



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

TUESDAY 14 JANUARY 2025
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON
& HYBRID MEETING FACILITY

Committee Members Present:

Councillor N Hampshire (Convener)
Councillor L Allan
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-A Menzies
Councillor L Jardine

Council Officials Present:

Mr K Dingwall, Service Manager – Planning
Mr C Grilli, Service Manager – Governance
Ms E Taylor, Team Manager – Planning Delivery
Mr D Taylor, Planner
Ms A Smith, Planner
Mr N Morgan, Access Officer
Ms J Newcombe, Biodiversity Officer
Ms M Haddow, Transportation Planning Officer
Mr J Canty, Transportation Planning Officer
Mr R Miller, Transportation Planning Officer
Ms P Grey, Communications Adviser
Ms E Barclay, Democratic Services Assistant

Clerk:

Ms B Crichton

Visitors Present/Addressing the Committee:

Item 2: Mr I Hinds, Mr H Harper, and Mr M Lindsay
Item 3: Mr I Hinds, Mr H Harper, Mr M Lindsay, and Mr R Moore
Item 4: Mr T Thomas, Mr J Urquhart, and Ms R Simpson Hughes
Item 5: Mr B Currie and Mr G Smith
Item 6: Mr N Mills and Mr C Miller

Item 7: Ms J Aitken and Ms J Bell

Item 8: Mr T Thomas, Mr D Lawson, Mr A Fraser, and Mr A B Walker

Item 9: Mr T Whitelaw

Apologies:

Councillor C Cassini

Declarations of Interest:

Item 4: For transparency, Councillor McMillan stated that he served on the Connected Economy Group with representatives of the Wemyss and March Estate, but felt he had no conflict of interest.

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 – PLANNING COMMITTEE, 3 DECEMBER 2024

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

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

The application was heard following the decision of Planning Committee on 5 November 2024 to continue planning applications 23/01333/PM and 24/00699/P to the following meeting to allow time for concerns about the Bellway housing development at Elphinstone to be investigated.

A report had been submitted by the Chief Planning Officer to provide an update to the Committee, and to provide commentary on a progress report which had been submitted to the Planning Authority by the applicant. Keith Dingwall, Service Manager for Planning and Chief Planning Officer, spoke to the report, highlighting the salient points. He also highlighted two additional conditions, Conditions 25 and 26. The officer's recommendation was to grant consent.

Councillor McGinn asked whether traffic monitoring could be included within the attached conditions and fed back regularly to the community. He also pointed out that there had been significant issues throughout the development, and throughout the previous road closure, on a small stretch of Tranent Road; the Community Liaison Group sought a condition which prevented construction traffic from using this stretch of Tranent Road. Mr Dingwall had no issue in principle with such conditions, but suggested the views of the applicant and Roads Officers may also be sought.

Councillor McLeod proposed that the wording at Condition 25 be changed to require *acceptable* drainage for the development, rather than *adequate* drainage, and Mr Dingwall was content that this amendment could be made.

Councillor Menzies asked about rates of non-compliance by the developer during development Phase 1. Mr Dingwall explained that this would be a matter for Planning Enforcement Officers, and reminded Committee members that the application must be determined on its merits and the decision must not take into account the developer's track record.

Responding to questions from Councillor McIntosh, Mr Dingwall advised that the foul drainage connections had been discussed with Scottish Water, and reported that Scottish Water was now content with the applicant's proposals. He also pointed to recommended Condition 25 as providing further surety on this matter.

Ian Hinds spoke on behalf of the applicant, Bellway Homes, and gave information on the context, characteristics, and benefits of the proposed development. He advised that the proposals would complete the delivery of new housing on the site allocated for residential development within the East Lothian Local Development Plan (LDP) 2018, and advised that 28 of the 111 new homes would be affordable homes. He pointed out that the continuation of the application had been due to ongoing issues with the delivery of Phase 1, rather than the merits of the current application. He briefly summarised Bellway's actions in response to the concerns raised, and highlighted Bellway's detailed response appended to the report, which confirmed that all suggested actions had been reviewed and accepted by various Council departments. Returning to the Phase 2 proposals, he pointed out the variety of family homes which would be set within an attractive open space network, and advised that there would be a total of 51 affordable homes across the development. He highlighted the creation of a walking and cycle-friendly neighbourhood, designed to encourage active travel movements, with new path networks providing integration to public transport links. He highlighted that the new homes would also support the primary school role and result in enhanced education facilities through developer contributions. He pointed out the community benefits brought about by traffic calming, footpath widening, biodiversity enhancement, and the creation of new green network would areas. He also pointed out that a seamless transition into Phase 2 would minimise disruption in Elphinstone.

Bellway representatives answered questions from members. Responding to questions from Councillor McGinn, Mark Lindsay advised that a new contractor for the sewage connection works was not yet in place. Enhanced enabling works would take place on 6 February, and it would become clearer at this time whether the ground conditions would require further directional drilling or an alternative diversion. Mr Lindsay also advised that works had started on the temporary pumping station on the previously day, and should be finished by the end of January.

Councillor McGinn reiterated his suggested conditions for no construction traffic to be allowed on the small stretch of Tranent Road affected previously, and with regards to traffic monitoring on Elphinstone Main Road and through the village to understand the increase in traffic from the development. Mr Lindsay advised that Bellway would be happy to work with the Planning Authority to reach agreement on these conditions.

Responding to a question from Councillor McIntosh, Mr Lindsay provided a technical explanation relating to a porosity test which had been conducted; the test proved that the ground conditions were averse to seepage, meaning the flooding of gardens on Waterloo Place had not come from the Bellway site.

Responding to questions from Councillor Menzies, Mr Lindsay listed Bellway's actions in response to issues raised by residents. He pointed to a quarterly newsletter, meeting with

residents monthly, and setup of a designated email address which was monitored by the Bellway head office. He conceded that communication with residents could have been better previously. He advised that the affordable housing in Phase 2 was nowhere near the temporary pumping station. Regarding ground conditions, he explained that Bellway was still trying to understand why the sewage connection had failed, as the ground conditions changed dramatically from one section to the next; information was now being gathered to be able to agree the task with contractors before work commenced. He explained that there had also been issues with the appropriate time to close the road to undertake the work, which had also slowed the process. He conceded that further testing should have been undertaken when there had been initial delays and issues. He pointed out that Phase 2 properties could not be occupied until habitation certificates were granted, which would be dependent on the mains sewage connection being in place. He also gave reassurance that relevant permissions would be sought for any signage.

Responding to questions from Councillor Forrest, Mr Lindsay provided information on the telemetry which would flag any issues with the sewage pump, and advised that emergency storage capacity would allow ample time to fix any system issues.

Councillor McGinn, local member, thanked everyone who had come together to communicate through the Community Liaison Group, including local residents, Bellway, Scottish Water, Council representatives, and the Elphinstone Community Association. He highlighted that the new residents would become part of Elphinstone, and had to be embraced and welcomed for all that they would bring to the community. He hoped that the new families would safeguard the future of Elphinstone Primary School. He was pleased that Bellway had acknowledged what had gone wrong, and that collaborative working was now in place. He hoped that some of the lessons learned would also inform future developments.

Councillor McLeod, local member, concurred with Councillor McGinn's comments, and said he was grateful for Councillor McGinn's work with the Community Liaison Group. He felt that the Committee could not vote against the application when it was part of the LDP, but he had appreciated that the continuation in November allowed for dialogue with Bellway. He would continue to question Bellway if things did not work out in future.

Councillor Menzies, local member, expressed that she found it difficult to separate Phases 1 and 2. She remained concerned that Elphinstone village had doubled in size by the development of one site. She was dismayed that an emergency sewerage site sat next to social housing, and there had been serious issues with foul odours. She also raised issue with work starting at 7am at the weekend. She was heartened by the progress made, but felt that issues were still ongoing, and thought that to allow Phase 2 to go ahead was disregarding the Councillors' duty to ensure constituents were well cared for. She asked Planning Committee members to vote against the application, and for Bellway to apply again following resolution of all issues.

Councillor McIntosh was pleased that detailed answers had been provided regarding sewerage and drainage. She raised concern that the additional housing on site, which had been allocated for only 80 houses under the LDP, would cause additional pressure on East Lothian's growth, and was contributing to concerns about distinctive places in this part of the county being irrevocably changed by large-scale housing developments. She felt that the application constituted an overdevelopment of the site, and felt that placemaking must be considered in a more joined-up way than only considering whether a site was physically capable of housing the units. She would vote against the application because she felt the site could not comfortably hold up this number of units. She referenced Policy 14 of National Planning Framework 4 (NPF4), which said that a development which was detrimental to the amenity of a place would not be supported; she felt that residents were unhappy with the significant increase in the size of the village, and felt that the countryside should be defended.

The Convener responded to criticism of the LDP and the number of houses having to be delivered; he pointed out that this had been required by the Scottish Government and there was no option but to find land to deliver 10,050 houses. He said Bellway had let itself down in Phase 1, and felt the Planning Authority should have had greater control over the speed of development until there was an adequate drainage connection. He felt that there were now sufficient controls in place, particularly since units could not be occupied until sufficient drainage connections were in place to support the site. He considered the new housing coming forward in Elphinstone to be positive when there was such demand on housing; house prices would only increase if housing development was restricted. He thought that the affordable housing on the site was also necessary, and the increase in attendance would secure the future of Elphinstone Primary School. He said that actions would be considered in the future to ensure the Phase 1 issues were never experienced on another development.

Mr Dingwall summarised the amendments to conditions proposed by Councillors McGinn and McLeod, affecting Conditions 7, 25, and addition a new Condition 27, all noted below.

Additional Condition 27 and the amendments to Conditions 7 and 25 were formally proposed by Councillor McLeod and seconded by Councillor McGinn. There was unanimous support for these amendments by roll call vote.

The Convener then moved to a roll call vote on the officer's recommendation to grant consent, including the amended conditions. Votes were cast as follows:

Support: 9 (Councillors Hampshire, Allan, Collins, Findlay, Forrest, McGinn, McLeod, McMillan, and Yorkston)

Against: 2 (Councillors Gilbert and McIntosh)

Abstentions: 0

Decision

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

The satisfactory conclusion of an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997, or some other legal agreement designed to secure from the applicant:

(i) a financial contribution to the Council of £1,148,062 towards the provision of additional primary school accommodation within the catchment;

(ii) the provision of 28 affordable housing units within the application site;

(iii) a financial contribution to the Council of £69,375 towards sports and changing provision within Elphinstone;

(iv) a financial contribution to the Council of £21,848.96 for transport improvements to Old Craighall Junction, Salters Road Interchange, Bankton Interchange, Musselburgh town centre improvements, Tranent town centre improvements and rail network improvements;

and

c. That in accordance with the Council's policy on time limits for completion of planning agreements it is recommended that the decision should also be that in the event of the Section 75 Agreement not having been executed by the applicant, the landowner and any other relevant party within six months of the decision taken on this application, the application shall then be refused for the reason that without the developer contributions to be secured by the

Agreement the proposed development is unacceptable due to a lack of sufficient primary school capacity within the catchment, a lack of provision of affordable housing, a lack of sports infrastructure improvements and a lack of roads and transport infrastructure contrary to, as applicable, Policy 18 of NPF4, Policies DEL1, HOU3, HOU4 and Proposals T9, T10, T11, T15, T17, T21, T27, T28, ED4,CF1 and TT11 of the adopted East Lothian Local Development Plan 2018 and its adopted supplementary guidance: Developer Contributions Framework.

