

REPORT TO: Planning Committee

MEETING DATE: Tuesday 4 November 2014

BY: Depute Chief Executive
(Partnership and Community Services)

SUBJECT: Application for Planning Permission for Consideration

Application No. **14/00431/PPM**

Proposal Planning Permission in Principle for residential development and associated works

Location **Land At Limeylands Road
Ormiston
East Lothian**

Applicant Dr David Slight and Barratt David Wilson Homes

Per Clarendon Planning and Development Limited

RECOMMENDATION Application Refused

PLANNING ASSESSMENT

As the area of the application site is greater than 2 hectares and the principle of development is for more than 50 houses, the development proposed in this application is, under the provisions of The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, defined as a major development and thus it cannot be decided through the Council's Scheme of Delegation. The application is therefore brought before the Planning Committee for a decision.

As a statutory requirement of major development type proposals this development proposal was the subject of a Proposal of Application Notice (Ref: 13/00005/PAN) and thus of community consultation prior to this application for planning permission in principle being made to the Council.

As an outcome of that and as a statutory requirement for dealing with major development type applications a pre-application consultation report is submitted with this application. The report informs that some 136 people attended the pre-application public exhibition, which was held at Ormiston Community Centre on 9 October 2013, and that those attendees made a number of queries and suggestions regarding the proposals. The development for which planning permission in principle is now sought is of the same character as that which was the subject of the community engagement undertaken through the statutory pre-application consultation of the proposal.

This application relates to some 8 hectares of agricultural land which forms the western part of a larger area of agricultural land on the north side of Limeylands Road, on the northwestern edge of Ormiston.

The site is bounded to the north by scrubland, to the east by the remainder of the larger area of agricultural land of which the site is a part, to the south by residential properties of George Crescent and a length of Limeylands Road, and to the west by a pedestrian track.

In January 2014 planning permission in principle (ref: 14/00034/PPM) was sought for a residential development of the application site. That application was withdrawn prior to it being determined.

Planning permission in principle is now again sought for a residential development of the application site.

An indicative development framework plan has been submitted with the application indicating how some 120 residential units could be accommodated on the application site. It is also indicated that a bowling green and SUDS pond be accommodated on the eastern part of the site and that a landscaped buffer would be planted on part of the western and along the whole length of the eastern and northern boundaries of the site.

The indicative development framework plan indicates that access to the site could be taken from Limeylands Road.

The application is also supported by an archaeology assessment, landscape and visual impact assessment, planning supporting statement, design statement, design and access statement, ecology assessment, transport assessment, flood risk assessment, tree survey, engineering report, coal mining risk assessment report and education capacity report.

Under the provisions of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 the proposed development falls within the category of a Schedule 2 Development, being one that may require the submission of an Environmental Impact Assessment (EIA). Schedule 3 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 sets out the selection criteria for screening whether a Schedule 2 development requires an EIA. On 14 February 2014 the Council issued a formal screening opinion to the applicants. The screening opinion concludes that it is East Lothian Council's view that the proposed development is not likely to have a significant effect on the environment such that consideration of environmental information is required before any grant of planning permission in principle. It is therefore the opinion of East Lothian Council as Planning Authority that there is no requirement for the proposed mixed use development to be the subject of an EIA.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Plan 2008.

Policies 5 (Housing Land) and 7 (Maintaining a Five Year Housing Land Supply) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies DC1 (Development in the Countryside and Undeveloped Coast), DP1 (Landscape and Streetscape Character), NH5 (Protected Trees), DP12 (Trees on or Adjacent to Development Sites), DP17 (Art Works-Percent for Art), INF3 (Infrastructure and Facilities

Provision), H4 (Affordable Housing), ENV7 (Scheduled Monuments and Archaeological Sites), C1 (Minimum Open Space Standard for New General Needs Housing Development), C2 (Play Space Provision in new General Needs Housing Development), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

Also material to the determination of the application is Scottish Planning Policy: June 2014. Paragraph 110 of Scottish Planning Policy states that the planning system should identify a generous supply of land for each housing market area within the plan area to support the achievement of the housing land requirement across all tenures, maintaining at least a 5 year supply of effective housing land at all times.

