



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

**TUESDAY 1 DECEMBER 2009  
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

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**Committee Members Present:**

Councillor B Turner (Convener)  
Councillor J Bell  
Councillor D Berry  
Councillor L Broun-Lindsay  
Councillor J Caldwell  
Councillor A Forrest  
Councillor D Grant  
Councillor N Hampshire  
Councillor W Innes  
Councillor R Knox  
Councillor S Mackinnon  
Councillor P McLennan  
Councillor T Trotter  
Councillor J Williamson

**Other Councillors Present:**

Councillor J MacNeil

**Council Officials Present:**

Mr P Collins, Executive Director of Environment  
Mr B Stalker, Development Management Manager  
Ms M Ferguson, Corporate Legal Adviser  
Mr K Dingwall, Principal Planner  
Mr I McFarlane, Senior Planning Officer  
Mr G Talac, Transportation Planning Officer  
Mr G McLeod, Transportation Planning Officer  
Mr R Sinclair, Communications Officer  
Mr D Anderson, Trainee Solicitor

**Clerk:**

Ms A Smith

**Visitors Present:**

Item 1 – Mr Parry, Mrs Scott

Item 2 – Mr Salter

**Apologies:**

Provost S Richardson

**Declarations of Interest:**

Item1 – Councillor Trotter declared an interest as an employee of Persimmon Homes. He stated that he would leave the Chamber for this item thereby taking no part in the debate or vote.

**1. PLANNING APPLICATION NO. 09/00403/FUL: ERECTION OF 22 FLATS, 6 HOUSES AND ASSOCIATED WORKS AT LAND AT APPIN DRIVE, PRESTONPANS**

The Executive Director of Environment submitted a report on the application for planning permission. The Development Management Manager summarised the key points of the report. In response to questions from Members he clarified the position regarding the number of storeys of the flats and their location on site. He confirmed that the additional 15 residential units now proposed were in excess of the total of 500 residential units permitted by the earlier application for outline planning permission. He explained that the reason the limit had originally been set at 500 units had been to ensure that the land of Longdykes was not over developed relative to a lack of education provision in Prestonpans. He reported that the Executive Director of Education and Children's Services now advised that there would be sufficient school capacity to accommodate the number of children likely to arise from the additional 15 residential units now proposed. The Development Management Manager advised the Committee that the principal determining factor was whether or not there was justification for the additional 15 units.

Mr Parry, Design Manager for Persimmon Homes, East of Scotland, referred to earlier applications in this area and informed the Committee that planning permission was now sought for an alternative scheme of residential development for this part of the Longdykes housing site. He advised that his company had worked with the Council's Planning Officers to ensure the design and layout of this proposal was acceptable. In particular, the 3 story flatted block had been relocated to an alternative position on the opposite side of the road. He advised Members that the Council's Planning Officers supported the amended proposal. He indicated that the change from the original plan for this area was due to the economic climate and the effect on the housing market. Persimmon Homes was working with East Lothian Housing Association and the Council's Housing Division. The flats and houses would all be for affordable rent. He added that this met the requirements of the Scottish Government's Housing Association Grant Scheme. He asked the Committee to support the application.

Mrs Scott of McGregor Pend, Priory Gate, spoke against the application. She stated that at the point of purchase of her property she had been informed that the whole of Priory Gate would be allocated to private housing. She informed Members that the proposals would reduce the amount of light coming into her property; there would be greater shadow, which would make her garden virtually unusable. The proposals would not improve the quality of life for existing residents. She referred to incidents of vandalism in the area surrounding the car park. She implored the Committee to listen to the needs of the residents, who had bought these properties in good faith.

In response to further questions from Members the Development Management Manager clarified matters in respect of overshadowing, overlooking, car parking and paths from the car park to the development.

Local Member Councillor Innes stated that the Committee had heard from the applicant that financial reasons were behind this alternative scheme of development. He indicated that these new proposals would have a significant detrimental impact on existing residents. This new design was totally different, it was unacceptable; there was no justification for this application. He added that if the Council gave permission to builders to radically alter a design because of the current financial situation, this could result in more similar applications coming before the Committee. He stated that he would be opposing the recommendation and urged Members to support him.

In response to a question from the Convener regarding the variation, and on what basis it should be considered, the Development Management Manager advised that it came back to the basic premise that anyone, at any time, could make an application for planning permission, which then had to be considered on its merits. He added that it was not unusual for a housing development to change in some degree from the originally approved scheme. Councillor Bell raised a number of transport issues that the Transport Planning Officer clarified.

