

**REPORT TO:** Planning Committee

**MEETING DATE:** Tuesday 18 May 2021

**BY:** Executive Director for Place

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

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***Note** - this application was called off the Scheme of Delegation List by Councillor Hampshire for the following reasons: I have concerns about the volume of waste that will be stored at the Entrance to this development and its proximity to the garden of a neighbouring property. I am also concerned that this will also narrow the entrance and the removal of any pavement or safe area for pedestrians to walk at the Entrance of this development. The site lines at the exit are zero and the footpath on Bayswell Road is very busy due to Lauderdale Park and children run across the entrance. The Proposal will also require the removal of a significant number of Important Trees from the Conservation Area. I think members will benefit from a Site Visit.*

Application No.      **20/00939/P**

Proposal              Erection of 27 flats and associated works

Location              **Land South Of St Andrews Centre  
Bayswell Road  
Dunbar  
East Lothian**

Applicant             Whiteadder Ltd

Per                      LBA Ltd

## **RECOMMENDATION Consent Granted**

## **REPORT OF HANDLING**

### **PROPOSAL**

The application site is an area of land within a predominantly residential area as defined by Policy RCA1 of the adopted East Lothian Local Development Plan 2018 (ELLDP) and is also within Dunbar Conservation Area. The site has an area of some 0.28 hectares and forms part of the established housing land supply, as defined by Policy HOU1 of the ELLDP.

To the north of the application site is the detached 2-storey building of the former St Andrews Centre with Bayswell Road beyond. The application site is on land that previously formed the wider garden ground of the former St Andrews Centre. To the east

of the site are residential flats and to the south a line of mature trees and a high stone wall with the rear gardens of residential houses beyond. The site is bounded to the west by a line of mature trees and a high stone wall with a single storey commercial garage building beyond.

In February 2014 planning permission ref: 13/00394/P was granted for the erection of 18 flats on land adjacent to the application site. Those flats, known as Garrison Green, have been built and are occupied. Those flats are comprised of two 3 storey high pitched roof buildings of contemporary style located to the north and south of that site respectively.

Planning permission (Ref: 19/00623/P) was granted in December 2019 for alterations and a change of use of the building of the former St Andrews Centre to form 4 flats and associated works.

In March 2021 an alternative scheme of development formed the subject of planning permission (Ref: 20/01433/P) for a change of use of that building (class 2) to 4 flats and associated works. That permission has not been implemented and remains extant.

Planning permission is now sought by East Lothian Housing Association for the erection of 27 flats and associated works. The 27 flats proposed would be formed within four 3-storey flatted buildings and would be comprised of 24 two-bedroom and 3 one bedroom flats. All of the proposed flats would be for use as social housing.

It is proposed that the flatted buildings would be laid out in an irregular U-shape that would form an internal courtyard laid out as amenity garden space. Drawings submitted as part of the application show:

- i) an L-shaped 3-storey flatted block located within the northwest corner of the site aligned east to west providing three 1-bedroom and six 2-bedroom flats;
- ii) a 3-storey flatted block within the northeast corner of the site aligned east to west providing three 2-bedroom flats;
- ii) a 3-storey flatted block to the east of the site aligned north to south providing six 2-bedroom flats; and
- iii) an L-shaped 3-storey flatted block within the southwest corner of the site aligned east to west providing nine 2-bedroom flats.

The proposed flatted buildings would be contemporary in their architectural form and design. The roofs of the buildings would be steeply pitched and gabled and finished in standing seam metal. The external elevation walls would be finished in white coloured render punctuated with areas of standing seam metal cladding displaying a limited use of colours. Proposed aluminium clad timber window frames and access door openings would be finished in anthracite grey and be of a modern design and fenestration providing a vertical emphasis to the main elevations of the buildings. All external rainwater good would be finished in anthracite grey metal.

Vehicular access to the site would be via the existing access road taken from Bayswell Road to the northeast of the site that serves the former St Andrews Centre and the existing flatted properties of Garrison Green.

