



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

TUESDAY 20 AUGUST 2024
**COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON
& HYBRID MEETING FACILITY**

1a

Committee Members Present:

Councillor N Hampshire (Convener)
Councillor C Cassini
Councillor L Allan
Councillor D Collins
Councillor J Findlay
Councillor A Forrest
Councillor C McGinn
Councillor S McIntosh
Councillor J McMillan
Councillor C Yorkston

Other Councillors Present:

Councillor S Akhtar

Council Officials Present:

Mr K Dingwall, Service Manager – Planning
Ms E Taylor, Team Manager – Planning Delivery
Mr C Grilli, Service Manager – Governance
Ms W McGuire, Head of Housing
Mr C Kiely, Planner
Mr B Nicolson, Planner
Mr J Allan, Planner
Mr S Robertson, Planner
Ms S Cheyne, Project Officer – Landscapes
Ms J Newcombe, Biodiversity Officer
Ms K Duckham, New Build Development Officer
Ms M Haddow, Transportation Planning Officer
Mr J Canty, Transportation Planning Officer
Mr A Hussain, Transportation Planning Officer
Mr S Cooper, Communications Adviser

Clerk:

Ms B Crichton

Visitors Present/Addressing the Committee:

Item 3: Mr M Hensman, Mr P Hardie, Ms S Forgie, and Mr M Davies
Item 4: Ms A Davidson, Mr P Meegan, and Ms J Bell
Item 5: Mr P Duncan
Items 6 & 7: Mr M Annan, Mr C Proudfoot, and Mr N Guy

Apologies:

Councillor K McLeod
Councillor N Gilbert

Declarations of Interest:

Items 5, 6, and 7: Councillor Forrest, due to previously having made comments of these developments prior to the retrospective applications being made.

**1. MINUTES FOR APPROVAL
a. PLANNING COMMITTEE, 4 JUNE 2024**

Due to a delay in producing and checking the draft minutes, the minutes of 4 June 2024 would be approved at the September meeting of the Planning Committee.

b. PLANNING COMMITTEE, 25 JUNE 2024

Due to a delay in producing and checking the draft minutes, the minutes of 25 June 2024 would be approved at the September meeting of the Planning Committee.

2. MINUTES FOR NOTING – LOCAL REVIEW BODY (PLANNING), 25 APRIL 2024

Members agreed to note the minutes.

3. PLANNING APPLICATION NO. 23/01367/PPM: PLANNING PERMISSION IN PRINCIPLE FOR THE REDEVELOPMENT OF EXISTING BUILDINGS, ASSOCIATED LANDSCAPE, ROADS, ACCESS, AND PARKING, FORMER HERDMANFLAT HOSPITAL, ABERLADY ROAD, HADDINGTON

A report had been submitted in relation to Planning Application No. 23/01367/PPM. Bruce Nicolson, Planner, presented the report, highlighting the salient points. The report recommendation was to grant consent.

Mr Nicolson responded to questions from Councillors McMillan and McIntosh. He confirmed that the site had not been allocated for housing under the East Lothian Local Development Plan 2018 (LDP), but the LDP specifically indicated the site would be suitable for housing should it become surplus to NHS requirements. He assured committee members that every option to minimise tree loss had been examined, and gave a detailed summary of some of the options considered. He said that real effort had been made to minimise land take, and pointed out that the development greatly exceeded open space requirements. He advised that even more trees would be retained if this became possible at the detailed plans stage. He explained that the listed buildings had been set to look over Haddington and to the Lammermuirs, so there had been a desire to retain the sense of openness. He also advised that building on woodland to the south provided opportunity to bring community use to the central area.

Responding to further questions from committee members, Mr Nicolson explained that the LDP's requirement for affordable housing was set at 25%. While 100% of the proposed housing would be affordable, there would have to be a reason that placed a burden on this site in particular to require more than 25% affordable housing under the LDP. Carlo Grilli,

Service Manager – Governance, advised that no Community Asset Transfer (CAT) application had been received for the woodland, so there was no formal process to follow.

Responding to further questions from Councillor Akhtar, Mr Nicolson gave an account of how community access to the site was being improved, including: an active travel route through the centre of the site; ramped access leading off the active travel route; opening up of the fence on the eastern boundary to make existing links more accessible; and a raised table for a more inviting crossing place. The development also aspired to link to the A199 and the county-wide active travel corridor. He described the site as being open to the public, but with semi-private garden space around the buildings. He advised that any additional opportunity to retain trees would be examined as each phase of development came forward, and a Woodland Management Plan would also be brought forward. Sarah Cheyne, Projects Officer – Landscape, added that the tree survey identified 570 trees, and 211 of these would be removed. She advised that new planting would increase the number of trees and improve woodland connectivity, linking the existing woodland areas to the north and south of the site.

Wendy McGuire, Head of Housing, introduced Martin Hensman of HUB Scotland. She also sought the Convener's permission to play a short video after Mr Hensman's presentation, and the Convener agreed.

Mr Hensman spoke to the application. He described the project as one of the most impactful affordable housing developments ever proposed in East Lothian, and provided figures to illustrate the significant number of over-55s awaiting housing. He highlighted the development's alignment with local and national policy and priorities, and provided background information on the site's purchase. He described the benefits of allowing council tenants to age in place and live independently, close to health facilities in the town. He advised that all homes would be compliant with housing for varying needs, would reflect the most recent dementia design guidance, and could be adapted for wheelchair use. He highlighted the suite of surveys supporting the application, and asserted that there would be a significant improvement on what currently existed on the site. He highlighted the place-based approach, and that the development would promote better connectivity and intergenerational interaction. He highlighted ways in which the development would promote a reduction of carbon emissions, such as: tree retention; reduced car parking; proximity to public transport and local services; and the construction of low-carbon housing. He said that community concerns had been responded to in detail; there had been engagement with the Community Council and Haddington Central Tenants and Residents' Association, and meaningful changes had been made in response to concerns. Although careful consideration had been given to reducing the number of units to increase green space, it was felt that this reduced the development's more impactful public benefits. He reiterated the benefits to residents and the wider community, and urged committee members to support the application. A video was then played to illustrate how parts of the finished site would look.

Mr Hensman and officers responded to questions from Planning Committee members and Councillor Akhtar. Mr Hensman confirmed that bike, scooter, and EV charging were included in the proposals. Ms McGuire advised that other innovative solutions may have to be considered to deliver as many affordable housing units as possible; this could result in bringing another partner on board, or small areas of sale. If land had to be sold to the private sector, they would still have to deliver affordable housing at a rate of at least 25%; however, she indicated that the intention remained to deliver 100% affordable housing across the site. Any sale of the land would have to go before a Council meeting, and would also have to receive consent from Scottish Ministers because it was Housing Revenue Account land.

Responding to further questions, Mr Hensman pointed out that the development was not a care village, but was affordable housing for general needs; it played on the wider advantages of bringing the community into the space to socialise. Responding to questions from Councillor McMillan around engagement of residents and the community, Mr Hensman highlighted the

different ways in which the woodland would be maintained, and highlighted the care the residents of Victoria Park had taken of their garden spaces as being a successful development for older people. Ms McGuire added that a great deal of consultation had been undertaken in developing the masterplan, and consultation would also continue in the next phase.

Responding to further questions, Mr Hensman highlighted the four existing entrances to the north of the site; a further five entrance points would be added, which had been considered against principles of 20-minute neighbourhoods. This improved connectivity was designed to encourage active travel, and there would be 1.6km of paths on the site. It had been determined that the site was unsuitable for allotments, but there would be various community growing spaces, and the Garleton Building was noted as a future community space.

Phil Hardie spoke against the application. He was a resident of Haddington, a director of Woodland Learning Adventures, and the treasurer of Haddington Community Woodlands, who had been created to facilitate the CAT for the southern part of the site. He indicated that the group was not opposed to the redevelopment of the existing buildings, but valued the southern part of the site as one of the last remaining green spaces in the northern half of Haddington. He said its value to the community was of a site of nature connection in an otherwise built-up environment, but the fragmented nature of the development would mean the site would no longer be an asset. He asserted biodiversity would be far greater if the area to the south remained free of concrete. He refuted that the site would function as a more effective green corridor following the development, since the proposals fragmented what was currently a unified area of green space and mixed habitat. He asked committee members to consider that the proposals did not meet NPF4 policies 1-6, 14-15, and 20; he provided examples, particularly highlighting policies against fragmenting habitat and green space, removing a community asset, and removing green infrastructure. He also asked committee members to consider the group's alternative proposal to enhance the existing woodland through a CAT application, which he said would meet the need to prioritise nature regeneration over further developments.

The Convener pointed out that this site had been a brown field site, and said there was an intent to protect as much of the land outwith the Haddington boundary as possible. Mr Hardie made suggestions for alternative places to site the 53 units which were planned to be situated on the proposed CAT area. He reiterated how the community valued the green space. He also reiterated how fragmented the plans were, and he thought that most retained green space in the central section would be private gardens and terraces; he felt it did not look inviting to use for socialising and exercising. The group hoped to raise the funds to develop this section as a community woodland and maintain the wild aspect of the area.

Responding to questions from Councillors Cassini and McMillan, Mr Hardie pointed to Gifford Community Woodland as being a well-managed and well-used site. If the CAT application were to be successful, a business plan would be developed, and funds would be raised to provide accessible paths and entrances. In his experience as an outdoor professional, he was aware that antisocial behaviour tended to disappear as soon as there was greater use of an area. He stated that Haddington Community Woodland wanted plans to be altered to allow time for the group to submit a CAT application for the southern part of the site.

Susan Forgie said she spoke on behalf of the Haddington Central Tenants and Residents Association (HCTRA) and on behalf of the community. She reported that the community was united in opposition to the development of the woodland to the south of the site, and valued this space for walking, for children to play, and to find peace and solitude. She advised that the development to the north of the site was supported by HCTRA, and they encouraged developers to increase housing density to the north of the site. She described the proposals as threatening a space which had been a sanctuary for the community since 1866, and she spoke of the community's deep connection to the woodland. It was felt that the proposals represented an overdevelopment of valuable open space, and indicated that a CAT

application should come forward to run the south part of the site as a community woodland; she reported that there were more than 200 supporters poised to become part of this charity. She said that the community did not feel genuinely consulted, particularly since the land was designated for housing long before the community had been consulted about its use. She reported that concerns had been raised about: the loss of green space and biodiversity; the increase in traffic and car parking; the three-storey buildings being out of character with the surrounding area; light pollution; the heightened density of housing; and the impact of the construction period on the community. She also raised concerns about fairness when the Council was both the developer and determining authority, and highlighted issues faced when lobbying elected officials. She asked committee members to reject the application as it stood so that a CAT application could be made.

Responding to a question from Councillor Cassini, Ms Forgie acknowledged the difficulties the Council faced in providing affordable housing across East Lothian, but felt this one small area of woodland would not solve this problem.

The Convener responded to Ms Forgie's comments about the Council being both applicant and determining authority, and said the Planning Committee acted independently and determined each application on its merits. He pointed out that the land was a brown field site, and replacement of the previous building would allow older people to live in their community and would enhance the landscape and biodiversity. In response, Ms Forgie reiterated that the community was not averse to building housing near the town centre; she said that although it may not align with the Council's other priorities, the community firmly believed that the southern part of the site was best served as a community woodland, thus preserving the land for future generations.

Morgwyn Davies made representation on behalf of Haddington and District Community Council (H&DCC) He advised that he had attended community meetings to hear feedback and objections. He said H&DCC noted that the site was a brown field site, and had previously been a built-up site. He reported that, after careful discussion, and noting they had not received a great deal of feedback against the proposals, H&DCC had resolved to support the development. H&DCC felt that many of the concerns had been mitigated, and the site would still be largely open with paths. H&DCC also recognised the need for housing for elderly and disabled people, and noted that there was other open space nearby. H&DCC believed the sympathetic development would enhance the town.

Councillor Findlay asked about H&DCC's efforts to communicate with residents. Mr Davies advised that he had listened to people's concerns at public meetings, and one of the Community Councillors had spoken against the development. He reported that there had not been a great deal of feedback about this application overall.

Responding to a further question from Councillor Findlay, Mr Grilli reiterated that the potential CAT application was not relevant to this planning application. He also advised that approval of the planning application would not preclude a potential CAT application, or anything else happening on the site; in such a case, a revised or fresh planning application would have to come forward.

Councillor McMillan, Local Member, acknowledged the passion of community representatives. He highlighted NPF4's aspirations for places where people could live better and healthier lives. He referred to Herdmanflat as a manmade space and a previous medical facility, and agreed with Mr Davies' point about there being other green spaces in and around Haddington. He also felt it was important for residents to be able to remain in, or come back to, Haddington. He referred to Six Qualities of Successful Places, and was surprised that objectors recognised the need for the houses but felt the units should be built more densely. He thought the proposal took an informal open space and made it more accessible, and protected trees in a manmade space. He thought the proposals served to, strengthen the community, enhance the local

economy, encourage active travel, and would result in more trees. On balance, he would firmly support the proposals, which supported a Council priority, and were an opportunity to enhance the lives of everyone. He felt sure that the residents would make the community growing spaces work for them, and thought there was opportunity for community cohesion. Having listened, attended community events, and considered the objections, he still felt that the proposals were right for Haddington and East Lothian.

