

REPORT TO: Planning Committee

MEETING DATE: Tuesday 14 January 2020

BY: Depute Chief Executive
(Partnerships and Community Services)

SUBJECT: Application for Planning Permission for Consideration

Note - this application was called off the Scheme of Delegation List by Councillor McMillan for the following reason: given the many comments on this application and the large number of conditions imposed on development in a significant site, I would wish the Committee to discuss.

Application No. **19/00293/P**

Proposal Erection of builders merchant and associated works

Location **Land West Of Gateside Road
Haddington
East Lothian**

Applicant In-Site Property Solutions Ltd

Per Scott Hobbs Planning

RECOMMENDATION Consent Granted

REPORT OF HANDLING

PROPOSAL

In February 2014 planning permission in principle (Ref: 13/00800/PPM) was granted for a mixed use development comprising residential houses and flats, business (Class 4) with associated development and 2 vehicular access on land west of Gateside Road, Haddington.

The illustrative site plan docketed to planning permission in principle 13/00800/PPM shows how the proposed residential and business uses might be accommodated within the site. The business land, which would have an area of 0.96 of a hectare, is shown to be located on the southern part of the application site. Although there are no definitive proposals relating to the layout or type of business units, the site plan shows how five units could be accommodated on the site. It is further indicated that these units could be single storey or two storeys in height and could be contained within a landscape setting. The site plan indicates that the remainder of the site would be put to residential use.

In April 2015 approval of matters specified in conditions of planning permission in principle 13/00800/PPM (Ref: 14/00940/AMC) was granted for the erection of 20 houses on part of the northern end of the land approved for residential use by planning permission in principle 13/00800/PPM. Also in April 2015 approval of matters specified in conditions of planning

permission in principle 13/00800/PPM (Ref: 14/00941/AMC) was granted for the erection of 40 houses on another part of the land approved for residential use by planning permission in principle 13/00800/PPM. The site for application 14/00941/AMC also includes a small part of the land approved for business/ light industrial units (Class 4 use) by planning permission in principle 13/00800/PPM.

In September 2016 planning permission (Ref: 14/00904/P) was granted for the erection of a further 19 houses on the remainder of the land approved for residential use by planning permission in principle 13/00800/PPM.

Residential development of the site is substantially complete with most of the residential units on site now occupied.

The indicative masterplan docketed to planning permission in principle 13/00800/PPM indicated how a sustainable urban drainage scheme (SUDS) detention basin could be formed on the southern part of the site to attenuate the flow of surface water run-off from the built development on the site. The SUDS basin has been constructed and is complete. The application site - being the area of land identified for business use by planning permission in principle 13/00800/PPM - sits between the SUDs and the residential part of the larger site approved by planning permission in principle 13/00800/PPM.

The application site also has a planning history.

In March 2015 planning permission (Ref: 15/00204/AMM) was sought for the erection of business units and associated development on the land approved for business use by planning permission in principle 13/00800/PPM. That application was not registered as a valid application due to insufficient or inaccurate information being submitted with it. It was later withdrawn.

In August 2015 planning permission 15/00599/P was sought for the erection of a nursing home, 30 extra care flats and associated works on the land the subject of planning permission 13/00800/PPM on which the business units were to be erected. The officer recommendation for planning permission 15/00599/P was to refuse planning permission on the grounds that "The proposed nursing home and extra care flat building, by virtue of its size, scale and positioning would appear as a prominent and intrusive feature within its gateway location. As such, it would be harmful to the character and appearance of the area, contrary to Policies DP1 and DP2 of the adopted East Lothian Local Plan 2008."

On the 7th June 2016 East Lothian Council Planning Committee determined the application against the officer recommendation, being minded to grant planning permission subject to conditions and subject to the conclusion of an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997. On 12th June 2017 planning permission 15/00599/P was granted. Works to construct the nursing home and 30 extra care flats have not commenced. Planning permission 15/00599/P remains extant until 12 June 2020.

In June 2017 application ref: 17/00010/OBL which proposed the modification of the agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 that is attached to planning permission 13/00800/P, was approved by the DEPA on appeal(Ref: POA-210-2004). The modification deleted clauses 7, 8 and 9 of that legal agreement. The deletion of those clauses from the legal agreement has removed the requirements for the Business Park Subjects Proprietors to:

- a) retain the Business Park Subjects for use as a business park for the purposes of Class 4 business use;
- b) undertake to service the Eastern Business Site;

- c) work collaboratively with other parties to prepare, agree and implement the marketing strategy for the business units; and
- d) to commence the construction of the business units on the Business Park in accordance with the timescales set out in Clause 9.

The deletion of Clause 9 has also removed the requirement for the Business Park Subjects Proprietors to transfer ownership of the Eastern Business Park to East Lothian Council in the event that the construction of the business units does not commence within those timescales.

In June 2018 Approval Matters specified in conditions ref: 17/00554/AMC was granted for the erection of 5 business units on the land approved for business use by planning permission in principle 13/00800/PPM.

Approval of matters 17/00554/AMC has not been implemented but remains extant until June 2020.

Planning permission is now sought for the use of the site as a builder's merchant.

