

**PLANNING COMMITTEE**  
**TUESDAY 3 NOVEMBER 2020**

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

**TUESDAY 6 OCTOBER 2020  
VIA A DIGITAL MEETING FACILITY**

**1**

**Committee Members Present:**

Councillor N Hampshire (Convener)  
Councillor L Bruce  
Councillor J Findlay  
Councillor N Gilbert  
Councillor S Kempson  
Councillor K McLeod  
Councillor J McMillan  
Councillor F O'Donnell  
Councillor J Williamson

**Other Councillors Present:**

Councillor S Akhtar  
Councillor C Hoy

**Council Officials Present:**

Mr K Dingwall, Service Manager – Planning  
Ms E Taylor, Manager, Planning Delivery  
Mr M Greenshields, Senior Roads Officer  
Mr J Canty, Transport Planner  
Ms P Gray, Communications Adviser  
Ms F Currie, Committees Officer

**Clerk:**

Ms A Smith

**Visitors Present/Addressing the Committee:**

Item 2 – Mr P McLean, Mr G Shanks, Mr A Wilson

**Apologies:**

Councillor W Innes  
Councillor K Mackie  
Councillor C McGinn

**Declarations of Interest:**

None

## 1. MINUTES FOR APPROVAL

The minutes of the following meetings were approved:

- a. Planning Committee of 18 August 2020
- b. Planning Committee of 1 September 2020

## 2. PLANNING APPLICATION NO. 19/00643/PM: ERECTION OF 232 HOUSES AND 42 FLATS AT LETHAM MAINS, HADDINGTON

A report was submitted in relation to Planning Application No. 19/00643/PM. Emma Taylor, Manager, Planning Delivery, presented the report, summarising the key points. The report recommendation was to grant consent.

Ms Taylor and other officers responded to questions from Members. In relation to context Ms Taylor clarified that in terms of the adopted East Lothian Local Development Plan 2018 (ELLDP) the area moving out from Letham Mains Holdings was classed as a countryside around town area, which sought to protect the landscape setting of Haddington. On whether there were Tree Protection Orders (TPOs) to protect the general setting of the Holdings, she advised there were but would have to consult with Landscape officers as to the specifics. With regard to the criteria deemed necessary to open up this lane, Jon Canty, Transport Planner, stated that access was not provided to be required as part of the wider development; access could be taken from the new spine road. Road Services had not objected to the proposal however, but felt it unlikely that people would use this lane as it would not be quicker than using the spine road. He clarified that the lane was unnumbered and classified as a rural road; the spine road would be classified as a distributor road. Regarding audits carried out he indicated that the applicants had been asked to do a distribution of trips from the development, to the A1 mainly, their prediction was that it would be quicker through the new development so trips through the lane were unlikely and this was accepted by Road Services. On whether it would be a detriment to the development if this lane was not used as a vehicle link, he said he did not think so, but added that an emergency access somewhere on that area would be needed.

Ms Taylor confirmed that this area, through allocation of the site, had been taken out of the 'countryside' so was no longer within Policy DC1. Responding to further questions Ms Taylor said that the particular character of the Holdings was appreciated but officers did not feel that its rural character would be compromised by use of this lane by people from the new development; access would not be solely from this point, it was intended as a secondary access. As regards who had responsibility for maintenance of the lane, Marshall Greenshields, Senior Roads Officer, clarified that as it was an unclassified public road the Council was responsible. Ms Taylor confirmed that the proposal to use this lane was not in the Development Brief but said that this did not exclude any access from this point.

Graeme Shanks representing the applicant, Taylor Wimpey, and Phil McLean of Geddes Consulting, agent for the applicant, responded to questions. On the need for the proposed road access onto the Holdings lane Mr Shanks said this was to provide better connectivity to the site; he did not think it would make a big impact on the lane. It would not come into effect for some years and not until the spine road was in place. It would provide residents of the southwest corner the convenience of an exit onto the Pencaitland Road. It would be a better access for emergency vehicles. A new gateway would be fitted at that end of the site. Mr McLean confirmed that the transport study was carried out in August 2018. On engagement with residents regarding use of this lane Mr McLean clarified that the feedback from the public event was followed up with Council officers but there was no further follow up with residents. Regarding journey times and future interventions if this lane became a 'rat run' Mr McLean stated that all traffic modelling and journey time analysis had been done on the

baseline for the already approved development; even allowing for the 3 sets of traffic lights it was still a shorter route to go from the spine road to the A1. On how the developer would make it clear to people, if the Committee asked for this access to be limited and not available as proposed, Mr McLean said if that was the case it would form part of the approved layout. Mr Shanks agreed, adding that it would not then be included in the marketing material. He also clarified operation and enforcement of the wheel washing unit in response to queries.

The Convener asked about proposals for landscaping and finishing of the development; he appreciated it was a large scale site but referred to other sites where people had to live, in effect, on a building site, which was not acceptable. Mr Shanks stated that road surfacing would be completed as soon as was practicable after construction traffic had finished using the roads. He agreed it was important to get landscaping completed as soon as possible; this would start at the north of the development and work down to the south area.

Andrew Wilson, a resident of Letham Mains Holdings for 25 years, spoke against the application on behalf of 80% of the residents. Their objection was on one specific point, the proposed road access onto the Holdings lane at the southwest boundary of the new development. Residents had serious concerns about the danger and loss of amenity resulting from this proposal. The proposed road access was contrary to the Development Brief and breached all 5 points of Policy T2. He provided supporting evidence. This lane was the sole access for 30 households; it had no lighting, no pavements, terrible sight lines, blind bends, a blind summit and blind T-junction. It was used by walkers, runners, cyclists, schoolchildren and horses; any extra traffic would exacerbate the situation. This lane was uniquely vulnerable to the danger from even moderately increased volumes of traffic. Councillors were being asked to overrule the officer's recommendation on this specific point.

Responding to questions, Mr Wilson confirmed that traffic on the lane had increased as a result of nearby developments, particularly since the Dovecot development. On whether there had been an increase in other incidents he stated there had and gave some examples. He added that this rural lane was twisty, dangerous, with no footpath so people had to walk on the tarmac. As regards construction traffic and the associated noise and dust he said that these were all realistic issues but residents accepted that the wider development had been approved. On whether other large vehicles, apart from the Council's refuse vehicles, used this lane he stated that LPG and oil delivery vehicles did, as there was no mains gas in Letham Mains Holdings. The lane was also used by agricultural vehicles. He reiterated that as there was no footpath pedestrians had to go onto the verge when vehicles approached.

Local Member Councillor McMillan welcomed the application, it showed how planning could benefit communities and how growth could be integrated. However, in considering the points put forward and the line of questioning, there were serious concerns around issues of wellbeing and safety in relation to the use of this lane as planned. He was not convinced by the audits carried out by the developer. If it was a requirement that this lane be opened up as a connection to this new development he proposed that access should only be for pedestrians, cyclists, etc.; access for vehicles should be prevented. This would also be in accord with the Council's declaration of a climate emergency. He would be prepared to support the application if this change could be made.

Local Member Councillor Hoy, not a member of the Planning Committee, echoed Councillor McMillan's remarks. He agreed with comments expressed by Mr Wilson; use of this lane as proposed was a serious cause for concern. If it was used as proposed there would undoubtedly be an increase in traffic with the associated risks to walkers, cyclists, horse riders, etc. There would also be an adverse impact on the environment and local amenity.

Local Member Councillor Akhtar, also not a member of the Planning Committee, agreed with the other ward councillors. Mr Wilson spoke on behalf of 80% of Letham Mains Holdings residents. She agreed with all of his comments, this lane would become a 'rat run'; trying to

turn a rural lane into a road was not practicable. Given the Council's declaration of a climate emergency, walking and cycling, rather than car use, should be encouraged.

Councillor Williamson agreed with all comments expressed. If access to the lane was restricted to pedestrians and cyclists then he would support the rest of the application.

Councillor O'Donnell welcomed the application, particularly the affordable housing element and the two wheelchair accessible garden flats. She felt that Mr Wilson's evidence had been very compelling; giving vehicles access to this lane would mean loss of amenity to residents of Letham Mains Holdings. She also referred to the need to reduce carbon emissions. She supported and would second Councillor McMillan's proposal.

Councillor Findlay also complimented Mr Wilson on the evidence presented. He supported the proposal by Councillor McMillan that vehicular access to the lane should be withdrawn.

The Convener brought the discussion to a close. He remarked that this was another quality development for East Lothian; the much needed affordable housing was particularly welcomed. He stressed that developers should finalise landscaping and roads/footpaths as quickly as possible. Regarding vehicular access onto the lane through Letham Mains Holdings there had been considerable comments as to why this should not happen. Given the proposal from Councillor McMillan, seconded by Councillor O'Donnell, and the expressions of support for this, he asked officers for an appropriate course of action.

Ms Taylor advised that an extra condition stipulating no vehicular access from the site to this lane, but access for pedestrians and cyclists, could be added to the grant of planning permission; appropriate wording was provided.

The Convener moved to the vote on the report recommendation (to grant consent) with the addition of the extra condition as outlined – this vote was taken by roll call:

For: 9  
Against: 0  
Abstentions: 0

### **Decision**

The Committee agreed to grant planning permission subject to:

1. The undernoted conditions.
2. The satisfactory conclusion of an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997, or some other legal agreement designed to secure from the applicant:
  - (i) a financial contribution to the Council of £3,764,486 towards the provision of additional accommodation at Letham Mains Primary and Nursery School and Knox Academy;
  - (ii) a financial contribution to the Council of £92,500 towards the cost of a 7 a side sports pitch and £353,460 towards the enhancement of existing sporting facilities within the Haddington Area;
  - (iii) 69 affordable residential units within the application site;
  - (iv) a financial contribution to the Council of £148,470 for transport improvements. (Comprised of £2696 for road improvements to Old Craighall Junction, £1948 for improvements to Salters Road Interchange, £6431 for improvements to Bankton Interchange, £688 for Musselburgh town centre improvements, £1495 for Tranent town centre improvements and £135,212 for Segregated Active Travel).

3. That in accordance with the Council's policy on time limits for completion of planning agreements it is recommended that the decision should also be that in the event of the Section 75 Agreement not having been executed by the applicant, the landowner and any other relevant party within six months of the decision taken on this application, the application shall then be refused for the reason that without the developer contributions to be secured by the Agreement the proposed development is unacceptable due to a lack of sufficient school capacity at Letham Mains Primary and Nursery School and Knox Academy, a lack of provision of affordable housing, a lack of formal play provision and a lack of roads and transport infrastructure improvements contrary to, as applicable, Policies ED5, DEL1, HOU3 and T32 of the adopted East Lothian Local Development Plan 2018.

- 1 Prior to the commencement of development, final site setting out details shall be submitted to and approved in writing 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 the position of adjoining roads, land and buildings;

b. finished ground levels and finished floor levels of the development relative to existing ground levels of the site and existing ground and road levels of adjoining land. 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 hereby approved, shown in relation to the finished ground and finished floor levels on the site.

Thereafter, the details shall be implemented as approved.

Reason:

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

- 2 Other than in exceptional circumstances where the layout or particular building type does not permit, the residential units shall be orientated to face the street . Notwithstanding that shown on the docketed drawings where a building is located on a corner of more than one street, it shall have enhanced gable(s) to ensure it has an active elevation to each street it faces.

Reason:

In the interests of safeguarding the character of the development.

- 3 Notwithstanding that which is stated on the drawings docketed to this planning permission, 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. 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 flats and respectful of their design integrity. All such materials used in the construction of the houses shall conform to the details so approved.

Reason:

In the interests of ensuring active frontages and to enhance character and appearance of the area.

- 4 Notwithstanding that shown on the drawings docketed to this planning permission, 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.

Notwithstanding that shown on the drawings docketed to this planning permission, the boundary enclosures shown on those drawings are not hereby approved. Instead, and prior to the commencement of development, revised details of all boundary enclosures to be erected on the application site, and the timescales for their provision, shall be submitted to and approved in advance by the Planning Authority. Those details shall show 1.8 metre high solid enclosures around rear gardens of the houses hereby approved except where those boundaries are adjacent to a road or pathway where they shall be some

other form of enclosure such as feature walls or hedges to heights and finishes to be approved in advance by the Planning Authority.

Details submitted shall also include the design, construction and materials of the entrance feature walls at the main accesses to the site. Thereafter the boundary treatments erected shall accord with the details so approved unless otherwise agreed in writing by the Planning Authority.

Reason:

To ensure the satisfactory provision of the boundary enclosures in the interest of safeguarding the visual amenity of the area and to safeguard the privacy and amenity of residential properties nearby.

- 5 Prior to commencement of development on site, full details of the proposed Sustainable Drainage System (SuDS) shall be submitted to and approved in writing by the Planning Authority.

The details shall include confirmation of Scottish Water's technical approval of the SuDS proposals. Thereafter, the approved details shall be implemented as approved.

Reason:

To ensure that the final SuDS design complies with Sewers for Scotland 3 and can be vested by Scottish Water in the interest of flood prevention, environmental protection and the long term amenity of the area.

- 6 The front gardens of the houses shall be enclosed where possible with a hedge including to the front of plots 410, 411-413, 419-422, 501-502. Other than the provision of additional hedging to plots 410, 411-413, 419-422, 501-502 and unless otherwise agreed by the Planning Authority all development shall be carried out in accordance with Landscape General Arrangement Plan ref: 17021-LAGA-P001 rev D. Thereafter development shall be carried out in accordance with the landscape plan unless otherwise agreed by the Planning Authority. The scheme shall provide details of; the height and slopes of any mounding on or re-contouring of, the site; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting.

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:

To allow the consideration of details yet to be submitted and in the interest of residential and environmental amenity.

- 7 All existing trees shown to be retained on landscape drawing ref: 17021-LAGA-P001-D shall be retained and protected unless otherwise agreed with the Planning Authority.

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" 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 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.

- 8 Prior to the commencement of development a delivery schedule and phasing plan that establishes the phasing and timing programme for the proposed development shall be submitted to and approved in advance by the Planning Authority. It shall include the phasing and timing for the provision of footpaths/cycleways, landscaping and openspace. It must also include for public road links, including paths, to local services, schools and the public road network. It shall further include the provision of drainage infrastructure, equipped play facilities, sports pitch, landscaping and open space. The details to be submitted shall also include construction phasing plans. The footpaths/cycleways, landscaping and openspace of each phase of development must be completed and available for use prior to the commencement of the next phase of the development unless otherwise agreed by the Planning Authority.  
The phasing of the development of the site shall be carried out in strict accordance with the phasing plan so approved, unless otherwise approved in writing in advance by the Planning Authority.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the good planning of the site.

- 9 Construction access to the site will not be permitted via the Knox Place junction via West Road. All access shall be from West Road. A Construction Method Statement to minimise the impact of construction activity on the amenity of the area should be submitted to and approved by the Planning Authority prior to the commencement of development. The Construction Method Statement should recommend mitigation measures to control noise, dust, construction traffic, surface water during construction, and should include hours of construction work and delivery routes. This should also include the phasing of the development and restrictions that may be required particularly for those travelling to existing and/or proposed schools.