Councillor Akhtar, also a Local Member, felt that something had to happen to the site, and acknowledged problems with antisocial behaviour and deterioration to the current building. She reported that community members had spoken with her about the housing crisis, and said there was real need for specialised housing. She supported the development because the proposals would meet the needs of the community. She was content that the proposed mitigations would be effective in addressing the concerns raised. She supported the provision of houses which would be accessible, adaptable, and developed in a sympathetic manner.

Councillor Cassini said there was an overwhelming need for this kind of housing, and suggested that something similar would be beneficial on the Edenhall site to help people stay in the area they loved.

Councillor Forrest highlighted the benefits of biodiversity, connectivity, community integration, and future-proofed housing to support ageing in place. He supported the application.

Councillor Collins highlighted the new tree planting, which would enhance biodiversity, and pointed out aspects which would improve accessibility. She felt that a constant presence would continue to assist in decreasing antisocial behaviour. She would support the application.

Councillor McIntosh empathised with the community, who felt that the development signalled a loss of a wild and valued area, but she felt the proposals would still allow wildlife to thrive. She suggested that bridges could be built by offering community food growing spaces. She felt the development offered great green space for a range of ages to enjoy. During a housing emergency, she felt lower numbers of units would not achieve what the site sought to deliver.

Councillor Yorkston was in favour of housing which could be adapted according to need, and supported the dementia-friendly approach to development. He highlighted the high demand for this type of housing; although he appreciated that a CAT would be attractive to some of the community, he was concerned that it would remove 40% of the proposed units. He felt the proposals were sensitive, particularly because of their relatively low density on the site, and agreed that there needed to be a balance achieved. He supported the application.

Councillor Findlay would support the application, but expressed his hope that Council officers would take the CAT application seriously. He accepted that this type of housing was needed in Haddington and East Lothian, but hoped that local residents would be encouraged to continue giving their input.

Councillor McGinn would support the application, and said he felt heartened by the debate around biodiversity. He acknowledged the competing demand to maintain biodiversity and green spaces, but also to provide this type of housing.

Councillor Allan thought the development had been designed sensitively, and would like to see similar applications to promote a more inclusive society. She highlighted that 20-minute neighbourhoods were also important to older people.

The Convener indicated that he agreed with his colleagues' comments. He then moved to a roll call vote, and the Planning Committee members unanimously voted in support of the officer recommendation to grant consent.

Decision

Planning Committee agreed that Planning Permission in Principle be granted subject to:

1. The undernoted conditions and

2. A Legal Undertaking designed to secure from the applicant a financial contribution to the Council of £78,284.18 for the transport interventions, £187,050.00 for additional/upgraded sports facilities capacity in the Haddington area and the provisions of a minimum of 25% affordable housing provision on site.

CONDITIONS:

- 1 The development hereby approved shall begin before the expiration of 5 years from the date of this permission.

Reason:

Pursuant to Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended.

- 2 The development shall generally accord with the approved drawings and strategies docketed to this planning permission in principle. The elements approved through the PPIP comprise:

Land Uses (Age restricted dwellings and community use (Garleton Building).

Masterplan Drawing REF: 12049-LD-PLN-001:

Building locations, level, heights and roof form:

Infrastructure, including, active travel routes, footpaths, recreational paths, roads, car parking, levels and adoption areas:

EV charging infrastructure locations (1 per parking space):

Outline Biodiversity Enhancement Plan:

Tree removal (worst case), protection, and compensatory planting strategy:

Open spaces, including, woodland, community orchard/garden, pétanque courts, central grassland, "play as you go" locations and semi-private space:

Drainage Strategy Plan including SUDS, swales and associated pipework:

Preliminary Drainage Proposal (Ref: HFH-GOO-ZZ-XX-DR-C-0500)

Reason:

To ensure the development is carried out in accordance with the consent.

- 3 The submission for approval of matters specified in conditions of this grant of planning permission in principle shall correspond with a development phase boundary (1-5) as set out in the approved phasing strategy and shall include details of:

o the siting, design and external appearance of all the residential units and any other buildings or structures which should generally accord with the Masterplan and Proposed Heights drawing docketed to this planning permission in principle;

o shared use routes, footpaths, roads, car parking, EV charging, lighting and adoption areas which should generally accord with the Masterplan and Road Adoption Layout docketed to this planning permission in principle;:

o landscaping, including woodland, tree, hedgerow, grassland and orchard planting, boundary treatments and hardsurfacing which should generally accord with the Masterplan docketed to this planning permission in principle;

o drainage works including swales and SUDS which should generally accord with the Drainage Strategy docketed to this planning permission in principle;

o "play and go" and seating provision;

o Tree removal which should generally accord with the Tree Removal plan docketed to this planning permission in principle ;

o Biodiversity enhancement which should accord with the OBEP docketed to this planning permission in principle:

o any artwork to be erected on the site;

o Detailed Energy Strategy.

Additionally, the matters listed below shall be included with the application for the matters specified in conditions in accordance with the phases specified.

- o New shared-use travel access point and pedestrian access point on Aberlady Road, including crossing facility. These shall form part of the phase 1 application;
- o New access points from existing footways on Herdmanflat to the active travel route on Hopetoun Mews. These shall form part of the phase 2 and 3 application and include details of boundary alterations and any required regrading;
- o New shared-use linkage from Hopetoun Mews to the A199. This shall form part of the phase 1 application;
- o New raised table junction at Hopetoun Mews and Lydgait, including access to private parking courtyard to west, and junction improvement at Lydgait and Aberlady Road. This shall form part of the phase 1 application.

No part of each phase of development hereby approved shall be begun on the site until all of the above details have been submitted to and approved in writing by the Planning Authority. The development shall be carried out in accordance with the details so approved and implemented in accordance with approved phasing strategy.

Reason:

To enable the Planning Authority to control the development in the interests of the amenity of the development and of the wider environment and in the interests of road safety.

- 4 Prior to the commencement of development on each phase, as set out on the approved phasing strategy, the applicant shall submit a Woodland Management Plan for the whole of the corresponding area of land. The Plan shall be approved by the Planning Authority prior to the commencement of development on the associated phase. The woodland shall be managed in accordance with the approved Woodland Management Plan unless agreed in writing by the planning authority.

Reason:

To ensure the Woodland is managed appropriately to provide amenity for the residents and wider community.

Prior to the commencement of development a woodland management plan for the woodland on the site shall be submitted to and approved in writing by the Planning Authority. The plan shall further the value of the resource for biodiversity as well as people, and shall include the following measures:

The requirements of the woodland management plan shall thereafter be carried out in accordance with the details so approved.

Reason:

To maximise the ecological potential of the proposed development.

- 5 Prior to the commencement of development on each phase, as set out on the approved phasing strategy, the applicant shall submit the contaminated land information detailed in parts 1-4 below. The details shall be approved by the Planning Authority prior to the commencement of development on the associated phase. The development shall be carried out in accordance with the approved details.

Part 1 - Contaminated Land Assessment

Based on the additional investigative works and monitoring carried out, a suitable Geo-environmental Assessment should be submitted which details the extent, scale and nature of any contamination, and reporting on the appropriate risk assessment(s) carried out with regards to Human Health, the Water Environment and Gas Characteristic Situation as well as an updated conceptual model of the site.

The Assessment must be undertaken by suitably qualified, experienced and competent persons and must be conducted in accordance with the relevant guidance and procedures.

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

Part 2 - Remediation Statement

Prior to any works beginning on site (and where risks have been identified), a detailed Remediation Statement should be produced that shows the site is to be brought to a condition suitable for the intended use by the removal of unacceptable risks to all relevant and statutory receptors. The Statement should detail all works to be undertaken, proposed remediation objectives and remediation criteria as well as details of the procedures to be followed for the verification of the remedial works. It should also ensure that the site will not qualify as contaminated land under Part2A of the Environmental Protection Act 1990 in relation to the intended use of the land following development. The Statement must be submitted to the Planning Authority for approval.

Part 3 - Validation Report

The approved Remediation Statement must 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 should be submitted that demonstrates the effectiveness of the remediation carried out. It must be approved by the Planning Authority prior to the use of the new development.

Part 4 - 'Unforeseen' Contamination

In the event that 'unexpected' ground conditions (contamination) are encountered at any time when carrying out the permitted development, work on site shall cease and the issue shall be reported to the Planning Authority immediately. At this stage a Site Investigation and subsequent Risk Assessment may have to be carried out, if requested by the Planning Authority. It may also be necessary to submit a Remediation Strategy should the reporting determine that remedial measures are required. It should also be noted that a Verification Report would also need to be submitted confirming the satisfactory completion of these remedial works.

If no 'unexpected' ground conditions are encountered during the development works, then this should be confirmed to the Planning Authority prior to the use of the new development.

Reason:

To ensure the ground conditions are suitable for development.

- 6 Prior to the occupation of any part of development in phase 2 the applicant shall submit detailed proposals for the central grassland/open space and pétanque court area. These proposals may be prepared in collaboration with the local community (The Community Council and/or other bodies agreed with the Planning Authority). The detailed design may include, but not be restricted to, opportunities for organised occasional use of the space, landscaping, earthworks, biodiversity enhancements, planting and opportunities for public art.

Reason:

To ensure the central space encourages public use and wider community involvement.

- 7 Prior to the commencement of development a Construction Environmental Management Plan (CEMP) shall be submitted to, and approved by the planning authority,

The CEMP shall include, but not be limited to:

1. The specific mitigation measures to be implemented to control impacts from noise and dust during the construction phase;
2. Measures to minimise the impact from waste construction materials, including measures on the storage of waste;
3. Measures to minimise the impact from construction traffic on road safety and residential amenity (as per the phasing strategy);
4. Temporary measures to control surface water drainage during the construction the SuDS.

The CEMP should also take account of the following guidance:

- o BS 5228-1:2009+A1:2014 "Code of practice for noise and vibration control on construction and open sites.
- o The Institute of Air Quality Management Guidance on the assessment of dust from demolition and construction (2014)

All construction works shall be carried out in accordance with the approved CEMP.

Reason:

To enable the Planning Authority to consider this matter in further detail.

- 8 The residential units hereby approved shall be occupied only by persons over 55 years of age.

Reason:

The applicant has proposed housing for an aging population. The educational authority would not be able to accommodate any children generated by this residential development without contributions to enable the development of additional educational accommodation. If all housing units occupancy is restricted to an age where there would be no school age children generated from the development then no additional educational accommodation would be necessary.

- 9 Each application for matters specified in conditions shall be accompanied by an updated phasing strategy document which sets out:

Sequence of buildings and infrastructure;
Construction traffic routing (restricted to existing Aberlady Road only);
Temporary access arrangements for existing and new residents (walking, wheeling and driving);
Active travel routes;
Walking and cycling connections at site boundaries;
Roads;
Landscaping and open space including "play as you go" and seating;
Biodiversity enhancement;
Off site infrastructure improvements, set out in the reserved matters.

The updated phasing plan for each Approval of Matters Specified in Conditions shall be approved by the Planning Authority prior to the commencement of development on the associated phase. The development shall thereafter be carried out in accordance with the approved phasing plan, 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 and road safety.

- 10 No development shall take place on a respective phase of development (as set out in the phasing strategy) until the applicant has undertaken and reported upon a programme of archaeological work (Historic Building recording and Archaeological trial trenching) in accordance with a written scheme of investigation which has been submitted by the applicant (or their agent) and approved by the planning authority. Where the programme of works is submitted on a phased basis each phase shall include all area required for any temporary works, including construction access provision.

Reason:

To enable the Planning Authority to consider this matter in further detail.

- 11 Prior to commencement of development details of signage and minor improvements to the walking route from Hopetoun Mews to the access to Tesco supermarket on Fortune Avenue shall be submitted for the approval of the Planning Authority. The approved details shall be carried out prior to the occupation of the first residential units or otherwise agreed in writing by the Planning Authority.

Reason:

To improve the accessibility of the site from the town centre by active travel.

- 12 Wheel washing facilities must be provided and maintained in working order during the period of operation of the site. All vehicles must use the wheel washing facilities to prevent deleterious materials being carried onto the public road on vehicle tyres.

Reason:

To ensure road safety is not compromised.

- 13 Prior to commencement of development a programme for monitoring the condition of the public road to be used by construction traffic for the period of development hereby approved, shall be submitted to and approved in writing by the Planning Authority.

The programme should include details of the inspection schedule and of the commitment by the developer for repairs to be made to the aforementioned roads, including emergency repairs for more serious damage to the road surface that could represent a significant road safety risk. Any non-emergency remedial works shown by the monitoring as arising from the construction of the development shall be undertaken by the applicant within three months of the completion of the final monitoring undertaken.

Reason:

To ensure road safety is not compromised.

- 14 Prior to the commencement of development the details of the following offsite measures, including a timetable for their implementation shall be submitted to and approved by the Planning Authority:

- * A new shared-use travel access point on Aberlady Road, including crossing facility -(between Baird Terrace and Hopetoun Drive (raised table or signalised crossing):
- * A raised table at the junction of Hopetoun Mews with Lydgait (raised table crossing) and access to the adjacent factored parking courtyard
- * The junction improvement at Lydgait and Aberlady Road;
- * New access points from existing footways on Herdmanflat to the active travel route on Hopetoun Mews, and include details of boundary alterations and any required regrading.
- * A new shared-use linkage from Hopetoun Mews to the A199.

