



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

**TUESDAY 5 NOVEMBER 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 S Robertson, Assistant Planner
Mr C Grilli, Service Manager – Governance
Ms S Cheyne, Project Officer – Landscapes
Ms J Newcombe, Biodiversity Officer
Ms M Haddow, Transportation Planning Officer
Mr J Canty, Transportation Planning Officer

Clerk:

Ms B Crichton

Visitors Present/Addressing the Committee:

Item 2: Mr A Clarkson, Ms C Duffy, Mr C Wilson, Mr D Moynihan, Ms F McGibbon, and Mr C Bruce
Item 4: Mr G Drummond

Apologies:

None

Declarations of Interest:

None

The clerk advised that the meeting was being held as a hybrid meeting, as provided for in legislation; that the meeting would be recorded and live streamed; and that it would be made available via the Council's website as a webcast, in order to allow public access to the democratic process in East Lothian. She noted that the Council was the data controller under the Data Protection Act 2018; that data collected as part of the recording would be retained in accordance with the Council's policy on record retention; and that the webcast of the meeting would be publicly available for six months from the date of the meeting.

The clerk recorded the attendance of Committee members by roll call.

1. MINUTES FOR APPROVAL
a. PLANNING COMMITTEE, 20 AUGUST 2024

The Committee agreed that the minutes were an accurate record of the meeting.

b. PLANNING COMMITTEE, 1 OCTOBER 2024

The Committee agreed that the minutes were an accurate record of the meeting.

2. PLANNING APPLICATION NO. 23/00616/PM: ERECTION OF 400KV SUBSTATION AND ASSOCIATED DEVELOPMENT, INCLUDING ASSOCIATED TEMPORARY INFRASTRUCTURE INCLUDING CONSTRUCTION COMPOUNDS AND ACCESS ROAD, FIELDS TO THE SOUTH OF THORNTON BRIDGE, SEALING END COMPOUND, BRANXTON

A report had been submitted in relation to Planning Application No. 23/00616/PM. Emma Taylor, Team Manager – Planning Delivery, presented the report, highlighting the salient points. The report recommendation was to grant consent.

Officers responded to questions. Responding to questions from Councillor McIntosh, Keith Dingwall, Service Manager – Planning, advised that community benefits were not a material planning issue, but suggested that Planning Committee members could enquire as to the applicant's position. He also advised that Committee members should not seek to add a condition to require the developer to sign up to the charter developed by East Lammermuir Community Council (ELCC), and added that the recommended conditions and following a Construction Method Statement should require good practice in any case.

Officers responded to questions from Councillor Jardine. Mr Dingwall provided an account of how the developer contribution figure had been reached. Regarding cumulative impact, and a 'tipping point' being reached, Ms Taylor advised that the application had been subject to an Environmental Impact Assessment (EIA), which could only look at the cumulative impact of developments which had been consented or were nearing consent; she also advised that the Landscape Visual Impact Assessment had been undertaken in the knowledge of other proposals coming forward. She gave an account of how the consultee Landscape Team had reached their conclusions; in this case it was acknowledged that there would be some impact, but it would be relatively localised because of the undulating landscape. She confirmed that proposed developments in the future would be subject to Landscape Visual Impact Assessments, even if they did not require EIAs. Although she could not assess what the tipping point would be, she reassured Committee members that checks and balances were in place. She said that officers acknowledged there had been disruption and that it would be noticeable, but also would be manageable and safe.

Andrew Clarkson spoke to the application on behalf of SP Energy Networks (SPEN). He set the application in the context of SPEN's wider obligation to maintain energy transmission systems, and the Scottish Government's net zero targets. He advised that the development included a temporary access road, and would connect Eastern Green Link 1 (EGL1) into the transmission network, which would allow 2GW of power to be transmitted across the UK network. Branxton also connected Berwick Bank Offshore Windfarm. He advised that SPEN were content with the recommended conditions. He described elements of the development, including some temporary sections, and parts which had been consented in 2023. He advised that the temporary access road would, for the most part, avoid use of the local road network. It was intended for the substation to be operational for testing purposes by Q2 2028, with commissioning in 2029. He advised that the location had been discussed with East Lothian Council, had been selected to minimise visual impact on the community, and sat adjacent to existing electrical infrastructure. He referenced the range of mitigation commitments to reduce impact on the community and environment, and pointed out that the landscape plating proposals would result in a 42% biodiversity net gain. He highlighted various statutory and non-statutory consultation activities, attendance at ELCC-led groups, and said SPEN would continue to engage with the community during the construction phases. He concluded by highlighting the development's national significance, and its compliance with NPF4 and the Local Development Plan (LDP) 2018.

Claire Duffy, also representing SPEN, responded to questions from Councillors. She advised that the substation had capacity to both bring connections in and allow generation to move through the network; there was spare capacity within the design to accept additional connections within the footprint of the building. She explained that the project had to take around five years because of works to build the A1 slip road, and then the whole road, before construction could begin. She advised that once the site was ready and construction began, road movements would reduce significantly. Responding to a point made by Councillor Jardine, she advised that workforce accommodation was not part of the planning application. She advised that SPEN were involved in conversations about workforce accommodation as part of other projects. Responding to points made by Councillor Collins, Ms Duffy noted that conditions would require SPEN to repair any damage done to roads, but she noted that the majority of vehicle movements would be off the local road network. She gave an account of the process for reporting anything found as part of trenching and geophysical work for archaeological surveys, and agreed that SPEN could look at publishing this information on their website.

