

**REPORT TO:** Planning Committee

**MEETING DATE:** Wednesday 26 June 2019

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

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

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Application No. **18/01328/AMM**

Proposal Approval of matters specified in conditions of planning permission in principle 14/00903/PPM - Erection of 138 houses and associated works

Location **Area 9 Land South  
Faside Terrace  
Wallyford  
East Lothian**

Applicant BDW Trading Limited

Per EMA Architecture + Design Limited

RECOMMENDATION Consent Granted

#### PLANNING ASSESSMENT

Although this application is for the approval of matters specified in conditions of planning permission in principle 14/00903/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.

On 30 November 2009 planning permission in principle (Ref: 09/00222/OUT) was granted for a mixed use development on some 86 hectares of predominantly agricultural land to the east, south and southwest of Wallyford. The site included Wallyford Community Woodland, the public roads of Salters Road and Inchview Road, and land to the south of Fa'side Avenue South, to the south of the existing village. The land is the allocated housing site of Proposal MH9 of the adopted East Lothian Local Development Plan 2018.

Planning permission in principle (Ref: 12/00924/PPM) was subsequently sought for the renewal of planning permission in principle 09/00222/OUT, as submitted to the Council on 26 November 2012. On 1 April 2014 the Council resolved to approve the application

subject to the required Section 75 Agreement and planning permission in principle was duly granted with conditions on 14 November 2014 following the registration of that agreement.

Subsequent to this the applicant sought and was granted permission for the following variations to the conditions of planning permission in principle 12/00924/PPM:

- Variation of condition 2 of planning permission in principle 12/00924/PPM to allow for the development and occupation of residential units from both the western (A6094 - Salters Road) and northern (A199) ends of the site (Ref: 14/00913/PM);

- Variation of condition 5 of planning permission in principle 12/00924/PPM to allow for up to 90 units to be completed in Year 1, up to 150 units in Year 2, up to 150 units in Year 3 and up to 60 units in Year 8 (Ref: 14/00916/PM).

In September 2015 planning permission in principle (Ref: 14/00903/PPM) was granted for amendments to planning permission in principle 12/00924/PPM, including an increase in number of residential units from 1050 up to a maximum of 1450, relocation and redesign of open space, development for residential purposes of areas previously proposed as open space and relocation and redesign of the proposed local centre.

The elements of the approved mixed use development include residential development, community buildings including a new school and community facilities, office units, a restaurant, business units, general industrial units, storage and distributions units, trade counter units, a residential institution, a non-residential institution, hot food takeaways, playing fields, open space, allotments, landscaping and associated infrastructure provision.

Condition 1 of planning permission in principle 14/00903/PPM requires that the development of the site should generally accord with the indicative masterplan docketed to this planning permission in principle.

Condition 4 states that no more than 1450 residential units shall be erected on the application site.

In October 2015 approval of matters specified in conditions (Ref: 15/00136/AMM) was granted for infrastructure associated with the residential development of the Wallyford site. The approved infrastructure includes the formation of an acoustic bund, and spine road that will provide access to much of the larger Wallyford development. Development of the infrastructure is well underway.

In October 2016 approval of matters specified in conditions (Ref:16/00537/AMC) was granted for the erection of 26 houses and 16 flats on land to the south of Fa'side Avenue South. Development of the site is largely complete.

In September 2017 approval of matters specified in conditions (Ref:17/00384/AMM) was granted for the erection of 185 houses on land to the east side of Wallyford - to the east of the new spine road approved by the grant of approval of matters specified in conditions (ref: 15/00136/AMM). Development of the site is well underway.

In November 2017 approval of matters specified in conditions (Ref:17/00432/AMM) was granted for the erection of 245 houses on land to the southwest of Wallyford and thus on part of the larger site to which planning permission in principle ref: 14/00903/PPM and the masterplan docketed to that permission relate. Development of the site is well underway.

On June 4th 2019 approval of matters specified in conditions ref 18/01283/AMM was granted for the erection of 74 houses and 16 flats on land to the south of Fa'Side Terrace, Wallyford and thus on the larger site to which planning permission in principle ref: 14/00903/PPM and the masterplan docketed to that permission relate. Development of this site has not yet commenced.

On June 2019 application ref 19/00003/OBL to modify the S75 legal agreement that is associated with planning permission in principle 14/00903/PPM was approved. This gave approval for modifications to that S75 legal agreement which was the mechanism by which the provision within the residential development of 1450 residential units of 25% affordable housing (i.e. 363 units of the proposed 1450 units) was secured. Additionally, the plan docketed to the Section 75 agreement indicated where within the parts of the overall Wallyford development site that the affordable housing would be provided.

