

**REPORT TO:** Planning Committee  
**MEETING DATE:** 4 June 2024  
**BY:** Executive Director – Place  
**SUBJECT:** Application for Planning Permission for Consideration

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Application No. **23/00753/PM**

Proposal Relocation of East Links Family Park to East Fortune Farm and associated works

Location **East Fortune Farm  
East Fortune  
Athelstaneford  
East Lothian**

Applicant East Fortune Holdings Ltd

Per Apt Planning & Development

**RECOMMENDATION** Application Refused

## **REPORT OF HANDLING**

### **STATUTORY PRE-APPLICATION PROCESS**

As the area of the application site is greater than 2 hectares, what is 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 type proposal and thus it cannot be decided through the Council's Scheme of Delegation. The application 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: 23/00002/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 dealing with major development type applications a pre-application consultation report is submitted with this application. The report informs that the consultation comprised of two public consultation events held at East Fortune Farm on 24th March and 12th May 2023 which were also preceded by

attending the Haddington and District Community Council meeting on the 14th March 2023 as well as attending a community meeting at Athelstaneford on the 20th April 2023. The first public consultation event was attended by approximately 125 people and 49 completed feedback forms were received while the second public consultation event was attended by approximately 77 people and 45 completed feedback forms were received.

## **SITE DESCRIPTION**

This application relates to a 4.1 hectare area of land located within the East Lothian countryside currently in use as part of East Fortune Farm, to the north east of Athelstaneford. The land of the application site is currently largely in agricultural use comprising of agricultural land, and agricultural buildings associated with the farm together with an area of land currently in use as an authorised caravan site. The site is located within the open countryside as designated by Policy DC1 of the East Lothian Local Development Plan 2018 (ELLDP). The land of the application site is categorised as grade 2 prime quality agricultural land.

East Fortune Farm is located to the immediate south of the main East Coast Railway Line. To the west of East Fortune Farm lies agricultural land, Merryhatton Garden Centre and the residential properties of Merryhatton Holdings, to the immediate south of East Fortune Farm are located a number of residential properties including East Fortune House and the residential properties of New Row and the B1377 public road on the opposite side of which lies the former East Fortune Hospital site and the residential properties of Orbits Cottages and New Houses. To the east of East Fortune Farm runs the main East Coast Railway Line, the B1377 public road with agricultural land and the residential properties of East Fortune Small Holdings beyond.

There are a number of listed buildings in close proximity to East Fortune Farm. They are the terrace of cottages of Nos. 1-6 New Row and East Fortune House and its walls, gatepiers and dovecot of that house which are located to the south west of the farm buildings of East Fortune Farm, and a number of buildings of the former East Fortune Hospital which are located to the south of the B1343 public road. All those buildings are listed as being of special architectural or historic interest (Category B).

East Fortune locally designated garden and designed landscape runs along the southern edge of the field comprising the southwest corner of East Fortune Farm and extends over the grounds of East Fortune House.

## **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). Schedule 3 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 sets out the selection criteria for screening whether a Schedule 2 development requires an EIA. On 28 June 2023 the Council issued a formal screening opinion to the applicant. The screening opinion concludes that it is East Lothian Council's view that the proposed development is not likely to have a significant effect on the environment such that consideration of environmental information is required before any grant of planning permission. It is therefore the opinion of East Lothian Council as Planning Authority that there is no requirement for the proposed development to be the subject of an EIA.

## **RELEVANT SITE HISTORY**

Planning permission (Ref: 09/00710/P) was granted in November 2009 for the change of use of a 0.125 hectares area of agricultural land within East Fortune Farm to a 15 pitch touring caravan site and the erection of fencing and gates.

Planning permission (Ref: 17/00872/P) was granted in November 2017 for the extension to an agricultural building within East Fortune Farm.

Planning permission (Ref: 23/00072/P) was granted in May 2023 for the erection of two agricultural buildings within East Fortune Farm.

Planning permission (Ref: 23/00468/P) was granted, part retrospectively, in January 2024 for alterations to the layout of parts of the touring caravan site, relocation of four pitches, the additional siting of 6 pitches and erection of a laundry building.

A certificate of lawfulness was issued in part, following an appeal, for caravan storage on five areas of land at East Fortune. However, it was concluded through that certificate of lawfulness that the use of part of two of the areas (the western parts of areas 4 and 5) had not commenced more than 10 years before the date of the application for the certificate of lawfulness. Therefore, the caravan storage use on those western parts of areas 4 and 5 are unauthorised and a breach of planning control.

In addition to the above caravan related planning permission and certificate of lawfulness matters a caravan club caravan pitch site also currently operates from an area of land immediately to the west of the existing agricultural buildings on East Fortune Farm and to the north of the B1377 public road through permitted development rights.

A certificate of lawfulness (Ref: 23/00869/CLU) for three agricultural buildings and associated access ramp on land at East Fortune Farm was granted in October 2023. However, the use of one of these buildings as a farm shop (Class 1A) was deemed to be unauthorised and in breach of planning control and the applicant was advised that retrospective planning permission was required for the use of this building as a shop.

Retrospective planning permission (Ref: 23/01343/P) was subsequently granted in January 2024 for the change of use of an agricultural building to a shop (Class 1A).

## **DESCRIPTION OF PROPOSAL**

Through this current application planning permission is now sought for the "relocation of East Links Family Park to East Fortune Farm and associated works."

For the avoidance of doubt, what is proposed through this application is the development of a new family park on an area of largely agricultural land at East Fortune Farm.

The application site comprises a 4.1 hectare area of land within the existing East Fortune Farm. It is proposed that the existing authorised touring caravan site which currently occupies a central location within East Fortune Farm be relocated to the south western corner of the existing farm on an area of agricultural land. It is proposed that the area of land currently in use as the caravan park and an existing agricultural building which both occupy a central location within East Fortune Farm be the subject of a change of use to the proposed family park to accommodate children's play facilities and a central entrance/admissions building with café and farm shop. A car park is proposed to be located to the immediate east of the proposed central entrance/admissions building to the immediate north of, and accessed directly from, the B1377 public road. It is proposed that a new circular light railway track together with public footpaths would be formed on the existing agricultural land within East Fortune Farm to allow visitors to the family park

viewing of the farmland. Both the light railway track and the footpaths would be enclosed with post and wire mesh fencing some 1 metres in height.

A planning statement has been submitted by the applicant East Fortune Holdings LTD (EFHL) in support of the application for the proposed partial change of use of farmland and some farm buildings to enable the relocation of East Links Family Park (ELFP) from their current site in Dunbar to the application site at East Fortune Farm. The planning statement states that:

"East Links Family Park was established at the Hedderwick Farm site on the outskirts of Dunbar over 20 years ago. It has established itself as a major East Lothian attraction attracting over 100,000 visitors per annum. The park combines the opportunity to view, interact and learn about a range of farm animals alongside a range of play and activity related attractions combining to create a successful local business now looking to secure its long term future in the County. The current lease at Hedderwick Farm expires in 2026. This has given ELFP the opportunity to consider what happens next both in terms of property and business security as well as the opportunity to enhance the current park to make it even better. As with any good business, East Links has evolved over the past 20 years and will continue to do so at East Fortune. East Fortune Farm has been in the Brand family since the 1930s. The farm started to diversify 20 years ago with the opening of the first caravan site. In 2010 high health and rare breed livestock was reintroduced to the farm whilst the existing farm shop opened in 2018 selling East Fortune Farm produced meats and other produce alongside complementary locally sourced products. The farm has shown a consistent appetite for enhancement and diversification and this proposal continues this evolution. Both East Fortune Farm and ELFP are family businesses. These proposals will enable both to consolidate and improve into the future and ensuring both family businesses can look forward to an exciting and secure future East Fortune Farm will continue as an active working farm. ELFP is being granted access to that portion of the farm area that will enable public access and the creation of a family farm park. East Links is not 'taking over' the entirety of the farm which will remain in the control of East Fortune Farm and will continue to be used for the keeping and rearing of livestock in producing product for the farm shop and wider sales. As the location/site plan illustrates the intention is that the relocated ELFP will utilise the existing farm fields and buildings to create a family park where members of the public/school groups etc will be able to experience and view a range of animals from the proposed light railway and footpath network whilst other activities (play area, crazy golf etc) will be centred around the existing farm buildings close to the B1377 and to include car parking, entrance/admissions area, farm shop, cafe and toilets. The proposals also involve the relocation of the two existing caravan sites to a new purpose built site on the western edge of the site. In summary:

The site will continue as a working farm;  
Safe public access to enable viewing of animals in order to deepen understanding and awareness of rural life; food production and indigenous wildlife;  
Retention of the East Links light railway to maximise access for all sectors of the community;  
Pathways throughout the site to promote physical and mental well-being through exercise;  
A children's play area containing crazy golf, trampolines, pedal go-karts and other leisure equipment;  
A re-purposed central building to accommodate a farm shop, café, toilet and admissions facilities;  
A relocated secluded and much improved caravan site."