The offsite measures shall thereafter be installed in accordance with the approved details and in the timescales so approved.

Reason:

In the interests of road safety and sustainable travel.

- 15 No residential unit within phase 2 shall be occupied unless and until details of artwork to be provided on the site have been submitted to and approved by the Planning Authority. The artwork as approved shall be provided prior to the occupation of the final residential unit approved for erection on phase 2.

Reason:

To ensure that artwork is provided in the interest of the visual amenity of the locality and the wider area within an appropriate timescale.

- 16 Each phase of development shall be carried out in strict accordance with the Drainage Strategy and Preliminary Drainage Proposal (Ref: HFH-GOO-ZZ-XX-DR-C-0500) docketed to this planning permission in principle. Prior to the commencement of development, full details of the finalised SUDS scheme shall be submitted to and approved in writing by the Planning Authority. Development shall thereafter be carried out in accordance with the details so approved.

Reason:

To ensure adequate protection of the water environment from surface water run-off.

- 17 Prior to the commencement of development, details of how the areas of open space and "play and go" areas are to be maintained shall be submitted to and approved in advance by the Planning Authority. The maintenance of the openspace and play area shall accord with the details so approved.

Reason:

To ensure the satisfactory maintenance of open space and equipped play areas, in the interests of the amenity of the area.

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

Reason:

To minimise the environmental impact of the development.

- 19 The only trees to be removed are those identified for removal on the 'Tree Removals, Protection and Planting Strategy' drawing numbered 12049-LD-PLN-103 rev D. 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 into the ground to withstand accidental impact from machinery, erected prior to site start and retained on site and intact through to completion of development. The position of this fencing must be as indicated on the drawing 'Tree Removals, Protection and Planting Strategy' drawing numbered 12049-LD-PLN-103 rev D, shall be positioned outwith the Root Protection Area (RPA) as defined by BS5837:2012 for all trees and approved in writing by the Planning Authority. Where construction space is required within the Root Protection Areas the ground should be protected in accordance with section 6.2.3 Ground protection during demolition and construction of BS5837:2012 approved by the arboriculturist and confirmed in writing by the Planning Authority.

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

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

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

Reason

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

4. PLANNING APPLICATION NO. 24/00421/ADV: DISPLAY OF ADVERTISEMENT (RETROSPECTIVE), LAND TO NORTH OF 3 JAMES KIRK WAY, DUNBAR

A report had been submitted in relation to Planning Application No. 24/00421/ADV. Scott Robertson, Planner, presented the report, highlighting the salient points. The report recommendation was to grant consent.

Paul Meegan spoke against the application. He reported that Taylor Wimpey had applied for planning permission only after involvement from Planning Enforcement; he felt Taylor Wimpey had tried to bypass the planning process, and suggested this may have been because they

did not own the land. He reported Taylor Wimpey had failed to seek his permission as one of the landowners, and he felt the company had shown a lack of respect for the planning process and to the residents. He also highlighted the erection of 20 lamppost signs and road signs. He advised that the large sign was removed following involvement from the Planning Enforcement Officer. He also raised concerns over road safety, as the large sign restricted the line of sight to drivers approaching from James Kirk Way, and he felt the sign could also distract drivers.

Jacque Bell spoke against the application. She had been surprised to see the sign having been erected, without permission, in an area more than 500m from the building site. She objected because application had been submitted retrospectively, and she noted another retrospective application as having had to be made on Belhaven Road. She noted further marketing signs near Asda and along Brodie Road, which also lacked the correct permissions. She highlighted that residents paid a factor fee for an open site and playpark, and that Taylor Wimpey had not been granted residents' permission to erect the sign. She raised concerns with road safety and parking, since there was no safe crossing point here, and specifically with the volume of HGVs using the road. She reported that residents regularly raised concerns about HGV drivers speeding and using phones while driving. It was felt that the density of information on the sign was distracting, and the sign would also impact sightlines. She also suggested that Taylor Wimpey might consider paying rental on the piece of land.

Responding to questions from Councillors Findlay and McGinn, Ms Bell said that road safety concerns about the four-way junction would remain even if Taylor Wimpey received landowners' permission. Ms Bell was not aware of any conversations with the factors.

The Convener commented that the sign should never have been erected without permission, and Taylor Wimpey should have known that consent was required; however, he also noted that officers were content that the sign did not cause road safety issues.

Various committee members indicated that they would support the application, but encouraged Taylor Wimpey to seek the landowners' permission.

Councillor Collins, Local Member, reported that four members of the public had asked her to call the application in, due to concerns that HGV drivers would not see between the signs from their heightened driving position. She also acknowledged that Taylor Wimpey had failed to seek the landowners' permission, and would not support the application.

The Convener moved to a roll call vote on the officer recommendation to grant consent, and votes were cast as follows:

Support: 9 (Councillors Hampshire, Cassini, Allan, Findlay, Forrest, McGinn, McIntosh, McMillan, and Yorkston)

Against: 1 (Councillor Collins)

Abstain: 0

Decision

Planning Committee agreed to grant the application subject to the following condition:

- 1 This grant of express consent shall expire on 9th July 2029, or on completion of sale of the last property to be erected on the land of the housing development to which the advertisements relate, whichever is the sooner, after which date the advertisements shall have been removed from the site and the land made good to the agreement of the Planning Authority.

Reason:

In the interest of safeguarding the visual amenity of the area and pursuant to Part V 18(1) of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984.

Sederunt: Councillor Forrest left the meeting.

5. PLANNING APPLICATION NO. 24/00405/P: ERECTION OF PORTACABIN AND ASSOCIATED WORKS (RETROSPECTIVE), MUSSELBURGH RACECOURSE, 3 MILLHILL, MUSSELBURGH

A report had been submitted in relation to Planning Application No. 24/00405/P. Ciaran Kiely, Planner, presented the report, highlighting the salient points. The report recommendation was to grant consent.

Responding to a question from Councillor McGinn, Mr Kiely advised that the application had been made retrospectively following input from Planning Enforcement.

Philip Duncan spoke to the application. He said he was happy with the recommended conditions. He addressed a letter which had been submitted by a resident; he noted that some points were not relevant to planning, and would be taken up outwith the meeting. He said that the Racecourse was aware of the neighbour and had tried to improve things for them.

Mr Duncan responded to questions from committee members. He advised that work was ongoing with companies to consider best use of space for the welfare of staff, following removal of the portacabin in two years. He reassured committee members that future planning permissions would be sought in good time, and referred to changing and improving processes in this area. He took on board committee member concerns about the high number of retrospective applications; he understood that following due process was expected, and would discuss this with the Racecourse Director. He advised that the portacabin had mains water next to it, and staff used water from the internal buildings. He also advised that consideration would be given to alternative provision for staff before removal of the portacabin.

Councillor McGinn would support the officer recommendation, but raised issue with the number of retrospective planning applications coming from the Musselburgh Racecourse. He reported that some residents felt the Racecourse was a law unto itself, and hoped that advice would be taken to cease submission of retrospective planning applications.

Councillor McIntosh, Local Member, echoed Councillor McGinn's comments. She suggested that a meeting of the Musselburgh Racecourse and Council officers to consider application timescales might be beneficial, and encouraged the Racecourse to open a dialogue prior to removal of the portacabin. She thought the portacabin could not be easily seen behind the fencing, and was content to support the officer recommendation.

The Convener moved to a roll call vote, and the Planning Committee unanimously voted in support of the officer recommendation to grant consent.

Decision

Planning Committee agreed to grant the application subject to the following condition:

- 1 This planning permission is granted for a temporary period of time only. The portacabin and fencing hereby approved shall be removed entirely from the land on which it is sited, and the land restored to its former condition within 2 years from the date of the grant of this planning permission. Within this time period, consideration should be made to a permanent solution for staff welfare on the site.

Reason:

The building, in terms of its form and appearance, is not appropriate for siting as a permanent structure and in the interests of protecting the character and appearance of the Musselburgh Conservation Area and the setting of the adjacent Category B listed building at No. 1 Linkfield Cottage.

6. PLANNING APPLICATION NO. 24/00237/P: INSTALLATION OF VENT AND AIR CONDITIONING UNIT (RETROSPECTIVE), 82-84 HIGH STREET, MUSSELBURGH

A report had been submitted in relation to Planning Application No. 24/00237/P. James Allan, Planner, presented the report, highlighting the salient points. The report recommendation was to grant consent.

Michal Annan spoke to the application, and provided context to the air conditioning unit situation. He explained that a unit had been in place when he had purchased the property in 2015, but a leak in 2021 had prompted its replacement with the most effective and environmentally friendly model available. At this time, a neighbour had requested repositioning, and Mr Annan had agreed to move the unit to the bars of his own window at additional expense. Following this, Mr Annan had been made aware that his actions had contravened the property's C-listed status, however, it had also been unacceptable to move the unit back to its original position. He explained that the nail bar tenants had turned the unit off following neighbour complaints about its noise, but he reported that there had also been complaints about fumes. Mr Annan advised that Council officers had indicated that the system would be required to be boxed in from the close to the front of the building, and, following this work, the unit was now used regularly. He reported that the proprietor at no. 82b would not communicate with him. He advised that, since this time, he had also purchased the property at no. 82a. He asserted that the unit was effective in getting rid of any smell of fumes from the nail bar. He advised that the garish green signage had been painted black, and apologised that he had been unaware of the requirement for planning permission. He advised that the protruding sign had not been in place when he purchased the property.

Mr Annan responded to questions from committee members. He explained that he had two of the four shares in the ownership of the communal stair where the unit was stored. He said he had not spoken with the owners of no. 82. He gave an account of his communication with the owners of no. 82b, but said they had not communicated with him since making a complaint about the unit. He explained that the high positioning of the unit meant that it caused no issues to neighbours. He also reported that the contractor had advised that it would be impossible to bring the ducting out of a window in this instance. He indicated he would paint the whole close if the neighbours would agree.

Noel Guy spoke against the application. He said that he would have no problem with the situation if there were no fumes, no nuisance odour, no damage to the character or structure of his home, or impact on his health. He reported that, even after the works in response to the abatement notice from Environmental Health, the issues had not been resolved. He anticipated a third winter where every window in his home would have to be open to mitigate the fumes and nuisance odour produced by the business. He reported that the air quality remained poor, even following the works, as remarked upon by an Environmental Health Officer in April 2024, and causing serious concerns about the build-up of chemicals and fire safety. He highlighted that the planning process was not followed, including there being no notification or consent sought from the other owner-occupiers, who all suffered from the impact on their properties and a reduction in light. He also highlighted that the terms of the property's title deeds precluded the applicant from siting these works in the communal area. He felt the applicant's actions made a farce of the planning process, and questioned whether such works would be entertained in any other area of East Lothian. He said he would support a safe and discreet solution, and suggested the applicant could run the ducting from above their own front door. He asked committee members to refuse the application, or to make recommendations for amendment to the proposals. He also refuted Mr Annan's statement that he had not engaged with him at all, and said he had asked Mr Annan to communicate in writing.

The Convener advised Mr Guy that the Planning Committee could only consider the visual impact and other planning matters, and could not consider legal aspects in relation to title deeds.

Mr Guy responded to questions from committee members. He reported that he had never been asked to give his permission for the siting of the vent in the communal area. He also reported that there had been no response when he had contacted Mr Annan about previous issues.

The Convener noted that the matter of ownership was not for consideration by the Planning Committee. He described the shop front as being attractive, and felt the proposals were acceptable. He also noted Environmental Health's advice that there was no detriment to neighbouring properties. He would support the officer recommendation.

Councillor McGinn felt that there were no issues with the application in planning terms, however, he was seriously concerned that no permission had been sought to carry out this work, and with the lack of written communication with neighbours. He asked whether Environmental Health Officers could visit the property in the winter to check whether neighbours were suffering from a build-up of fumes. Mr Dingwall responded that planning permission could be granted on a temporary basis, but noted that representation from Environmental Health had indicated that the proposals were acceptable on amenity grounds and should be supported.

Councillor McMillan was concerned about fire risk and the potential build-up of chemicals, and commented that anyone opening or growing a business should ask appropriate questions around safety and building control. He also encouraged dialogue between neighbours.

Councillor Cassini, Local Member, felt she would have to support the application, but said this was against her better judgement because the applicant had carried out the without asking permission; she was concerned that others would follow suit.

In addition to their other comments, Councillors McMillan, Findlay, and Cassini also indicated that they would support the grant of a temporary permission.

The Convener pointed out that although retrospective applications were discouraged, they still had to be determined in the same way as new applications.

Following various Planning Committee members indicating that they would support a temporary permission, Mr Dingwall provided a suggested wording, noted below.

Responding to a question from Councillor McMillan, Mr Dingwall advised that the condition would allow the vent for one year from a planning perspective, but Environmental Health could require more urgent action to be taken if they considered the vent to be unacceptable. Colin Clark, Senior Environmental Health Officer, advised that there was an abatement notice in place on the premises, so further action would be taken if odour nuisance persisted. He was not aware that any complaints had been received since April. He understood there to be a significant improvement to any odours when the unit was in use, and said issues had arisen when the tenants had switched the unit off.

Mr Dingwall's recommended wording of the condition, noted below, was formally proposed and seconded by Councillors McGinn and Findlay, respectively. The Convener then moved to a roll call vote, and committee members unanimously voted in support of the officer recommendation to grant consent, subject to the proposed condition.

