

**REPORT TO:** Planning Committee

**MEETING DATE:** Tuesday 27 March 2018

**BY:** Depute Chief Executive  
(Partnerships and Community Services)

**SUBJECT:** Application for Planning Permission for Consideration

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Application No. **17/00815/AMM**

Proposal Approval of matters specified in conditions 1 (a-n), 7, 8 and 9 of planning permission in principle 14/00732/PPM - Erection of 96 houses, 24 flats and associated works

Location **Land At Lempockwells Road  
Pencaitland  
East Lothian**

Applicant Stewart Milne Homes, Mrs S J Cameron and Mr F R Scott

RECOMMENDATION Consent Granted

#### PLANNING ASSESSMENT

Although this application is for the approval of matters specified in conditions of planning permission in principle 14/00732/PPM it has to be determined as a major development type application because the area of the application site is greater than 2 hectares and the number of dwellings detailed is greater than 49. Accordingly the application cannot be decided through the Council's Scheme of Delegation. It is therefore brought before the Planning Committee for a decision.

This application relates to some 6.7 hectares of agricultural land on the west side of Lempockwells Road, on the southern edge of Wester Pencaitland.

The site is bounded to the north by the residential properties of Bruce Grove and Lamberton Court and by two areas of recreational amenity open space, to the east by a line of trees with Lempockwells Road beyond, to the south by more agricultural land and to the west by the Pencaitland Railway Walk public footpath with agricultural land beyond. It is currently open agricultural land and is situated on the southern edge of Wester Pencaitland. The site is somewhat elevated relative to the surrounding area and offers open views across the site. The northern edge is at a higher level than Bruce Grove. The site is screened to some degree from the east by tree cover and vegetation on the west side of Lempockwells Road.

In December 2014 planning permission in principle 14/00732/PPM was refused by East Lothian Council for a residential development of 120 houses on the application site. That decision was subsequently appealed to the Scottish Government Directorate for Planning and Environmental Appeals. On 16 September 2015, following the conclusion of a legal agreement to secure education and affordable housing contributions as well as contributions to play facilities and a footpath connection, the appeal was allowed and planning permission in principle 14/00732/PPM was granted subject to 10 conditions. Condition 2 of planning permission in principle 14/00732/PPM states that no more than 120 residential units shall be erected on the application site.

Approval of the matters specified in conditions 1(a-n), 7, 8 and 9 of planning permission in principle 14/00732/PPM is now sought for the erection on the application site of 96 houses and 24 flats (a total of 120 residential units) and for associated works.

Of the 96 houses to be erected within the site, 93 would be detached and 3 would be terraced. In terms of size, 10 of the 96 proposed houses would contain 6 bedrooms, 37 would contain 5 bedrooms, 29 would contain 4 bedrooms, 18 would contain 3 bedrooms and 2 would contain 2 bedrooms. The proposed development would include for 9 single storey houses, the provision of single storey houses being a requirement specified in condition 1a of planning permission in principle 14/00732/PPM. All the other houses would be two-storey.

The 24 flats to be erected within the site would be contained within 6, two storey flatted buildings each containing 4 flats. Of the 24 flats 8 would contain 2 bedrooms and 16 would contain 1 bedroom.

Of the 120 houses there would be a total of 90 private houses for sale. The houses would comprise of 15 different house types, including the provision of 30 affordable housing units which would be a mix of 3 bedroom houses of two different house types and 1 and 2 bedroom flats.

The submitted details also include for the internal access roads, garages, parking courts, boundary treatments, indicative landscaping, areas of open space and SUDS.

Vehicular and cycle access to the houses would be taken by way of a new access junction from Lempockwells Road. Pedestrian access to the site, as well as an alternative cycle access, would also be provided from Lempockwells Road and Bruce Grove.

A village green would be formed on the eastern part of the site and landscaped areas of open space would also be formed centrally within the site, on the southern part of the site and along the entire southeastern edge of it. A SUDS basin would be formed on the northeastern corner of the site.

There is no area indicated for equipped play within the site as in the determination of planning permission in principle 14/00732/PPM, a financial contribution was secured to enhance the existing play area at Lamberton Court, adjacent to the north boundary of the site, with additional facilities rather than provide a new facility within the application site.

Subsequent to the registration of this application, further drawings have been submitted showing revisions to the site layout including a change to the mix of residential units.

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.