The proposed builder's merchant would comprise a large portal warehouse building which would be located on the eastern side of the site and a large hardsurfaced service yard which would be fenced and lit. The site would be accessed from a new 7.5m wide vehicular access off Gateside Road which would lead into the large hardsurfaced and fenced service yard. The proposed vehicular access and hardsurfaced service yard is similar to that approved by Approval of Matters 17/00554/AMC.

The proposed warehouse building would measure some 54.3 in length, some 22.8m in width and some 8m in height to the top of its pitched roof. The walls of the building would comprise a 2.5m high masonry base course with the remainder of the walls being of plastic coated galvanised steel cladding topped with composite wall cladding. The cladding which would be a Goosewing Grey colour and a Merlin Grey colour respectively. The roof of the warehouse building would also be of a galvanised steel and a Goosewing Grey colour.

The service yard would extend some 78m out from the west side of the building and at its widest be some 58m in width. The service yard would be enclosed by 2.5m high fencing. Along the inside of the north, south and west boundaries of the 2.5m high fence enclosing the service yard would be timber racks for the display of goods for sale. These racks would be either 4m or 5m in height. However to facilitate the construction of the Builders Merchants service yard the ground levels between the northern edge of the site and the fencing on the northern edge of the service yard will be reduced by some 2.6m in height. Around the outside of the service yard, and positioned within adjacent landscaping would be lighting poles - 3 to the north of the service yard, 1 to the west and 2 to the south.

To the north of the proposed builders merchants would be a landscape belt that would be between some 8m and some 14m in width and to the west of it would be a landscape belt some 17m in width. To the east of the site is an existing landscaped bund. That bund is currently some 5.4m in width. To facilitate the erection of the proposed warehouse building a retaining wall would be built at the western side of that landscaped bund.

To facilitate the construction of the warehouse building it is proposed to build up the ground level on the eastern part of the site by between 1.4m and 1.8m. With this increase in ground level the floor level of the proposed building would be some 2.3m higher than the ground level of Gateside Road to the east.

A Planning Statement has been submitted in support of the application. The Planning Statement asserts that the site is allocated for a mixed use - employment and housing – in the

ELLDP 2018. There are two extant planning permissions for this site - for a nursing home and extra care flats (15/00599/P and for 5 Class 4 Business Units (17/00554/AMC). The two extant planning permission on the site indicate that a wide range of development type is acceptable on this site. The applicant has been actively engaged in a marketing exercise relating to those granted developments for a considerable period of time. There has been no firm and clear interest in the site beyond general discussion. Interest has been shown for residential development above commercial use at ground floor level but these have not progressed beyond pre application meetings. The only interest expressed by any commercial only operator since the nursing home/care home operator is this Builders Merchants. This is an employment use and will result in employment on this site. Due to the location of SUDs the development has been pushed eastwards which will result in the loss of some of the trees on the eastern boundary. New tree planting and landscaping is proposed along the remaining eastern boundary and enhanced landscaping along the south and east corner of the site. The latter area is important to the street scene and entrance to Haddington. The landscaping along the eastern boundary is required for the more limited to short term local views. The development will be sited on lower ground level than the houses to the north and will retain most of the views across the site to the housing to the south and the hills in the distance. The means of access to the site has already been permitted by the extant permissions. The proposed operator of the Builders Merchants is a well known independent building supplies operator with stores throughout Scotland and parts of England.

The Planning Statement informs that the proposed Builders Merchants will result in 18 local jobs being created. The opening hours will be 7.00am to 6.00pm Mon-Fri and 7am to 4pm Saturday. It will not open on Sundays or on bank holidays. The site will only be illuminated as required during opening hours except for security purposes. There will normally be about 3-4 deliveries out per day and no deliveries will take place outwith opening hours and will be normally be between 9am and 3pm. The company has a policy to purchase stock local and requires that stores and sites are kept clean and tidy. The company also has a policy to contribute to the well being of the local area including sponsoring local sports teams and supporting charities.

Under the provisions of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 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 the 05 May 2016 the Council gave a formal screening opinion. The screening opinion concludes that the proposed development is unlikely to have significant effects on the environment to the extent that expert and detailed study through EIA would necessary to properly assess any effect. Therefore, there is no requirement for the proposed development to be the subject of an EIA.

In support of the application a Transport Assessment, a Drainage Strategy, A tree Survey and An Arboricultural Impact Assessment, a Noise Assessment and a Supporting Statement have been submitted.

As an amendment to the application an access road giving access to the SUDs has been deleted from the application. Access to the SUDs is now proposed via the service yard.

The footprint of the building has also been reduced in size from 15000 sq m to 12500 sq m. Consequently the number of jobs that would be created in 2020 has reduced by 2, from 20 to 18.

DEVELOPMENT PLAN

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 SESplan relevant to the determination of the application. Proposal HN5 (Land at Gateside West, Haddington) and Policies TC1 ("Town Centre First" Principle), EMP1 (Business and Employment Locations), DP1 (Landscape Character), DP2 (Design), NH8 (Trees and Development), NH13 (Noise), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018 are all relevant to the determination of this application.

