there would be no land on which to form any useable garden ground for the occupants of the proposed house. As the application site cannot accommodate the entire development of the proposed house and suitable open space, the proposal is contrary to Policy DP7 part 1 of the adopted East Lothian Local Development Plan 2018.
- 3 Due to the height of the proposal and its relationship with the rear boundary and neighbouring external amenity space the proposed house would have an overly dominant and overbearing impact on the external space of neighbouring properties. This would harm the residential amenity of the occupants of neighbouring properties at Kirk View and High Street, contrary to Policy DP7 part 2 of the adopted East Lothian Local Development Plan 2018.
- 4 The Council's standards require 1.5 spaces for a dwelling of the proposed size and this proposal will not result in the provision of any additional parking spaces. The site is in an area of known parking pressure as identified in the North Berwick Town Centre Strategy. The proposal is contrary to ELDP policy T1 of the East Lothian Local Development Plan 2018 and the North Berwick Town Centre Strategy.
- 5 As the site largely comprises garden ground and is to be covered in building and hard surfacing it is not considered feasible that this proposal could deliver measures to enhance biodiversity and therefore the proposals conflicts with Policy 3 of NPF4, parts a) and c).

4. PLANNING APPLICATION NO. 24/00605/P: ALTERATIONS TO SHOPFRONT AND INSTALLATION OF PHARMACY DISPENSER, 25 HIGH STREET, DUNBAR

A report had been submitted in relation to Planning Application No. 24/00605/P. Keith Dingwall, Service Manager for Planning, presented the report. Although the published report recommendation had been to refuse consent, further negotiation with the applicant's agent had resulted in a proposal for a smaller dispenser unit. With the remainder of the window unit not being obscured or disfigured, the alterations and dispenser unit now proposed would preserve the character and appearance of the listed building and that of the Conservation Area. Consequently, the officer recommendation was now that planning permission be granted, subject to the condition noted below.

Alasdair Swan spoke on behalf of Dunbar Community Council. He expressed the DCC's delight that the officer recommendation had been changed to grant consent. It was felt that

the initiative being offered by a private investor would be a wonderful benefit to the town at a time when healthcare was becoming harder to access. DCC fully supported the Romanes' application.

Councillor Jardine, Local Member and East Lothian Integrated Joint Board Member, felt that the proposal for a 24-hour dispensary was a tremendous way forward to meet health needs, and was delighted that a compromise had been found from the original proposals.

Councillor Collins, Local Member, thanked officers for their work to find a solution that would be acceptable in the Conservation Area. She thought the 24-hour dispensary would be a fantastic benefit, particularly when many new pressures were now being directed towards pharmacies. Councillor McGinn and the Convener also expressed similar sentiments. Councillor McGinn hoped similar facilities would be rolled out across the county, as it was of great benefit for people to be able to collect their prescriptions at a time when the high street was quieter.

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

Decision

Planning Committee supported the officer recommendation to grant consent, subject to the following condition:

- 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

5. PLANNING APPLICATION NO. 23/01519/PM: CHANGE OF USE OF AGRICULTURAL LAND FOR THE FORMATION OF BATTERY ENERGY STORAGE SYSTEM AND ASSOCIATED WORKS, LAND TO THE NORTH OF DUNBAR GRID SUBSTATION, DUNBAR

A report had been submitted in relation to Planning Application No. 23/01519/PM. Bruce Nicolson, Planner, presented the report, highlighting the salient points. The report recommendation was to grant consent.

Mr Nicolson and Mr Dingwall responded to Members' questions. Mr Nicolson advised that 0.87 hectares of land would be used. Mr Dingwall confirmed that any further application which meant the capacity of the site exceeded 50 megawatts would be determined by the Energy Consents Unit (ECU). In terms of the energy infrastructure's benefits to local people, Mr Nicolson advised that there would be an indirect benefit in that this site would provide part of a suite of solutions. He explained that a wildflower area had been proposed because cabling would prohibit the planting of trees, and it was felt that the mitigations proposed were proportionate to the size of the proposals. He highlighted that the containers were only three metres high, so while it was considered a major-type planning application, the compound was not enormous. He reiterated that council officers were satisfied with the proposals in terms of the designed landscape area. He also explained that the site was beyond the required 30 metres from the field, and was separate from the agricultural land in use by the farmer; this was covered under Condition 5 relating to protection of species.