Thereafter, the Construction Method Statement shall be implemented and complied with in accordance with the approved details for the period of construction of the development hereby approved.

Reason:

To retain control of the operation of construction in the interest of environmental and residential amenity.

- 10 Unless otherwise agreed by the Planning Authority a play area with equipment suitable for children aged 0 - 15 years shall be provided on the large centrally located area of open space within the development hereby approved as shown on landscape General Arrangement Plan drawing ref: 17021-LAGA-P001. Prior to the commencement of the development hereby approved the details of the positioning of that play area, the play equipment and surfacing materials to be installed in the play area shall be submitted to and approved in advance by the Planning Authority. The details to be submitted shall include a timetable for its installation.

The play equipment and surfacing materials shall thereafter be installed in accordance with the details so approved.

The equipped play area, when provided, shall be retained on that site, maintained and 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 play areas in the interest of the amenity of the future occupants of the residential units hereby approved.

- 11 Unless otherwise agreed by the Planning Authority all areas of areas of landscaped open space and factored open space as shown on docketed drawings 17021-LAGA-P001 & 17021-LAGA-P002 shall be available for use prior to the occupation of the last house on each phase of the development hereby approved and in accordance with the phasing plan ref: 17021-MPPH-P001.

Other than to provide the play area as required by Condition 10, the open space recreation areas, when provided, shall 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.

- 12 No work shall be carried out on the site unless and until an effective vehicle wheel washing facility has been installed on the site, 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 for the duration 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.

- 13 Prior to the commencement of development on site details demonstrating how the site can be serviced for waste collection shall be submitted to and approved in writing by the Planning Authority. The details shall include a swept path assessment of the roads based on a 12 metre waste collection vehicle and details of any amendments to the site layout required for the safe and efficient waste collection on the development.  
Thereafter, development shall be carried out in accordance with the approved details.

Reason:

To ensure that waste vehicles can access and service the site.

- 14 Prior to the occupation of the last of the residential units hereby approved, the proposed site access roads, parking spaces and footpaths shall have been constructed on site, in accordance with that which is shown on the docketed drawings, otherwise the layout shall be subject to the following requirements:

1) Parking for the residential elements of the development shall be provided at a rate as set out in the East Lothian Council Standards for Development Roads - Part 5 Parking Standards.

2) All access roads shall conform to ELC Standards for Development Roads in relation to road layout and construction, footways & footpaths, parking layout and number, street lighting and traffic calming measures. This shall also comply with ELC Design Standards for New Housing Areas.

3) Vehicle access's to private parking areas (i.e. other than driveways) shall be via a reinforced footway crossing and have a minimum width of 5.5 metres over the first 10 metres to enable adequate two way movement of vehicles.

4) 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. Pedestrian ramps to houses may encroach by up to 300mm on the width (but not the length) provided they are no greater than 150mm in height above the adjacent driveway surface.

5) Within residential 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.

6) Cycle parking shall be included at a rate of 1 space per flat. The parking shall be in the form of 1 locker per flat or communal provisions in the form of a lockable room or shed.

7) a 2m wide footway shall be provided on at least one side of the road between plots 86 & 85 and along the frontages of plots 1 to 16 of the McTaggart and Mickle part of the site;

8) The entrance to the rear parking courtyard serving plots 103-114 of the MM site so should be redesigned and the parking bay relocated if necessary;

Thereafter those access, parking and footpath provisions shall not be used for any other purpose than for accessing and for parking 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:

In the interests of Road Safety.

- 15 Unless otherwise agreed by the Planning Authority no residential unit shall be occupied unless and until the footpath along the front of the site on the north side of the A6093 Pencaitland Road has been constructed to adoptable standards the details of which shall be submitted to and approved by the Planning Authority prior to its construction. The footpath shall thereafter be carried out in accordance with the details so approved unless otherwise agreed by the Planning Authority.

Reason:  
In the interests of road safety.

- 16 Unless otherwise agreed in writing by the Planning Authority prior to the occupation of any residential unit, a pair of covered bus shelters with associated hardstanding shall be provided on either side of the Pencaitland road, in accordance with details showing the locations of the bus shelters to be submitted to and approved in advance of their construction by the Planning Authority. Unless otherwise agreed in writing the bus shelters and associated hardstanding shall be provided in accordance with the details so approved.

Reason:  
In the interests of road safety.

- 17 Prior to the occupation of any dwelling hereby approved, details of a Green Travel Plan shall be submitted to and approved in writing by the Planning Authority. This should seek to encourage the minimisation of private car trips and increased use of active means of travel and the use of public transport.

The Green Travel Plan shall have particular regard to provision for walking, cycling and public transport access to and within the site, and will include a timetable for its implementation, details of the measures to be provided, the system of management, monitoring, review, reporting and duration of the Plan.

Thereafter, the Green Travel Plan shall be implemented as per the approved details.

Reason:  
To encourage sustainable and active travel in the interests of environmental and residential amenity.

- 18 Unless otherwise agreed by the Planning Authority no house shall be occupied unless and until a new Haddington Gateway feature has been installed on the A6093 Pencaitland Road in a location to be submitted to and approved by the Planning Authority. The new Haddington Gateway feature shall introduce a new 30 mph speed limit from the existing 30 miles per hour (mph) speed limit on the A6093 Pencaitland Road westwards to include along the entire length of site frontage. Details of the new 30 miles per hour speed limit shall be submitted to and approved in advance by the Planning Authority and shall include the provision of street lighting over the full extent of the proposed new 30mph speed limit and shall incorporate town entry treatments and the new Haddington Gateway feature. Thereafter the new 30 miles per hour speed limit, street lighting, town entry treatments and Haddington Gateway feature shall be implemented and installed in accordance with the details so approved.

Reason:  
In the interests of road safety.

- 19 Housing completions on the application site in any one year (with a year being defined as being from 1st April to 31st March the following year) shall not exceed the following completion rates, unless otherwise approved in writing by the Planning Authority:

Year 1 (2022/23) -	42 houses	(TW 30 & MM 12)		
Year 2 (2023/24) -	75 houses	(TW 50 & MM 25)		
Year 3 (2024/25) -	75 houses	(TW 50 & MM 25)		
Year 4 (2025/26) -	35 houses	(TW 10 & MM 25)		
Year 5 (2026/27) -	25 houses	(TW 0 & MM 25)		
Year 6 (2027/28) -	22 houses	(TW 0 & MM 22)		
Total	274	140	134	

If less than the specified number of residential units are completed in any one year then those shall be completed instead at Year 6 or beyond and not added to the subsequent Year.

Reason:  
To ensure that the completion rate of residential development within the application site accords with the provision of education capacity.

- 20 Prior to the commencement of development, to ensure that the site is clear of contamination, a Geo-Environmental Assessment shall be carried out and the following information shall be submitted to and approved by the Planning Authority:

o Phase I - A preliminary investigation incorporating a desk study, site reconnaissance, development of a conceptual model and an initial risk assessment.

- o Phase II - Incorporating a site survey (ground investigation and sample analysis) and risk evaluation. It is required if the Phase I investigation has indicated that the site is potentially contaminated and the degree and nature of the contamination warrants further investigation.
- o Phase III - Where risks are identified, a Remediation Strategy should be produced detailing and quantifying any works which must be undertaken in order to reduce the risks to acceptable levels.

Should remedial works be required then, prior to any residential units being occupied, a Validation Report shall be submitted to and be approved by the Planning Authority confirming that the works have been carried out in accordance with the Remediation Strategy.

The presence of any previously unsuspected or unforeseen contamination that becomes evident during the development of the site shall be brought to the attention of the Planning Authority. At this stage, further investigations may have to be carried out to determine if any additional remedial measures are required.

Reason:

To ensure that the site is clear of contamination and that remediation works are acceptable prior to the occupation of any of the residential units.

- 21 Prior to the commencement of development details of the proposed glazing mitigation scheme for each dwelling with an exposed elevation within the noise mitigation zones shown in Figures 4.1 and 4.2 of The Airshed's Technical Report Ref AS 0649 of 5th July 2019 shall be submitted for approval to the planning authority.

Thereafter the glazing installed shall accord with the details so approved unless otherwise agreed with the Planning Authority.

Reason:

To safeguard the amenity of the future occupants of houses and flats hereby approved.

- 22 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.

- 23 Prior to their erection, details, including their size, form, position, appearance and colour(s), of all substations and gas governors to serve the development hereby approved shall be submitted to and approved in advance in writing by the Planning Authority, and thereafter any substations and gas governors shall accord with the details so approved.

Reason:

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

- 24 Prior to the commencement of development the large agricultural shed located adjacent to the west boundary of the application site and to the north of 30 Letham Holding shall be demolished and removed from site.

Reason:

In the interests of safeguarding the amenity of the future occupants of the housing development.

- 25 Prior to commencement of development a Quality Audit of the changes to Pencaitland Road shall be undertaken.

Reason:

In the interests of road safety.

- 26 Notwithstanding that shown on the drawings docketed to this planning application, there shall be no direct vehicular access from the application site to the unnumbered road to the southwest of the application site. Instead, the access between plots 460 and 461 shall be designed solely for use by pedestrians and cyclists. Prior to the commencement of development, details of the design of this

pedestrian and cycle access shall be submitted to and approved by the Planning Authority. The details to be submitted shall include a timetable for the provision of this pedestrian and cycle access. Development shall thereafter be undertaken in accordance with the details so approved.

Reason:

To protect the amenity of nearby residential properties served by the unnumbered road and in the interests of road safety.

DRAFT

Signed .....

Councillor Norman Hampshire  
Convener of the Planning Committee



**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 3 November 2020  
**BY:** Head of Development  
**SUBJECT:** Application for Planning Permission for Consideration

**2**

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Application No. **20/00108/PM**

Proposal                      Erection of care village, comprising 59 care bedrooms and 171 residential accommodation and care units (47 Care Suites and 124 Care Apartments) for people in need of care (Class 8), with communal facilities and associated works

Location                      **Site At Kirk Park  
Eskmills Road  
Inveresk  
Musselburgh  
East Lothian**

Applicant                      Cinnamon Retirement Living (Inveresk) Limited

Per                              Wardell Armstrong LLP

**RECOMMENDATION**              Consent Granted

## **REPORT OF HANDLING**

### **BACKGROUND**

The development proposed in this application is, under the provisions of The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, defined as a major development and thus it cannot be decided through the Council's Scheme of Delegation. It is therefore brought before the Planning Committee for a decision.

As a statutory requirement for major development proposals this development proposal was the subject of a Proposal of Application Notice (Ref: 18/00009/PAN) and thus of community consultation prior to this application for planning permission being made to the Council.

As an outcome of that, and as a statutory requirement for major development type applications, a pre-application consultation report is submitted with this application. The report informs that a total of 19 people attended a public exhibition which was held at Ravelston House Hotel, Musselburgh between 3pm and 8pm on 28 November 2018, and that feedback questionnaires were completed and returned. Those completed feedback questionnaires made a number of comments about the proposals.

As a result of the public consultation it is stated in the pre-application consultation report that where comments could be incorporated into the ongoing design process, this has been done. For example proposed linkages with the existing path network surrounding the site were revisited following comments from members of the public. It is proposed to provide a connection between the northeast corner of the site and the new site access road. A route is also provided to the west of the site connecting with the existing River Esk path network.

The development for which planning permission is now sought is of the same character as that which was the subject of the community engagement undertaken through the statutory pre-application consultation of the proposal.

The application site is an area of vacant, unmanaged largely grassed land with an area of some 5.5 hectares, and is located within Inveresk Conservation Area. The northeastern part of the site forms part of the Inveresk Roman Fort Scheduled Monument. To the north of the site lies Inveresk Industrial Estate and the western end of St Michaels cemetery. To the south and west of the site is an existing belt of trees, with the River Esk and its walkway beyond. To the east is the village of Inveresk. The residential properties of St Michaels House, St Michaels Coach House and St Michaels Stables, which are to the east and are the closest residential properties to the site, are all listed as being of special architectural or historic interest (Category B). St Michael's Kirk (Parish Church) is some 250m to the northeast of the site, it is listed as being of special architectural or historic interest (Category A).

The land of the application site is within the designated River Esk Special Landscape Area (10). It is also within the wider designated area of the Battle of Pinkie. A small area of the southern part of the site is within a wider designated Local Biodiversity Site.

At its meeting in June 2010, East Lothian Council resolved to grant planning permission for a care village (Class 8) development on the application site (ref: 09/00550/FUL), subject to the prior conclusion of an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 designed to ensure that the housing units of the proposed care village development would as part of the overall care village use of the application site be a use within Class 8 of the Town and Country Planning (Use Classes) (Scotland) Order 1997, and have the occupancy of them controlled accordingly. The Section 75 Agreement has not been concluded, and therefore planning permission has not yet been issued.

## **PROPOSAL**

Planning permission is sought for the erection on the application site of a care village, comprising 59 care bedrooms and 171 residential accommodation and care units (47 Care Suites and 124 Care Apartments), all for people in need of care (a use within Class 8 of The Town and Country Planning (Use Classes) (Scotland) Order 1997), with communal facilities and associated works. Within the proposed care village would be provided a plaza, bowling green, croquet lawn, wildflower meadow, formal and informal gardens, bike and bin stores. The associated works comprise of vehicular access and hardstanding areas (car parking and footpaths) and landscaping.

The applicant's submitted Planning Statement states that it is the intention that at least 1 occupant of each of the 47 Care Suites and 124 Care Apartments must both be aged over 65, be in need of personal care including the provision of appropriate help with physical and social needs or support including medical care and treatment and shall be required to enter into a "Basic Care Contract" for the "Core Care and Support Services" and/or "Care and Support Services" as required with the "Domiciliary Care Agency" (DCA) prior to occupation. It is also stated that the operator of the care village shall prohibit the lease, sale or other transfer of any of the care suites or apartments to persons who do not meet this criteria.



The applicant informs that the proposed care village design is based on a core and cluster model. The core is described as the Village Care Centre which comprises the 59 care bedrooms which would be a Registered Care Home, the 47 care suites, 4 care apartments and a range of communal facilities. The cluster buildings surrounding the Village Care Centre comprise the care apartments.

The applicant's agent has confirmed that of the proposed 47 care suits, 38 would have 1 bedroom and 9 would have 2 bedrooms. Of the 124 proposed care apartments, 10 would have 1 bedroom and 114 would have 2 bedrooms.

The submitted EIA Report advises that in addition to care bedrooms for those with high dependency nursing needs, which are occupied on a traditional weekly fee basis, accommodation is provided in a range of suites and apartments to provide choice to residents based upon their individual care, support and lifestyle needs, including whether living alone or as a couple. All residents of the care apartments and care suites receive a range of core care and support services via a uniform service charge and which the applicant is obliged to continue to provide in perpetuity.

The main and largest building on the application site would be located roughly centrally within the site, described in the supporting documentation as the 'Village Care Centre (VCC)'. It would mainly comprise of a large mostly 3-storey building, but would have a single storey component at its southeastern side. It would have a large plaza on its north side and a bowling green formed between its southern projecting wings. The building would be articulated with projecting bays and would be clad in a mix of off-white, copperas and buff harling and stone cladding, and its various pitched roofs would be clad in slate tiles. Its doors and windows would have timber frames.