The application site is part of a larger site allocated for residential and employment use by Proposal HN5: Land at Gateside West of the adopted East Lothian Local Development Plan 2018 for 112 houses and employment generating uses. The housing element of Proposal HN5 has been implemented through planning permissions 14/00940/AMC, 14/00941/AMC and 14/00904/P.

Also material to the determination of the application is Scottish Planning Policy: June 2014. It advises that the planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost. This means that policies and decisions should be guided by principles, including supporting delivery of accessible housing, business, retailing and leisure development.

REPRESENTATIONS

Thirty seven objections to the application have been received. The main grounds of objection are:

- *inaccurate information;
- *this is an inappropriate development in an expanding residential location and will destroy what is left of what was a very quiet place to live;
- *increased traffic flow and in the area and in particular HGV movements on Gateside Road which leads to 3 residential developments which could result in road safety issues;
- *wider road issues in Haddington;
- *loss of light and privacy - the boundary fences and storage racks will be above the level of garden fences which will create shading for homeowners behind the site boundary and loss of privacy;
- *the West Road is the main access road into Haddington - adding a builder's yard with fencing will tarnish people's opinion of the town. A builder's yard should be located out of sight on an industrial estate;
- *design of proposed buildings is industrial and the proposed coloured cladding is not appropriate. This is an important gateway site to Haddington and this standard of building should not be accepted;
- *there is already a successful builder's merchant in Haddington and no need for another;
- *light pollution from floodlights;
- *scale and massing and design of building;
- *this is a use that could attract crime;
- *noise nuisance, smell and pollution caused by vehicular movements and business processes in close proximity to a residential area, particularly in the early mornings or late at night.
- *nearby residents could be disturbed at all times of night through noise, vibration and

increased pollution;

*there are no timescales for the recently erected traffic signals at the junction of Gateside Road West Road being operational;

*this proposal could impact on Haddington town centre as there will be coffee shop, supermarket and petrol station to be built nearby;

*there is not a public park/green area near to the houses of Gateside the nearest park being Neilson Park;

*opening hours for such premises are usually 0730hrs -17.00hrs plus Saturday mornings possibly coinciding with school traffic;

*security of the site could be a problem;

*impact on surface water drainage from existing residential development;

*loss of trees along Gateside Road - trees will be removed and replaced with a wall and entrance for lorries;

*some residents were informed that this site will never be developed because of the SUDs pond;

*the land has been allocated as Use Class 4 Business Use - a use which can be located in any residential area without detriment to the amenity of that area by way of noise, vibration, smell, fumes etc. The previous planning permissions have been acceptable however this is a change of use class and may not be acceptable;

*lack of accurate information – site plan, levels information, tree report and transport assessment;

*Transport Assessment states that “deliveries and customer movements are not significant” – not many businesses want insignificant numbers of customers also it does not appear to take account of the residents trips from nearby houses;

*the site is not large enough for the proposed use and therefore is not a suitable or appropriate use for the site;

*noise from reversing trucks;

*no information on landscaping;

*Gateside Road is not a connector road between the A199 & B6471 – Transport Statement is therefore inaccurate;

*site too close to new school;

*nuisance from vehicles, noise, dust and lighting - including during construction phase;

*use of proposed building – operating hours include 7.30am in the morning which will cause a nuisance to nearby residential properties;

*development will create another unforeseen and unmanaged choke point on the surrounding road network;

*loss of wildlife - The Council will be aware of growing concern for biodiversity and control of carbon – this development flies in the face of this and represents old thinking which needs to be changed;

*loss of trees on Gateside Road – these provide an attractive corridor up Gateside Road;

With regard the matter of inaccurate information being submitted the applicant's agent has amended the levels drawings which now correspond with the levels shown on the other accompanying drawings. An amended site plan replacing the proposed access road to the SUDs with additional landscaping has also been submitted. An updated Transport Assessment and Arboricultural Report have also been submitted.

To ensure that the public had the opportunity to review and comments on the updated information the period of time within which representations and objections to the application by members of the public was extended until Thursday 19th December 2019.

The following matters of are not material planning considerations in the determination of this planning application:

*the need for another builders merchants in Haddington,

*that local people were advised that the site will not be developed,
*the security of the site and
*the type of use attracting crime.

COMMUNITY COUNCIL COMMENTS

None.

PLANNING ASSESSMENT

The application site is part of a larger site allocated for residential (circa 112 residential units) and employment use by Proposal HN5: Land at Gateside West of the adopted East Lothian Local Development Plan 2018. The residential element of Proposal HN5 has been implemented through planning permissions 14/00940/AMC, 14/00941/AMC and 14/00904/P.

Proposal HN5 allocates the remainder of the land at Gateside west for employment uses. For avoidance of doubt Proposal HN5 does not limit the use of the application site for any particular type of Business Use but allows employment generating uses.

Policy EMP1 of the adopted East Lothian Local Development Plan states that within areas allocated for business and employment, that uses within Classes 4, 5 and 6 of the Town and Country Planning (Use Classes)(Scotland) Order 1997 are supported. Other employment generating uses may also be supported in these locations subject to the town centre first principle (TC1) and provided there would be no amenity conflicts or other unacceptable impacts. Proposals must not adversely affect amenity and must be able to co-exist satisfactorily with existing or proposed uses on the site and in the surrounding area.