Relevant to the determination of the application is Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies H1 (Housing Quality and Design), DP1 (Landscape and Streetscape Character), DP2 (Design), DP14 (Trees on or Adjacent to Development Sites), DP15 (Sustainable Urban Drainage Systems), C1 (Minimum Open Space Standard for new General Needs Housing Development), T2 (General Transport Impact), DP20 (Pedestrians and Cyclists), DP22 (Private Parking) and DP24 (Home Zones) of the adopted East Lothian Local Plan 2008.

A material consideration is the supplementary planning guidance of "Design Standards for New Housing Areas" approved by the Council on 10th March 2008. This guidance requires that a more flexible approach be taken in road layout and design for proposed housing developments and sets core design requirements for the creation of new urban structures that will support Home Zone development as well as establishing design requirements for the layout of and space between buildings. Developers must provide adequate information to the satisfaction of the Council to demonstrate the merits of their design.

Also material to the determination of this application is the Scottish Government Policy Statement entitled "Designing Streets". It provides an overview of creating places, with street design as a key consideration. It advises on the detail of how to approach the creation of well-designed streets and describes the processes which should be followed in order to achieve the best outcomes.

Seven written representations have been received in respect of this application, all of which raise objection to the proposed development.

A copy of the written representations is contained in a shared electronic folder to which all Members of the Committee have had access.

The main grounds of objection are summarised as follows:

- \* The proposed development would lead to a loss of residential amenity through overlooking, overshadowing and noise;
- \* The traffic generated by the proposed development would lead to added congestion on the local road network and result in a road and pedestrian safety hazard;
- \* The access to the proposed development would result in a road and pedestrian safety hazard;
- \* Construction traffic would pose a road safety hazard;
- \* The proposed development would result in the loss of a boundary hedge which the applicant has no right to remove;
- \* The proposed houses and flats would be out of keeping with existing houses;
- \* the proposed development would lead to flooding and drainage problems;
- \* there should be a play park provided; and

\* the land should not be built on as it is prime agricultural land.

By the grant of planning permission in principle 14/00732/PPM, approval has been given for the principle of the erection of 120 houses on the application site following technical assessments which demonstrated that local and wider infrastructure, subject to financial contributions and conditions, can accommodate such level of development. There can therefore be no objection in principle to the erection of the 120 residential units now proposed.

Therefore, in the determination of this application the Council, as Planning Authority, can only concern itself with the siting, design and external appearance of the development, the means of access to the site and the means of any enclosure of the boundaries of the site. In this regard the detailed proposals have to be considered against relevant development plan policy and the Illustrative Masterplan and conditions attached to planning permission in principle 14/00732/PPM.

The proposed residential development would form an extension to the southern edge of the western side of Pencaitland. It would be seen in relation to the existing housing on the west side of Lempockwells Road. In all of this, the proposed residential development would not be out of keeping with the character of the settlement and local area.

One of the principal objectives of the Council's approved Design Standards for New Housing Areas is to reduce the visual dominance of the car in the streetscape of new housing developments. The applicant has addressed this principle along the main frontage of the development by use of in-curtilage parking to the side of houses. Elsewhere on the site the applicant proposes to plant hedges along the front boundaries of the front gardens of the houses in the development. To some degree, this would serve to reduce the visual dominance of the car in these streetscapes. In this and in the design principles of the street layout the proposals generally respond to the requirements of the Design Standards.

The details now submitted for approval are for a scheme of development comprising a mix of detached and terraced houses (13 types of residential units), with the houses being a mix of single and two stories in height. Although primarily comprised of detached properties, the range of house types and sizes proposed would help to provide a distinctive layout and streetscapes with identity. The total number of units proposed accords with the planning permission in principle granted for the site and the mix of residential units includes a range of sizes and types. The layout reflects the surrounding area, which is generally characterised by a mix of detached, semi-detached and terraced houses of a mix of single and two-storey.

The range of house types proposed would give a variation of architectural form to the development, which coupled with the orientation and layout of the buildings, would give a degree of variety of appearance to the development. The architecture of the proposed houses is of a traditional pitched roof form. It should be ensured that the use of render is the predominant wall finish as this would respect the built form of this part of Pencaitland. However, some use of a contrasting wall finish (i.e. reconstituted stone or facing brick) would be acceptable providing it is limited to a distinctively complete feature of the houses and respectful of their design integrity. A condition can be imposed on a grant of approval of matters specified in conditions for the proposed development to address these matters of wall finishes.

