

REPORT TO: Planning Committee
MEETING DATE: 5 November 2024
BY: Executive Director – Place
SUBJECT: Application for Planning Permission for Consideration

4

Application No. **23/01333/PM**
 Proposal Erection of 103 houses, eight flats and associated works
 Location **Land to the North of Castlehill
 Elphinstone
 East Lothian**

Applicant The Technical Department Bellway Homes Scotland East

RECOMMENDATION Consent Granted

REPORT OF HANDLING

BACKGROUND

As the area of the application site is greater than 2 hectares and also the proposal is for more than 49 residential units, the development proposed in this application is, under the provisions of The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, defined as a major development and thus it cannot be decided through the Council's Scheme of Delegation. The application is therefore brought before the Planning Committee for a decision.

As a statutory requirement for major development proposals the residential development of this site was the subject of a Proposal of Application Notice (Ref: 23/00005//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 (PAC) report is submitted with this application. The report advises that two public consultation events were held, the first in Elphinstone Community Centre on 7 June 2023 and the second in the Elphinstone Miners Welfare Club on 6 July 2023. A consultation website was also set up and was available for viewing and providing feedback for a total of seven weeks between 7 June and 28 July 2023. The PAC report informs that it is estimated that some 15 people attended the first public consultation event, with the same amount (15) attending the second event. For the first public consultation event, a total of 12 responses were received. Four were submitted

online via the project website, with eight hand-written feedback forms returned in-person at the first event. For the second public consultation event a total of eight responses were received, six submitted online via the project website, and two hand-written feedback forms. The PAC report also informs that some 80 people viewed the website during the seven weeks, 56 of whom visited when the initial consultation material was displayed, with 24 users visiting when the updated material (shown at the second consultation event) was displayed.

The PAC report advises that overall, the majority of respondents to the public consultation process expressed a general lack of support for the proposed development although some positive feedback was received – particularly regarding the affordable housing being provided as part of the development, the design of the proposed houses and the proposed open space. Concerns raised generally related to pressures on existing local amenities / infrastructure as a result of additional housing and residents, the height of the proposed houses, loss of agricultural land and greenbelt land, as well as concerns over pathways being formed over private land between the proposed development and Waterloo Place.

The PAC report outlines amendments which were made to the proposals as a result of comments received in community consultation including setting built development back from the eastern boundary of the site and removing a path link shown across private land linking with Waterloo Place.

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

APPLICATION SITE

The application relates to some 10 hectares of former farmland, the southern part of which is currently being developed as a housing development, located immediately to the west of the village of Elphinstone. It is bounded to the north by farmland, to the east by a woodland strip which currently forms the western edge of the village of Elphinstone and beyond that by the residential properties along the western side of Elphinstone. It is bounded to the south partly by a small public park and by the residential properties of Lynhaven and Marchwood Court and partly by the B6414 classified public road of Main Street beyond which lies Elphinstone Primary School and Community Centre, residential properties and an equestrian paddock. It is bounded to the west by a track which is designated a core path (route no. 458) and as a Right of Way (Elphinstone west end to Fa'side) and beyond that by the Elphinstone Football Ground, the residential property of Towerhill and further farmland.

The topography of the site is gently undulating and generally slopes uphill from the southeast to the north and northwest. The land continues to rise uphill to the north of the site. The site is most visible in the main approaches to Elphinstone from the west and the north and from the North Elphinstone to Fa'side Right of Way (Core Path 163) to the north of the site.

The western part of the site is within an area identified by The Coal Authority as being a Coal Mining Development High Risk Area. The eastern part of the site is within an area identified by The Coal Authority as being a Coal Mining Development Low Risk Area. The land of the application site is also within a wider area defined by the Macaulay Capability for Agriculture (LCA) classification system as being prime agricultural land.

The application site is allocated for housing development by Proposal TT11 (Elphinstone West) of the adopted East Lothian Local Development Plan 2018 (ELLDLP).

RELEVANT PLANNING HISTORY

On 15 April 2021, following the conclusion of a Section 75 Agreement, detailed planning permission (reference 16/00970/PM) was granted for the erection on the southern part of this same application site of 76 houses, four flats and associated works. That development was never implemented.

On 5 May 2023, following the conclusion of a Section 75 Agreement, detailed planning permission (reference 21/01608/PM) was granted for the erection of 86 houses and four flats as an alternative development to the one promoted through planning application 16/00970/PM, and one resulting in a total of 90 residential units rather than the 80 residential units granted by the grant of planning permission 16/00970/PM. The development approved by planning permission 21/01608/PM is well underway on site with a number of residential units now occupied. The development is being carried out by Bellway Homes Ltd. who are the applicants for this current application.

A separate planning application (reference 24/00699/P) has been submitted by Bellway Homes Ltd. for the formation of a footpath connection from the site of this current application, through the woodland strip and an area of grassed amenity space immediately to the east of the site of this current application and connecting into the existing residential cul-de-sac of Waterloo Place. That planning application is being considered separately from the application the subject of this report.

PROPOSAL

Planning permission is now sought through this current application for the erection on the northernmost part of the application site of 103 houses, eight flats and associated works. The associated works include planting of woodland strips, the provision of open space and the provision of equipped play space within the site. The proposals all relate to the northern half of the site (an area of some 5.3 hectares). The southern half of the site is the land being developed for the erection of the 86 houses and four flats approved under planning permission 21/01608/PM.

Since the registration of the application, a number of non-material amendments have been made to the proposals resulting in the submission of revised site layout and landscaping plans, road and footpath layouts and amendments to house types and designs. These revisions include changes to the road layout to reduce the amount of access roads requiring to be formed, an increase in the amount of open space proposed within the site, the introduction of a proposed equipped play area, revisions to the layout and orientation of house plots, revisions to house types proposed resulting in a decrease in the number of detached units being proposed; changes to boundary treatments, revisions to landscaping and drainage and flood prevention measures and details of air source heat pumps proposed.

The proposed development site layout plan shows how the proposed 103 houses and eight flats would be accommodated on the site along with associated access roads, parking areas, landscaping, open space, paths and equipped play provision. The houses would comprise of a mix of 39 detached, 20 semi-detached and 44 terraced houses. The houses would all be two-storey. The eight flats would be 'cottage style' flats consisting of four flats each within two, two-storey flatted buildings.

In terms of size, of the proposed 103 houses 36 would contain four bedrooms, 59 would contain three bedrooms and eight would contain two bedrooms. All of the four flats would contain two bedrooms.

Two of the semi-detached houses, 18 of the terraced houses, and the eight flats would be affordable housing units. The remaining 83 houses would be private houses for sale. The private houses would comprise of ten different house types. All of the house types proposed would be a similar, or the same design, as those currently being developed on the southern half of the overall site.

Vehicular, pedestrian and cycle access to the 111 dwellings would be formed as a continuation of the roads and paths on the southern part of the site which is currently being developed. No additional vehicular accesses to existing public roads outwith the overall site would be formed. Additional pedestrian and cycle accesses would be formed to connect the site to the land to the east and the west of it. The access road serving the 111 dwellings would form a loop around the residential properties which would connect into the access roads serving the southern half of the site. Residential properties would be located around the outer and inner sides of the loop road and would abut the residential properties of the southern half of the site and the northern, western and eastern edges of the site would be developed as open space, woodland strips and as a recreational pathway. Smaller areas of open space would be formed between residential properties including a long narrow strip running south to north in roughly the centre of the site to create an open vista to the north and an area towards the western end of the site which would include an equipped play trail. Footpaths would be formed throughout the site and these would connect to the core path at the western boundary of the site and to the existing woodland strip to the east of the site as well as forming a looped recreational path around the northern part of the site and linking into the footpath provision on the southern part of the site which in turn leads to Main Street.

The application is also supported by a number of detailed drawings and reports including a Planning Statement and Statement of Community Benefit, a Design and Access Statement, a Tree Survey and Arboricultural Impact Assessment, a Transport Assessment, a Noise Assessment, an Archaeological Report and Site Investigation Reports, some of which have been updated or revised since registration of the application. Further reports submitted since the registration of the application include Ecology, Biodiversity Enhancement and Bat Reports, an Energy Statement, a Plant Schedule Specification and Maintenance Plan, a Woodland Tree Survey, Drainage Reports, and a Mineshaft Investigation Report.

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 14 September 2023, the Council issued a formal screening opinion to the applicant with the conclusion 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 and therefore it is the opinion of East Lothian Council as Planning Authority that there is no requirement for the development the subject of this application to be the subject of an EIA.

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 adopted National Planning Framework 4 (NPF4) and the adopted East Lothian Local Development Plan (ELLDP) 2018 together with its adopted supplementary guidance.

Relevant NPF4 Policies are Policies 1 (Tackling the climate and nature crisis), 2 (Climate Mitigation and adaptation), 3 (Biodiversity), 4 (Natural places), 5 (Soils), 6 (Forestry, woodland and trees), 7 (Historic Assets and Places), 9 (Brownfield, vacant and derelict land and empty buildings), 12 (Zero waste), 13 (Sustainable Transport), 14 (Design, quality and place), 15 (Local living and 20 minute neighbourhoods), 16 (Quality Homes), 18 (Infrastructure First), 20 (Blue and green infrastructure), 21 (Play, recreation and sport), 22 (Flood Risk and Water Management), 24 (Digital infrastructure) and 31 (Culture and creativity).