Councillor Hampshire stated that although the Committee had to consider applications for variation, the residents also had to be considered. This application was a major change and would have a great impact on the residents. This alteration to the original planning application was greater than should be allowed on this site; he would be refusing this application.

Councillor Berry expressed sympathy for the residents, who had moved into the area on the assumption of the original development. The question for the Committee however had to be whether the proposal was contrary to planning guidelines. He stated that he could find no valid planning reason to refuse this application therefore, he would be supporting the report recommendation to grant planning permission.

Councillor Knox echoed Councillor Berry's comments; there was no reason to justify voting against the recommendation.

Councillor Grant highlighted the point made by Councillor Innes about the potential for

this kind of application being repeated throughout East Lothian. He also expressed sympathy for the residents. He indicated however that he could not find a valid reason to refuse this application and would therefore be supporting the recommendation to grant planning permission.

In response to a query from Councillor Innes, the Development Management Manager clarified the position with regard to school capacity and developer contributions. He referred to the requirements for this site as set out in the Structure Plan. He explained that the 15 additional houses could legitimately be considered as windfall. The Executive Director of Environment added that the 1994 Structure Plan was no longer the applicable Structure Plan and added that the proposals before the Committee were not inconsistent with the new Structure Plan.

The Convener brought the discussion to a close. He stated that he also had sympathy for the residents but could not find any sustainable planning reason to go against the recommendation to grant planning permission. He asked that the recommendation contained be put to the vote.

### **Decision**

The recommendation that planning permission be granted was put to the vote and received **9 votes for** and **4 votes against**; there were no abstentions.

The Committee agreed to grant planning permission subject to the following conditions:

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

Reason:

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

- 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 Prior to the occupation of the last house or flat hereby approved, the proposed access roads, parking spaces, and footpaths shall have been constructed on site, in accordance with the docketed

site layout drawing. 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 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 in the interests of road safety.

- 4 Notwithstanding that which is stated on the drawings docketed to this planning permission, a detailed specification of all external finishes of the houses and flats 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 and flats 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 respect the layout of the development and shall promote render as the predominant finish to the walls of the houses and flats. All such materials used in the construction of the houses and flats 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.

- 5 Prior to the commencement of development details of the bin and cycle storage facilities for the flatted properties shall be submitted to and approved in advance by the Planning Authority. The details shall show at least 1 cycle space per flat. Prior to the occupation of any of the flats the bin and cycle storage facilities shall have been formed in accordance with the approved details and made available for use. Thereafter, the storage facilities shall be retained in use solely as bin and cycle storage areas.

Reason:

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

*Sederunt: Councillor Trotter returned to the Chamber*

**2. PLANNING APPLICATION NO. 08/00669/OUT: OUTLINE PLANNING PERMISSION FOR THE ERECTION OF BUSINESS PARK COMPRISING OFFICE ACCOMMODATION AND HOTEL WITH NEW ROUNDABOUT, CAR PARKING, LANDSCAPING AND ASSOCIATED WORKS AT LAND AT OLD CRAIGHALL JUNCTION, MUSSELBURGH**

The Executive Director of Environment submitted a report on the application for planning permission. The Development Management Manager summarised the key points of the report. He referred to issues raised at the site visit regarding access and outlined the principles of the development as detailed in the masterplan. He referred to the new roundabout junction at the north end of site and to advice from the Head of Transportation that the access was acceptable. He advised that Transport Scotland had indicated that the A1 junction was capable of dealing with the additional traffic. He referred to the Green Travel Plan, which was a condition in the recommendation.

The Development Management Manager and Transportation Planning Officers responded to a number of questions from Members regarding the Green Travel Plan, the masterplan, SUDS system, Scottish Water and SEPA. Transport issues were also raised, including access, alterations to the existing roundabout, the Old Craighall Junction, traffic congestion points in Musselburgh, the spur road and bus laybys on site. The Development Management Manager confirmed that the spur road was the Council's responsibility.