Ms Duffy then responded to a number of questions from Councillor McIntosh. Ms Duffy explained how this site had been chosen, including following a routing assessment, and advised that five sites had been considered. She explained that the main driver had been finding a site that would not require further extension of overhead lines. She pointed out that the routing assessment had formed the basis of initial consultations with the community. Since 2020, discussions had been held with East Lothian Council because SPEN was confident it had chosen the right site; in response, Councillor McIntosh pointed out that there was a difference between talking to the local authority and the people who lived in the local area. Ms Duffy advised that the development was primarily to: create a new point of connection on the network; provide a point of connection for EGL1 and Berwick Bank Offshore Windfarm; and to allow Torness Nuclear Power Station to be removed through the network through its decommissioning process. She advised that SPEN was part of the Biodiversity Local Liaison Group with ELCC, where they had discussed community benefits. She also highlighted that the EGL1 project was looking at more specific community benefit packages, and said that other community benefits were being considered. Councillor McIntosh asked whether community ownership of renewable generation was being actively encouraged, but Ms Duffy was unable to provide an answer on this matter.

SPEN representatives answered further questions from Councillor McIntosh. Christopher Wilson advised that engineers were comfortable that they understood the site conditions; they expected to find rock since they were digging down to limit visual impact, but there was no suggestion that blasting operations would be required. Ms Duffy confirmed that there were no plans to impact ancient woodland, but a small section of mature trees would have to be felled for drainage purposes. Mr Wilson advised that the diesel generator was to be used only in a worst-case scenario if power was lost to the site.

Responding to questions from Councillor McGinn, Ms Duffy advised that the biodiversity gain would be achieved by putting in grasslands, hedgerows, and areas of woodland edge planting and further woodland areas. The DEFRA Matrix had been used to calculate the 42% biodiversity gain for habitats achieved. She advised that the plan would be produced and approved, then planting would be undertaken, and there would follow a period of monitoring.

Chris Bruce spoke against the application on behalf of Dominic Moynihan, who lived in one of the closet properties to the development. Mr Bruce outlined the content of two representations Mr Moynihan had submitted relating to application, concerning: the site location being south of the A1: local topography in relation to ground and surface water drainage issues; an absence of projected traffic flows on the proposed temporary access road across agricultural land between Bilsdean and Branxton; and the lack of a cumulative impact assessment. Mr Moynihan had wished to draw attention to the high number of documents associated with the various applications from companies looking to take advantage of the revenue opportunities from such grid a connection. He advised that SPEN had provided detailed information as to why the site had been selected only in summer 2024, referring to a site close to Torness Nuclear Power Station. Mr Moynihan highlighted the lack of any competent cumulative impact assessment, despite the flood of documentation relating to the dozen projects huddled around this location; he also highlighted a number of errors and omissions in the documents which had been produced, including use of out-of-date data, and incorrect traffic route selections. He therefore suggested that a competent and up-to-date impact assessment be submitted to the Council and Planning and Monitoring Officer to be engaged; he also suggested that the Planning and Monitoring Officer should be written into planning conditions on this and other projects. As a chartered civil engineer, Mr Moynihan imparted his experience that developer care and attention would diminish significantly following the grant of planning permission.

Fiona McGibbon spoke against the application, and referred to various slides throughout her presentation. She was a geologist and local resident. She pointed out that, as well as a climate crisis, there was also a biodiversity crisis caused by habitat loss; she acknowledged that more green energy was needed nationally, but questioned whether so much of the infrastructure had to be here. She outlined the various electricity generation sites and projects; she felt that the east of East Lothian had done its bit, and further projects made it less pleasant to live in the area and greatly impacted the remaining wild space. She said the Branxton Substation placed a massive structure in an area of special landscape value, and threatened a designated local biodiversity site. Further, it opened the door to another eight bolt-on developments, which would industrialise a quiet rural area, open up the space for battery storage projects, and leave farms and dwellings surrounded by machinery. She pointed out that levelling the hill would require movement of 190,000 cubic metres of excavated material, causing major and irreversible impact on the landscape, and further raised concerns about an increase in HGV movements and their impact on noise and safety; she argued that when a hill had to be moved and a whole road had to be built, it was not the right site. She felt strongly that the applications had to be considered in a linked way. She pointed out that all ways in and out of Innerwick would encounter construction traffic for many years and affect residential amenity and safety. She reported that there had already been a mass exodus from Innerwick as a result of the developments in the area. She was concerned about the impact of cabling on the deans, parts of which were managed as nature reserves; these valleys provided important habitats and travel corridors in an area of intensive agriculture. She noted that roadkill had already increased because of HGV movements, and these movements were set to increase

significantly; she saw this as indicative of the danger coming. She asked the Planning Committee to consider whether this was a suitable site.