At its Cabinet meeting of 10 December 2013, the Council agreed that East Lothian has a shortfall in its effective housing land supply. At that meeting the Council also approved Interim Planning Guidance against which planning applications for housing on land not allocated for housing development will be assessed. The application site is not allocated for residential development. Therefore the approved Interim Planning Guidance is a material consideration in the determination of this planning application.

A total of seven written objections have been received in respect of this application. The main grounds of objection are;

- * the proposed development would have a harmful visual impact and would be detrimental to Ormiston;
- * local infrastructure would be adversely affected and could not cope;
- * the existing school and health centre in Ormiston are already at full capacity and cannot accommodate the development;
- * impacts on sewerage and drainage and possible flooding;
- * there could be issues with past mining works in the area;
- * an increase in traffic as a result of the proposed development would be a road and pedestrian safety hazard and would also lead to increased noise and disturbance;
- * the public transport is poor;
- * there is little in the way of shops and there is no high school;
- * there has been a lack of strategic site assessment;
- * the proposed development would lead to a loss of amenity through overlooking and loss of light to neighbouring properties; and
- * the proposed development would lead to a decrease in neighbouring property values.

The effect of a proposed development on property values is not a material consideration in the determination of a planning application.

Ormiston Community Council, as a consultee on the application, state that the environmental impact to Ormiston would be unacceptable. The current road infrastructure, especially along Limeylands Road, would fail to cope with the increase in traffic resulting from the additional housing. The substantial increase in traffic would

create unacceptable wear and tear on the roads and road safety could be compromised as on street parking effectively narrows the road. The primary school is at near capacity with only limited room for expansion and it will not be possible to accommodate places within the school that would be generated from the proposed 120 houses. Given the current status of the proposed site as arable farmland, a change to a housing development will have a negative impact on the existing flora and fauna in the area. Not only would the proposed development impact on transportation, education provision, amenity and local services in Ormiston but would also have a knock on affect in Tranent (such as the Ross High School and the transportation infrastructure, including Tranent High Street). There is also a concern on the lack of information on the community recreation use aspect of this project. In conclusion Ormiston Community Council respectfully request that planning permission be refused.

If planning permission in principle were to be granted, the details of the siting, design and external appearance of the proposed houses, the landscaping of the site and the means of access to the proposed development would require the subsequent approval of the Planning Authority. Through the subsequent determination of such details, planning control would be exercised to ensure that the built form of the development would be fully acceptable, with due regard to the need to safeguard the character and appearance of this site outwith the northwestern edge of Ormiston.

In respect of open space and play provision, the Council's Principal Amenity Officer advises that the area of open space indicatively shown to be provided would be set out in such a way as to provide a sufficient area of opens space for informal recreation for a proposed development of 120 units. Regarding formal play provision, the Principal Amenity Officer advises that there is sufficient play area provision in Ormiston as there are already 3 established sites with another secured to be provided within a new housing development to the south. The Principal Amenity Officer recommends that a small toddler play area be provided on the application site and an enhancement made to the capacity of the main village facility in Ormiston Park. However as he advises that there is already sufficient play area provision in Ormiston including to provide for this development it would therefore be unreasonable in planning terms to require this proposal to provide a further equipped play area.

The Council's Roads Services has considered the transport assessment and road safety audit submitted by the applicant and advises that traffic likely to be generated by the proposed development could be satisfactorily accommodated on the local road network. Roads Services do however raise concern that traffic likely to be generated by the proposed development could lead to extra pressure on traffic flows at Tranent High Street and the Dolphingstone Interchange. However Roads Services has not provided any evidence at this time to demonstrate that would indeed be the case.