Mr Salter of Geddes Consulting, agent for the applicant, addressed the Committee. He informed Members that this application sought permission for a development of 4 office blocks and a hotel. The applicant, Lothian Park, viewed this area as an excellent choice for an economic development for East Lothian and as an alternative to Edinburgh Park. Lothian Park was also in discussions with Queen Margaret University and Persimmon Homes, who owned the science park. He addressed issues raised at the site visit. *Local access* - the applicant agreed to make a contribution towards investment in the local traffic management system. *Access to the site* - a major upgrade was proposed to the existing roundabout, over 1,000sm of the site had been allocated to improve access. *Green Travel Plan* - the applicant agreed to this and discussions had taken place with First Bus and Lothian Buses. *Bus layby* - the proposed link road would meet the bus operators' requirements, in addition, the inner road would form a loop and have bus stops. He asked the Committee to approve this application.

Local Member Councillor McNeil welcomed the report but indicated that he did have some concerns. The proposed alteration of the existing roundabout involved moving the complete road lineage, which caused great apprehension. The road from Eskview Terrace/Olivebank Road was the only link to the A1, and one of the busiest routes in East Lothian. He expressed concern about the amount of traffic accessing the site from day one and the route this traffic would take. He had raised this at the site visit and asked why the only access was from the city bypass. He suggested inserting a condition into the recommendation regarding access and referred to a piece of land the Council owned beside the Golf Course. He stated that the developers had submitted a good application and urged the Committee to grant permission but with a caveat - would it be possible to ensure that there was no more traffic on Monktonhall Terrace and also that access to the site was from another route.

Councillor Trotter suggested that Condition 10 related to Councillor McNeil's query. The Development Management Manager advised that the intended purpose of recommended Condition 10 was to control construction works on site relative to the amenity of the hotel proposed for the site and not to control the movement of construction traffic, such control would have to be exercised through a different condition. The Executive Director of Environment added that Transport Scotland had deemed the current road network sufficient. The Development Management Manager then drew attention to the recommended Section 75 Agreement intended to secure a developer contribution towards the implementation of a Scoot Traffic Control System for Musselburgh. Councillor Broun Lindsay agreed with Councillor McNeill's comment regarding construction traffic.

Local Member Councillor Williamson welcomed the development and the associated employment opportunities. He indicated that he also had concerns regarding traffic issues and hoped that the Scoot System would be beneficial. He expressed a note of caution about the public transport element, commenting that there were no guarantees from the bus companies that they would run services to/from the site.

The Convener, speaking as the third ward councillor, welcomed the proposal, stating it was the kind of development that Musselburgh and East Lothian needed. He referred to the well-placed road network but expressed concern about public transport; he welcomed arrangements to allow access for buses but it had to be ensured that buses actually went to the site; there could not be a major development of this site without this. He stated that the addressing of this in the Green Travel Plan would be crucial. He concluded that he would be supporting this application.

Councillor Caldwell stated that there was currently an issue with traffic in Musselburgh, particularly at Monktonhall Terrace, and he hoped that the Scoot proposals would alleviate these problems. He commented that Musselburgh needed a decent hotel and this site was ideal; he also welcomed the construction jobs and longer-term jobs this application would bring. He would be supporting the application.

Councillor Knox indicated that he would also be supporting this application, which would bring economic stability to the town. He agreed however that there were traffic issues and that traffic on Monktonhall Terrace was already at saturation level.

Councillor Forrest welcomed the Green Travel Plan condition in the report. He stated that the volume of traffic had increased greatly over the last few years and expressed concern that if the traffic system was not right the people of Old Craighall would suffer.

Councillor MacKinnon commented that as Cabinet Member for Economic Development he welcomed this application, which would bring great benefit to Musselburgh and East Lothian.

The Convener brought the discussion to a close. He queried the suggested amendment of Condition 10 as discussed. The Development Management Manager suggested that rather than amending Condition 10 an additional condition could be imposed on a grant of planning permission to control the movement of construction traffic to/from the site. The Convener indicated that subject to such an additional condition the report recommendation should be put to the vote.

### **Decision**

The recommendation that planning permission should be granted was put to the vote and received **14 votes for**, none against and no abstentions.

The Committee agreed to grant planning permission subject to:

1. the undernoted conditions;
2. an additional condition requiring a method statement for the control over movement of construction traffic to/from the site submitted to and approved by the Planning Authority;
3. the prior conclusion of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 designed to secure a financial contribution of £28,500 towards the implementation of a Scoot Traffic Control System for Musselburgh. The contribution would have to be made prior to occupancy of more than 5,000 square metres of the office accommodation of the business park development of the application site.