This policy applies to the employment element of all sites in the plan which are allocated for employment use, including mixed use sites. Therefore as this is an site allocated for mixed use Policy EMP1 applies. Furthermore as an employment generating use which it predicted to create 18 jobs the proposed Builders Merchants is consistent with Policy EMP1 of ELLDP 2018.

Policy TC1: Town Centre First Principle of the ELLDP 2018 states: "A sequential "town centre first" approach will be applied where appropriate to retail, commercial, office and other development proposals that would attract significant footfall. The sequential approach requires that locations for relevant developments are considered in the following order of preference:

1. Town Centre;
2. Edge of town centre or local centre;
3. Other Commercial centre;
4. Out-of-centre locations that are, or can be, made easily accessible by choice of transport modes."

The application site is some 1.05 ha in area. There are no development sites currently available of 1.05ha size that would be capable of accommodating the proposed Builders Merchants on it within Haddington Town Centre or indeed within any of the other sequentially preferable sites identified by Policy TC1. Therefore as there are no sequentially preferable sites available the proposal is not contrary to Policy TC1 of the adopted ELLDP 2018.

The Service Manager for The Council's Economic Development and Strategic Investment Team advises that the proposal would bring new investment into East Lothian and potential for local jobs. She is satisfied that the Builders Merchants is an acceptable alternative to the previously approved Class 4 Business Units. Therefore, the principal of locating the Builders Merchants on the site is not contrary to Proposal HN5 or Policies TC1 or EMP1 of the adopted East Lothian Local Development Plan 2018.

Thereafter, it has to be established whether the proposed Builders Merchants would be

acceptable in terms of its siting, design and external appearance, the landscaping of, and means of access to the site and the means of any enclosure of the boundaries of the site would be acceptable. Policies EMP1 and DP2 also requires that proposals must not adversely affect amenity and must be able to co-exist satisfactorily with existing or proposed uses on the site and in the surrounding area. In this regard, the detailed proposals have to be considered against relevant development plan policies.

Through the grant of planning permission in principle 13/00800/PPM, approval has been given for the principle of the erection of Business Units on the site the subject of that application. The indicative plan approved by the grant of planning permission in principle 13/00800/PPM shows 5 large buildings that would be laid out in a landscape setting. The vehicular access is shown to be taken from a new access to be created at the northern end of the eastern boundary of the site, off Gateside Road. Large areas of hardsurfacing are shown to the front of each of the buildings for access, turning and parking.

The scheme of development approved by planning permission 15/00599/P is for the erection of a nursing home, 30 extra care flats and associated works on the application site. The nursing home and extra care flats would be contained in one building, which would have a roughly J-shaped footprint. That building would be two storeys in height, other than its southeast wing, which would contain three floors of accommodation. Vehicular access to the nursing home and extra care flats would be taken from Gateside Road, at a point some 80 metres to the north of the junction of Gateside Road and the B6471 road. A total of 44 car parking spaces would be provided within a hardsurface area to be located in the northeast part of the application site. Other than the trees that would be required to be removed to form the new vehicular access into the site, the existing trees on the south, east and west boundaries of the site would be retained and protected during development.

The scheme of development approved by Approval of Matters ref: 17/00554/AMC comprised 5 business units with a vehicular access at the northern end of the eastern boundary of the site, together with a hardsurfaced parking and turning area all of which were to be laid out in a landscaped setting. That scheme of development comprises 2 rectangular shaped portal buildings that would sit with their front and rear elevations almost perpendicular to the completed SUDs pond. Each of those buildings would typically be some 15m in width and some 21m in length and would each have a pitched roof that would be some 3.98m to eaves height and some 6.4m in height to the top of the pitched roof. The site would be accessed from an access off Gateside Road which would lead into the large hardsurfaced parking courtyard. Other than the trees that would be required to be removed to form the new vehicular access into the site, the existing trees on the south, east and west boundaries of the site would be retained and protected during development. New trees would be planted to the north, east and west of the site to mitigate for the loss of the trees required to be removed to form the access.

The site slopes from north to south and therefore the ground levels on the northern part of the site are higher than those on the southern part of the site. To facilitate development the ground levels would be levelled off such that they would be lowered by some 2.6m on the northern part of the site. The resultant slope would be incorporated into the landscaped edge that is to be formed between the northern boundary of the proposed service yard and the rear gardens of the neighbouring residential properties to the north.

The scheme of development now proposed would again have a vehicular access formed off Gateside Road which would lead to a large hardsurfaced area to be used as a service yard, parking and turning area. Those elements of the proposed development are therefore similar to the previously approved schemes of development 15/0599/P and 17/00554/AMC.

The application site is positioned on the north side of West Road which is one of the main

approaches into Haddington from the west. The site is also adjacent to the west side of Gateside Road which leads to a large recent residential development and is opposite the new development being built at Letham. However, due to the existing landscaped tree belt that exists on the north side of West Road and on the east and west sides of Gateside Road and Moncrief Walk to the east and west of the site respectively, the site is well screened from and is therefore less visible in public views from either West Road or Gateside Road. The due proposed hardsurfaced service yard, the 2.5m high fencing and storage racks with associated lighting would be noticeably new features in approaches from West Road. However those elements would be satisfactorily absorbed by existing planting and would therefore not be so visible to be seen to be harmful to the character and appearance of the area.