As per the Adopted Supplementary Guidance: Developer Contributions Framework, all Strategic Transportation and Sports Provision Contributions will be increased in line with indexation from Q1 2019 using the All-in Tender Price Index published by the Building Cost Information Service (BCIS) Limited for the Royal Institution of Chartered Surveyors until due date of payment and the primary school education contribution will be increased from Q4 2023 using the All-in Tender Price Index published by the Building Cost Information Service (BCIS) Limited for the Royal Institution of Chartered Surveyors until due date of payment.

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

Reason:

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

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

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

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

Reason:

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

- 3 Unless otherwise approved in writing by the Planning Authority:

(a) Housing completions on the application site in any one year (with a year being defined as being from 1st April to 31st March the following year) shall not cumulatively exceed the following completion rates, unless otherwise approved in writing by the Planning Authority:

Year 2025/26 - 30 residential units

Year 2026/27 - 40 residential units

Year 2027/28 - 41 residential units

(b) If fewer than the specified number of residential units is completed in any one year then those shall be completed instead at Year 2028/29 or beyond and not added to the subsequent year.

Reason:

To ensure that the completion rate of residential development within the application site accords with the provision of education capacity.

- 4 Prior to the commencement of development a delivery schedule and phasing plans that establishes the phasing and timing programme for the proposed development shall be submitted to and approved in advance by the Planning Authority. It shall include the phasing and timing for the provision of footpaths/cycleways and external works such as offsite path links. These path links shall include:

(i) One hard-surfaced, lit (street lighting) path connection from the west boundary of the site to connect to the core path to the west of the site;

(ii) One hard-surfaced, lit (street lighting) path connection from the east boundary of the site to connect into the existing footpath network to the east of the site;

It must also include for public road links, including paths, to the development approved on the southern part of the application site, drainage infrastructure, landscaping and open space. The details to be submitted shall also include construction phasing plans.

The phasing of the development of the site shall be carried out in strict accordance with the phasing plan so approved, unless otherwise approved in writing in advance by the Planning Authority.

Reason:

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

- 5 A Travel Information Pack shall be submitted to and approved by the Planning Authority prior to the occupation of any of the residential units hereby approved. The Travel Information Pack shall have particular regard to provision for walking, cycling and public transport access to and within the site, shall include local bus and train timetables, local cycling and walking maps, information on bike hire / car sharing, and shall include details of how it will be distributed to residents.

Reason:

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

- 6 Prior to the occupation of the last residential unit hereby approved, the proposed access roads, parking spaces and footpaths shall have been constructed on site in accordance with the docketed drawings. Unless otherwise approved in writing by the Planning Authority, driveways shall be at least 3.3 metres in width.

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

Reason:

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

- 7 A Construction Method Statement to minimise the impact of construction activity on the amenity of the area, including from the effects of noise and dust, 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 and routes of construction traffic to/from the site, delivery time restrictions and a health and safety method statement. It shall also make recommendations in respect of how building materials and waste will be safely stored and managed on site. The submitted details shall show that no construction traffic shall use Tranent Road to access or egress the site.

The Construction Method Statement shall also include details of wheel washing or alternative facilities to be provided, and that these facilities shall be maintained in working order during the period of operation of the site. All vehicles must use the wheel washing or alternative facilities to prevent deleterious materials being carried onto the public road on vehicle tyres.

The Construction Method Statement shall also provide details of utility/service drainage connections, including what temporary measures shall be put in place to control surface water drainage during the construction of the development hereby approved.

Thereafter, the Construction Method Statement shall be implemented and complied with in accordance with the approved details for the period of construction of the development hereby approved.

Reason:

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

- 8 Prior to the commencement of development, a programme for monitoring the condition of the B6414 public road in Elphinstone along the extents of the 20mph limit of that road, prior to, during the period of construction and immediately following the completion of the development hereby approved, shall be submitted to and approved in writing by the Planning Authority. The programme for monitoring shall include details of the inspection schedule and of measures to be implemented by the developer for repairs for damage to the road surface that could represent a significant road safety risk. Thereafter the approved programme of monitoring shall be implemented. Any non-emergency remedial works shown by the monitoring as arising from the construction of the development shall be undertaken by the applicant within 3 months of the completion of the final monitoring undertaken, unless an alternative means of securing the works is approved in writing by the Planning Authority.

Reason:

To ensure that damage to the adjoining road network resulting from the construction of the residential development is rectified.

- 9 Notwithstanding that which is stated on the drawings docketed to this planning permission a detailed specification of all external finishes of the houses, flats and garages hereby approved shall be submitted to and approved by the Planning Authority prior to the use of the finishes in the development. The external finishes of the houses and flats shall be in accordance with a co-ordinated scheme of materials and colours that shall in detail promote render as the predominant finish to the walls of the houses, with a use of more than one render colour and with a strongly contrasting difference in the colours such that they will not each be of a light colour, and shall show the roofs being clad in more than one colour of roof tile. All such materials used in the construction of the houses, flats and garages shall conform to the details so approved.

Reason:

To ensure the development is of a satisfactory appearance in the interest of the amenity of the locality.

- 10 The actions to be taken to reduce the carbon emissions from the building and the provisions for private electric vehicle charging all as detailed in the 'Elphinstone Phase 2 Statement on Energy' and on drawing titled 'EV Layout' with drawing number ELPH/DL/002 docketed to this planning permission shall be fully implemented on site prior to the occupation of the last residential unit hereby approved and thereafter shall be retained unless otherwise approved in writing by the Planning Authority.

Reason:

To minimise the environmental impact of the development.

- 11 Prior to their erection, details, including their size, form, position, appearance and colour(s), of all substations and gas governors to serve the development hereby approved shall be submitted to and approved in advance in writing by the Planning Authority, and thereafter any substations and gas governors shall accord with the details so approved.

Reason:

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

- 12 Unless otherwise agreed in writing by the Planning Authority 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. The details shall include a timetable for the provision of the artwork.

The artwork shall thereafter be provided in accordance with the details so approved.

Reason:

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

- 13 A timetable for the provision of all boundary treatments for the gardens of the houses and flats hereby approved shall be submitted to and approved in advance by the Planning Authority and development shall thereafter be carried out in full accordance with the timetable so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

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

- 14 Prior to the commencement of development, an updated Gas Risk Assessment shall be submitted to and approved by the Planning Authority. Where risks are identified, a detailed Remediation Statement shall be submitted to and approved by the Planning Authority to demonstrate the site is to be brought to a condition suitable for the intended use by the removal of unacceptable risks. The Statement shall detail all works to be undertaken, proposed remediation objectives and remediation criteria as well as details of the procedures to be followed for the verification of the remedial work. It shall also ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land following development. The detailing and quantifying any works which must be undertaken in order to reduce the risks to acceptable levels. The Remediation Statement as approved shall be carried out in accordance with its terms prior to the commencement of development other than that required to carry out the agreed remediation. Following completion of the measures identified in the approved Remediation Statement, a Validation Report shall be submitted to and be approved by the Planning Authority confirming that the works have been carried out in accordance with the Remediation Statement.

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

If no unexpected ground conditions are encountered during the development works, this shall be confirmed to the Planning Authority in writing prior to occupation of the residential development hereby approved.

Reason:

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

- 15 Noise associated with the operation of the air source heat pumps hereby approved, including cumulative impacts of a number of air source heat pumps operating simultaneously, shall not exceed Noise Rating curve NR20 at any octave band frequency between the hours of 2300-0700 and Noise Rating curve NR25 at any octave band frequency between the hours of 0700-2300 within any residential property. All measurements to be made with windows open at least 50mm.

Reason:

To safeguard the amenity of the occupants of nearby residential properties.

- 16 No development shall take place on site until temporary protective fencing in accordance with Figure 2 of British Standard 5837_2012 "Trees in relation to design, demolition and construction" has been installed, approved by the arboriculturist and confirmed in writing by the Planning Authority. The fencing must be fixed in to the ground to withstand accidental impact from machinery, erected prior to site start and retained on site and intact through to completion of development. The position of this fencing must be as indicated on the drawing 'Figure 3.4 Tree Protection Plan' on p 33 of the Tree Survey and Arboricultural Impact Assessment by Caledon Tree Surveys dated April 2024, shall be positioned outwith the Root Protection Area (RPA) as defined by BS5837:2012 for all trees and hedgerows and approved in writing by the Planning Authority.

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

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

Planning of site operations 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.

Reason

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

- 17 No development shall take place on site until a person who, through relevant education, training and experience, has gained recognised qualifications and expertise in the field of trees in relation to construction, has been employed by the developer to monitor any works within the root protection area or canopy spread of trees on or adjacent to the application site. Arboricultural monitoring shall including the supervision and reporting to the Planning Authority on the installation of the required tree protection fencing and any development within the root protection area of trees shown to be retained and protected in strict compliance with docketed and stamp approved report titled : Tree Survey & Arboricultural Impact Assessment, dated April 2024 and drawing titled: 'Figure 3.4 Tree Protection Plan' on p 33 of the Tree Survey and Arboricultural Impact Assessment by Caledon Tree Surveys dated April 2024. All tree work shall be approved in writing by the Planning Authority before work is carried out.

Reason:

To ensure the retention and maintenance of the trees adjacent to the site which are an important landscape feature of the area.

- 18 Unless otherwise approved in writing by the Planning Authority, all planting, seeding or turfing comprised in the approved details of landscaping on the drawings titled 'Landscape Proposals (Sheet 1 of 6)' with drawing number 231.29.01C, 'Landscape Proposals (Sheet 2 of 6)' with drawing number 231.29.02C, 'Landscape Proposals (Sheet 3 of 6)' with drawing number 231.29.03C, 'Landscape Proposals (Sheet 4 of 6)' with drawing number 231.29.04C, 'Landscape Proposals (Sheet 5 of 6)' with drawing number 231.29.05C, 'Landscape Proposals (Sheet 6 of 6)' with drawing number 231.29.06C shall be carried out in the first planting and seeding season following the occupation or completion of any part of the development hereby approved, whichever is the sooner. All planting shall be established and maintained in accordance with the details on the above drawings and as detailed in the 'Plant Schedule, Specification & Maintenance' document Revision B dated 22 October 2024. This includes maintenance of garden hedges at 1m in height and maintenance of the northern boundary hedgerow at 1.5m in height. Any trees, hedges 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 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 retained and 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 and to improve the biodiversity value of the area.