The proposed layout is broadly consistent with the layout shown in the Illustrative Masterplan docketed to planning permission in principle 14/00732/PPM. The proposed houses, due to their positioning on the application site and by virtue of their height, size

and scale, and architectural design would satisfactorily integrate into their surroundings and would not appear as prominent or intrusive features. This would ensure a visually attractive and cohesive development, with the proposed houses visible but not appearing incongruous or intrusive in their surroundings. The other components of the proposed development would not be harmful to the character and appearance of the area.

The proposed housing development would provide an attractive residential environment for future residents of the proposed houses. The houses are shown to be laid out in such a way that adheres to the normally accepted privacy and amenity criteria on overlooking and overshadowing, whilst affording the future occupants of the houses and flats an appropriate level of privacy and residential amenity.

The application site is capable of accommodating all of the houses without being an overdevelopment of the site and without being incompatible with the density of existing housing development in the area.

The Council's Service Manager – Protective Services raises no objection to the application, satisfied that the proposed development would not result in a loss of amenity to any neighbouring or nearby residential property.

On all of these foregoing findings on matters of design, layout and amenity, and subject to the imposition of conditions, the proposed development is consistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESPlan), Policies H1, DP1, DP2, DP14 and DP24 of the adopted East Lothian Local Plan 2008, the Council's Design Standards for New Housing Areas and the Scottish Government Policy Statement entitled "Designing Streets".

As previously detailed, the proposed site layout includes areas of open space to be formed within the site. The Council's Principle Amenity Officer raises no objection to the application, satisfied that the size and locations of the areas of open space proposed will provide for adequate informal recreation for the proposed development. It is therefore consistent with Policy C1 of the adopted East Lothian Local Plan 2008.

Condition 3 of planning permission in principle application 14/00732/PPM requires the submission and approval of a scheme of landscaping prior to the commencement of development on the site, and thereafter secure the implementation of the scheme of landscaping. However, the approval of this matter as specified in Condition 3 of planning permission in principle application 14/00732/PPM is not sought through this application and thus the requirement to submit a landscaping scheme remains embodied in Condition 3 of planning permission in principle 14/00732/PPM and therefore remains in force. The applicant has submitted a Landscape General Arrangement Plan which indicatively shows where the landscaping for the site is to be undertaken, which demonstrates the layout can accommodate sufficient landscaping.

The principles of the means of accessing of the proposed residential development are already decided by the grant of planning permission in principle 14/00732/PPM. The submitted details for accessing the proposed residential units are in accordance with these principles established by the grant of planning permission in principle 14/00732/PPM. Also the principle of 120 residential units accessing the site from the local road network has already been decided acceptable by the grant of planning permission in principle 14/00732/PPM.

The Council's Road Services raise no objection to the submitted details, being satisfied that the proposed development can be safely accessed by both cars, pedestrians and

cyclists, that the development would not result in unacceptable traffic congestion on the local road network, and that it would not result in a road or pedestrian safety hazard. They advise that the location and amount of parking within the site is acceptable. Road Services recommend that detail of the path connecting the site to Bruce Grove be submitted to ensure it is accessible to all users. This requirement can be imposed as a condition attached to this approval of matters specified in conditions application.

Condition 4 of planning permission in principle application 14/00732/PPM requires the submission of a Green Travel Plan, to have particular regard to provision for walking, cycling and public transport access to and within the site. However, the approval of this matter as specified in Condition 4 of planning permission in principle application 14/00732/PPM is not sought through this application. The requirement to submit the Green Travel Plan is embodied in Condition 4 of planning permission in principle 14/00732/PPM and therefore remains in force. Thus there is no requirement to also secure this again through a condition attached to this approval of matters specified in conditions application.

Condition 5 of planning permission in principle application 14/00732/PPM requires the submission of a road safety audit for the proposed access junction from the site onto Lempockwells Road. However, the approval of this matter as specified in Condition 5 of planning permission in principle application 14/00732/PPM is not sought through this application. The requirement to submit the road safety audit is embodied in Condition 5 of planning permission in principle 14/00732/PPM and therefore remains in force. Thus there is no requirement to also secure this again through a condition attached to this approval of matters specified in conditions application.

Condition 6 of planning permission in principle application 14/00732/PPM requires the submission of a construction method statement to minimise the impact of construction activity on the amenity of the area. However, the approval of this matter as specified in Condition 6 of planning permission in principle application 14/00732/PPM is not sought through this application. The requirement to submit the construction method statement is embodied in Condition 6 of planning permission in principle 14/00732/PPM and therefore remains in force. Thus there is no requirement to also secure this again through a condition attached to this approval of matters specified in conditions application.