Chris Bruce made representation on behalf of ELCC. He advised that ELCC continued to support green energy ambitions, but noted the absence of a meaningful and comprehensive cumulative assessment of this proposal and the connected developments; as these other developments would not exist without the proposed Branxton Substation, ELCC felt they should be viewed as a single development. He advised that ELCC continued to object to the proposal as it stood, and asked how the Council understood 'net gain' for the people who lived in the East Lammermuir area. He noted that the site adjoined a special landscape area, and highlighted LDP Policy DC9, which protected special landscape areas from inappropriate development. He also pointed out that further new connections were being agreed for the Branxton Substation. He asked when the Planning Committee would look at the cumulative impact of the development and take a position on how much was enough, and asked whether the next iteration of the LDP would protect what remained of communities and ecosystems. He commented that the process for agreeing planning conditions saw the Community Council refused access to Planning Officers in advance of recommendations being made, and asked whether this could be addressed. He provided background to his proposed condition, including ongoing work with another developer with regards to construction traffic. The proposed condition read:

The developers, contractors, and sub-contractors should be required to form and support a comprehensive Community Traffic Liaison Group, including representatives from the residents' groups at Birnieknowes, Oldhamstocks Community Association, Dunglass and Bilsdean, as well as East Lammermuir Community Council, East Lammermuir Construction Traffic Group, Cockburnspath and Cove Community Council, East Lothian Council, BEAR Scotland, and any other development proposed to connect into the proposed Branxton Substation. That group should consider and adopt learning from the East Lammermuir Construction Traffic Group, and its spin-off Lorries in Our Lane group, which seek to establish baselines of good practice for construction traffic through real-time learning from existing construction programmes. No construction traffic relating to Branxton Substation development should be allowed to operate at anything less than these established baselines for good practice, proven in the field; further improvements are welcome.

Reason

To mitigate the inevitable impact on roads, residents, and the environment, of the 55-month construction programme of the proposed Branxton Substation.

Continuing, Mr Bruce advised that SPEN had made a presentation to the East Lammermuir Community Liaison Group in October about their Biodiversity Enhancement Plan. The Chair had noted that the group's vision for nature recovery in the area had not been an influence for the plans for the Branxton development, which was largely a timing issue, but the Local Place Plan had also not been taken into account. Mr Bruce reported that the SPEN representative had indicated there may be scope for developer support for community projects outwith the Branxton development boundary; while this was positive, Mr Bruce highlighted the usual process for working within red line boundaries as being unhelpful because nature did not observe such boundaries. Mr Bruce read ELCC's proposed condition relating to biodiversity:

Prior to commencement of transmission, the transmission owner, SPEN, must demonstrate that their finalised Biodiversity Enhancement Plan takes account of all surrounding proposed and consented energy development Biodiversity Enhancement Plans, to ensure coordination and synergies of objectives and proposals. Transmission owners and developers should be required to join and support the Biodiversity Community Liaison Group to facilitate this process.

Reason

To maximise the cumulative positive impact of all Biodiversity Enhancement Plans associated with the range of electricity infrastructure developments in East Lammermuir.

Mr Bruce summarised by asking the Planning Committee to reject the proposals, pending a full Cumulative Impact Assessment, or, failing that, to adopt ELCC's proposed conditions.

Responding to a question from the Convener, Mr Bruce said that no Councillors on the Planning Committee lived in the area and were affected each day. He said that it did not matter to residents whether applications were determined by the Council or the ECU, but at such scale, it was felt that a single assessment of that impact was required; if this required a referral to the Scottish Government at inquiry, this would go a long way to satisfying residents' sense that it had been fully thought through. The Convener agreed that there ought to be changes in the process to better consider the cumulative impact, and commented that the previous Landscape Capacity Study was not fit to deal with the proposals coming forward. He said that Councillors were having to deal with a situation where it felt like the whole of the countryside appeared to be open for electricity generation by private companies, and had to try to find a way to manage and control this.

Responding to a question from Councillor McMillan, Mr Dingwall advised that it would not be reasonable for Committee members to require the applicant to join a particular group, but did appreciate the need for liaison; he noted that the applicant regularly attended community liaison meetings. To take this into account, he suggested an amendment to Condition 20, as noted below.

Responding to a question from Councillor Collins, Mr Bruce reported that the Lorries in Our Lane meeting had been astounded to hear that there had been no discussion over the use of the A1 for the EGL1 development. He summarised that ELCC was keen that developers be required to talk to other developers working in the area, and also wanted them to involve ELCC in the transportation planning stages.

Responding to questions from the Convener, Mr Dingwall reiterated that it would be difficult to compel this applicant to work with other developers because the other developers may not be willing to work with the applicant. He reiterated the suggested amendment to Condition 20. The Convener acknowledged Mr Dingwall's confidence that the developer was likely to want to liaise, but said the community had had a difficult time over the past few years dealing with developer compliance. Mr Dingwall highlighted the role of the Planning Monitoring Officer required under Condition 27. He advised that Condition 20 was a pre-commencement condition, and he suggested the developer would have listened and could use their learning to add to their own Construction Traffic Plan.

Councillor McIntosh asked whether Conditions 9 or 10 could be strengthened to ensure biodiversity plans accounted for what other developers were doing. Mr Dingwall suggested that the end of the first paragraph under Condition 9 could add that the Habitat Management and Enhancement Plan (HMEP) should also consider other projects and try to improve things from a cumulative point of view. He advised that if Committee members were to approve the development, then final wording for this condition could be delegated for approval by himself, in consultation with the Convener and Councillor McIntosh.

Mr Bruce pointed out that only one of the various projects linking into the Branxton Substation already had full planning consent, so he felt there was opportunity to compel developers to work together. Mr Dingwall responded that he felt ELCC's contribution had improved Condition 20 and the future amendment to Condition 9, but his concern remained about putting such an obligation on an applicant when they had no control over the conduct of other developers.

The Convener noted that a representative of West Barns Community Council had been unable to attend the meeting, but advised that the Community Council wanted to note its sustained objection to the application.