- 19 Unless otherwise approved by the Planning Authority all of the open space and communal landscape as detailed in the docketed and stamped approved landscaping and landscape maintenance drawings and in the 'Plant Schedule, Specification & Maintenance' document Revision B dated 22 October 2024 shall be retained and maintained as such by a Factor or a Residents Association in accordance with details to be submitted to and approved by the Planning Authority prior to the occupation of any residential units hereby approved. Such landscape maintenance shall include all hedges to front gardens being adopted and maintained by a Factor or a Residents Association.

Reason:

To ensure the retention and maintenance of landscaping and open space on the site in the interest of amenity.

- 20 Prior to the occupation of any of the residential units hereby approved, details of the play equipment to be provided within the equipped play area, surfacing materials and any enclosure of the play area along with details of any bins and benches to be installed shall be submitted to and approved by the Planning Authority. Such details shall include details of play equipment suitable for a range of abilities including disabilities, and this shall include suitable play equipment and surfacing to facilitate a range of ages and abilities. A timetable for the provision of all of the play equipment and associated play surfacing, bin, bench and any enclosure of the play area to be provided on the site and details of how the equipped play area is to be managed and maintained are to be submitted to and approved in advance by the Planning Authority and the play area shall thereafter be installed, surfaced, enclosed, managed and maintained in accordance with the details so approved and shall be used for such purposes at all times thereafter unless approved by the Planning Authority..

Reason:

To ensure the satisfactory provision of adequate and suitable play provision and the future maintenance of it within the development.

- 21 Prior to the occupation of any of the flats hereby approved bin storage facilities shall have been formed and made available for use. Thereafter, the storage facilities shall be retained in use as bin storage areas.

Reason:

To ensure the provision of adequate bin storage in the interest of the residential amenity of the future occupants of the flats hereby approved and the visual amenity of the locality.

- 22 All of the remedial treatment works to address land instability arising from shallow coal mining legacy as identified in the Mineshaft Investigation Report (February 2024) docketed to this planning permission shall be carried out on site in accordance with the terms of that Report prior to the commencement of any other development on the site. On completion of the remedial works and prior to the occupation of any residential unit, a signed statement or declaration prepared by a suitably qualified person confirming that the site has been made safe and stable for the development hereby approved and confirming the completion of the remedial works and any mitigatory measures necessary to address the risks posed by past coal mining activity shall be submitted to and approved in writing by the Planning Authority and any mitigation works identified shall thereafter be fully implemented as so approved.

Reason:

To ensure that the site is clear of coal mining features and hazards prior to the occupation of any of the buildings.

23. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended by The Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011 or by any other statutory instrument amending, revoking or re-enacting the 1992 Order, no development other than that hereby approved, or approved in compliance with any of the other conditions of this planning permission, shall take place within plot no.221 as detailed in the development layout docketed to this planning permission without the prior permission of the Planning Authority.

Reason:

Due to the potential presence of coal mining features and hazards within the vicinity of the property.

24. Each bat ridge roost box detailed on the Ecology Layout with drawing no ELPH2/DL/004 docketed to this planning permission shall be installed prior to the occupation of each house to which they are to be installed and shall thereafter be retained unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure biodiversity provision and retention.

25. Prior to commencement of development of any of the residential units hereby approved details, which shall include a timetable for completion, of any temporary or permanent foul drainage systems shall be submitted to and approved by the Planning Authority in consultation with Scottish Water. Development shall thereafter be carried out in full accordance with the details and timetable so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure the provision of acceptable drainage for the development.

26. Prior to the commencement of development details of methods of liaison with the community shall be submitted to and approved by the Planning Authority. The submitted details shall include a timetable for implementation. Such methods of liaison will continue as approved until completion of the development hereby, approved unless otherwise approved by the Planning Authority.

Reason:

To help ensure the residential amenity of the existing community is protected during the course of development.

27. Prior to commencement of development, details of a programme of quarterly monitoring of traffic on Elphinstone Road and surrounding roads in the village of Elphinstone shall be submitted to and approved by the Planning Authority. The submitted details shall include a timetable for implementation and proposals for the reporting of this information to the Planning Authority. Development shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of road safety.

- 3. CONTINUED 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**

The application was heard following the decision of Planning Committee on 5 November 2024 to continue planning applications 23/01333/PM and 24/00699/P to the following meeting to

allow time for concerns about the Bellway housing development at Elphinstone to be investigated.

The report discussed at Item 2 also concerned issues with Item 3, and the original officer report for planning application no. 23/00699/P was also appended to the report. Mr Dingwall presented the report, highlighting the salient points. The officer's recommendation was to grant consent.

Responding to a question from Councillor McGinn, Mr Dingwall discussed the principles of the footpath's connectivity. He pointed out that it was not necessarily fatal for a proposed path not to comply with the development brief, and said that it was down to Planning Committee members to decide whether the proposal was acceptable. If planning permission was refused, then officers would be happy to enter into discussions to find a solution for an alternative route.

Responding to questions from Councillor McIntosh, Mr Dingwall explained that the development brief had to be considered alongside all relevant policies in determining an application; there may still be sufficient reason to refuse a proposal despite compliance with the design brief. Morag Hadow, Transportation Planning Officer, confirmed that the proposed path was 3m wide, and therefore met the cycle design standards, and allowed for space on either side for adequate maintenance. She advised that better connections across Elphinstone Road were being considered. She felt that that the previously considered path through McFarlane Court may have been better as a route to school, but this proposal may have been better for connecting the community.

Officers and Bellway representatives responded to questions from Councillor Menzies and Councillor McLeod. Mr Dingwall explained that there had been no requirement for community consultation because the footpath was an local development type application. Mr Hinds pointed out that the footpath had been part of the development brief, so would have been covered by this consultation, and the application process had also included public consultation. Henry Harper, representing Bellway, advised that there would have been an increased loss of four or five trees had the McFarlane Court option proceeded.

Rob Moore spoke against the application, and also spoke on behalf of neighbours whose property directly bordered the proposed path. He explained that his key objection was that the pathway was to be built over part of his garden. He advised that the property deeds and the land registry both stated that he owned this land, and he was surprised that a pathway could be built over his garden. He also reported that no contact had been made by the Council or developer about adopting, owning, or borrowing land which was part of his property. He reported that a Council employee had commented that the situation did not make sense. He said that residents had been lied to by the Council and Bellway, who had intimated that the pathway being shown over the private land had been for artistic purposes only and would be removed, which had not happened. He gave an account of the purchase history of this plot of land. He felt that the path would be a route to nowhere and would increase antisocial behaviour and dog fouling; he pointed out that the quiet cul de sac did not lead to any amenities. He also considered that the lighting of the path would be disruptive to residential amenity and wildlife. He pointed out that the path was required to be three metres wide for active travel purposes, but the portion over his land would be less than two metres wide. He also considered there to be adequate pathways already in place in this area. He noted that the Council had been in touch with the farmer that owned the land which had been considered for the alternative pathway at McFarlane Court, but Mr Moore had never been contacted as an owner of the land affected by the current proposals. He also reported that the pathway was a cause of stress for many elderly residents concerned about the safety of their properties.

Following a question from Councillor Findlay, Mr Moore advised that he had had no opportunity to discuss the ownership of the land with the Council or Bellway. Ms Hadow advised that this piece of land was a Council-adopted footpath, and would therefore remain

as a footpath unless the Council otherwise approved a change of use. She advised that it had been the Council's responsibility to maintain the footpath, and she understood that no changes were planned for the land outside Mr Moore's house, but that it would connect into the proposed footpath.

Councillor Menzies, local member, asked Planning Committee members to consider how they would feel if they were in Mr Moore's situation. She pointed out that it was not the role of the Council to maximise Bellway's profits, and said that constituents faced with losing land in their ownership must be taken care of. She also pointed out that the proposals had come forward, then removed following objections, and then had been brought forward once more.

Councillor McLeod did not think that travelling via Waterloo Place represented the safest route to school, and thought that other pathways should be considered. He would not support the proposal.

Councillor McGinn said he would not support the application, and felt that the proposal was for the wrong path. He pointed out that Bellway would need to consider their next steps if this application was refused, and commented that it was very helpful when there was good communication. He would continue to work with Elphinstone residents for better outcomes.

Councillor McIntosh pointed out that there had been a better route across a farmer's field, and felt an alternative solution must be found because the proposed path was not an appropriate link. She also pointed out that the Local Access Forum could intervene with landowners over access rights. She assumed an alternative path proposal would come forward since the housing development had already been approved.

Councillor Allan felt the pathway was in the wrong place, and would not support a proposal which was not in the best interests of the community. Councillor Findlay agreed that the path was having a detrimental impact on residents, and he would not support the proposal when there were alternative options.

The Convener agreed with his fellow Councillors' comments. He commented that good footpath links were important for new developments, but felt that this proposal had been an afterthought. He hoped that Bellway would appreciate that the Council wanted to work with them, but said Bellway needed to keep the community on board.

The Convener moved to a roll call vote on the officer's recommendation to grant consent, and Members unanimously voted against the recommendation. Members also agreed the reason for refusal, noted below.

Decision

Planning Committee members refused planning permission for the following reason:

- 1 The proposed footpath would be harmful to the amenity of neighbouring properties, contrary to Policy 14 of National Planning Framework 4 and Policy DP2 of the adopted East Lothian Development Plan 2018.

4. PLANNING APPLICATION NO. 24/00629/P: ALTERATIONS AND CHANGE OF USE OF BUILDING TO FORM HOLIDAY LET AND ASSOCIATED WORKS, VACANT BUILDING ADJACENT TO SECOND AND THIRD GREEN OF KILSPINDIE GOLF COURSE, ABERLADY

A report had been submitted in relation to Planning Application No. 24/00629/P. Julie McLair, Planner, advised that Gullane Area Community Council had made an objection to the

proposals, which was incorrectly noted in the report as there having been no submission, and read out the objection. She then presented the report, highlighting the salient points. The report recommendation was to refuse consent.