This building would contain the 59 care bedrooms, the 47 care suits and 4 of the care apartments and would also contain a restaurant, bar and cafe areas, private dining area, a shop, cinema, library, craft room, studio space, hairdresser & beautician with treatment rooms, meeting/training room, swimming pool with jacuzzi, sauna, steam room and changing facilities and a gym and fitness studio. The EIA Report states that the village care centre provides a range of extensive communal facilities for all residents including dining, therapy, wellness and exercise, activity, entertainment, recreational and administrative areas designed to support and enhance residents' lives. At the core is a dedicated nursing care centre providing access to 24-hour nursing, respite or convalescent care. Care services concentrate on the provision of a comprehensive range of care and support services including domiciliary, nursing and specialised dementia care. The facilities of the village centre are available for use by local community groups, clubs and societies for meetings and functions, which means that residents can easily participate and at the same time provides a valuable resource to local clubs and societies whilst promoting integration of the care village with the local community.

To the north, east and south of the main building would be erected 9 detached flatted buildings grouped into 6 'Blocks' which would contain the remainder of the 120 care apartments, with the accommodation broken down as follows:

- Block 1 = 23 x 2 bedroom apartments, 3 x 1 bedroom apartments
- Block 2 = 26 x 2 bedroom apartments, 1 x 1 bedroom apartment
- Block 3 = 10 x 2 bedroom apartments, 1 x 1 bedroom apartment
- Block 4 = 14 x 2 bedroom apartments, 1 x 1 bedroom apartment
- Block 5 = 13 x 2 bedroom apartments, 3 x 1 bedroom apartments
- Block 6 = 24 x 2 bedroom apartments, 1 x 1 bedroom apartments

Each of these flatted buildings would be part 3-storey and part 2-storey, would have external

walls clad in a mix of off-white and copperas coloured harling and stone cladding, pitched roofs would be clad in slate tiles or pantiles and doors and windows would have timber frames.

Within the site would also be erected bin stores, bin/cycle stores and a garden store.

Vehicular and pedestrian access to the site is proposed to be by way of a new access road into the site taken from Eskmills Road and formed between amenity housing flats for elderly people and the buildings of Inveresk Industrial Estate. From this point the access runs eastwards and southwards past the industrial estate on its west side before accessing the main site. The site can also be accessed on foot via an existing access point in the northeast corner of the site which connects to Inveresk Village Road and via the existing River Esk path network from the south and west.

Internal access roads, footways and a total of 204 car parking spaces are proposed to be provided within the site for both residents and staff.

In the submitted EIA Report it is stated that whilst it is expected some residents would have their own vehicle, for which parking is provided, the applicant would provide its own transport service in the form of 2 minibuses, a people carrier and an estate car which would be used to run regular trips for shopping and to places of interest as well as taking residents to GP, dentist and hospital appointments.

The following supporting reports and statements have been submitted with the application:

- Design and Access Statement;
- Archaeology Assessment;
- Site Investigation Report;
- Air Quality Assessment;
- Transport Statement;
- Site Access Assessment;
- Planning Statement; and
- Flood Risk and Drainage Strategy Assessment.

The submitted EIA Report informs that the purpose of a 'care village' is to provide extensive, flexible, on-demand care and support in a setting that is secure, attractive, socially stimulating and which enables residents to maintain a degree of independence and generally improve their quality of life.

The submitted design and access statement informs that the applicant considered that three distinct character areas could be created that will ensure a sense of place that takes their cues from the various typologies, built forms, material palette and architectural features of the surrounding area. These three character areas are described as:

1. Formal Large House/ Tenement Feel - slate roof (or similar); some stone, render; timber sash windows (including vertical sash), gables; stone boundary walls; formality to built form and ornamental planting;
2. Traditional 'Inveresk' Feel – village/ courtyard feel; slate roof; render with copperas accents; timber framed casement windows with transoms; stone walls and piers; chimneys; informality to layout; clipped eaves and gables;
3. Informal 'Inveresk' Feel with Pantiles - village/ courtyard feel; slate (or similar) and pantile roof; render; casement windows and transoms; stone walls and piers; parapet gables.

It further informs that the scale of the buildings has been designed to reflect the character of the surroundings within Inveresk being single to a maximum of three storeys in height. The

palette of materials has purposefully been kept simple to reflect the different materials used in Inveresk, whilst the amalgamation of particular materials in one location has been designed to create the three Character Areas described above.

The submitted EIA Report states that following a consideration of potentially suitable land parcels available for sale, the application site was identified by the applicant as a site suitable for proposed development as a care village. It further states that when considering where to locate health care facilities, East Lothian Council's Local Development Plan recommends they should be located within settlements, primarily for accessibility reasons to and from the site. Available suitable sites, i.e. appropriately located and of a scale appropriate for such a development, are rare. The site is located within the settlement of Musselburgh and can be accessed on foot / cycle, by public transport including bus or train and via private car. Future residents of the site can easily access Musselburgh Town Centre and other complementary land uses. The site can be sympathetically integrated into the settlement and has been carefully designed to sit comfortably within the historic character of the local area. Upon the basis of the above, the option of an alternative location for the proposed development was discounted.

Also the applicant points out that the Council has already resolved to grant planning permission for a care village on the application site at its meeting in June 2010 (ref: 09/00550/FUL).

It is intended that construction of the proposed care village would be built out in three phases. The main village centre building and the buildings to the south would be built as phase 1, the buildings to the east would be built as phase 2 and the buildings to the north would be phase 3.

It is anticipated the care village will employ up to 131 FTE (Full Time Equivalent) employees, including specialist care, management, hospitality, retail, beauty and other services. It is anticipated many of these positions will be filled by people who live locally, therefore having a beneficial impact on the local community.

The submitted Transport Statement informs that footways exist around the application site linking it to the wider catchment and facilities, which afford the opportunity to walk or cycle to or from the site to local shops and facilities. Bus routes serving a variety of destinations pass close to the application site and opportunities to travel further afield by rail also exist. In terms of vehicle movement the Transport Statement informs that the maximum projected car borne peak time trips result in 55 PM trips on the network. Additionally, the staff within the site will be working on a 3 shift system over 24 hours which will mean that staff change over times will be outwith peak periods. The peak time two way trips of 55 in the PM peak hour would be fewer than one trip per minute, which will be unnoticeable to other road users. The development site would be accessible by sustainable modes of travel and integrate well within the existing transport network with the introduction of additional non-car promoting measures. In addition, the site can be accessed safely from the adjacent road network by private vehicles without compromising the safety or efficiency of existing road users. It is proposed that a travel plan would be developed, to be issued as part of the development, able to be provided to staff and communicated within care village information.

## **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 this application.

Proposal HSC2 (Health Care Facilities and Proposals) and Policies EMP1 (Business and Employment Locations), TC1 (Town Centre First Principle), CH1 (Listed Buildings), CH2 (Development affecting Conservation Areas), CH4 (Scheduled Monuments and Archaeological Sites), CH5 (Battlefields), NH3 (Protection of Local Sites and Areas), DP1 (Landscape Character), DC9 (Special Landscape Areas), DP2 (Design), HOU6 (Residential Care and Nursing Homes – Location), T1 (Development Location and Accessibility), T2 (General Transport Impact), T32 (Transport Infrastructure Delivery Fund) and DEL1 (Infrastructure and Facilities Provision) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of the application.

Also relevant to the determination of the application is the Council's Supplementary Planning Guidance on Special Landscape Areas and the Council's Supplementary Planning Guidance on Cultural Heritage and the Built Environment.

Material to the determination of the application are Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Scottish Government's policy on development affecting a listed building and development within a conservation area given in Scottish Planning Policy: June 2014.

Scottish Planning Policy echoes the statutory requirements of Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that in considering whether to grant planning permission for development which affects a listed building or its setting a planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Scottish Planning Policy echoes the statutory requirements of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that a planning authority must have regard to the desirability of preserving or enhancing the character or appearance of a conservation area in exercising its responsibilities in the determination of any application for planning permission for development affecting a conservation area. It is stated in Scottish Planning Policy that proposed development within conservation areas and proposals outwith which will impact on its appearance, character or setting, should preserve or enhance the character and appearance of the conservation area. Proposals that do not harm the character and appearance of the conservation should be treated as preserving its character and appearance.

Material to the determination of the application is Scottish Planning Policy: June 2014.

Paragraph 28 of Scottish Planning Policy states 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.

Paragraph 32 states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Proposals that accord with up-to-date plans should be considered acceptable in principle and consideration should focus on the detailed matters arising. For proposals that do not accord with up-to-date development plans, the primacy of the plan is maintained and this SPP and the presumption in favour of development that contributes to sustainable development will be material considerations.

## **REPRESENTATIONS**

A total of 6 representations to the application have been received. Of those representations, 2 raise objection to the proposals, 1 is in support of them and the other 3 neither object nor support the proposals. Of the 3 that neither object nor support the proposals one is from Inveresk Village Society.

The main grounds of objection can be summarised as follows:

- (i) the proposed development constitutes overdevelopment in a conservation area with an unacceptable number of units;
- (ii) the proposed access arrangements are not reasonable given the existing traffic congestion in the area;
- (iii) increase in traffic resulting in added congestion to the local road network;
- (iv) Musselburgh has insufficient medical facilities to meet the needs of the proposed development and the existing medical centre is already unable to support the local population;
- (v) impact from construction vehicles;
- (vi) impacts of noise and dust during the construction phase of the proposed development; and
- (vii) impact on wildlife.

The grounds of support are that the proposal which would provide high quality housing & care facilities for a well off section of the elderly population and that the design of the buildings appears to be varied, the materials used of good quality and generally reflect the character of Inveresk Village which it abuts.

It is stated in the representations that neither object to nor support the proposals that support is given to the concept of a care village in this location, the principle having been established through the granting of a planning permission some years ago, but comments are made on the following grounds:

- (i) disappointment that the design of the buildings pays no regard to the character of the Inveresk Conservation Area, particularly the essential character of the 'West Inveresk and the church' character area as described in the Conservation Area Character Appraisal. With exception of the central buildings, the proposed development is an unimaginative, uniform and some would say bland design that will leave no legacy of inspired architecture common to that in the Conservation Area;
- (ii) concern that the connection to the riverside path would be poor and indirect for many of the residents;
- (iii) the site is some distance from public transport; and
- (iv) the extra traffic generated by the care village over and above all other newly generated traffic is bound to have an impact on the local road network.

## **COMMUNITY COUNCIL COMMENTS**

Musselburgh and Inveresk Community Council, as a consultee on the application, raises no objection to the planning application. However they do state they have some concerns regarding potential traffic impacts and resultant emissions and question whether the proposed development may exacerbate this.

## **ENVIRONMENTAL IMPACT ASSESSMENT**

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). On 12 November 2019 the Council adopted a Screening Opinion that an Environmental Statement was required and a subsequent Scoping Opinion (issued January 2020) setting out the matters to be considered in the Environmental Statement, including landscape and visual impact assessment, historic environment and archaeology/cultural heritage matters.

An Environmental Impact Assessment (EIA) Report was submitted to the Council on 14 February 2020, and has been duly advertised and consulted on.

The submitted EIA Report contains chapters on the method and approach to preparing the Report, the planning policy context, landscape and visual impact assessment, historic environment, archaeology and cultural heritage, schedule of mitigation residual and cumulative effects.

Subsequent to the EIA being submitted, and being advertised and consulted on, some chapters needed updating with additional information. Additional information was duly submitted as addendums to the EIA Report and the EIA Report was again duly advertised and consulted on.

As required by Regulation 5(5)(b) of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017, to ensure the completeness and quality of the EIA Report, the applicant has submitted with it a table outlining the relevant expertise or qualifications of the project team that has contributed to the EIA Report. Based on this submitted information, it can be reasonably concluded that the authors are suitably qualified.

Regulation 4(2) and 4(3)(a) to (d) require that an EIA must identify, describe and assess in an appropriate manner, in light of the circumstances relating to the proposed development, the direct and indirect significant effects of the proposed development on the factors and the interaction between those factors, and the factors are – (a) population and human health; (b) biodiversity; (c) land, soil, water, air and climate; and (d) materials assets, cultural heritage and the landscape.

In line with the Scoping Opinion, the EIA Report has considered the likely significant effects from landscape and visual impact assessment, historic environment and archaeology and cultural heritage.

The EIA Report finds that:

- \* Landscape and visual - With the implementation of mitigation measures no harm would result to the visual amenity of the area from the proposed development.
- \* Historic Environment – With the implementation of mitigation measures the impacts of the proposed development would not exceed that of slight adverse and therefore are considered acceptable.
- \* Archaeology and cultural heritage - Through application of any required mitigation measures, the proposed development would not result in any significant residual effects on cultural heritage.

The EIA Report concludes that subject to the relevant mitigation the proposed development would not have any significant effects.

## **PLANNING ASSESSMENT**

### **PROPOSED USE AND PRINCIPLE OF DEVELOPMENT**

The application site is covered by Policy EMP1 of the adopted East Lothian Local

Development Plan 2018. Policy EMP1 states that within areas allocated for business and employment, uses within Use Classes 4, 5 and 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 are supported. However it continues that other employment generating uses may also be supported in these locations subject to the town centre first principle (Policy TC1) and provided there would be no amenity conflicts or other unacceptable impacts.

Policy TC1 states that a sequential 'town centre first' approach will be applied where appropriate to retail, commercial leisure, office and other development proposals that would attract significant footfall.

The proposal is for the erection of a care village, comprising 59 care bedrooms and 171 residential accommodation and care units (47 Care Suites and 124 Care Apartments). It is not a use within Classes 4, 5 or 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997.

The care village would however be an employment generating use, with the applicant advising that some 131 jobs would be likely to be created.

**The Council's Economic Development Service** raises no objection to the application, advising they are supportive of the anticipated job creation of the proposed care village.

Policy TC1 of the adopted East Lothian Local Development Plan 2018 states that a 'town centre first' approach will be applied where appropriate to retail, commercial, leisure, office and other development proposals that would attract significant footfall, and applicants should provide evidence that locations have been considered in the order of preference set out in the Policy.

In reference to the town centre first principle the site is not located within the designated Musselburgh Town Centre, and it would be reasonable to consider the application site to be an 'edge of centre' location. There is no suitable site within the designated Town Centre to accommodate a development of the size proposed and the application site is sufficiently close to it to satisfy the terms of Policy TC1.

The applicant is promoting the care village as all being for people in need of care and therefore as being a use within Class 8 of The Town and Country Planning (Use Classes) (Scotland) Order 1997. Class 8 (residential institutions) of the Order includes a use "for the provision of residential accommodation and care to people in need of care other than a use within class 9 (houses)". "Care" is defined in the Order as being "personal care including the provision of appropriate help with physical and social needs or support; and in class 8 (residential institutions) includes medical care and treatment".