The proposed flatted buildings would be accessed by two communal stairways located within gabled outshoots located to the north and south of the courtyard. Deck access walkways enclosed by metal balustrades would provide access to the 1st and 2nd storey flats within each block. Main access to the ground floor flats would be taken directly from the courtyard.

Thereafter pedestrian access to the courtyard would be located between the flatted buildings at the northeast corner of the site.

Parking areas are proposed within the north and east of the site providing a total of 27 parking spaces to serve the proposed flats.

A cycle store providing secure storage for 27 bicycles would be located to the east (rear) of the flatted buildings proposed at the east of the site.

Bin storage for the existing flats of Garrison Green is located on the east side of the existing access road and is comprised of large shared refuse bins and green recycling bins within an open compound. It is proposed to replace this existing waste storage area with new communal storage facilities for general waste for the existing flats of Garrison Green and for the proposed flats. This new bin storage area would provide space for 11 large refuse receptacles for shared use by the occupants of each of the existing and proposed flats.

In addition it is proposed that a new purpose built timber compound that would be an extension of the existing bin storage area would be constructed to house the recycling waste bins of the existing flats of Garrison Green and the proposed new flats. The proposed new bin storage compound would be added to the southern end of the existing bin storage area and would be some 9.5 meters in length and would be enclosed and screened by a 2.4m high fence that would sit adjacent to the east side of the access road. The bin storage compound would be accessed by 2.4m high gates, that would be within each of its north and south ends. Space for one green recycling box, 1 blue recycling box and 1 food caddy would be provided for each of the existing and proposed flats within this fenced compound.

The existing walls which enclose the south and west boundaries of the site would be retained.

Since the application was first registered further drawings providing revised details of proposed tree planting and electric vehicle charging points have been submitted.

A Design and Access statement has been submitted in support of the application setting out the site history and its context and detailing the design concept of the proposals.

A Tree Survey and Arboricultural Implication Assessment has been submitted as a part of the application.

## **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 (ELLDP).

The purpose of the approved South East Scotland Strategic Development Plan (SESplan) is to set out the strategic planning framework to assist preparation of local development plans. Its policies are generally not relevant for assessing individual planning applications.

Relevant to the determination of the application are Policies CH2 (Development

Conservation Areas), DP1 (Landscape Character), DP2 (Design), DP3 (Housing Density), DP7 (Infill, Backland and Garden Ground development), DP8 (Design Standards for New Housing Areas), NH8 (Trees and Development), T1 (Development Locations and Accessibility), T2 (General Transport Impact), W3 (Waste Separation and Collection), HOU3 (Affordable Housing Quota), HOU4 (Affordable Housing Tenure Mix) and DEL1 (Infrastructure and Facilities Provision) of the ELLDP.

Material to the determination of the application are Sections 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and Scottish Planning Policy: Revised December 2020.

One of the main 'Outcomes' of Scottish Planning Policy (SPP) is to create successful, sustainable places by supporting sustainable economic growth and regeneration, and the creation of well-designed, sustainable places. Scottish Planning Policy highlights that new housing developments should be integrated with public and active travel networks, such as footpaths and cycle routes, rather than encouraging dependence on the car.

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 or 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 area should be treated as preserving its character and appearance.

A further material consideration is Scottish Government Policy Statement Designing Streets, and Planning Advice Note 67: Housing Quality. They provide an overview of creating places, with street design as a key consideration. They advise on the detail of how to approach the creation of well-designed streets and describe the processes which should be followed in order to achieve the best outcomes. PAN 67 states that the planning process has an essential role to play in ensuring that the design of new housing reflects a full understanding of its context in terms of its physical location and market conditions, reinforces local and Scottish identity, and 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 the application is ELLDP Supplementary Planning Guidance 'Design Standards for New Housing Areas' adopted by the Council in May 2020. The SPG seeks to raise awareness of the unique characteristics and attributes of East Lothian, how these can be used positively to create new places both small scale and large, and the technical aspects of design that are required to deliver great new places.

Also material to the determination of the application is Supplementary Planning

Guidance (SPG) on 'Affordable Housing' adopted by the Council in February 2019. The SPG supplements relevant ELLDP policies in relation to the delivery of affordable housing.