Councillor Jardine, local member, felt that cumulative impact of developments and community benefits remained unresolved. She felt the commitment to biodiversity was commendable, but she expressed that there was an opportunity to lead by example for the wide range of renewable projects in the area. She felt that the developer was doing more than others in the area. She felt that contributions to workforce accommodation and community benefits relating to mitigating fuel poverty could leave a significant legacy. She commented on ELCC's thorough community engagement on their Local Place Plan, and felt that this provided a handbook for meaningful community benefits. She encouraged the Planning Committee to incorporate ELCC's recommended conditions to set a standard for future development.

Councillor Collins, local member, agreed that the conditions suggested by Mr Bruce should be included. She noted that Thurston Manor had been set up to accommodate the workforce building Torness Nuclear Power Station, and thought a similar arrangement might be needed in the future and could also mitigate housing pressures later. She supported communication between developers and community groups, and would support the application.

The Convener, also a local member, commented that the community felt neglected in the process of constant development of green energy infrastructure in the area. He drew comparison with housing applications, which would have to be within areas approved as part of the LDP; he felt that processes had to change and that the Planning Committee should write to the Scottish Government on this matter. He commented that East Lothian had contributed to renewable energy both onshore and offshore, that the landscape capacity and availability of agricultural land had to be carefully considered, and that communities had to feel part of the process. He agreed that further renewable infrastructure was still needed; he felt he had to support the application, but would want the additional conditions previously discussed to be added.

Councillor McIntosh pointed out that although language such as 'national project' had been used, these developments were by private companies; she felt that much of the dissatisfaction around the projects was because we should see energy as a public service and utility, and not a commodity to be speculated on. She had not been comforted by the responses regarding community benefits and wealth building, and felt the Planning Committee should be able to impose stronger conditions in this area. She noted that although such developments were enablers for future developments, they would also enable the decarbonisation of many homes. She would support the application, as it was vital to support offshore energy capacity and transmission, but felt unsatisfied by the policy situation. She encouraged communities to lobby the Scottish Government for greater strategic planning in this area. Although she recognised that workforce accommodation was not a planning consideration, she highlighted that minimisation of transport emissions was relevant to planning, and thought that developer ambition should be expected in this area. She would support the application, but with caveats.

Councillor McMillan supported the purpose of the development. He commented on the quality of the contributions at the meeting. He agreed that there was a need for greater strategic planning, and supported writing to the Scottish Government on this matter. He also acknowledged the various comments made on the planning process for such developments, and felt this should be considered under the next iteration of the LDP. He thought that the accommodation solution for construction at Torness may have been from a different time; he suggested that local recruitment could provide some solutions, and that housing workers within communities could be of greater benefit to the rural economy. He would support the application, and felt that Mr Bruce's suggestions provided a model to be followed in terms of communication, caring for the environment, and meeting the needs of the local community.

The Convener asked Mr Dingwall to suggest wording for conditions previously discussed. Mr Dingwall advised that the intention to write to the Scottish Government would be noted and dealt with outside of this planning permission. On an amendment to Condition 9, the wording had not yet been agreed, but would cover whether biodiversity enhancements could be

considered on a cumulative basis with other nearby developments; wording would be prepared and added to the end of the first paragraph, and would be shared with the Convener and Councillor McIntosh. Mr Dingwall suggested a wording for an additional part to Condition 20, noted below. These amendments to conditions were formally proposed by the Convener and seconded by Councillor Collins. ***Post-meeting note:** the finalised wording for Conditions 9 and 20 is recorded below.*

The Convener then moved to a roll call vote on the officer recommendation to grant consent, subject to the proposed amendments to Conditions 9 and 20. Planning Committee members unanimously supported the application, subject to these amendments.

Decision

Planning Committee agreed that Planning Permission be granted subject to the following conditions:

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

Reason:

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

- 2 The development hereby approved shall be undertaken in accordance with the Environmental Impact Assessment Report docketed to this planning permission, except where altered by the conditions below, or unless otherwise agreed in writing by the Planning Authority.

Reason:

To ensure the reported likely environmental impacts of the development are not exceeded and the specified mitigation measures are fully implemented.

- 3 Prior to the commencement of development, a detailed scheme of landscaping for the application site, which shall be based on the Outline Landscape Proposals drawings Figure 6.7, 6.7a, 6.7b, 6.7c and 6.7d (drawing nos. 233-SHR SK-XX-XX-DR-LA-1000 Rev 03, 233-SHR SK-XX-XX-DR-LA-1000 Rev 01, 233-SHR SK-XX-XX-DR-LA-1000 Rev 01, 233-SHR SK-XX-XX-DR-LA-1000 Rev 01 and 233-SHR SK-XX-XX-DR-LA-1000 Rev 01 respectively) all contained within the EIA Report docketed to this planning permission, shall be submitted to and approved in writing by the Planning Authority. The scheme shall provide details of: the height and slopes of any mounding on or re-contouring of, the site; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. The scheme shall also address long term management of the approved planting and boundary treatments.

In accordance with the approved scheme, all planting, seeding or turfing 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 managed in accordance with that scheme. Any trees or plants which within a period of five 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 The development hereby approved shall be carried out in strict accordance with the 'Arboricultural Planning Statement Branxton Substation' Revision C report by RSK ADAS Ltd dated February 2024 docketed to this planning permission, unless otherwise agreed in writing with the Planning Authority.

Other than the trees shown to be removed in Appendix 4: Tree Protection Plan and listed in Appendix 7: Tree Works Schedule within the docketed 'Arboricultural Planning Statement

Branxton Substation' Revision C report, no other trees or hedgerows which are 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.

Reason:

To ensure the retention of trees which are an important landscape feature of the area.