In addition to the Planning Statement, a Transport Assessment Report and a Biodiversity Enhancement Plan were originally submitted with the application. During the determination process of the application a Noise Assessment and Ecological Assessment have also

been submitted. Additionally an addendum to the Transport Assessment was submitted subsequent to the registration of the application.

## REPRESENTATIONS

A total of 552 representations have been received to the application within the advert periods. Of these representations 461 object to the application including a petition with some 313 signatures, 88 representations support the application and 3 representations make comment but neither object nor support the application. A further 6 representations were received out of time.

The main grounds of objection are summarised as:

- i. Loss of agricultural land contrary to NPF Policy 5b and Policy NH7 of the adopted ELLDP;
- ii. The traffic survey undertaken greatly underestimates the true nature of the baseline traffic in this area. It was undertaken during an off-peak time and is misleading.
- iii. Increase in vehicle movement, with a risk to road safety for pedestrian, cyclists and vehicles, contrary to ELLDP Policies T1 and T2; Moreover, the potential adverse impact this development could have on the mental health and wellbeing on residents in the area is significant;
- iv. The site is not accessible by public transport. Would be completely car dependent contrary to sustainable travel;
- v. The narrow roads around East Fortune are not suitable for the level of traffic day-to-day week to week there is next to nothing in the way of links to public transport and no pavements or footpaths linking the site to the wider area;
- vi. The access being proposed in the Site Plan within the redline is not the access that is assessed in the Transport Assessment. The access proposed in the redline does not have the visibility splay of 215m as claimed and it is not possible to relocate this entrance to a safe position within the current red line boundary. Furthermore, the intensification of use of the new caravan park entrance has not been considered;
- vii. Noise pollution from the traffic, the patrons and the park attractions is likely to have a large impact on the wellbeing of the local residents in the area contrary to Policy NH13 of the ELLDP;
- viii. The large vehicular influx will have a significant impact on reducing air quality in the locality of the development contrary to Policy NH12 of the ELLDP;
- ix. Misleading, it is not a relocation but actually an additional new family park some 6 miles from the existing one, or which there is no need;
- x. No operational requirement for a family park with go karts, mini golf, trampolines in a countryside location. Site is not designated for tourism in the ELLDP, as such contrary to NPF Policy 30 and ELLDP Policy DC1;
- xi. Designs not in-keeping with the surrounding countryside especially the go-karting, mini golf etc; The views of the site especially from the north will be ruined by more buildings and large car parks etc to add to the already unsightly caravans on the farm;
- xii. Planning process documents on the portal were not visible before the application deadline which limited people's ability to view and comment;
- xiii. Public consultation boards which were not held on a neutral site were misleading as they did not show key details, such as the impact of the scheme visually in addition to the stored caravans on site;
- xiv. Loss of jobs to Dunbar and income from visitors to Dunbar;
- xv. Objector feels there is not enough room for two similar attractions within miles of each other and neither will thrive;
- xvi. Not a relocation, rather it is a new site that requires a change of use of prime agricultural land;
- xvii. No reason to think that East Links will close as a result of the tenant (applicant)

leaving, the landowner at East Links allegedly provided all of the land and nearly all of the initial capital investment including the groundworks and train line. The land owner fully intends for another tenant to continue with the established and successful attraction;

xviii. This is not a form of diversification of a rural business but this is essentially a theme park and cafe that will also have some animals. Appears more a change of use not a farm diversification;

xix. Water impact by destroying farmland and introducing large areas of hard, impenetrable surfaces runoff will greatly increase and threaten the stability of the naturally occurring drainage i.e. Peffer Burn;

xx. Concerned that no detailed plan is apparent as to how the sewage and dirty water produced by this visitor attraction are to be dealt with, and again fear for the stability and cleanliness of the burn;

xxi. Would be detrimental to wildlife and habitat, including protected species on the site;

xxii. The original and current site at Dunbar is an excellent location for the family park as it has the capacity to grow if required and it does not have neighbouring properties, it is on the bus route and brings revenue to Dunbar. East Fortune is the opposite and not ideal for a family park for many reasons;

xxiii. To allow a family park at East Fortune is not adhering to East Lothian Council's Climate Change Strategy and policy as all these attributes will change if permission is granted;

xxiv. In the proposal, the applicant has outlaid a car park size to accommodate 200 cars. This is significantly smaller than the established site at East Links. The current main site in East Links has a capacity of around 200 but also has access to a substantial overflow, with a total capacity of approximately 400; double that planned proposal;

xxv. It is alleged that the applicant is fully of the opinion that this additional park will go head as under his East Links Family Park Facebook page his comments are quote 'We ARE MOVING! BUT NOT FOR A WHILE YET!'. The objector therefore questions whether this is an application which has already been decided regardless of the many concerns raised by many people;

xxvi. This kind of development should not be allowed in a residential area;

xxvii. 'Family parks' do not necessitate a location in the countryside. In the proposed location, the 'Family Park' is within three miles of at least five established working farms, who allow farm visits by children and families to widen their understanding of and association with, 'real farming' with 'real food production'. Any suggestion of a Family Park being a unique educational asset for children is spurious;

xxviii. Overlooking and reduction in privacy to neighbouring residential properties;

xxix. Alleged the applicants have already stated their desire to expand if this is granted permission. Objector alleges they even stated at a meeting the desire to possibly open for events like weddings in the evenings after the park shuts, causing further alarm to residents;

xxx. Objector was allegedly told by the applicants that an overflow car park would be provided to the area (shaped like a triangle) to the east of the road running from the proposed entrance to the large sheds near the railway line. This is inconsistent with the proposed site plan, which describes it as 'land retained for agricultural use';

xxxi. Accuracy of the Noise Assessment report with it being carried out in January; and

xxxii. Accuracy of the Ecological Assessment Report.

With regards to the matters raised regarding the Proposal of Application Notice (PoAN) process, a complaint was made to the Ombudsman regarding the Proposal of Application Notice and Public Event. The complaint alleged that the Council was overseeing a flawed planning pre-application process, because the Council failed to inform the public of relevant information by publishing documents online; failed to insist on an appropriate location for consultation events and does not accept that statements in the PoAN were misleading. The Ombudsman investigated the complaint and the complaint was not upheld.

Matters raised regarding the need for the proposed development are not a material consideration in the determination of this application.

All relevant documents have been made available for the public to view and where necessary neighbours were re-notified - first on the 20th of October 2023 and then again on the 31st of January 2024 - and the application re-advertised in the local press first on the 27th of October 2023 and then again on 2nd of February 2024.

If planning permission were to be granted for the farm park use then planning permission would be required for the running of other events such as weddings when the family park is closed. Planning permission would also be required for any further expansion of the family park onto land shown on the application drawings to be retained as agricultural land. Any planning application submitted for such proposals would be determined on its merits in accordance with the development plan unless material planning considerations indicate otherwise.

This application is not within a residential area but is within the countryside.

The main grounds of support are summarised as:

- i. Provides work experience for people;
- ii. Having the facility kept in East Lothian is important for the county;
- iii. Would give job security for the current 10 employees with immediate jobs made available for locals and continued employment opportunities for years to come;
- iv. East Links Family Park is an important attraction for East Lothian families, it provides a safe outdoor place where children can see animals, climb, jump and play in a natural setting, it would be a real loss to the area if was unable to continue to operate;
- v. The park encourages children to spend time outdoors which is good for their development and good for their whole family's well-being;
- vi. If there is no proof of a family park on the East Links site, then surely we cannot risk losing this much loved family tourist attraction and the jobs it provides;
- vii. Think the merger between East Fortune and East Links is a great idea;
- viii. Any business trying to better themselves and create a better outdoor space for families can only be for the good;
- ix. Farms nowadays must turn to developing additional income in order to carry on traditional practices to safeguard the success of farming for future generations. The proposed new venture would be a lifeline, not only to the businesses involved, but also to the wider community;
- x. The Brand Family are trying very hard to utilise their land - which in the current economic climate isn't viable solely as agricultural land. They have made a great space (already) from what they have - farm shop, caravan storage and more. East Links? Well they HAVE put a boost into East Lothian - employment, family entertainment (which is widely used by people near and far and is a great tourist attraction), training - the list goes on;
- xi. Like concept of educating the next generation about where food comes from and hopefully reduce food waste and obesity in future generations;
- xii. East Links is an intergenerational place to visit;
- xiii. The team at Brand Farm are very hard working and provide some local employment this would increase with the new development, This development would enhance the local economy and tourist industry;
- xiv. The dedication of the owners to inclusivity is notably displayed by their commitment to offering discounts for disabled children and the establishment of a fully equipped changing place with hoists. These initiatives show their commitment to ensuring the park is not only accessible but also warmly welcoming to every member of our community.