## **REPRESENTATIONS**

A total of 7 letters of representation have been received in respect of the application. The main grounds of objection are:

- i) increased traffic and lack of pedestrian footpaths at the existing access from Bayswell Road;
- ii) impact of waste and recycling facilities on neighbouring property;
- iii) the loss of trees on the west side of the site will change character of the conservation;
- iv) the massing and style of the new flats would not relate well to either the historic former manse to the north or to the new housing association flats to the east;
- v) a scheme of almost exclusively single bedded units (23 out of 27) risks creating a ghetto and involves parking problems;
- vi) Garrison Green would become a sea of concrete;

## **COMMUNITY COUNCIL**

Dunbar Community Council have been consulted on the application and have responded that they support the application but request that consideration be given to the following:

- i) impacts of waste and recycling facilities on neighbouring residential properties;
- ii) additional footpath provision at existing access from Bayswell Road;
- iii) appropriate tree planting in mitigation of trees removed;

## **PLANNING ASSESSMENT**

The application site is within a predominantly residential area as defined by Policy RCA1 of the Local Development Plan. Policy RCA1 does not actively promote the development of land for new build residential development. Its principal purpose is to ensure that the predominantly residential character and amenity of existing housing areas is safeguarded from the adverse impacts of uses other than housing. Policy RCA1 does however state that proposals for new development will be assessed against appropriate local plan policies, which in the case of infill, backland and garden ground development is Policy DP7 of the ELLDP.

By its nature the proposed development amounts to urban infill housing development within the town of Dunbar. The principle of such development is supported by Scottish Planning Policy and Policy DP7 of the adopted East Lothian Local Development Plan 2018.

Policy DP7 states that infill and backland development, including the subdivision of garden ground, will be supported provided the site can accommodate the entire development, the occupants of existing neighbouring houses experience no significant loss of privacy and amenity and occupants of any new house must also enjoy privacy and amenity, and the scale and design of the proposed development will be sympathetic to its surroundings.

Policy DP2 of the ELLDP, amongst other things, requires that all new development must be well designed and integrated into its surroundings.

Policy CH2 of the ELLDP requires that all new development within the Conservation

Area be located and designed to preserve or enhance the special architectural or historic character of the Conservation Area. Proposals for new development should accord with the size, proportions, orientation, alignment, density, materials, and boundary treatment of nearby buildings and public and private spaces.

Thereafter, the main determining factor in this case is whether, having regard to national, strategic and local planning policy and guidance and other material considerations, the detail of the proposed redevelopment of the site to 27 flats with associated access and parking is acceptable, with due regard to the potential impact on the character and amenity of the area, including the impact on neighbouring residential properties and the impact on the Conservation Area.

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 place. 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.

The existing residential properties in the vicinity of the site and the former St Andrews Centre are of a variety of architectural styles and ages and which range in height. The majority of the buildings in the vicinity are two storeys high but the St Andrews Centre is a higher, more dominant building which has three storeys of accommodation, with its second floor being in the roof space of the building. The flatted development of Garrison Green immediately to the east of the site consists of two 3-storey high modern flatted buildings with walls finished in render and cladding panels. The existing buildings in the vicinity have, variously, walls finished with stone or render. The majority of the neighbouring buildings have slate finished pitched roofs with some use of pantiles or more modern tiles. To the west of the site is a single storey linear commercial garage building.

In their positions and by virtue of their heights the proposed flatted buildings would be visible from public places but particularly from the west where they would be seen above the linear single storey commercial garage building. Otherwise the main body of the proposed development would be well contained in views from the north, south and east where it would be seen in more glimpsed views between the existing buildings adjacent to the site. Although they would be three storeys in height the proposed flatted buildings would be designed in terms of ground levels to have an overall height not dissimilar to the existing St Andrews Centre building and the neighbouring flatted properties of Garrison Green when viewed from outwith the site. Although displaying contemporary design features, the proposed flatted buildings would each be finished in traditional materials including rendered walls and metal rainwater goods that would be similar to the finishes of the existing flatted buildings of Garrison Green. Therefore, in terms of their size, height, proportion, positioning, architectural form and finishes the proposed flatted buildings would sit comfortably in their setting and would not appear incongruous or out of keeping with the architectural form and finish of other neighbouring buildings in the area. Therefore the proposed flatted buildings would not appear overly large or dominating and would not detract from the character and visual amenity of the Conservation Area.