Relevant ELLDP Proposals are PROP TT11: Elphinstone West, PROP T9: Safeguarding of Land for Station Car Parks – Musselburgh, Longniddry, Drem, PROP T10: Safeguarding of Land for Platform lengthening – Musselburgh, Prestonpans, Longniddry, Drem and Dunbar, PROP T15: Old Craighall Junction Improvements, PROP T17: A1 Interchange Improvements (Salters Road, Dolphinstone Interchange, Bankton Interchange and Gladsmuir), PROP T21: Musselburgh Urban Traffic Control System, PROP T27: Tranent Town Centre One-Way System, PROP T28: Junction Improvements at Elphinstone Road and Edinburgh Road, PROP CF1: Provision of New Sports Pitches and Changing Accommodation and PROP ED4: Tranent Cluster Education Proposals,

Relevant ELLDP Policies are DP1: Landscape Character, DP2: Design, DP3: Housing Density, DP4: Major Development Sites, DP8: Design Standards for New Housing Areas, DP9: Development Briefs, HOU3: Affordable Housing Quota, HOU4: Affordable Housing Tenure Mix, OS3: Minimum Open Space Standard for New General Needs Housing Development, OS4: Play Space Provision in New General Needs Housing Development, CH4: Scheduled Monuments and Archaeological Sites, RCA1: Residential Character and Amenity, DCN2: Provision for Broadband Connectivity in New Development, W3: Waste Separation and Collection, NH5: Biodiversity and Geodiversity Interests, including Nationally Protected Species, NH7: Protecting Soils, NH8: Trees and Development, NH10: Sustainable Drainage Systems, NH11: Flood Risk, NH12: Air Quality, NH13: Noise, T1: Development Location and Accessibility, T2: General Traffic Impacts, T4: Active Travel Routes and Core Paths as part of the Green Network Strategy, T31: Electric Car & Bus Charging Points, T32: Transport Infrastructure Delivery Fund, SEH1: Sustainable Energy and Heat, SEH2: Low and Zero Carbon Generating Technologies and DEL1: Infrastructure and Facilities Provision.

Further material considerations are Scottish Government Policy Statement: Designing Streets and Planning Advice Note 67: Housing Quality. They provide an overview of creating places, with street design as a key consideration. They advise on the detail of how to approach the creation of well-designed streets and describe the processes which should be followed in order to achieve the best outcomes. Planning Advice Note 67 explains how Designing Places should be applied to new housing. In PAN 67 it is stated that the planning process has an essential role to play in ensuring that: (i) the design of new housing reflects a full understanding of its context - in terms of both its physical location and market conditions, (ii) the design of new housing reinforces local and Scottish identity, and (iii) new housing is integrated into the movement and settlement patterns of the wider area. The creation of good places requires careful attention to detailed aspects of layout and movement. Developers should think about the qualities and the characteristics of places and not consider sites in isolation. New housing should take account of the wider context and be integrated into its wider neighbourhood. The quality

of development can be spoilt by poor attention to detail. The development of a quality place requires careful consideration, not only to setting and layout and its setting, but also to detailed design, including finishes and materials. The development should reflect its setting, reflecting local forms of building and materials. The aim should be to have houses looking different without detracting from any sense of unity and coherence for the development or the wider neighbourhood.

Also material is East Lothian Council's approved Developer Contributions Framework Supplementary Guidance (SG) and the approved Supplementary Planning Guidance (SPG) on:

- (i) 'Design Standards for New Housing Areas'. The SPG expands on policies that are set out in the adopted ELLDP. It seeks to raise awareness of the unique characteristics and attributes of East Lothian, how these can be used positively to create new places both small scale and large, and the technical aspects of design that are required to deliver great new places;
- (ii) 'Affordable Housing'. The SPG supplements relevant LDP policies in relation to the delivery of affordable housing;
- (iii) 'Sustainable Drainage Systems (SuDS)'. The SPG supplements relevant LDP policies regarding SuDS and flood risk management and links with wider Council policies, strategies and priorities; and

Also material to the determination of the application is the non-statutory Development Brief (TT11 Elphinstone West, Tranent) which was adopted by the Council on 30 October 2018.

REPRESENTATIONS

Material to the determination of the application are the written representations received to it. There have been four written representations received to this application, all of which raise objections to the proposed development. Copies of the written representations are contained in a shared electronic folder to which all Members of the Committee have access.

The main grounds of objection in respect of the proposed development are summarised below:

- * The application should be refused until such time as East Lothian Local Development Plan 2 has been completed and approved by the Council to allow for it to be ascertained that Elphinstone can sustain such an increase in houses and residents and to allow for detailed information to be available on whether the additional 111 homes indicated in this application are appropriate, essential and offer any economic, social or cultural benefit to the village and its residents. East Lothian Council has a duty of care to its existing residents and also to retain and maintain its smaller villages;
- * The existing development taking place on the site increases the number of homes in Elphinstone by one third, which is already extremely high for a village of this size in such a short period of time. Approval of this additional application would see an increase of the village by more than two thirds which would more than double the population and be completely out of context to the setting of this small rural village;
- * Residential development should be concentrated at Blindwells and Wallyford to avoid over developing a small village like Elphinstone;
- * Elphinstone is a small rural village, with a limited capacity primary school, a Miners Institute and no other amenities, such as shops or leisure facilities and requires travel by

car to reach any of these in the neighbouring towns;

- * There is no mention of working with suppliers and ELC on public transport, shops, infrastructure and healthcare to support a development of this size;

- * There has been no attempt to integrate the development within the village in terms of house type. Elphinstone comprises at least 50% bungalow homes and there are bungalows in the approved or the proposed development for the site;

- * Proposed houses would be built on platform foundations. This will cut out natural light and remove privacy to neighbouring residential properties;

- * This, and other developments nearby, are putting unbearable pressure on all local services including GP services in Tranent which are under extreme pressure already;

- * When the original proposal for 86 homes on this site went to public consultation, the developer at that time did not mention that there might be a Phase 2 on this site;

- * This would lead to an Increase in traffic, traffic congestion and traffic pollution;

- * The ideas and suggestions made by residents at the public consultation have not been taken up by the applicant;

- * The developer claims there is no flood risk associated with this site but the site clearly cannot cope with current levels of rainfall and groundwater. Flooding issues are ongoing on the site, concerns that existing gardens at Waterloo Place are experiencing waterlogging as a result of the existing development of the site and concerns that there is also a flood risk to the gardens of the houses in the wider residential area and that these concerns have not been adequately addressed in the plans;

- * There is no demand for the houses currently being erected under phase 1 so these additional units are not required. There are new houses going up in every town and village throughout the district;

- * The proposals have little reference and alignment to the guiding principles of NPF4. ELC should be using NPF4 as best practice and as a pathway to sensible, realistic residential developments;

- * The density of housing is too high, the development shows more houses than the area was set aside for in the LDP;

- * Concerns that a path may be proposed between the proposed development and Waterloo Place;

- * Impact of / lack of solution to long term air and noise pollution during the build phase including from construction traffic;

- * The proposals completely disregard comments from ELC's Main Issues Report;

- * The current building work on the site has resulted in the displacement of crows from Tower Hill to the woods behind MacFarlane Court. These crows have been attacking and damaging property and cars causing considerable damage;

- * Concerns that the proposed development would have a harmful impact on wildlife on the site including badgers, deer, buzzard, bats, hedgehogs and partridge;

Representations made also comment on aspects of the current development taking place on the site including concerns about the conduct of the developer in relation to their work on the approved development underway on the site, to the standard of their public consultations and to their approach to the erection of unauthorised advertisement hoardings at the existing site. These concerns are not material to the consideration of this current application. Where they relate to alleged unauthorised development or non-compliance with existing planning controls they can be investigated by the Council's Planning Enforcement Officer.

Comments on the demand or otherwise for the houses currently being erected on the site are not material to the determination of this application.

Matters of construction management, including on the routing of construction traffic and air quality management measures can be dealt with through planning controls on a grant of planning permission and can otherwise be investigated by colleagues in Protective Services and Road Services using legislation other than planning legislation.

Matters regarding damage to property and possessions by the possible displacement of crows from current development on the site are not matters that can be controlled through planning legislation.

The public consultation which took place at the time of the original planning application for this site was carried out by a different potential developer and related only to the development being proposed at that time. Public consultations carried out in respect of this current proposal have been carried out in accordance with the statutory planning requirements relating to the carrying out of public consultations for major development proposals and the applicant has submitted a report advising on that consultation and how they have taken on board comments made during that process, as set out earlier in this planning assessment report.

The purpose of the Council's Main Issues Report was to inform the preparation of the Council's Local Development Plan. It is therefore not of particular relevance to individual planning applications.

COMMUNITY COUNCIL COMMENTS

Tranent and Elphinstone Community Council have been consulted on the application. They comment that they feel that there should be particular scrutiny over this proposal to ensure that the needs and thoughts of local residents are at the forefront of any decision making. They are concerned that this either did not happen with the first phase or it was ignored by the Developer.

The Community Council point out that Elphinstone is a small village and they state that they are concerned that it risks being overwhelmed by a Developer with no interest in existing residents genuine concerns and a Local Authority caught up in the need for additional housing. They consider this can easily be rectified by choosing to refuse this application and ask the developer to concentrate on Blindwells and Wallyford land opportunities which can easily absorb the excess housing.

The Community Council reiterates concerns raised in representations regarding pressure on local infrastructure and Council resources from a development of this size, the lack of information on working with suppliers and ELC on improving public transport, shops, infrastructure and healthcare to support a development of this size, the increase in the number of car trips as a result of this development and the impact of that on the village

and also through West Tranent, the perceived lack of reference and alignment to NPF4, the density of development and the overall number of houses now proposed for this site, the impact the proposed development would have on the natural light and privacy enjoyed by existing residents, the proposed properties not being in keeping with the predominantly low rise housing in Elphinstone, the flooding / water logging concerns, the plans detailing a path between the proposed development and Waterloo Place, the perceived lack of compliance with the Council's Main Issues Report, the perceived lack of uptake on suggestions put forward by residents at public consultations, the impact on residents from air and noise pollution and from traffic impacts during the build phase, the perceived conduct of the developer during phase 1 works, the impact of displaced crows on existing residents and the potential impacts on existing wildlife using the site.