Roads Services recommend that:

- * the existing 30 miles per hour (mph) speed limit be extended 200m to the west on Limeylands Road and include village entry treatments;
- * the vehicular access junction into the site be taken from the position shown on the application drawings and incorporate the findings of the submitted Stage 1 safety audit completed by Stewart Paton Associates in April 2014;
- * the traffic calming provided along Limeylands Road be extended along the site frontage;
- * a visibility splay of 2.5m by 70m to the east and 2.5m by 44m to the west be provided and maintained at the proposed site access junction with Limeylands Road so that no

obstruction lies within it above a height of 1.05 metres measured from the adjacent carriageway surface;

- * street lighting be extended to the new 30mph extents;
- * a continuous 2 metre wide footway be provided on the south side of Limeylands Road to the east to link into the existing footway network, with dropped kerbs provided as necessary;
- * a raised table crossing be provided over Limeylands Road to provide pedestrian access to the new development from the southern footway;
- * parking for the proposed residential elements of the development be provided at a rate as set out in the East Lothian Council Standards for Development Roads – Part 5 Parking Standards;
- * all access roads conform to East Lothian Council Standards for Development Roads in relation to roads layout and construction, footways & footpaths, parking layout and number, street lighting and traffic calming measures;
- * vehicle accesses to private parking areas (i.e. other than driveways) be via a reinforced footway crossing and have a minimum width of 5.5 metres over the first 10 metres to enable adequate two way movement of vehicles;
- * driveways have minimum dimensions of 6 metres by 3 metres. Double driveways shall have minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11 m length. Pedestrian ramps to houses may encroach by up to 300mm on the width (but not the length) provided they are no greater than 150mm in height above the adjacent driveway surface;
- * within residential private parking areas the minimum dimensions of a single parking space be 2.5 metres by 5 metres. All visitor parking spaces within these areas be clearly marked for visitors with the remaining private parking spaces allocated to individual dwellings;
- * a Green Travel Plan (GTP) be submitted and approved in consultation with Roads Services. It should have particular regard to provision for walking, cycling and public transport access to and within the site, and will identify the measures to be provided, the system of management, monitoring, review, reporting and duration of the plan;
- * a Construction Method Statement to minimise the impact of construction activity on the public road network be submitted to and approved by the Planning Authority prior to the commencement of development. It should recommend mitigation measures to control construction traffic and include hours of construction work; and
- * wheel washing facilities be provided and maintained in working order during the period of operation of the site.

With the imposition of conditions to cover the issues raised by Roads Services, the principles of the proposed development of the site for residential use do not conflict with Policies DP20, T1 and T2 of the adopted East Lothian Local Plan 2008.

In respect of landscape matters the Council's Policy and Projects service advises that there are a number of trees along the southern boundary of the application site with Limeylands Road that are subject to a tree preservation order. The advice is that these

trees are important to the visual amenity of the area and some should be protected and retained. Policy and Projects accept the loss of some poor specimen trees on the southern boundary of the site subject to replacement planting to compensate. They also recommended that a detailed landscape planting plan should be submitted to and approved in advance by the Planning Authority, which should include additional tree planting along the northeast boundary of the site. These recommendations could be made conditions of a grant of planning permission in principle.

The Council's Environmental Protection Manager raises no objection to the principle of housing development of the application site. She does, however, advise that there is the possibility of contamination of the soils on the site. Consequently she recommends that prior to the commencement of development on the site, a comprehensive contaminated land investigation be carried out and a report submitted to and approved in advance by the Planning Authority with a subsequent remedial strategy submitted if required. This could be made a condition of a grant of planning permission in principle.

It is stated in Scottish Planning Policy that archaeological sites and monuments are an important finite and non-renewable resource and should be protected and preserved in situ wherever feasible. The presence and potential presence of archaeological assets should be considered by planning authorities when making decisions on planning applications. Where preservation in situ is not possible planning authorities should through the use of conditions or a legal agreement ensure that developers undertake appropriate excavation, recording, analysis, publication and archiving before and/or during development. If archaeological discoveries are made during any development, a professional archaeologist should be given access to inspect and record them. Planning Advice Note 2/2011: Planning and Archaeology similarly advises. As stipulated in Policy ENV7 of the adopted East Lothian Local Plan 2008, new development that would harm a site of archaeological interest or its setting will not be permitted.