1 Before development commences application for approval of matters specified in a condition(s) of this planning permission in principle

(a) must be made before whichever is the latest of the following:

- (i) the expiration of 3 years from the date of the grant of the permission
- (ii) the expiration of 6 months from the date on which an earlier application for the requisite approval was refused, and
- (iii) the expiration of 6 months from the date on which an appeal against such refusal was dismissed, and

(b) may be made for: (i) different matters, and (ii) different parts of the development, at different times.

In relation to any matter, only one application may be made by virtue of sub-paragraphs (ii) and (iii) above after the expiration of the 3 years period of sub-paragraph (i) above.

This planning permission in principle lapses on the expiration of 2 years from the date of approval of the last of the matters specified in a condition(s) of this permission unless the development to which the permission relates is begun before that expiration.

Reason:

Pursuant to Section 59 of the Town and Country Planning (Scotland) Act 1997

2 The details submitted pursuant to Condition 1 shall generally accord with the Indicative Masterplan, the Masterplan Report, and the Design Statement docketed to this planning permission in principle, and shall address the following requirements:

- a. The provision within the application site of recycling facilities.
- b. A bus terminus with sheltered seating and kassel kerbing shall be provided within the site.
- c. The office buildings shall be no higher than 3 storeys in height and the hotel building shall be no higher than 6 storeys in height.
- d. The office buildings shall be used solely for uses within Class 4 (Business) of the Town and Country Planning (Use Classes)(Scotland) Order 1997.
- e. The provision of a minimum of 51 secure cycle parking spaces within the site.

Reason:

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

development and of the wider environment and in the interests of road safety.

- 3 Prior to the commencement of use of the hotel hereby approved, the remainder of the application site shall have been fully serviced, in accordance with details of such servicing of the site to be submitted to and approved in advance by the Planning Authority.

Reason:

To encourage the development of the office buildings in the interests of the economy of East Lothian.

- 4 No development shall take place until there has been submitted to and approved in writing by the Planning Authority a scheme of landscaping. The scheme shall provide details of : the height and slopes of any mounding on or recontouring of, the site; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. The scheme shall include indications of all existing trees and hedgerows on the land, details of any to be retained, and measures for their protection in the course of development.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

Reason:

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

- 5 Prior to the commencement of development a long term landscape and habitat management plan for the application site shall be submitted to and approved in writing by the Planning Authority.

Reason:

To maximise the ecological potential of the proposed development.

- 6 Prior to the commencement of development details of the zero and low carbon equipment to be incorporated into the development and predicted carbon emission, using SAP or SBEM calculations, shall be submitted to and approved in writing by the Planning Authority. The details shall have due regard to the 'Sustainability Statement' that is docketed to this planning permission in principle. The completed development shall accord with the details so approved.

Reason:

To ensure this development complies with the on-site carbon emissions targets of Scottish Planning Policy 6.

- 7 A Travel Plan to minimise private car trips and to encourage use of alternative modes of transport shall be submitted to and approved by the Planning Authority prior to the commencement of development of any component part of the scheme of development hereby approved. The Plan shall include proposals for enabling persons to travel to and from the development by public transport. Additionally the Plan shall include: details of the measures to be provided; the timetable for introducing them; the system of management, monitoring, review, reporting and duration of the Plan.

The Travel Plan shall thereafter be implemented in accordance with the details so approved.

Reason:

In the interests of ensuring sustainable travel patterns in respect of the use of the scheme of

development.

- 8 Unless otherwise approved in writing by the Planning Authority, the following transportation requirements shall have been undertaken prior to the occupation of any of the components of the business park development hereby approved:
- a. The proposed access roundabout, which shall include adequate pedestrian crossing facilities on its Musselburgh bound arm, shall be provided in the position indicatively shown for it in Figure 2.1 and 2.2 of the Transport Assessment docketed to this planning permission in principle;
  - b. The existing footway on the west side of Old Craighall Road (the classified B6415 road) shall be widened to a minimum width of 2 metres between the Old Railway bridge and the proposed access roundabout. The widened footway shall be fully compliant with the East Lothian Council Standards for Development Roads.
  - c. Dropped kerbs and tactile paving shall be provided at the junction of Monktonhall Terrace and Mayfield Crescent.
  - d. Two permanent Speed Reactive signs shall be installed on Monktonhall Terrace in locations to be approved in advance by the Planning Authority.
  - e. A barrier shall be erected along the southern boundary of the site in accordance with details to be submitted to and approved in advance by the Planning Authority, following consultation with Transport Scotland. The barrier shall thereafter be maintained in its approved position unless otherwise approved in writing in advance by the Planning Authority.
  - f. No external lighting units shall be installed on the buildings or the land within the application site unless with the prior approval of the Planning Authority, following consultation with Transport Scotland.