Tranent and Elphinstone Community Council advise they do not support this application and they state that they feel there are other land areas already identified, with better transport links from the A1, that do not come through already congested (at peak times) roads and would not completely overwhelm a small community whom have been ignored to date.

PLANNING ASSESSEMENT

The primary material consideration in the determination of this application is whether or not the principle and the detail of the proposed development accords with development plan policy and other supplementary planning guidance and if not, whether there are material considerations that outweigh any conflict with the development plan and other supplementary planning guidance.

The development is proposed on land allocated for housing under PROP TT11 of the ELLDP. Policy 16 of NPF4 supports the principle of housing on land already allocated for that use. The principle of housing is therefore supported on this site.

Proposal TT11 of the ELLDP allocates the whole of the allocated site for a residential development of circa 80 homes. However, the development proposed in this application would result in 111 residential units being built on the northern half of the overall allocated site. 90 residential units have already been approved and are being built on the southern part of the overall site so overall, if planning permission is to be granted for this application, there would be a total of 201 homes on a site allocated for circa 80 homes.

In consultation on the planning application for the 90 homes on the southern part of the site (reference 21/01608/PM), which have since been approved, the **Council's Policy and Projects Manager** stated that accepting higher overall housing numbers is, if there is no impediment on other grounds such as educational or road capacity, supported as an efficient use of land. He added that this however must be consistent with achieving good design, including the requirements of the design brief.

The Council's Policy and Projects Manager has again been consulted on this current application and in the consideration of this proposal has advised he objects to the principle of the proposed development on the grounds that he considers it contrary to PROP TT11 of the ELLDP due to the overall number of dwellings proposed and due to concerns over infrastructure capacity. He states that whilst it is recognised that the unit numbers specified in PROP TT11 are approximate (circa.) and that there is some flexibility for layouts to slightly exceed this figure, he states that this must not come at the expense of infrastructure capacity and overall good design and place-making principles. He states that he recognises that, had the site been developed out fully for no more than 80 dwellings, the density would be much lower than is desirable and not reflective of the character of existing residential areas of Elphinstone however he considers that it is not a

requirement that the whole site is developed solely for housing and instead other potential uses for the remainder of the site, options that would for example contribute towards biodiversity enhancement and open space provision, could be considered. He does not however state which potential uses he considers would contribute more towards biodiversity enhancement and open space provision than the residential use proposed would. In terms of his concerns over infrastructure capacity he states that the proposed development cannot be supported as it could prejudice the development of other allocated sites in relation to health care and education infrastructure capacity. He does not however provide any evidence to support this statement.

Notwithstanding the objections detailed above the Council's Policy and Projects Manager also states in his response that the proposed site layout plan demonstrates that the site could be physically capable of accommodating a greater number of dwellings than the allocation. However, he goes on to say that the site being physically capable of accommodating the proposed development cannot be seen in isolation, nor can it be seen simply as the best use of the land as an important resource. He is concerned that the significant increase in housing units above the allocation figure means that the site would have much more limited potential to actively contribute towards the climate and nature crises.

In terms of more detailed design considerations, the Policy and Projects Manager, having initially raised a number of concerns over the details of the proposed development, has subsequently commented on the design changes made by the applicant since registration of the application. Whilst still objecting to the principle of the proposed development, the Policy and Projects Manager welcomes revisions made to the layout of dwellings along the northern boundary of the site which he considers have resulted in much greater variety than previously, which would improve the overall character of the development. He also welcomes efforts to redesign parking areas to better conceal parked vehicles and welcomes the reduction in the number of detached dwellings across the site to less than 50% of the total (previously 56%), with semi-detached and terraced units now having higher proportions of the total although he expresses disappointment that all of the dwellings are proposed to be two storey with no single or one and a half storey properties proposed. He also notes improvements in pedestrian connections, green space and landscaping within the site which he states could be beneficial both from a visual impact and for biodiversity net gain.

The Policy and Projects Manager also welcomes the proposal (which is submitted through separate planning application 24/00699/P) to form a footpath connection between the new development and the existing residential areas to the east. He comments that although the Development Brief specified more than one connection, it is accepted that there are land ownership issues outwith the applicant's control, and that this proposal may be the only viable option for a footpath connection.

In relation to the Policy and Projects Managers objection to the significant increase in housing units above the allocation figure quoted in PROP TT11 of the ELLDP it is relevant to note that some other allocated sites of the ELLDP have seen planning permissions granted for a higher number of housing units than their site allocation and some have seen planning permissions granted for a smaller number of housing units than their site allocation. The provision of a larger number of housing units compared to an approximate capacity stated in the ELLDP does not in itself amount to a conflict with the development plan.

It is thereafter necessary to consider the design and layout of the proposal against relevant development plan policies, the development brief for the site and other material considerations to ascertain whether the site can accommodate the proposed number of

units and to consider the impact the proposals would have on amenity and on the climate emergency and nature crises. The impact of the proposal on infrastructure and facilities will then be considered.

The adopted Development Brief for the site sets out guiding principles, and indicative design, to be followed, where possible. These include (1) taking site access from the B6414 and providing a shared use path between the B6414 and the application site, a gateway landscaped edge and ensuring built form should not be overly dominant in terms of scale or impact on the wider village character and should reflect the nearby built form; (2) providing a well-designed and well-landscaped SUDS to create an appropriate landscape edge ; (3) enabling pedestrian and cycling connectivity through the site to adjoining land; (4) ensuring a high quality landscape edge of minimum 8 metres wide is provided along the northern boundary incorporating the existing hedgerow, path provision, including connecting to the existing core path which runs along the western edge of the site, and specimen tree planting to create appropriate shelter and setting for the development; (5) open space in the form of semi-natural open parkland offering key views towards the Forth coastline and the Lammermuirs and keeping development off the high ground on the northwest corner of the site; (6) creating a surfaced path connection between the site and the adjoining community to ensure good connections; and (7) creating a shared use path to connect the site to the B6414 as a key active travel route to Tranent.

Some of the guiding principles of the Development Brief, such as taking site access from the B6414, creating a gateway landscaped edge and the formation of a landscaped SUDS basin on the eastern edge of the site have already been achieved through the approval of the 90 unit development the subject of planning permission 21/01068/PM.

The application, as originally submitted, did not include any proposals to connect the proposed development to the B6414 or to the existing community of Elphinstone at the northeastern edge of the overall site as set out in the guiding principles of the Development Brief. Since registration of the application the applicant has investigated the possibilities of creating a surfaced path connection between the site and the adjoining community as set out in guiding principle (6) of the Development Brief and of creating a shared use path to connect the site to the B6414 as a key active travel route to Tranent as set out in guiding principle (7) of the Development Brief.

Guiding principle (7) of the Development Brief indicates that such shared use path should be formed through the farmland immediately to the north of the application site and should run eastwards to connect to the B6414. The applicant has provided written confirmation to the Planning Authority which demonstrates that they have met with, and written to, the owner of the farmland to the north of the application site to discuss the possibility of forming a path across the edge of the farmland which would connect the northern edge of the proposed development with the B6414. The applicant has advised the Planning Authority that the verbal response they have received from that land owner is that he would not wish to enter into an agreement with the applicant to allow for a footpath to be formed through his field for the reason that he operates a working farm and the spraying of the fields periodically with pesticides and the operation of farm machinery would cause interference with the use of such a path by pedestrians. The applicant therefore considers they are unable to provide this off-site path connection on land outwith their control. Instead, they have submitted a separate planning application (reference 24/00699/P) to form a shared use path to connect the site of the proposed development with the existing community of Elphinstone via the woodland strip and the amenity grassed open space and connection into the cul-de-sac of Waterloo Place and beyond to the B6414. Therefore, notwithstanding that a shared use path through the farmland to the north of the site is not proposed through this application or any other associated application, subject to the applicant's separate

planning application to form a shared use path from the site to the B6414 via Waterloo Place being approved and its delivery being secured, the Development Brief's aim of connecting the proposed development to the existing community and beyond and to allow active travel opportunities would still be achieved.

Otherwise, the development proposed through this current application would, with its permeable street pattern, links to the core path to the west of the site, road and pedestrian/cycle accesses, new and retained landscaped edges and other landscaping and open spaces, be a distinctive yet attractive urban expansion of Elphinstone respecting the guiding principles of the adopted Development Brief. The overall layout of the proposed development is very similar to that approved by the grant of planning permission 21/01608/PM for the southern half of the overall site. In response to Planning Officer comments and consultation responses the applicant has revised the house type mix to include a greater mix of semi-detached and terraced homes and fewer detached homes to take better due regard to the existing built form of the settlement and neighbouring residential developments.

The proposed development would be of a pattern and density not out of keeping with patterns and densities of housing and other development in Elphinstone, including that already approved for the southern half of this overall site. The architecture of the proposed houses and flats is of a traditional pitched roof form and a relatively traditional design overall and the materials proposed are generally traditional in appearance including two different roofing colours and three different render colours to match the finishing colours and materials being used on the southern part of the site. A condition can be imposed on the grant of planning permission for the proposed development to ensure that the finishing colours and mix of colours to be used respect the character and appearance of the village including that of the development underway on the southern part of the site.

The proposed housing development would provide an attractive residential environment. The houses and flats are shown to be laid out in such a way that adheres to the normally accepted privacy and amenity criteria on overlooking and overshadowing, whilst affording the future occupants of the houses and flats an appropriate level of privacy and residential amenity.

The proposed new houses and flats would be so sited, oriented and screened such as not to harm the privacy and amenity of existing neighbouring or nearby residential properties through overlooking or overshadowing and in this respect would not conflict with Policy RCA1 of the ELLDP.