The Council's Archaeology Officer advises that the application site would be situated in an area of known archaeological remains. Because of this the Archaeology Officer recommends that a programme of archaeological works be carried out prior to the commencement of development. This could be secured through a condition attached to a grant of planning permission in principle. This approach is consistent with Scottish Planning Policy: February 2010 and Planning Advice Note 2/2011: Planning and Archaeology.

The Scottish Environment Protection Agency (SEPA) raise no objection to the principle of the proposed development, being satisfied that it could be carried out without unacceptable risk of flooding and without increasing the risk of flooding elsewhere in the area.

Scottish Water have made no comment on the application.

As the application site is within a Coal Mining Development Referral Area the Coal Authority have been consulted on the application. A Coal Mining Risk Assessment Report has been submitted with the application. The Coal Authority advise that the submitted report correctly identifies that coal mining activity is recorded to have taken place beneath the application site and thus the report recommends intrusive site investigation works be undertaken to confirm coal mining conditions and to enable the implementation of any necessary mitigation measures prior to commencement of the development.

The Coal Authority recommends that should planning permission in principle be granted that the intrusive investigation works recommended within the Coal Mining Risk Assessment Report be undertaken prior to the commencement of development and that in

the event that the site investigations confirm the need for remedial works to treat any areas of shallow mine workings, development shall not begin until a scheme of remedial works on the site has been submitted to and approved in writing by the Planning Authority. This can be required by a condition of a grant of planning permission in principle.

The Council's Economic Development & Strategic Investment Manager advises that a grant of planning permission in principle would require to be subject to provision of 25% of all housing units to be developed as affordable housing, through mechanisms to be agreed with the developer. The terms for the provision of this affordable housing requirement could be the subject of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the Council securing the affordable housing requirement, which the applicant's agent confirm the applicant is willing to do, the proposal would be consistent with Policy H4 of the adopted East Lothian Local Plan 2008.

Policy INF3 of the adopted East Lothian Local Plan 2008 stipulates that new housing will only be permitted where appropriate provision for infrastructure required as a consequence of the development is made. This includes funding necessary school capacity.

The Council's Depute Chief Executive (Resources and People Services) informs that the application site is located within the school catchment areas of Ormiston Primary School and Ross High School.

He advises that Ormiston Primary School does not have sufficient capacity to accommodate children that could arise from the proposed development. He advises that Ormiston Primary School has a notional capacity of 203 pupils with eight classrooms and is currently within a constrained site. With the children that could arise from the proposed development, the Deputy Chief Executive (Resources and People Services) advises the school will require two additional classrooms which cannot be accommodated within the constrained school site and he therefore objects to the application.

As there is not, and would not be, sufficient capacity at Ormiston Primary School to accommodate children that could arise from the proposed development, it is contrary to Policy INF3 of the adopted East Lothian Local Plan 2008.

Notwithstanding these technical considerations, the primary material consideration in the determination of this application is whether or not the principle of the proposed housing development accords with development plan policy and other supplementary planning guidance and if not, whether there are material considerations that outweigh any conflict with the development plan and other supplementary planning guidance.

The land of the application site is defined by Policy DC1 of the adopted East Lothian Local Plan 2008 as being part of the countryside of East Lothian.

The adopted Local Plan does not allocate the land of the application site for residential development.

The principle of new build housing development on the application site must therefore be assessed against national, strategic and local planning policy relating to the control of new build housing development in the countryside.

Part 1(b) of Policy DC1 of the adopted East Lothian Local Plan 2008 sets out the circumstances in which new housing outwith settlements may be appropriate, particularly

in rural areas. It only allows for new build housing development in the countryside where the Council is satisfied that a new house is a direct operational requirement of an agricultural, horticultural, forestry or other employment use. The new build housing development proposed in this application is not necessary for agriculture, horticulture, forestry operations or countryside recreation and is therefore contrary to Part 1(b) of Policy DC1 of the adopted East Lothian Local Plan 2008.