Responding to further questions, Mr Nicolson and Mr Dingwall provided comments on the training required for planning officers to be able to make an assessment of the life cycle of the impact of this form of development. Acknowledging a point made by Councillor McIntosh, Mr Dingwall would suggest that input on carbon count could benefit planning authorities as part of the Scottish Government's Planning Hub.

Councillor Jardine, Local Member, welcomed Mr Dingwall's commitment to taking forward the issue of carbon count through a national approach. She was aware that a local energy capacity study had been conducted in 2010, which had been a useful tool. Given the advances in technology, she asked whether there was any scope for this study to be updated locally until such time as a national approach came forward. Mr Dingwall endorsed Councillor Jardine's point and said that the Planning Service had considered undertaking an updated study. He noted that wind turbines were now being proposed at heights of up to 200 metres, and our guidance currently only took into account heights of up to 100 metres. He advised that initial talks had taken place as part of LDP discussions that an updated capacity study could be conducted, which may also be able to take into account battery storage.

Sederunt: *Councillor Gilbert left the meeting.*

David Baker, the applicant's agent, spoke to the application. He provided background information on the applicant and other projects they ran. He also provided information relating to the transition to net zero carbon, the concomitant increase in electricity demand, and requirement to balance supply and demand. He advised of the spend on curtailing energy schemes, and said the proposed BESS would help to combat this issue. He described the development as being small in scale, and provided information on the landscaping screening strategy. He advised of the route used by construction traffic, which had no problematic junctions, and advised that, once running, the site would require only one maintenance visit per month. He highlighted that the site would be in accordance with relevant safety guidance, and asked Members to support the officer recommendation to approve the application.

Mr Baker responded to Members' questions. He provided some commentary on growth in this area, and reiterated that the National Grid was having to pay to curtail energy projects due to a lack of battery storage, thus, a combined approach with a number of stakeholders was required. A number of BESS projects had had to come forward quickly, and LDPs had not allowed for this. He commented that stakeholders must come together and discuss with planning committees, as there would have to be a rapid approach. Mr Baker also described the development as being completely different to a windfarm development, and would not require the same level of construction traffic. He also advised that analyses of turning circles had been carried out, and said there would be no reason for construction vehicles to park on the road network. He also advised that a Construction Management Plan would come forward.

Jacquie Bell provided comments on the application on behalf of West Barns Community Council. She highlighted concerns about the cumulative impact of the large number of energy projects over a small geographical area, and that there was another BESS coming forward on the other side of the road. She also highlighted concerns about road safety during the construction phase and when batteries would require to be replaced. She was concerned about construction traffic using the road to the Thistly Cross roundabout, and about the impact on other vehicles, pedestrians, cyclists, and horses and riders. She also highlighted concerns about the safety of BESS technology. She raised fire concerns, and particularly about pollutants entering water courses should water be used to put out any fire. She was also concerned about emergency crews getting to the site when the road was narrow and twisty.

The Convener, a Local Member, felt the site was better than others which had been selected, due to its proximity to the National Grid connection, and outlined the reasons such facilities were required. He would support the officer recommendation. He later also suggested that areas considered suitable for BESS systems and other renewal energy technology should be identified under the next iteration of the LDP.

Councillor McMillan agreed with the principal and need for battery storage, and felt the officer report and applicant's presentation had clearly shown the requirement for the system. He commented on the cumulative effect of such sites on the area, and agreed with the applicant's agent that joined-up thinking was required going forward. Having asked about the photographs of the area at one year and 15 years post-development, he did not think there would be an impact on the views due to minimal height of the structures.