Policy 15 of NPF4 seeks to encourage, promote and facilitate the creation of connected and compact neighbourhoods where people can meet the majority of their daily needs within a reasonable distance of their home, preferably by walking, wheeling or cycling or using sustainable transport options. Policy 16 of NPF4 encourages, promotes and facilitates the delivery of more high quality, affordable and sustainable homes, in the right locations, providing choice across tenures that meet the diverse housing needs of people and communities. It requires development proposals that include 50 or more homes to be accompanied by a Statement of Community Benefit which should explain the contribution of the proposed development to meeting local housing requirements, including affordable homes, providing or enhancing local infrastructure, facilities and services; and improving the residential amenity of the surrounding area. As is required by Policy 16 of NPF4, the application is accompanied by a Statement of Community Benefit which sets out the community benefits the applicant considers this proposal will bring. These include the delivery of a wide range and mix of houses (private and affordable) which will contribute to meeting local housing requirements, contributing towards the extension of the village primary school through developer contributions and providing support to the primary

school roll, improvements to the transportation infrastructure through developer contributions, the provision of additional open space, woodland planting and footpath links to the benefit of residents in the new development and the wider community and the implementation of planting proposals for the purposes of habitat creation to the benefit and enhancement of biodiversity credentials.

Elphinstone is a village that has a primary school, community centre, public house and a small shop, as well as sport, recreation and play facilities, all of which are within a reasonable distance of the application site. Where relevant and necessary, developer contributions can be secured through a Section 75 Agreement to contribute towards the provision of necessary infrastructure requirements such as education, sporting or transport improvements and provisions. A wide range of employment, shopping, health and social care, education and other community facilities are available 2 miles away in Tranent which is accessible via public transport. In addition, and as referred to in the applicant's Planning Statement and in their Statement of Community Benefit contained within their Planning Statement, a range and mix of house types and tenures are proposed, including affordable and sustainable homes, improved areas of public open space and equipped play areas will be provided to benefit both the development proposed and the existing community and improved connectivity and linkages will be established in association with the provision of new and improvement of existing public paths. In all of these considerations, the proposals are consistent with Policies 15 and 16 of NPF4.

The **Council's Strategy, Policy & Development Manager (Amenity Services)**, has been consulted on the application and has commented on open space and play provision considerations. On a more general comment she advises she is supportive of the proposal to extend the new woodlands/shelter belt areas on the western and eastern boundaries of the site as this will enhance the site for nature and people and provide shelter.

In relation to open space provision Policy OS3 of the ELLDP sets out the minimum requirement for on-site provision of open space which is 60m² per dwelling. This will consist of provision of formal and informal open space as well as space for equipped play areas in accordance with Policy OS4. The applicant has provided details that demonstrate that, not including the woodland strips, the open space provision would amount to some 109.6m² per dwelling which exceeds the 60m² per dwelling required by Policy OS3. Furthermore, in response to the consultation response received from the Council's Strategy, Policy & Development Manager (Amenity Services), the applicant has removed or re-positioned tree planting proposals within two large areas of open space, one on the eastern end of the site and one on the western end, to better allow these areas to be used as multi-functional open spaces for recreational uses such as informal ball games. The areas of open space shown to be provided would provide sufficient, usable areas of open space for informal recreation for the proposed development, consistent with Policy OS3 of the ELLDP.

It is proposed to provide an area of equipped play provision on site. The play park is proposed to be sited towards the western end of the site and would be surrounded on all sides by residential properties thereby ensuring passive surveillance. The site layout indicatively shows how the equipped play park could be laid out as a 'play trail' containing a number of items of play equipment however no final details of the play equipment, any other associated items such as bins, benches, enclosures or ground surfaces have been submitted with the application. The Council's Strategy, Policy & Development Manager (Amenity Services) advises there requires to be suitable play provision for this site, as set out in LDP Policy OS4: specifically a play area suitable for children aged 0-8. She advises that as set out in the Council's recently approved Play Sufficiency Assessment recommendations, she would also require that new play areas are suitable for a range of abilities including disabilities, and this includes suitable play equipment and surfacing to

facilitate a range of ages and abilities. She advises that a condition should be imposed if planning permission is to be granted to ensure that full details of the play area proposed, including play equipment and surfacing and details on how the equipped play area will be appropriately inspected, managed and maintained by the developer going forward are submitted to and approved by the Planning Authority. She further advises that natural play opportunities are also encouraged and can be incorporated into the landscaping element of the play area. Such a condition can be imposed on a grant of planning permission. Subject to this control the proposed play provision is consistent with Policy OS4 of the ELLDP.

On these open space and play provision considerations, the proposals are also consistent with Policy 21 of NPF4 which seeks to encourage, promote and facilitate spaces and opportunities for play, recreation and sport.

The **Council's Biodiversity Officer** having considered the Ecology Report, the Biodiversity Enhancement Plan and the Bat Survey Report submitted with this application is satisfied that sufficient assessment of any potential significant habitats and protected species within and surrounding the site has taken place and that appropriate measures to protect biodiversity, deliver positive biodiversity enhancements and to strengthen nature networks are proposed by the applicant. The proposals include for the planting of native species rich hedgerow and tree planting, including berry bearing and strongly scented trees to attract certain species, meadow planting to create species-rich grassland, leaving grass unmown around the base of the northernmost hedge to provide cover for species, the installation of 6 bat roost boxes within the ridges of 6 of the proposed houses on the eastern and western edges of the development, and the installation of garden fencing which is raised to a minimum height of 130mm above ground level to allow for freedom of movement of wildlife. The Council's Biodiversity Officer is satisfied that the proposals will not affect any significant habitats or protected species and welcomes the biodiversity measures proposed by the applicant. She raises no objections to the proposals. Conditions can be imposed to ensure that the biodiversity enhancement measures detailed in the application are implemented on site. Subject to such control being imposed the proposals, in respect of these nature and biodiversity considerations, are consistent with Policies 1, 3 and 4 of NPF4 and with Policy NH5 of the ELLDP.

In respect of landscape matters the existing mature tree cover which bounds much of the eastern boundary of the site would, in part, soften and serve to integrate the proposed development into its landscape setting, breaking up the massing of the proposed development whilst gently introducing an additional extent of urban development on to this western edge of Elphinstone. The setting of the proposed development would be further enhanced by the applicant's proposals to plant a 20 metres wide woodland strip along all of the western boundary of the site, a 10 metres wide woodland strip along the eastern boundary of the application site, both of which would tie into the woodland strips approved for the southern half of the overall site and in the case of the eastern woodland which would tie into the existing woodland strip along this edge and other areas of landscaping throughout the site including retention of the northern boundary hedging and the provision of further tree planting as well as other landscaping along this prominent northern edge and throughout the development.

The applicant has taken into consideration a number of comments of the Landscape Projects Officer in the submission of revised drawings to incorporate enhanced landscape planting within the site, including additional tree planting to the northern boundary and hedge planting to rear and side garden fences that face north along the northern boundary, revisions to hedgerow mixes, the introduction of large species trees and the repositioning of trees or substitution of them with different species where concerns had been raised by the Landscape Projects Office that they were too large for their spaces.

The Landscape Projects Officer does not object to the proposed development and makes a number of recommendations for conditions to be imposed relating to matters such as the protection of existing trees during the course of development, the implementation of the proposed landscaping and the ongoing maintenance of landscaping within the site. Where relevant, these matters can be made conditions of a grant of planning permission.

On the above landscape and tree protection considerations, the proposed development is consistent with Policy 6 of NPF4, which aims to protect and expand forests, woodland and trees and with Policies 20 of NPF4 and policies DP1 and NH8 of the ELLDP.

Policy 7 of NPF4 seeks to protect and enhance historic environment assets and states that "Where there is potential for non-designated buried archaeological remains to exist below a site, developers will provide an evaluation of the archaeological resource at an early stage so that planning authorities can assess impacts". An Archaeological Evaluation Data Structure Report has been submitted with this application. The Report presents the results of an archaeological evaluation which was undertaken on the site in December 2022. The archaeological evaluation found the site had undergone extensive agricultural improvement with field drains encountered in every trench. A mineral extraction pit and curving linear were encountered during the works. The Report author states the pit is likely post-medieval, while the ditch remains undated. It extended into the area of the mining works and is unlikely to survive to any great extent. The **Council's Heritage Officer**, having considered the Archaeological Evaluation Data Structure Report, has advised he is content that the area to which this application relates was evaluated archaeologically in January 2023 and that there is no requirement for any further archaeological work associated with the current application. He therefore confirms he has no comments to make on this application in relation to the Historic Environment. The proposals comply with Policy 7 of NPF4 and with Policy CH4 of the ELLDP.

The land of the application site is defined by the Macaulay Capability for Agriculture (LCA) classification system as being Land Capable of Supporting Arable Agriculture Class 3:1, that being prime agricultural land capable of producing a moderate range of crops. Policy 5 of NPF4 and Policy NH7 of ELLDP both provide significant protection for valued soils including prime agricultural land. Policy NH7 of the ELLDP states that development on prime agricultural land will not be permitted unless in the particular circumstances listed in the Policy. One of those circumstances is if it is to implement a proposal of the plan. As the land of this application site is allocated for residential development in the ELLDP the proposal does not conflict with Policy NH7 of the ELLDP which already accepts the loss of this area of prime agricultural land to housing development. Policy 5 of NPF4 also sets out circumstances where development proposals on prime agricultural land will be supported and although housing development is not listed as one of those circumstances, Policy 16 of NPF4 supports development proposals for new homes on land allocated in LDPs. The Scottish Government's Transitional Arrangements for NPF4 states that "It is important to bear in mind NPF4 must be read and applied as a whole. The intent of each of the 33 policies is set out in NPF4 and can be used to guide decision making. Conflicts between policies are to be expected. Factors for and against development will be weighed up in the balance of planning judgement". In the circumstances of this application where it is a development proposal for new homes on land allocated for housing in the ELLDP, the proposal complies with Policy NH7 of the ELLDP and, although not falling within the types of acceptable development listed in Policy 5, it does not conflict with NPF4 when read as a whole.