However, the South East Scotland Strategic Development Plan (SESplan) requires that Policy DC1 be considered in the context of the current housing land supply.

Scottish Ministers have approved SESplan subject to supplementary guidance on housing targets for each member local authority. That supplementary guidance is now approved by Ministers with a modification required in terms of calculating the housing land supply

Policy 7 of SESplan requires planning authorities in the SESplan area to maintain a five years effective housing land supply at all times. It also requires developments to be in keeping with the character of the settlement and local area and requires that any additional infrastructure required as a result of the development is either committed or to be funded by the developer.

East Lothian Council has agreed that East Lothian has a shortfall in its effective housing land supply. In respect of this the Council approved its Housing Land Supply: Interim Planning Guidance against which planning applications for housing on land not allocated for that purpose will be assessed.

The approved Interim Planning Guidance states that the weight the Council affords its terms, and the terms of other Development Plan policies, to individual planning applications will depend on the extent to which the proposed development is able to satisfy the following criteria:

- 1 Effectiveness;
- 2 Scale;
- 3 Timing;
- 4 Development Plan Strategy; and
- 5 Locational Considerations.

In respect of criteria 1; effectiveness, the applicants' agent has confirmed that there are no physical constraints to the development of the site and that the landowner of the site has an agreement with Barratt David Wilson Homes to jointly fund and promote the housing site, meaning in these respects it can be considered to be physically and financially capable of achieving early delivery.

In respect of criteria 2; scale, the proposed housing development of 120 residential units would be below the Guidance threshold of 200 units and would be of a scale broadly in keeping with the scale and character of Ormiston.

In respect of criteria 3; timing, one of the joint applicants, Barratt David Wilson Homes, is a housebuilder. They have indicated that housing completions could be delivered by 2015. There is no evidence to suggest that they would not be able to develop the site within this suggested timescale.

In respect of criteria 4; development plan strategy, it is considered that the proposed housing would not prejudice the delivery of the existing Development Plan strategy because it would not compromise the ability to provide infrastructure to existing housing land allocations that do not yet have planning permission or are committed but have not yet started, and is not be dependent on the prior provision of infrastructure required by existing housing land allocations that do not yet have planning permission or are committed but have not yet started.

In respect of criteria 5; locational considerations, the application site is at the north edges of Ormiston and therefore in this respect partially satisfies part of criteria 5 in that it would form an extension of an existing settlement as defined in the adopted East Lothian Local Plan 2008.

As Ormiston lies outwith the East Lothian Strategic Development Area the proposed development also has to be assessed against the tests as set out in part (ii) of criteria 5 as well as the provisos set out in part (i) of criteria 5.

Criteria 5(i) sets out the following provisos where development may be acceptable, specifically where,

(a) the site is a consolidation of or an appropriate extension to an existing settlement identified in the East Lothian Local Plan 2008, and its scale and nature is in keeping with the scale and character of that settlement and the local area, and

(b) infrastructure is available or can be made available within a timescale that allows for early house completions, and

(c) the site's development for housing is consistent with all other relevant Development Plan policies.

In regard to this the proposed development meets proviso 5(i)(a) in that the scale of the proposed development is broadly in keeping with the scale and character of Ormiston.

In regard to part 5(i)(b) and 5(i)(c) the constrained school site of Ormiston Primary School is such that infrastructure in the form of education provision cannot be provided for it. As recorded above the Council's Depute Chief Executive (Resources and People Services) advises there is not, and would not be, sufficient capacity at Ormiston Primary School to accommodate children that could arise from the proposed development, nor scope to provide that capacity within the school site, contrary to Policy INF3 of the adopted East Lothian Local Plan 2008. Given this, the application site cannot be taken to be immediately effective or capable of being made so within an appropriate timescale. As such the land of the application site is not demonstrably able to deliver early house completions and therefore cannot support the effective housing land supply in the short term. The site's development for housing as proposed is contrary to Local Plan Policy INF3.