The proposed care village would contain residential accommodation with on-site care facilities and other services for residents. With the inclusion of these communal facilities for residents and internal 'street' accesses and their physical and functional linkages to the proposed hub of service facilities including administration areas, treatment room, nurses stations, drug stores, restaurant, bar and cafe areas, a shop, cinema, library, craft room, studio space, hairdresser & beautician with treatment rooms, meeting/training room, swimming pool and a gym and fitness studio, the care village could in principle amount to a residential accommodation use within the definition of Class 8 of The Town and Country Planning (Use Classes) (Scotland) Order 1997.

However the care village would only be a Class 8 use if the residents of it were in need of care, including medical care and treatment. In this regard, should planning permission be granted it would be necessary for the applicant to enter into an Agreement under Section 75

of the Town and Country Planning (Scotland) Act 1997, or by some other appropriate agreement, to control the use and occupancy of each of the 171 residential accommodation and care units (47 Care Suites and 124 Care Apartments). The control would be that the 171 residential accommodation and care units of the proposed care village development would as part of the overall care village use of the application site be a use within Class 8 of the Town and Country Planning (Use Classes) (Scotland) Order 1997, that one or more of the occupiers of each and every one of the 171 residential accommodation and care units would have to be aged 65 or over, would have to be in need of care of a type with the objective of relieving individuals who are incapable of living independently by reason of any physical disability or any permanent or recurring physical illness or condition, including individuals suffering from the physical infirmities of age, and that all occupiers would have to enter into the Basic Care Contract. The Agreement should also prohibit the lease, sale or other transfer of any of the 171 residential accommodation and care units to persons who do not meet such criteria.

The applicant has advised they are willing to enter into such an Agreement. As an employment generating use, the proposed care village would, in principle, accord with the terms of Policy EMP1 of the adopted East Lothian Local Development Plan 2018, provided there would be no amenity conflicts or other unacceptable impacts.

Policy HOU6 of the adopted East Lothian Local Development Plan 2018 states that developers of residential care and nursing homes are encouraged to use sites within settlements, and that proposals must have reasonable access to the normal range of community services. As the site is within a settlement and within close proximity to the defined Town Centre of Musselburgh it meets the requirements of Policy HOU6 for the care home element of the proposed development.

On these foregoing considerations of the proposed use on this allocated employment land and the 'town centre first' principle, the proposed development has satisfactorily considered the sequential test and 'town centre first' principle, and thus, the proposed development does not conflict with Policy TC1 of the adopted East Lothian Local Development Plan 2018 as it relates to Policy EMP1 of the adopted East Lothian Local Development Plan 2018.

## **LANDSCAPE AND VISUAL IMPACT AND DESIGN**

The application site is within the designated River Esk Special Landscape Area.

Policy DC9 (Special Landscape Areas) of the adopted East Lothian Local Development Plan states that development within or affecting Special Landscape Areas (SLAs) will only be permitted where: (1) it accords with the Statement of Importance of the SLA and does not harm the special character of the area; or (2) the public benefits of the development clearly outweigh any adverse impact and the development is designed, sited and landscaped to minimise such adverse impacts.

Part of the special qualities and features of the River Esk SLA given in the Council's approved Special Landscape Areas Supplementary Planning Guidance is that much of Inveresk Village, with its landmark St Michael's church is included; this area is set on a rise with steep slopes to the north and east. Although SLAs are mainly designated for their natural interest rather than looking at developed areas Inveresk is included as the land on which it sits is important for the setting of the river valley; the mature trees within the large grounds of much of the low density development at Inveresk give the area a natural feel; and inclusion of the village is required for the coherence of the historic area. The guidelines for development in this SLA include that any proposed development must not harm the natural appearance and character of the valley of the River Esk, must not harm the recreational value of this area and the ability to appreciate the natural qualities of the Esk by avoiding



interruption of the walkway along the riverside, including any potential extension of a walkway along the riverside into Midlothian, must not harm the setting of the River Esk through the town of Musselburgh and must not harm the integrity and coherence of the historic landscape.

In their consultation response, on the matter of landscape and visual impacts, **Scottish Natural Heritage (SNH)** advise that the proposal does not raise landscape issues of national interest in terms of:

1. significant adverse effects on the integrity and objectives of designation of a National Scenic Area;
2. significant adverse effects on Special Landscape Qualities of a National Park;
3. significant adverse effects on the qualities of a Wild Land Area; or
4. landscape issues in the wider countryside.

SNH advise that they are only currently providing detailed landscape and visual advice in the highest priority circumstances, where the effects of proposals approach or surpass levels that raise issues of national interest for SNH.

**The Council's Landscape Projects Officer** advises that the proposed site is located both within the Inveresk Conservation Area and the River Esk SLA. It is open ground sloping down to the southwest surrounded by woodland to its south, east and west. Visual woodland enclosure of the site is limited to the south and west in longer distance views due to the fact that the woodland is set on the steep sided bank of the River Esk valley sloping down away from the site with the site rising up away from the valley. The land rises to the northeast to the woodland surrounding the property of St Michael's to the high point of St Michael's Parish Church. The church sits alone in this raised position, visible as a landmark from a wide distance including the A1 to the southeast and southwest. Visibility of other built development is limited due to the low density of development within the area and separated from the church by the surrounding trees. The significance of this landmark could be significantly diminished with the introduction of other visible development in key views.

A Landscape and Visual Impact Assessment (LVIA) has been submitted with the application. The LVIA and Chapter 5 of the EIA Report consider the landscape and visual impacts of the proposed development from a number of viewpoints in the surrounding area and further afield in East Lothian. It has assessed impact on landscape character and landscape designations as well the visual effects of the development from 9 identified viewpoints. The EIA Report and LVIA concludes that the proposed development would have a significant impact in the short term on the immediate area of the site, although this would reduce to below significant as the planting matures and the development becomes established in the landscape. Within the wider landscape character area effects on landscape character would be limited to locations from where the development can be seen and the impacts would not be significant.

The River Esk SLA is identified to recognise its scenic and recreational value as well as providing a coherent area of important prehistoric settlement. The LVIA concludes that the proposed development would not harm the special qualities of the River Esk SLA. The Council's Landscape Projects Officer agrees this would be the case, noting the minimal disruption to the woodlands of Shire Wood that bound the site to the west and south and which provide a setting for the riverside walkway. Provided the woodlands are managed for their long term retention and development, then the proposed development would not significantly harm the natural appearance and character of the valley of the River Esk. It would not harm the recreational value of this area or the ability to appreciate the natural qualities of the river. Developing the application site allows for management of giant hogweed, noted in the River Esk SLA statement of importance as a potential landscape

enhancement for this SLA.

In terms of the landscape qualities of the Conservation Area, the proposed development retains key features of the Conservation Area such as the enclosure by the boundary trees, and offers the opportunity to rationalise and improve tree planting within the site. Provided the proposals include only low level lighting sufficient to allow safe use of the development on completion and to reduce light spread outwith the site that could compete with the feature of the floodlit church at night, then it is concluded that lighting is likely to not have a significant impact on the landscape character of the wider Conservation Area.

Nine viewpoints from around the site have been analysed as part of the LVIA to assess the proposals impacts on visual amenity.

In terms of specific landscape appraisal the Landscape Projects Officer advises the following:

Viewpoint 1 is taken from the River Esk cycle/walkway. This area is identified as having a medium to high sensitivity for recreational users. The wireline montage shows that due to the presence of the established woodland on the south and west side of the site, known as Shire Wood, views of the development from the cycle/walkway are likely to be limited to the upper parts of the buildings. The magnitude of change is still identified within the LVIA as medium. This shows the importance of the Shire Wood in this location in retaining a separation between this important recreational area and development. The woodland requires active management to ensure it can carry on fulfilling this function into the future.

Viewpoint 2 is taken from Monktonhall Terrace a busy residential area within Musselburgh. The houses on Monktonhall Terrace face directly towards the site across the River Esk valley. At present, from this viewpoint the church spire of St Michael's church at Inveresk appears as a prominent feature and the focal point on the hill top at Inveresk. It is the only built structure breaking the skyline. All other built development is lower and set within trees. The submitted wireline montage clearly shows how the proposed development would sit prominently, breaking the skyline, within this raised location. It clearly shows how the proposal would compete with the church in this view and could undermine the prominence of the church as the focal point in this view. The proposed development creates a much larger mass of built development compared to other developments within the Inveresk area visible from this viewpoint. The LVIA identifies the proposed development as having significant visual impact in this view, although it notes that this is only a direct view for the houses to the west side of Monktonhall Terrace and an oblique view for pedestrian and vehicular traffic. There is also tree cover along the road edge, reducing visibility in an easterly direction.

Viewpoint 3 gives an indication of the impact of the proposals when viewed from St Michael's churchyard. The poplar trees to the northern boundary of the site can clearly be seen in this view, visually separating the churchyard from the site. These have been identified for removal in the tree report due to their poor condition and limited future safe life expectancy. The importance of these trees in providing screening for the site in views from the churchyard can be seen in this visual. Landscape plans should include removal and replacement planting of these poplar trees with other large species trees in the same location to retain the important landscape function performed by these trees.

Viewpoint 4 is, among other considerations, representative of the view to St Michael's church from the River Esk in the centre of Musselburgh. Taken from the raised location of the Roman Bridge it clearly shows that the proposed development would not compete with the church spire in this view and in general would be screened by other buildings, such as Tesco, as well as tree planting.

Viewpoint 5 is from the south of the site at Ferguson Drive. This is representative for recreational users both of the National Cycle route / core path route / right of way along Ferguson Drive and of the Musselburgh Golf Course. It is also located in the River Esk SLA. It shows the openness of the view north towards the site with the trees of Shire Wood on the northern bank of the river in front of the site and providing partial containment for the proposed development. The wireline montage shows how the church spire is located to the right of the this view with the property of St Michael's within the trees to its left and the proposed site further left. It is likely that much of the proposed development would be screened by the existing woodland, reducing its massing in this view. It appears that it would be mainly the roofs of the central building that would be visible in parts. The viewpoint shows the importance of the woodlands in the setting of the SLA and for containment to reduce the impact of the proposed development on this.

Viewpoint 6 was chosen to represent the view from the A1 and railway line to the southwest of the site. These are both in raised elevations at this point and it was not possible to obtain photographs from these. The photograph from the field is therefore from the same angle but at a lower elevation. The image indicates that the development does not sit in front of the church in views from the A1 and is set lower on the horizon than the church. There is also screening by trees along much of the A1 reducing visibility. The proposed development is therefore assessed as not having a significant impact on A1 road users and it is agreed this would be the case.

Viewpoint 7 from Fisherrow area of Musselburgh indicates that the proposed development would be completely screened by existing development from the coast to the north of the site and would not impact on views of or the setting of the church.

Viewpoint 8 is taken from the core path adjacent to the A1 west of Salters Road. It is representative of the view for users of the A1 and the core path. St Michael's Church can be seen as a prominent focal point raised above the existing settlement in this view. The wireline montage indicates that the proposed development would not impact on the setting of or views of the church from here and would in fact be screened by vegetation and existing settlement.

Viewpoint 9 from Wallyford is representative of users of the main east coast rail line as well as recreation users and residents of Wallyford. The view is expansive to the west from here across the settled farmland landscape character area offering views of the prominent focal point of St Michael's church with long range views to Arthur's Seat and the Pentland Hills in the distance. The proposed development is shown on the wireline as being set at a lower level than the church and screened by existing vegetation in this view.

Of the nine viewpoints, the LVIA assesses that significant impact of the proposals is limited to only views from Monktonhall Terrace to the west. There is visibility of the proposals from other views but this is not assessed as significant given the screening by existing trees and woodland surrounding the site limiting views to the upper part of the development, in general just roofs. This therefore emphasises the importance of retention of the woodlands.

A tree report assessing the quality of the trees within the site and wider ownership of the applicant has been submitted as part of the application. It identifies several trees in poor condition that require to be removed on safety grounds. It also identifies root protection areas and construction exclusion zones around which temporary protective fencing in accordance with BS5837:2012 'Trees in relation to design, demolition and construction' should be erected for the duration of construction works. Landscape drawings submitted indicate new tree planting across the site to mitigate for the loss of the trees required to be removed to facilitate the proposed development. However these drawings show the over mature poplars along the northern site boundary, identified requiring removal on safety

grounds in the tree report, as being retained. Therefore the landscape drawings should be revised to include removal of the poplars identified for removal in the tree report and replacement with large-species, longer-living trees, such as oaks and limes.

The tree report identifies the Shire Wood, which surrounds the site to the west and south and is within the applicant's ownership, as being in a poor and degraded state having suffered from Dutch elm disease. The tree report notes that the wood 'would benefit from proactive management'. This woodland is important to the setting of the River Esk and the River Esk SLA. It provides visual containment for the site both from the River Esk walk/cycle way as well as in longer range views as identified in the LVIA. Management to retain this significant landscape feature is therefore important and a full woodland management plan identifying trees for removal and replacement planting should be provided.

The Landscape Projects Officer recommends that a revised scheme of landscaping be submitted to show revised and additional tree planting and tree protection measures required to ensure retained trees are protected during the course of development, and that a woodland management plan for the Shire Wood to the south and west of the site be submitted to include for restructuring of the woodlands and replanting of failed trees to allow development and retention of a balanced woodland structure.

In overall conclusion and subject to above recommendations the proposed development can successfully integrate into its landscape setting and would not appear harmfully prominent, incongruous or intrusive within the surrounding landscape. It would not be harmful to the special character of the River Esk Special Landscape Area and the nature and scale of the proposed development would not have an unacceptable impact on the natural environment.

The proposed development would physically be made up of several component parts each with its own particular architectural design but harmoniously design co-ordinated as an integrated whole within a coherent layout that would comfortably fit into the site. The design and layout of the proposed development is of similarly looking buildings that as a whole would not detract from any sense of unity and coherence. The design and finishes of the proposed buildings takes account of the wider context of the Inveresk Conservation Area and would satisfactorily reflect local forms of buildings and materials.

On these considerations of landscape and visual impact and design the proposed development is consistent with Policies DC9, DP1 and DP2 of the adopted East Lothian Local Development Plan 2018 and the Council's approved Special Landscape Areas Supplementary Planning Guidance.

## **IMPACT ON HERITAGE ASSETS**

The application site is located within Inveresk Conservation Area. The northeastern part of the site forms part of the Inveresk Roman Fort Scheduled Monument. The site lies within the wider area of the designated inventory battlefield of the Battle of Pinkie. The residential properties of St Michaels House, St Michaels Coach House and St Michaels Stables, which are to the east and are the closest residential properties to the site, are all listed as being of special architectural or historic interest (Category B). St Michael's Kirk (Parish Church) is some 250m to the northeast of the site, it is listed as being of special architectural or historic interest (Category A).

Chapter 6 of the EIA Report considers the potential direct and indirect impacts resulting from the proposed development on cultural heritage assets, including listed buildings, the scheduled monuments, the conservation area and the inventory battlefield.