The **Council's Access Officer** commented on the application as originally submitted and at that time expressed concern over the lack of paths provision. Since then the applicant has submitted a separate planning application to form a path connecting the proposed

development to the B6414 via Waterloo Place as set out in the adopted Development Brief for the site, has explored path provision through the farmland to the north of the site and has demonstrated the difficulties in delivering this and has improved path provision within the site including along the northern edge where revisions have been made to create a meandering path through a landscaped edge. These revisions are in line with the recommendations made in the Council's Access Officers consultation response. He has offered no further comment on the proposals.

The **Council's Road Services** have considered the details of the application and raise no objection to the proposed development, being satisfied that it could be accessed safely and would not lead to a road or pedestrian safety hazard. They raise no objection to the principles of layout of the proposed development, to the 111 units proposed being accessed via the approved development currently under way on the southern part of the overall site which takes its access from the B6414 classified public road of Main Street, of parking provision or of the likely impacts of additional traffic generation on the existing road network.

In terms of paths provision, the Council's Road Services note the Development Brief requirements to connect the proposed development to the adjoining community to ensure good connections and to provide an active travel route to Tranent. The proposal does not include the provision of the two separate paths listed in the Development Brief but the Council's Road Services are content that the path connection promoted through separate planning application 24/00699/P will allow for connection to the adjoining community to ensure good connections and will allow for connection to the B6414 via Waterloo Place. They are content that subject to the separately proposed path provision being completed prior to the occupation of any dwelling the subject of this application, along with other path provision proposed through this application, sufficient connectivity to the existing village and to the core path network and sufficient active travel routes will be provided.

The Council's Road Services Officer advises that every property within the site would be less than a 400 metre walk from the nearest bus stop, those being the bus stops provided in the approved development on the southern half of the site, and therefore additional bus stops are not required for this now proposed development on the northern half of the site.

The Council's Road Services further recommend a number of transportation requirements which can be met through the imposition of conditions on a grant of planning permission for the proposed development. These include submission and approval by the Planning Authority of details of a Travel Information Pack to be distributed to new residents, a Construction Method Statement, wheel washing facilities to be implemented during construction, the carrying out of a dilapidation survey during the course of construction to ensure maintenance of the condition of the B6414 public road along the extents of the 20mph limit, implementation of proposed electric vehicle charging proposals and ensuring that private driveways are at least 3.3 metres in width.

With the imposition of conditions to cover these recommendations of Road Services, the proposed development does not conflict with Policy 13 of NPF4 or with Policies T1, T2, T4 or T31 of the ELLDP and is consistent with Policy 15 of NPF4 which seeks to encourage, promote and facilitate the creation of connected and compact neighbourhoods where people can meet the majority of their daily needs within a reasonable distance of their home, preferably by walking, wheeling or cycling or using sustainable transport options.

Swept path analysis drawings submitted by the applicant as part of this application demonstrate that large vehicles, including waste servicing vehicles could satisfactorily negotiate the proposed development providing convenient access for the collection of waste and bin stances have been added to the development proposals to allow for safe

and convenient access for bin collections. The **Council's Waste Services Manager** has confirmed that he has no objections to the proposals and that the general collection and management of waste and recycling from the proposed development will be operated by the Council's Waste Services. A condition can be imposed if planning permission is to be granted to require bin storage facilities to be formed and made available for use prior to the occupation of the flatted units of the proposed development. In all of this the proposal complies with Policy 12 of NPF4 in respect of sustainable waste management and with Policy W3 of the ELLDP.

In all of this the proposal would be an appropriate residential development of the site and whilst it would bring further change to the western edge of Elphinstone it would be well designed and integrated into its landscape and settlement setting.

The site is capable of accommodating all of the proposed development including vehicular and pedestrian access and amenity space without being an overdevelopment of it. The pattern and density of the proposed development would not be at odds with the existing patterns and densities of housing and other development within the village of Elphinstone, including that of the development approved and currently being constructed on the southern part of this site. In all of this, the proposals are consistent with Scottish Government Policy Statement: Designing Streets and Planning Advice Note 67: Housing Quality, Policies 9, 14, 15 and 16 of NPF4, Policies DP2, DP3, DP4, DP8, DP9 of the ELLDP and with the Council's approved 'Design Standards for New Housing Areas' SPG and the Council's adopted Development Brief for the site.

The **Council's Protective Services Manager** has been consulted on the application and the **Council's Environmental Health Officer** has responded to advise he has no objection to the proposed development, being satisfied that occupants of the proposed development would enjoy sufficient amenity and the proposals would not result in harm to the amenity of any neighbouring land use. He recommends that conditions be imposed if planning permission is to be granted to ensure that a Construction Method Statement be submitted to and approved by the Planning Authority prior to the commencement of any development on the site to ensure that measures will be taken by the developer to minimise impacts on residential properties due to noise and dust during the course of the development and furthermore that a condition be imposed to ensure that noise associated with the operation of the Air Source Heat Pumps(ASHPs) proposed to be installed at the affordable housing units, including cumulative impacts of a number of ASHPs operating simultaneously, shall not exceed Noise Rating curve NR20 at any octave band frequency between the hours of 2300-0700 and Noise Rating curve NR25 at any octave band frequency between the hours of 0700-2300 when measured from neighbouring residential properties. Subject to the imposition of these conditions the proposals are compliant with Policies NH12 and NH13 of the ELLDP.

In relation to considerations of contaminated land issues, the **Council's Senior Environmental Compliance Officer** advises that although a Site Investigation Report (for the wider site area) has been submitted with this application, the reporting in it is now 6 years old and as such doesn't reflect the current ground conditions on the site. He advises that having looked at the gas monitoring data obtained from the boreholes previously drilled in the application area, there are elevated carbon dioxide levels shown (albeit below the 5% threshold). Given this monitoring was carried out a while ago, it would be prudent to carry additional monitoring thereby allowing for an updated gas risk assessment to be submitted. In addition, the Senior Environmental Compliance Officer advises that it is acknowledged (as per the Phase 1 Remediation Method Statement) that parts of the new development site fall within a radon affected area (10 to <30% of homes have the potential to be above the action level). This means that full radon protection measures will have to be installed for these specific plots. Finally he notes that it is suggested in the Mineshaft

Investigation Report that consideration should be given to removal of any localised ash (colliery spoil) within the garden areas, and he assumes this would entail upfilling of these areas with imported, inert material. Therefore, with regards to all of the above the Council's Senior Environmental Compliance Officer recommends that an updated gas risk assessment report be submitted to confirm the existing gas regime on the site, that a Remediation Statement be submitted detailing all the measures necessary (including radon protection measures, removal of ash material and importation of clean soil and potential gas protection measures) and listing the validation procedures to be followed and that a Verification Report be submitted and approved to confirm the satisfactory completion of the remedial works (prior to the occupation of the residential units). These requirements can be secured through a condition attached to a grant of planning permission for the proposed development.

The Council's Protective Services Manager has no further comments on the proposed development.

As parts of the site are within a Coal Mining Development High Risk Area, the Coal Authority has been consulted on the application. The Coal Authority initially objected to the application on the grounds that the supporting Site Investigation Report submitted failed to address the implications posed by the recorded on-site mine shaft (ref 339670-004) to the proposed detailed scheme of development. In response to that objection the applicant submitted a Mineshaft Investigation Report which details the exact location and nature of the mine shaft, how it is currently filled and proposals for the treatment of the mine shaft by means of drilling and grouting of the shaft column and its subsequent capping at rockhead with a reinforced concrete cap. It also reiterates that shallow workings present beneath the proposed development will also require remedial treatment (drilling and grouting). The Coal Authority, having considered the applicant's Mineshaft Investigation Report, subsequently withdrew their objection to the application subject to the imposition of conditions on any permission granted to secure the undertaking of remedial works in respect of the recorded mine shaft and shallow coal mining workings. Since then, revisions made to the site layout have altered where elements of the proposed development are in relation to the recorded mine shaft and therefore the Coal Authority were consulted on these revisions. They have noted that the shaft will now be accommodated within an area of public open space (which will also contain the equipped play area serving the development) rather than within the garden to Plot 221 as previously proposed. The Coal Authority advise that given the level of public accessibility over the shaft positions, they remain of the opinion that the feature should be appropriately treated, including by means of the installation of an appropriate designed and constructed reinforced concrete cap. As such, they consider that the comments and recommendations for conditions and notes, set out in their earlier response (of 6 March 2024) remain valid and relevant to the decision making process. They add that whilst they appreciate that the centre point of recorded mine shaft 339670-004 will be present in an area of public open space, due to its diameter (3.75m) and the need for any reinforced cap installed to typically measure twice the diameter of the shaft, it would appear that there exists the potential for the shaft cap and its associated zone of influence to extend across the public open space boundary into the revised rear garden to Plot 221. As such, on the basis of the available information, they recommend that further conditions be imposed if planning permission is to be granted to remove Permitted Development rights for the erection of any extensions or curtilage buildings in the vicinity of the mine shaft at Plot 221. The recommended conditions of The Coal Authority can be imposed on a grant of planning permission for the proposed development. Other advisory notes provided by the Coal Authority which are the responsibility of the developer to adhere to have been forwarded to the application for their information and attention.

The **Council's Strategy, Policy & Development Manager (Amenity Services)** notes

that the Coal Authority are content with the mineshaft being within an area of open space subject to it being appropriately treated, including by means of the installation of an appropriate designed and constructed reinforced concrete cap. She confirms she would be satisfied with the play area located over the mineshaft provided it meets these requirements set out by the Coal Authority.

Scottish Water have been consulted on the proposals. They raise no objection and have provided comments relevant to servicing the proposed development which have been forwarded to the applicant for their information. It is the responsibility of the developer to make separate application to Scottish Water for permission to connect to the public waste water and water networks.