- 5 No development shall take place on site until temporary protective fencing in accordance with Appendix 9: Example Tree Protection Barrier of the docketed 'Arboricultural Planning Statement Branxton Substation' Revision C report has been erected in the positions shown for it on the Tree Protection Plan drawings within Appendix 4: Tree Protection Plan of the docketed 'Arboricultural Planning Statement Branxton Substation' Revision C report.

The temporary protective fencing shall be fixed to the ground to withstand accidental impact from machinery, erected prior to site start and retained on site and intact through to completion of development.

All weather notices shall be erected on the temporary protective fencing with words such as "Construction exclusion zone - Keep out". Within the areas so fenced off the existing ground level shall neither be raised or lowered and no materials, temporary buildings, plant, machinery or surface soil shall be placed or stored, no handling, discharge or spillage of any chemical substance, including cement washings, and no fires shall be lit thereon without the prior written approval of the Planning Authority. Planning of site operations shall take sufficient account of wide loads, tall loads and plant with booms, jibs and counterweights (including drilling rigs), in order that they can operate without coming into contact with retained trees. Details of any trenches or services required in the fenced off areas shall be submitted to and approved by the Planning Authority prior to any such works being carried out and such trenches or services shall be excavated and backfilled by hand and any tree roots encountered with a diameter of 25mm or more shall be left unsevered.

Reason:

To ensure the protection of trees within the application site in the interests of safeguarding the landscape character of the area.

- 6 No development shall take place on site until a person who has, through relevant education, training and experience, gained recognised qualifications and expertise in the field of trees in relation to construction, been employed by the developer to monitor the site works, including the installation of the temporary protective fencing as required by Condition 5 above. The arboriculturist employed shall be required to approve the temporary protective fencing and submit written confirmation and photographic evidence that this has been installed for the prior approval of the Planning Authority prior to the commencement of development.

The arboricultural consultant shall remain the main contact for all tree related matters or queries that arise on the development site. Arboricultural monitoring shall include the supervision and reporting (to include both written and photographic updates). The arboricultural consultant shall be responsible to come up with an appropriate solution to resolve any damage or loss to trees and hedgerows shown to be caused by the development, the details of which shall be included in ongoing site inspection reports to the Planning Authority which shall be submitted quarterly. The Arboricultural consultant shall inspect the remaining trees and hedgerows on completion of the development, updating the tree condition survey and tree management schedule where required.

Reason:

To ensure the retention and protection of trees which are an important feature of the area.

- 7 No development shall take place (including demolition, ground works, and vegetation clearance) until supplementary surveys for protected species (bats, otter, badger, and breeding birds), to be carried out by a suitably qualified person, have been submitted to and approved in writing by the Planning Authority. The results of the approved surveys shall be used to inform construction activities, and detail of any required mitigation proposals for protected species on the site as identified as being required as a result of the approved surveys shall be submitted to and approved by the Planning Authority prior to the commencement of development. The

detail shall include a timetable for the implementation of any required mitigation proposals. Development shall thereafter be carried out in accordance with the detail as so approved.

Reason:

To avoid or minimise disturbance of wildlife.

- 8 No development shall take place until a Species Mitigation and Management Plan, which shall include measures to mitigate and manage the effects of the proposed development on species including breeding birds, otter, bats and badger, has been submitted to and approved in writing by the Planning Authority.

The development shall thereafter be carried out in strict accordance with the approved Species Mitigation and Management Plan unless otherwise approved in writing by the Planning Authority.

Reason:

To avoid or minimise disturbance of wildlife.

- 9 No development shall take place until a Habitat Management and Enhancement Plan (HMEP) has been submitted to and approved by the Planning Authority, which shall include on-site and off-site measures as appropriate to restore and enhance habitats including broadleaved woodland, neutral grassland, lowland meadow, mixed scrub and native hedgerow. The HMEP shall also include a timetable for implementation of the measures identified within it. The HMEP shall be designed to maximise biodiversity enhancement, in combination with HMEP's for other nearby energy developments.

The development shall thereafter be carried out in accordance with the approved Habitat Management and Enhancement Plan unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure the development results in the management and enhancement of biodiversity.

- 10 There shall be no commencement of development until the Planning Authority has approved in writing the terms of appointment by the applicant of an appropriately experienced and qualified Ecological Clerk of Works (ECoW). The terms of the appointment shall:

- o impose a duty to monitor compliance with the ecological mitigation measures described in the Environmental Impact Assessment Report docketed to this planning permission and the conditions imposed on this planning permission; and
- o detail the stages of the construction phase of the development when the ECoW shall be in post.

The EcoW shall be appointed on the approved terms unless otherwise agreed in writing by the Planning Authority.

Reason:

To avoid or minimise disturbance of wildlife.

- 11 Prior to the commencement of development, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Planning Authority. The CEMP shall identify potential noise and dust impacts that may arise during construction of the proposed development and specify any mitigation measures necessary to minimise any such impacts on sensitive receptors, and shall include hours for construction work.

With regards to noise the CEMP shall adopt "Best Practice Guidance" as recommended in BS 5228-1:2009+A1:2014 "Code of practice for noise and vibration control on construction and open sites, Part 1: Noise".

With regards to the control of dust the CEMP shall include details regarding practicable control measures for reducing visible dust emissions affecting properties beyond the site boundary.

Control measures to be considered are identified in Section 8 of the Institute of Air Quality Management Guidance on the assessment of dust from demolition and construction (2014).

The development shall thereafter be carried out in strict accordance with the approved CEMP 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.