The components of the proposed care village development would all be sufficiently far

removed from St Michaels House, St Michaels Coach House and St Michaels Stables such that they would not detract from the setting of those listed buildings. The EIA Report notes that St Michael's Kirk (Parish Church) sits at a ground level of 30.13m AOD at the door. The proposed development's maximum ridge height is stated to be just over 34.6m AOD. The development would therefore sit below the eaves of the church (42.3m AOD) and well below the height of the steeple at 58.11m AOD. The proposed development would introduce new development within the setting of the church and would be partly visible within some key views towards it. However the scale of the proposed development would limit visibility and the development would not compete for prominence within these key views, being well below the projection of the decorative steeple and therefore the landmark status of the church would be conserved. Therefore the proposed development would not harm or detract from the setting of that listed building.

**Historic Environment Scotland (HES)** raise no objection to the impact of the proposed development on the setting of the nearby listed buildings, advising that although there would be some impact on the setting of St Michael's Kirk (Parish Church), primarily on views outwards from the graveyard, they do not consider the degree of change to be such that it would harm the setting of that building.

The special architectural or historic character of Inveresk Conservation Area is outlined within the Inveresk Conservation Area Character Appraisal contained within the Council's Cultural Heritage and the Built Environment Supplementary Planning Guidance. The application site is part of the West Inveresk and The Church Character Area, and its character is identified as having a different feel quite separate from the main village with a visual link to the rest of Inveresk provided by the boundary trees. The Appraisal notes that the principle of development of the application site has been accepted. Policy CH2 of the adopted East Lothian Local Development Plan 2018 requires that new development in a conservation area should accord with the size, proportion, orientation, alignment, density, materials and boundary treatment of nearby buildings and public and private spaces. The principle of a large central building and smaller groups of buildings as proposed reflects much of this part of Inveresk as identified in the Essential Character summary of Character Area 2 of the Conservation Area Appraisal:

- \* Large houses situated in expansive grounds with subservient buildings adjacent to the main road
- \* Low density development with generous areas of private open space

The proposed development seeks to replicate a number of architectural features and characteristics of Inveresk including stone boundary walls, pitched slate roofs and coloured wall features using some colours found specifically within the area including Inveresk Yellow, a local lime wash colour that can be replicated on proposed buildings. The design and finishes of the proposed buildings takes account of the wider context of the Inveresk Conservation Area and would satisfactorily reflect local forms of buildings and materials. The proposals would change the character of the Conservation Area, from undeveloped vacant land to developed and occupied space, but overall it is satisfactorily designed for its place and would not harm the special character and qualities of the Conservation Area.

HES raise no objection to the impact of the proposed development on the Battle of Pinkie Battlefield Site, being satisfied that it would not have a significant adverse effect on the key features of the battlefield.

Scottish Planning Policy states that planning authorities should protect archaeological sites and monuments as an important finite and non-renewable resource and preserve them in situ wherever possible. Where in situ preservation is not possible, planning authorities should, through the use of conditions or a legal obligation, ensure that developers undertake

appropriate excavation, recording, analysis, publication and archiving before and/or during development. Planning Advice Note 2/2011: Planning and Archaeology similarly advises.

With regard to the impact of the proposed development on the Inveresk Roman Fort Scheduled Monument, HES state that the development would be an obvious and large change to the surroundings of the monument. They state it would result in a fundamental change to the setting of the monument on the southwest side of the fort, introducing modern buildings into what is currently peri-urban open ground. The development area lies on a south facing slope immediately outside the fort. This area of land would have played a part in the defence of the fort, and its south facing aspect and position relative to the fort and River Esk would have contributed to decisions relating to its use during the Roman occupation. While the proposed development would alter the appearance of this sloping area, it would still be possible to read its presence within the shape of the development and to understand its potential contribution to the siting and use of the monument.

HES advise that while the proposed development may partially block or appear prominent in views from some areas of the surrounding landscape, they would not challenge the monument for dominance within its setting. The current sense of place of the monument is a mix of historic townscape, modern industrial and open ground/scrubland. While the proposed development would alter the balance of this element of setting, this change would be neutral rather than either beneficial or adverse. HES consider that in combination these impacts would alter the setting of the monument to a degree that is significant in EIA terms, and therefore higher than the 'minor effect' concluded in the assessment. However, they are content that this impact does not raise issues in the national interest for their remit.

As significant effects have been identified, HES advise that it is appropriate to consider options for mitigation. The proposed development has a substantial amount of mitigation built into its design and the additional elements incorporated in the scheme (planting, landscaping and weed control) improve this further. HES have not identified any further measures which might reduce impacts on the setting of the monument. The EIA Report states that the archaeological recording of disturbed areas is proposed on the basis of a 'strip, map and sample' exercise. In addition to stripping the affected areas and recording any features, HES would also expect any features within the scheduled monument affected by the development to be fully excavated.

In conclusion HES do not object to the application, and are content with the findings and conclusion of the EIA Report on the requirements for archaeological works within the scheduled area. They advise these can be controlled through their separate statutory Scheduled Monument Consent process and that the Council may wish to consider a similar process for its own interests.

In terms of direct impacts, **the Council's Archaeology/Heritage Officer** advises that as part of the application site forms part of the Inveresk Roman Fort Scheduled Monument there are significant buried archaeological remains which would be impacted upon by the proposed development. He therefore advises that if planning permission is to be granted for this proposal, it is essential that a Programme of Archaeological Works (Full Archaeological Excavation and Monitored Strip) be carried out at the site by professional archaeologists prior to the commencement of development. This requirement can be secured through a condition attached to a grant of planning permission. The Archaeology/Heritage Officer also recommends that during the construction phase of the proposed development the Scheduled Area should be clearly marked and fenced off to avoid accidental damage.

In terms of the indirect impacts on the Inveresk Roman Fort Scheduled Monument, the Council's Archaeology/Heritage Officer advises these would be within acceptable tolerances.

Subject to the above recommendations, which could be secured by condition, the proposed

development is consistent with Policies CH1, CH2, CH4 and CH5 of the adopted East Lothian Local Development Plan 2018, the Council's approved Cultural Heritage and the Built Environment Supplementary Planning Guidance, Planning Advice Note 2/2011: Planning and Archaeology and Scottish Planning Policy: June 2014.

## **IMPACT ON BIODIVERSITY**

A small area of the southern part of the application site is within a wider designated Local Biodiversity Site.

The applicant has submitted a Protected Species Survey Report, which follows an appropriate methodology to identify potential impacts from the proposed development on protected species.

**The Council's Biodiversity Officer** has appraised the submitted report, and advises that both a bat emergence survey and bat activity survey were undertaken, in addition to the deployment of an automated bat detector. Both common and soprano pipistrelle species were found to be using the site through the activity surveys. Mitigation measures, particularly with regards to sensitive lighting schemes, are proposed in the submitted report.

The Biodiversity Officer advises that a water vole survey and otter survey are included which found no evidence of water vole, and a single old spraint but no further evidence of otter. She is therefore satisfied that no further surveys are required for these species.

The Biodiversity Officer raises no objection to the application, satisfied that there would be no adverse effects on the Local Biodiversity Site, but does however recommend that:

- (i) a Construction Environmental Management Plan be submitted to identify appropriate mitigation measures to avoid any negative impact on the River Esk Local Biodiversity Site through pollution and sediment discharge during construction;
- (ii) no works should be carried out during the breeding bird season (March-August) without the express written permission of the Planning Authority;
- (iii) protected species checking surveys should be carried out prior to the commencement of works. The results of such surveys shall be submitted and any works highlighted to be required as a result of the surveys shall thereafter be carried out;
- (iv) a Biodiversity Enhancement and Management Plan should be submitted. This should be guided by the submitted Protected Species Survey Report and include measures for bats and otters as appropriate and include a maintenance schedule;
- (v) a sensitive lighting plan is required to mitigate impacts on bat habitat adopting good practice. Further information can be found in the Bat Conservation Trust's Guidance note 08/18 (2018).

Subject to the above recommendations, which could be secured by conditions, the proposed development is consistent with Policy NH3 of the adopted East Lothian Local Development Plan 2018.

## **PRIVACY AND AMENITY INCLUDING NOISE IMPACT, AIR QUALITY AND CONTAMINATION**

The residential properties of St Michaels House, St Michaels Coach House and St Michaels Stables are to the east and are the closest residential properties to the site. By virtue of its distance away from those residential properties, the proposed buildings would not result in any harmful overlooking or unacceptable loss of sunlight or daylight to them. Neither would there be any harmful impact on the privacy of those properties from the grounds of the proposed care village. The proposed care village includes garden ground within it, and this

would provide future occupants with amenity.

A Noise and Air Quality Assessment has been submitted with the application. **The Council's Public Health and Environmental Protection Officer** has appraised this assessment and advise that there would be no harmful loss of amenity to any neighbouring or nearby residential property, nor any neighbouring land use from the proposed development either during construction or on occupation.

A Site Investigation Report has been submitted with the application. **The Council's Environmental Health (Contaminated Land) Officer** has appraised this report and confirms that the reporting has been carried out in accordance with best practice guidelines and the relevant standards. He notes that no elevated levels of either toxic or phytotoxic contaminants were detected and agrees with the assessment that the overall risk to human health and plant life is considered to be low. Similarly, he advises there are no contamination issues associated with any groundwater resource on the site or any potential impact on the Water Environment.

The Council's Environmental Health (Contaminated Land) Officer has also appraised the submitted Gas Risk Assessment Report confirms that he is satisfied with the gas risk assessment carried out for the site. However, he advises that further rounds of gas monitoring should be carried out on the site in order to establish the trend in gas levels, and following this period of monitoring a revised gas risk assessment should be submitted for the site, which should include an evaluation of any gas protection measures that may be deemed necessary.

This requirement could be controlled by a condition(s) attached to a grant of planning permission.

On these considerations the proposed development is consistent with Policy DP2 of the adopted East Lothian Local Development Plan 2018.

## **FLOOD RISK AND SCOTTISH WATER**

A flood and drainage strategy report has been submitted with the application. The report informs that the application site is situated on a plateau approximately 10m above a public footpath along the bank of the River Esk to the south.

In terms of existing site drainage the report informs that the application site slopes generally to two low points at some 18m AOD in the northwest and southeast corners of the site. The site generally rises by up to 5m to a central ridge from these low points. The highest point of the site is in the northeast at some 27m AOD. Existing surface water drains within the site run from the existing structures in the northwest of the site and down the route of the proposed access road. This appears to spill onto open ground via a head wall. A land drain also runs close to the steps to the south boundary of the site. Although damaged, it appears to be active spilling onto the land below before runoff enters the River Esk.

In respect of surface water drainage for the site, the submitted drainage plan shows a mixture of permeable paving and infiltration trenches which link into the existing drainage system. The capacity being provided would allow the rainwater runoff leaving the site to be at greenfield rates, i.e. at current undeveloped rates. So although the design of the development does not have traditional SuDS basins, the design solution does the same thing within the designed system, providing attenuation on site.

Foul drainage and waste water would connect into existing public sewers.



In terms of flood risk, the submitted flood and drainage strategy report states that SEPA's Flood Risk Management interactive map shows that, within the site boundary, only the drainage outfall route is in an area at risk of flooding from any sources. The area of low-lying land to the south and west of the site is also within the extent of the fluvial floodplain of the River Esk and there are some small areas of pluvial flooding shown as highly likely in this area. Site drainage would be designed to ensure these are non-susceptible to inundation and therefore the report concludes that there would be no flood risk of the site.

**The Scottish Environment Protection Agency (SEPA)** have been consulted on the application and note that the application site lies adjacent to the medium likelihood (0.5% annual probability or 1 in 200 year) flood extent of the SEPA Flood Map with regards to the River Esk. They advise that the submitted flood and drainage strategy report includes topographic information which demonstrates that the application site is on a plateau elevated approximately 10m above the banks of the River Esk. The ground levels at the site range from 18.0mAOD to 27mAOD whereas the banks of the river are approximately 9.0 – 10.mAOD. SEPA are therefore satisfied that the site is well elevated above the flood plain and is not likely to be at risk of flooding, or exacerbate flood risk elsewhere. SEPA therefore raise no objection to the proposed development on flood risk grounds. Neither do they object On the matter of surface water drainage.

**Scottish Water** has been consulted on the application for planning permission and in respect of the EIA Report. They advise that they have no objection to the proposed development. A copy of Scottish Water's response has been forwarded to the applicant's agent for their information.

**The Council's Structures Flooding and Street Lighting Team Manager** raises no objection to the application, satisfied that the site is not at risk from flooding and the drainage arrangements are acceptable.

## **HEALTHCARE**

**East Lothian Health and Social Care Partnership (ELHSCP)** advise that since the original, larger care village proposal, a purpose-built combined primary care and community service premises was opened in 2012. This brought together three GP Practices (Riverside, Inveresk and Eskbridge) and a range of community services in what is called the Musselburgh Primary Care Centre (MPCC). ELHSCP advise there are now two GP Practices operating out of the MPPC building, following the closure of Eskbridge. Riverside registered the majority of former patients of Eskbridge and now has some 20,000 people on its list. Inveresk has approaching 9,000 patients.

ELHSCP advise that the proposed care village, comprising 59 care bedrooms and 171 residential accommodation and care units (47 Care Suites and 124 Care Apartments), would place extra demands on an already over-stretched health and social care system in Musselburgh and specifically on the 2 remaining GP practices. They advise the demand on that service would arise through the increased need for services associated with a new population in such a care village who would require primary care and other services and particularly those elderly and frail residents of the care home who will have complex care and clinical support needs and in many case will require home visits. They further advise that the GP Practices do not have the staffing capacity to provide home visits to a new cohort of elderly patients and this is exacerbated by ongoing difficulties in recruiting and retaining doctors and other staff in primary care. As all people living within a GP Practice area are entitled to register with the practice, the 2 practices will be unable to decline to register the residents of the proposed care village.

For these reasons ELHSCP do not support the application.

On the matter of staffing, the ongoing costs of GP provision are a matter for the National Health Service. While it is acknowledged the concerns about the effects of unplanned demand, including concerns about the costs of free personal care, this is not a matter that it is possible to resolve through the planning system in general and this application in particular.

East Lothian Health and Social Care Partnership do however confirm that their objection to the proposed development is not based on any constraints on the physical size of GP practices within the MPCC to accommodate any increased demand as a result of the proposed development, advising that the MPCC building would not need to be expanded to cater for future residents of the proposed development.

Given all of the above, it would not be reasonable to refuse planning permission on the basis of the impact of the proposed development on healthcare provision.

## **EDUCATION AND AFFORDABLE HOUSING**

The proposed care village, comprising 59 care bedrooms and 171 residential accommodation and care units (47 Care Suites and 124 Care Apartments), all for people in need of care (a use within Class 8 of The Town and Country Planning (Use Classes) (Scotland) Order 1997), would require at least 1 occupant of each of them to be both be aged over 65 and have a pre-existing medical condition that qualifies for treatment before they would be allowed to occupy a unit and as such, this is neither retirement housing nor restricted occupancy market housing, but a specialist class 8 use of accommodation. It would not produce school aged children and therefore there is no requirement to assess a need for educational provision.

The Council's approved Affordable Housing Supplementary Planning Guidance states that affordable housing will be sought on all housing developments which propose to develop housing defined under use class 9, whether a conversion, student accommodation, amenity, sheltered or retirement housing.

As this application proposes that all units would come under Class 8 (Residential Institution) use the affordable housing requirement does not apply.