Officers responded to questions from Committee members. Ms McLair advised that no structure to protect the front of the property from golf balls had been proposed. Jen Newcombe, Biodiversity Officer, confirmed that there were concerns over disturbance to wildlife in the construction phase, but also during the property's operation; disturbance to the birds would be detrimental to the European legislation they were covered by. Ms McLair also confirmed that Transportation Planning Officers had concerns over the lack of vehicular access, which was a recommended reason for refusal.

Tony Thomas, the applicant's agent, spoke to the application. He began by responding to previous questions by Councillors. He felt that any birds disrupted by operations would simply move 10-20 metres down the coast. He also considered that emergency vehicles would be able to gain access, just as they would in an emergency situation on a golf course. He advised that there were no figures available for the use of the bird hide, as members of the public were able to come and go as they pleased. Turning to his presentation, he suggested that the impact of the operation of the short-term let would be inconsequential, as there would be no one around in the area to be affected. He described the proposals as innovative and unique, and the property required guests to access it on foot. He described the property as having potential to become a signature destination, and pointed out that the proposals aligned with the Council's economic development policies. He implored members to consider the scale of proposed change, and considered that all impacts would be very small. He pointed out that the only opening towards the golf course would be the front door, and movements would be infrequent. He reported that the site had never flooded. He also thought that golfers would be unaware of whether the building was occupied, and felt the impact had been exaggerated given the scale of the proposal.

Mr Thomas responded to questions from Councillors Findlay, Gilbert, and Collins. He explained that the proposals were linked to Craigielaw accommodation and golf club development, an existing rural business, because Craigielaw would handle check-in. He did not consider that there was a significant chance that golf balls would land on the balcony of the property. He confirmed that the accommodation would house two occupants. He also advised that a private system to the west of the building would treat the small amount of sewage waste and release into the Forth.

Councillor McMillan asked whether other potential uses for the building had been considered. Mr Thomas explained that the building was in a state of disrepair and unsafe, and would be expensive to renovate. As its use as a bird hide would not be chargeable, it would incur the developer a large expense for no return.

The Convener raised concern about the risk of severe storm damage. Mr Thomas pointed out that the building had been reinforced significantly over the years, and the structural report was sound. He said the developer was optimistic about the long-term future of the building.

James Urquhart spoke against the application. He was an Aberlady resident and had walked along the site regularly for many years, so he knew its history, character, and wildlife, which were all cherished by local people. He strongly felt that the site should be protected from the harm which would be caused by this holiday let, particularly when there were so few other buildings on this stretch of coastline. He considered that the small size of the development was not relevant in the assessment of the holiday let's impact, and pointed out that the proposals did not comply with policy. He reported that the building had never been used as a bird hide because it had always been locked. He felt the modern private dwelling would conflict with the character of the area, its use as a nature reserve, the enjoyment of its existing use by walkers and golfers, and would harm the unique setting. He pointed out that a holiday let had

no operational requirement for a coastal location. He also pointed out that Aberlady Bay was a protected coastal area, and highlighted the considerable opposition to the proposals. He considered that planning policy was clear, and there were no valid merits to the proposals. He urged Committee members to support the officer's recommendation to refuse consent.

Rebecca Simpson Hughes, representing Gullane Area Community Council, spoke against the application. She said that the Community Council had been extremely upset that their comments had not been included in the report, and they had never spent so much time on a planning application in recent years in terms of community interest and concern. She conveyed the very serious concerns of the community; despite the tiny size of the building, to some, it was in an extremely meaningful location in a special setting. She conveyed that the Community Council fully concurred with the reasons for refusal.

Councillor Allan explained that she had called in the application because she felt it had been a unique proposal. She had observed dog walkers and golfers on the site visit, so felt that the modest increase in visitors would not have an impact on the area, and overall changes would be minimal. She felt that changes could not even be detected from a distance, and the site visit had swayed her to vote against the officer recommendation for refusal.

Councillor Findlay would have supported the proposals from an economic perspective, but had safety concerns about emergency access at night and dangers to people in the property on the golf course. He supported the officer's recommendation for refusal.

Councillor McIntosh pointed out that the application was in major violation of a large number of Council and national policies, and felt that the objections of NatureScot and the Biodiversity Officer should be taken seriously. She pointed out that Mr Thomas had only considered the impact on humans, but disturbance of birds would impact their energy availability, and said the Council must act upon its declared nature emergency. She considered the lack of flooding history to be irrelevant in a time of rising sea levels, and felt that it was important that the Council did not start to approve plans for vulnerable coastal properties. She also thought there were safety concerns regarding flying golf balls, and summarised that the proposal was poor on every metric.

Councillor Yorkston felt conflicted because he was aware of the quality of work produced by the Wemyss and March Estate in Longniddry South. He felt the proposals were innovative, but were in the wrong location, and would support the officer's recommendation for refusal.

Councillor Collins pointed out that it would be impossible to get a fire engine to the location, particularly if the ground was wet. She felt the concept was good, but in the wrong place. She hoped something would be done to keep the building, but did not agree that this was the right proposal.

Councillor McLeod agreed with the officer's recommendation to refuse consent. He thought staying in the property would be an amazing experience, but for reasons of safety, he could not support the application.

Councillor McMillan responded to the various arguments made by different parties, and understood the economic need for accommodation and tourism. He did not feel concerned about the health and safety aspect if guests were aware of the risk, which would require intelligent briefing and customer care. He commented that innovation must be encouraged, and the location was unique. He felt swayed by Councillor McIntosh's and Ms Newcombe's comments about the effect on wildlife. He felt the Wemyss and March Estate had put forward a good proposal and had considered mitigation, so it was with regret that he would support the officer's recommendation.

The Convener acknowledged that the Wemyss and March Estate had done good work along the coast, and could make a fantastic job of the development; however, he remained concerned about the destruction of coastline by recent storms, and felt the property would be affected by this in the future. He would support the development of high-quality accommodation in this area, but not directly on the coast. He would uphold the officer's recommendation.

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

Support: 9 (Councillors Hampshire, Collins, Findlay, Forrest, McGinn, McIntosh, McLeod, McMillan, and Yorkston)

Against: 2 (Councillors Allan and Gilbert)

Abstain: 0

Decision

Planning Committee refused the application for the following reasons:

- 1 It has not been demonstrated that the proposed scheme of development could be undertaken without undermining the conservation objectives and/or having an adverse effect on the integrity of the designated Firth of Forth SPA (also a Site of Special Scientific Interest (SSSI)) and the Outer Firth of Forth and St Andrew's Bay Complex SPA contrary to Policies 3 and 4 of NPF4 and Policies NH1 and DC1 of the ELDP.
- 2 The proposed scheme of development would not accord with the guidelines for development within the Special Landscape Area and as such the proposal is contrary to Policy 30 of NPF4 part (b) (ii) and (e) (i), and Policies DC1, DC6 and DC9 of the ELDP.
- 3 It has not been demonstrated that the proposed scheme of development could be undertaken without increasing the vulnerability of the building to flooding as such the proposed scheme of development is contrary to Policy 22 of NPF4 and NH11 of the ELDP.
- 4 It has not been demonstrated that the proposed scheme of development could be undertaken without increasing the safety hazard to guests from flooding and having to traverse active golf courses contrary to Policy 23 of NPF4.
- 5 The proposed scheme of development would not be located on a site capable of being conveniently and safely accessed on foot, by cycle, by public transport or by private vehicle contrary to Policy T1 of the ELDP.

5. PLANNING APPLICATION NO. 24/00828/P: CHANGE OF USE OF AGRICULTURAL LAND TO DOG WALKING FACILITY, FORMATION OF VEHICULAR ACCESS, FORMATION OF TWO FIELD SHELTERS, LIGHTING, FENCING, AND ASSOCIATED WORKS, LAND TO THE SOUTH OF MEADOWMILL COTTAGES, TRANENT

A report had been submitted in relation to Planning Application No. 24/00828/P. Julie McLair, Planner, presented the report, highlighting the salient points. The report recommendation was to grant consent.

Officers responded to questions from Committee members. Ms McLair advised that the applicant would be obliged to make a further planning application after one year, and at this

time, Environmental Health would advise whether there had been any issues reported. She pointed out that members of the public could currently walk on any field, but would not be able to enter the enclosed dog walking access area; it would be for Environmental Health to establish whether any noise issues were being caused by dogs being walked by members of the public or whether noise was coming from the dogs in the enclosed facility. Nick Morgan, Access Officer, confirmed that the Community Wardens would still have powers fine people who did not pick up dog mess, even on an informal path.

Responding to further questions, Ms McLair explained that onsite parking would be provided, so customers would not have to park at Meadowmill Cottages, and road markings on the main road would ensure access at all times. The site had gated access, and customers would purchase a slot and be provided with a code to use. She confirmed that the site was an area of unmanaged land which had not been in agricultural use recently.

Responding to a question from Councillor Findlay, Mr Morgan provided background information as to how access rights under the Land Reform Act applied to the area of ground should planning permission be granted. He had suggested that if the southern boundary was moved north, people would still have access to the southern edge. He acknowledged that the applicant would have security concerns about people accessing the site. Mr Morgan felt that it would no longer be reasonable for people to claim they had an access right to the site if they were able to walk around it, and this solution also created connectivity between the site on the east and west. He also confirmed that he was content with the proposed deer fencing.

Brian Currie, the applicant's agent, spoke to the application. He restated some of the key points from the planning statement, and reaffirmed the applicant's commitment to addressing these points. He advised that the facility would be secure, with access-controlled gates and deer fencing around the perimeter. There would be parking and turning for eight cars, and any noise generated would be abated by 2.5m high earth mounds. He advised that the facility would be managed by the applicant and her parents, who resided near the entrance. He advised that the remaining land, which was also owned by the applicant, would be landscaped and benefit from supplementary planting.

Gordon Smith spoke against the application as the chair of the Meadowmill Residents' Association. He advised that residents were concerned that vehicles accessing the site would cause a blockage on the B-road, and would make the road unsafe for children cycling and wheeling. He advised that the number of people coming down the street each day had increased significantly since more housing had come forward at Blindwells. He pointed out that there was a blind exit, and residents were concerned the additional traffic would lead to accidents. He also raised concern with the pavement being lower than the statutory minimum height. Residents were also concerned about the increase in noise, and did not agree that the earth mounds would block the noise; he had been able to hear a kennels and cattery facility from half a mile away when he lived at a previous property. He raised that the wellbeing of mostly older residents would be affected by the proposals, and thought there were no other similar businesses which were so close to residences. He thought that there would be an accident caused by the proposals, and the operations would affect the majority of residents on the street. He implored Planning Committee members to vote against the proposals.

Following questions from Councillor McMillan, Jon Canty, Transportation Planning Officer, advised that officers would have considered visibility splays and traffic movements to and from the site. Mr Dingwall added that Roads Officers would have recommended refusal if, in principle, a safe means of access could not be formed. The Convener added that if access and traffic issues arose in the year of operation, this could be considered when a further planning application was made.