Councillor Collins, Local Member, felt that this application was one of the most sensible to come forward, due to the positioning only 100 metres from the National Grid connection. She also approved of the minimal impact on the area and the minimal loss of agricultural land. She thought the development would also help the farmer to invest in their farm.

Councillor McIntosh felt that a strategy had to come forward to indicate the capacity required overall. She commented that consumers would take the hit for the cost of turning off windfarms, and suggested potential uses for the excess energy. She felt that more technical advice was required nationally. She felt that this application was better than others which had come forward, and did not seem to overburden any community.

Councillor Cassini commented that it was better to be able to store energy than waste it, but objected to the energy gained being at the cost of East Lothian's agricultural land. She felt the cumulative effect of the energy projects had to be considered, but felt that these proposals were better than some which had come forward.

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

Decision

Planning Committee supported the officer recommendation to grant consent, subject to the following conditions:

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

Reason:

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

- 2 Except as otherwise required by the terms of this consent and deemed planning permission, the Development shall be undertaken in accordance with the approved drawings.

Reason: To ensure that the Development is carried out in accordance with the approved details.

- 3 The Development will disconnect from the grid and cease to import or export electricity no later than the date falling forty-one years from the date of commencement of development.

The total period for decommissioning, restoration and aftercare works of the site in accordance with this condition shall not exceed forty-two years from the commencement of development without prior written approval of the Planning Authority. Unless otherwise agreed in writing by the Planning Authority, there will be a one year aftercare period from completion of restoration, to ensure that the restoration works are monitored and any remedial works undertaken and completed to ensure optimal end use to the satisfaction of the Planning Authority.

No Development shall commence 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, restoration and aftercare of the site and will 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.

No later than 3 years prior to decommissioning of the development or the expiration of the consent (whichever is the earlier) a detailed Decommissioning, Restoration and Aftercare Plan shall be submitted to the Planning Authority for written approval. The detailed decommissioning, Restoration and Aftercare Plan, will provide updated and detailed proposals for the removal of the Development, the treatment of ground surfaces, the management and timing of the works and environment management provisions which shall include:

- a. a site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases); to include the items listed in the CEMP site waste plan.
- b. details of the formation of the construction compound, 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. soil restoration;
- 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. 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 any watercourse crossings;
- l. a species protection plan based on surveys for protected species (including birds) carried out no longer than 18 months prior to submission of the plan.
- m. traffic management plan
- n. timetable for decommissioning and restoration and aftercare, which period shall not exceed one year unless otherwise agreed in writing by the planning authority.
- o. Restoration Layout Plan showing the indicative final restored layout including agricultural grade land which shall include restoration of the topography which existed prior to the commencement of the development unless otherwise agreed with the Planning Authority.
- p. The Development shall be decommissioned, the site restored, and the aftercare period thereafter undertaken in accordance with the approved detailed Decommissioning, Restoration and Aftercare Plan, unless 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.

- 4 The Company shall supply to the Planning Authority an annual written report confirming that the battery energy storage facility is importing and exporting electricity to the grid. If the battery storage facility fails to import or export electricity to the grid for a continuous period of 12 months, then unless otherwise agreed in writing with the Planning Authority, the Company shall no later than one year after the last day of this 12-month period submit the site Decommissioning, Restoration and Aftercare Plan to the Planning Authority for approval and implement it in accordance with condition 3.

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

- 5 No development shall commence unless and until a Construction and Environmental Management Plan ("CEMP") outlining site specific details of all onsite construction works, post-construction reinstatement, drainage, and mitigation, together with details of their timetabling, has been submitted to and approved in writing by the Planning Authority.