Additionally, the considerate provision of free mobility scooter usage for visitors with mobility challenges further emphasizes their commitment to inclusivity and community support;

xv. Rural employment for the young and older generations, education in countryside, livestock, history of farming, tourism growth, the Farm is a member of Scottish Agritourism;

xvi. Staying in business - Being in business is about being profitable. The existing level of income is not sustainable for any farmer never mind future generations. East Fortune Farm is only two fields and further diversification is vital for the family to stay in business;

xvii. Would be able to share the 'farm to plate' experience and goodness in food with customers within the farm park café and farm shop which will only add to the growth of the farm and secure its future in farming;

xviii. The Bell family have created an excellent brand and to see them develop a new site at east fortune along side the Brand family should be welcomed. A family park will provide local jobs, educational possibilities and excellent days out in the countryside for so many people;

xix. The underlying premise of this development is education, helping people to understand where food comes from; This family park's aim is to preserve, support and promote sustainability in agriculture, reduce food miles as well looking to educate on how food is actually produced in the context of a fun, accessible and safe environment;

xx. One of the most appealing aspects of the venture is the manner in which it aims to enhance the environmental profile of what is already a beautiful part of our country. Another appeal is its varied emphasis on issues such as the sustainability, the concept of 'field to fork' and protection of the environment in positive ways that promote both natural wildlife and farm animals;

xxi. East Lothian is a farming community and what better way to educate and celebrate the industry than this new joint venture. The new facility will combine both a fun family visitors park and superb educational facility, perfectly placed within a working farm;

xxii. Original park opened without a bus stop and the new park might drive demand to increase public transport area;

xxiii. Although a fairly small business East Links Farm is run in a way that makes each visit magical, additionally the events and experiences it plans are unique to them and perfectly pitched for all. It would be a huge shame to lose this; and

xxiv. Choosing to close this business by preventing it's relocation would be a devastating blow to a huge number of children who have already had to face the most difficult circumstances over the last three years;

## **COMMUNITY COUNCIL COMMENTS**

Haddington and District Community Council state that as the Community Council covers East Fortune, it must take into consideration the overwhelming views of residents who will be directly affected by this development. Therefore, Haddington and District Community Council have discussed in detail the impact on the local communities of this planning application and have concluded that they object to this planning application. Their main grounds of objection can be summarised:

Transport Links to the East Fortune Farm - at present there is only one bus that goes near East Fortune, the 121 from Haddington to North Berwick. The nearest stop is about a 13 minute walk from the proposed entrance to the family park along a B class road with no pavement. In the submitted transport assessment there is talk of a possible improvement of the bus services and new bus services and dedicated buses running from nearby train stations but none of this is definite and is very vague and based on the hope that bus companies will choose to do this once the park is up and running. Appendix B of the submitted Transport Assessment accepts that the site at East Fortune cannot be accessed by foot stating 'There will not be the provision of walking facilities to access the Family Park due to its rural location'. Clearly the expectation is that people will be driving to East



Fortune Farm and parking. Clearly this will not help with the Council's drive towards a Carbon Neutral East Lothian.

Haddington and District Community Council note that Policy 13 in NPF4 concerns sustainable transport, part of which says: 'Development proposals for significant travel generating uses will not be supported in locations which would increase reliance on the private car, taking into account the specific characteristics of the area.'

Haddington and District Community Council also note that Policy T1 in the ELLDP Development Location and Accessibility, which states: 'New developments shall be located on sites that are capable of being conveniently and safely accessed on foot and by cycle, by public transport as well as by private vehicle, including adequate car parking provision in accordance with the Council's standards'.

Given that most visitors to a family park at East Fortune will be arriving by private car then careful consideration should be given to the local road network and its ability to support the increase traffic that will arise if the East Fortune Family Park goes ahead. The roads immediately around East Fortune Farm are rural B Class roads and given that the Transport Assessment looked at the traffic flow to the current East Links Family Park in March and accepts that it will be higher at peak times, particularly during the summer school holidays, it is questionable if the current B Class roads can easily facilitate easily the increased traffic going to and from East Fortune Farm.

Of major concern to residents in Athelstaneford is the fact that it is anticipated that 76% of car journeys to East Fortune Farm will be along the B1347 from the A199. This means that most of the increased traffic will be heading north and south on the B1347 across the main junction into and out of Athelstaneford. There is no doubt that this will have a major detrimental impact on people leaving the village. Given the rural nature of the B1347 and B1377, the narrowness of the roads, the blind bends and often farm vehicles on the road moving from one field to another it is hard to see how the increased traffic could be safely accommodated.

On the transport links alone Haddington and District Community Council believe that the planning application should be refused.

There are other areas of the planned development that require scrutiny. One is the developers claim that the family park would not result in any significant loss of prime arable land, given the overall scale of the family park this seems to be a bold claim. There is also a concern that there will be development creep once the family park opens and new attractions are considered for the site. It is also not clear to the community council that this development should be allowed under NPF4, as there seems to be no justification for this development to be permitted if any prime arable land at all is to be lost.

Nearby residents have highlighted concerns over the proximity of some of the planned development to their houses, particularly the railway which seems to run very closely to their properties.

The impact of what is a large development or what is a quiet rural location should not be under estimated. The development would be visible and would change the current rural views and rural ambience of East Fortune. In contrast the existing location is separated from any nearby housing as it is located near the coast and next to the John Muir Country Park.

Dunpender Community Council also object to the application. Their main grounds of objection can be summarised:

Transportation - Dunpender Community Council do not feel this application meets the tests to comply with NPF4 Policy 13 or ELLDP Policy T1 due to the increase in vehicle movements; it would be dangerous for cyclists and pedestrians, and there are no serious public transport options;

Agricultural Land - Dunpender Community Council consider that the proposal does not meet any of the exceptions required for development on prime agricultural land and therefore is in breach of NPF Policy 5b and ELLDP Policy NH7 and also suggest that it is in breach of ELLDP Policies DP1 and DP2;

Landscaping - Dunpender Community Council state they would look for a far more detailed biodiversity plan with a commitment to a substantial tree and hedge planting scheme for a family park of this size and scale;

Dunpender Community Council understands that the current landowner of the existing Park at Dunbar is fully intending to continue with the existing Park.

Dunpender Community Council would also like for the Council to consider the value of our tourism and why people come to the county. They seek from the Council a sympathetic combination of visitor attractions that retains our rural and agricultural landscape, which is much valued by both visitors and the local population. Dunpender Community Council do not feel that two parks within six miles of each other makes sense in planning terms.

West Barns Community Council have concerns about this application and states the title of the application seems to be misleading. It is the tenant, Grant Bell, who runs the Family Park that is moving his business interests to East Fortune rather than the structures from Hedderwick. The landowner, Alec Dale has told the community that he owns the land along with its fixed assets and that an East Links Family Park will continue at Hedderwick beyond the end of the lease of the current tenant.

East Links Family Park is an important employer in the West Barns and wider Dunbar area. It is a substantial tourist attraction for the area and the Community Council would wish a facility to continue at Hedderwick.

Consideration should be taken into account of competition between the two venues and any impact on the local tourism economy.

Finally, the Community Council note that the current site has excellent public transport access. This is in contrast to the proposed new site. Although the junction on the main road can be busy there are no major road safety issues. It is safe to access the Hedderwick site on foot or bike from the main road.

## **DETERMINING ISSUES**

Due to the proposals being in close proximity to listed buildings, this report will first consider the proposals in terms of Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

1. Would the proposed development adversely affect a listed buildings or its setting;
2. If so, is there a strong presumption against the granting of planning permission which may be overridden in favour of development only if that development is desirable on the grounds of some other public interest
3. If the above presumption does not arise does the proposed development accord with the development plan

4. If so, are there any material considerations which would nevertheless justify a refusal;
5. If not are there any material considerations that would nevertheless justify a grant

## **IMPACT ON SETTING OF LISTED BUILDINGS**

Section 59 (1) of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 states:

"In considering whether to grant planning permission for development which affects a listed building or its setting, a planning authority or the Secretary of State, as the case may be, 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."