The proposed warehouse building would be located close to the east boundary of the site and therefore close to Gateside Road. To facilitate the erection of the building the lower ground level of the southeast corner of the site would be built up to be level with the northern part of the site. Therefore the building given its size, scale and positioning would be visible in views from Gateside Road.

The proposed warehouse building would be a large portal building that due to its size, scale and positioning would be impossible to screen completely. However the south elevation of that building would be set back some 15m back from the northern edge of the footway on the north side of West Road. Due to this set back positioning, of the orientation of the building and due to the intervening landscape belt between West Road and the south side of the application site which is to be retained, the proposed warehouse building, although large in size and scale, would not appear as an overly prominent or incongruous feature in views from West Road. The intervening trees within the landscaped belt would provide some visual relief of the building in views of it from West Road.

A Tree Survey and Arboricultural Implication Assessment Report has been submitted in support of the application. The Tree Survey details the nature, extent and condition of existing trees within the wooded belt along the eastern boundary of the site. It concludes that the area of survey comprises a dense belt of tree and shrub planting on a low earth bund. A total of 75 individual trees were recorded in the survey. The trees have been planted at very close spacing with a view to providing rapid screening and canopy closure. These are supplemented by a dense and overgrown shrub layer and small trees to form a complete and dense canopy. The tree belt does not contain any individual specimens of any arboricultural value or merit.

The Arboricultural Implication Assessment identifies constraints in terms of root protection areas and includes recommendations regarding tree removal, retention and protection contained within BS 5837:2012.

The Arboricultural Impact Assessment explains that the building will be built along the eastern edge of the site with the remainder of the site being used as a storage yard and display area. The building will be located tight up against the eastern boundary and will encroach into the bund and tree belt. Consequently a total of 23 trees will have to be removed to accommodate the proposed building. The report asserts that the majority of trees to be removed are small trees that are in poor condition and low retention value. The majority of trees and associated undergrowth would be retained. A gap of 3.0-3.5m will remain between the rear elevation of the building and the edge of the tree belt that is to be retained. This will allow for level changes, the construction of the retaining wall and access to the rear of the building. The Arboricultural Implication Assessment concludes that provided the tree protection area is established prior to works commencing on site and that robust fencing is used to define tree protection areas that the tree cover that is to be retained will not be significantly affected.

The Council's Landscape Project Officer has appraised the Tree Survey and The Arboricultural Implication Assessment. She confirms that the revised tree survey submitted

now accurately overlays the trees on the site plan and allows accurate assessment of the impact of the development on the trees to the east boundary. As identified in the tree report trees will be lost from the west side of the embankment to facilitate the development, particularly at the north end of the embankment to the south of the access. However it is shown that a continuous line of trees can be retained and protected during development to the east of the site and will help to provide setting and enclosure for the proposed Builders Merchants. At present the trees are semi-mature and average between 6m and 8m in height and the ridge of the proposed building will sit approximately 1.5m above the tree line. However given the species mix there is the potential for significant height growth to these trees which will increase the enclosure of the site in future years. New tree planting to the southeast corner of the site could be carried out to mitigate for the loss of trees that require to be removed to facilitate the development. This would also help to improve setting and screening of the building in views from the south and east. Given the importance of the trees to this boundary, in reducing the visual impact of the proposed large commercial building within a residential area, a tree management plan should be included with the application to show how the woodland and trees within the site will be managed to retain and enhance this landscape feature, prior to granting of this application.

Therefore subject to the retention and management of the landscaped bund and to the imposition of conditions to ensure the protections of the trees during construction works the Council's Landscape Officer does not object to the application on landscape grounds.

On those matters of design the proposed Builders Merchants is not contrary to Policies DP1 and DP2 of the adopted East Lothian Local Development Plan 2018.

On the matter of safeguarding of trees the proposal is not contrary to Policy NH8 of the adopted East Lothian Local Development Plan 2018.

"Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice" by P.J. Littlefair gives guidance on the impact of a proposed extension on the daylight and sunlight received by neighbouring properties.

In the Guide it is stated that in designing a building it is important to safeguard daylight and sunlight to nearby buildings.

The proposed warehouse building would, at its closest, be positioned some 25m away from the nearest residential property to the north. Furthermore, the ground level on which the warehouse building would be constructed would be some 3m lower than the ground level of the residential properties to the north. There would also be a landscape belt of at least 8m in width separating the 2.5m high fence that would enclose the north boundary of the hardsurfaced service yard from the nearest residential property to the north. Therefore application of the 25 degree daylight test given in the Guide demonstrates that due to the positioning and orientation of the proposed warehouse building and proposed fencing in relation to the residential properties to the north there would not be a loss of amenity to those residential properties through overshadowing.