The approval of matters specified in conditions now sought is for the erection of 138 houses on land to the southwest of Wallyford and thus on part of the larger site to which planning permission in principle ref: 14/00903/PPM and the masterplan docketed to that permission apply.

The site is bounded to the east and west by land that is part of the wider Wallyford development which the masterplan docketed to planning permission in principle 14/00903/AMM identifies as areas of open space. Beyond those areas of open space are areas identified by the masterplan for new housing. To the north of the site is the new spine road that was constructed as part of the mixed use development and which was approved by the grant of approval of matters specified in conditions (ref: 15/00136/AMM). Beyond the spine road is a further area of land approved for housing by planning permission in principle 14/00903/AMM. To the south of the site is an acoustic bund that was approved by the grant of approval of matters specified in conditions, (ref: 15/00136/AMM) beyond within is the A1 Trunk Road.

Vehicular access to the 138 residential units would be taken from the new spine road, which was approved by approval of matters specified in conditions (ref: 15/00136/AMM), via 4 access points that have been formed on south side of that spine road.

All of the 138 houses to be erected within the site would be private houses for sale. There would be 47, 4 bedroomed detached houses, 30 semi-detached, 61 terraced all of which would have 3 bedrooms.

The houses would comprise of 11 different house types.

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

The application is supported by a Design and Access Statement.

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 Development Plan 2018.

There are no policies of the approved South East Scotland Strategic Development Plan

(SESplan) relevant to the determination of the application. Proposal MH9: (Land at Wallyford) of the adopted East Lothian Local Development Plan 2018 and Policies DP1 (Landscape Character), DP2 (Design), T1 (Development Location and Accessibility), (T2 (General Transport Impact), OS3 (Minimum Open Space Standards for New General Needs Housing) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of this application.

A material consideration in 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.

Also material to the determination of the application is the approved development framework for Wallyford. The framework sets out the land uses expected for the allocated site and how the Council requires the site to be developed.

One written representation has been received in respect of this application. The main grounds of objection are:

(i) the use of an access from Fa'Side Avenue North will create a safety risk to vulnerable members of society which is already overwhelmed with traffic and will cause additional parking and traffic problems;

Access to the site will not be taken from Fa'Side Avenue North. Access to the site will be from the new spine road approved by the grant of approval of matters in accordance with the site layout plan (Ref: 17052(PL)001Z).

Wallyford Community Council were consulted on the application but did not respond.

By the grant of planning permission in principle 14/00903/PPM, approval has been given for the principle of the erection of 1450 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. To date, approval (Ref: 16/00537/AMC, 17/00384/AMM and 17/00432/AMM) has been granted for the erection of a total of 562 residential units on the wider Wallyford site. There can therefore be no objection in principle to the erection of the further 138 houses now proposed on this particular part of the site.

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 landscaping of and 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 conditions attached to planning permission in principle 14/00903/PPM.

The proposed residential development would form an extension to, and would be a natural extension of the southwestern edge of Wallyford. The proposed housing would be seen in relation to the new housing that is also being built by the applicant to the northeast of this site. The new housing will also eventually be seen in relation to the other new housing areas that will be beyond the spine road to the north of the application site, which is still to be developed but which forms part of the wider Wallyford development. In all of this, the proposed residential development would be sympathetic to and would not be out of keeping with the character of Wallyford or with other recent housing developments in the Wallyford area.

The details now submitted for approval are for a scheme of development comprising a mix of detached, semi-detached and terraced houses (11 types of residential units), with the houses being two stories in height. The total number of units proposed accords with the planning permission in principle granted for this part of 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 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 other housing developments in Wallyford. 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 Design Concept docketed to planning permission in principle 14/00903/PPM. The houses due to their positioning on the application site and by virtue of their height, size and scale, would not appear incongruous in their landscape setting. This coupled with the proposed landscaping would ensure a visually attractive and cohesive development, with the proposed houses visible but not appearing 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 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 Landscape Project officer raises no objections to the proposals provided including to the detailed scheme of landscaping that has been submitted. The proposed 138 houses would be located immediately to the north of the acoustic bund which was approved by the grant of approval of matters 15/00136/AMM. As the applicant's point out in their Design and Access Statement, the bund will provide a landscape buffer, and will reduce the noise and visual impact from the A1 significantly. In accordance with Condition 5 of approval of matters 15/00136/AMM, a specification for new woodland planting to the bund was already approved. To ensure that the bund does provide an acceptable landscape buffer to the 138 houses, it would be prudent to ensure that the approved woodland planting is fully undertaken prior to the occupation of any of the 138 houses, and is thereafter managed and maintained. The implementation of landscaping scheme can be made a condition of a grant of approval of matters.