The use of modern materials such as aluminium frames for windows is not normally acceptable for use in a conservation area. However in respect of this proposal the windows and doors on the north, south and west elevations of the flatted buildings would not be readily visible from public places. Therefore the installation of aluminium framed

windows would not be discernible and would not have an appreciable affect on the character and appearance of the Dunbar Conservation Area. Whilst the windows on the first and second floors of the flatted building to be erected in the southwest corner of the site would be visible from Lauderdale Park, these would be long distance views over the existing commercial garage building. In such long distance views and due to the modern style and appearance of the windows and of the flatted building the aluminium framing of them would not be readily discernible. Therefore they would not have an appreciable affect on the character and appearance of the Dunbar Conservation Area.

A condition can reasonably be attached to a grant of planning permission to control the external finishes of the proposed flatted buildings.

The site is capable of accommodating all of the proposed development including satisfactory vehicular and pedestrian access and amenity space. The proposed flatted development would be of a density not incompatible with existing densities of development in the area. The cumulative effect of the proposed flats alongside the existing St Andrews Centre building and the flatted buildings of Garrison Green to the east would not result in an overdevelopment of the site.

Policy W3 of the ELLDP requires that all new development, including residential, should include appropriate provision for waste separation and collection to meet the requirements of the Waste (Scotland) Regulations. Such provisions should include appropriate and well-designed provision for storage of domestic kerbside collection bins and boxes for all scales of residential development, and appropriate access roads and sufficient space for servicing by collection vehicles.

Due to the backland location of the proposed flatted buildings and of the layout of the internal access road it would not be possible for large waste collection vehicles to enter the site to service the waste facility of the site. Therefore waste storage facilities are to be provided in a similar location to the existing waste storage facility that exists on the eastern side of the access road into the site. This would replace the existing recycling waste storage facility and communal bins that currently serve the existing flatted development of Garrison Green.

The proposed bin storage compound would be added to the southern end of the existing bin storage area on the east side of the access road of the site. As an extension of that existing bin storage area and as it would be set against the backdrop of a high stone wall the bin storage compound would not appear unduly prominent or incongruous. If painted or stained an appropriate colour the proposed bin storage compound as an addition to the existing bin storage area would not harm the integrity of the existing development of Garrison Green, the setting of the adjacent residential properties of Bayswell Road or the character and appearance of the Dunbar Conservation Area.

The painting or staining of the proposed bin storage compound can reasonably form the requirement of a condition attached to a grant of planning permission.

Car parking and cycle parking for the site would be contained between the proposed flatted buildings and the existing buildings of St Andrews Centres and Garrison Green. In such a contained position the extent of hardsurfacing to accommodate the proposed car parking areas, footpaths, and bicycle store would not be readily visible from outwith the site and therefore would not harm the character and appearance of the Dunbar Conservation Area.

In all of the above considerations the proposed development would safeguard the character and appearance of this part of the Dunbar Conservation Area. It would add

architectural interest to the appearance of the area, which is characterised by a variety of buildings of a range of ages, architectural styles and use of finishes. The proposed development is acceptably designed for its place and would not harm the character and appearance of the Conservation Area.

On all of these design considerations the proposed 27 flats and associated works are consistent with Policies CH2, DP1, DP2, DP3, DP5 and DP8 of the ELLDP, Supplementary Planning Guidance 'Design Standards for New Housing Areas', Planning Advice Note 67 and with Scottish Planning Policy with respect to the effect of it on the Dunbar Conservation Area.

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.