There are 3 houses positioned on the east side of Gateside Road that would directly face the proposed warehouse building. The west elevation of the closest of those 3 residential properties would be some 19m away from the proposed warehouse building. Application of the 25 degree daylight test given in the Guide demonstrates that due the height and positioning of that building and given its distance away from those neighbouring properties there would not be a loss of daylight to any windows of any of those neighbouring houses caused by the proposed warehouse building.

Furthermore application of the sunlight test given in the guide demonstrates that due to its size

and scale and of its positioning and of its orientation in relation to neighbouring properties the proposed warehouse building would not cause harmful loss of sunlight to the gardens of neighbouring residential properties.

The 2.5m high fence that would be erected on the west side of the hardsurfaced service yard would be some 22m away from the closest residential properties located to the west side of the application site. Given this distance the proposed Builders Merchants would not cause a harmful loss of amenity to any neighbouring residential properties to the west through overshadowing.

By virtue of the 2.5m high boundary fence and of the distance away from neighbouring residential properties the use of the proposed building and hardsurfaced service yard of the Builders Merchants would not have a harmful impact on the privacy of any neighbouring residential properties to the north, east or west.

In the determination of planning permission in principle 13/00800/PPM, the **Service Manager for the Council's Environmental Protection Service** was satisfied that a Class 4 business use of part of the site could operate without prejudicing the residential privacy and amenity of future occupants of the proposed houses to be built on the other parts of the site. Therefore it was on the basis that 0.96 hectares of the land would be retained for business use that planning permission in principle 13/00800/PPM was granted.

The proposed Builders Merchants use is not a Class 4 business use and is a use that may have different environmental and amenity impacts than those generated by a Class 4 business use. In that regard the applicant has submitted a Noise Assessment in support of the application.

The Service Manager for the Council's Environmental Protection Service has appraised the Noise Assessment. He accepts its findings that noise from the site can be suitably mitigated by the provision of a 2.5m high acoustic fence along the northern and western boundaries of the service yard. Therefore subject to the provision of that acoustic fence all as shown in the noise assessment which can be made a condition of a grant of planning permission he raises no objection to proposal of the grounds of noise nuisance. Therefore the proposal is not contrary to Policy NH13 of the ELLDP 2018.

In the interests of security and for the safe operation of the site it is proposed to install lighting around the perimeter of the service yard. The Service Manager for the Council's Environmental Protection Service advises that in order to safeguard the amenity of neighbouring residential properties that Light Trespass (onto windows) of neighbouring residential properties, measured as Vertical Illuminance in Lux, (Ev), shall not exceed 10 between the hours of 0700-2300 and shall not exceed 2 between the hours of 2300-0700. Details of any proposed external lighting must be submitted to and approved by the Planning Authority prior to its use in the development. The design and construction of any proposed external lighting should take account of the Guidance contained within Annex 1 to Appendix 2 of Scottish Government Guidance to Accompany the Statutory Nuisance Provisions of the Public Health etc (Scotland) Act 2008. This can reasonably be made a condition of any grant of planning permission.

Subject to these aforementioned conditions and provided that the Builders Merchants does not operate outwith the hours of 0700-1900 hours on any day of the week the Service Manager for the Council's Environmental Protection Service is satisfied that the operation of the Builders Merchants would not have a harmful impact on the amenity of the occupants of neighbouring residential properties.

On those matters of amenity the proposal is not contrary to Policies EMP1 and Policy DP2 of the adopted East Lothian Local Development Plan 2018.

A Transport Assessment (TA) has been submitted by the applicant that details expected visitor numbers throughout an average day and predicts vehicle movements using figures obtained from comparative developments as a guide. The Transport Assessment then using this data sets out the expected transport impacts of the proposal. When the application was first submitted The Council's Road Services were not satisfied that the TA accurately reflected the proposal in its proposed location. They requested that the TA was amended to better reflect the vehicular movements in the vicinity of the site and those generated from a business of this type. The applicant has subsequently updated the TA in line with the requirements of the Council's Road Services.

The Council's Road Services are now satisfied that the Transport Assessment accurately reflects the proposed road movements to and from the proposed Builders Merchants. They are also satisfied that the TA also accurately considers the existing vehicular and traffic movements that take place in the vicinity of Gateside Road. Therefore they are satisfied with the findings of the TA that Gateside Road, its junction onto West Road and the new vehicular access from Gateside Road into the site are capable of accommodating the traffic movements generated by the proposed Builders Merchants. Consequently the Council's Road Services is satisfied that the proposed Builders Merchants could operate in its proposed location without being a road safety hazard to vehicular and pedestrian traffic. In that regard the proposal is not inappropriate for its location.

The Council's Road Services have advised that the junction into the site from Gateside Road would require a visibility splay of 2.5m by 70m in either direction. This can only be achieved to the north by either removing a section the landscaping on the west side of Gateside Road to the north of the junction or by amending the alignment of the junction. The applicant has been made aware of this and has confirmed that they have the control over the land to the north to provide the visibility splay. Therefore, and provided a revised site layout and swept path analysis is submitted and approved prior to the commencement of development that shows the amended junction detail which should include the details of visibility splays and footway connections, they do not object to the proposal. The submission of the junction detail can reasonably be made a condition of a grant of planning permission. Therefore, and subject to the provision of the amended junction detail with visibility splays and footway connections the proposals are consistent with Policies T1 and T2 of the adopted East Lothian Local Development Plan 2018.