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

1. (i) A Preliminary Investigation incorporating a Phase I Desk Study (including site reconnaissance, development of a conceptual model and an initial risk assessment); and

(ii) A Phase II Ground Investigation (only if the Desk Study has determined that further assessment is required), comprising the following:

- o A survey of the extent, scale and nature of contamination, and reporting on the appropriate risk assessment(s) carried out with regards to Human Health, the Water Environment and Gas Characteristic Situation as well as an updated conceptual model of the site;
- o An appraisal of the remediation methods available and proposal of the preferred option(s).

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

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

2. Prior to any works beginning on site (and where risks have been identified), a detailed Remediation Statement shall be produced that shows the site is to be brought to a condition suitable for the intended use by the removal of unacceptable risks to all relevant and statutory receptors. The Statement shall detail all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works as well as details of the procedures to be followed for the verification of the remedial works. It shall also ensure that the site will not qualify as contaminated land under Part2A of the Environmental Protection Act 1990 in relation to the intended use of the land following development; and

3. Following completion of the measures identified in the approved Remediation Statement, a Verification Report shall be submitted that demonstrates the effectiveness of the remediation carried out.

Reason:

To ensure that the site is clear of contamination and that remediation works are acceptable.

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

Reason:

To ensure that the site is clear of contamination.

- 14 Prior to the commencement of development a Soil Management Plan (SMP) shall be submitted to and approved by the Planning Authority. The SMP shall include appropriate measures for soil handling and storage of soils during construction and detail of soil reinstatement. Development shall thereafter be carried out in accordance with the SMP so approved.

Reason:

In the interests of soil management.

- 15 No development shall take place on the application site until the applicant has undertaken and reported upon a Programme of Archaeological Work (Evaluation by Archaeological Trial Trench; Historic Building recording; topographical survey) 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:

In the interests of archaeological and natural heritage.

- 16 Notwithstanding that which is shown on the drawings docketed to this planning permission and prior to the commencement of the development, the detailed design and specification of the proposed left-in temporary construction access junction with the A1 trunk road shall be submitted to and approved in writing by the Planning Authority in consultation with Transport Scotland.

Thereafter, and prior to the commencement of development, the junction shall be constructed in accordance with the detailed design and specification as so approved, unless otherwise agreed in writing with the Planning Authority in consultation with Transport Scotland.

Reason:

To ensure that the standard of the left-in junction with the A1 trunk road complies with the current standards in the interests of road safety.

- 17 The temporary works hereby approved comprising of:

- * Temporary construction compounds and associated temporary access;
- * Temporary access (haul) road to facilitate construction traffic movements from/to the substation site including the access from the A1 trunk road;
- * Temporary access to substation site (separate from the proposed permanent access road);
- * Temporary works areas associated with the tower installation, cable installation and sealing end compound removal;
- * Temporary top soil storage areas; and
- * Temporary earthworks storage areas;

shall all be removed in their entirety from the application site and any removed hedgerows and other field boundaries and the land upon which the temporary works are formed shall all be reinstated to their former condition within one year of the completion of the development hereby approved or on completion of the installation of the underground cables approved by separate planning permission in principle 22/00852/PPM, whichever is the later, unless otherwise approved in writing by the Planning Authority.

Prior to the cessation of the use and the restoration of the land of the site, details for the reinstatement of the land shall be submitted to and approved in writing in advance by the Planning Authority, and thereafter, the reinstatement of the land shall accord with the details so approved.

The date of completion of the development hereby approved and the date of completion of the installation of the underground cables approved by separate planning permission in principle 22/00852/PPM shall be provided in writing to the Planning Authority within 2 weeks of completion of each of the developments.

Reason:

In order to ensure a timely restoration of the land on which the temporary works will be formed in the interests of the character and amenity of the area.

- 18 Prior to any use being made by construction traffic associated with the proposed development of the temporary slip road taken from the A1 trunk road and the length of public road that crosses the bridge over the East Coast Main Line and onto the C120 Birnieknowes road, the road safety improvements all as shown on docketed drawing nos. CT1372-2-11HD-DO-AECOEC-3098 Rev 1, CT1372-2-11HD-DO-AECOEC-3097 Rev 1 and CT1372-2-11HD-DO-AECOEC-3090 Rev 1 shall be formed and installed and thereafter shall remain in place through to completion of development.

Reason:

In the interests of road and rail safety.

- 19 Unless otherwise agreed in writing with the Planning Authority, the junctions of the temporary access (haul) road with the local road network shall be constructed and formed in accordance with that shown on docketed drawings nos. CT1372-2-11HD-DO-AECOEC-2007 Rev 0, CT1372-2-11HD-DO-AECOEC-2008 Rev 0, CT1372-2-11HD-DO-AECOEC-2009 Rev 0B and CT1372-2-11HD-DO-AECOEC-2020 Rev 0B.

Reason:

In the interests of road safety.