Condition 20 of planning permission in principal 14/00903/PP requires the submission by the applicant of all noise mitigation measures based on the mitigation measures identified in the Environmental Statement and designed so that the 'good standard' indoor levels from Table 5 of BS 8233 Sound Insulation and Noise Reduction for Buildings- Code of Practice are met inside the proposed residential units. The mitigation measures include the erection of an acoustic barrier along the southern boundary of the site and included a timetable for the implementation of all of the proposed noise

mitigation measures.

Furthermore, Condition 3 of approval of matters specified in conditions ref 15/00136/AMM requires the submission of a timetable for the implementation of all of the proposed noise mitigation measures and states that the acoustic barrier be provided prior to the occupation of any part of the development unless otherwise agreed with the Council as Planning Authority. The provision of acoustic glazing, will be provided prior to the occupation of any dwelling house within the scheme where such measures have been proposed unless otherwise agreed with the Council as Planning Authority.

Subject to the noise mitigation measures alluded to in the planning conditions above being implemented prior to the occupation of any of the houses the subject of this approval of matters The Council's Environmental Health Manager raises no objection to the housing development now proposed.

On all of these foregoing findings on matters of design, density, layout, landscaping and amenity the details submitted for approval are consistent with Policies DP1 and DP2 of the adopted East Lothian Local Development Plan 2018 and the Council's approved development framework for Wallyford.

The masterplan docketed to planning permission in principle 14/00903/PPM indicates how areas of formal and informal open space, including two community sports pitches, could be located throughout the allocated site.

The site that is the subject of this approval of matters application includes land shown on the docketed masterplan as being the location for areas of open space. It does not however show areas for play area provision or for sports pitch provision.

However, the site will be bounded to the east and west by areas identified by the masterplan for planning permission in principle 14/00903/PPM as open space including for the provision of play parks. Furthermore the site is in close proximity to the Community Woodland which will provide opportunities for outdoor recreation for the residents of the wider Wallyford site including the future occupants of this site.

Consequently, although the proposed development does not include the provision of formal play area provision, this is consistent with the docketed masterplan. On this consideration the proposed development is consistent with Policies OS3 of the adopted East Lothian Local Development Plan 2018 and with the indicative masterplan docketed to planning permission in principle 14/00903/PPM.

The principles of the means of accessing of the proposed housing area are already decided by the grant of planning permission in principle 14/00903/PPM. These include vehicular access to the proposed site being taken from the new spine road approved by the grant of Approval of Matters Specified in Condition 15/00136/AMM.

The submitted details for accessing the site are in accordance with these established principles of the means of accessing the development.

The Council's Road Services raise no objection to the submitted details, being generally satisfied with the proposed means of pedestrian and vehicular access and the number and location of parking spaces proposed. They do however make recommendations on the standards of provision.

They recommend that:

- (i) all adoptable footpaths shall be 2m wide;
- (ii) driveways shall 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;
- (iii) within private parking areas, the minimum dimensions of a single parking space shall be 2.5 metres by 5 metres. All visitor parking spaces within these areas shall be clearly marked for visitors with the remaining private parking spaces allocated to individual dwellings;
- (iv) all prospectively adoptable parking bays (i.e. that will form part of the public road) shall have minimum dimensions of 2.5 metres by 6 metres. This can be reduced to a minimum length of 5 metres on the proviso that there is adequate road space to manoeuvre in adjacent to the parking bay;
- (v) Vehicle access to private parking areas shall be via a reinforced footway crossing and have a minimum width of 5.5m over the first 10m to enable adequate two movement of vehicles;

All of these requirements can reasonably be made conditions of the approval of matters specified in conditions for the proposed housing development.

On these foregoing transportation and other access considerations the proposed residential development is consistent with Policies T1 and T2, of the adopted East Lothian Local Development Plan 2018.

The mechanism of a financial contribution towards additional educational provision for a housing development of 1450 residential units has already been secured through the grant of planning permission in principle 14/00903/PPM.

The mechanism of the provision within the residential development of 1450 residential units of 25% affordable housing (i.e. 363 units of the proposed 1450 units) is already secured through the Section 75 agreement associated with the grant of planning permission in principle 14/00903/PPM. A plan attached to the S75 agreement identified the areas within the wider Wallyford Area where the affordable housing would be provided, including on Area 9. However, the modification to that legal agreement 19/00003/OBL approved in June 2019 modified where within the wider Wallyford site the affordable house would be located. In accordance with that modification Area 9 is not now one of the areas identified for the provision of affordable housing. Therefore, the capability of delivering the required number of affordable housing units in appropriate locations throughout the overall site would not be compromised by approval of this application.

The Council's Economic Development and Strategic Investment service raise no objection to this amendment to the affordable housing provision.

SEPA raise no objection to the 138 residential units now proposed.

The Council's Team Manager for Structures, Flooding & Street Lighting raise no objection to the proposal.