As stated previously, the terrace of cottages of Nos. 1-6 New Row, East Fortune House and some of the former East Fortune Hospital Buildings are all listed as being of special architectural or historic interest (Category B). They are all located outwith the application site and therefore the primary consideration in the assessment of these proposals is the impact on the setting of those listed buildings.

Whilst the light railway track would be laid in the paddock to the north of the terrace of listed cottages and East Fortune House, it would be some 50m and 150m respectively away from the rear elevations of those neighbouring listed buildings. Therefore, due to the positioning of the light railway track to the rear of those listed buildings and of its form and height it would not harm the setting of those listed buildings, which would remain the focus of their setting. The other components of the proposed relocated East Links Family Park would be to the east and northeast of the neighbouring houses of The Farmhouse and Nos. 7 and 8 New Row.

Therefore those elements of the proposed Family Park would be sufficiently far removed from nos. 1-6 New Row and East Fortune House to ensure they would not harm the setting of those listed buildings.

With regards the listed buildings of the former East Fortune Hospital those buildings are located on the opposite side of the road to East Fortune Farm and behind a mature hedgerow and mature trees. Therefore, they are not prominent in views from the public road and do not have a visual relationship with East Fortune Farm. Consequently, the proposals would not harm the setting of the listed buildings within the grounds of the former East Fortune Hospital.

## **CONCLUSION IN RELATION TO THE LISTED BUILDINGS**

Therefore, in conclusion on the matter of the setting of the listed buildings the proposals would not adversely affect the setting and therefore would preserve the setting of the nearby listed buildings in accordance with the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and relevant Historic Environment Scotland guidance.

## **DOES THE PROPOSAL COMPLY WITH THE 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 National Planning Framework 4 ("NPF4"), which was adopted by The Scottish Government on the 13th February 2023, and the adopted

East Lothian Local Development Plan 2018 ("ELLDP").

The relevant policies contained within NPF4 consist of Policies 1 (Tackling the climate and nature crises), 2 (Climate mitigation and adaption), 3 (Biodiversity), 4 (Natural Places), 5 (Soils), 7 (Historic Assets and Places) 13 (Sustainable Transport), 14 (Design, quality and place), 29 (Rural Development) and 30 (Tourism). Policies DP1 (Landscape Character), DP2 (Design), DP5 (Extensions and Alteration to existing Buildings), DC1 (Rural Diversification), CH1 (Listed Buildings), NH7 (Protecting Soils), NH8 (Trees and Development), NH13 (Noise), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the ELLDP are relevant to the determination of the application.

## **MATERIAL CONSIDERATIONS**

In the assessment of material considerations this report will consider:

- equalities and human rights;
- any public representations and
- any other identified material consideration.

## **PLANNING ASSESSMENT**

The proposed scheme of development is for the relocation of 'East Links Family Park' from its existing site at Hedderwick, West Barns, Dunbar to the application site at East Fortune Farm. The applicant's agent explains that this is due to the current lease for the existing site at Hedderwick, West Barns expiring in 2026. For clarification and the avoidance of doubt the current authorised Farm Park site and land at Hedderwick, West Barns will remain in authorised planning use as a Family Park when the existing lease expires in 2026 and as such the site at Hedderwick, West Barns could continue to operate as a Farm Park but not under the business name of 'East Links Family Park'. Indeed, in a representation, the owner of the land on which the existing Family Park is located has confirmed that it is his intention that a Family Park will continue to operate from his site.

The supporting information with this application states that what is proposed through this application is a new site for the business of "East Links Family Park" through a part change of use of the existing agricultural farm of East Fortune Farm. However, as previously stated, the existing Family Park site at Hedderwick, West Barns will retain its planning use and as such the proposed Family Park sought through this application would be an additional Family Park site and not a replacement.

What is proposed on the application site is the development of a new Family Park on 4.1 hectares of largely agricultural land at East Fortune.

Additionally, it should be noted that the applicant for this current planning application is not the owner of the existing business 'East Links Family Park', namely Mr Grant Bell. The applicant for this planning application is East Fortune Holdings Ltd being the Brand family who own and operate East Fortune Farm.

Given this, during the determination process of the application clarification was sought from the agent as to the involvement of Mr Grant Bell, the current owner of 'East Links Family Park', with the application, given that it is stated that it is to be a relocation of his existing business, but he is not the applicant. The agent has stated in writing that:

"following the expiry of his interest as tenant in the lease of the land on which he operated East Links Family Park, Mr Bell has been looking to transfer the "East Links" model to

another part of East Lothian. East Fortune Farm has been identified as the most suitable location for that re-location. As the Council will appreciate, the prospective transfer is subject to a confidential commercial contract between Mr Bell and the Brand family. That contract, as the Council would expect, is subject to planning permission being obtained on terms that are acceptable to both parties. If planning permission is granted, the intention is that, with Mr Bell having then acquired an interest in the land at East Fortune Farm, the two businesses i.e. the agricultural business and the family theme park business, will be managed and operated separately. To that extent the Brands will not have the same level of control over activities across the entire extent of East Fortune Farm, as they currently enjoy as its sole owners."

Clarification has also been sought from the agent as to the proposed nature of the proposed family park compared to the existing 'East Links Family Park', which houses a large number of non-agricultural animals for non-agricultural purposes. The agent has stated in writing that:

- \* "the relocation is of the brand name, not the land and will not be an exact replica of what is at East Links Family Park at Hedderwick";
- \* "The proposals for East Fortune Farm represent an evolution not a replication of East Links."
- \* "it will be centred on public access to view a working farm with the emphasis on education alongside entertainment and enjoyment - the field-to-fork experience."
- \* "East Fortune Farm continues to farm as before, East Links Family Park will show visitors the working farm; totally different from the Hedderwick Hill model. This is complimented by the central area of the proposed Family Farm Park which will have some more general play areas such as trampolines, go-karts and crazy golf alongside the main reception building and cafe.
- \* "The existing animals at East Links Family Park are the property of Clyde Link Holdings Ltd and will be moving through the trade or to Clyde Valley Family Park."
- \* "The Brand's have their own livestock at East Fortune Farm as previously explained. It is not relevant to compare the Hedderwick Hill mix of animals to what is proposed at East Fortune Farm."

The agent has further stated that:

- \* "the land within the red line boundary (application site) will be as a sui generis "farm themed" family park. This will constitute a new planning unit with the area of land outwith the application site will continue as a stand alone (albeit reduced) planning unit, which will continue to be used for agricultural purposes."

The supporting information submitted with the application states that the proposed scheme of development would be a further farm diversification of the existing East Fortune Farm with the existing East Fortune Farm continuing to operate as a 'working farm'.

The application site does not include all of the land of East Fortune Farm. The proposed site layout plan indicates the relocation of the existing authorised touring caravan site which currently occupies a central location within the East Fortune Farm to a new position within the south west corner of the farm immediately to the north of the B1377 public road and to the immediate east of the residential properties of Merryhatton Holdings. It is proposed that the existing agricultural building within the central part of the East Fortune Farm would change its use from agricultural to be used as an entrance and admissions building with café, shop and toilets with new viewing terrace and provide access to the proposed family park with new children play facilities in the form of a pedal go-karts track, trampolines, jelly bellies/jumping pillows and an 18 hole mini golf course located on the existing caravan site to the north of the building. The application site also includes a

circular area of land within the existing East Fortune Farm fields as well as linear strips which are indicated as being the areas of a light railway line and public footpaths respectively, both of which would be enclosed by post and wire fences and which are indicated as to allow visitors to the proposed family park viewing of the farm land and activities. The proposed site layout plan indicates that the existing agricultural land both outwith and within the circular light railway line would not form part of the family park but would remain in agricultural use as 'paddocks' as part of the working farm of East Fortune Farm.

Given that it is proposed that this application is for a farm diversification with East Fortune farm to continue as a working farm and that all the fields of East Fortune Farm are shown on the proposed site layout plan as to be retained in agricultural use as 'paddocks', clarification has been sought from the applicant's agent as to the type of animals currently at East Fortune Farm. Confirmation has been provided in writing by the agent that:

"Farm animals already at East Fortune Farm including sheep, pigs and poultry which will continue to be bred, reared or purchased as per the Brand Family business".