Decision

Planning Committee agreed to grant the application, subject to the following condition:

- 1 Planning permission for a vent is granted for a temporary period of one year from the date of this planning permission. After the date, unless further planning permission is granted, then the vent shall be removed from the application site within that one-year period.

Reason

To allow the Council to monitor the development in the interests of the amenity of neighbouring residential properties.

7. PLANNING APPLICATION NO. 24/00238/LBC: INSTALLATION OF VENT, AIR CONDITIONING UNIT, ERECTION OF SIGNAGE AND PAINTING OF FRONTAGE OF BUILDING (PART RETROSPECTIVE), 82-84 HIGH STREET, MUSSELBURGH

A report had been submitted in relation to Planning Application No. 24/00238/LBC. James Allan, Planner, presented the report, highlighting the salient points. The report recommendation was to grant consent.

Mr Annan spoke to the application. He advised that the tenant had been unaware that changing the signage had not been allowed, since the dibond sign had been the same size as the previous sign. He advised that no further lighting was sought. He also advised that there had been damage to the stonework at the front of the building following erection of scaffolding, and Mr Dingwall responded that this damage was a separate matter.

The Convener commented that the main issue around the applications had been in relation to the vent, and he was happy to support the officer recommendation in this case.

The Convener moved to a roll call vote, and Planning Committee members unanimously voted in support of the officer recommendation to grant consent.

Decision

Planning Committee agreed to grant the application subject to the following condition:

- 1 Listed building consent is not hereby granted for the internally illuminated projecting box sign on the front (north) elevation of the building.

Reason:

The projecting box sign is harmful to the special architectural or historic interest of the listed building and harmful to the character and appearance of the Musselburgh Conservation Area. It is Contrary to Policy 7 of National Planning Framework 4, Policies CH1 and CH2 of the adopted East Lothian Local Development Plan 2018, The Cultural Heritage and the Built Environment Supplementary Planning Guidance and the Historic Environment Policy for Scotland (HEPS): April 2019

Signed

Councillor Norman Hampshire
Convener of the Planning Committee



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

**TUESDAY 1 OCTOBER 2024
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON
& HYBRID MEETING FACILITY**

1b

Committee Members Present:

Councillor N Hampshire (Convener)
Councillor L Allan
Councillor C Cassini
Councillor D Collins
Councillor J Findlay
Councillor A Forrest
Councillor N Gilbert
Councillor C McGinn
Councillor S McIntosh
Councillor K McLeod
Councillor J McMillan
Councillor C Yorkston

Other Councillors Present:

Councillor L Jardine

Council Officials Present:

Mr K Dingwall, Service Manager – Planning
Ms E Taylor, Team Manager – Planning Delivery
Mr C Grilli, Service Manager – Governance
Mr B Nicolson, Planner
Ms A Law, Planner
Mr N Millar, Planner
Ms M Haddow, Transportation Planning Officer
Ms P Gray, Communications Adviser
Mr E Hendrikson, Team Manager – Amenity Services
Ms J Newcombe, Biodiversity Officer

Clerk:

Ms B Crichton

Visitors Present/Addressing the Committee:

Item 1: Mr A Girling, Ms S Calder, Mr M Schonwalder, Ms E Hurley, Mr S Bell, Ms I Knox, Mr A Swan, and Ms J Bell
Item 3: Mr T Thomas, Mr P Gardner, and Ms M Marsh
Item 4: Mr D Romanes and Mr A Swan
Item 5: Mr D Baker and Ms J Bell
Items 6 & 7: Ms K McKenzie

Apologies:

None

Declarations of Interest:

Item 1 – Councillor Hampshire, due to having worked with community group who brought forward the application, and as a member of the Dunbar Community Development and Heritage Trust.

Item 3 – Councillor Allan, due to having expressed bias in her call-off statement.

Sederunt: Councillor Hampshire left the meeting.

1. PLANNING APPLICATION NO. 24/00126/P: FORMATION OF PUMP TRACK, SKATE PARK, BASKETBALL COURT, ERECTION OF CAFÉ BUILDING (CLASS 3), CHANGING ROOM BUILDING AND ASSOCIATED WORKS, LAND SOUTH OF HALLHILL SPORTS CENTRE, KELLIE ROAD, DUNBAR

A report had been submitted in relation to Planning Application No. 24/00126/P. Neil Millar, Planner, presented the report, highlighting the salient points. The report recommendation was to grant consent.

Officers responded to questions from Planning Committee Members and Councillor Jardine. Mr Millar confirmed that no floodlighting or external lighting had been proposed to serve the facilities. He advised that, to the best of his knowledge, there was no further development planned in this area following these proposals. He highlighted that changes were to be made to the parking area at Dunbar Primary School, and confirmed that the proposed development was far enough away so that there would be no encroachment on trees. Morag Haddow, Transportation Planning Officer, confirmed that the school car park was separate from the playground and the route children took to school.

Responding to further Member questions, Mr Millar highlighted that the Council's Structures and Flooding Team Manager had been satisfied that the applicant could submit a drainage plan to combat against surface water issues in the area. Ed Hendrikson, Service Manager – Amenity Services, confirmed that the asphalt surface would be inclusive for all wheel types, and discussed the use of other sites by all ages and genders. He also later discussed other sites which had been considered and not chosen, and gave reasons of accessibility and inclusion to explain why it had been felt that an upgrade from the current provision was necessary. Mr Millar highlighted the number of solar panels provided on various sections of the development, and advised that it had not been felt that environmental impact assessments, archaeological surveys and climate impact investigations had been required for these proposals. Jen Newcombe, Biodiversity Officer, also advised that other surveys from a previous application had been taken into account, as well as a deer impact survey.

Adrian Girling spoke to the application. He addressed concerns about the impact on wildlife, habitat, and the potential for antisocial behaviour. A pump track had been highlighted as part of an options appraisal, and it was felt the proposals provided a quality and diverse outdoor offering to promote recreation, relaxation, and learning. He highlighted survey results where a strong majority of respondents said that they or someone in their family would use the facility, and advised that, although opinion had been mixed regarding the location, another survey had shown a strong majority had supported there being a new skate park in Dunbar. He discussed the future of the project; to be a success, he said the project would require sustained effort and initial funding, and it was intended to follow plans through in a long-term and meaningful way. He indicated that stakeholders had worked together to ensure all voices were heard, and thought that the proposals were for a facility that they could make the community proud of.

Mr Girling responded to questions from Members. He advised that providing work experience to young people would be a focus of the café, as well as providing structure for young people in the evenings, and well-managed youth work. He thought the café was necessary as part of a broader facility including the children's play area. As many people would pass through the site on bikes, it was not expected that this would contribute to parking issues in the area. He felt that difficulties with antisocial behaviour could be mitigated by having a youth worker presence in the area. He said that giving young people a sense of ownership in the operation of the space would help to create a set of values that young people could act against, and this would be backed up by a supportive adult presence.

Sorcha Calder spoke in favour of the application. As a 14-year-old from Dunbar, she thought the proposals were a good idea for the youth of the town. She acknowledged that many teenagers were known for being antisocial, and considered this to be due to the teenagers having nothing to do. She pointed out that the increasing population meant that there were more children and young people who would also need something to do; she expressed that young people would be better to meet the kind people they would come across at skate parks, who would help them out, rather than other people who might lead them down a less healthy path. She pointed out that skateboarding was now an Olympic sport, that it brought people outside and helped greatly with mental health problems, and that it helped people to help themselves. She said a skate park provided a welcoming environment for people of different ages, and was good environment in which to make friends.

Max Schoenwalder spoke in favour of the application on behalf of Steven Ingle. He described skate parks as having kept him and his friends going through difficult upbringings, providing a place they could form a unique community and call home. He described his journey in voluntary work, and going on to create The Space with colleagues; he said that he and others would not have had such an impact in the community had it not been for these facilities. He felt that more facilities were needed for young people in the growing town. He discussed having approached farmers to discuss other locations, but asserted that this was the only place the facility could be sited. He referenced plans to plant more trees and to have a green space and planters within the development. He highlighted the benefits of having the skate park close to the primary school, and said that children who had previously learned skateboarding with a teacher still accessed the current facilities. He felt that the youth would rebel if they had nothing to do, and could only see positives if the proposals were to go ahead.

Eva Hurley spoke on behalf of the Dunbar Community Woodland Group. She said the group's purpose was to support wildlife and woodland; they would not want to stand in the way of something that supported the community, but was felt that the benefits of the proposals did not outweigh the overall dangers. She referenced a report from January 2020 to review the site's impact on biodiversity, and highlighted that Council officers had recommended that developers be encouraged to reduce habitat loss and respect wildlife corridors. She highlighted further concerns over loss of habitat and provided statistics relating to the decline and endangerment of species. She also highlighted significant issues with light pollution, and could not see where this harm could be mitigated. She said the group was aware of potential benefits and the need for provision for Dunbar's young people, but had serious concerns about the chosen location. It was felt that there would be creation of short-term dubious benefits at significant environmental cost, which would have a serious cost to the future of young people.

Responding to a question from Councillor Jardine, Ms Hurley advised that the group never had the opportunity to discuss the proposals because they had always been presented as a total package. She indicated that the group would be willing to look at any proposals and work with the community, but were not in favour of the proposals as they stood.

Simon Bell spoke against the application. He gave an account of his qualifications and experience, and indicated he was speaking professionally as a professor of landscape architecture. He had found the rebuttals to objections unconvincing, and felt that several

factors had been overlooked in the assessment of the application. He considered the site to be totally unsuitable due to being an important wet habitat. He raised concerns with displaced animals and a woodland island cut off from the wider landscape. He asserted that the area should not be used as a site to build on, and he was unconvinced by the biodiversity plan. He was concerned that noise would reflect off concrete structures and would transmit widely. He indicated that lighting would be required to be able to use facilities into the evenings, thus disturbing wildlife, and especially bats. He thought the site had been chosen as the only open area, and not because it had specifically clear merits. He felt that the reports had been complacent, and operations relied on goodwill, volunteers, and good behaviour. He also raised concerns with the drainage plan. He also felt that there was an obsession with sports facilities in Dunbar, and asserted that there should be greater focus on cultural activities.

Isobel Knox spoke against the application. She said she was friends with Mr Girling and Mr Schoenwalder and had great confidence that they would deliver for young people, but felt this site was the wrong place for a such a facility. She said the community woodland had a responsibility to encourage people to enjoy the woods. She felt that a youth café was not a good idea when there were already adjacent Hallhill facilities, and there had been an underused café at Bleachingfield. She noted issues with young people gathering and engaging in risky behaviour, which had to be brought to the attention of the emergency services. She felt it was unrealistic for youth workers to provide supervision until 10pm. She also noted that it would be expensive to bring electricity and water to the location. She asserted that the wildlife was already very stressed; she and felt that the best way to protect wildlife was to refrain from building on this site, and felt there were other areas of the town which would be better suited for the development.

Responding to a question from Councillor Cassini, Ms Knox indicated that a site next to Asda and McDonald's in Dunbar would be better suited, since young people already congregated there and there would be help from adults nearby should anything go wrong.

Alasdair Swan made representation on behalf of Dunbar Community Council (DCC). He reported that DCC had invited the young people of Dunbar to speak, as well as youth workers, and those who had worked hard to preserve the woodland. He said DCC had been impressed by the young people, and felt that the town should strive to deliver a first rate facility for them. He reported that the youth workers had explained the advantages of such a facility, and the significant reduction in antisocial behaviour that could be expected. DCC had also lodged its thoughts on some of the environmental issues. He reported that, with only one dissenting voice, DCC supported this project, and hoped that the Planning Committee would allow it to proceed.

Jacquie Bell made representation on behalf of West Barns Community Council (WBCC). She referenced the number of public objections, and that the Local Place Plan called for the area to be protected as green space and habitat. She raised concerns with the input of the Planning Committee Convener, Councillor Hampshire, to the application, and that it was completed by a trustee of the Dunbar Community Development and Heritage Trust. She noted that there had been no options appraisal or feasibility study, and raised concern over the use of the site for such extensive sports development, particularly in light of the findings of the Environmental Issues Report for Hallhill North in 2020. She also noted that other areas used by wildlife had been lost to housing and other development. She reported that an ecology study had found protected species, including bats. She raised concerns that the proposals breached National Planning Framework 4 (NPF4) Policy 3, and said there was no indication of who would pay for the mitigations proposed in the biodiversity report.

Councillor McMillan called out some of Ms Bell's comments on authorship of reports relating to the application. Mr Dingwall and Carlo Grilli, Service Manager – Governance, both indicated that they were satisfied that Councillor Hampshire had acted properly and competently in

making a declaration of interest and leaving the meeting, thereby having no influence over the decision on the application. Ms Bell apologised for these comments.

Ms Bell continued by questioning how the café would receive deliveries under the current parking strategy, and how an emergency vehicle could access the site. She raised further questions about the long-term viability of the provision at the site, particularly when the site would not be floodlit, and asked who would staff the café and how the employment of youth workers would be managed. She also questioned the long-term maintenance of the facility, and reported that residents had asked why old facilities could not be upgraded. She was concerned that it would be difficult to restore the land back to habitat should the facilities cease to be used. She also reported that the application had been considered by the group Planning Democracy.