The CEMP shall include (but shall not be limited to):

- a. A site investigation and ground monitoring plan detailing all preliminary site investigation and ground investigation works, in compliance with BS 59300:2015 or successor guidance;

- b. a site waste management plan to include:
 - i. Waste expected to be produced and how materials will be stored, reused, recycled or reclaimed;
 - ii. Steps to minimise waste and maximise the use of recyclates;
 - iii. Management of waste on site and leaving the site; and
 - iv. Relevant evidence of waste carrier/waste transfer.
- c. details of contingency planning in the event of accidental release of materials which could cause harm to the environment;
- d. details of the formation of the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any compound boundary fencing;
- e. a dust management plan;
- f. a soil management plan;
- g. details of measures to be taken to prevent loose or deleterious material being deposited on the local road;
- h. a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
- i. sewage disposal and treatment;
- j. temporary site illumination;
- k. the method of working cable trenches;
- l. the method of construction (insofar as constructed on site) and erection of BESS, HV transformers, CCTV columns;
- m. details of watercourse crossings;
- n. post-construction restoration/ reinstatement of the working areas not required during the operation of the Development, construction compound, storage areas, laydown areas, access tracks, other construction areas. Details should include all seed mixes to be used for the reinstatement of vegetation;
- o. a description of the proposed activities, structures or tracks within the laydown area and details of its restoration including a timetable.
- p. biodiversity mitigation measures in relation to any on site or off site construction works (to be agreed with Council's Biodiversity officer).
- q. standards outlined in British Standard 4 2020 : 2013 - Biodiversity Code of Practice for Planning and Development for the protection of badger, bat, otter and birds.

The development shall be implemented thereafter in accordance with the approved CEMP unless otherwise approved in advance in writing by the Planning Authority.

Reason: To ensure that all construction operations are carried out in a manner that minimises their impact on road safety, amenity and the environment.

6 No construction work associated with the Development shall take place on the Site on any Sunday or Bank Holiday or on any other day except between the following hours: Monday to Friday: 08:00 to 18:00, Saturday: 08:00 to 13:00.

Unless such work:

- a. does not cause the existing ambient background noise levels to be exceeded at any of the noise sensitive receptors identified in the application; or

- b. is associated with essential maintenance / testing; or
- c. is associated with an emergency; or,
- d. is approved in advance in writing by the Planning Authority.

No HGV movements associated with construction of the Development (excluding abnormal loads) shall enter or leave the Site on any Sunday or Bank Holiday or on any other day except between the following hours: Monday to Friday: 08:00 to 18:00, Saturday: 08:00 to 13:00.

Unless such movement:

- a. is associated with an emergency; or
- b. is approved in advance in writing by the Planning Authority.

Reason: In the interests of local amenity.

- 7 There shall be provided within the curtilage of the site a turning area for vehicles suitable for use by the largest vehicles expected to visit or in connection with the operation of the site. The turning area shall be formed outwith the parking areas and both shall be available as required through the lifetime of the development unless otherwise agreed in writing by the Planning Authority.

Reason: In the interest of road safety; to ensure that all vehicles taking access to and egress from the site can do so in a forward gear.

- 8 No development shall commence unless and until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Planning Authority in consultation with the Roads Authority to ensure that general construction traffic can be transported along the road network safely and efficiently. The CTMP shall contain details on routing and timing of deliveries to site, site operatives parking area, and traffic management required to allow off site operations (such as public utility installation, pedestrian access etc).

The CTMP shall include (but shall not be limited to) details on the following:

- a. Estimate of traffic vehicle movements;
- b. Proposed construction traffic routes and key traffic management;
- c. Proposed delivery route;
- d. Safety measures in regard to pedestrians and cyclists during construction;
- e. Detailed site access design and details of any required traffic management measures, including visibility splays; and
- f. Information on wheel-washing facilities.

Thereafter, the Development shall be constructed in accordance with the approved CTMP, unless otherwise agreed in writing by the Planning Authority in consultation with Transport Scotland.

Reason: To minimise interference and maintain the safety and free flow of traffic on the Trunk Road as a result of the traffic moving to and from the Site.

- 9 No abnormal load movement shall take place on the road network unless and until details of the route and any accommodation measures required including the removal of street furniture, junction widening, and traffic management have been submitted to and approved in writing by the Planning Authority in consultation with the roads authority.