Windows and other glazed openings are proposed to be formed on the north, south, east and west elevations of the four flatted buildings proposed. By virtue of their positioning and distance away from neighbouring properties, the windows and other glazed openings to be formed in the north, south and west elevations of the proposed buildings would not lead to harmful overlooking of any neighbouring residential property. At some 6 meters at their closest point the windows which are to be formed within the east elevation of the proposed flatted building to the east of the site would be positioned less than 9 meters from the west gable elevation of the existing flatted building within the housing development of Garrison Green to the east. There are 3 windows on the west elevation of that existing flatted building at ground, first and second storey levels. Each of the windows serves a bathroom/shower room and are obscurely glazed. A condition attached to planning permission (Ref: 13/00394/P) requires that these windows shall continue to be fitted with obscure glazing unless otherwise approved by the Planning Authority. Therefore the proposed development would not have a harmful impact on the privacy and amenity of any neighbouring properties in terms of overlooking.

The proposed buildings would be positioned and orientated so as to not give rise to harmful overlooking of each other.

Given their positioning and orientation the proposed buildings would not give rise to significant harmful loss of sunlight or daylight to any neighbouring residence or garden and would not harmfully overshadow each other.

On the above matters the proposed development is consistent with Policies CH2, DP1, DP2, DP3, DP7 and DP8 of the ELLDP and with Scottish Planning Policy: Revised December 2020.

Policy NH8 of the ELLDP states that there is a strong presumption in favour of protecting East Lothian's woodland resources. Development affecting trees, groups of trees or areas of woodland will only be permitted where:

- a. 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, and wherever possible such trees and hedges should be incorporated into public open space and not into private gardens or areas; or
- b. (i) in the case of woodland, its loss is essential to facilitate development that would



achieve significant and clearly defined additional public benefits in line with the Scottish Governments Policy on Control of Woodland Removal; in particular the loss of Ancient Woodland will not be supported; or (ii) in the case of individual trees or groups of trees, their loss is essential to facilitate development that would contribute more to the good planning of the area than would retaining the trees or group of trees.

The submitted Tree Survey and Arboricultural Impact Assessment identifies the existing south and west boundary walls on the site as physical barriers to root growth resulting in the majority of root growth of the existing trees on those boundaries as being into the site. As such the Tree Survey and Arboricultural Impact Assessment concludes that those trees cannot be safely retained alongside development proposed within the application.

The applicant proposes that the belt of mature trees on the south and west boundaries of the site are removed and new tree planting implemented in mitigation for the loss of existing trees.

**The Council's Landscape Officer** has been consulted on the application and concurs that it would not be feasible to retain the existing trees onsite should planning permission be granted for the proposed development.

Whilst the loss of the trees is unfortunate Policy NH8 does not prevent the loss of trees or groups of trees provided the proposed development responsible for their loss would contribute more to the good planning of the area. In this instance through this application a total of 27 affordable residential units would be delivered by East Lothian Housing Association in a location close to Dunbar Town Centre. The provision of this affordable housing in such an accessible and central location would enhance the mix of affordable housing available for existing and future residents of Dunbar. This would make a valuable contribution to the good planning of the area consistent with Policy NH8 of the adopted East Lothian Local Development Plan 2018.

The Councils Landscape Officer advises that should planning permission be granted with the loss of all of the trees within the site for planning reasons that can be justified within policy NH8, then replacement planting to provide some compensation for the loss of the trees should be carried out on the site. In time, this planting would offer some degree of replacement for the trees to be removed. Therefore a condition should be imposed on any grant of planning permission requiring that prior to the commencement of development a scheme of landscaping be submitted to and approved in writing by the Planning Authority and that such a scheme provides details of tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. Subject to the imposition of that planning control and as the proposed development would contribute more to the good planning of the area than would retaining the trees the proposal is not be contrary to Policy NH8 of the adopted East Lothian Local Development Plan 2018.

Policy W3 of the ELLDP requires that all new development, including residential, should include appropriate provision for waste separation and collection to meet the requirements of the Waste (Scotland) Regulations. Such provisions should include appropriate and well-designed provision for storage of domestic kerbside collection bins and boxes for all scales of residential development, and appropriate access roads and sufficient space for servicing by collection vehicles.

**The Council's Waste Services** have been consulted on the application and respond that they are satisfied with proposed waste separation and collection arrangements subject to residents being responsible for presenting waste/recycling containers at the kerbside for collection.