Additional information has also been provided in writing by the owner of East Fortune Farm which states that:

"being in business is about being profitable. It is stated that the level of income received for the wheat yield from the East Fortune Farm 2023 crop for 14.5 hectares is not sustainable for any farmer never mind future generations. The farm owner states that "East Fortune Farm is only two fields and further diversification is vital for the family to stay in business".

The proposed site layout plan indicates that the area of ground that would be enclosed by the proposed family park circular light railway track and footpaths (and enclosure fences) would be retained in agricultural use as paddocks. While the Farm owner has stated in writing that East Fortune farm is only two fields and 14.5 hectares have been used for crops, given that the proposed light railway track, footpaths and enclosure fences would run through these fields this would appear to make it difficult for this 14.5 hectare area of grade 2 prime agricultural land to be able to be retained for the growing, sowing, cultivating and harvesting of crops. Indeed, the proposed site layout plan shows all the fields within East Fortune Farm proposed as 'paddocks'. Clarification of this has been requested from the agent and he has responded advising that:

"the land on the west side of the site will remain in farm use. Whether this is for crop rotation or to accommodate livestock will depend on the farming strategy as with any farm. Similarly, enclosures are regularly erected/removed/relocated on farms without any planning control. Part of the filed-to-fork experience/education will involve an understanding of cropping alongside meaty production". In this regard the agent is correct there is no planning control over whether agricultural land is used for crop rotation or for agricultural livestock grazing.

As such the current application must be determined on its own merits. As the fields at East Fortune Farm are not located within this current application site and are stated by the applicant/agent as being retained in agricultural use they would not form part of the proposed Family Park. Given this these areas of land could only be used for agricultural purposes. However in order to secure this, and should planning permission be granted, then it would be prudent of the Council to secure the retention of these areas outwith the application site for agricultural purposes by way of the conclusion of a section 75 legal agreement with the applicant. The applicant's agent has confirmed in writing that they are prepared to sign such an agreement although one of the suggested terms is unacceptable

to them. This term relates to the time period the landowner is allowed to remedy any breach of the Section 75. The details of this term would be the subject of future negotiation were planning permission to be granted. Were Planning Committee minded to grant planning permission for the Family Park development, and were there a failure to conclude the necessary Section 75 Agreement within six months, then it would be recommended that planning permission would then be refused for the reason that the proposal could result in an unacceptable loss of prime agricultural land contrary to Policy 5 of NPF4 and NH7 of ELLDP.

It is difficult to see how the layout and design of the proposal could be amended to reduce the amount of prime agricultural land being developed for the family park and relocated caravan park. The prior conclusion of that legal agreement would ensure that the amount of prime agricultural land being developed was restricted to that applied for and was relatively small scale. In this regard part of the land proposed to be used for the family park is currently not in agricultural use. As a form of farm diversification, the proposal is directly linked to East Fortune Farm. Moreover, were planning permission to be granted, then a condition could be imposed requiring details of how the soil from the remaining agricultural land of the Farm would be protected during the construction and thereafter operation of the family park and caravan park. Subject to the above control, the proposal is not inconsistent with Policy 5 of NPF4.

The proposal amounts to a further diversification of part of East Fortune Farm, and there is no evidence to suggest that the proposed development would affect the business viability of the Farm or of any other local business. On this consideration the proposal is in principle consistent with part a) of Policy 29 of NPF4.

The proposal is intended to create a family farm park, where members of the public would be able to view a range of farm animals whilst being able to utilise the other proposed activities and facilities. With an operational requirement for a countryside location, such use is in principle consistent with Policy DC1 of the ELLDP.

As a tourism use which is supported by Policy DC1 the proposal is therefore consistent with part a) of Policy 30 of NPF4.

There is currently no planning application currently before the Council in respect of the former East Fortune Hospital site. However there is nothing in the application submission to indicate that development of this proposal would prejudice a potential future development proposal for that nearby site.

It is proposed that the existing authorised touring caravan site be relocated with a new caravan pitch site proposed to be formed within the south east corner of the existing East Fortune Farm providing a total of twenty-four 8 metre by 6 metre caravan pitches which would be accessed directly off the B1377 public road utilising an existing gated access. A new shower and toilet block is proposed to be erected on the new caravan pitch site which would have a rectangular footprint measuring some 9.13 metres by 4.73 metres. The proposed shower and toilet block would have its walls finished externally in stained timber with a pitch roof clad in green powder coated profiled roofing material. It would have upvc framed obscured double glazed windows and dark grey lined composite door. The proposed caravan pitch site would be enclosed by new 1.1 metre high timber posts with 1 metre high rylock sheep mesh fencing.

The proposed use of the land for a twenty-four pitch touring caravan site is a use related to tourism,. Such a use has an operational requirement to be located within this countryside location. Furthermore, a successful touring caravan site has operated on a different part of East Fortune Farm for a considerable number of years and what is

proposed through this application is the relocation of the existing authorised touring caravan site to a different part of the East Fortune Farm to enable the existing touring caravan site business to continue and provide better facilities. Therefore the relocation of the caravan site to this location is consistent with Policies 29 and 30 of NPF4 and with Policy DC1 of the ELLDP.

The proposed touring caravan site is designed for the functionality of its intended use. Notwithstanding, in its proposed location, the caravan site would be located adjacent to an area of existing trees which will provide some screening and would help to ensure that it would be sufficiently well integrated into its countryside setting so as not to be harmfully intrusive or exposed. The **Council's Landscape Officer** has stated that a tree survey detailing how the proposed layout has been designed to avoid damage to these existing trees in accordance with British Standard 5837: 2012 - 'Trees in relation to design, demolition and construction - Recommendations', which also applies to the access arrangement and sight lines requires to be submitted prior to the commencement of any development. Should planning permission be granted then this matter could be controlled through the imposition of a planning condition.

The proposed shower and toilet block building, fencing and gates to enclose the proposed touring caravan site would not, when seen in their relationship with the proposed touring caravan site, have a harmful impact on the landscape character or appearance of the area.

Subject to the aforementioned planning control the proposed caravan site would not be contrary to Policy 6 of NPF4 or Policies DP1, DP2 or NH8 of the ELLDP.

Given the location of the proposed touring caravan site it would not harm the privacy or amenity of any nearby residential property or other land use.

The number of pitches proposed would not constitute an overdevelopment of the site. Were planning permission to be granted for the proposed development then a condition should be imposed limiting the number of caravan pitches to no more than that applied for (i.e. 24). This would safeguard against the creation of additional pitches with the effect of increasing site density and leading to an overdevelopment of the site.

The touring caravan use of the site all year round might allow the potential of use of the site for permanent residential purposes. With regard to this, the occupation of the touring caravans on the site should be restricted to prevent them from being used as permanent residences. Should planning permission be granted then such a restriction could be imposed through a planning condition. Such a condition should allow a reasonable time for tourists to stay on the site, to return to the site as a means of breaking a journey as part of the same holiday, and to return to the site within a reasonable length of time for subsequent holiday periods.

It is proposed that the existing agricultural building that currently occupies a central position within the East Fortune Farm site would change its use to form a café with indoor seating area, storage/fridge/freezer area, kitchen/cooking/food preparation area/servery, an office, indoor and outdoor toilets and a farm shop with check out tills and reception area for the family park.

A new viewing terrace/play area with concrete paved decking and outdoor seating area is proposed to be formed to the north of the building with a platform for the proposed light railway track running underneath the terrace/play area. The terrace/play area would have a largely square footprint measuring some 43 metres by 42 metres. A stainless steel chute/slide would be positioned in the northeast corner of the terrace/play area with stainless steel climbing net frame and rope nets being attached to the northwest corner of



the terrace/play area. The terrace/play area would be built to have the appearance of a fort/castle with two white carbon flagpoles and flags positioned on the top. The terrace would have its walls finished externally with stained/treated vertical /horizontal cedar/larch lining, protective barriers would be stained treated timber protective barriers and railway platform steps To the north of the terrace/play area at a lower level would be positioned a size 3 jelly belly/jumping pillow measuring some 6.25 metres by 7 metres, a size 5 jelly belly/jumping pillow measuring some 11.2 metres by 9 metres, six 3.5 metre diameter trampolines and an 18 hole mini golf course, a pedal go-kart track in the shape of a distorted figure of 8 with a rectangular storage container positioned in the middle would be formed to the north of the proposed mini golf/trampoline/jelly belly/jumping pillow areas. The go-kart area would be separated from the rest of the play facilities by a new footpath which is proposed to be formed over the existing fields of East Fortune Farm to provide pedestrian access to the farm while a circular light railway track is also proposed.