## **TRANSPORTATION**

The applicant has submitted a Transport Statement and Site Access Assessment.

With regards to the proposed site access, **the Council's Road Services** advise that vehicular access to the site is proposed via a priority junction with Eskmills Road which runs north/south and is located to the west of the application site and connects to the A6095 Olivebank Road at a roundabout junction. The roundabout junction also provides access to the Tesco supermarket. Road Services advise that the submitted Site Access Assessment (SAA) considers the design of the access road and junction and the constraints on these in detail.

Road Services advise that within the SAA the access junction with Eskmills Road has been shown with a 4.5 x 40 metre visibility splay in either direction, which they consider to be adequate. Road Services state that the access road from the junction to the proposed care village itself would be some 370-380 metres long. The road would be predominantly wide enough to accommodate 2-way vehicle movement (5.5 metres), however because of proximity to the Inveresk Roman Fort Scheduled Monument, there would be a narrow section adjacent to St. Michael's cemetery. Road Services are satisfied with this arrangement as the narrow section of road would be located a significant distance from the

public road, the volume of traffic on the road would be relatively low, and the narrow section would have inter-visible passing places located at either end of it.

Road Services advise they have appraised the submitted Transport Statement (TS), which considers vehicular and pedestrian access, parking requirements and traffic impact. They accept the findings of the TS, noting that the traffic impact assessment contained within the TS indicates that there would be a negligible impact on the adjoining road network as a consequence of the development. Road Services are satisfied that the proposed development can be accessed safely from the adjacent road network by private vehicles, pedestrians and cyclists without compromising the safety or efficiency of existing road users and that the traffic impact associated with the proposed development would be minimal and there would be no adverse impact on the operation of the local highway network. Road Services are also supportive of the pedestrian connections into the site and their connections to Inveresk and Musselburgh Town Centre.

Road Services advise that the applicant has provided a parking assessment within the submitted TS based on pre-application consultation with them and notes it is proposed to provide 204 on-site parking spaces. Road Services confirm this provision is satisfactory.

Road Services raise no objection to the proposed development subject to:

- \* A visibility splay of 4.5 metres by 40.0 metres being provided and maintained on each side of the proposed access to the site such that there shall be no obstruction to visibility above a height of 1.05 metres measured from the adjacent carriageway level within the area defined below;
  - \* The undertaking of works to street lighting apparatus in order to provide the vehicular access, that are deemed necessary;
  - \* A Quality Audit including swept path assessments for refuse collection and fire appliance being submitted;
  - \* Road Safety Audits being submitted which should be undertaken for the preliminary and detailed design of all roadworks, footways and cycle paths within the development, including works to Eskmills Road;
  - \* Technical documentation detailing the construction of the access road to the application site being submitted;
  - \* A Construction Method Statement to minimise the impact of construction activity on the safety and amenity of the area being submitted;
  - \* A programme for monitoring the condition of the section of the public road (i) between the roundabout at the junction of the A6095 Olivebank Road and Eskmills Road and the new site access to be formed on Eskmills Road, and (ii) the specified route of construction traffic between the A1 and the junction of the A6095 Olivebank Road and Eskmills Road being undertaken;
  - \* A Green Travel Plan to minimise private car trips and to encourage use of alternative modes of transport such as trains, buses, cycling and walking being submitted.
- Subject to the above recommended conditions, which can be imposed as conditions on a grant of planning permission, the proposed development is consistent with Policies T1 and T2 of the adopted East Lothian Local Development Plan 2018.

**Transport Scotland** raise no objection to the proposed development.

Policy DEL1 of the adopted East Lothian Local Development Plan 2018 states that new development will only be permitted where the developer makes provision for infrastructure required as a consequence of their development. Policy T32 of the ELLDP specifically relates to the package of transportation interventions to mitigate the cumulative impact of development on the transport network which have been identified by the Council in consultation with Transport Scotland. In line with Policy DEL1, relevant developments are required to contribute to the delivery of these transportation interventions, on a proportionate, cumulative pro-rata basis, as set out in Developer Contributions Framework Supplementary Guidance.

The Council's Road Services advises that the contributions required for each transport intervention for this development are:

- \* Improvements to Old Craighall junction (PROP T15): £1601
- \* Improvements to Salters Road Interchange (PROP T17): £698
- \* Improvements to Bankton Interchange (PROP 17): £1013
- \* Musselburgh Town Centre improvements (PROP T21): £1801
- \* Tranent Town Centre Improvements (PROP T27 and T28): £519
- \* Rail Network Improvements (PROP T9 and T10): £372
- \* Segregated Active Travel (Prop T3): £8345

The total contribution required for transportation improvements resulting from cumulative impacts of the development is therefore £14,349.

The total developer contributions towards the transportation interventions of £14,349 (indexed linked) can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. The applicants have confirmed in writing that they are willing to enter into such an agreement.

## **COAL AUTHORITY DEVELOPMENT HIGH RISK AREA**

**The Coal Authority** have reviewed the proposals and confirm that the application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of the application. The Coal Authority records indicate that the application site may be underlain by probable unrecorded coal mine workings at shallow depth.

A Phase 2: Site Investigation Report (Solmek, March 2020) has been submitted with the application. The Report presents the findings of intrusive site investigations undertaken to determine the presence or otherwise of shallow mine workings beneath the application site. These investigations comprised of 12 boreholes sunk within the application site; a Coal Authority Permit was correctly obtained for these intrusive site investigations.

These investigations found no evidence of shallow coal mine workings and no loss of flush was recorded in the twelve boreholes. The Coal Authority notes the professional opinion of the report author that the risk from coal mining legacy is classified as low.

The Coal Authority therefore raises no objection to the application on the grounds of formal coal mining risk.

## **CONCLUSION**

Based on the planning assessment given above and subject to the aforementioned planning

controls, the proposed development would not conflict with Proposal HSC2 and Policies EMP1, TC1, CH1, CH2, CH4, CH5, NH3, DP1, DC9, DP2, HOU6, T1 and T2 of the adopted East Lothian Local Development Plan 2018, the Council's Special Landscape Areas and Cultural Heritage and the Built Environment Supplementary Planning Guidance and Scottish Planning Policy: June 2014.

At its meeting on Tuesday 27 August 2019 the Council approved a motion declaring a Climate Emergency. Thereafter, at its meeting on Tuesday 3 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 buildings and from the completed development should be imposed on relevant applications for planning permission, which should include the provision of electric car charging points. Such a condition should be imposed on a grant of planning permission for this proposed development.

## **RECOMMENDATION**

That planning permission be granted subject to:

1. The undernoted conditions.

2. The satisfactory conclusion of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997, or by some other appropriate agreement, designed:

(i) to control the use and occupancy of each of the 171 residential accommodation and care units (47 Care Suites and 124 Care Apartments). The control would be that the 171 residential accommodation and care units of the proposed care village development would as part of the overall care village use of the application site be a use within Class 8 of the Town and Country Planning (Use Classes) (Scotland) Order 1997, that one or more of the occupiers of each and every one of the 171 residential accommodation and care units would have to be aged 65 or over, would have to be in need of care of a type with the objective of relieving individuals who are incapable of living independently by reason of any physical disability or any permanent or recurring physical illness or condition, including individuals suffering from the physical infirmities of age, and have to enter into the Basic Care Contract. The Agreement should also prohibit the lease, sale or other transfer of any of the 171 residential accommodation and care units to persons who do not meet such criteria;

(ii) to secure a financial contribution to the Council of £14,349 for transport improvements (comprised of £1601 for road improvements to Old Craighall Junction, £698 for improvements to Salters Road Interchange, £1013 for improvements to Bankton Interchange, £1801 for Musselburgh town centre improvements, £519 for Tranent town centre improvements, £372 for rail network improvements and £8345 for Segregated Active Travel).

3. That in accordance with the Council's policy on time limits for completion of planning agreements it is recommended that the decision should also be that in the event of the Section 75 Agreement not having been executed by the applicant, the landowner and any other relevant party within six months of the decision taken on this application, the application shall then be refused for the reasons that without the occupancy control the 171 residential accommodation and care units would be indistinguishable from mainstream residential flats on an allocated employment site, contrary to Policy EMP1 of the adopted East Lothian Local Development Plan 2018 and that without the developer contributions to be secured by the Agreement the proposed development is unacceptable due to a lack of roads and transport infrastructure improvements, contrary to Policies DEL1 and T32 of the adopted East Lothian Local Development Plan 2018.

- 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 the commencement of development a phasing plan for the care village shall be submitted to and approved in writing by the Planning Authority. The submitted phasing plan shall show the main village centre building being built as part of the phase 1 works. Development of the care village shall thereafter be built in strict accordance with the phasing plan so approved.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the good planning of the site.

- 3 A schedule of materials and finishes and, where necessary, samples of such finishes for all components of the development, including ground surfaces and boundary enclosures shall be submitted to and approved by the Planning Authority prior to the material and finishes being used in the development. The materials and finishes used in the development shall accord with the schedule and samples of them so approved.

Reason:

To enable the Planning Authority to control the materials, finishes and colour to be used to achieve a development of good quality and appearance in the interest of the character and appearance of the Inveresk Conservation Area.

- 4 Only the development shown to be approved on the drawings docketed to this planning permission shall be undertaken on the part of the Inveresk Roman Fort Scheduled Monument within the application site. Prior to the commencement of development the areas of the Scheduled Monument that are not subject to development will be protected by a fence, to be approved in writing by the Planning Authority, erected around the Scheduled Monument at a distance as may be agreed in writing by the Planning Authority. Within the area so fenced off the existing ground level shall neither be raised or lowered and no materials, temporary buildings, plant, machinery or surface soil shall be placed or stored and no fires shall be lit thereon without the prior written approval of the Planning Authority.

Reason:

To ensure the retention and maintenance of the Inveresk Roman Fort Scheduled Monument.

- 5 No development shall take place on the application site until the applicant has undertaken and reported upon a Programme of Archaeological Work (Full Archaeological Excavation and Monitored Strip) in accordance with a written scheme of investigation which has been submitted by the applicant (or their agent) and approved by the Planning Authority.

Reason:

In the interests of archaeological and natural heritage.

- 6 Prior to the commencement of development a Construction Environmental Management Plan (CEMP) shall be submitted to and approved by the Planning Authority. The CEMP shall identify appropriate mitigation measures to avoid any negative impact on the River Esk Local Biodiversity Site through pollution and sediment discharge during construction works and thereafter the measures shall be implemented as so approved.

Reason:

In the interests of protecting the River Esk Local Biodiversity Site.

- 7 No works that would disturb nesting birds shall be carried out during the breeding bird season (March-August) without the express written permission of the Planning Authority. Site clearance will take place outwith the bird breeding season, unless in strict compliance with a Species Protection Plan for breeding birds, including provision for pre-development supplementary survey, that shall be submitted to and approved in advance by the Planning Authority.

Reason:

In the interests of the biodiversity of the area.

- 8 Prior to the commencement of development protected species checking surveys shall be carried out where the current undertaken Protected Species Survey Report June 2020 by Wardell Armstrong has expired, and the results of such surveys shall be submitted to and approved by the Planning Authority. Any works highlighted to be required as a result of the approved surveys shall thereafter be carried out in accordance with a timetable to be submitted to and approved in advance by the Planning Authority.

Reason:

In the interests of the biodiversity of the area.

- 9 Prior to the commencement of development a Biodiversity Enhancement and Management Plan shall be submitted to and approved by the Planning Authority. The Plan shall be guided by the undertaken Protected Species Survey Report and shall include measures for bats and otters as appropriate and include a maintenance and monitoring schedule and a timetable for its implementation.

Thereafter, the Biodiversity Enhancement and Management Plan shall be implemented and complied with in accordance with the approved details, unless otherwise approved in writing by the Planning Authority.

Reason:

To maximise the ecological potential of the proposed development.

- 10 Details and a drawing(s) showing the form and layout of any proposed external lighting structures shall be submitted to and approved by the Planning Authority prior to their installation. External lighting structures shall be of a low height and/or embedded into hard surfaces, unless otherwise approved by the Planning Authority. Thereafter, the lighting structures installed and their layout shall accord with the details so approved.

Reason:

In the interests of the landscape character of the River Esk Special Landscape Area and the Inveresk Conservation Area.

- 11 No development shall take place on site until all existing trees, bushes and hedges to be retained on the site have been protected by temporary protective fencing, in accordance with details to be submitted to and approved in writing in advance by the Planning Authority. The position of the fencing shall be as indicated on the Tree Survey drawing nos. 19485 of the 'Tree Survey, Arboricultural Constraints and Tree Protection Recommendations' report by Donald Rodger Associates Ltd that is docketed to this planning permission.

The temporary protective fencing shall comprise Heras, or similar approved, weld mesh enclosed panels joined together with a minimum of two anti-tamper couplings, and supported on preformed weighted footings, stayed and fixed into the ground to withstand impact from machinery and access into the construction exclusion zone, in accordance with British Standard BS5837: 2012 "Trees in relation to design, demolition and construction". The temporary protective fencing shall be 2.3 metres in height, erected prior to works commencing, kept in good condition through the works and shall be retained on site fully intact through to the completion of the site development. The position of this temporary protective fencing shall be outwith the root protection area (RPA) as defined by BS5837:2012 for the existing retained trees.

All weather notices shall be erected on the fencing referred to in paragraphs 1 and 2 of this condition with words such as "Construction exclusion zone - Keep out" and the fencing shall remain on site and intact through to completion of the development.

Within the areas so fenced off the existing ground level shall neither be raised or lowered and no materials, temporary buildings, plant, machinery or surface soil shall be placed or stored, no handling, discharge or spillage of any chemical substance, including cement washings, and no fires shall be lit thereon without the prior written approval of the Planning Authority. Planning of site operations shall 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. Details of

any trenches or services required in the fenced off areas shall be submitted to and approved by the Planning Authority prior to any such works being carried out and such trenches or services shall be excavated and backfilled by hand and any tree roots encountered with a diameter of 25mm or more shall be left unsevered.

Reason:

To ensure the protection of trees within the application site in the interests of safeguarding the landscape character of the area.

- 12 No development shall take place until there has been submitted to and approved in writing in advance by the Planning Authority a revised scheme of landscaping for the site. The revised scheme of landscaping shall show the addition of large species trees to the western boundary of the central block on the site, large species trees to the west and east of the central plaza to the north of the main central building, large species trees to the northern boundary to replace the poplars identified for removal in the docketed 'Tree Survey, Arboricultural Constraints and Tree Protection Recommendations' report by Donald Rodger Associates Ltd, and new tree planting to the south of the site where trees require to be removed to facilitate installation of drainage. The landscaping scheme shall provide details of: the height and slopes of any mounding on or recontouring of, the site; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. 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.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of ten 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. All existing and new planting comprised in the scheme of landscaping shall be retained and maintained 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 and the landscape character of the River Esk Special Landscape Area.

- 13 Prior to the commencement of development a woodland management plan for the Shire Wood to the south and west of the site shall be submitted to and approved in writing by the Planning Authority. The woodland management plan shall include for restructuring of the woodlands and replanting of failed trees to allow development and retention of a balanced woodland structure. Thereafter, the woodland management plan shall be implemented and complied with in accordance with the approved details, unless otherwise approved in writing by the Planning Authority.