**The Council's Environmental Health Service Manager** was consulted on the application and has not objected to the application.

**The Council's Contaminated Land Officer** has been consulted and has responded that undocumented areas of made ground may exist on the site and that, given the proposals are for residential development, further information will be required to determine ground conditions and potential contamination issues. He recommends that prior to any site development works being undertaken a suitable Geo-Environmental Assessment is carried out and made available to the Planning Authority for approval. Should such assessment identify a requirement for remedial works, then prior to the site being occupied a Validation Report is required to be submitted. 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. These recommendations can reasonably be secured by the imposition of a condition on any planning permission granted for the proposed development. Subject to this planning control the contaminated land officer raises no objection to the proposed development.

**Council Roads Services** advise that the proposed arrangements for vehicle and pedestrian site access, car parking and manoeuvring embodied in the site layout are acceptable. They have not raised road safety concerns regarding the use of the existing access by the occupants of the 27 flats. Nor have they raised any concerns to the use of the internal access road as a shared surface for both pedestrian and vehicles. They further advise that the provision of two electric vehicle charging points, each capable of charging two vehicles simultaneously, is acceptable subject to a condition attached to any planning permission requiring that a Residential Travel Pack be provided to each resident. The Travel Pack should include information on how any future additional electric vehicle charging points are provided and managed, and on local walking, cycling and public transport routes. Signage should also be erected providing information on additional chargepoint requests.

Subject to the above planning controls the proposed flatted development is consistent with Policies T1 and T2 of the ELLDP.

**The Council's Biodiversity Officer** has been consulted and is satisfied with the findings of a submitted Bat Roost Assessment Survey. She does however advise that proposed tree works are undertaken outwith the bird breeding season (1st March - 31st August inclusive) unless in accordance with a Species Protection Plan, which must be submitted in advance for approval by the Council. The roost assessment included a nesting bird check, however this was undertaken in February which is too early for most breeding birds. This requirement can be secured through a condition attached to a grant of planning permission for the proposed development.

**The Council's Archaeology and Heritage Officer** has been consulted on the application and has made no comment.

**Scottish Water** have been consulted and have no objection to the application.

At its meeting on Tuesday 27th August 2019 the Council approved a motion declaring a Climate Emergency. Thereafter, at its meeting on Tuesday 3rd September 2019 the Council's Planning Committee decided that a condition requiring a developer to submit for the approval of the Planning Authority a report on the actions to be taken to reduce the carbon emissions from the building and from the completed development should be imposed on all applications for planning permission except Section 42 applications, householder applications, design changes, changes of use, non-householder alterations

and extensions, or where it is not considered reasonable by the Planning Officer. As this application is for new build development such a condition should be imposed on any planning permission granted for the proposed development.

**East Lothian Council Strategy and Development Team** have confirmed that the proposed residential units would be provided as affordable housing by East Lothian Housing Association. They are therefore consistent with policies HOU3 and HOU4 of the ELLDP and in line with the Council's Local Housing Strategy and the Supplementary Planning Guidance: 'Affordable Housing'. As the proposed development would be comprised entirely of affordable housing units there would be no requirement for the provision of any additional affordable housing units under the Council's affordable housing policy.

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 Transport Appraisal (TA) provides the evidence base which has informed the Council's draft Developer Contributions Framework (DCF) and has been produced in conjunction with the Local Development Plan TA so that Road Services can assess the cumulative impacts of the Local Development Plan allocations on the Transport Network. **The Council's Asset and Regulatory Manager** has advised that the 27 flats the subject of this application, whilst not part of that transportation modelling, do not require any developer contribution towards transport interventions.

The application site is located within the primary school catchment area of Dunbar Primary School (John Muir Campus), Dunbar Primary School (Lochend Campus) and the secondary school catchment area of Dunbar Grammar School. **The Council's Deputy Chief Executive (Resources & People Services) Services** has been consulted and has considered the implications of the proposal for 27 flats as part of the cumulative impact with other committed developments.