A new car park is proposed to be formed within the eastern part of the application site illustrated as providing some 150 car parking spaces including 10 disabled bays, 3 coach bays, a turning circle with a radius of 12.5 metres and an additional area which would serve as an overspill car parking area. A covered walkway is proposed to be provided within the car park area it would be some 4 metres in width and 87 metres in length with a pitched roof clad in green powder coated profiled roofing material and supported by stained timber posts and rafters. The walkway would have a ridge height of some 3.5 metres. The proposed car park is proposed to be served by a new vehicular access which would be formed through the upgrading of the existing gated entrance serving East Fortune Farm which accesses directly onto the B1377 public road. The proposed car park site would be enclosed by new 1.1 metre high timber posts with 1 metre high rylock sheep mesh fencing.

A new network of footpaths some 3 metres wide formed of whin dust with 1 metre wide grass verges on both sides is proposed to be formed through the existing fields of East Fortune Farm for visitors of the family park. The footpaths would be enclosed with new timber posts and rylock sheep wire mesh fence 5 metres apart and some 1 metre in height with gates to be erected at the end of the proposed family park footpaths where the proposed footpaths join the farm fields and associated existing farm tracks. Clarification has been sought from the agent as to what would prevent members of the public walking up the existing farm tracks and gaining access to the family park via the proposed footpaths. The agent has responded advising that while there is informal access to the farm tracks for the public at the moment that this will not continue and gates will be installed to prevent members of the public from walking up the existing paths to access the farm park.

Given that the existing agricultural building on site is proposed for a change of use to facilitate it to be used as the admissions building for the family park with associated café, toilet, shop, office etc there would be minimal visual impact for this element of the proposal given it is an existing building. The proposed viewing terrace and associated children's play structures/equipment would be located to the north of the existing building and as such behind it, as would the proposed circular railway line and footpaths which would all be set back from the main public road of the B1377 well into the site and given the topography of the site and existing buildings located within East Fortune Farm while they would be seen in public views from the B1377 public road they would be seen in relation to the existing structures on East Fortune Farm. Therefore they would not be unduly prominent or exposed and would not harm the landscape character of the area. They would not be contrary to Policy 14 or 30 Part b) ii) of NPF4 or Policies DP1 or DP2 of the ELLDP.

The proposed car park is to be accessed off and located to the immediate north of the B1377 public road and while there is hedgerow planting along the road frontage it would

be visually prominent from the road being a large area of hard surface together with the proposed pedestrian covered walkway. As detailed by the Council's Landscape Officer a condition would be required to be attached to any grant of planning permission to secure the submission and approval of a landscape planting scheme in and around the proposed car parking area to reduce the visual impact by breaking-up the mass of car parking bays and introducing tree planting, to create pockets of car parking prior to the commencement of any development. Subject to the imposition of that planning control this component of the proposed development would not harm the landscape character of the area.

The proposed circular railway line and proposed footpaths would not be visually prominent given they would comprise of a railway track at ground level and whin dust paths which would both be enclosed by 1m high rylock sheep mesh fences. The proposed railway line would be the closest element of the proposed family park to the residential properties of New Row Cottages, being located, at its closest point some 40 metres to the north of the mutual boundary. Given the intervening distances, the proposed play facilities, railway line and footpaths would not have a detrimental impact on the amenity of these residential properties by way of overlooking or overshadowing.

The **Council's Senior Environmental Health Officer** has been consulted on the application. He raised no concerns about the impact of the development on air quality. He did however initially state that noise, odour and artificial lighting associated with the proposed development may impact upon amenity of residential neighbours. A noise impact assessment was submitted by the applicant during the determination process of the application to assess impacts arising from the use of the train ride and play parks associated with the proposal. The original assessment of noise from the existing facility at East Links was carried out in the winter months when visitor numbers were deemed to be 50% of peak numbers in the summer, the assessment assumed a 3dB increase in associated noise for doubling of the intensity in the summer months. However, concerns were raised with the applicant's agent by planning officers regarding the accuracy of these visitor numbers and an amended report was submitted that predicted the visitor numbers in the winter were in fact only 25% of those anticipated in the summer. Given the more likely estimate of visitor numbers were applied in the updated assessment, the Council's Senior Environmental Health Officer is satisfied that an associated +6dB increase has been taken into account.

Noise from the different components of the development and from the vehicle movements have been assessed.

The Noise Impact Assessment concludes that noise associated with the development are deemed to be negligible and the Council's Senior Environmental Health Officer advises he accepts this conclusion.

On the matter of noise impact the Council's Senior Environmental Health Officer raises no objection to the proposals. The proposals are not therefore contrary to Policy 30 Part b) ii) of NPF4 or Policy NH13 of the ELLDP.

In order to protect residential amenity due to impacts associated with artificial lighting the Council's Senior Environmental Health Officer recommends that light trespass is controlled. This control could be secured through a condition, should planning permission be granted.

In order to protect amenity due to odour arising from the proposed development the Council's Senior Environmental Health Officer recommends a condition be attached to any consent granted requiring the submission of an Odour management Plan. This control could be secured through a condition, should planning permission be granted.

Accordingly the Council's Senior Environmental Health Officer advises subject to the recommended controls being imposed he has no objection to the proposed development, being satisfied that it would not have an adverse impact on any neighbouring land uses.

Consistent with Policy 30 part b) iii) the proposal would not have an unacceptable impact on communities, for example by hindering the provision of homes and services for local people.

It is recognised that there is significant public objection to this proposal from local communities in respect of various matters. These are assessed in this report. For example, the Council's Senior Environmental Health Officer is satisfied that subject to the recommended controls the proposal would have no adverse impact on neighbouring land uses within the community. Moreover in terms of Policy 30 part b) iii) the proposal would not have an unacceptable impact on communities

The **Council's Biodiversity Officer** originally advised that this proposal should have been supported by an ecological survey, not only to understand and qualify any impacts on biodiversity but to inform the biodiversity enhancement plan. According to the 'Developing With Nature' guidance issued by NatureScot, a Biodiversity Enhancement Plan should be informed by an ecological survey. The Council's Biodiversity Officer advised that in its original form, the submitted Biodiversity Enhancement Plan (Brand Family Farm, June 2023) was not sufficient to satisfy NPF4 Policy 3 and includes measures which will not enhance biodiversity (e.g. close mown grass in the caravan site). Accordingly, the Council's Biodiversity Officer advised that due to the lack of ecological information and potential for impacts on protected species, this application as originally submitted was not acceptable on biodiversity grounds.

During the determination period of the application the full consultation response from the Council's Biodiversity Officer was forwarded to the agent for his information and action. In response the agent submitted an Ecological Assessment report in support of the application.

The **Council's Team Manager of Countryside** within which team the Biodiversity Officer sits has reviewed the Ecological Assessment Report submitted and has raised no concerns about the methodology used or findings of the Ecological Assessment. The Council's Team Manager of Countryside does however recommend that a condition be attached to any grant of planning permission requiring the submission of a detailed Biodiversity Enhancement Plan for approval prior to the commencement of development. This control could be secured through a condition, should planning permission be granted. Subject to the imposition of that planning control the proposals would not be contrary to Policy 3 of NPF4.

The **Council's Landscape Officer** has been consulted on the application and has advised that the following matters require to be addressed through a condition of a grant of planning permission:

- i) Design a landscape planting scheme in and around the proposed car parking area to reduce the visual impact by breaking-up the mass of car parking bays introducing tree planting to create pockets of car parking etc.
- ii) The large area of agricultural land is being maintained as is, with only a relatively small part being occupied by the proposed buildings and changes of use, as well as the circular railway system, which due to its location is set back from the main road and behind existing buildings where the existing topography appears to work well in respect of the

proposals.

iii) The area along the west of the application site is within the riparian corridor. This shows an opportunity for riparian woodland along the western boundary of the site for the developer to include in their application.

iv) The proposed camp site to the southwest corner of the application site is adjacent to an area of existing trees as well as the riparian corridor. As such the Council's Landscape Officer advised he will require a tree survey detailing how the proposed layout has been designed to avoid damage to these existing trees in accordance with British Standard 5837: 2012 - 'Trees in relation to design, demolition and construction - Recommendations', this also applies to the access arrangement and sight lines etc. ~ also, to include additional planting as necessary to accord with the Tree and Woodland Strategy.

v) All planting proposals should meet with the satisfaction of the Council's biodiversity officer.

Subject to the imposition of that planning control the proposals would not have an adverse impact on nearby trees and would not be contrary to Policy 6 of NPF4 or Policy NH8 of the ELLDP.