During the delivery period of components any additional signing or temporary traffic control measures deemed necessary due to the size or length of any loads being delivered or removed must be undertaken by a recognised QA traffic management consultant, to be approved by the trunk roads authority before delivery commences.

Reason: To minimise interference and maintain the safety and free flow of traffic on the Trunk Road as a result of the traffic moving to and from the development and o ensure that the transportation will not have any detrimental effect on the road and structures along the route.

- 10 No development shall commence unless and until a Phase I Contaminated Land Assessment (Desk Study) is submitted to and approved by the Planning Authority. This should investigate

the scope of any intrusive investigations required prior to construction, and should assess and remediate any contamination issues prior to the commencement of development.

Reason: To address potential contamination issues on the site.

- 11 No development shall take place until there has been submitted to and approved in writing by the Planning Authority a detailed planting plan and schedule based on the details on the 'Landscape Mitigation' drawing referenced FRV1001 /04/08 revision 2. The scheme shall provide details of: tree and shrub sizes, species, habitat, siting, planting distances, a programme of planting, and implementation, establishment and maintenance details. A full landscape maintenance and management plan for the life of the development shall be included with the planting plan to show how the landscaping will be established and developed.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the completion of the development. All planting shall be established and maintained in accordance with the details on the approved drawings. Any trees or plants which die, are removed or become seriously damaged or diseased within a period of ten years from the completion of the development 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. No trees or shrubs, detailed in the approved landscaping

plans 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. All landscape shall be maintained to accord with the details of the approved details of landscaping.

Reason: In order to ensure the implementation of a landscaping scheme to enhance the appearance of the development in the interests of the amenity of the area.

- 12 No development shall be undertaken during the breeding bird season (March to August), unless in strict compliance with a Species Protection Plan for breeding birds, including provision for pre-development supplementary survey, that shall be submitted to and approved in writing by the Planning Authority.

Reason: To minimise the impact on breeding birds and to allow the Planning Authority to consider this matter in further detail.

- 13 Prior to the commencement of development, the vehicular access approved by planning permission ref: 24/00607/P, or a suitable alternative vehicular access agreed in writing by the planning authority, shall be completed and available for use. Thereafter there shall be no use of the existing farm access to access the site of the BESS and that existing farm access will be blocked up in accordance with the docketed drawings.

Reason:

To ensure the provision of a suitable vehicular access to the site.

- 14 a. Prior to the commencement of the development hereby approved a programme for monitoring the condition of the public road to be used by construction traffic (B6730), prior to and immediately following the completion of the construction phase of development and then again at the completion of decommissioning, shall be submitted to and approved by the Planning Authority.

b. Damage to the public road during the period of construction, operation and decommissioning associated with the Development shall be repaired by the Company at no expense to ELC (the Planning Authorities/ roads authority), unless an alternative means of securing the works is approved in writing by the Planning Authority.

Reason: to avoid the costs of repair to damage to the roads caused by vehicles associated with the development falling to the public authorities.

- 15 Prior to the commencement of development, the applicant shall submit a Drainage Layout Plan, aligned with the supporting Flood Risk Assessment and Drainage Strategy (October 2023), and details of infiltration tests and/or confirmation that the infiltration method is suitable. The

Drainage Layout Plan shall be approved in writing by the Planning Authority prior to the commencement of development on the site. All works contained in the approved Drainage Layout Plan shall be complete prior to the commissioning of the facility, unless agreed in writing by the planning authority.

Reason To ensure the site is suitably drained.

- 16 No development shall take place on the proposed site until the applicant has undertaken and reported upon a programme of archaeological work (Archaeological Evaluation by 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.

Reason:

To enable the Planning Authority to further consider the possible historic environment implications of the proposal.