Ms Bell responded to questions from Members. On the matter of community consultation, she advised that WBCC's views had been taken from the extensive survey undertaken for the Local Place Plan, and said anyone could have attended a public meeting had they wished to make representation about the application to WBCC. She indicated that the Planning Democracy group's view on the application was that the proposals were not appropriate in the woodland because of the impact on NPF4 Policy 3.

Councillor Jardine, Local Member, discussed previous involvement in bringing forward a skate park in another community, and appreciated the importance of young people being involved in decision making. She felt a balance had to be found, and although she was broadly supportive of the development, she had some concerns about the incorporation of the building, as she did not see the entire benefit of the café and changing facilities. She felt, with compromises, this was the right location, and encouraged Members to find a balance in the situation.

Councillor Collins, Local Member, reported that she had heard nothing but support for the new facility from young people. She felt that antisocial behaviour could be stopped by having a presence in the area, and referenced the impact of security cameras at the Herdmanflat Hospital site. She felt that a lot of young people could not handle the structured environments on offer in Dunbar, and said a diverse range of people could be found at skate parks and pump tracks. She referenced the success stories of some of Dunbar's adults who had used the skate park as young people. She advised that the site had been fields previously, and had only enjoyed the greater level of biodiversity more recently. She also pointed out that emergency vehicles would be able to gain access through the posts that would be erected. She felt that the proposals would reenergise the youth in the area.

Councillor Forrest welcomed the proposals. He referenced the community benefits of having such facilities available to young people, including the decrease in antisocial behaviour. He felt that young people should be allowed to show their creative talents and try out something new. He also thought the café would benefit parents bringing younger children to the facility.

Councillor McIntosh said the concerns that had caused her to call in the application had been answered. She did not agree that the proposals represented an overdevelopment of the site; she pointed out that the surrounding woods would be protected and there would be room for enhanced planting around the pump track and skate park. She asserted that assessments of biodiversity must be evidence-led, and pointed out that there were now too many deer. She thought that having a trusted adult on site would be of benefit. She supported the project to encourage young people to be active in a green space, and pointed out that a pump track was accessible to all ages. She also supported the inclusion of the café and toilets.

Councillor McGinn thought that the community was looking for these facilities, including the café and changing facilities. He had been moved by Ms Calder's representation and Councillor Collins' remarks about the benefits to young people in Dunbar. He agreed that diverse facilities

must be provided for young people. He hoped to see young people from the area at the Olympic Games in the future. He would support the application on the basis that the proposals would be beneficial to the mental health and wellbeing of young people.

Councillor McMillan commented on the commitment of Dunbar's Councillors to their community, and felt that Members had heard about a community finding a route to reach a consensus. Regarding Ms Hurley's comments, he felt it was a pity that there could not have been a greater dialogue about what people would have wanted to see. He thought that the proposals would represent an improvement to a wonderful community and an urban development in a rural setting. He had been hugely impressed by Ms Calder's comments and by the Olympic aspirations discussed. He discussed the role of the planning process as contributing to place, people, and play. He also reiterated that Councillor Hampshire had acted properly in making a declaration of interest.

Councillor McMillan moved to a roll call vote, and Members unanimously voted in support of the officer recommendation to grant consent.

Decision

Planning Committee supported the officer recommendation to grant consent, subject to the following 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 Prior to commencement of development hereby approved, a drainage layout plan and full details of the proposed Sustainable Drainage System scheme including a Surface Water Management Plan for the site, which both must meet the vesting requirements of Scottish Water and be in accordance with the Council's Supplementary Planning Guidance 'Sustainable Drainage Systems (SuDS)', shall be submitted to and approved by the Planning Authority. The development shall thereafter be carried out in strict accordance with the details and Surface Water Management Plan so approved, unless otherwise agreed in writing with the Planning Authority

Reason:

To ensure that development is not at risk from flooding, there is no increase in flood risk elsewhere and appropriate long-term maintenance arrangements are in place.

- 3 Prior to the commencement of development hereby approved, the details of the measures to be taken to enhance biodiversity within the application site shall be submitted to and approved by the Planning Authority which shall include a timetable for their implementation. Thereafter those measures identified to enhance biodiversity shall be carried out within the timescales stated unless otherwise agreed in writing by the Planning Authority.

Reason:

To enhance biodiversity in accordance with Policy 3 of NPF4.

- 4 Prior to the use of the pump track, skate park, basketball court, café and changing room buildings hereby approved all works shown on the docketed plan titled 'Proposed changes within the existing car park / grounds of Dunbar Primary School', shall be completed and brought into use in accordance with agreement by the Roads Authority and shall include:

- (i) 2 accessible parking spaces within the eastern end of the school car park (as shown within the area coloured in blue);
- (ii) the formation of a turning head within the southwest end of the school car park (in the location shown in yellow);

- (iii) the erection of new fencing and lockable gates at the western end of the car park (in the location shown in red); and
- (iv) the retention of the existing fence and gates at the eastern end of the car park and the retention of the existing turning head to the east of the car park (as shown in green).

Reason:

In the interests of road and pedestrian safety.

- 5 Prior to the commencement of development hereby approved, a Construction Method Statement to minimise the impact of construction activity on the safety and amenity of the area shall be submitted to and approved by the Planning Authority. The Construction Method Statement shall recommend mitigation measures to control noise, dust, construction traffic (including parking, routes to/from site and delivery times) and shall include hours of construction work and details of any temporary measures to be put in place throughout the duration of the construction process. The Construction Method Statement shall also make recommendations in respect of how building materials and waste will be safely stored and managed on site.

The recommendations of the Construction Method Statement shall be implemented prior to the commencement of development. Development shall thereafter be undertaken in accordance with the details so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

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

- 6 No work shall be carried out on the site unless and until an effective vehicle wheel washing facility has been installed in accordance with details to be submitted to and approved by the Planning Authority prior to its installation. The wheel washing facility shall be retained in working order and used such that no vehicle shall leave the site carrying earth or mud in their wheels in such a quantity which causes a nuisance or hazard on the road system in the locality.

Reason

In the interests of road safety.

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

Reason:

To minimise the environmental impact of the development.

Sederunt: *Councillor Hampshire re-joined the meeting.*

2. PLANNING APPLICATION NO. 24/00117/PM: SECTION 42 APPLICATION TO REMOVE CONDITION 10D OF PLANNING PERMISSION IN PRINCIPLE 15/00670/PPM, LAND SOUTH OF TANTALLON ROAD, NORTH BERWICK

A report had been submitted in relation to Planning Application No. 24/00117/PM. Keith Dingwall, Service Manager – Planning, presented the report, highlighting the salient points. The report recommendation was to grant consent.

Officers responded to questions from Members. Mr Dingwall advised that the proposal was only to remove the requirement for the condition, and Dandara had given no indication as to their longer-term plans. Morag Haddow, Transportation Planning Officer, confirmed that the path had already been adopted by East Lothian Council, so it would be up to the Council

whether the path was removed. Mr Dingwall suggested that there could be potential for a future developer to link the path northwards, to Tantallon Road. Mr Dingwall referenced the site visit, when Members had seen a member of the public using a shortcut through a grassy field. He also highlighted land approved for Class 4 industrial units which had now lapsed; this could be looked at to give more direct access to the superstore, but could not get in the way of the operation of the units.

Responding to further questions, Mr Dingwall advised that he had contacted Tesco personally, and Tesco's Planning Manager had firmly set out Tesco's response. He confirmed the reason for the application; although Dandara had built a path, the condition under discussion required a connection to the Tesco store, which could not go ahead without Tesco's permission.

Councillor McIntosh was frustrated by the situation, and felt it made a mockery of the sustainable transport hierarchy. She noted that Tesco was mostly at fault, and felt that more powers were needed in this type of situation. She would not vote in support of the officer recommendation because she felt it was ridiculous not to have a path to link to the superstore.

The Convener agreed with Councillor McIntosh's comments, however, he felt that the Planning Committee should still uphold the officer's recommendation. He agreed that the Planning Authority should have powers in such situations and that there should be a path link.

Councillor Findlay would vote against the officer recommendation. He felt the condition should remain in place and that work should be done with Tesco to encourage development of the path, however unlikely they were to agree. He did not think the section of path already developed should be removed.

The Convener moved to a roll call vote on the officer recommendation to grant consent. Votes were cast as follows:

Support:	8	(Councillors Hampshire, Allan, Collins, Forrest, McGinn, McLeod, McMillan, and Yorkston)
Against:	3	(Councillor Cassini, Findlay, and Gilbert)
Abstentions:	1	(Councillor McIntosh)

Decision

Planning Committee supported the officer recommendation to grant consent, subject to the following conditions:

- 1 The submission for approval of matters specified in conditions of this grant of planning permission in principle in accordance with the timescales and other limitations in Section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended) shall include details of the siting, design and external appearance of the residential and business units, the means of access to them, the means of any enclosure of the boundaries of the site and the landscaping of the site. Those details shall generally comply with the Indicative Development Framework docketed to this planning permission in principle, but additionally shall comply with the following design requirements:
 - a. The residential dwellings shall be no more than two storeys in height other than those adjacent to Tantallon Road which shall be one storey in height (including for accommodation in the roof space) and the external finish to their walls shall be predominantly rendered and coloured in accordance with a co-ordinated colour scheme that respects the layout of the development. The buildings for Class 4 use shall be no more than one storey in height and shall be finished in a co-ordinated scheme of materials and colour finishes to minimise their visual impact in the landscape;

- b. Other than in exceptional circumstances where the layout or particular building type does not permit, the residential units shall be orientated to face the street;
- c. There shall be no integral garages, unless it can be justified as an exceptional design feature, or where the house and garage would not be on a primary street frontage;
- d. The detailed design of the layout shall otherwise accord with the principles set out in the Council's Design Standards for New Housing Areas and with Designing Streets;
- e. Notwithstanding that shown in the Indicative Development Framework docketed to this planning permission in principle, there shall be at least a 9 metres separation distance between the windows of a proposed new building and the garden boundaries of neighbouring residential properties and an 18 metres separation distance between directly facing windows of the proposed new building and the windows of existing or proposed neighbouring residential properties;
- f. Notwithstanding that shown in the Indicative Development Framework docketed to this planning permission in principle, the SUDS provision for the development if retained in the position shown shall be a dry retention basin not requiring fencing and maintainable as a managed recreational area; otherwise the SUDS provision shall be accommodated in an alternative position or by other means as agreed in writing with the Planning Authority.
- g. Notwithstanding that shown in the Indicative Development Framework docketed to this planning permission in principle, the southern boundary of the site shall be fully enclosed by a post and wire fence and by the planting of a mixed native species hedgerow along the post and wire boundary fence.
- h. Notwithstanding that shown in the Indicative Development Framework docketed to this planning permission in principle, site access to the business use on the northwestern part of the site shall be taken from a point along either the north or west boundaries of that part of the site, in accordance with details to be agreed in advance with the Planning Authority;
- i. a detailed vehicle tracking (swept path) for both the residential and business areas shall be provided using the large design rigid vehicle for the whole site. For the avoidance of doubt the Design Vehicle to be used is the "Large Rigid Vehicle" as outlined in the Freight Transport Association's document "Designing for Deliveries" and for the business area the vehicle tracking (swept path) should also include tracking for the "Design Articulated Vehicle".
- j. access to the residential area to be accessed directly from the A198 shall be taken via a priority junction with corner radii of 10.5 metres on either side of the junction. Visibility splays of 4.5m by 90m in both directions shall be provided and maintained at the proposed site access junction so that no obstruction lies within them above a height of 1.05 metres measured from the adjacent carriageway surface;
- k. access to the business area to be accessed directly from the A198 shall be taken via a priority junction with corner radii of 10.5 metres on either side of the junction. Visibility splays of 4.5m by 70m in both directions shall be provided and maintained at the proposed site access junction so that no obstruction lies within them above a height of 1.05 metres measured from the adjacent carriageway surface;
- l. the proposed development shall provide footpath links within the development to the northern and western edges of the development and, where required by the Council's Road Services and Access Officer, to the existing footpath network in the area to provide appropriate routes to primary and secondary schools and to play facilities at Recreation Park to the north;
- m. parking for the residential development hereby approved shall be provided at a rate as set out in the East Lothian Council Standards for Development Roads- Part 5 Parking Standards;
- n. all access roads shall conform to East Lothian Council Standards for Development Roads and Design Standards for New Housing Areas in relation to roads layout and construction, footways and footpaths, parking layout and number, street lighting and traffic calming

measures. This shall include for a co-ordinated design to accommodate street trees and swales;

o. driveways shall have minimum dimensions of 6 metres by 3 metres. Double driveways shall have minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11 metres length. Pedestrian ramps to houses may encroach by up to 300mm on the width (but not the length) provided they are no greater than 150mm in height above the adjacent driveway surface;

p. within residential private parking areas the minimum dimensions of a single parking space shall be 2.5 metres by 5.0 metres. All visitor parking spaces within these areas shall be clearly marked for visitors with the remaining private parking spaces allocated to individual dwellings;

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

r. cycle parking be included at a rate of 1 space for each unit of any flatted accommodation in the form of 1 locker per flat or communal provisions in the form of a lockable room or shed;

s. vehicle parking and cycle parking for the business units shall conform with East Lothian Council Standards for Development Roads;

t. the garden boundary treatments of the development that are publicly visible shall be stone or rendered walls, or hedges, and all residential units and other buildings shall have appropriate boundary treatments on their frontages;

u. a toddlers play area shall be provided within the application site. Details of the toddlers play area, including the equipment to be provided within it and a timetable for its implementation, shall be submitted to and approved in advance by the Planning Authority and the play area shall be installed in accordance with the details so approved;

v. acoustic screening measures shall be provided along the boundary of residential properties with the supermarket site to the north, in accordance with acoustic and landscape details to be agreed with the Planning Authority including for their implementation prior to the occupation of any residential property;

Reason:

To enable the Planning Authority to control the development in the interests of the amenity and visual quality of the development and the area, of the setting of the scheduled monument of North Berwick Law and in the interests of road safety.