Notwithstanding the above the Council's Landscape Officer advises there are concerns that if such a development was to increase the facilities into the agricultural areas, that this would likely detrimentally impact on the landscape, and as such the Council's Landscape Officer asks that this be considered in any grant of permission. However, the Council's Landscape Officer feels that the current application, taking cognisance of the above comments, is acceptable. This application stands to be determined on its own merits and any proposed future change of use of agricultural land would stand to be determined on its own merits. However notwithstanding this, should planning permission be granted for the proposed scheme of development, as previously mentioned it would be prudent of the Council as Local Planning Authority, in order to protect the further loss of prime agricultural land (as required by Policy 5 of NPF4) which is shown as being retained in agricultural use through this application to seek to secure a Section 75 Agreement (Planning Obligation) between the Council and the landowner to secure the retention of this agricultural land.

The **Council's Senior Engineer Flood Protection** advises that in terms of information that this Council has concerning flood risk to this site, SEPA's Flood Hazard Mapping indicates that the majority of the site is not at risk from a flood event with a return period of 1 in 200 years plus climate change. That is the 0.5% annual risk of a flood occurring in any one year with an allowance for climate change. A very small portion of the Southern side of the site is anticipated to be affected by surface water flood risk at a 1 in 200 year plus climate change flood event. Considering this the Council's Senior Engineer Flood Protection raises no objection to this proposal on the grounds of flood risk. The applicant has submitted a Drainage Impact Assessment Report dated July 2023. The proposed drainage is an infiltration system, which ultimately drains into the ground within the site. Infiltration rates are provided and appropriate for the site. The Council's Senior Engineer Flood Protection advises he is also content with their roof drainage (soakaway) and caravan area drainage proposals. Accordingly the Council's Senior Engineer Flood Protection advises he therefore has no objection on the grounds of flood risk.

Network Rail as a consultee on the application state that whilst they have no objections in principle to the proposal, due to its proximity to the railway, Network Rail request that the following matters are taken into account, and if necessary and appropriate included as conditions or advisory notes, if granting the application:

"No means of access to the railway or Network Rail assets shall be obstructed at any time during and after the construction of the development."

Construction works must be undertaken in a safe manner which does not disturb the operation of the neighbouring railway. Applicants must be aware of any embankments and supporting structures which are in close proximity to their development. During the determination period of the application the full consultation response from Network Rail has been forwarded to the agent so the applicant is fully aware of the comments of Network Rail. Should planning permission be granted an advisory note from Network Rail could be issued with any Decision Notice".

A copy of the consultation response from Network Rail has been forwarded onto the applicants for their information.

Scottish Water as a consultee on the application raises no objection.

Subject to the aforementioned conditions and the aforementioned conclusion of the required section 75 Legal Agreement the proposed development would not be contrary to Policies 3, 4, 5, 6, 14, 29(a), 30(a) (b) (ii), (iii) of NPF4 and DP1, DP2, DP5, DC1, NH7, NH8 and NH13 of the ELLDP.

Turning to transportation matters, the proposals include a car park of 200 spaces and associated coach parking, including accessible parking bays which Road Services are satisfied is acceptable in terms of its size and layout. 30 Electric vehicle charging spaces are required and the applicant has confirmed a willingness to provide this. This requirement could be secured through a relevant planning condition should planning permission be granted.

With regards to cycle travel, cycle parking is proposed within the site (24 spaces), which is in accordance with Council standards. Notwithstanding this, there is a limited catchment of potential customers within a reasonable cycling distance of the site, therefore limiting the likelihood of travel to the site by this mode.

The Transport Assessment (TA) includes an appropriate assessment of the impacts of the proposed vehicular trips associated with development on the local road network, this included traffic surveys to identify the base level of traffic on the network, the application of traffic growth to the future assessment year and the assignment of the proposed development traffic on the local road network. The methodology of this assessment is considered to be acceptable. Traffic capacity assessments have been undertaken which demonstrate that the junctions within the local road network could accommodate the additional traffic. Further, an accident analysis has been carried out that does not identify any noticeable patterns in the accidents recorded.

Policy 13b of NPF4 states that development proposals will be supported where it can be demonstrated that the transport requirements generated have been considered in line with the sustainable travel and investment hierarchies and where appropriate they:

- (i) Provide direct, easy, segregated and safe links to local facilities via walking, wheeling and cycling networks before occupation; and
- (ii) Will be accessible by public transport, ideally supporting the use of existing services;

Policy 13d of NPF4 states that development proposals for significant travel generating uses will not be supported in locations which would increase reliance on the private car, taking into account the specific characteristics of the area.

Policy T1 (development location and Accessibility) of the ELLDP requires new developments to be located on sites that are capable of being conveniently and safely accessed on foot and by cycle, by public transport as well as by private vehicle, including adequate car parking provision in accordance with the Council's standards.

Policy T2 of the ELLDP states that new developments must have no significant adverse impact on:

- o Road safety;
- o The convenience, safety and attractiveness of walking and cycling in the surrounding area;
- o Public transport operations in the surrounding area, both existing and planned, including convenience of access to these and their travel times;
- o The capacity of the surrounding road network to deal with traffic unrelated to the proposed development; and
- o Residential amenity as a consequence of an increase in motorised traffic.

The submitted Transport Assessment states that "Due to the rural nature of the site, it is assumed that the vast majority of staff and visitors will arrive by car. It is noted that school trips and group bookings are likely to arrive by coach or bus".

While supporting information submitted with this application implies that this is not a new traffic generating tourism business rather it is simply relocating an existing business this is not the planning situation. As stated previously while the scheme of development proposed through this application is described by the applicant as a relocation of the existing 'East Links Family Park' business, the existing Family Park site at West Barns will retain its planning use, which it has had for some 20 years, as a Family Park. Once the current lease on that site expires it could continue to operate as a Farm Park but not under the business name of 'East Links Family Park'. As such the proposed Family Park sought through this application would be an additional Family Park site and not a replacement and as such would be an additional traffic generating tourism business.

The Transport Statement submitted in support of the application advises that in terms of public transport the closest bus stops to the application site are located on the B1347 Haddington Road within a 15 minute walk, these bus stops are currently served by Eve coaches service 121 travelling between North Berwick and Haddington. This service currently offers approximately 1 service every two hours in each direction on weekdays and Saturdays throughout the year and one service every two hours in each direction on Sundays between April and September. The Transport Statement also advises that the closest railway station to the development is Drem Station, which is located approximately 4km west of the site on the Edinburgh to North Berwick/Dunbar line and offers one service per hour in each direction each day which can be accessed in an approximate 15-minute cycle or via the number 121 bus service. While the Transport Statement states that discussions are ongoing with Eve coaches in terms of creating a direct bus connection between Drem and the site and that consideration is also being given to supplementing this with a private shuttle service, operated by the Family Park, no specific details of any such proposal has been submitted and there is no certainty that either would be formalised or indeed be provided. Additionally as mentioned previously during the determination process of this application it has been publicly announced that Eve coaches has been sold to Lothian buses and as such there can be no certainty that the new operator Lothian buses would provide a new diverted direct and regular bus service with increased frequency to the proposed family park.

As stated in the submitted Transport Statement the closest bus service to the site, the Eve coaches 121, provides only one service every two hours on weekdays throughout the year

and only one service every two hours on Sundays between April and September. The closest bus stops to the site are located on the B1347 Haddington Road a 15-minute walk from the site, with the B1377 being a two-way single carriage road with no pavements/footpaths on either side.

The proposal is for a tourism use which currently on its existing site, as stated by the applicant in their submission, attracts some 100,000 visitors per annum. As detailed previously the existing Family Park site at West Barns will retain its existing Family Park planning use when the current lease expires and as such could continue to operate as such. This application proposes a new site for the business of East Links Family Park on an application site which comprises of part of the land within the existing East Fortune Farm which occupies a countryside location.

Road Services advise that the existing bus facilities are insufficient for the needs of the development and, moreover, would represent a significant road safety risk. These road safety risks have not been satisfactorily addressed by the applicant during the determination period.

The assumptions within the TA are such that active and sustainable trips would form a very small share of the mode of travel split and no firm proposals are suggested within that document. Notwithstanding this, during negotiations the applicant put forward proposals to divert the 121 bus service to the site and some willingness to undertake this was expressed by the bus operator, however, in order for this to be delivered it would have needed a revision to the proposed site plan to include a bus stop and turning facility within the site as well as appropriate controls to secure delivery of a bus service to serve the site. The applicant has not promoted any measures to secure a bus service to serve the site. Moreover, it should be noted that even if the bus route diversion could have been delivered, given that the 121 is a low frequency service and serves a limited catchment of potential customers, such a diversion would have a limited impact on improving public transport accessibility. Overall, the applicants have not satisfactorily addressed the deficiencies in access by public transport to the site.