No objection is raised to the proposed 27 flats, subject to the payment of a developer contribution towards an increase in the educational capacity and facilities of: Dunbar Primary School (John Muir Campus) (£70,173); Dunbar Primary School (Lochend Campus) (£31,131); and Dunbar Grammar School (£26,730).

The payment of financial contributions towards an increase in the educational capacity and facilities of £70,173 at Dunbar Primary School (John Muir Campus), £31,131 at Dunbar Primary School (Lochend Campus) and £26,730 at Dunbar Grammar School can be secured by a legal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or some other legal agreement. This approach is consistent with the tests of a planning obligation set out in Planning Circular 3/2012: 'Planning Obligations and Good Neighbour Agreements'.

Therefore, subject to the conclusion of a legal agreement securing those developer contributions, the proposal complies with Proposal ED4 of the adopted East Lothian Local Development Plan 2018. This would also be in compliance with Policy DEL1 (Infrastructure and Facilities Provision) which stipulates that new housing will only be permitted where appropriate provision for infrastructure required as a consequence of the development is made. The applicant has confirmed that they are willing to enter into a Section 75 Planning Obligation or other legal agreement to secure these contributions.

Subject to the conclusion of a legal agreement, the proposal complies with Proposal ED4 and Policies DEL1 and T32 of the adopted East Lothian Local Development Plan 2018.

The decision to grant planning permission is subject to the prior conclusion of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 designed to:

secure from the applicant a financial contribution to the Council of £70,173 towards an increase in the educational capacity and facilities at Dunbar Primary School (John Muir Campus), a financial contribution to the Council of £31,131 towards an increase in the educational capacity and facilities at Dunbar Primary School (Lochend Campus) and a financial contribution to the Council of £26,730 towards an increase in the educational capacity and facilities at Dunbar Grammar School, as identified by the Council's Depute Chief Executive - Resources & People Services.

In accordance with the Council's policy on time limits for completion of planning agreements the decision also is that in the event of the Section 75 Agreement or some other legal 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 such Agreement the proposed development is unacceptable due to a lack of sufficient school capacity and facilities at Dunbar Primary School (John Muir Campus), Dunbar Primary School (Lochend Campus) and Dunbar Grammar School contrary to Policy DEL1 of the adopted East Lothian Local Development Plan 2018.

## **RECOMMENDATION**

That planning permission be granted subject to the undernoted conditions:

### **CONDITIONS:**

- 1 No development shall take place on site unless and until final site setting out details have been submitted to and approved by the Planning Authority.

The above mentioned details shall include a final site setting-out drawing to a scale of not less than 1:200, giving:

- a. the position within the application site of all elements of the proposed development and position of adjoining land and buildings;
- b. finished ground and floor levels of the development relative to existing ground levels of the site and of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and
- c. the ridge height of the proposed shown in relation to the finished ground and floor levels on the site.

Reason:

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

- 2 Notwithstanding that which is stated on the drawings docketed to this planning permission a detailed schedule or samples of the external materials and finishes to be used on the buildings hereby approved shall be submitted to and approved in writing by the Planning Authority prior to their use. The external render colours of the buildings shall be in accordance with a co-ordinated scheme 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.

Thereafter the materials and finishes used shall accord with the schedule or samples so approved.

Reason:

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

- 3 Samples of the materials to be used to surface the hard standing areas in the form of the driveways, parking and turning areas, footpaths and patio areas of the houses hereby approved shall be submitted to and approved in advance in writing by the Planning Authority prior to their use in the development hereby approved, and thereafter the materials used shall accord with the details so approved.

Reason:

In the interest of the character and appearance of the conservation area.

- 4 Prior to the occupation of any of the flats hereby approved the internal access road, footpaths and 27 parking spaces as detailed on docketed drawing no.1804PL002 rev 3 shall have been formed and made available for use and thereafter shall remain available for use unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure the development is accessible and that sufficient parking and circulation space is provided in the interest of road and pedestrian safety.

- 5 Prior to the commencement of development, a scheme of landscaping shall be submitted to and approved in writing by the Planning Authority which shall include full details of all new tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting within the application site.