Councillor McIntosh explained that she had called the application in because she sat on the Local Access Forum, and thought there was a theoretical issue with the Council's

responsibility to uphold access rights if the field, which currently could be accessed, would be fenced off in its entirety. She was satisfied with the suggested compromise. However, she was concerned about the conflict between the safe route to school and the entrance and exit point to the site. She asked whether recommended Condition 7 could be strengthened so that road safety measures took account of safe routes to school. She also suggested that there should be no changeover of booking slots at the busy times where children would be travelling to and from school. Mr Dingwall advised that it would be open to the Planning Committee to make amendments to recommended Condition 2 if they felt there was a road safety issue.

Councillor Collins described her personal experience a facility where up to 30 dogs were exercised at a time; it could be very noisy for the first five minutes, following which, the noise died down.

Councillor McGinn remembered when traffic had been much busier in the area, but it had been quieter for some time. He was willing to support the officer's recommendation for a temporary grant of one year. He commented that such facilities were invaluable for people who had a reactive dog. He was pleased to hear that representatives of the business lived close by and could respond to feedback.

Councillor McMillan suggested that a later start for the first slot of the day might help concerns about parking and the safe route to school, which could be earlier during school holidays. He thought that good management and supervision of the site would be needed. He acknowledged that locals had concerns, and felt these could be alleviated with good communication. He would support the officer's recommendation, given the condition that planning permission be granted for a period of one year.

The Convener thought the proposals would make the majority of the site open landscape and a more attractive area for residents. He acknowledged the concerns raised about the safe route to school, parking, and noise; he felt that officers had provided a fair assessment of what could be managed on the site, and he was willing to support the grant of planning permission for a period of one year. After this period, it would become clear whether there had been an impact on residents or pedestrians.

Councillor McIntosh felt that granting for a period of one year was a good and evidenced-based way to proceed.

Councillor McMillan knew the site well, and said it was incumbent on drivers and pedestrians to be cautious. He also hoped that Roads Officers would pay attention to the site. He agreed that the proposals should be allowed to go ahead with good management, and hoped that residents would communicate any concerns to the Council.

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

Decision

Planning Committee members granted planning permission, subject to the following conditions:

- 1 The use of the dog walking facility hereby approved shall be for a temporary period of one year from the date of the commencement of the first operation of the dog walking facility, to allow any complaints that may arise due to noise to be monitored and assessed.

Within 1 month of the commencement of operation of the dog walking facility the applicant/operator of the dog walking facility shall notify the Council as Planning Authority of the date the dog walking facility hereby approved commenced.

Reason:

In order to protect the amenity of nearby residential properties.

- 2 The dog walking facility hereby approved shall only be used between the hours of 8am-9pm Monday to Saturday April to September and 8am-7pm September to March. The dog walking facility shall not be operated at any other time.

Reason:

In order to protect the amenity of nearby residential properties.

- 3 Prior to the commencement of development the applicant shall submit a Noise Management Plan that outlines the measures to be taken to minimise the impacts of noise from dog barking arising from the use of the proposed dog walking area.

Reason:

In order to protect the amenity of nearby residential properties.

- 4 The total number of dogs permitted within the dog walking facility hereby approved at any one time, including dogs housed in other temporary accommodation such as a vehicle or shelter, shall be limited to a maximum of 9 dogs.

Reason:

In order to protect the amenity of nearby residential properties.

- 5 The design and construction of any artificial lighting hereby approved shall ensure that Light Trespass (onto windows) of neighbouring residential properties, measured as Vertical Illuminance in Lux, (Ev), shall not exceed 5 between the hours of 0700-2300 and shall not exceed 1 between the hours of 2300-0700.

Reason:

In order to protect the amenity of nearby residential properties.

- 6 Prior to commencement of use of the dog walking facility hereby approved details of:
- a) The required dropped kerb crossing of the footway;
 - b) The first 6m of the access road to be hard-formed;
 - c) Gates to open into the property and set back by at least 6 metres from the junction;
 - d) The gradient of the access road shall be a maximum of 10% and water run-off must be directed away from the road and footway.

shall be submitted to and approved by the Planning Authority.

Reason:

In the interest of pedestrian and road safety.

- 7 Prior to the commencement of use of the dog walking facility hereby approved the access junction, access road, onsite parking, turning area and entrance gate shall be provided and made available for use, as shown in docketed drawing nos. DGW/PAPP 101D 'Proposed Site Layout' and DGW/PAPP 400 'Proposed Access Vehicle + Pedestrian' and thereafter the access junction, access road, onsite parking, turning area and entrance gate shall be retained for such use, unless otherwise approved in writing by the Planning Authority.

Reason:

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

- 8 A Construction Method Statement to minimise the impact of construction activity on the safety and amenity of the area shall be submitted to and approved by the Planning Authority prior to the commencement of development. The Construction Method Statement shall recommend mitigation measures to control noise, dust, construction traffic (including routes to/from site) and shall include hours of construction work and routing of traffic. The Construction Method Statement shall also provide details of utility/service drainage connections.

The Construction Method Statement shall also make recommendations in respect of how building materials and waste will be safely stored and managed on site.

Thereafter, the Construction Method Statement shall be implemented and complied with in accordance with the approved details for the period of construction of the development hereby approved.

Reason:

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

- 9 Prior to commencement of development, details of measures to protect and enhance biodiversity on the application site shall be submitted to and approved by the Planning Authority. These measures shall include details of hedge and wildflower meadow planting and be accompanied with a management statement of these. The measures as so approved shall be implemented prior to any use being made of the dog walking facility hereby approved and shall thereafter be retained, unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of protecting and enhancing biodiversity on the site and within the surrounding area.

- 10 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 advance 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.

- 11 In the event that the dog walking facility hereby approved fails to operate as such 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 the dog walking facility, including, fencing, gates, shelters, lighting, earth mounds, access road, parking and turning areas shall all be dismantled and removed from the site by the operator by no later than the date occurring 6 months after the end of the said continuous 6 months period, and the ground fully reinstated to the specification and approval of the Planning Authority.

Reason:

To prevent a redundant dog walking facility and associated fencing, gates, shelters, lighting, earth mounds, access road, parking and turning areas remaining on the application site, in the interests of the landscape amenity of the area.

6. PLANNING APPLICATION NO. 24/00963/P: EXTENSION TO HOUSE, AND ERECTION OF WALLS, FENCING, AND GATES, 29 MUIRFIELD PARK, GULLANE

A report had been submitted in relation to Planning Application No. 24/00963/P. Amelia Smith presented the report, highlighting the salient points. The report recommendation was to grant consent.

Nick Mills, the applicant's agent, spoke to the application. He noted the objections and provided clarification on areas where he felt objectors had misunderstood the proposals. He

confirmed that the existing boundary wall relative to the garage to no. 29 and the courtyard beyond would remain as part of the proposal; there were no proposals to change the fencing beyond that, which was past the line of development. He advised that details had been submitted to show there were no issues with proposals regarding daylight overshadowing relative to the boundary condition, and the existing mature trees to the rear of the neighbouring property would not be affected by the proposals. He considered that all other matters raised by objectors had been adequately covered by the officer's report.

Responding to questions from Councillor Gilbert and the Convener, Mr Mills confirmed that the western boundary wall with no. 28 would remain in place, and would not be demolished and rebuilt. He also advised that a concealed gutter would allow downpipes to be routed on the side of no. 29, and there would be no issues with surface water from the roof being discharged into the neighbouring property.

Colin Miller spoke against the application. He lived close to the property and considered that his property would be most affected by the proposals. He noted that the photograph displayed by the officer had been taken prior to further development to his own property; the flat-roof extension no longer existed, and the conservatory had been demolished and would be returned to garden space. He considered that the proposed flat-roof extension would impact the use of his patio. He felt that the design was not in keeping with the surroundings, which were red pantile roofed houses of 1.5 storeys high, with off-white external rendering, and with a specific pattern alternating end-on and front-facing; Mr Miller described the extension as turning the end-on house into a very large off-white flat-roof box, now with two storeys, which would sit incongruously with adjacent properties. He felt that other alterations made to other properties had been done sympathetically, and sat within the boundaries of their properties. He considered the ten-metre site extension to be an overdevelopment, which was more than 100% of the original dwelling, and was not subservient to the existing property. He was keen for formalisation of the west wall being totally contained behind the existing boundary wall. He also took exception to the use of dark grey concrete tiles on the west elevation, which would be very close to the boundary and his patio. He felt the development would change the character of the street. He was concerned that the noisy work he did in his garage was going to be too close to the extended property. He welcomed the requirement for obscured glass on the north face, but was aware of similar requirements being changed upon application in Gullane. He thought the white box would be larger than anything in the area and would be incongruous. He was also concerned that the sight line from the corner of the end of the west wall included the window of his property. He understood that the proposal for full-length decking had now been withdrawn and would be undertaken through permitted development rights; he pointed out the decking would decrease the fence height from 1.8m to only 1.2m.

Responding to a question from Councillor Findlay, Ms Smith advised that the demolition of the west wall could not be regularised by the Planning Authority.

Councillor Allan, local member, said she had called the application in due to concerns there could be damage caused to the neighbouring property because of problems with drainage; having heard further explanation of this aspect of the development, she was content to support the officer's recommendation.

Councillor McMillan noted the different architectural styles which were prominent within the surrounding area, and almost everyone had made changes to their properties. There were different styles of roofs, and he did not consider the proposals to be an overdevelopment. He would support the officer's recommendation to grant consent.

The Convener understood that the objector had been concerned about his property, however, the Committee had heard that the development would not impact on the wall of the neighbouring garage. He felt the extension would be attractive and would fit into the surroundings well. He would support the officer's recommendation to grant consent.

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

Decision

Planning Committee members granted planning permission, subject to the following conditions:

- 1 Planning permission is not granted for the wall, fencing and gates proposed to enclose the front and side boundaries of the front garden of the house, and positioned forward of the principal elevation of the applicant's house.

Reason:

The boundary enclosures are harmful to the character and residential amenity of the surrounding residential area and would pose a road safety hazard contrary to policies DP5 and T2 of the ELLDP 2018 and policies 14 and 16 of NPF4.

- 2 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.

- 3 Prior to any use being made of the extension hereby approved, the glazed openings of the projecting component of the extension as approved shall be obscurely glazed on its rear (north) and side (east and west) elevations in accordance with a sample of the obscure glazing to be submitted to and approved by the planning authority prior to its installation within these window openings. The obscure glazing of the glazed openings shall accord with the sample so approved and thereafter shall remain obscurely glazed unless otherwise approved by the Planning Authority.