- 17 No development shall take place unless the Planning Authority has approved in writing the terms of appointment by the Company (FRV TH Powertek or such other person who from time to time may lawfully have the benefit of this consent) of an independent and suitably qualified environmental consultant as the Planning Monitoring Officer to assist the Planning Authority in monitoring compliance with the terms of the deemed planning permission and conditions attached to this consent, unless otherwise agreed in writing by the Planning Authority. For the avoidance of doubt the PMO shall be funded by the Company throughout the term of appointment.

The terms of appointment shall:

- a. Impose a duty to monitor compliance with the terms of the deemed planning permission and conditions attached to this consent;
- b. Require the PMO to submit a report to the Planning Authority summarising works undertaken on site post construction of the development which confirms the development has been built in accordance with the approved plans. ;
- c. Require the PMO to report to the developer and the Planning Authority any incidences of noncompliance with the terms of the terms of the planning permission and conditions attached to this consent at the earliest practical opportunity; and
- d. Monitor any remedial work undertaken due to noncompliance with point c to ensure work undertaken to required standard and in accordance with consent.

Reason: To ensure that the development is constructed in accordance with the consent.

- 18 The development hereby approved shall not operate unless and until evidence of a bond or other form of financial guarantee in terms which secures the cost of performance of all decommissioning, restoration and aftercare obligations referred to in condition 3 and condition 4 has been submitted to the Planning Authority. The financial guarantee shall be maintained in favour of the Planning Authority until the completion of all decommissioning, restoration and aftercare obligations referred to in condition 3 and condition 4.

Reason:

To ensure that there are sufficient funds to secure performance of the decommissioning, restoration and aftercare conditions attached to this planning permission in the event of default by the Company (FRV TH Powertek or such other person who from time to time may lawfully have the benefit of this consent).

6. PLANNING APPLICATION NO. 24/00267/P: INSTALLATION OF SOLAR PANELS, STAGGS, 81 NORTH HIGH STREET, MUSSELBURGH

A report had been submitted in relation to Planning Application No. 24/00267/P and Planning Application No. 24/00264/LBC. Amy Law, Planner, presented the reports for both applications, highlighting the salient points. Both reports made recommendations to refuse consent.

Officers responded to questions from Members. Ms Law advised that Historic Environment Scotland would have preferred solar panels to be on a frame so as not to take away from the fabric of the roof. Mr Dingwall explained that officers had to consider that the solar panels would make a contribution to reducing carbon emissions and could make for a more efficient operation of the business; however, the Planning Authority was also required by law to consider the desirability of preserving the character of the listed building, and pointed out that the outside of the building was relatively unaltered.

Councillor McIntosh asked about room left for interpretation when guidance stated that solar panels on roof slopes *may* be inappropriate. Ms Law confirmed that it was the position of officers that in this instance, the additional of solar panels on the roof slope would be harmful to the character and appearance of the listed building. Ms Law clarified that the building itself was listed, but it was not within a conservation area.

Kathryn McKenzie spoke to the application. She spoke of her family's 166-year history running The Volunteer Arms, or Staggs, and firmly believed that the additional of solar panels would assist in the sustainability of the business. She felt that the preservation of the past had to be balanced against the future of the business and building. She discussed the significance of Staggs to tourists and locals. She highlighted the difficult time for the industry, when many premises were having to close their doors for good, and said that the installation of solar panels would contribute to the viability of the business. She referred to Historic Environment Scotland's statement about Staggs, which gave a brief description of the exterior, but mostly focused on the building's interior. She described her family's role as stewards of the building and business, and said the proposals would have a minimal impact on the unchanged interior. She highlighted that the chosen roof slope had been the only viable position to install the panels, and suggested that the panels would blend in and be aesthetically pleasing. She also advised that Scottish slate was difficult to come by, and if the roof were to require repair, it may not be possible to replace like-for-like; however, slate removed to make way for the solar panels could be stored for future roof repairs. It was thought that the average passerby would not notice the roof of Staggs. She said her family wanted to participate in green business, embrace renewable energy, and ensure Staggs could remain a cherished community pub. She urged Members to consider the benefits of the proposal to install discreet solar panels.