- 2 No more than 125 residential units are approved by this grant of planning permission in principle. Unless otherwise approved in writing by the Planning Authority: those residential units shall be completed in accordance with the applicant's proposed phasing of the site: year 1 – 24 residential units; year 2 – 24 residential units; year 3 – 24 residential units; year 4 – 38 residential units; year 5 – 15 residential units; and any slippage in any single year shall revert to year 6 or beyond, and not be added to the subsequent year.

Reason:

To ensure sufficient education capacity can be provided for the pupil product of the development.

- 3 No development shall take place until there has been submitted to and approved in writing by the Planning Authority a scheme of landscaping. The scheme shall be generally based on the landscape proposals shown in principle on the docketed Indicative Development Framework, and shall otherwise accord with requirements of Condition 1 above. It shall include for tree and hedge planting along the northern boundary with the Tesco site, tree planting along the internal roads and within the internal open spaces and the planting of a mixed native species hedgerow along the southern boundary of the site.

It shall also provide details of: the height and slopes of any mounding on or recontouring of, the site; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. The scheme shall also include indications of all existing trees and hedgerows on the land, details of any to be retained, and measures for their protection in the course of development.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of ten years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

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.

- 4 No development shall be commenced unless and until a delivery plan for the Class 4 business units hereby approved has been submitted to and agreed in writing with the Planning Authority. Thereafter, the business units shall be delivered in accordance with the delivery plan so agreed.

Reason:

In the interests in securing the delivery of the Class 4 business units in accordance with the aims, objectives and targets of the Council's Economic Development Strategy 2012 -22.

- 5 Prior to the commencement of development at the application site, a scheme to connect to the public waste water network shall be submitted for the written approval of the planning authority, in consultation with Scottish Water. The scheme must demonstrate appropriate alignment of the phasing and timing of the development with the provision of secondary treatment by Scottish Water at the North Berwick Waste Water Treatment Works.

Reason:

To protect people and the environment from the impact of waste water and ensure that the development can be serviced by the public waste water sewerage scheme.

- 6 No development shall take place on the proposed site until the applicant has undertaken and reported upon:

(a) a programme of archaeological work (Field Walking Survey and Evaluation) in accordance with a written scheme of investigation which has been submitted by the applicant (or their agent) and approved by the planning authority; and

(b) a Heritage assessment of the potential impacts upon the Scheduled Monument of North Berwick Law has been carried out to inform the detailed master planning of the development. This shall follow the guidelines and methodologies outlined in Managing Change in the Historic Environment – Setting Historic Scotland 2010.

Reason:

In the interests of archaeological and natural heritage.

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

Reason:

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

- 8 A Construction Method Statement to minimise the impact of construction activity on the amenity of the area shall be submitted to and approved by the Planning Authority prior to the

commencement of development. The Construction Method Statement shall recommend mitigation measures to control construction traffic and shall include hours of construction work, routes for construction traffic and details of wheel washing facilities to be provided. Wheel washing facilities must be provided and maintained in working order during the period of operation of the site. All vehicles must use the wheel washing facilities to prevent deleterious materials being carried onto the public road on vehicle tyres.

Reason:

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

- 9 Unless otherwise approved in writing by the Planning Authority the allotments hereby approved shall be provided and made available for use prior to the occupation of 60 residential units of the development.

Reason:

In the interests of the amenity of the area.

- 10 Prior to the occupation of any of the residential units hereby approved or any use being made of the business units, all roads and footpaths, including external footpaths as required shall be completed and brought into use in accordance with a phasing of them as agreed with the Roads Authority:

a. a signal-controlled pedestrian crossing shall be provided over Dunbar Road (A198) in a position between Glenburn Road and Heugh Road;

b. the existing footway along the site frontage on Tantallon Road shall be replaced and upgraded to include dropped kerb crossings over the A198 to allow barrier free access to the existing bus stops on this part of Tantallon Road;

c. a pedestrian route shall be provided through the business land to the west of the site to allow connection to Heugh Road from the residential units on the site;

Details of the new signal controlled pedestrian crossing, the upgraded footway and the crossing points and the provision of a pedestrian link to the adjoining business land use shall be submitted to and approved in advance by the Planning Authority. Development shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of road safety and to enable safe access to schools.

- 11 Details of the proposed integrated sustainable urban drainage scheme (SUDS) for the application site shall be submitted to and approved in writing by the Planning Authority following consultation with the Scottish Environment Protection Agency and such detail shall provide for two levels of treatment. Details shall include:

o Results of any investigation of the receiving watercourse and culvert upstream of Tantallon Road as per the recommendations provided in SEPA's consultation response dated 29 September 2015;

o Amended details of the proposed SUDS system including adoption and maintenance Arrangements; and

o Details of flow paths with regards to exceedance flood events

The integrated sustainable urban drainage scheme (SUDS) for the application site shall thereafter be fully implemented in accordance with the details so approved.

Reason:

To ensure the provision of a satisfactory sustainable urban drainage scheme for the application site.

- 12 The design and installation of any plant or equipment associated with the operation of each of the Class 4 business units shall be such that noise emanating from them shall not exceed Noise

Rating Curve NR25 at any Octave Band Frequency when measured within any existing or proposed neighbouring residential property assuming windows open at least 50mm.

Reason:

To ensure the Class 4 business units do not harm the amenity of nearby residential properties.

- 13 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 and the artwork as approved shall be provided prior to the occupation of the final residential unit approved for erection on the site.

Reason:

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

3. PLANNING APPLICATION NO. 24/00527/P: ERECTION OF ONE HOUSE AND ASSOCIATED WORKS, LAND TO THE EAST OF ST. ANDREW'S HOUSE, ST. ANDREW STREET, NORTH BERWICK

A report had been submitted in relation to Planning Application No. 24/00527/P. Bruce Nicolson, Planner, presented the report, highlighting the salient points. The report recommendation was to refuse consent.

Responding to a question from Councillor McMillan, Mr Nicolson advised that the land was clearly a garden; it had been part of a 2005 application, and the piece of land at that point had been consented as garden ground.

Tony Thomas, the applicant's agent, spoke to the application. He described the proposals as an attractive new urban gap site which would enhance the immediate streetscape. He described the current view of two large blank gables through to untidy elevations of high street, and the buildings as being inconsistent with one another and failing to enhance the character of the area. He informed Members of the architect's other designs. He suggested that amenity space was not required when open space was available nearby. He described the property as not being overbearing or overly dominant; he compared neighbouring properties, and highlighted that efficient use of land was to be encouraged in an urban setting. He asserted that the site would encourage active travel, and noted the close proximity of the bus stops and train station. He also highlighted green heating systems from which the property would benefit. He advised that the site would benefit from a dedicated parking space, which currently belonged to 69 High Street, also owned by the applicant. He advised that the parking space was originally formed as part of the development of Kirk View, and the relevant planning condition only required that the parking space must remain a parking space; he argued that the parking space becoming part of this development would have a much better relationship to its property. He advised that, if successful, the applicant would sell no. 69 to help fund the development, and the parking space would flip to the new property. He asserted that a buyer of a flatted property on the high street would not expect a dedicated parking space, and felt the addition of a car would be insignificant to the daily fluctuation of traffic in the area. He indicated that the applicant would accept a condition to help increase biodiversity value, such as a requirement for bat and bird boxes. He summarised that the proposals were for an attractive energy-efficient home which was an appropriate use of the gap site in North Berwick.

Responding to a question from Councillor Findlay, Mr Thomas suggested that no. 69 could be bought by someone without a car. He also said that, although the area was particularly busy over the summer, there were not issues with parking throughout the rest of the year.

Phil Gardner spoke against the application. He welcomed the planning officers' assessment and five primary reasons for refusal. He advised that the access to the site from Law Road was for pedestrian use only, and was clearly too narrow to bring building materials to the site. He noted problems with the only vehicle access from St. Andrew's Street, in that there was on-street parking and two disabled bays in regular use. He said that any contractor vehicle would block St. Andrew's Street, and a solution would have to be found since the parking spaces were used for the day centre. He also felt there were safety issues associated with the use of the nearby nursery's use of the pavement. If Members were minded to approve the application, then he strongly recommended that a Construction Methods Statement (CMS) would be needed to consider activity, mitigation, and how waste would be dealt with on such a tight site; he also felt the absence of a CMS should form an additional reason for refusal. He highlighted that the application was unclear as to whether the current nine-metre long retaining wall would be removed, and said that a further ten metres of retaining wall would be required, causing issues of noise, vibration, and disturbance to neighbours.

Marian Marsh spoke against the application. She introduced herself as a North Berwick resident and a chartered town planner. She stated objections on the basis of policy issues, and commented on the ways in which the proposals were inconsistent with East Lothian Local Development Plan 2018 (LDP) policies DP1 and DP2. She also asserted that the proposals were inconsistent with policy DP7, on the basis that: it did not provide appropriate vehicular access and parking; there was a significant loss of privacy and amenity; the scale was not sympathetic in its surroundings; and there was a loss of green space. She referred to a submitted photograph to illustrate that the site had been a garden 70 years ago, and was not a brown field site. She highlighted that, by building on the whole of the site, the proposals were also inconsistent with NPF4 Policy 3. She pointed out that parts of the construction phase would lead to temporary closure of the blue badge spaces, bus drop off site, and narrow pavement route to the day centre and nursery. She also pointed out that two properties were being created without amenity space. She highlighted that the property would overshadow the Kirk View shared garden, and that a tree was being felled. She also noted that the development would come right up to the wall of Kirk View, thus disrupting an elderly resident. She concluded by reiterating her previous points, and giving her view that the development had no design consideration for its surroundings other than to fill the space.

Councillor Findlay explored the various reasons for refusal, and felt that some were subjective or not fully convincing; however, he felt that the second reason for refusal was entirely appropriate. He agreed that the proposals represented an overdevelopment of an extremely constrained site. He was not against infills in principle, but felt that this clearly should be garden land.

Councillor McMillan thought that the design was a matter of taste. He referenced PAN 67, and noted that he did not feel the development was appropriate in its positioning, size, scale, form, and massing. He felt the application would not improve or enhance the area, and agreed that it would be an overdevelopment of the small site. He would support the officer recommendation to refuse consent.

Councillor McIntosh was convinced by Mr Thomas' argument that the parking space would revert to the new house and leave a flat in the high street without a parking space; she felt that car-free transport was to be encouraged in any case. However, in all other matters, she agreed with the officer's assessment. She felt that the last reason for refusal relating to there being no ability to deliver biodiversity enhancements was the most important. She was also concerned about the cumulative effect of paving over sites within town centres, leaving ground which could no longer be able to absorb extreme amounts of rainfall, in contravention of NPF4 Policy 2.

The Convener supported infill development in gap sites in principle, however, he commented that there was a demand on parking spaces in the area throughout the year. Although the design was not to his taste, he accepted that a modern design within a conservation area

could be acceptable, but he felt that the size of the property was much too large for the area of land. He also felt that limited parking issues, and issues whereby sunlight would be blocked from the small piece of open space available to residents were also of significance. He did not accept that the lack of parking was acceptable for the size of this house, and he would support the officer's reasons for refusal.

The Convener moved to a roll call vote, and Members unanimously voted in support of the officer recommendation to refuse consent.

Decision

Planning Committee supported the officer recommendation to refuse consent for the following reasons:

- 1 The proposed house would not be of an architectural form, scale, design and massing that would be sympathetic to its surroundings. It would not be appropriate to its location in terms of its positioning, size, form, and massing and would neither preserve nor enhance but would be harmful to the character and appearance of this part of the North Berwick Conservation Area contrary to Policies 14 and 7 of NPF4 and Policies CH2, DP7 and DP2 of the ELLDP.
- 2 The proposed house would be erected on a tightly constrained site and would occupy most of the plot. Consequently, there would be no land on which to form any useable garden ground for the occupants of the proposed house. As the application site cannot accommodate the entire development of the proposed house and suitable open space, the proposal is contrary to Policy DP7 part 1 of the adopted East Lothian Local Development Plan 2018.
- 3 Due to the height of the proposal and its relationship with the rear boundary and neighbouring external amenity space the proposed house would have an overly dominant and overbearing impact on the external space of neighbouring properties. This would harm the residential amenity of the occupants of neighbouring properties at Kirk View and High Street, contrary to Policy DP7 part 2 of the adopted East Lothian Local Development Plan 2018.
- 4 The Council's standards require 1.5 spaces for a dwelling of the proposed size and this proposal will not result in the provision of any additional parking spaces. The site is in an area of known parking pressure as identified in the North Berwick Town Centre Strategy. The proposal is contrary to ELDP policy T1 of the East Lothian Local Development Plan 2018 and the North Berwick Town Centre Strategy.
- 5 As the site largely comprises garden ground and is to be covered in building and hard surfacing it is not considered feasible that this proposal could deliver measures to enhance biodiversity and therefore the proposals conflicts with Policy 3 of NPF4, parts a) and c).