Reason:

In the interests of road safety.

- 9 The amount of office development to be constructed on the application site shall be limited to 6,000 square metres gross floor area unless and until such time as modifications to the Old Craighall roundabout have been completed in accordance with docketed drawing no. CB/141404/Mit/01.

Reason:

To ensure that the standard of junction layout complies with the current standards and that the safety of the traffic on the A1 trunk road is not diminished.

- 10 A Construction Method Statement 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 the impact of site works for the construction of the offices component of the business park development on the amenity of the hotel, in the event that the hotel is built and occupied prior to completion of construction of all of the office buildings and their associated infrastructure. The control of the impact of site works shall include the control of impacts of noise, dust, construction traffic and hours of working. The Construction Method Statement shall also include a timetable for its implementation.

The Construction Method Statement shall be implemented in accordance with the details so approved.

Reason:

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

- 11 No development shall take place until the applicant has, through the employ of an archaeologist or archaeological organisation, secured the implementation of a programme of archaeological work on the site of the proposed development in accordance with a written scheme of investigation which the applicant will submit to and have approved in advance by the Planning Authority.

Reason:

To facilitate an acceptable archaeological investigation of the site.

- 12 Neither the hotel building nor any of the office buildings shall be occupied unless and until details of artwork to be provided on the site or at an alternative location away from the site and a timetable for its provision have been submitted to and approved by the Planning Authority and the artwork as approved shall 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 The development shall be carried out in accordance with docketed drawing nos. E3196.1/SUD1 rev. B, E3196.1/SUD2 rev. B, and E3196.1/SUD3 rev. A. Moreover, surface water from the application site shall be treated in accordance with the principles of the SUDS Manual (C697), which was published by CIRIA in March 2007.

Reason:

To minimise the risk of flooding and to ensure that the drainage scheme complies with best SUDS practice to protect nearby watercourses and groundwater.

**3. PLANNING APPLICATION NO. 09/00040/REM: ERECTION OF 49 HOUSES AND ASSOCIATED WORKS (RESERVED MATTERS ON OUTLINE PLANNING PERMISSION 02/00223/OUT) AT AREA M, WEST WINDYGOUL, TRANENT**

The Executive Director of Environment submitted a report on the application for planning permission. The Development Management Manager summarised the key points of the report.

Councillor Berry referred to the site visit and to the access to the site, which came from a road with several traffic tables. The Council had access to a strip at the west end of the site and he queried whether this could be taken into consideration, so that construction traffic did not have to use the normal roads. The Development Management Manager indicated that this had not been put forward by Transportation officers but could be considered if desired. Councillor Broun Lindsay remarked that his concern related to residents having to endure construction traffic. He suggested that by using the B6414 the site could be built from the inside out and then sealed afterwards. The Development Management Manager advised that if the Committee requested this alteration the application would have to be continued to enable the developer to consider this matter and to obtain advice on it from Transportation officers. Councillor Broun Lindsay asked if the Committee could make a decision to approve subject to this alteration. The Development Management Manager advised that this would not be possible, reiterating that determination of the application would have to be continued; he informed Members

that there was considerable pressure from the developer to proceed with this application.

Local Member Councillor Grant agreed that access to the site would be easier from Elphinstone Road, however the other roads were already being used for construction traffic. He informed the Committee that he had not received any complaints from residents regarding construction traffic. He indicated that it would not be desirable for this application to be held up.

Councillor Hampshire indicated that the Committee had to be careful; if the road was an adopted road it would not be advisable for Members to now state that it was not a safe route for construction traffic.

The Development Management Manager referred Members to Condition 7, advising that this would provide the Planning Authority with control over construction traffic.

Councillor Trotter commented that although he could understand the merits of seeking an alternative route, the access situation at present was not uncommon; almost every development used existing roads for construction traffic access.

The Convener expressed reluctance to defer this application. The Development Management Manager informed the Committee that there had been no objections from neighbours regarding traffic on the roads, adding that a full appraisal would be needed if the route for construction traffic were to be amended.