An annual inspection of the trees by a qualified and experienced arboriculturist identifying any trees requiring work above that identified within the woodland management plan shall be included within the management plan. The annual inspection report shall be submitted to the Planning Authority annually within one month of commissioning. Any tree works identified as required at the annual inspections, including a timetable for the works, shall be approved in writing by the Planning Authority and shall thereafter be undertaken in accordance with the detail so approved.

Reason

To ensure retention of woodlands important to the amenity of the area.

- 14 Prior to the commencement of development further rounds of gas monitoring shall be carried out on the application site in order to establish the trend in gas levels, and a revised Gas Risk Assessment shall be submitted for the approval of the Planning Authority, which shall include an evaluation of any gas protection measures that may be deemed necessary. If the Gas Risk Assessment identifies that protection measures are required then a Verification Report shall be submitted that demonstrates what protection measures are to be undertaken and a timetable for their implementation. It must be approved by the Planning Authority prior to commencement of the new use of the land and the protection measures shall be implemented as so approved.

Reason:

In the interests of the amenity of the area.



- 15 Prior to the commencement of development a timetable for the formation of roads, footpaths and parking spaces within the care village development hereby approved shall be submitted to and approved in writing by the Planning Authority.

The roads, footpaths and parking spaces shall thereafter be formed on site in accordance with the details so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of road and pedestrian safety.

- 16 A visibility splay of 4.5 metres by 40 metres in both directions shall be provided and maintained on each side of the proposed new access junction with Eskmills Road so that no obstruction lies within it above a height of 1.05 metres measured from the adjacent carriageway surface.

The applicant shall also undertake works, or arrange for any amendments, to street lighting apparatus in order to provide the vehicular access.

Reason:

In the interests of road safety.

- 17 Prior to the formation of all roadworks, footways and cycle paths within the development hereby approved, a Quality Audit shall be submitted to and approved by the Planning Authority, which shall be undertaken for the preliminary and detailed design of those works. The Quality Audit shall include swept path assessments for refuse collection and fire appliance access.

Reason:

In the interests of road and pedestrian safety.

- 18 Prior to the commencement of development a Stage 1 and Stage 2 Road Safety Audit shall be submitted to and approved by the Planning Authority, which shall be undertaken for the preliminary and detailed design of all roadworks, footways and cycle paths within the development hereby approved, including works to Eskmills Road and shall include an implementation programme describing when measures identified in the audits will be provided in relation to construction of the proposed development.

Immediately following completion of the development, the date of which shall be provided in writing to the Planning Authority, a Stage 3 Road Safety Audit - Post Opening shall be submitted to and approved by the Planning Authority.

12 months following approval of the Stage 3 Road Safety Audit a Stage 4 Road Safety Audit shall be submitted to and approved by the Planning Authority.

All the Road Safety Audits shall be carried out in accordance with GG119 Road Safety Audit Rev 1. The Road Safety Audits shall include the proposed roads, junctions, footways and cycle ways where applicable.

Reason:

In the interests of road and pedestrian safety.

- 19 Prior to the commencement of development technical documentation detailing the construction of the new access road shall be submitted to and approved in writing by the Planning Authority. The detail shall include all drawings, construction details, specifications, earthworks, drainage, structural works and street lighting. Development shall thereafter be carried out in accordance with the detail so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of road safety.

- 20 A Green Travel Plan shall be submitted to and approved by the Planning Authority prior to the occupation of any of the residential units hereby approved. The Green Travel Plan shall have particular regard to provision for walking, cycling and public transport access to and within the site, and will include a timetable for its implementation, details of the measures to be provided, the system of management, monitoring, review, reporting and duration of the Plan.

Reason:

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

- 21 A Construction Method Statement to minimise the impact of construction activity on the amenity of the area, including from the effects of noise and dust, 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. The Construction Method Statement shall also include details of wheel washing facilities to be provided, and that these facilities shall be 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

Thereafter, unless otherwise agreed in writing, the measures identified within the Construction Method Statement must be implemented on site for the duration of construction works.

Reason:

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

- 22 Prior to the commencement of development, a programme for monitoring the condition of, (i) the roundabout at the junction of the A6095 Olivebank Road and Eskmills Road, and (ii) the section of the public road between the roundabout at the junction of the A6095 Olivebank Road and Eskmills Road and the new site vehicular access to be formed on Eskmills Road, shall be submitted to and approved in writing by the Planning Authority. Thereafter the approved programme of monitoring shall be implemented. Any remedial works shown by the monitoring as arising from the construction of the development, shall be undertaken by the applicant within 3 months of the completion of the final monitoring undertaken, unless an alternative means of securing the works is approved in writing by the Planning Authority.

Reason:

To ensure that damage to the public road network resulting from the construction of the development is rectified.

- 23 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 electric 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.

**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 3 November 2020  
**BY:** Head of Development  
**SUBJECT:** Application for Planning Permission for Consideration

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**Note** - this application was called off the Scheme of Delegation List by Councillor Akhtar (1) and Councillor Hoy (2) for the following reasons:

(1) Due to the large number of local objections and community concerns relating to this planning application I believe that it should be given full consideration at the next Planning Committee.

(2) There are a significant number of local objections (circa 20) and it is important, therefore, that a full meeting of the East Lothian Planning Committee has the opportunity to hear and explore the concerns of neighbours and Gifford residents. Several of these objections relate specifically to over-development of what is a relatively small plot in a historic village, where such development should be sensitive to the local community to ensure sustainable development.

Application No. **20/00629/P**  
Proposal Erection of 1 house and associated works  
Location **Garden Ground Of Garden Cottage  
Edinburgh Road  
Gifford  
East Lothian**  
Applicant Mr Al Gilmour  
Per Ogilvy Chalmers

**RECOMMENDATION** Consent Granted

## REPORT OF HANDLING

### PROPOSAL

This application relates to an area of garden ground which currently forms part of the garden of Garden Cottage, Gifford. The site is located to the north west of the junction of Tweeddale Avenue with Edinburgh Road within a predominantly residential area as defined by Policy RCA1 of the adopted East Lothian Local Development Plan 2018. The site is also within the Forbes Lodge Local Garden and Designed Landscape and within Gifford Conservation Area.

The application site is bounded to the north west by the access road to Garden Cottage with a neighbouring residential property beyond, to the north by the house and what will remain as the garden of Garden Cottage, to the north east by the substantial property of Forbes Lodge and its garden ground which is listed as being of special architectural or historic interest (Category B) as are the boundary walls of that listed building. It is bounded to the

southeast by a modern infill house (Orchard House) built within part of the garden of what had been part of the garden ground of Forbes Lodge and which was granted planning permission 13/00611/P in May 2014.

The site is accessed from Tweedale Avenue to the south western corner of the site where a driveway runs adjacent to the north western stone wall of the walled garden.

The site is covered by a number of trees but are not subject to a Tree Preservation Order.

It is proposed to erect a detached house that would be positioned almost centrally on the plot and which would extend across almost the full width of the plot. It would be adjacent to and would be aligned with the modern house of Orchard Cottage granted planning permission 13/00611/P in May 2014 to the southeast of the site. The proposed house would be orientated to face southwards and would be predominantly one and a half storeys in height with additional single storey and two storey components. It would be some 8.1 metres in height to the top of the ridge of its roof, with a pitched roof clad with natural slate. The external finishes of the proposed house would otherwise be lime render walls with sandstone window and door surrounds, parapet coping stones and chimney stacks. Its doors and the frames of its windows would be timber, the windows which would have a white painted frames and astragals and the doors would be painted brown.

The existing garden walls, which are listed as being of special architectural or historic interest (category B) would be retained and would form the north western, south western and south eastern boundaries of the site. The north eastern boundary would be enclosed by a new hedge.

A new 5.8m wide vehicular access would be formed through the part of the existing wall to the southwest of the proposed house which would allow access from Tweedale Avenue to the proposed new house via a new driveway. This driveway would lead to a parking and turning area to be formed to the south of the proposed house.

As that wall is listed in association with Forbes Lodge, listed building consent is sought through separate application 20/00901/LBC for the alterations to the wall to form the new access. That application stands to be determined on its merits.

To the south of the proposed driveway, parking and turning area would be an area of garden that has a number of trees on it. Two additional new trees would be planted on this front garden area. A larger area of garden ground some 18m in length and some 20m in width would be provided to the north side of the proposed house. Four new trees would be planted in the proposed rear garden.

The application is supported by a Design and Access Statement and by an Arboricultural Assessment.

The Design Statement informs that the proposed house would be a three bedroomed house designed to take the character of a traditional two storey double fronted village house to reflect the other two storey double fronted houses in Gifford. The design takes into account the fact that the site is in the Gifford Conservation Area and relates to the architectural group setting of the immediately adjacent area. In certain details the proposed house references Garden Cottage as one of the historic buildings associated with Forbes Lodge. The proposed house is one and a half storeys in height with a slate roof and with cat slide dormers. The height of the proposed cat slide dormers has been restricted to ensure the scale appears subordinate to Orchard House on the adjacent plot and these cat slide dormers relates directly to the cat slide dormers on Garden Cottage.

## **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 South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Development Plan 2018.

There are no relevant Policies contained within the approved South East Scotland Strategic Development Plan (SESplan). Policies DP2 (Design), DP7 (Infill, Backland and Garden Ground Development), RCA1 (Residential Character and Amenity), CH1 (Listed Buildings), CH2 (Development within Conservation Areas), CH6 (Gardens and Designed Landscapes), NH8 (Trees and Development), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018.

Material to the determination of the application are Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and Scottish Planning Policy: February 2010 on development affecting a listed building or its setting and development within a conservation area. Also material is Scottish Planning Policy on housing development and Scottish Government advice given in Planning Advice Note 67: Housing Quality and Scottish Planning Policy on development affecting archaeological sites.

Scottish Planning Policy echoes the statutory requirements of Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that in considering whether to grant planning permission for development which affects a listed building or its setting a planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Scottish Planning Policy also echoes the statutory requirements of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that a planning authority must have regard to the desirability of preserving or enhancing the character or appearance of a conservation area in exercising its responsibilities in the determination of any application for planning permission for development affecting a conservation area. It is stated in Scottish Planning Policy that proposed development that would have a neutral affect upon the character or appearance of a conservation area (i.e. does no harm) should be treated as one which preserves that character or appearance. The design, materials, scale and siting of new development within a conservation area should be appropriate to the character of the conservation area.

Scottish Planning Policy states that infill sites can often make a useful contribution to the supply of housing land. Proposals for infill sites should respect the scale, form and density of the surroundings and enhance the character and amenity of the community. The individual and cumulative effects of infill development should be sustainable in relation to social, economic, transport and other relevant physical infrastructure and should not lead to over development.

Also material to the determination of the application is the Scottish Government's guidance on housing design and quality given in Planning Advice Note 67: Housing Quality.

Planning Advice Note 67: Housing Quality explains how Designing Places should be applied to new housing. In PAN 67 it is stated that the planning process has an essential role to play in ensuring that: (i) the design of new housing reflects a full understanding of its context - in terms of both its physical location and market conditions, (ii) the design of new housing reinforces local and Scottish identity, and (iii) new housing is integrated into the movement and settlement patterns of the wider area. The creation of good places requires careful

attention to detailed aspects of layout and movement. Developers should think about the qualities and the characteristics of places and not consider sites in isolation. New housing should take account of the wider context and be integrated into its wider neighbourhood. The quality of development can be spoilt by poor attention to detail. The development of a quality place requires careful consideration, not only to setting and layout and its setting, but also to detailed design, including finishes and materials. The development should reflect its setting, reflecting local forms of building and materials. The aim should be to have houses looking different without detracting from any sense of unity and coherence for the development or the wider neighbourhood.

Also material to the determination of this application is the “Cultural Heritage and the Built Environment” Supplementary Planning Guidance (SPG) of the adopted East Lothian Local Development Plan 2018, which was adopted by the Council in October 2018.

## **REPRESENTATIONS**

There are nineteen letters of objection to this proposal. The main grounds of objection include:

- o The proposed dwelling being too large and constitutes overdevelopment of the site;
- o The property should be a bungalow;
- o Loss of trees on the site;
- o Detracting from the character of Garden Cottage and the Gifford Conservation Area;
- o Loss of privacy and overlooking of adjacent properties;
- o Loss of section of the wall of the walled garden;
- o Site access being dangerous;
- o Use of Tweeddale Avenue for construction vehicles which cannot access the site;
- o Applicant from a Highland town and they do not intend to live in the new dwelling;
- o The alteration to the wall to accommodate the new access would be detrimental to the character of the conservation area.
- o The site address is inaccurate as it is off Tweeddale Avenue and not Edinburgh Road;
- o The entire driveway of the property not being within the red line plan as part is only identified as right of way; and
- o Issues relating to public notification and advertisement of this application.

In this regard, the site address is not inaccurate as the address relates to the garden ground of an existing property, Garden Cottage which has an address stated as Edinburgh Road and not Tweeddale Avenue. Furthermore the application drawings clearly show on the location of the site, all neighbouring residential properties within 20m of the application site were notified as neighbours and the application was advertised in the local press on 10/07/2020. This has satisfactorily satisfied the statutory requirements in the notification and publication of a planning application.

With regards to access, the plans show sufficient access arrangements within the site and the area in question forms an existing access outwith the site boundary comprising the crossing of the road verge which the applicant states they have a right of way over. Accordingly, sufficient details have been provided to show access to the site.

The matter of where the applicant currently resides and whether they intend to live in the proposed dwelling is not a material planning consideration relevant to the determination of this planning application.

One letter of support has also been received. This acknowledges that the design statement submitted with the application illustrates a building that will be sympathetic for its location within a garden site sensitively partitioned from Garden Cottage. They also state that the proposal will complement the adjoining property of Orchard House and positively contribute to the frontage of Tweeddale Avenue leading from the Edinburgh Road.

## **COMMUNITY COUNCIL**

No comments.

## **PLANNING ASSESSMENT**

The application site is within a predominantly residential area as defined by Policy RCA1 of the adopted East Lothian Local Development Plan 2018. Policy RCA1 does not actively promote the development of land for new build residential development. The principal purpose of Policy RCA1 is to ensure that the predominantly residential character and amenity of its area of coverage is safeguarded against the impacts of land uses other than housing. However, Policy RCA1 does state that infill, backland and garden ground development will be assessed against Policy DP7 of the adopted East Lothian Local Development Plan 2018.

The proposed new house plot is within a predominantly residential area with residential properties to the surrounding it in all directions. The building of a house on the site would amount to urban infill housing development, the principle of which is supported by Policy DP7 of the adopted East Lothian Local Development Plan 2018.

With respect to infill, backland and garden ground development Policy DP7 of the adopted East Lothian Local Development Plan 2018 states that, amongst other principles of development, it must, by its scale, design and density be sympathetic to its surroundings and not an overdevelopment of the site. In that respect the must be able to accommodate the entire development, including access, parking and turning space as well as an appropriate sized amenity area.