4. PLANNING APPLICATION NO. 24/00605/P: ALTERATIONS TO SHOPFRONT AND INSTALLATION OF PHARMACY DISPENSER, 25 HIGH STREET, DUNBAR

A report had been submitted in relation to Planning Application No. 24/00605/P. Keith Dingwall, Service Manager for Planning, presented the report. Although the published report recommendation had been to refuse consent, further negotiation with the applicant's agent had resulted in a proposal for a smaller dispenser unit. With the remainder of the window unit not being obscured or disfigured, the alterations and dispenser unit now proposed would preserve the character and appearance of the listed building and that of the Conservation Area. Consequently, the officer recommendation was now that planning permission be granted, subject to the condition noted below.

Alasdair Swan spoke on behalf of Dunbar Community Council. He expressed the DCC's delight that the officer recommendation had been changed to grant consent. It was felt that

the initiative being offered by a private investor would be a wonderful benefit to the town at a time when healthcare was becoming harder to access. DCC fully supported the Romanes' application.

Councillor Jardine, Local Member and East Lothian Integrated Joint Board Member, felt that the proposal for a 24-hour dispensary was a tremendous way forward to meet health needs, and was delighted that a compromise had been found from the original proposals.

Councillor Collins, Local Member, thanked officers for their work to find a solution that would be acceptable in the Conservation Area. She thought the 24-hour dispensary would be a fantastic benefit, particularly when many new pressures were now being directed towards pharmacies. Councillor McGinn and the Convener also expressed similar sentiments. Councillor McGinn hoped similar facilities would be rolled out across the county, as it was of great benefit for people to be able to collect their prescriptions at a time when the high street was quieter.

The Convener moved to a roll call vote, and Members unanimously voted in support of the officer recommendation to grant consent.

Decision

Planning Committee supported the officer recommendation to grant consent, subject to the following condition:

- 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

5. PLANNING APPLICATION NO. 23/01519/PM: CHANGE OF USE OF AGRICULTURAL LAND FOR THE FORMATION OF BATTERY ENERGY STORAGE SYSTEM AND ASSOCIATED WORKS, LAND TO THE NORTH OF DUNBAR GRID SUBSTATION, DUNBAR

A report had been submitted in relation to Planning Application No. 23/01519/PM. Bruce Nicolson, Planner, presented the report, highlighting the salient points. The report recommendation was to grant consent.

Mr Nicolson and Mr Dingwall responded to Members' questions. Mr Nicolson advised that 0.87 hectares of land would be used. Mr Dingwall confirmed that any further application which meant the capacity of the site exceeded 50 megawatts would be determined by the Energy Consents Unit (ECU). In terms of the energy infrastructure's benefits to local people, Mr Nicolson advised that there would be an indirect benefit in that this site would provide part of a suite of solutions. He explained that a wildflower area had been proposed because cabling would prohibit the planting of trees, and it was felt that the mitigations proposed were proportionate to the size of the proposals. He highlighted that the containers were only three metres high, so while it was considered a major-type planning application, the compound was not enormous. He reiterated that council officers were satisfied with the proposals in terms of the designed landscape area. He also explained that the site was beyond the required 30 metres from the field, and was separate from the agricultural land in use by the farmer; this was covered under Condition 5 relating to protection of species.

Responding to further questions, Mr Nicolson and Mr Dingwall provided comments on the training required for planning officers to be able to make an assessment of the life cycle of the impact of this form of development. Acknowledging a point made by Councillor McIntosh, Mr Dingwall would suggest that input on carbon count could benefit planning authorities as part of the Scottish Government's Planning Hub.

Councillor Jardine, Local Member, welcomed Mr Dingwall's commitment to taking forward the issue of carbon count through a national approach. She was aware that a local energy capacity study had been conducted in 2010, which had been a useful tool. Given the advances in technology, she asked whether there was any scope for this study to be updated locally until such time as a national approach came forward. Mr Dingwall endorsed Councillor Jardine's point and said that the Planning Service had considered undertaking an updated study. He noted that wind turbines were now being proposed at heights of up to 200 metres, and our guidance currently only took into account heights of up to 100 metres. He advised that initial talks had taken place as part of LDP discussions that an updated capacity study could be conducted, which may also be able to take into account battery storage.

Sederunt: *Councillor Gilbert left the meeting.*

David Baker, the applicant's agent, spoke to the application. He provided background information on the applicant and other projects they ran. He also provided information relating to the transition to net zero carbon, the concomitant increase in electricity demand, and requirement to balance supply and demand. He advised of the spend on curtailing energy schemes, and said the proposed BESS would help to combat this issue. He described the development as being small in scale, and provided information on the landscaping screening strategy. He advised of the route used by construction traffic, which had no problematic junctions, and advised that, once running, the site would require only one maintenance visit per month. He highlighted that the site would be in accordance with relevant safety guidance, and asked Members to support the officer recommendation to approve the application.

Mr Baker responded to Members' questions. He provided some commentary on growth in this area, and reiterated that the National Grid was having to pay to curtail energy projects due to a lack of battery storage, thus, a combined approach with a number of stakeholders was required. A number of BESS projects had had to come forward quickly, and LDPs had not allowed for this. He commented that stakeholders must come together and discuss with planning committees, as there would have to be a rapid approach. Mr Baker also described the development as being completely different to a windfarm development, and would not require the same level of construction traffic. He also advised that analyses of turning circles had been carried out, and said there would be no reason for construction vehicles to park on the road network. He also advised that a Construction Management Plan would come forward.

Jacquie Bell provided comments on the application on behalf of West Barns Community Council. She highlighted concerns about the cumulative impact of the large number of energy projects over a small geographical area, and that there was another BESS coming forward on the other side of the road. She also highlighted concerns about road safety during the construction phase and when batteries would require to be replaced. She was concerned about construction traffic using the road to the Thistly Cross roundabout, and about the impact on other vehicles, pedestrians, cyclists, and horses and riders. She also highlighted concerns about the safety of BESS technology. She raised fire concerns, and particularly about pollutants entering water courses should water be used to put out any fire. She was also concerned about emergency crews getting to the site when the road was narrow and twisty.

The Convener, a Local Member, felt the site was better than others which had been selected, due to its proximity to the National Grid connection, and outlined the reasons such facilities were required. He would support the officer recommendation. He later also suggested that areas considered suitable for BESS systems and other renewal energy technology should be identified under the next iteration of the LDP.

Councillor McMillan agreed with the principal and need for battery storage, and felt the officer report and applicant's presentation had clearly shown the requirement for the system. He commented on the cumulative effect of such sites on the area, and agreed with the applicant's agent that joined-up thinking was required going forward. Having asked about the photographs of the area at one year and 15 years post-development, he did not think there would be an impact on the views due to minimal height of the structures.

Councillor Collins, Local Member, felt that this application was one of the most sensible to come forward, due to the positioning only 100 metres from the National Grid connection. She also approved of the minimal impact on the area and the minimal loss of agricultural land. She thought the development would also help the farmer to invest in their farm.

Councillor McIntosh felt that a strategy had to come forward to indicate the capacity required overall. She commented that consumers would take the hit for the cost of turning off windfarms, and suggested potential uses for the excess energy. She felt that more technical advice was required nationally. She felt that this application was better than others which had come forward, and did not seem to overburden any community.

Councillor Cassini commented that it was better to be able to store energy than waste it, but objected to the energy gained being at the cost of East Lothian's agricultural land. She felt the cumulative effect of the energy projects had to be considered, but felt that these proposals were better than some which had come forward.

The Convener moved to a roll call vote, and Members unanimously supported the officer recommendation to grant consent.

Decision

Planning Committee supported the officer recommendation to grant consent, subject to the following 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 Except as otherwise required by the terms of this consent and deemed planning permission, the Development shall be undertaken in accordance with the approved drawings.

Reason: To ensure that the Development is carried out in accordance with the approved details.

- 3 The Development will disconnect from the grid and cease to import or export electricity no later than the date falling forty-one years from the date of commencement of development.

The total period for decommissioning, restoration and aftercare works of the site in accordance with this condition shall not exceed forty-two years from the commencement of development without prior written approval of the Planning Authority. Unless otherwise agreed in writing by the Planning Authority, there will be a one year aftercare period from completion of restoration, to ensure that the restoration works are monitored and any remedial works undertaken and completed to ensure optimal end use to the satisfaction of the Planning Authority.

No Development shall commence until a decommissioning, restoration and aftercare strategy has been submitted to and approved in writing by the Planning Authority. The strategy shall include measures for the decommissioning of the development, restoration and aftercare of the site and will include, without limitation, proposals for the removal of the above ground elements of the Development, confirmation of the status of subterranean elements of the development (retention, removal, or other such proposal), the treatment of ground surfaces, the management and timing of the works and environmental management provisions.

No later than 3 years prior to decommissioning of the development or the expiration of the consent (whichever is the earlier) a detailed Decommissioning, Restoration and Aftercare Plan shall be submitted to the Planning Authority for written approval. The detailed decommissioning, Restoration and Aftercare Plan, will provide updated and detailed proposals for the removal of the Development, the treatment of ground surfaces, the management and timing of the works and environment management provisions which shall include:

- a. a site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases); to include the items listed in the CEMP site waste plan.
- b. details of the formation of the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
- c. a dust management plan;
- d. details of measures to be taken to prevent loose or deleterious material being deposited on the local road network including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
- e. a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
- f. soil restoration;
- g. a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
- h. sewage disposal and treatment;
- i. temporary site illumination;
- j. the construction of any temporary access into the site and the creation and maintenance of associated visibility splays;
- k. details of any watercourse crossings;
- l. a species protection plan based on surveys for protected species (including birds) carried out no longer than 18 months prior to submission of the plan.
- m. traffic management plan
- n. timetable for decommissioning and restoration and aftercare, which period shall not exceed one year unless otherwise agreed in writing by the planning authority.
- o. Restoration Layout Plan showing the indicative final restored layout including agricultural grade land which shall include restoration of the topography which existed prior to the commencement of the development unless otherwise agreed with the Planning Authority.
- p. The Development shall be decommissioned, the site restored, and the aftercare period thereafter undertaken in accordance with the approved detailed Decommissioning, Restoration and Aftercare Plan, unless otherwise agreed in writing in advance with the Planning Authority.

Reason: To ensure the decommissioning and removal of the development in an appropriate and environmentally acceptable manner and the restoration and aftercare of the site, in the interests of safety, amenity and environmental protection.

- 4 The Company shall supply to the Planning Authority an annual written report confirming that the battery energy storage facility is importing and exporting electricity to the grid. If the battery storage facility fails to import or export electricity to the grid for a continuous period of 12 months, then unless otherwise agreed in writing with the Planning Authority, the Company shall no later than one year after the last day of this 12-month period submit the site Decommissioning, Restoration and Aftercare Plan to the Planning Authority for approval and implement it in accordance with condition 3.

Reason: To ensure that if the Development or part thereof becomes redundant the equipment is removed from the site, in the interests of safety, amenity and environmental protection.

- 5 No development shall commence unless and until a Construction and Environmental Management Plan ("CEMP") outlining site specific details of all onsite construction works, post-construction reinstatement, drainage, and mitigation, together with details of their timetabling, has been submitted to and approved in writing by the Planning Authority.

The CEMP shall include (but shall not be limited to):

- a. A site investigation and ground monitoring plan detailing all preliminary site investigation and ground investigation works, in compliance with BS 59300:2015 or successor guidance;

- b. a site waste management plan to include:
 - i. Waste expected to be produced and how materials will be stored, reused, recycled or reclaimed;
 - ii. Steps to minimise waste and maximise the use of recyclates;
 - iii. Management of waste on site and leaving the site; and
 - iv. Relevant evidence of waste carrier/waste transfer.
- c. details of contingency planning in the event of accidental release of materials which could cause harm to the environment;
- d. details of the formation of the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any compound boundary fencing;
- e. a dust management plan;
- f. a soil management plan;
- g. details of measures to be taken to prevent loose or deleterious material being deposited on the local road;
- h. a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
- i. sewage disposal and treatment;
- j. temporary site illumination;
- k. the method of working cable trenches;
- l. the method of construction (insofar as constructed on site) and erection of BESS, HV transformers, CCTV columns;
- m. details of watercourse crossings;
- n. post-construction restoration/ reinstatement of the working areas not required during the operation of the Development, construction compound, storage areas, laydown areas, access tracks, other construction areas. Details should include all seed mixes to be used for the reinstatement of vegetation;
- o. a description of the proposed activities, structures or tracks within the laydown area and details of its restoration including a timetable.
- p. biodiversity mitigation measures in relation to any on site or off site construction works (to be agreed with Council's Biodiversity officer).
- q. standards outlined in British Standard 4 2020 : 2013 - Biodiversity Code of Practice for Planning and Development for the protection of badger, bat, otter and birds.

The development shall be implemented thereafter in accordance with the approved CEMP unless otherwise approved in advance in writing by the Planning Authority.