Reason:

In order to safeguard the privacy and amenity of the occupants of the neighbouring house to the north, east and west.

- 4 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended by Part 1 of the Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011), or of any subsequent Order amending, revoking or re-enacting the 1992 Order, no windows or other glazed openings, other than the glazed openings approved as part of this application shall be formed within the west side elevation or the west side roof slope of the extension hereby approved, unless otherwise approved by the Planning Authority.

Reason:

To safeguard the privacy and residential amenity of the residential property to the west.

7. 24/00007/SGC: ENERGY CONSENTS UNIT (ECU) CONSULTATION: CONSTRUCTION AND OPERATION OF THE CRYSTAL RIG SOLAR DEVELOPMENT WITHIN THE PLANNING AUTHORITY AREAS OF SCOTTISH BORDERS COUNCIL AND EAST LOTHIAN COUNCIL, LAND APPROXIMATELY 13KM SOUTH OF DUNBAR AND BEING AN EXTENSION TO THE CRYSTAL RIG WIND FARM

A report had been submitted regarding the Council's proposed response to the above consultation by the Energy Consents Unit (ECU) on an application to them under the Electricity Act 1989, East Lothian Council planning online reference 24/00007/SGC. Mr Dingwall spoke to the proposed response, highlighting the salient points. The report recommendation was to approve the proposed consultation response as outlined at Appendix 1 to the report.

Julie Aitken spoke to the application on behalf of Fred Olsen Renewables (FOR). She advised that FOR had had an operational windfarm at Cystal Rig since 2003, and had worked closely with communities throughout this time. Residents had been informed of plans to develop solar energy at the windfarm through public exhibitions, community council meetings, and through FOR's involvement with the Local Transport Group and Biodiversity Group; she expected this consultation to continue following consent being granted. She explained that the rationale behind the plans was to make Crystal Rig as efficient as possible, to maximise the grid connection on site, and to provide a steady stream of clean energy. She outlined the application, which was for 55,000 photovoltaic panels covering 131 hectares and generating 27 megawatts of renewable energy. She also advised of a community benefit package of £500 per megawatt, which would be index-linked.

Ms Aitken responded to questions from Councillors Collins, Hampshire, and Jardine. She advised that there would be a tender process for the solar panels following consent, and they usually sat 2-3 metres at their highest point off the ground; sheep were able to graze and take shade under the panels. She advised that the size and location of the project took biodiversity considerations into account. She also advised of plans for habitat management and biodiversity net gain, and FOR were working with East Lammermuir's Biodiversity Group to ascertain how they could feed into their plans.

Sederunt: *Councillor Gilbert left the meeting.*

Jacquie Bell made representation on behalf of East Lammermuir Community Council (ELCC). The statement, on behalf of Chris Bruce, ELCC chair, highlighted the 14 proposed electricity infrastructure developments in the area, and asked that proper recognition be given to the work of community members who had become involved to try to get the projects right for the community. ELCC asked the Planning Committee to use its power to ensure good practice and for developers not to be able to ignore what had come before. ELCC requested that the developers be required to be active on community liaison groups. ELCC felt that while proposed planning conditions went some way to addressing concerns, they continued to rely on an assumption that professionals knew best and the community only had to be informed; it was felt that there was no space for ELCC's contribution to be taken into account, despite current good practice by FOR in relation to their Crystal Rig construction programme. ELCC drew attention to the requirements at Condition 7, and noted that FOR had gone beyond these requirements by undertaking to: inform residents on a weekly basis of traffic movements; enforce a 20-mph speed limit on all traffic associated with the development leaving and returning to the A1; provide a monthly update on any incidents or near misses; work to identify routes to school to ensure safe passage; and attend monthly 'Lorries in Our Lanes' meetings to allow residents an opportunity to comment on progress or suggest improvements. ELCC highlighted that this went way beyond the requirements to *inform* the community, and represented a genuine attempt to *engage with* the community; ELCC felt that the Condition 7's wording should be amended to reflect this. Regarding Condition 18, ELCC were dismayed that there was no reference to the Biodiversity Community Liaison Group, whose express purpose was to promote alignment of Habitat Management and Enhancement Plans (HMEP), and asked that a requirement to work with the group be included in the planning condition.

Ms Bell also made representation on behalf of West Barns Community Council (WBCC). She pointed out that although an application had to be considered on its own merits, there had been a significant cumulative impact, and asked that strong conditions be imposed to mitigate these impacts on the community, agriculture, landscape, transport, and residents. She highlighted concerns about construction traffic and workers' cars, particularly at the A1 around Innerwick, which had a high accident record. WBCC requested that improvements be made, possibly funded by developers, such as illuminated signs on the A9 warning of turning traffic. It was also felt that a transport strategy was needed to consider ongoing repairs of rural roads, which it was asked that developers contribute to, and road safety on rural roads. WBCC also

supported ELCC's request for strengthening the wording of recommended Condition 7, in that the developer should fully engage with the community road safety group. She highlighted Condition 15 and restoration of the site after 35 years, and questioned how this would be enforced. WBCC also supported ELCC's request to strengthen recommended Condition 18 by making it a requirement for the developer to engage fully with the existing Biodiversity Liaison Group as part of the HMEP. It was also asked that consideration be given to the suitability of any solar panels, particularly with regards to withstanding storms.

Councillor Jardine, local member, recalled that she had spoken previously at Planning Committee about how difficult such developments were becoming for the East Lammermuir community, and said that ELCC had become extremely adept at working well with developers. She described FOR as an incredibly engaged and empathetic developer. She reported that she had never heard anyone in the community speak against the need for renewable energy, but said they all wanted to protect the environment they lived in. She had gotten involved because she felt it was the role of Councillors to represent concerns and achieve a balance between communities and developers; she felt that in this respect, the resources of Councillors and Planning Officers had been stretched beyond limit. She appreciated that the practicalities of the additional recommendations sought by ELCC were challenging, but she found it symptomatic of the imbalance of power between communities and developers that there appeared not to be any way of maximising meaningful engagement from developers to ensure a legacy that the community could see their influence over. She felt that this representation must be made to the ECU to seek to embed an approach to genuinely meaningful engagement that would enable development to continue without communities feeling they had little agency in the decision making about their own environment.

The Convener, local member, acknowledged that connections to the national grid meant that the area would see many renewable energy developments. He commented that the planning process had not caught up with the renewable developments coming forward. He felt that the local authority should have full control over developments which spread over a vast area of countryside and out to the sea. He felt that the current proposals were sensible, and would help to generate renewable electricity when there was a massive shortage. He fully supported the current proposals, but agreed that impacts had to be minimised; one example was proposals for remote car parks to allow workers to take buses to developments. He supported the officer's report.

Councillor Collins said that all Councillors had received representations from residents, who worried their area would be overwhelmed by the level of development. She thought that adding the solar panels within the boundary of the existing windfarm was the best idea, and agreed that meaningful engagement with the community from developers would be very positive.

Councillor McMillan was supportive of the application, and hoped that that previous submissions the Council had made to the ECU would also have been carefully considered. He discussed the meaning of the word 'engagement'; felt concern that he was unaware of the views of those in the Scottish Borders affected by the proposals, and that there were no national strategic development and electricity strategies to refer to. He felt that the next iteration of the LDP must take account of community wealth building. He supported the submission of Appendix 1 to the ECU, but it had made him consider further engagement through the LDP, or some other measure, to be able to deliver the sustainable energy needed.

Councillor McIntosh agreed that there was a requirement for further strategic oversight, which she encouraged everyone to take to their parties in Holyrood and Westminster. She also agreed that use of the windfarm site for solar panels was useful to make use of the connection and efficiencies in infrastructure to minimise pressures. She implored fellow Committee members to consider ELCC's thoughtful and detailed response, and did not consider it an unreasonable ask for developers to have to engage. She suggested that conditions should be ambitious, particularly since the ECU were the consenting authority, as they would have the

final say over whether the conditions would be accepted. She was keen to support ELCC's suggested wording change to recommended Condition 7 to *engage* rather than *inform*, and would formally propose this amendment if it was competent. She also wanted to support ELCC's proposal to amend recommended Condition 18, and suggested that this could include a sentence to describe how the HMEP would also meet the objectives of the Biodiversity Liaison Group.

Mr Dingwall was of the view that whether the wording was *engage* or *inform* would not make a great deal of difference, as by informing, the developers would be engaging in some sense. Although he agreed with the principle of being ambitious, he highlighted that it was also important to be legally competent; clear advice from different legal authorities in this space said that it would not be reasonable to compel a developer to join and actively participate in a group. He acknowledged that the applicant was voluntarily willing to continue to participate in groups, he urged Planning Committee members not to go beyond the current wording when the Council had received advice that it was not legally competent to do so.

Responding to a question from Councillor McIntosh, Mr Dingwall was happy for *inform* to be changed to *engage* on the basis that by informing the community, a developer had complied with this condition; Mr Dingwall could not see how enforcement action could be taken to compel developers to go beyond this. Councillor McIntosh responded that she felt that *engage* was more open to the other party participating as well, so wanted to formally propose this change.

The Convener asked Carlo Grilli, Service Manager – Governance, to give his view on the proposed change. Mr Grilli acknowledged that *engage* and *inform* had overlap in terms of duties, but felt that *engage* implied a higher level of action, and was concerned how enforcement action could enforce that higher level of action if it did not come forward; he questioned how the Planning Authority could judge whether there was true engagement.

Councillor McIntosh felt that *engage* would leave developers under some obligation to try to find compromise; as FOR was managing to engage, she felt this was a good opportunity to send this amended wording to the ECU for consideration. She conceded that if the advice was that the suggestions were incompetent, then this would have to be withdrawn. On the basis that the Planning Authority could not judge whether the suggested amendments were being complied with, Mr Dingwall advised that they were not legally competent, and Councillor McIntosh withdrew her proposal. She summed up that she would still support the Council's response at Appendix 1, but she had considered that this could have been a good opportunity to add in more ambitious conditions and engagement with Community Councils.

Councillor McMillan said that he would explore the good principles, the learning, and the areas for improvement, and consider what could be done better for the future. He agreed with Councillor Jardine's point that the agency of communities had to be considered, and particularly in this case when FOR was a willing collaborator. He felt that the key aim was for collaboration on the wider issues.

Councillor Collins commented that the public perceived that being informed was when they were only told what was happening, whereas engagement would actually involve them, which Councillors always wanted to see.

Councillor Allan asked for clarification on the national guidelines relating to engagement, and felt that having developer engagement was vital and must be encouraged. Mr Grilli revisited an earlier point that proper engagement was always encouraged by the Council, but confirmed that the Planning Authority could not compel a third party to engage, making the suggested amendments not competent. He noted that the Council could engage itself, but could not impose such a condition on this situation; he re-emphasised that there was a difference between informing and engaging.