Policy DP2 of the adopted East Lothian Local Development Plan 2018, amongst other things, requires that all new development must be well designed and integrated into its surroundings.

Whilst it is not essential to replicate existing building styles to build successfully in a conservation area and indeed in other locations, both national planning and development plan policy nevertheless state that in designing proposed new buildings developers should think about the qualities and the characteristics of places. The development should reflect its setting and local forms of building and materials. The aim should be to have buildings looking different without detracting from any sense of unity and coherence for the development or the wider neighbourhood.

In this case regard must also be paid to the desirability of preserving or enhancing the character or appearance of the Gifford Conservation Area as required by Scottish Planning Policy: June 2014 and Policy CH2 of the adopted East Lothian Local Development Plan 2018.

The Character Statement for Gifford Conservation Area contained in the "Cultural Heritage and the Built Environment" SPG of the ELLDP 2018 adopted by the Council in October 2018, explains that Gifford was planned as a replacement village in the early 18th century to complement Yester House begun in 1699. Most of the 18th century buildings in Gifford are listed for their consistent architectural form including consistency of construction that reflects the nature of a planned village. Many buildings are built of rubble and often harled and whitewashed, particularly in Main Street. Roof coverings are predominantly natural slate or pantile and the houses have timber sash and case windows. The architectural integrity of the village has been extremely well maintained and it is important that future development does not harm this character and where possible re-introduces original design details. Several later housing developments in the village have their own architectural character but fit well into the pattern of generally low density buildings, particularly those close to the centre.

The part of Gifford Conservation Area in which the application site lies has in it the two large, detached, stone built, neo-classical mansions of Forbes Lodge and Gifford Bank, both of which are Category B listed, as well as the stone built Garden Cottage, which is not listed, and also the much more modern development of Tweeddale Avenue and Tweeddale Crescent which consist of detached single storey and one and a half storey rendered houses. There are many large mature trees that contribute positively to the overall character of the area, all of which are protected by being in the Conservation Area and some of which are further protected by Tree Preservation Orders.

The land comprising the application site forms part of the private garden of Garden Cottage.

The proposed house would be positioned with its principal front elevation facing southwards towards Tweeddale Avenue. It would be oriented within the site in a similar manner to the adjacent house of Orchard House and therefore would be positioned within the site in a manner sympathetic to its surroundings. Although almost filling the width of the plot, due to its set back positioning from Tweeddale Avenue and of its position in relation to the adjacent house of Orchard House this will not be readily discernible in public views. Therefore and as the plot can easily accommodate the proposed house, with ample amenity space and parking and turning it would not appear as a cramped form of development or as an overdevelopment of its plot.

The proposed house would be predominantly one and half storeys in height with single storey and two storey components. It would in the most part reflect traditional architectural elements found on neighbouring buildings. In its proposed use of pitched roofs clad with slate, render finished walls, natural stone detailing and astragalled sash and case window frames of timber construction would respect the materials of the traditional houses of the area.

Whilst the proposed house would be well contained within its enclosed site within the former walled garden area it would be visible from Tweeddale Avenue. However in those views the proposed house, by virtue of its size, scale, proportions, architectural form and materials would not be an intrusive, incongruous or exposed. It would display design qualities in keeping with characteristic local forms of buildings and materials and would harmoniously integrate into its setting without being at odds with or detracting from the mixed architecture, layout and density of the built form of this part of the Conservation Area. Conditions can be imposed on a grant of planning permission to control the external finishes of the proposed house including the type and colour of render to be applied to the walls of the house.

The proposed house would not significantly alter the pattern and density of the established layout of the houses and other buildings within Tweeddale Avenue where plot sizes vary. It would have a similar plot density to other houses immediately adjoining the site. In its positional circumstance and by virtue of its size, scale, height, positioning, form, design, external materials and enclosed nature behind a high level stone wall and trees, the proposed house would appear appropriate to its location and would not be harmful to the character and appearance of the Gifford Conservation Area.

The existing house of Garden Cottage would be left with sufficient garden and parking space of its own to ensure the amenity of that house is safeguarded.

The proposed house, by virtue of its positioning and height would not be harmful to any significant views of Forbes Lodge. It would not harmfully draw attention away from Forbes Lodge. Rather, the listed building of Forbes Lodge would remain the focus of its setting. Neither would the proposed house harm the Forbes Lodge Local Gardens and Designed Landscape.



The proposed house would be appropriately and acceptably designed for its place consistent with Policies RCA1, CH1, CH2, CH6, DP2 and DP7 of the adopted East Lothian Local Development Plan 2018, Cultural Heritage and the Built Environment SPG adopted by the Council in October 2018, Scottish Planning Policy: June 2014 and Planning Advice Note 67: Housing Quality.

It is proposed to punch a 5.8m wide access through the existing wall to form the new vehicular access. Stone piers would be formed on either side of the new access. Those stone gate piers would be similar gateways of adjacent property of Garden Cottage. The wall, which is listed in association with Forbes Lodge, would otherwise remain unaltered. By virtue of its proportions and positioning the proposed formation of the new access and associated gate piers would not be harmful to the special architectural or historic interest of the listed wall or to the character and appearance of the conservation area consistent with Policy CH1, CH2 and DP2 of the adopted East Lothian Local Development Plan 2018 and Scottish Planning Policy: June 2014.

Policy DP7 of the adopted East Lothian Local Development Plan 2018 requires, amongst other things, that in the case of infill, backland and garden ground development the occupants of existing neighbouring development experience no significant loss of privacy and amenity. Policy DP2 requires, amongst other things, that new development should not result in any significant loss of daylight, sunlight or privacy to adjoining properties because of overshadowing or overlooking. In assessing whether or not a proposed new development would result in harmful overlooking and therefore loss of privacy to existing neighbouring residential properties it is the practice of the Council, as Planning Authority to apply the general rule of a 9 metres separation distance between the windows of a proposed new building and the garden boundaries of neighbouring residential properties and an 18 metres separation distance between directly facing windows of the proposed new building and the windows of existing neighbouring residential properties.

There would be two windows formed within the ground floor of the south east elevation of the proposed house and one window within its first floor that would be within 9m metres of the south east boundary of the site. The stone wall enclosing the southeast boundary of the site would not be of sufficient height to prevent overlooking from those windows onto the garden of Orchard Cottages. However as the two ground floor windows would serve a W/C and utility room and as the first floor bedroom would serve a bedroom that is also lit by a rear facing window those windows could be obscurely glazed. Subject to such obscure glazing which can be controlled by way of a condition of any grant of planning permission those windows of the proposed house would not lead to a harmful loss of privacy to the adjacent property at Orchard Cottage.

There would be one first floor window formed within the north west elevation of the proposed house. It would face onto the driveway of Garden Cottage and onto the garden of Holybank to the north west beyond. This window would be within 9m of the garden of that neighbouring house but again would light a room that would also be served by another rear facing window. Therefore, provided this window is obscurely glazed which can be made a condition of a grant of planning permission that window would not allow for harmful overlooking of the neighbouring residential property of Holybank.

Ground floor windows to be formed at ground floor and first floor of the northwest elevation of the two storey rear component of the proposed house that would be more than 9m from the boundary with the neighbouring house of Holybank. As such, in accordance with Council standards those windows would not lead to a harmful loss of privacy to Garden Cottage or Holybank to the north west.

No other windows or glazed openings would be within 9 metres of any other boundary of the site or within 18 metres of directly facing windows of neighbouring residential properties. As such, the proposed house would not lead to a loss of privacy to any neighbouring residential properties.

The occupiers of the proposed house would also have sufficient privacy and residential amenity.

By virtue of its size, height, positioning and orientation the proposed house would not give rise to a harmful loss of daylight or sunlight to the neighbouring properties, and therefore would not have a harmful effect on the residential amenity of those neighbouring properties.

On those matters of residential amenity, the proposed development accords with Policies DP2 and DP7 of the adopted East Lothian Local Plan Development 2018.

**The Council's Environmental Health Manager** raises no objection to the proposals, being satisfied that it would not have a harmful impact on the privacy or amenity of any neighbouring property.

**The Council's Contaminated Land Officer** has stated that the likelihood of any historic pollutant linkages impacting on the development proposals seems to be low given that there is no direct evidence to suggest the site has had any previous, contaminative use. However, there is the potential for made ground to exist on the site which may have resulted in localised areas of contamination. Given the development proposals (residential) further information will be required to determine the ground conditions and potential contamination issues impacting on the site with the minimum of a Phase I Geo-environmental Assessment (Desk Study) being carried out. As such, they have recommended a condition be added to any consent to address this issue should planning permission be approved. Pending compliance with such a condition, the proposed development would be acceptable.

**The Council's Road Services** raise no objection to the proposal, stating that as the proposal would take access via the existing access for Gardener's Cottage and sufficient space is provided on the driveways of both the existing and proposed property for 2 vehicles to be parked, they have no objection to the proposal. As such, on the matter of access and parking provision the proposed development is consistent with Policies T1 and T2 of the adopted East Lothian Local Development Plan 2018.

**Scottish Water** have commented to state that they do not object to the proposal. They also confirm that there is sufficient capacity at Hopes Water Treatment Works to supply water to the site and at Gifford Waste Water Treatment Works to accommodate foul water.

There are a number of trees on the application site. Many of these trees are visible from outwith the site, have an amenity value and have the statutory protection as the site is within a conservation area. The trees are however not protected by a Tree Preservation Order.

Policy NH8 of the East Lothian Local Development Plan 2018 states that development affecting trees, groups of trees or areas of woodland will only be permitted where any tree, group of trees or woodland that makes a significant positive contribution to the setting, amenity of the area has been incorporated into the development through design and layout. Development (including extensions to buildings) must also conform to British Standard 5837:2012 Guide for Trees in Relation to Design, Demolition and Construction, or any subsequent revisions.

The proposed development would result in the removal of five trees on site. The Arboricultural Report informs that the trees to be removed are either in a poor condition and

unsuitable for retention, poor specimens of little retention value or too small and not visible from outwith the site.

**The Council's Landscape Policy Officer** has been consulted on the application. They are pleased to see that the access is shown to be taken off the access driveway to Garden Cottage as this saves the large significant trees within the roadside verge along Tweeddale Avenue from being damaged/removed, and maintains the integrity of the application site's west boundary wall and the public footway.

They have also confirmed that they are satisfied with the findings of the 'Tree Survey and Arboricultural Implication Assessment' of May 2020 by Donald Rodger Associates Ltd., in respect of the tree removals and positioning and number of replacement tree planting as well as the temporary tree protection measures detailed therein.

They have however stated that they require the details of the replacement tree planting species for approval, and recommend that these be standard trees 2.5m to 3.0m in height and 8cm to 10cm in girth when planted and maintained wind firm and weed free until established. They also state that these replacement trees must be planted within the planting season (October through to March) following the completion of the house or its habitation, whichever is earliest.

They have also recommend that an arboriculturist is engaged to position and supervise the tree protection measures throughout the development works in accordance with the 'Tree Survey and Arboricultural Implication Assessment' of May 2020 by Donald Rodger Associates Ltd., and that all tree protection measures are maintained in good order and kept in position through to the completion of all site operations.

These matters can be controlled by way of conditions attached to planning permission should it be approved. Accordingly, pending compliance with these conditions, the proposal does not conflict with Policy NH8 of the adopted East Lothian Local Development Plan 2018.

## **RECOMMENDATION**

That planning permission be granted subject to the undernoted 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 house; 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 Samples of the materials to be used as external finishes of the house and for the areas of hardstanding all hereby approved shall be submitted to and approved by the Planning Authority prior to their use in the development. Only those materials approved by the Planning Authority shall be used as the external finishes of the house and for the areas of hardstanding.

Reason:

To secure a standard of development that is appropriate to its location and in keeping with its surroundings in the interests of safeguarding the character and appearance of the Gifford Conservation Area.

- 3 Prior to the house hereby approved being brought into use the access, parking and turning arrangements for it shall all be laid out as shown in the drawings docketed to this planning permission and thereafter the access, parking and turning areas shall be retained for such use.

Reason:

To ensure that sufficient off-street parking is available to serve the development and in the interests of road safety.

- 4 Prior to works commencing on site, full details of the replacement tree planting species shall be submitted to and approved in writing by the Local Planning Authority and thereafter implemented on site. These trees shall be standard trees 2.5m to 3.0m in height and 8cm to 10cm in girth when planted and maintained wind firm and weed free until established. The trees must be planted within the planting season (October through to March) following the completion of the house or its habitation, whichever is earliest.

Reason:

In the interest of preserving the amenity of the site and the surrounding Gifford Conservation Area.

- 5 An arboriculturist shall be engaged to position and supervise the tree protection measures throughout the development works in accordance with the 'Tree Survey and Arboricultural Implication Assessment' of May 2020 by Donald Rodger Associates Ltd., and that all tree protection measures are maintained in good order and kept in position through to the completion of all site operations.

Reason:

In the interest of preserving the amenity of the site and the surrounding Gifford Conservation Area.

- 6 Part 1

Prior to any site development works a suitable Geo-Environmental Assessment must be carried out, with the Report(s) being made available to the Planning Authority for approval. It shall include details of the following:

- o A Preliminary Investigation incorporating a Phase I Desk Study (including site reconnaissance, development of a conceptual model and an initial risk assessment);
  - o A Phase II Ground Investigation (if the Desk Study has determined that further assessment is required), comprising the following:
    - o A survey of the extent, scale and nature of contamination, and reporting on the appropriate risk assessment(s) carried out with regards to Human Health, the Water Environment and Gas Characteristic Situation as well as an updated conceptual model of the site;
    - o An appraisal of the remediation methods available and proposal of the preferred option(s).
- The Desk Study and Ground Investigation must be undertaken by suitably qualified, experienced and competent persons and must be conducted in accordance with the Environment Agency's Contaminated Land Report 11, Model Procedures for the Management of Land Contamination, CLR11.

If it is concluded by the Reporting that remediation of the site is not required, then Parts 2 and 3 of this Condition can be disregarded.

#### Part 2

Prior to any works beginning on site (and where risks have been identified), a detailed Remediation Statement shall be produced that shows the site is to be brought to a condition suitable for the intended use by the removal of unacceptable risks to all relevant and statutory receptors. The Statement shall detail all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. It shall also ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land following development. The Statement must be submitted to the Planning Authority for approval.

#### Part 3

Following completion of the measures identified in the approved Remediation Statement, a Validation Report shall be submitted that demonstrates the effectiveness of the remediation carried out. It must be

approved by the Planning Authority prior to commencement of the new use of the land.

Reason:

In the interests of the safety of future occupants on the site.

- 7 Prior to the occupation of the dwelling hereby approved the ground floor and first floor windows to be installed in its southeast elevation which face onto Orchard Cottage and the first floor window of its northwest elevation which would face onto Holybank shall be obscurely glazed in accordance with a sample of the obscure glazing to be submitted to and approved by the Planning Authority in advance of its use on the dwelling. The obscure glazing of the windows shall accord with the sample so approved and thereafter those window shall remain obscurely glazed unless otherwise approved by the Planning Authority.

Reason:

To safeguard the privacy and amenity of the occupants of Orchard Cottage and Holybank .