Road Services also note that there is no footway along the B1377 between the site and the existing bus stop at Merryhatton Garden Centre. This constitutes an unacceptable road and pedestrian safety risk. On this basis, Road Services advise that any combination of walking and bus travel would be unfeasible and there would remain considerable deficiencies in the safety, convenience and attractiveness of the use of active and travel modes to the site. These deficiencies are reflected in the non-compliance of the following local and national policies:

- o ELLDP Policy T1 - the attraction cannot be conveniently and safely accessed on foot given its rural location with no network of local footways. The attraction cannot be conveniently and safely accessed by public transport given the limited existing bus services and lack of safe pedestrian connections to the site from the nearest bus stops.

- o ELLDP Policy T2 - as above, the attraction cannot be conveniently and safely accessed on foot between the site and the nearest bus stops which would have an adverse impact on road safety and on the convenience, safety and attractiveness of walking in the locality.

- o NPF4 Policy 13a (i) - it does not provide direct, easy, segregated and safe links to the attraction on foot. It will not be easily accessible by public transport.

- o NPF4 Policy 13d - the chosen location for the attraction, which would be a significant travel generating use, would increase reliance on the private car.

Furthermore as this is a traffic generating use and as there is no alternative means of transport to it other than by private car the proposal has not taken into account its rural location to ensure it is a use that is compatible with its surrounding area. Therefore on that count the proposal does not accord with Policies 29(b) or 30(b)(iv) of NPF4.

The proposed site layout included in the TA report is inconsistent with the proposed site plans submitted with the application, whereby the location of the proposed main vehicular site access shown in the TA report is located 160m to the east of that shown on the proposed site plan. It should also be noted that the proposed access shown in the TA report is positioned outwith the red line application site boundary.

No visibility splays are shown on the main site plan, but given the alignment of the public road and the fact that it is 160m to the west the visibility splays that Road Services require would not be achievable. On this basis, the proposed site access to the Family Park would not meet Road Services requirements and would be unacceptable on road safety grounds.

It proposed that the touring caravan site would be accessed directly off the B1377 public road utilising an existing gated access. Road Services confirm that the visibility splays of this access would not meet the Council's requirements, and therefore on this basis, the proposed vehicular access at this location is unacceptable on road safety grounds. The agent has stated in writing that 'the sight lines for the caravan site entrance cannot comply'. The majority of visitors to the proposed Family Park would require to travel along the B1377 public road past the proposed caravan site and its junction. As such the proposed caravan site in its proposed location cannot be provided with an acceptable access and visibility splay which would be to the detriment of road safety. Accordingly as this element of the proposal would also have an adverse impact on road safety it too is contrary to Policy T2 of the ELLDP

The applicant has suggested a reduction in the speed limit to 40mph on the B1377 in the vicinity of the site in order to address the deficiency in the visibility splays of both site accesses. Such a reduction in the speed limit is something that Road Services would not support in this location for an isolated development proposal such as that proposed. They advise that the overall character of the area is not considered to be reflective of such a speed limit change meaning that such a proposal would likely be ineffective in reducing speeds to align with a 40mph limit. Furthermore, the legal process for implementing permanent changes to speed limits is lengthy and requires formal consultation with emergency services, bus operators, road haulage and Community Councils so there is no guarantee that such a speed limit change could be delivered. Road Services also point out that it is not normal practise for speed limit reductions to be implemented solely in order to mitigate substandard development proposals. On this basis, a reduction in the speed limit is not an acceptable measure and would not justify any relaxations of Road Services visibility splay requirements for both site access junctions.

In conclusion, and for the reasons set out above, Road Services recommend refusal of the proposal, advising that the proposed accesses are a risk to road safety, and that it falls short of the requirements of local and national transport policy for the use of active and sustainable travel modes to the site based on the deficiencies related to the safety, convenience and attractiveness of walking, cycling and public transport travel to the site.

Neither the proposed vehicle access for the proposed caravan site nor the proposed main family park vehicle access can achieve the required Road Services visibility splay requirements and as such both are unacceptable and as such the proposed scheme of development the subject of this application cannot be served by acceptable vehicle access junctions to the detriment of road safety. The chosen location for the proposed family park, which would be a significant travel generating use, would increase reliance on the private



car. Given all of this and as advised by Road Services the proposal is contrary to Policies 13b(i), 13b(ii), 13d, 29 part b) and 30 part b) (iv) of NPF4 and Policies T1 and T2 of the ELLDP.

At its meeting on Tuesday 27th August 2019 the Council approved a motion declaring a Climate Emergency. Given the rural location of East Fortune Farm and the fact that the proposed family park, would be a major development and a significant travel generating use, which would increase reliance on the private car with a consequently increase in carbon emissions. As such the proposal is contrary to Policy 30 part b) (iv) of NPF4. Notwithstanding the above, consideration has to be given as to whether there are any material considerations which outweigh the proposal's non-compliance with the Development Plan.

In this regard the Council's Economic Development Service have been consulted on the application. They support the proposal for the reasons that:

- o East Links Family Park is one of East Lothians's top visitor attractions and makes a significant contribution to the visitor economy;
- o Agritourism is a form of farm diversification that attracts recreational visitors and creates new rural jobs;
- o The proposal supports the aims and vision of the Scottish Agritourism Strategy 2030 to develop the rural economy and protect family farms for future generations; there are currently 23 agritourism businesses operating in East Lothian, the majority offer accommodation only, this proposal is positive in terms of an expanded accommodation offer linked with farm tours, activities, and increased productivity and sale of local produce;
- o The business model and activities proposed will increase the viability of an active farm and facilitate investment, increased food production, employment, and training;
- o Improvements proposed for the caravan park would be beneficial to the overall destination and to the business model proposed for the farm.

As a different model of family park based on a working farm it is not clear whether it would generate the same visitor numbers and revenue that the current model attracts at West Barns. Furthermore, if the landowner of the existing site at West Barns continues to operate a family park at that site under new management, then there could be two family park attractions operating within relatively close proximity to each other within East Lothian. Whilst Economic Development cannot advise on the detailed economic impact, they do conclude that there would be potential for economic benefit. Whilst there could be some economic benefit, this is not a material consideration that would outweigh the fact that the proposed scheme of development is contrary to the Development Plan with regards to it being located in an unsustainable location and the proposed vehicle accesses being unable to comply with the required Road Services junction visibility splays to the detriment of road safety. There are no other material considerations that outweigh this conflict with the development plan.

## **EQUALITIES AND HUMAN RIGHTS**

Due regard has been given to section 149 of the Equalities Act 2010 in carrying out the above assessment. Consideration has also been given to section 6 of The Human Rights Act 1998 and no incompatibility with Convention rights has been identified or raised.

## **CONCLUSION**

In conclusion, the proposal is contrary to Policies 13b(i), 13b(ii), 13d, 29(b) and 30(b) (iv) of NPF4 and Policies T1 and T2 of the ELLDP. There are no material considerations which outweigh the fact that the proposal is contrary with the Development Plan.

It is recommended that planning permission be refused for the following reasons:

- 1 The proposed family park would be a significant traffic generating use located in the countryside which would not be capable of being conveniently and safely accessed on foot, by cycle or by public transport and would increase reliance on the private car. Given all of this the proposal is contrary to Policies 13b(i), 13b(ii), 13d, 29(b) and 30(b) (iv) of National Planning Framework 4 and Policies T1 and T2 of the adopted East Lothian Local Development Plan 2018.
- 2 The proposed vehicular site access onto the B1377 to serve the proposed family park element of the scheme of development proposed cannot achieve the required visibility splay and as such would present an unacceptable road safety risk. Given this the proposal is contrary to Policy T2 of the adopted East Lothian Local Development Plan 2018.
- 3 The proposed vehicular site access onto the B1377 to serve the proposed caravan site element of the scheme of development proposed cannot achieve the required visibility splay and as such would present an unacceptable road safety risk. Given this the proposal is contrary to Policy T2 of the adopted East Lothian Local Development Plan 2018.
- 4 The proposed Family Park would be located within a rural location not well served by public transport. It would be a major development that would generate significant private car movements, with a consequential increase in carbon emissions. As such the proposal is contrary to Policy 30 part b) iv) of National Planning Framework 4.