The Scottish Environment Protection Agency (SEPA) have been consulted on the application and they have confirmed they have no objection to the application on the grounds of flood risk. They have advised that a small portion of the site on the western boundary is shown to be at risk of surface water flooding based on the SEPA Future Flood maps however they are satisfied that the proposals do not involve any buildings in this area. SEPA otherwise advise that they consider water quantity aspects of surface water flooding to be under the remit of local authorities and they consider that the **Councils Flood Management Team** are likely to have greater local knowledge of the site and therefore may be better placed to provide more detailed advice in this aspect.

The applicant advises that the Sustainable Urban Drainage System (SUDS) basin already approved for the overall site has been designed to accommodate the development now proposed and as such there is no further SUDS basin proposed within this current application. However other drainage details have been submitted with this application and these details have been revised during the course of the application following consultation with the **Council's Team Manager for Structures, Flooding & Street Lighting** and the **Council's Landscape Officer**. The revisions include a Drainage Assessment and Strategy Report being submitted, proposals for surface water management during the construction phase of the proposed development, details of a swale to be formed within the proposed landscaped edge at the eastern end of the site and revisions to allow for wider drainage pipes.

The Council's Team Manager for Structures, Flooding & Street Lighting confirms that he is now satisfied with the revised proposals and clarifications on flood risk and drainage matters provided in revised details submitted. He therefore raises no objections to the proposals on flood risk grounds. He advises that it would be prudent for a condition to be imposed on any grant of planning permission to ensure that fuller, detailed surface water management proposals are included within a Construction Management Plan to be submitted prior to the commencement of development on the site for the consideration and approval of the Planning Authority. This matter can be secured through a condition on a grant of planning permission. The proposals are therefore consistent with Policy 22 of NPF4 and Policies NH10 and NH11 of ELLDP and with the Council's SPG on 'Sustainable Drainage Systems (SuDS)'.

Policy 24 of NPF4 and Policy DCN2 of the ELLDP support the delivery of digital infrastructure. Policy DCN2 of the ELLDP requires that development proposals of 5 or more homes, shall as part of the development make provision for deliverable opportunities for digital infrastructure to the proposed new homes or business premises as relevant, particularly provision for ducting and fibre or wiring for broadband connectivity. The applicant has confirmed that their proposals are to have BT Openreach, Hyperoptic and Virgin Media broadband provision to the development, with every property having connection at habitation. On this matter of provision of digital infrastructure the proposals comply with Policy 24 of NPF4 and Policy DCN2 of the ELLDP.

Policy 31 of NPF4 states that "development proposals that involve a significant change to existing, or the creation of new, public open spaces will make provision for public art. Public art proposals which reflect diversity, culture and creativity will be supported". The proposals the subject of this application include for the creation of new, public open spaces and it would therefore be appropriate for artwork to be incorporated either as an integral part of the overall design or as a related commission. Were planning permission to be granted for the proposed development then the artwork(s) could be secured through the imposition of a planning condition. Subject to this planning control being imposed, the proposed development is consistent with Policy 31 of NPF4.

At its meeting on 27 August 2019 the Council approved a motion declaring a Climate Emergency. Thereafter, at its meeting on 3 September 2019 the Council's Planning Committee decided that a condition requiring a developer to submit for the approval of the Planning Authority a report on the actions to be taken to reduce the carbon emissions from the building and from the completed development should be imposed on relevant applications for planning permission. This application is supported by a 'Statement on Energy' which sets out the measures to be taken to reduce the carbon emissions from the building and from the completed development which are designed to ensure compliance with the CO2 requirements of the Scottish Building Standards, and to meet the 15% reduction in carbon emissions from Low and Zero Carbon Generating Technologies (LZCGT) as required by ELLDP. The Report sets out that roof mounted photovoltaic panels will be installed on each dwelling and air source heat pumps will be used on the affordable dwellings. This will ensure that both the private and affordable homes meet Bronze Active standard under Section 7 (Sustainability) of the building standards. In addition, the affordable dwellings will be designed to achieve Aspect Silver Level 1 & 2 in accordance with minimum funding requirements for affordable housing in Scotland.

In respect of electric vehicle charging provision, the 'Statement on Energy' confirms that all properties will be provided with a 7kW Type 2 socketed or tethered outlet charger. A separate site layout drawing submitted with the application demonstrates that all 111 residential units, whether they have in curtilage parking or off-curtilage parking, will be provided with such charging provision. In addition to this private charging provision permission has already been granted, through the approval of planning permission 21/01608/PM, for the installation of a Public Destination charger to be provided within the communal parking court in the south west corner of the southern part of the overall site. The **Council's Road Services** have confirmed that they are satisfied with the electric vehicle charging measures proposed. Subject to a condition being imposed on a grant of planning permission for this proposed development to ensure that the proposed actions to be taken to reduce the carbon emissions from the building and from the completed development, including the proposals for Electric Vehicle Charging Provision are implemented on site, the proposals, on these climate change considerations, comply with Policies 1 and 2 of NPF4 and with Policies SEH1 and SEH2 of the ELLDP.

Consideration must then be given to the potential impact of the proposed development on the infrastructure of the area. Policy 18 of NPF4 requires development to take into account the capacity and any additional needs for community services and facilities, as part of the infrastructure first approach. This reflects Policy DEL1 of the ELLDP, which stipulates that new housing will only be permitted where appropriate provision for infrastructure, required as a consequence of the development, is made. Proposal TT11 of the ELLDP stipulates that any development on the site is subject to the mitigation of any development related impacts, including on a proportionate basis for any cumulative impacts with other proposals including on the transport network, on education and community facilities, and on air quality as appropriate.

The **East Lothian Council Health and Social Care Partnership (ELHSCP)** have been consulted on the application and they have advised that they object to the proposals on the basis that the increase in registrations at Tranent Medical Practice that might be expected from the development (they estimate circa 300 new patients) has not been consulted on and will put considerable pressure on the Practice and its services, with no matching increase in the available budget to meet increased need. They advise that General Practice is under considerable pressure across East Lothian with increasing demand as the population ages and long-standing difficulties in recruitment. They state that unplanned for increases in practice registration, such as this development will bring, risks destabilising primary care. In addition, they advise that any increase in demand for community health and social care services arising from the proposed development will put these services under pressure, when they are already overstretched.

In response to these comments, the Planning Case Officer sought clarification from ELHSCP on whether or not Tranent Medical Practice has capacity to expand, both in terms of physical capacity and of staffing capacity. ELHSCP did not respond directly to that query but have instead advised that a number of their properties need to be upgraded or replaced. However, they add that Scottish Government has confirmed there is no capital funding for NHS facilities for at least the next two years and the level of funding beyond that is unknown. They state that each new planning application approval in East Lothian will add to the pressures they are experiencing and the ELHSCP does not have a capital funding mechanism to address premises capacity at present. Despite this they confirm that they are not seeking to request developer contributions for this planning application stating “I appreciate that developer contributions are also not the answer at this point in time as they would now be insufficient to generate the capital funding we require”. It is also relevant to note that the pre-amble to Proposal PROP HSC2: Health Care Facilities Proposals of the ELLDP states that “Nearly all GP practices in the county are run by GPs as independent contractors and developer contributions for expansion of existing premises will not be sought”.

It is clear from the responses provided by ELHSCP that there are significant pressures on health and social care services and while the concerns about the effects of unplanned demand are acknowledged, this is not a matter that it is possible to resolve through the planning system in general or this application in particular. The site of this application is allocated for residential development and the ELHSCP will have taken the allocation of this site for circa 80 residential units into account in planning for health care at the time of its allocation in the ELLDP. The number of residential units now proposed for the site is significantly above the site allocation however it should be noted that there are further allocated housing sites in the Tranent cluster that have not been the subject of planning applications for residential development yet and would require to be accommodated within primary care facilities within Tranent. These include Lammermoor Terrace, Tranent (circa 120 residential units) and Bankpark Grove, Tranent (circa 80 residential units).

PROP CF1: Provision of New Sports Pitches and Changing Accommodation of the ELLDP requires development proposals for 5 or more homes to make provision for the delivery of new sports pitches and changing accommodation in the relevant contribution zone as set out in Appendix 1 of the Plan and in the Supplementary Guidance: Developer Contributions Framework. The new facilities to be provided, and the sites within which they are to be delivered are identified in Part A of PROP CF1 and include at the site of PROP TT11 provision for turning and parking areas for the existing playing field and contribution towards refurbishment of the existing changing pavilion located at the playing field.

Developers contributions towards refurbishment of the existing changing pavilion at the Elphinstone playing field, along with provision for turning and parking areas to serve the existing playing field, including electric vehicle charging provision and footpath provision

to allow for safe and convenient access to the playing fields, have already been approved and secured through the conditions imposed on and the legal agreement associated with planning permission 21/01068/PM for the southern part of the site covered by PROP TT11. A timetable for the provision of the parking and turning facility has been secured by way of a condition on the grant of that planning permission.

The **Council's Planning Obligations Officer** in consultation with the **Council's Amenity Service** advises that this current proposal for an additional 111 residential units would generate a requirement for additional sport provision within Elphinstone and therefore advises that a Sporting Provision Contribution of £69,375 (£625 per residential unit) indexed linked from Q1 2019 until date of payment using the BCIS All-in Tender Price Index is required for this proposal.

The required payment of a financial contribution of a total of £69,375 towards sport provision within Elphinstone be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. The applicants confirm in writing that they are willing to enter into such an agreement.

Policy T32 of the ELLDP specifically relates to the package of transportation interventions to mitigate the cumulative impact of development on the transport network which have been identified by the Council in consultation with Transport Scotland. In line with Policy DEL1, relevant developments are required to contribute to the delivery of these transportation interventions, on a proportionate, cumulative pro-rata basis, as set out in Developer Contributions Framework (DCF) Supplementary Guidance.