The scheme shall include the provision of larger tree species within the tree mix previously proposed for the site, the replacement of species *Prunus* 'Spire' in the northwest of the site and the installation of soil cells for trees adjacent to carriageway/car parking areas.

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.

Reason

To ensure the implementation of a landscaping scheme to enhance the appearance of the development in the interests of the character and appearance of the Conservation Area

- 6 Prior to the commencement of development, details of the provision of the two new car charging points as shown on Drawing ref 18041PI002 Rev 3 'proposed site plan' and infrastructure for them, and all infrastructure required for future charging points to serve the flats hereby approved, shall be submitted to and approved in writing by the Planning Authority. No use of the vehicle parking spaces shall commence prior to installation in accordance with details so approved of the two new car charging points and infrastructure for them and all infrastructure required for future charging points, unless otherwise approved in writing by the Planning Authority. .

A signage strategy providing details of how any future additional electric vehicle charging points are provided and managed shall be submitted to and approved in writing by the Planning Authority. No use of the vehicle parking spaces hereby approved shall commence unless the signage is being displayed in accordance with the strategy so approved, unless otherwise approved in writing by the Planning Authority.

Development shall thereafter be carried out in accordance with the details so approved.

Reason:

To minimise the environmental impact of the development and to ensure that the means by which the future provision of electric vehicle charge points is suitably advertised, in the interests of road safety.

- 7 A Green Travel Plan (Travel Information Pack) 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 (Travel Information Pack) 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 and details of how and when it will be distributed to all residents.

The Green Travel Plan (Travel Information Pack) shall further provide details of how any future additional electric vehicle charging points are provided and managed.

The Green Travel Plan (Travel Information Pack) shall thereafter be provided to residents in accordance with the details approved.

Reason:

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

- 8 Prior to the occupation of any of the flats hereby approved the cycle storage facilities for 27 cycles hereby approved shall have been formed and made available for use. Thereafter, the storage facilities shall be retained in use solely as cycle storage areas.

Reason:

To ensure the provision of adequate cycle storage in the interest of the residential amenity of the future occupants of the flats hereby approved and the visual amenity of the locality.

- 9 Prior to the commencement of development details of the bin storage facilities for the 27 flats, the existing flats of Garrison Green and the 4 flats proposed for the former St Andrews Centre within planning permission (Ref: 20/01433/P) including its colour shall be submitted to and approved in advance by the Planning Authority. Details shall include a statement of how the operation of the bin store is to be managed to ensure its maintenance and upkeep.

Thereafter, the bin store shall be retained in use solely as a bin store and operated in strict accordance with its approved use.

Reason:

To ensure the provision of adequate bin storage in the interest of the residential amenity of the future occupants of the flats hereby approved and the visual amenity of the locality.

- 10 Prior to any use of the timber bin storage compound hereby approved it shall be painted or stained in a colour to be submitted and approved by the Planning Authority. The colour of the timber bin storage compound shall accord with the colour so approved.

Reason:

To safeguard the character and appearance of the house and the character and appearance of the Dunbar Conservation Area.

- 11 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.

- 12 Unless otherwise agreed in writing by the Planning Authority through the submission and approval of a Species Protection Plan prior to the commencement of development, no removal of the trees along the south and west boundaries of the site shall take place during bird breeding season (which is March- August inclusive).

Reason:

In the interests of safeguarding biodiversity interests.

- 13 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 should 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 relevant guidance and procedures.

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

a) Prior to any works beginning on site (and where risks have been identified), a detailed Remediation Statement should 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 should detail all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. It should also ensure that the site will not qualify as contaminated land under Part2A 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.

b) Following completion of the measures identified in the approved Remediation Statement, a Validation Report should 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:

To ensure that the site is clear of any contamination found to be present prior to the use of the flats approved.

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Prior to its use the timber bin storage compound hereby approved shall be painted or stained in a colour to be submitted and approved by the Planning Authority. The colour of the timber bin storage compound shall accord with the colour so approved.

Reason:

To safeguard the character and appearance of the house and the character and appearance of the Dunbar Conservation Area.