The Council's Team Manager for Structures, Flooding & Street Lighting advises that information regarding a Surface Water Management Plan for this proposal has been submitted. This details surface water drainage of site including connections to the detention basin the subject of Condition 7 of planning permission in principle 13/00800/PPM is submitted to and approved by the Planning Authority. He raises no objection to the proposal.

The application drawings indicate that access to the adjacent SUDS basin is to be taken through the Builders Merchants Service Yard. It would be prudent to ensure 24 access is possible to the SUDs when the Builders Merchants is closed. The land adjacent to the SUDs is within the applicant's ownership. Therefore it could reasonably be made a condition of a grant of planning permission that prior to the commencement of development details of an alternative emergency access to the SUDs be submitted to and agreed with the Planning Authority.

The Council's Biodiversity Officer advises the site is not located within a designated site and there are no records for protected species in the site. Furthermore she advises that the site has previously been used for arable agriculture and has limited biodiversity value.

Therefore she raises no objection to the application.

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

At its meeting on Tuesday 27th August 2019 the Council approved a motion declaring a Climate Emergency. Thereafter, at its meeting on Tuesday 3rd September 2019 the Council's Planning Committee decided that a condition requiring a developer to submit for the approval of the Planning Authority a report on the actions to be taken to reduce the carbon emissions from the building and from the completed development should be imposed on relevant all applications for planning permission. Such a condition should be imposed on a grant of planning permission for this proposed development.

RECOMMENDATION

That planning permission 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 buildings; 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 Prior to its use on the building a sample of each of the external finishes of the warehouse building hereby approved shall be submitted to and approved by the Planning Authority. Thereafter the cladding used shall accord with the sample so approved unless otherwise agreed in writing by the Planning Authority.

Reason

To safeguard the character and appearance of the building and of the area.

- 3 The use hereby approved shall be restricted to a Builder's Merchants only.

Reason:

To limit the use to that applied for and in the interests of the amenity of the area.

- 4 Prior to the operation of the builder's merchants hereby approved a 2.5m high acoustic fence shall be erected along the Western and Northern boundary of the site as shown in Figure 1 of ITP Energised's Noise Assessment Ref EDI_1956 of 14 October 2019. The fence shall have a minimum density of 12kg/m², be continuous and have no holes or gaps either between panels or at the base between it and the ground. Thereafter the fence shall be retained in place unless otherwise approved by the Planning Authority.

Reason

To safeguard the amenity of the occupants of neighbouring residential properties from noise.

- 5 No development shall take place on site until temporary protective fencing in accordance with Figure 2 of British Standard 5837_2012 "Trees in relation to design, demolition and construction" and as detailed on page 14 of the Tree Survey and Arboricultural Implication Assessment dated November 2019 by Donald Rodger Associates has been installed, approved by the arboriculturist and confirmed in writing by the Planning Authority. The fencing must be fixed in to the ground to withstand accidental impact from machinery, erected prior to site start and retained on site and intact through to completion of development. The position of this fencing must be as indicated on the drawing 'Tree Survey and Proposals' numbered 19473/1 of the Tree Survey and Arboricultural Implication Assessment dated November 2019 by Donald

Rodger Associates, shall be positioned outwith the Root Protection Area (RPA) as defined by BS5837:2012 for all trees and approved in writing by the Planning Authority.

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

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

Planning of site operations should take sufficient account of wide loads, tall loads and plant with booms, jibs and counterweights (including drilling rigs), in order that they can operate without coming into contact with retained trees.

Reason

In order to form Construction Exclusion Zones around retained trees and protect retained trees from damage into the interests of safeguarding the character of the area.

- 6 Prior to commencement of development a scheme of landscaping shall be submitted to and approved in writing by the Planning Authority. The scheme shall provide details of: the height and slopes of any mounding on or re-contouring of the site including SUDS basin/ponds details; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. The scheme shall include planting to the retaining wall to the south and east of the site, tree planting to the southeast corner and at the entrance to the site, shrub and small species tree planting to the north boundary and shrub and tree planting to the west boundary. Non-thorn shrub species should be located adjacent to pedestrian areas. The scheme shall include indications of all existing trees and hedgerows on the land, details of any to be retained, and measures for their protection in the course of development. Thereafter the approved scheme of landscaping shall be implemented unless otherwise agreed by the Planning Authority.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the completion of the development or occupation of any house hereby approved, whichever is the sooner. Any trees or plants which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar species and final size, unless the Planning Authority gives written consent to any variation. No trees or shrubs, detailed in the approved landscaping plans to be retained on the site, shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the previous written consent of the Planning Authority.

Reason:

In the interests of safeguarding the landscape character and appearance of the area.

Reason

To ensure implementation and retention of landscaping important to the amenity of the wider area.