The Convener then moved to a roll call vote on the recommendation to approve the consultation response at Appendix 1 of the report. Members unanimously supported the recommendation.

Decision

Planning Committee members approved the consultation response at Appendix 1 of the report.

8. PLANNING APPLICATION NO. 24/01054/P: ERECTION OF 16 HOUSES AND ASSOCIATED WORKS, LAND AT SALTCOATS FIELD, GULLANE

A report had been submitted in relation to Planning Application No. 24/01054/P. David Taylor, Planner, presented the report, highlighting the salient points. The report recommendation was to grant consent.

Responding to a question from Councillor Findlay, Mr Taylor advised that the land to the area of the north of the site came under consideration for educational uses prior to the preparation of the 2018 iteration of the LDP, but after further role projections, the site had not been taken up.

Councillors Findlay, Allan, and McIntosh all raised concern as part of their questioning with the wastewater capacity. Councillor Allan said she had previously read that the wastewater treatment centre was at capacity. Mr Taylor responded that Scottish Water had undertaken a capacity assessment and had unequivocally advised that there was capacity for this development.

Councillor Allan said she intended to find out more from Scottish Water on the matter of wastewater, and Councillor McIntosh pointed out that there had been two incidents of discharge of sewage into the sea only since the start of the year. She felt that Committee Members should be able to speak to Scottish Water directly because she did not feel satisfied that capacity was available for further housing developments. The Convener pointed out that the legal responsibility for wastewater lay with Scottish Water, who were obliged to provide capacity if they did not submit a formal objection to a planning application. Responding to a question from Councillor Findlay, Mr Dingwall advised that recommended Condition 15 was there only to provide additional reassurance regarding wastewater capacity.

Mr Thomas, the applicant's agent, spoke to the application. He pointed out that the development would provide a much-needed mix of family homes in Gullane, and the Saltcoats development had been popular, with generous open space. Although previous concerns had been raised, he felt the actions of CALA Homes had alleviated concerns. He pointed out that the development met requirements for open space, access, and parking. He highlighted that the development included four 4-bedroomed bungalows. He noted the genuine concern regarding wastewater, and he appreciated that formal wastewater approval was required for the site through conditions. He noted that the land was no longer required for the expansion of Gullane Primary School. He explained that the developer would contribute to Memorial Park, support local initiatives, and the total developer contributions would be just under £6m. He highlighted wider sustainability objectives, such as the air source heat pumps to be installed in the new homes, and CALA's urban wildlife initiative to support biodiversity within gardens. He summarised that the application was small in scale, in an area for housing on land which was no longer needed for education. If approved, a seamless continuation of

construction activities was expected, with completions scheduled for the second quarter of 2026.

Responding to a question from Councillor Findlay, Derek Lawson, of CALA Homes, advised that further houses were being built in Gullane because there was a wider housing emergency in place, and homes were selling well in Gullane. He also pointed out the contributions CALA Homes were making towards parks and pitches, and land in the northern part of the site could be provided free of charge to support the Council's ambitions to develop a seven-a-side pitch. Mr Thomas added that there was an obligation on the Council for efficient use of land during a housing crisis.

Alan Fraser spoke against the application on behalf of Gullane Area Community Council (GACC). He raised concern about the 16 new connections proposed to the Gullane Area Wastewater Treatment Facility, and questioned why further investigation would be required when Scottish Water had already stated there would be capacity; he suggested that this meant that members could not have confidence that sewerage capacity had been properly investigated. He reported that Scottish Water had previously advised GACC that there was no further capacity in the wastewater treatment facility, and that Scottish Water could not support new connections; he reported that CALA Homes had also met with GACC and had been advised that there was no capacity for new connections. Mr Fraser reported that a retired senior water management official had also confirmed to GACC that the system was already beyond capacity and there was a significant risk of untreated sewage overflows. He also highlighted the location of the wastewater treatment facility as being on the edge of the Aberlady Bay Nature Reserve, meaning untreated sewage discharge was a matter of environmental catastrophe affecting a sensitive protected area, and a serious breach of licence for Scottish Water. Mr Fraser also raised GACC's objections that there was insufficient infrastructure to support the new proposals, including transport infrastructure. With a lack of new employment in the village, most were forced to commute; this was largely by car due to limited public transport options and the Council's lack of support for a safe cycle path to Drem Railway Station.

The Convener clarified that the Council did support an active travel route to Drem, but the landowner had refused to sell the required land.

Responding to a question from Councillor Findlay, Mr Fraser said that he had written correspondence from Scottish Water to confirm that there was no capacity in the wastewater system. He found it unbelievable, given the significant community interest, if further capacity had been found and this had not been communicated to GACC. The Convener pointed out that Scottish Water had confirmed there was capacity at Gullane in their response to this consultation. Mr Fraser thought that requiring Condition 15 did not therefore make sense, and Mr Dingwall reiterated that this was only to provide surety because officers were aware that this was a sensitive area; Committee members could choose not to impose the condition if they felt it was unnecessary. Mr Fraser asked for the detail of the Scottish Water response to be sent to GACC.

Sederunt: Councillor McIntosh left the meeting.

Responding to a question from Councillor McMillan, there was further discussion about wastewater capacity. Councillor McMillan felt it would be reassuring to understand the process for application for connections and to know that building would not start until this was in place. Mr Dingwall responded that the Planning Committee could ask the applicant to set out this process; however, recommended Condition 15 provided comfort that further investigations would be carried out. Following further discussion, the Convener suggested that the technical capacity study would be shared once it had been submitted by Scottish Water.

Alexander Brett Walker spoke against the application. Mr Walker also raised concerns about the wastewater capacity, particularly considering the increase from 130 houses on the original masterplan, to 166 houses on the overall site. He also noted that this site had been marked for open land in the original masterplan. He raised concern over the differing responses provided by Scottish Water. He pointed out that Aberlady Bay suffered a significant number of unauthorised discharges, posing serious consequences for human health and to the Site of Special Scientific Interest (SSSI). He pointed out where the outfalls were on a diagram of the site, which flowed straight into Aberlady Bay. He pointed out that under Policy 3 of NPF4, a development should not affect water quality. He was also concerned that Scottish Water were working from an assessment undertaken in 2017, and that assessment had not taken account of sewage discharges at Aberlady Bay. He considered that the prime agricultural land, if no longer needed for the community, should be returned to agricultural land; he commented that the housing crisis would not be solved by siting 16 houses on this site. He also felt that flood risk relating to backflow had not been considered. He also highlighted further NPF4 policies which covered protection of biodiversity. He did not consider potential alternative arrangements to be acceptable, should Scottish Water not have capacity for the connections upon further assessment. He pointed out that a similar condition to recommended Condition 15 on the 2018 application for 150 houses was never discharged. He urged Committee members to refuse the application, which he considered to be contrary to NPF4 Policies 1-4, 17, 18, and 22, LDP Policy NH5, and the approved masterplan for the overall site. He urged that further investment in Gullane Wastewater Treatment Centre to provide further strategic capacity must be resolved before any further sites were developed for housing which had not originally been planned.

Councillor Hampshire pointed out that some people would consider maximisation of the number of houses without taking more countryside land a positive aspect of the proposals. Mr Walker pointed out that the houses would benefit from less open space, and noted that there would be a requirement for significantly more sewerage connections than had originally been envisaged.

Councillor Findlay commented that there were serious issues to be answered in relation to foul drainage, and he also thought that a new playfield for Gullane Primary School would be welcomed. He was concerned that developing on this site would remove potential for future expansion of the school. He felt that that approving the application was too hasty, and thought that affirmative confirmation should be received from Scottish Water prior to approval.

Councillor Findlay proposed that the application be continued until such time as the sewage capacity had been established, and this was seconded by Councillor Allan. The Convener then moved to a roll call vote on this proposal, and votes were cast as follows:

Support:	3	(Councillors Allan, Collins, and Findlay)
Against:	6	(Hampshire, Forrest, McGinn, McLeod, McMillan, and Yorkston)
Abstain:	0	

The motion to continue the application fell, and the debate on the application therefore continued.

Councillor McMillan commented that the Council also wanted the matter of wastewater to be resolved, and was the same Council looked after the Aberlady Bay Nature Reserve by providing rangers, and who did the work to turn the land into a reserve in the first place. He would take the matter up with Scottish Water. He felt there were sufficient preventative measures in place, and pointed out that CALA Homes may be faced with Scottish Water responding, after further study, that the connections could not be made. He thought the Council also had to work with Scottish water to resolve the matter. He felt that the

recommended conditions provided sufficient security, and he pointed out that there was a real need for homes. He was also not convinced that this patch of land would ever be returned to agricultural use. He felt the application provided an opportunity for further development of homes in Gullane which were close to amenities. He would support the officer's recommendation, would ensure Condition 15 was met, and would discuss further with Scottish Water.

Councillor McGinn would support the officer's recommendation to grant consent. He referred to his experience of working with Scottish Water on the problems with the Bellway development in Elphinstone, and described their service as being first class. He was not in a position to suggest that their consultation response was incorrect, and felt that Scottish Water must be taken at their word.

Councillor Collins felt concerned by the increase in sewage problems being experienced around the county, and also felt that it was premature to abandon the potential for expansion of Gullane Primary School.

Councillor Forrest felt confident that the Planning Authority would ensure that the development could not start until it had been established that there was sufficient wastewater capacity, and pointed out that the developer would not want to build 16 homes that would sit empty because of sewage capacity issues. He particularly welcomed the four bungalows to be built, which were the type of houses communities needed.

Councillor Allan sought clarification that recommended Condition 15 meant that construction could not begin until there had been confirmation of wastewater capacity through provision of a technical report. Mr Dingwall confirmed this was the case, and Councillor Allan said that this made a difference as to whether she would support the application.

The Convener acknowledged that questions often came up at Planning Committee about Scottish Water, and it was his position that if Scottish Water responded to say there was capacity for a development, then the Planning Authority must allow the development to go ahead on this basis. He noted that the Education Authority had confirmed that the land was no longer required to be held for educational purposes. He considered the application for 16 units to be a good use of this piece of land. He raised concern that the required developer contribution per house was too low, and said this had been taken up with the Scottish Government. He would support the officer's recommendation to grant consent.