The **Council's Planning Obligations Officer** in consultation with the **Council's Road Services** advises that the contributions required for each transport intervention are as detailed below:

- *Improvements to Old Craighall Junction (PROP T15): £338.55
- * Improvements to Salters Road Interchange (PROP T17): £1,320.90
- * Improvements to Bankton Interchange (PROP 17): £5,172.60
- * Musselburgh Town Centre improvements (PROP T21): £2,201.31
- * Tranent Town Centre Improvements (PROP T27 and T28): £11,283.15
- * Rail Network Improvements (PROP T9 and T10): £1,712.73

The total contribution required for transportation improvements resulting from cumulative impacts of the development is therefore £21,848.96.

The total developer contributions towards the transportation interventions of £21,848.96 (indexed linked from Q1 2019) can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. The applicants have confirmed in writing that they are willing to enter into such an agreement.

The **Council's School Estate Planning Officer** informs that the application site is located within the school catchment areas of Elphinstone Primary School and Ross High School, Tranent. There is a nursery unit contained within Elphinstone Primary School that serves the locality. The Council's School Estate Planning Officer does not advise, as the **Council's Policy and Projects Manager** has stated in his response, that the proposal would prejudice education infrastructure capacity. Instead, he advises that Ross High School can accommodate the additional pupils generated from this proposed

development, without the requirement for further secondary educational contributions. However, Elphinstone Primary school currently only has three classrooms and one nursery room. This means that all classes are of a composite nature with a maximum of 25 pupils that can be accommodated in each classroom. The Elphinstone Primary school roll projections show that without the development proposed through this application the school is required to be expanded by one classroom by 2034 to accommodate the children generated by the already approved development at Phase 1 Elphinstone (planning permission 21/01604/PM). With the proposed additional 111 units in Phase 2 within the catchment the school would be required to be permanently expanded sooner (ready for 2027) and by a further classroom and the nursery provision increased. The school would require 5 classrooms in total and an enlarged nursery facility to accommodate the additional pupils generated from the proposed development. Thus, the School Estate Planning Officer would object to the application on the grounds of lack of permanent capacity at Elphinstone Primary school unless the applicant makes a financial contribution to the Council of £1,148,062 towards the provision of additional primary school accommodation within the catchment.

The required payment of a financial contribution of a total of £1,148,062 towards the provision of additional educational accommodation can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the payment of the required contribution towards educational accommodation, the proposal is consistent with Policy 18 of NPF4 and Policy ED1 of the ELLDP, which stipulates that new housing will only be permitted where appropriate provision for infrastructure required as a consequence of the development is made. This will include funding necessary school capacity. The applicants confirm in writing that they are willing to enter into such an agreement.

The Council's School Estate Planning Officer further recommends that a condition be imposed if planning permission is to be granted requiring that annual housing completions on the site be controlled over a period of at least three years with habitations beginning in 2025/26. Such a condition can be imposed if planning permission is to be granted. This will ensure that sufficient education capacity can be provided for the pupil product of the development.

The **Council's Strategy and Development Team** advises that in accordance with the Council's Affordable Housing Policy, 25% of the proposed 111 residential units require to be affordable housing units. The affordable housing component of the proposed housing development is 28 units. The Strategy and Development Team advises that the mix, size and location of the 28 affordable units to be provided on the site is acceptable. The affordable housing is sufficiently integrated into the overall development. The Strategy and Development Team recommend that the application is approved and that communication continues with East Lothian Council's Strategy and Development Team Housing Enabler. The terms for the provision of this affordable housing requirement can be the subject of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the Council securing the affordable housing requirement, which the applicant is willing to do, the proposal would be consistent with Policy 16 of NPF4 in respect of affordable housing provision and Policies HOU3 and HOU4 of the ELLDP and the Council's adopted SPG on Affordable Housing.

In summary, although the number of units proposed is significantly higher than the pro rata number that would be expected on this part of the site, the site is physically capable of

accommodating the proposed development including vehicular and pedestrian access and amenity space without such development being an overdevelopment of the site and without significant impact on the global climate and nature crises. A grant of planning permission for the proposed development in the context of the site being part of housing allocation PROP TT11 of the East Lothian Local Development Plan, and in that its impacts in respect of amenity and technical considerations are acceptable in themselves, or can be mitigated through the appropriate use of planning conditions and necessary developer contributions, would not be inconsistent with National Planning Framework 4, with the relevant policies of the East Lothian Local Development Plan 2018 or with its adopted supplementary guidance.

In conclusion, and subject to the prior conclusion of a legal agreement and the imposition of the recommended conditions, the proposed development accords with the provisions of the stated relevant Development Plan policies and there are no material considerations which outweigh the proposal's accordance with the Development Plan.

RECOMMENDATION

It is recommended that planning permission be granted subject to:

1. The undernoted conditions.

2. The satisfactory conclusion of an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997, or some other legal agreement designed to secure from the applicant:

(i) a financial contribution to the Council of £1,148,062 towards the provision of additional primary school accommodation within the catchment;

(ii) the provision of 28 affordable housing units within the application site;

(iii) a financial contribution to the Council of £69,375 towards sports and changing provision within Elphinstone;

(iv) a financial contribution to the Council of £21,848.96 for transport improvements to Old Craighall Junction, Salters Road Interchange, Bankton Interchange, Musselburgh town centre improvements, Tranent town centre improvements and rail network improvements;

3. That in accordance with the Council's policy on time limits for completion of planning agreements it is recommended that the decision should also be that in the event of the Section 75 Agreement not having been executed by the applicant, the landowner and any other relevant party within six months of the decision taken on this application, the application shall then be refused for the reason that without the developer contributions to be secured by the Agreement the proposed development is unacceptable due to a lack of sufficient primary school capacity within the catchment, a lack of provision of affordable housing, a lack of sports infrastructure improvements and a lack of roads and transport infrastructure contrary to, as applicable, Policy 18 of NPF4, Policies DEL1, HOU3, HOU4 and Proposals T9, T10, T11, T15, T17, T21, T27, T28, ED4,CF1 and TT11 of the adopted East Lothian Local Development Plan 2018 and its adopted supplementary guidance: Developer Contributions Framework.

As per the Adopted Supplementary Guidance: Developer Contributions Framework, all Strategic Transportation and Sports Provision Contributions will be increased in line with indexation from Q1 2019 using the All-in Tender Price Index published by the Building Cost Information Service (BCIS) Limited for the Royal Institution of Chartered Surveyors

until due date of payment and the primary school education contribution will be increased from Q4 2023 using the All-in Tender Price Index published by the Building Cost Information Service (BCIS) Limited for the Royal Institution of Chartered Surveyors until due date of payment .

CONDITIONS

- 1 The development hereby approved shall begin before the expiration of 3 years from the date of this permission.

Reason:

Pursuant to Section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.

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

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

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

Reason:

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

- 3 Unless otherwise approved in writing by the Planning Authority:

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

Year 2025/26 - 30 residential units

Year 2026/27 - 40 residential units

Year 2027/28 - 41 residential units

(b) If fewer than the specified number of residential units is completed in any one year then those shall be completed instead at Year 2028/29 or beyond and not added to the subsequent year.

Reason:

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

- 4 Prior to the commencement of development a delivery schedule and phasing plans that establishes the phasing and timing programme for the proposed development shall be submitted to and approved in advance by the Planning Authority. It shall include the phasing and timing for the provision of footpaths/cycleways and external works such as offsite path links. These path links shall include:

(i) One hard-surfaced, lit (street lighting) path connection from the west boundary of the site to connect to the core path to the west of the site;

(ii) One hard-surfaced, lit (street lighting) path connection from the east boundary of the site to connect into the existing footpath network to the east of the site;

It must also include for public road links, including paths, to the development approved on the southern part of the application site, drainage infrastructure, landscaping and open space. The details to be submitted shall also include construction phasing plans.

The phasing of the development of the site shall be carried out in strict accordance with the phasing plan so approved, unless otherwise approved in writing in advance by the Planning Authority.

Reason:

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

- 5 A Travel Information Pack shall be submitted to and approved by the Planning Authority prior to the occupation of any of the residential units hereby approved. The Travel Information Pack shall have particular regard to provision for walking, cycling and public transport access to and within the site, shall include local bus and train timetables, local cycling and walking maps, information on bike hire / car sharing, and shall include details of how it will be distributed to residents.

Reason:

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

- 6 Prior to the occupation of the last residential unit hereby approved, the proposed access roads, parking spaces and footpaths shall have been constructed on site in accordance with the docketed drawings. Unless otherwise approved in writing by the Planning Authority, driveways shall be at least 3.3 metres in width.

Those areas of land shall not thereafter be used for any other purpose than for accessing and for the parking of vehicles and for pedestrian movement in connection with the residential use of the houses and flats and shall not be adapted or used for other purposes without the prior written approval of the Planning Authority.

Reason:

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

- 7 A Construction Method Statement to minimise the impact of construction activity on the amenity of the area, including from the effects of noise and dust, shall be submitted to and approved by the Planning Authority prior to the commencement of development. The Construction Method Statement shall recommend mitigation measures to control construction traffic and shall include hours of construction work and routes of construction traffic to/from the site, delivery time restrictions and a health and safety method statement. It shall also make recommendations in respect of how building materials and waste will be safely stored and managed on site.

The Construction Method Statement shall also include details of wheel washing or alternative facilities to be provided, and that these facilities shall be maintained in working order during the period of operation of the site. All vehicles must use the wheel washing or alternative facilities to prevent deleterious materials being carried onto the public road on vehicle tyres.

The Construction Method Statement shall also provide details of utility/service drainage connections, including what temporary measures shall be put in place to control surface water drainage during the construction of the development hereby approved.

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

hereby approved.

Reason:

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

- 8 Prior to the commencement of development, a programme for monitoring the condition of the B6414 public road in Elphinstone along the extents of the 20mph limit of that road, prior to, during the period of construction and immediately following the completion of the development hereby approved, shall be submitted to and approved in writing by the Planning Authority. The programme for monitoring shall include details of the inspection schedule and of measures to be implemented by the developer for repairs for damage to the road surface that could represent a significant road safety risk. Thereafter the approved programme of monitoring shall be implemented. Any non-emergency remedial works shown by the monitoring as arising from the construction of the development shall be undertaken by the applicant within 3 months of the completion of the final monitoring undertaken, unless an alternative means of securing the works is approved in writing by the Planning Authority.