Scottish Water were consulted on the planning application and raised no objection to it.

## RECOMMENDATION:

That approval of matters specified in conditions for the proposed residential 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 houses shown in relation to the finished ground and floor levels on the site.

Reason:

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

- 2 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 of the proposed development shall be submitted to and approved by the Planning Authority prior to the use of the finishes in the development. The external finishes of the houses shall be in accordance with a co-ordinated scheme of materials and colours that shall be submitted to and approved in advance by the Planning Authority. This co-ordinated scheme shall in detail promote render as the predominant finish to the walls of the houses, with a use of more than one render colour and with a strongly contrasting difference in the colours such that they will not each be of a light colour. All such materials used in the construction of the houses 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.

- 3 Prior to the occupation of the last residential unit hereby approved within Area 9, 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 shall not be adapted or used for other purposes without the prior written approval of the Planning Authority.

Reason:

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

- 4 The residential scheme of development shall comply with the following transportation requirements:

(i) ) A detailed swept path assessment shall be undertaken for all of the access roads within the housing development. This shall include the access junctions from the spine road. It should also be noted that pedestrian safeguards should not form any part of the manoeuvring space for the Design Vehicle. The Design Vehicle to be used in the detailed swept path assessment shall be 2.5 metres wide, and shall have a 6.1 metre wheelbase within an overall vehicle length of 10 metres;

(ii) all adoptable footpaths shall be 2m wide;

(iii) driveways shall 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;

(iv) within private parking areas, the minimum dimensions of a single parking space shall be 2.5 metres by 5 metres. All visitor parking spaces within these areas shall be clearly marked for visitors



with the remaining private parking spaces allocated to individual dwellings;

(v) all prospectively adoptable parking bays (i.e. that will form part of the public road) shall have minimum dimensions of 2.5 metres by 6 metres. This can be reduced to a minimum length of 5 metres on the proviso that there is adequate road space to manoeuvre in adjacent to the parking bay;

(vi) Vehicle access to private parking areas shall be via a reinforced footway crossing and have a minimum width of 5.5m over the first 10m to enable adequate two movement of vehicles;

Reason:

In the interests of road safety.

- 5 Notwithstanding that shown on the drawings docketed to this approval of matters, all semi private and defensible spaces in front of or to the side of dwellings and to the side of parking courtyards shall be enclosed by walls/hedges/fences/ or railings to define areas of private space from public space.

Details of the form and appearance of all boundary treatments, including those enclosing the rear gardens of the houses, shall be submitted to and approved by the Planning Authority prior to the occupation of the first house. A timetable for the provision of those boundary treatments shall be submitted to and approved in advance by the Planning Authority and 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 appropriate boundary enclosures and in the interest of safeguarding the privacy and amenity of future residents of the development.

- 6 All planting, seeding or turfing comprised in the landscaping plans docketed to this approval of matters, and the woodland planting on the landscaped acoustic bund as approved by the landscaping scheme of condition 5 of approval of matters 15/00136/AMM, shall be carried out in accordance with a timetable which shall be submitted to and approved by the Planning Authority prior to the commencement of development. Thereafter the landscaping of the site and the woodland planting of the acoustic bund shall be carried out in accordance with that approved timetable unless otherwise approved. Any trees or plants within the site or within the woodland planting of the acoustic bund which within a period of 10 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.

- 7 All of the approved landscaping as detailed in the landscape drawings docketed to this approval of matters and required by condition 6 above shall be implemented, maintained and managed in accordance with the management details approved by the landscaping scheme unless otherwise agreed in writing by the Planning Authority.

Reason:

In order to ensure the maintenance and management of the landscaping scheme to enhance the appearance of the development in the interests of the amenity of the area.

- 8 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 site 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.

- 9 A Construction Method Statement to specify the measures to be adopted to protect the amenity of neighbouring residential properties from the effects of noise and dust arising as a result of the construction phase of the proposed development shall be submitted to and approved by the Planning Authority prior to the commencement of development.

The recommendations of the Construction Method Statement shall be implemented prior to the commencement of development. Development shall thereafter be undertaken in accordance with the details so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of the amenity of the area.

- 10 A Construction Method Statement to minimise the impact of construction activity on the amenity of the area shall be submitted to and approved by the Planning Authority prior to the commencement of development. The Construction Method Statement shall recommend mitigation measures to control construction traffic and shall include hours of construction work and details of wheel washing facilities to be provided. Wheel washing facilities must be provided and maintained in working order during the period of operation of the site. All vehicles must use the wheel washing facilities to prevent deleterious materials being carried onto the public road on vehicle tyres.

The recommendations of the Construction Method Statement shall be implemented prior to the commencement of development. Development shall thereafter be undertaken in accordance with the details so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

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