Councillors Berry and Broun Lindsay indicated that if deferring the application would result in a delay they would withdraw their suggestions.

The Convener brought the discussion to a close and moved that the report recommendation be put to the vote.

### **Decision**

The report recommendation was put to the vote and received **14 votes for**, none against and no abstentions.

The Committee agreed to approve the application subject to the following conditions:

- 1 The external finishes of the houses hereby approved shall accord with the details specified on docketed drawing no. 2191/L(0)001/Rev.J unless otherwise approved by the Planning Authority.

Reason:

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

- 2 Prior to the occupation of the house type YAR(h) proposed for plot 4 and the house type YAR proposed for plot 15 the first floor landing window to be formed in the east gable wall of each of those two houses shall be fitted with obscure glazing and thereafter the obscure glazing shall be retained on the window, unless otherwise approved by the Planning Authority.

Reason:

To prevent, in each case, harmful overlooking of the neighbouring properties to the east and thus to safeguard the residential amenity of those properties.

- 3 Prior to the occupation of the house type ALB proposed for plot 6 the first floor staircase window to be formed in the north gable wall of the house shall be fitted with obscure glazing and thereafter the obscure glazing shall be retained on the window, unless otherwise approved by the Planning Authority.

Reason:

To prevent harmful overlooking of the neighbouring property to the north and thus to safeguard the residential amenity of that property.

- 4 Prior to the occupation of the house type ALB(h) proposed for plot 43 the first floor staircase window to be formed in the east gable wall of the house shall be fitted with obscure glazing and thereafter the obscure glazing shall be retained on the window, unless otherwise approved by the Planning Authority.

Reason:

To prevent harmful overlooking of the neighbouring property to the east and thus to safeguard the residential amenity of that property.

- 5 Prior to the occupation of the house type ALB proposed for plot 44 the first floor staircase window to be formed in the west gable wall of the house shall be fitted with obscure glazing and thereafter the obscure glazing shall be retained on the window, unless otherwise approved by the Planning Authority.

Reason:

To prevent harmful overlooking of the neighbouring property to the west and thus to safeguard the residential amenity of that property.

- 6 In the event of the presence of any previously unsuspected or unforeseen contamination of the land on the application site being found, development shall not begin, or shall cease to continue, until a scheme to deal with contamination on the site has been submitted to and approved in writing by the Planning Authority. The scheme shall contain details of the proposals to deal with contamination to include:

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

Before the house is occupied the measures to decontaminate the site shall be fully implemented as approved by the Planning Authority.

Reason

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

- 7 A Construction Traffic Method Statement designed to minimise the impact of the movements of construction traffic to and from the application site on the amenity of the area shall be submitted to and approved by the Planning Authority prior to the commencement of development on the site. The Construction Traffic Method Statement shall include any recommended mitigation measures for the control of construction traffic, which shall, as may be applicable, be implemented prior to the commencement of development and during the period of development works being carried out on the application site.

Reason:

To minimise the impact of construction traffic in the interests of safeguarding the amenity of the area.

- 8 The road layout, traffic calming measures, private and public parking, footways, footpaths and turning areas shall be laid out in accordance with docketed drawing no. 2191/L(0)001/Rev.J unless otherwise approved by the Planning Authority. Thereafter, the road layout, traffic calming, private and public parking, footways, footpaths and turning areas shall be retained for such uses.

All prospectively adoptable roads, traffic calming, street lighting, private and public parking, footways, footpaths and turning areas shall be laid out and constructed to East Lothian Council Standards for Development Roads.

The details of the surfacing materials proposed to be used for the site access roads, driveways, visitor car parking spaces and footpaths, shall be submitted to and approved in advance by the Planning Authority and the works when undertaken shall accord with the details so approved. The works when undertaken in accordance with the approved details shall be completed in their entirety prior to the occupation of the last of the houses of the development.

All driveways and private parking bays hereby approved shall be hard formed over the first 2 metres of their length measured back from the edge of adjacent carriageway and for their full width.

Reason:

To ensure the satisfactory completion of the roads, parking spaces and footpaths in the interest of visual amenity and highway safety.

- 9 Prior to the completion of the development or occupation of the last of the houses, whichever is the sooner the road layout, traffic calming measures, private and public parking, footways, footpaths and turning areas as all specified in docketed drawing no. 2191/L(0)001/Rev.J shall be formed, unless otherwise approved by the Planning Authority.