Responding to Members' questions, Ms McKenzie advised that other roof spaces had been considered, but issues such as the presence of a skylight and a lack of space meant that only the proposed roof had been suitable. She confirmed that a 10kW system would be installed, and no battery storage would be required because all the energy would be used. She explained that the building had been listed in 2008 because of its historic and social significance. She reported that energy bills had continued to rise since the pandemic, and while measures to save energy had been taken, there were high energy costs associated with maintaining a comfortable temperature and keeping food and drinks chilled.

Councillor Findlay asked whether the applicants had considered installation of the solar panels on a rail system. Ms McKenzie responded that they had been unaware of Historic Environment Scotland's preference for a mounted system, but would have been happy to install this preferred option. The Convener felt that a mounted system would create a greater distraction from the building. Mr Dingwall responded that the Planning Authority would still have recommended refusal, but a mounted system would have been the preferred option. He recommended that Members should take a view on this, and if there was a consensus that a mounted system would be preferable then the applicant would be asked to consider whether a system of rails was viable.

Councillor Forrest, Local Member, commented that Staggs was an iconic and well-respected pub in Musselburgh, famous for its interior, friendly service, and real ale. He would prefer for solar panels not to be installed on rails, and felt that there was benefit in being able to store the removed slate for future repairs. He noted that the pub was listed because of its interior,

and he was keen to ensure it remained open for the use of future generations. He would vote against the officer recommendation to refuse consent.

Councillor McIntosh, Local Member, felt the applicants should be commended for trying to update their historic building in a way that would help to protect the climate. She felt there was wiggle room within wording of the guidance. She also felt there would be less of a visual issue caused by installing solar panels flush against the roof. She felt that the presence of solar panels indicated that the proprietor cared about the future, and added to the attraction of a place. She commented that having the building as a functional pub was very important to the cultural life and heritage of Musselburgh.

Councillor McMillan indicated he had been intending to vote with the officer recommendation prior to hearing Ms McKenzie's presentation. Referencing his economic development role, he appreciated the cost of electricity for such a business. He commented on the importance of creating hubs for people, and the desire to preserve the business which would also preserve the building.

Councillor Collins commented that she had struggled to see the roof from the street. She supported the installation of the 10kW system which would make the pub fully sustainable. She also noted some of the potential issues with solar panels on rails, such as pigeons nesting underneath. She thought the opportunity to keep the slates for future use was a positive of having fully integrated solar panels.

Councillor Cassini, Local Member, felt there was a balance to be struck in helping to preserve a much-loved local business, and would vote against the officer recommendation.

The Convener commented on the impressive history of one family having run and looked after the pub for such a long period of time. He commented that the interior was the main reason the building was listed, but understood the officer recommendation had been made because of the Planning Authority's duty to protect the fabric of the building. He compared the application to a similar situation with The Dolphin, whereby Planning Committee had decided to grant the application for solar panels to protect the building's future. He felt the impact on Staggs would be minimal. He did not like the look of solar panels on frames, and felt they should be integrated with the roof. He would vote against the officer recommendation to grant consent.

The Convener moved to a roll call vote, and Members unanimously voted against the officer recommendation to refuse consent.

Decision

Members agreed to grant the application.

7. PLANNING APPLICATION NO. 24/00264/LBC: INSTALLATION OF SOLAR PANELS, STAGGS, 81 NORTH HIGH STREET, MUSSELBURGH

A report had been submitted in relation to Planning Application No. 24/00264/LBC. Amy Law, Planner, had covered the relevant issues as part of the presentation for Planning Application No. 24/00267/P at Item 6.

The Convener moved directly to a roll call vote, and Members unanimously voted against the officer recommendation to refuse consent.

Decision

Members agreed to grant the application.

Signed

Councillor Norman Hampshire
Convener of the Planning Committee

Signed

Councillor John McMillan
Depute Convener of the Planning Committee (Convener Item 1)