- 7 Prior to the commencement of development a woodland management plan detailing how the trees and woodland on the site shall be managed and maintained shall be submitted to and approved by the Planning Authority. This shall include for the annual inspection of the trees and woodland by a qualified and experienced arboriculturist identifying any trees requiring work and thinning and / or new planting works to allow development of a balanced woodland structure. The annual tree inspection report shall be submitted to the Council within one month of undertaking and any tree works identified as required at the annual inspections shall be submitted to and approved in writing by the Planning Authority. Thereafter the details within the woodland management plan docketed to this planning application for all trees and woodlands on the site shall be complied with unless otherwise agreed by the Planning Authority.

Reason

To safeguard the trees and woodland on the boundaries of the site in the interests of safeguarding the landscape character of the area.

- 8 The builder's merchant shall only operate between the hours of 0700-1900 hours on any day unless otherwise agreed in writing by the Planning Authority.

Reason

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

- 9 Prior to the commencement of development, a report on the actions to be taken to reduce the Carbon Emissions from the build and from the completed development shall be submitted to and approved in writing by the Planning Authority. This shall include the provision of renewable technology for all new buildings, where feasible and appropriate in design terms, and new car charging points and infrastructure for them, where feasible and appropriate in design terms. The details shall include a timetable for implementation. Development shall thereafter be carried out in accordance with the report so approved.

Reason:

To minimise the environmental impact of the development.

- 10 Light Trespass (onto windows) of neighbouring residential properties, measured as Vertical Illuminance in Lux, (Ev), shall not exceed 10 between the hours of 0700-2300 and shall not exceed 2 between the hours of 2300-0700.

Prior to its use in the development the details of all external lighting shall be submitted to and approved by the Planning Authority and the lighting erected shall thereafter accord with the details so approved unless otherwise agreed by the Planning Authority..

Reason

To protect the amenity of the occupants of neighbouring residential properties from light trespass.

- 11 A Construction Method Statement to minimise the impact of construction activity on the safety and amenity of the area shall be submitted to and approved by the Planning Authority prior to the commencement of development. The Construction Method Statement shall recommend mitigation measures to control noise, dust, hours of construction works and control of construction traffic including routing of vehicles and delivery time restrictions and include details of temporary parking arrangements during the full construction period for all vehicles associated with the building works. This shall also include a prestart dilapidation survey over roads affected by construction vehicles, particularly along Gateside Road.

The recommendations of the Construction Method Statement shall be implemented prior to the commencement of development and shall be implemented until the development of the site is complete unless otherwise agreed by the Planning Authority.

Reason:

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

- 12 Prior to the commencement of development detail of how 24 access to the SUDs basin located to the south of the application site shall be submitted to and agreed with the Planning Authority and unless otherwise approved shall be formed in the manner so agreed. Thereafter the access to the SUDs shall remain in place unless otherwise agreed by the Planning Authority.

Reason:

To safeguard emergency access to the SUDs basin.

- 13 Prior to the commencement of development details of the retaining walls to be erected on the east and south boundaries of the site shall be submitted to and approved by the Planning Authority. Thereafter the retaining walls shall be erected in accordance with the details so approved.

Reason:

To safeguard the character and appearance of the area.

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

Reason:

In the interests of road safety

- 15 A Travel Plan to minimise private car trips and to encourage the use of alternative modes of transport such as buses, cycling and walking shall be submitted to and approved by the planning authority prior to the operation of the Builders Merchants. The Travel Plan shall include details of the measures to be provided, the methods of management, monitoring, review and reporting and duration of the Plan.

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

Reason:

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

- 16 Prior to the commencement of development details of the 2 proposed Sheffield cycle stands shall be submitted to and approved by the Planning Authority.

The cycle stands shall be formed and made available for use in accordance with the details so approved and thereafter retained in place unless otherwise agreed by the Planning Authority.

Reason:

To ensure the provision of adequate bin and cycle storage on the site.

- 17 Prior to the commencement of development, details of all fences to be erected on the site shall be submitted to and approved in advance by the Planning Authority. Those details shall include details of the heights, positioning, materials, colours and design of all fences to be erected on the site. Thereafter the fencing erected shall accord with the details so approved unless otherwise agreed by the Planning Authority.

Reason:

To safeguard the character and appearance of the area.

- 18 The proposed access junction and pedestrian provision between the footway on the west side of Gateside Road and the protected pedestrian strip within the site as indicated in Proposed Site Layout 5889(3)SP004 Rev H and Swept Path Analysis 19033-MTS-00-XX-DR-TP-06010 Rev 02 are not hereby approved. Instead and prior to commencement of development, a revised site layout and swept path analysis shall be submitted to and approved by the Planning Authority. The submitted detail shall show:
- o a visibility splay of 2.5 metres by 70 metres in both direction at the proposed site access junction with Gateside Road. There shall be no visual obstruction within these visibility splays above a height of 1.05 metres. The visibility splays shall be retained as such thereafter unless otherwise approved in writing by the planning authority.
 - o a kerbed pedestrian footway connecting the existing footway on the west side of Gateside Road and the proposed protected pedestrian strip within the site.
 - o a dropped kerb pedestrian crossing point to include tactile paving over the proposed site access junction.
 - o that large vehicles turning left into the site do not encroach onto the pedestrian footway or protected pedestrian when undertaking the manoeuvre.

The road and footway works shall thereafter be provided in accordance with the details so approved.

Reason:

In the interests of road safety