Reason:

In the interests of highway safety.

- 10 Other than the one oak tree that is shown on docketed drawing 2191/L(9)001 to be removed all existing trees and bushes on the application site shall be retained and shall not be damaged or uprooted, felled, lopped, or topped without the prior written consent of the Planning Authority.

Reason:

To ensure the retention of vegetation important to the appearance and environment of the development.

- 11 In the first planting and seeding season (October - March) following the completion of the development, one replacement oak tree shall have been planted on the application site as specified on docketed drawing no. 2191/L(9)001 and the landscaping scheme also specified on that docketed drawing shall have been implemented to the satisfaction of the Planning Authority.

Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar species and final size, unless the Planning Authority gives written consent to any variation.

Reason:

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

- 12 No development shall take place on site until the sycamore tree (located at the northeast corner of the site), the elm tree and the sycamore tree (located on the eastern part of the site to the south of the proposed access road) have been protected by temporary protective fencing, to be approved in writing by the Planning Authority.

The temporary protective fencing shall be 2.3 metres in height and shall comprise standard scaffold poles as uprights driven into the ground avoiding tree roots, with 3 standard scaffold poles as horizontal rails (top, middle and bottom), all with weldmesh wired to uprights and rails. This temporary protective fencing shall be erected prior to works commencing and kept in good condition throughout the construction works for the houses hereby approved, all in accordance with Figure 2 of British Standard 5837: 2005 'Trees in Relation to Construction'. All weather notices should be erected on said fencing with words such as "Construction exclusion zone - Keep out" and the fencing shall remain on site and intact through to completion of the development.

The fencing shall be positioned:

1. 9 metres from the centre of the sycamore tree (located at the northeast corner of the site) to the east, west and south, and to the north the fencing shall be positioned just beyond the two manholes located to the north of the tree;
2. 7.2 metres from the centre of the elm tree (located on the eastern part of the site to the south of the proposed access road) to the east, west and south, and to the north the fencing shall be positioned 5.8 metres from the centre of the tree; and
3. 5.4 metres from the centre of the sycamore tree.

Within the fenced off areas the existing ground level shall neither be raised nor lowered, no materials, temporary buildings, plant, machinery or surface soil shall be placed or stored and no herbicides shall be used.

Care should be taken when planning site operations to ensure that wide or tall loads, or plant with booms, jibs and counterweights can operate without coming into contact with any retained trees.

Material that will contaminate the soil, e.g. concrete/mortar mixing, diesel oil, paints, solvents and vehicular washings, should not be discharged within 10m of any tree trunk. It is essential that allowance be made for the slope of the ground so that such damaging materials cannot run towards retained or new trees.

Fires should not be lit in a position where their flames can extend to within 5m of tree foliage, branches or trunk, and due cognisance must be taken of wind speed and direction prior to and during such operations.

Details of any trenches or services in the fenced off areas shall require the prior consent of the Planning Authority and all trenches shall be dug and backfilled by hand and any tree roots encountered with a diameter of 25mm or more shall be left unsevered.

Reason:

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

- 13 All tree work shall be carried out in accordance with BS3998: 1989 'Recommendations for Tree Work'.

Reason:

In the interests of the health and appearance of the trees.

**4. PLANNING APPLICATION NO. 09/00526/FUL: ALTERATIONS TO DESIGN OF SCHOOL BUILDING (AS CHANGES TO THE SCHEME OF DEVELOPMENT WHICH IS THE SUBJECT OF PLANNING PERMISSION 08/00987/FUL) AT SITE OF NEW DUNBAR PRIMARY SCHOOL, HALLHILL, DUNBAR**

The Executive Director of Environment submitted a report on the application for planning permission. The Development Management Manager reminded Members that planning permission had been granted in April for the erection on the site of a new primary school, so this application had to be considered solely in terms of whether or not the design alterations to the school building now proposed were acceptable.

Councillor Hampshire referred to alterations to the roof and to the design and interior of the building, stating these were major alterations. The Development Management Manager advised that planning control did not concern itself with the internal layout of the building; therefore this was not material to the planning decision. The alteration to a grass roof was also not a material consideration. Councillor Hampshire argued that the school accommodation, including the interior, had to be developed in accordance with the Local Plan, therefore these were material considerations. The Development Management Manager stated that these decisions had been taken by East Lothian Council elsewhere; it was not for the Planning Committee to question how these decisions had been arrived at: the issue for this Committee was whether the proposals were an acceptable alteration.