On these foregoing transportation and other access considerations the proposed residential development is consistent with Policies T2, DP20 and DP22 of the adopted East Lothian Local Plan 2008.

Condition 7 of planning permission in principle 14/00732/PPM requires the submission of a detailed flood risk assessment.

The applicant has submitted a Flood Risk Assessment.

The Scottish Environment Protection Agency (SEPA) and the Council's Team Manager for Structures, Flooding & Street Lighting have appraised the submitted Flood Risk Assessment and both raise no objection to the proposals, being satisfied that subject to the finished floor level of the residential units being set at least 600mm above the top of the banks of the watercourse which flows along southern and eastern boundaries of the site, the development would not constitute a flood risk. This requirement can be imposed as a condition on a grant of approval of matters specified in conditions. The engineering drawings submitted with the application demonstrate the proposed finish floor levels are already in excess of the 600mm level recommendation. Accordingly, the proposed development would not result in a flood risk.

Condition 8 of planning permission in principle 14/00732/PPM requires the submission of the details for the proposed sustainable urban drainage scheme (SUDS) should be submitted for the written approval of the Planning Authority, in consultation with SEPA. A SUDS scheme has been submitted to the Planning Authority, and this has been forwarded onto SEPA for consultation. On this matter SEPA raise no objection to the 120 residential units now proposed. The Council's Team Manager for Structures, Flooding & Street Lighting advises that SUDS scheme demonstrates that the surface water drainage strategy for the site is acceptable and raises no objection to the application.

Scottish Water raise no objection to the application.

Condition 9 of planning permission in principle 14/00732/PPM requires a scheme of intrusive investigation works to be carried out, and in the event that the intrusive investigation works identify the need for remedial works to treat any areas of shallow mine workings, the Planning Authority will immediately be informed, and 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, and thereafter have been fully implemented as so approved.

The Coal Authority has appraised the Site Investigation Report submitted with the application and advise that the report has been informed by a range of sources of information including historic maps, geological maps, historic borehole data, a Coal Mining Report and the findings of the intrusive site investigations carried out on site. The Coal Authority they are satisfied that there is no requirement to carry out any further intrusive investigations as the risk from shallow coal mine workings is low. The Coal Authority therefore raise no objection to the application on the matter of ground stability.

The mechanism of a financial contribution towards additional educational provision at Pencaitland Primary School and Ross High School for a housing development of 120 residential units has already been secured through the grant of planning permission in principle 14/00732/PPM.

The mechanism of the provision within the residential development of 25% affordable housing units (i.e. 30 units of the proposed 120 units) is already secured through the grant of planning permission in principle 14/00732/PPM. The Council's Economic Development and Strategic Investment service raise no objection to the details of the 30 affordable housing units now proposed.

#### RECOMMENDATION:

That approval of matters specified in conditions 1(a-n), 7, 8 and 9 of planning permission in principle 14/00732/PPM for the proposed housing development be granted subject to the following conditions:

- 1 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.

- 2 The finished ground floor levels of the houses and of the flats to be formed at ground floor level in the flatted buildings all as hereby approved shall be set at no lower than 600 millimetres above the top of the banks of the watercourse which flows along the southern and eastern boundaries of the site.

Reason:

In order to mitigate against flooding.

- 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 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 promote render as the predominant finish to the walls of the houses and flats, 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 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.

- 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 and 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.

- 5 Prior to the commencement of development, the construction detail of the footpath link from the application site to Bruce Grove, as well as a timetable for its provision, shall be submitted to and approved in advance by the Planning Authority. The footpath link shall be formed in accordance with the detail and timetable so approved and shall thereafter remain in place unless otherwise approved by the Planning Authority.

Reason:

To ensure that adequate and satisfactory provision is made for pedestrian access in the interests of pedestrian safety.

- 6 A timetable for the provision of the erection of the boundary enclosures for the rear gardens of the houses 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.

- 7 Prior to the occupation of any of the residential units hereby approved a timetable for the implementation of all the open space recreation areas indicated on the docketed development layout plan shall be submitted to and approved in advance by the Planning Authority and the open space recreation areas shall be formed and made available for use in accordance with the timetable so approved.



The open space recreation areas shall thereafter be used for such purposes at all times thereafter unless agreed in writing by the Planning Authority.

Reason:

To ensure the satisfactory laying out of all areas of open space in the interest of the amenity of the future occupants of the dwellings hereby approved.