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

(i) detail for access from the A1 to the eastern part of the site, including a robust signage strategy and method of safely and physically controlling/preventing unauthorised access to construction only routes;

(ii) detail of any additional signing or temporary traffic control measures deemed necessary due to the size or length of construction loads being delivered, which shall be undertaken by a recognised Quality Assured traffic management consultant;

(iii) details of measures to reduce the number of construction vehicles;

(iv) details of and controls for access routes to and from the site for abnormal loads, large components and day-to-day deliveries/removals associated with the construction and decommissioning phases of the development;

(v) vehicle tracking of all turning movements onto the local road network, especially from the access route off the A1;

(vi) detailed swept path assessments of large component delivery routes and drawings detailing any required off-site mitigation works;

(vii) updated information on programme, construction tasks, vehicle types and trip generation;

(viii) frequencies and times of deliveries and arrangements for the removal of materials/plant from the site;

(ix) details of traffic management measures deemed necessary on the local and trunk road networks;

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

(xi) arrangements for road maintenance and cleaning;

- (xii) detail of how building materials and waste will be safely stored and managed on site;
- (xiii) details of wheel washing facilities which must be provided and maintained in working order during the period of construction and/or decommissioning of the site. All vehicles must use the wheel washing facilities to prevent deleterious materials being carried onto the public road on vehicle wheels;
- (xiv) details of how the behaviour of contractor and subcontractor drivers will be monitored and enforced with particular regards to vehicle speeds;
- (xv) a Staff Travel Plan to include measures to minimise dependency on the private car to and from the construction compounds;
- (xvi) a summary of the arrangements for road maintenance, dilapidation surveys and repairs during the construction programme;
- (xvii) details of measures to be undertaken to ensure the safety of vulnerable road users on the local road network within the vicinity of the development site and its associated temporary infrastructure, including a timetable for the implementation of those measures; and
- (xviii) details of a Traffic Signals Management Plan to include maintenance of the signals to be installed via an appropriate traffic management company;
- (xix) measures for regular liaison with East Lammermuir Community Council, local residents and other energy developers working within the local area, to inform them of traffic associated with the construction of the development.

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

Reason:

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

- 21 Prior to the commencement of the development hereby approved, a programme for monitoring the condition of and commitment to repair identified damage to the public roads to be used by construction traffic prior to, during and immediately following the completion of the development, shall be submitted to and approved in writing by the Planning Authority. The public roads to be monitored shall be the sections of the C120, C121, C124 and U220 as identified in Figure 12.1: Study Area within the Environmental Impact Assessment Report docketed to this planning permission and shall include the sections of the A1 trunk road. Thereafter the approved programme of monitoring and repairs shall be implemented.

Any remedial works required to those public roads shown by the monitoring as arising from the construction of the development shall be undertaken by the applicant with general repairs undertaken on a regular basis and periodic resurfacing where necessary in accordance with details to be submitted to and approved by the Planning Authority. Any damage to the road surface as a direct result of the construction process of this development that is identified during the monitoring period which could result in a significant risk to road safety shall be repaired immediately.

The final remedial works shall be completed within 3 months of the completion of the final monitoring undertaken, unless an alternative means of securing the works is approved in writing by the Planning Authority.

Reason:

To ensure that damage to the public road network resulting from the proposed development is rectified.

- 22 Prior to any use being made of the temporary construction access (haul) roads as hereby approved, the date of which shall be provided in writing to the Planning Authority, a Stage 3 Road Safety Audit - Post Opening shall be submitted to and approved by the Planning Authority.

12 months following approval of the Stage 3 Road Safety Audit a Stage 4 Road Safety Audit shall be submitted to and approved by the Planning Authority for all works that are to remain permanently in place.

All the Road Safety Audits shall be carried out in accordance with GG119 Road Safety Audit Rev 1.

Reason:

In the interests of road and vulnerable user safety.

- 23 Prior to commencement of development, a swept path assessment shall be submitted to and approved by the Planning Authority, which shall demonstrate that the proposed temporary construction access (haul) roads and permanent site access roads can be accessed as required by a 10m rigid vehicle and 16.5m articulated vehicle.

Reason: In the interests of road safety.

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

- (i) the proposed route of any temporary rerouting of Core Paths within the application site, the duration of the temporary rerouting, and any measures for its permanent diversion (including its new route) if required as a result of the proposed development; and
- (ii) a timetable for the implementation of any temporary or permanent diversions of the above Core Paths.

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

Reason:

To ensure continuity of the core path network in the interests of public access.

- 25 Prior to the commencement of development, a report on the actions to be taken to reduce the Carbon Emissions from the build and from the completed development shall be submitted to and approved in writing by the Planning Authority. This shall include the provision of renewable technology for all new buildings, where feasible and appropriate in design terms, and new car charging points and infrastructure for them, where feasible and appropriate in design terms. The details shall include a timetable for implementation.

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

Reason:

To minimise the environmental impact of the development.

- 26 In the event the development hereby approved is no longer required for electricity transmission purposes and fails to be used for this purpose for a continuous period of 6 months then, unless otherwise approved in writing by the Planning Authority, it shall be deemed to have ceased to be required. If it is deemed to have ceased to be required, after the end of the said continuous 6 months period a decommissioning and site restoration plan (the 'Demolition and Restoration Scheme') shall be submitted to and approved in writing by the Planning Authority. The Demolition and Restoration Scheme shall include details of:

- i) The extent of substation and all associated infrastructure to be removed and details of site restoration;
- ii) Management and timing of works;
- iii) Environmental management provisions; and

iv) A traffic management plan to address any traffic issues during the decommissioning period.

The Demolition and Restoration Scheme shall be implemented in its entirety, unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure that the application site is satisfactorily restored in the interests of the amenity of the area.

- 27 No development shall commence unless and until the Planning Authority has approved in writing the terms of appointment by the applicant (or their agent) of an independent and suitably qualified environmental consultant, as Planning Monitoring Officer ("PMO") to assist the Planning Authority in monitoring compliance with the terms of the planning permission and conditions attached to this consent.