The Convener informed Members that the Council's Architect could not be present but had requested that a note be circulated to Members.

Local Member Councillor Hampshire stated that this application was before Committee due to the slow down in the housing market. The proposed alterations would not provide the facilities the community needed and would not enable the Council to meet the demands set out in the Local Plan. He stated that the alteration to the building was of great concern to the community and he highlighted the major areas of concern. The developer had agreed to sign up to the required contribution to enable the school to be developed to the size required, which would allow the Council to develop the school now and remove any disruption to the children's education. He stated that the original proposed four-court hall would have provided the school and the wider community with the facilities to meet all the sport development needs.

Councillor Hampshire referred to the development of another 500 houses in the far southwest corner of the Hallhill area and raised several issues in relation to the railway line and routes to the various schools. He stated that the Council, as the applicant, had the opportunity to get the development of this new school right. If the school were developed according to the new proposal there would be major problems for the Dunbar Community in the future. He urged the Committee to refuse this application.

Considerable debate took place, with a heated exchange of views.

The Convener asked the other Local Members to address the Committee.

Local Member Councillor McLennan indicated that he would be supporting the recommendation. He stated that there were no material planning issues in Councillor Hampshire's objection that would merit refusal. In April 2009 planning permission had been granted for the new primary school. The original application had been sought in a more favourable economic climate; the number and pace of houses predicted had reduced significantly, leading to a fall in the predicted school roll, hence the amended planning application. By granting the previous application, this new application could not be rejected on the principle of the building but on the planning merits of the changes.

Councillor McLennan referred to the Hallhill South West Planning Application for 500 new houses, which was still currently being assessed. Cabinet had approved the development framework in November. Encouraging discussions had taken place with the developer, including full funding of the additional cost of a larger school, if agreement was reached, then the larger school could be accommodated. With regard to the railway tunnel, it would cost approximately £1m to re-open and Network Rail refused to re-open the bridge for structural reasons, irrespective of the size of school: this matter was not a planning issue. He urged approval for this application, stating that refusal would delay the school and would place the financial wellbeing of this Council at risk

Local Member Councillor Bell expressed concern that this application had come before Committee; there were no community objections, only the call in by Councillor Hampshire. This revised application followed the downturn in the economy and the consequent decline in house building, which in turn had reduced the projected roll for pupils at the school. Cabinet had agreed the development framework in November 2009, but the detailed plans were still to be determined. Discussion was ongoing with the developer and any change could be accommodated within the current plans; the developer had not opposed the revised plans for the school.

Councillor Bell advised Members that there had been a number of public meetings about the school development; most people understood the reasons for the changes and agreed it was not good use of the public purse to build a larger school than required at the current time, without the confirmation of developer contributions. It was understood from the architect that further development could be added if/when further housing was on stream and further commitment to developer contributions could be obtained. She concluded that Dunbar needed the new school to be available for occupancy by August 2011 and asked the Committee to vote in favour of this application.

In response to questions from Councillor Innes, the Executive Director advised that the Council's Architect had indicated that if the school were to be enlarged there may be the need for a fresh design therefore a new application may be required.

The Convener expressed concern that this application was being treated differently at the Committee because the applicant happened to be the Council. He added that the educational issues were a matter for the Council Committee for Education, not the

Planning Committee.

Councillor Berry stated that many issues that had been raised that were not relevant to this application. The principle for the school had already been established. He moved that the debate cease and that the Committee now vote on this application; Councillor Knox seconded this.

The Convener asked for a vote on Councillor Berry's motion – there were 8 votes for and 6 against; the motion was carried. Accordingly the Convener then asked the Committee to vote on the report recommendation.

**Decision**

The recommendation that planning permission should be granted was put to the vote and received **9 votes for** and **5 votes against**; there were no abstentions.

The Committee agreed to grant planning permission subject to the following conditions:

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

Reason:

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

- 2 Prior to their use in the development a schedule and samples of the materials and finishes of the design change elements of the building hereby approved shall be submitted to and approved in writing by the Planning Authority and the materials and finishes of the design change elements of the building shall be in accordance with the schedule and samples so approved.

Reason:

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

Signed .....

Councillor Barry Turner  
Convener of the Planning Committee