Reason:

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

- 9 Notwithstanding that which is stated on the drawings docketed to this planning permission a detailed specification of all external finishes of the houses, flats and garages hereby approved shall be submitted to and approved by the Planning Authority prior to the use of the finishes in the development. The external finishes of the houses and flats shall be in accordance with a co-ordinated scheme of materials and colours that shall in detail promote render as the predominant finish to the walls of the houses, with a use of more than one render colour and with a strongly contrasting difference in the colours such that they will not each be of a light colour, and shall show the roofs being clad in more than one colour of roof tile. All such materials used in the construction of the houses, flats and garages shall conform to the details so approved.

Reason:

To ensure the development is of a satisfactory appearance in the interest of the amenity of the locality.

- 10 The actions to be taken to reduce the carbon emissions from the building and the provisions for private electric vehicle charging all as detailed in the 'Elphinstone Phase 2 Statement on Energy' and on drawing titled 'EV Layout' with drawing number ELPH/DL/002 docketed to this planning permission shall be fully implemented on site prior to the occupation of the last residential unit hereby approved and thereafter shall be retained unless otherwise approved in writing by the Planning Authority.

Reason:

To minimise the environmental impact of the development.

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

Reason:

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

- 12 Unless otherwise agreed in writing by the Planning Authority no residential unit shall be occupied unless and until details of artwork to be provided on the site or at an alternative location away from the site have been submitted to and approved by the Planning Authority.

The details shall include a timetable for the provision of the artwork.

The artwork shall thereafter be provided in accordance with the details so approved.

Reason:

To ensure that artwork is provided in the interest of the visual amenity of the locality or the wider area.

- 13 A timetable for the provision of all boundary treatments for the gardens of the houses and flats hereby approved shall be submitted to and approved in advance by the Planning Authority and development shall thereafter be carried out in full accordance with the timetable so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure the satisfactory provision of the boundary enclosures in the interest of safeguarding the privacy and amenity of future residents of the development and residential properties nearby and to ensure the development is of a satisfactory appearance in the interest of the amenity of the locality.

- 14 Prior to the commencement of development, an updated Gas Risk Assessment shall be submitted to and approved by the Planning Authority. Where risks are identified, a detailed Remediation Statement shall be submitted to and approved by the Planning Authority to demonstrate the site is to be brought to a condition suitable for the intended use by the removal of unacceptable risks. The Statement shall detail all works to be undertaken, proposed remediation objectives and remediation criteria as well as details of the procedures to be followed for the verification of the remedial work. It shall also ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land following development. The detailing and quantifying any works which must be undertaken in order to reduce the risks to acceptable levels. The Remediation Statement as approved shall be carried out in accordance with its terms prior to the commencement of development other than that required to carry out the agreed remediation. Following completion of the measures identified in the approved Remediation Statement, a Validation Report shall be submitted to and be approved by the Planning Authority confirming that the works have been carried out in accordance with the Remediation Statement.

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

If no unexpected ground conditions are encountered during the development works, this shall be confirmed to the Planning Authority in writing prior to occupation of the residential development hereby approved.

Reason:

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

- 15 Noise associated with the operation of the air source heat pumps hereby approved, including cumulative impacts of a number of air source heat pumps operating simultaneously, shall not exceed Noise Rating curve NR20 at any octave band frequency between the hours of 2300-0700 and Noise Rating curve NR25 at any octave band frequency between the hours of 0700-2300 within any residential property. All measurements to be made with windows open at least 50mm.

Reason:

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

- 16 No development shall take place on site until temporary protective fencing in accordance

with Figure 2 of British Standard 5837_2012 "Trees in relation to design, demolition and construction" has been installed, approved by the arboriculturist and confirmed in writing by the Planning Authority. The fencing must be fixed in to the ground to withstand accidental impact from machinery, erected prior to site start and retained on site and intact through to completion of development. The position of this fencing must be as indicated on the drawing 'Figure 3.4 Tree Protection Plan' on p 33 of the Tree Survey and Arboricultural Impact Assessment by Caledon Tree Surveys dated April 2024, shall be positioned outwith the Root Protection Area (RPA) as defined by BS5837:2012 for all trees and hedgerows and approved in writing by the Planning Authority.

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

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

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

Reason

In order to form Construction Exclusion Zones around retained trees and hedgerows and protect retained trees and hedgerows from damage.

- 17 No development shall take place on site until a person who, through relevant education, training and experience, has gained recognised qualifications and expertise in the field of trees in relation to construction, has been employed by the developer to monitor any works within the root protection area or canopy spread of trees on or adjacent to the application site. Arboricultural monitoring shall including the supervision and reporting to the Planning Authority on the installation of the required tree protection fencing and any development within the root protection area of trees shown to be retained and protected in strict compliance with docketed and stamp approved report titled : Tree Survey & Arboricultural Impact Assessment, dated April 2024 and drawing titled: 'Figure 3.4 Tree Protection Plan' on p 33 of the Tree Survey and Arboricultural Impact Assessment by Caledon Tree Surveys dated April 2024. All tree work shall be approved in writing by the Planning Authority before work is carried out.

Reason:

To ensure the retention and maintenance of the trees adjacent to the site which are an important landscape feature of the area.

- 18 Unless otherwise approved in writing by the Planning Authority, all planting, seeding or turfing comprised in the approved details of landscaping on the drawings titled 'Landscape Proposals (Sheet 1 of 6)' with drawing number 231.29.01C, 'Landscape Proposals (Sheet 2 of 6)' with drawing number 231.29.02C, 'Landscape Proposals (Sheet 3 of 6)' with drawing number 231.29.03C, 'Landscape Proposals (Sheet 4 of 6)' with drawing number 231.29.04C, 'Landscape Proposals (Sheet 5 of 6)' with drawing number 231.29.05C, 'Landscape Proposals (Sheet 6 of 6)' with drawing number 231.29.06C shall be carried out in the first planting and seeding season following the occupation or completion of any part of the development hereby approved, whichever is the sooner. All planting shall be established and maintained in accordance with the details on the above drawings and as detailed in the 'Plant Schedule, Specification & Maintenance' document Revision B dated 22 October 2024. This includes maintenance of garden hedges at 1m in height and maintenance of the northern boundary hedgerow at 1.5m in height. Any trees, hedges or plants which die, are removed or become seriously damaged or diseased within a period

of ten years from the completion of the development shall be replaced in the next planting season with others of similar species and final size, unless the Planning Authority gives written consent to any variation.

No trees detailed in the approved landscaping plans to be retained on the site, shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the previous written consent of the Planning Authority. All landscape shall be retained and maintained to accord with the details of the approved details of landscaping.

Reason

In order to ensure the implementation of a landscaping scheme to enhance the appearance of the development in the interests of the amenity of the area and to improve the biodiversity value of the area.

- 19 Unless otherwise approved by the Planning Authority all of the open space and communal landscape as detailed in the docketed and stamped approved landscaping and landscape maintenance drawings and in the 'Plant Schedule, Specification & Maintenance' document Revision B dated 22 October 2024 shall be retained and maintained as such by a Factor or a Residents Association in accordance with details to be submitted to and approved by the Planning Authority prior to the occupation of any residential units hereby approved. Such landscape maintenance shall include all hedges to front gardens being adopted and maintained by a Factor or a Residents Association.

Reason:

To ensure the retention and maintenance of landscaping and open space on the site in the interest of amenity.

- 20 Prior to the occupation of any of the residential units hereby approved, details of the play equipment to be provided within the equipped play area, surfacing materials and any enclosure of the play area along with details of any bins and benches to be installed shall be submitted to and approved by the Planning Authority. Such details shall include details of play equipment suitable for a range of abilities including disabilities, and this shall include suitable play equipment and surfacing to facilitate a range of ages and abilities. A timetable for the provision of all of the play equipment and associated play surfacing, bin, bench and any enclosure of the play area to be provided on the site and details of how the equipped play area is to be managed and maintained are to be submitted to and approved in advance by the Planning Authority and the play area shall thereafter be installed, surfaced, enclosed, managed and maintained in accordance with the details so approved and shall be used for such purposes at all times thereafter unless approved by the Planning Authority..

Reason:

To ensure the satisfactory provision of adequate and suitable play provision and the future maintenance of it within the development.

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

Reason:

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

- 22 All of the remedial treatment works to address land instability arising from shallow coal mining legacy as identified in the Mineshaft Investigation Report (February 2024) docketed to this planning permission shall be carried out on site in accordance with the terms of that Report prior to the commencement of any other development on the site. On completion of the remedial works and prior to the occupation of any residential unit, a signed statement or declaration prepared by a suitably qualified person confirming that the site has been made safe and stable for the development hereby approved and confirming the completion of the remedial works and any mitigatory measures necessary to address the risks posed

by past coal mining activity shall be submitted to and approved in writing by the Planning Authority and any mitigation works identified shall thereafter be fully implemented as so approved.

Reason:

To ensure that the site is clear of coal mining features and hazards prior to the occupation of any of the buildings.

- 23 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended by The Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011 or by any other statutory instrument amending, revoking or re-enacting the 1992 Order, no development other than that hereby approved, or approved in compliance with any of the other conditions of this planning permission, shall take place within plot no.221 as detailed in the development layout docketed to this planning permission without the prior permission of the Planning Authority.

Reason:

Due to the potential presence of coal mining features and hazards within the vicinity of the property.

- 24 Each bat ridge roost box detailed on the Ecology Layout with drawing no ELPH2/DL/004 docketed to this planning permission shall be installed prior to the occupation of each house to which they are to be installed and shall thereafter be retained unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure biodiversity provision and retention.