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

Support: 7 (Councillors Hampshire, Allan, Forrest, McGinn, McLeod, McMillan, and Yorkston)

Against: 2 (Councillors Collins and Findlay)

Abstain: 0

Decision

Planning Committee agreed to grant planning permission, subject to the following:

1. The satisfactory conclusion of an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997, or some other legal agreement designed to secure from the applicant:
 - (i) a financial contribution to the Council of £8,539.00 towards the provision of strategic transport interventions;

- (ii) a financial contribution to the Council of £107,728.00 towards the provision of additional North Berwick High School accommodation;
- (iii) the transfer of land to the north of the development site, marked as Recreational Ground on Drawing: SG-PL-300-01 'Proposed Site Layout', at nil value to the Council for community use;
- (iv) a financial contribution to the Council of £110,000.00 towards Sports Provision and Changing;
- (v) a financial contribution to the Council of £9,072.00 towards Play and Recreation; and
- (iii) the provision of 4 affordable housing units within the application site.

2. That in accordance with the Council's policy on time limits for completion of planning agreements it is recommended that the decision should also be that in the event of the Section 75 Agreement not having been executed by the applicant, the landowner and any other relevant party within six months of the decision taken on this application, the application shall then be refused for the reason that without the developer contributions to be secured by the Agreement the proposed development is unacceptable due to a lack of sufficient school capacity, the lack of road and transport infrastructure improvements, and the lack of financial contribution towards sports provision and play and recreation, contrary to, as applicable, Policies DEL1, HOU3, HOU4 and T32 of the East Lothian Local Development Plan 2018 and Policy 18 of NPF4.

Conditions:

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

Reason:

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

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

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

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

Reason:

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

- 3 Notwithstanding that which is stated on the drawings docketed to this approval of matters specified in conditions, a detailed specification of all external finishes of the houses and flatted buildings of the proposed development shall be submitted to and approved by the Planning Authority prior to the use of the finishes in the development. The external finishes of the houses shall be in accordance with a co-ordinated scheme of materials and colours that shall be submitted to and approved in advance by the Planning Authority. This co-ordinated scheme shall in detail promote render as the predominant finish to the walls of the houses, with a use of more than one render colour and with a strongly contrasting difference in the colours such that they will not each be of a light colour. All such materials used in the construction of the buildings shall conform to the details so approved.

Reason:

To ensure the development is of a satisfactory appearance in the interest of the amenity of the locality.

- 4 Prior to the occupation of the last residential unit hereby approved, the proposed access roads, parking spaces and footpaths shall have been constructed on site, in accordance with the docketed drawings. Those areas of land shall not thereafter be used for any other purpose than for accessing and for the parking of vehicles in connection with the residential use of the houses and shall not be adapted or used for other purposes without the prior written approval of the Planning Authority.

Reason:

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

- 5 Notwithstanding that shown on the drawings docketed to this approval of matters, the boundary enclosures shown on those drawings are not hereby approved. Instead, and prior to the commencement of development, revised details of all boundary enclosures to be erected on the application site, and the timescales for their provision, shall be submitted to and approved in advance by the Planning Authority.

Those details shall show the form and appearance of all boundary treatments, including those enclosing the rear gardens of the houses. The details shall also show all semi-private and defensible spaces in front of or to the side of the houses hereby approved and to the side of parking courtyards to be enclosed by walls/hedges/fences/ or railings to define areas of private space from public space. All semi-private and defensible spaces in front of or to the side of dwellings and to the side of parking courtyards shall be enclosed by walls/hedges/fences/ or railings to define areas of private space from public space.

Thereafter the boundary treatments erected shall accord with the details so approved unless otherwise agreed in writing by the Planning Authority.

Reason:

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

- 6 The 4 residential units approved to be affordable housing units shall be operated as affordable housing and shall not be sold as market housing.

Reason:

In order to ensure the 4 houses are affordable housing and is therefore compliant with Policy HOU3 of the adopted East Lothian Local Development Plan 2018.

- 7 All planting, seeding or turfing comprised in the approved details of landscaping comprised on the drawing titled 'Phase 2 Landscaping Rev B' shall be carried out in the first planting and seeding season following the occupation or completion of any part of the development hereby approved, whichever is the sooner. All planting shall be established and maintained in accordance with the details on the above drawing.

Any trees, hedges 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 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 retained and maintained to accord with the details of the approved details of landscaping.

Reason

To ensure establishment of a landscape scheme that improves the amenity of the area.

- 8 Prior to commencement of development, details of measures to protect and enhance biodiversity on the application site shall be submitted to and approved by the Planning Authority. The measures as so approved shall be implemented prior to any use being made of the agricultural building hereby approved and shall thereafter be retained, unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of protecting and enhancing biodiversity on the site and within the surrounding area.

- 9 The residential scheme of development hereby approved shall comply with the following transportation requirements:

- i) all roads and paths shall conform to East Lothian Council's Transport Infrastructure in New Developments;
- ii) all path and footway connections from a zone under construction to the existing settlement shall be constructed to an adoptable standard before the occupation of any units in that particular zone; and
- iii) driveways shall have minimum dimensions of 3.3m width by 6m length. Double driveways shall have minimum dimensions of 6m width by 6m length or 3.3m width by 11m length.

Development shall thereafter be carried out in accordance with the details so approved unless otherwise approved by the Planning Authority in consultation with the Roads Authority.

Reason:

In the interests of pedestrian and road safety.

- 10 A Construction Method Statement to minimise the impact of construction activity on the safety and amenity of the area shall be submitted to and approved by the Planning Authority prior to the commencement of development. The Construction Method Statement shall recommend mitigation measures to control noise, dust, construction traffic (including routes to/from site) and shall include hours of construction work and routing of traffic. The Construction Method Statement shall also provide details of utility/service drainage connections.

The Construction Method Statement shall also make recommendations in respect of how building materials and waste will be safely stored and managed on site.

Thereafter, the Construction Method Statement shall be implemented and complied with in accordance with the approved details for the period of construction of the development hereby approved.

Reason:

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

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

Reason:

In the interests of road safety.

- 12 Prior to the occupation of any of the residential units hereby approved a Residents Travel Pack with information for residents to encourage use of sustainable modes of transport such as trains, buses, cycling and walking shall be submitted to and approved by the Planning Authority. The Residents Travel Pack will include local bus and train timetables, local cycling and walking maps, information on bike hire / car sharing, and shall include details of how it will be distributed to residents.

Reason:

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

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

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

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

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

Reason:

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

- 14 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.

- 15 Prior to the commencement of development confirmation from Scottish Water shall be provided that demonstrates that there is an available connection to the public sewer and that Scottish Water will accept waste from this development. If Scottish Water cannot accept foul drainage from this site, proposals for alternative arrangements should be provided, prior to the commencement of development and SEPA should be re-consulted.

Reason:

In the interests of ensuring that foul drainage from the site can be accommodated.

9. PLANNING APPLICATION NO. 24/01007/P: SECTION 42 TO VARY CONDITION 1 OF PLANNING PERMISSION 21/00622/P, 95A HIGH STREET, TRANENT

A report had been submitted in relation to Planning Application No. 24/01007/P. Mr Taylor presented the report, highlighting the salient points. The report recommendation was to grant consent.

Mr Taylor responded to questions from Committee members. Responding to questions from Councillor McGinn, he advised that an approved extension to the adjacent property at 95 High Street would be one metre to from the wall to the west of the site. He advised that access

arrangements over the vennel would be a matter outwith the planning process for the parties to organise themselves.

Councillor McMillan raised concerns about the emergency exit. Mr Taylor highlighted that the proposals for planning permission 24/00064/P included a storage area and access path to serve that storage area, so it was assumed that works would be undertaken to clear out some of the stacks of barrels, palletes, and so on which had caused some concern at the site visit.

Tom Whitelaw, the applicant's agent, spoke to the application, and responded to some of the questions previously raised by Committee members. He advised that the door in question was only needed as a fire escape and for occasional maintenance, and the tenants would be forbidden to use it. He envisaged it would be used only twice a year, and advised that the door would be alarmed.

Responding to questions from Councillors Forrest, McGinn, and McMillan, Mr Whitelaw advised that tenants would be instructed to use the other main access, and the owner would be notified by the alarm going off if the emergency exit was used. He explained that the yard would be cleared, but he did not envisage wheelchair users becoming tenants of this property because the bedrooms were upstairs. He felt there was no real reason for his client to give up his legal right of access to the vennel, as it was convenient for occasional use. Mr Whitelaw had not personally been in touch with Council officers regarding licensing of the house in multiple occupation (HMO).

Councillor McGinn, local member, explained that he had been concerned about the plans because he had understood that the extension for the pub/restaurant would come right up to the emergency exit door. He also had concerns that the emergency exit would come out into a beer garden if the pub extension did not go ahead. He was concerned that the Committee would be approving something that could not be called an emergency exit, and he would not support the application.

Councillor Forrest also had concerns; he thought that just because a door was alarmed did not mean it would not be used. He would support the proposals in any case, because he could not find any reason to refuse. Councillor McMillan agreed with Councillor Forrest's comments, and acknowledged that the emergency exit was deemed to be workable by Planning Officers.

The Convener noted that keeping the exit for emergency use and for maintenance was acceptable in planning terms, and the access issues were for the owners to organise themselves.

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

Support: 7 (Councillors Hampshire, Allan, Collins, Findlay, Forrest, McMillan, and Yorkston)

Against: 1 (Councillor McGinn)

Abstain: 0

Decision

Planning Committee agreed to grant planning permission, subjection 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 any use of the building for two houses of multiple occupancy hereby approved the off-street car parking spaces as shown on drawing P1 Rev B titled 'Location and Existing Plans' docketed to this planning permission shall be fully formed and available for use; and b) the easternmost door in the north elevation of the building shall be removed and the door opening infilled in accordance with docketed drawing no. V1.
The off-street car parking spaces shall thereafter be retained in place free from obstruction to use unless otherwise approved by the Planning Authority.

Reason:

In the interests of road safety

- 3 At least one dedicated EV charging point per vehicle parking space shall be provided for each of the houses of multiple occupancy hereby approved. Such provision should involve engagement with electricity providers to ensure that the entire electricity supply infrastructure will have sufficient capacity to enable all chargepoints to operate simultaneously.

Reason

In the interests of sustainability.

- 4 The new roof windows hereby approved shall be installed in a manner that ensures their upper surface is as near flush as possible with the upper surface of the roof into which they will be installed and with minimum flashing, unless otherwise approved by the Planning Authority.

Reason:

To reduce the visual impact of the roof windows in the interest of safeguarding the character and appearance of the building and the character and appearance of the Conservation Area.

- 5 The emergency door hereby approved for the rear (north) elevation of the building shall, unless required for emergency purposes or essential maintenance, be kept in the closed position and shall not be used as a general entrance for resident access/egress.

Reason:

In the interests of protecting the residential amenity of the area.

Signed

Councillor Norman Hampshire
Convener of the Planning Committee