Therefore on this consideration the housing development of the application site is also contrary to the Council's Housing Land Supply: Interim Planning Guidance.

Criteria 5(ii) sets out the further provisos where development may be acceptable, specifically,

(a) where the settlement is well served by public transport,

(b) existing facilities and services are both available and accessible such that the need to

travel is minimised, and

(c) the extent to which the additional housing would help make a demonstrable and necessary contribution to sustaining or improving educational, social or community facility provision within the local area may.

In terms of part 5(ii)(a) the application site is within 400m of bus stops on Limeylands Road, with a reasonable service to Edinburgh via Tranent and Musselburgh. The site is also close to national cycle route 126, allowing for active travel and recreation.

In terms of part 5(ii)(b) and (c) there are a reasonable range of services available in Ormiston including a primary school, library, a new medical practice with pharmacy and local shops which are within walkable distance of the application site. Thus some degree of housing development could in principle sustain or improve educational, social or community facility provision within the local area.

In respect of part (iii) of criteria 5 the proposed development would not be on land allocated for another specific use.

In respect of part (iv) of criteria 5 the proposed development, given it would form an extension of the existing settlement of Ormiston, it would be compatible with adjoining or nearby existing uses.

Part (v) of criteria 5 states that a proposed housing use must be contained within robust, defensible boundaries and must not set a precedent for subsequent future expansion, the principle of which would be more appropriately considered through a development plan review.

The application site is bounded on its west, north and south sides by woodland/scrubland and existing housing respectively. These are robust and defensible boundaries which would serve to contain the proposed development along these aforementioned boundaries. However the east side of the application site is bounded by further agricultural land with no robust, defensible boundary in place between the application site and this further agricultural land. Although the indicative development framework plan submitted with the application indicates how a landscaped buffer could be planted on the eastern boundary of the application site, this would take many years to establish and thus cannot be taken to provide a robust boundary enclosure in the short to medium term. Moreover, it is clear from the pre-application consultation report submitted with the application that there is stated interest in developing the eastern part of the larger area of agricultural land of which the application site is a part, and the adjacent field to the east.

On consideration of the above, the eastern part of the application site is clearly not contained within a robust, defensible boundary.

Accordingly, a grant of planning permission in principle would set a real precedent for subsequent future expansion to the east and thus along the whole north side of Ormiston. Such scale of development would be more appropriately considered through the local development plan process. Approval of the residential development proposed for the site could prejudice that process.

With the lack of a defensible boundary to the east and the setting of a precedent for future eastern expansion, the proposed housing development would prejudice the Council's subsequent flexibility to consider and determine the amount and location of housing land release through the Local Development Plan process.

Thus on these forgoing considerations the principle of a housing development of the application site is contrary to the Council's Housing Land Supply: Interim Planning Guidance.

In conclusion there are no material considerations which outweigh the primary material considerations that the new build housing development proposed in principle in this application is contrary to Policy INF3 of the adopted East Lothian Local Plan 2008 and the Council's Housing Land Supply: Interim Planning Guidance on two counts.

RECOMMENDATION:

That planning permission in principle be refused for the following reasons:

- 1 There is not, and there would not be, sufficient capacity at Ormiston Primary School to accommodate children that could arise from the occupancy of the proposed new build housing development, contrary to the requirements of Policy INF3 of the adopted East Lothian Local Plan 2008.
- 2 The new build residential development proposed in principle in this application is contrary to part 5 of the Council's Housing Land Supply: Interim Planning Guidance on the following considerations:
 - (i) the eastern boundary of the application site is not contained within a robust, defensible boundary and as such the residential development of the application site would set a real precedent for subsequent future expansion to the east and thus along the whole north side of Ormiston, the principle of which should be considered through the Local Development Plan process;
 - (ii) in respect of lack of education capacity the application site is not immediately effective or capable of being so, is not demonstrably able to deliver early house completions and therefore cannot support the effective housing land supply in the short term; and
 - (iii) in respect of lack of education capacity it is contrary to other development plan policies.