The terms of appointment shall: (a) Impose a duty to monitor compliance with the terms of the planning permission and the conditions attached to it; (b) require to set out the frequency of PMO visits to site; (c) require the PMO to submit a monthly report to the Planning Authority summarising works undertaken on site; and (d) require the PMO to report to the Planning Authority any incidence(s) of noncompliance with the terms of the planning permission and conditions attached to it at the earliest practical opportunity.

The PMO shall be appointed on the approved terms throughout the period from commencement of development to completion of post construction restoration works.

Reason:

To enable the development to be suitably monitored to ensure compliance with the planning permission and the conditions attached to it.

3. PLANNING APPLICATION NO. 23/01333/PM: ERECTION OF 103 HOUSES, EIGHT FLATS AND ASSOCIATED WORKS, LAND TO THE NORTH OF CASTLEHILL, ELPHINSTONE

A report had been submitted in relation to Planning Application No. 23/01333/PM. Mr Dingwall presented the report, highlighting the salient points. The report recommendation was to grant consent.

Councillor McGinn, local member, raised an extensive list of concerns about the current Bellway development in Elphinstone, and requested that Planning Committee defer making a decision on planning applications 23/01333/PM and 24/00699/P until an explanation came forward as to why there had been so many issues. He felt it was difficult to separate this proposed Phase 2 from the Phase 1 development. He advised that he had been made aware of a significant number of concerns regarding flooding and water in the lower part of the phase where the SuDs ponds were sited, and about water flooding under houses at Waterloo Place. He reported that it had been challenging to try get Bellway to engage properly. He also raised issues whereby the sewage link to the Main Street had failed; sewage was being taken through Elphinstone to a temporary facility for disposal, which had caused real anxiety in the village. He said that the residents of Elphinstone deserved better treatment. He also raised issues with the SuDS ponds, and pointed out that there had been no period of significant rainfall since last winter to gauge whether flooding issues had been resolved. He also highlighted significant local concerns over the application for the path, and said residents sought answers as to why other options had been discounted. He wanted to defer making a decision on the two applications to give time for these concerns to be investigated, and felt that it was premature to consent Phase 2 when there were still so many outstanding issues from Phase 1.

The Convener indicated that he was aware of these concerns; he was happy to support the motion, and for a further report to come to the Planning Committee about the issues raised. He formally seconded the motion to continue applications 23/01333/PM and 24/00699/P.

Mr Dingwall advised that it was competent for the Planning Committee to grant, refuse, or to continue the applications if there was good planning reason to do so. He made Committee members aware that it would be possible for Bellway to appeal the applications on the grounds of non-determination, but advised that officers would communicate with Bellway and seek agreement for an extension to the time permitted to determine the applications. He pointed out that Bellway may not agree to a further extension, and advised that the Planning Committee may wish to take a view on who would submit the Council's statement if there were such an appeal. Carlo Grilli, Service Manager – Governance, supported Mr Dingwall's comments, and advised that objectors would be advised in future if or when the applications came back before the Planning Committee.

Councillor McGinn advised that Bellway had reached out to him that morning, as he had been vocal about the treatment of Elphinstone residents. He said he did not want to create conflict, but for Bellway to be better for the residents of Elphinstone.

Graham Drummond spoke against the application. He advised that he had not objected to the original application, but said this application would double the size of the new development. He described Phase 1 as having had a huge impact on Elphinstone, with Main Street having to be closed off. He said that drilling operations had failed miserably. He reported that a stream of tankers drove by his house three times each week, and there were significant problems with odours. He felt the issues seemed to be ongoing and there was no end in sight. He reported having made various representations to Scottish Water, Bellway, and the Council, but he felt that organisations were avoiding the issues. He said that Bellway would have cited unforeseen circumstances, but he pointed out that this did not provide solutions. He supported Councillor McGinn's suggestion to defer making a decision on the applications, and had been intending to suggest that Phase 2 be put on hold until a complete drainage system could be put in place. He described Bellway as having been atrocious, reported that they failed to respond to emails. He wanted to know how long he would have to put up with the issues with tankers. He said he also had concerns about the SuDS proposals for the scheme, as the back gardens of houses had been affected on Tranent Road and Waterloo Place last winter.

The Convener commented that Committee members were also concerned that the development was continuing without addressing the issues with drainage and surface water.

The Convener then moved to a roll call vote, and the Committee members unanimously voted in support of the motion to continue applications 23/01333/PM and 24/00699/P to the following meeting of the Planning Committee.

Mr Dingwall raised that, while he hoped that Bellway would work in a constructive manner, they could choose to appeal the applications on the grounds of non-determination. He invited Committee members to take a view on who would make the submission in respect of any such appeal; he suggested that this could come from himself as the Chief Planning Officer, or a report could be made to a future meeting of the Planning Committee.

The Convener proposed that such a report should come from the Chief Planning Officer, and this was seconded by Councillor Forrest. Members unanimously supported this proposal by roll call vote.

Decision

Planning Committee members agreed to continue application no. 23/01333/PM until the following meeting of the Planning Committee.

4. PLANNING APPLICATION NO. 24/00699/P: FORMATION OF PATHWAY AND INSTALLATION OF LIGHTING, WOODLAND AND AMENITY GRASS AREA TO THE WEST OF WATERLOO PLACE, MAIN STREET, ELPHINSTONE

Decision

Planning Committee members agreed to continue application no. 24/00699/P until the following meeting of the Planning Committee.

Signed

Councillor Norman Hampshire
Convener of the Planning Committee