Reason: To ensure that all construction operations are carried out in a manner that minimises their impact on road safety, amenity and the environment.

- 6 No construction work associated with the Development shall take place on the Site on any Sunday or Bank Holiday or on any other day except between the following hours: Monday to Friday: 08:00 to 18:00, Saturday: 08:00 to 13:00.

Unless such work:

- a. does not cause the existing ambient background noise levels to be exceeded at any of the noise sensitive receptors identified in the application; or

- b. is associated with essential maintenance / testing; or
- c. is associated with an emergency; or,
- d. is approved in advance in writing by the Planning Authority.

No HGV movements associated with construction of the Development (excluding abnormal loads) shall enter or leave the Site on any Sunday or Bank Holiday or on any other day except between the following hours: Monday to Friday: 08:00 to 18:00, Saturday: 08:00 to 13:00.

Unless such movement:

- a. is associated with an emergency; or
- b. is approved in advance in writing by the Planning Authority.

Reason: In the interests of local amenity.

- 7 There shall be provided within the curtilage of the site a turning area for vehicles suitable for use by the largest vehicles expected to visit or in connection with the operation of the site. The turning area shall be formed outwith the parking areas and both shall be available as required through the lifetime of the development unless otherwise agreed in writing by the Planning Authority.

Reason: In the interest of road safety; to ensure that all vehicles taking access to and egress from the site can do so in a forward gear.

- 8 No development shall commence unless and until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Planning Authority in consultation with the Roads Authority to ensure that general construction traffic can be transported along the road network safely and efficiently. The CTMP shall contain details on routing and timing of deliveries to site, site operatives parking area, and traffic management required to allow off site operations (such as public utility installation, pedestrian access etc).

The CTMP shall include (but shall not be limited to) details on the following:

- a. Estimate of traffic vehicle movements;
- b. Proposed construction traffic routes and key traffic management;
- c. Proposed delivery route;
- d. Safety measures in regard to pedestrians and cyclists during construction;
- e. Detailed site access design and details of any required traffic management measures, including visibility splays; and
- f. Information on wheel-washing facilities.

Thereafter, the Development shall be constructed in accordance with the approved CTMP, unless otherwise agreed in writing by the Planning Authority in consultation with Transport Scotland.

Reason: To minimise interference and maintain the safety and free flow of traffic on the Trunk Road as a result of the traffic moving to and from the Site.

- 9 No abnormal load movement shall take place on the road network unless and until details of the route and any accommodation measures required including the removal of street furniture, junction widening, and traffic management have been submitted to and approved in writing by the Planning Authority in consultation with the roads authority.

During the delivery period of components any additional signing or temporary traffic control measures deemed necessary due to the size or length of any loads being delivered or removed must be undertaken by a recognised QA traffic management consultant, to be approved by the trunk roads authority before delivery commences.

Reason: To minimise interference and maintain the safety and free flow of traffic on the Trunk Road as a result of the traffic moving to and from the development and o ensure that the transportation will not have any detrimental effect on the road and structures along the route.

- 10 No development shall commence unless and until a Phase I Contaminated Land Assessment (Desk Study) is submitted to and approved by the Planning Authority. This should investigate

the scope of any intrusive investigations required prior to construction, and should assess and remediate any contamination issues prior to the commencement of development.

Reason: To address potential contamination issues on the site.

- 11 No development shall take place until there has been submitted to and approved in writing by the Planning Authority a detailed planting plan and schedule based on the details on the 'Landscape Mitigation' drawing referenced FRV1001 /04/08 revision 2. The scheme shall provide details of: tree and shrub sizes, species, habitat, siting, planting distances, a programme of planting, and implementation, establishment and maintenance details. A full landscape maintenance and management plan for the life of the development shall be included with the planting plan to show how the landscaping will be established and developed.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the completion of the development. All planting shall be established and maintained in accordance with the details on the approved drawings. Any trees 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 or shrubs, detailed in the approved landscaping

plans to be retained on the site, shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the previous written consent of the Planning Authority. All landscape shall be 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.

- 12 No development shall be undertaken during the breeding bird season (March to August), unless in strict compliance with a Species Protection Plan for breeding birds, including provision for pre-development supplementary survey, that shall be submitted to and approved in writing by the Planning Authority.

Reason: To minimise the impact on breeding birds and to allow the Planning Authority to consider this matter in further detail.

- 13 Prior to the commencement of development, the vehicular access approved by planning permission ref: 24/00607/P, or a suitable alternative vehicular access agreed in writing by the planning authority, shall be completed and available for use. Thereafter there shall be no use of the existing farm access to access the site of the BESS and that existing farm access will be blocked up in accordance with the docketed drawings.

Reason:

To ensure the provision of a suitable vehicular access to the site.

- 14 a. Prior to the commencement of the development hereby approved a programme for monitoring the condition of the public road to be used by construction traffic (B6730), prior to and immediately following the completion of the construction phase of development and then again at the completion of decommissioning, shall be submitted to and approved by the Planning Authority.

b. Damage to the public road during the period of construction, operation and decommissioning associated with the Development shall be repaired by the Company at no expense to ELC (the Planning Authorities/ roads authority), unless an alternative means of securing the works is approved in writing by the Planning Authority.

Reason: to avoid the costs of repair to damage to the roads caused by vehicles associated with the development falling to the public authorities.

- 15 Prior to the commencement of development, the applicant shall submit a Drainage Layout Plan, aligned with the supporting Flood Risk Assessment and Drainage Strategy (October 2023), and details of infiltration tests and/or confirmation that the infiltration method is suitable. The

Drainage Layout Plan shall be approved in writing by the Planning Authority prior to the commencement of development on the site. All works contained in the approved Drainage Layout Plan shall be complete prior to the commissioning of the facility, unless agreed in writing by the planning authority.

Reason To ensure the site is suitably drained.

- 16 No development shall take place on the proposed site until the applicant has undertaken and reported upon a programme of archaeological work (Archaeological Evaluation by Trial Trenching) in accordance with a written scheme of investigation which has been submitted by the applicant (or their agent) and approved by the planning authority.

Reason:

To enable the Planning Authority to further consider the possible historic environment implications of the proposal.

- 17 No development shall take place unless the Planning Authority has approved in writing the terms of appointment by the Company (FRV TH Powertek or such other person who from time to time may lawfully have the benefit of this consent) of an independent and suitably qualified environmental consultant as the Planning Monitoring Officer to assist the Planning Authority in monitoring compliance with the terms of the deemed planning permission and conditions attached to this consent, unless otherwise agreed in writing by the Planning Authority. For the avoidance of doubt the PMO shall be funded by the Company throughout the term of appointment.

The terms of appointment shall:

- a. Impose a duty to monitor compliance with the terms of the deemed planning permission and conditions attached to this consent;
- b. Require the PMO to submit a report to the Planning Authority summarising works undertaken on site post construction of the development which confirms the development has been built in accordance with the approved plans. ;
- c. Require the PMO to report to the developer and the Planning Authority any incidences of noncompliance with the terms of the terms of the planning permission and conditions attached to this consent at the earliest practical opportunity; and
- d. Monitor any remedial work undertaken due to noncompliance with point c to ensure work undertaken to required standard and in accordance with consent.

Reason: To ensure that the development is constructed in accordance with the consent.

- 18 The development hereby approved shall not operate unless and until evidence of a bond or other form of financial guarantee in terms which secures the cost of performance of all decommissioning, restoration and aftercare obligations referred to in condition 3 and condition 4 has been submitted to the Planning Authority. The financial guarantee shall be maintained in favour of the Planning Authority until the completion of all decommissioning, restoration and aftercare obligations referred to in condition 3 and condition 4.

Reason:

To ensure that there are sufficient funds to secure performance of the decommissioning, restoration and aftercare conditions attached to this planning permission in the event of default by the Company (FRV TH Powertek or such other person who from time to time may lawfully have the benefit of this consent).

6. PLANNING APPLICATION NO. 24/00267/P: INSTALLATION OF SOLAR PANELS, STAGGS, 81 NORTH HIGH STREET, MUSSELBURGH

A report had been submitted in relation to Planning Application No. 24/00267/P and Planning Application No. 24/00264/LBC. Amy Law, Planner, presented the reports for both applications, highlighting the salient points. Both reports made recommendations to refuse consent.

Officers responded to questions from Members. Ms Law advised that Historic Environment Scotland would have preferred solar panels to be on a frame so as not to take away from the fabric of the roof. Mr Dingwall explained that officers had to consider that the solar panels would make a contribution to reducing carbon emissions and could make for a more efficient operation of the business; however, the Planning Authority was also required by law to consider the desirability of preserving the character of the listed building, and pointed out that the outside of the building was relatively unaltered.

Councillor McIntosh asked about room left for interpretation when guidance stated that solar panels on roof slopes *may* be inappropriate. Ms Law confirmed that it was the position of officers that in this instance, the additional of solar panels on the roof slope would be harmful to the character and appearance of the listed building. Ms Law clarified that the building itself was listed, but it was not within a conservation area.

Kathryn McKenzie spoke to the application. She spoke of her family's 166-year history running The Volunteer Arms, or Staggs, and firmly believed that the additional of solar panels would assist in the sustainability of the business. She felt that the preservation of the past had to be balanced against the future of the business and building. She discussed the significance of Staggs to tourists and locals. She highlighted the difficult time for the industry, when many premises were having to close their doors for good, and said that the installation of solar panels would contribute to the viability of the business. She referred to Historic Environment Scotland's statement about Staggs, which gave a brief description of the exterior, but mostly focused on the building's interior. She described her family's role as stewards of the building and business, and said the proposals would have a minimal impact on the unchanged interior. She highlighted that the chosen roof slope had been the only viable position to install the panels, and suggested that the panels would blend in and be aesthetically pleasing. She also advised that Scottish slate was difficult to come by, and if the roof were to require repair, it may not be possible to replace like-for-like; however, slate removed to make way for the solar panels could be stored for future roof repairs. It was thought that the average passerby would not notice the roof of Staggs. She said her family wanted to participate in green business, embrace renewable energy, and ensure Staggs could remain a cherished community pub. She urged Members to consider the benefits of the proposal to install discreet solar panels.

Responding to Members' questions, Ms McKenzie advised that other roof spaces had been considered, but issues such as the presence of a skylight and a lack of space meant that only the proposed roof had been suitable. She confirmed that a 10kW system would be installed, and no battery storage would be required because all the energy would be used. She explained that the building had been listed in 2008 because of its historic and social significance. She reported that energy bills had continued to rise since the pandemic, and while measures to save energy had been taken, there were high energy costs associated with maintaining a comfortable temperature and keeping food and drinks chilled.

Councillor Findlay asked whether the applicants had considered installation of the solar panels on a rail system. Ms McKenzie responded that they had been unaware of Historic Environment Scotland's preference for a mounted system, but would have been happy to install this preferred option. The Convener felt that a mounted system would create a greater distraction from the building. Mr Dingwall responded that the Planning Authority would still have recommended refusal, but a mounted system would have been the preferred option. He recommended that Members should take a view on this, and if there was a consensus that a mounted system would be preferable then the applicant would be asked to consider whether a system of rails was viable.

Councillor Forrest, Local Member, commented that Staggs was an iconic and well-respected pub in Musselburgh, famous for its interior, friendly service, and real ale. He would prefer for solar panels not to be installed on rails, and felt that there was benefit in being able to store the removed slate for future repairs. He noted that the pub was listed because of its interior,

and he was keen to ensure it remained open for the use of future generations. He would vote against the officer recommendation to refuse consent.

Councillor McIntosh, Local Member, felt the applicants should be commended for trying to update their historic building in a way that would help to protect the climate. She felt there was wiggle room within wording of the guidance. She also felt there would be less of a visual issue caused by installing solar panels flush against the roof. She felt that the presence of solar panels indicated that the proprietor cared about the future, and added to the attraction of a place. She commented that having the building as a functional pub was very important to the cultural life and heritage of Musselburgh.

Councillor McMillan indicated he had been intending to vote with the officer recommendation prior to hearing Ms McKenzie's presentation. Referencing his economic development role, he appreciated the cost of electricity for such a business. He commented on the importance of creating hubs for people, and the desire to preserve the business which would also preserve the building.

Councillor Collins commented that she had struggled to see the roof from the street. She supported the installation of the 10kW system which would make the pub fully sustainable. She also noted some of the potential issues with solar panels on rails, such as pigeons nesting underneath. She thought the opportunity to keep the slates for future use was a positive of having fully integrated solar panels.

Councillor Cassini, Local Member, felt there was a balance to be struck in helping to preserve a much-loved local business, and would vote against the officer recommendation.

The Convener commented on the impressive history of one family having run and looked after the pub for such a long period of time. He commented that the interior was the main reason the building was listed, but understood the officer recommendation had been made because of the Planning Authority's duty to protect the fabric of the building. He compared the application to a similar situation with The Dolphin, whereby Planning Committee had decided to grant the application for solar panels to protect the building's future. He felt the impact on Staggs would be minimal. He did not like the look of solar panels on frames, and felt they should be integrated with the roof. He would vote against the officer recommendation to grant consent.

The Convener moved to a roll call vote, and Members unanimously voted against the officer recommendation to refuse consent.

Decision

Members agreed to grant the application.

7. PLANNING APPLICATION NO. 24/00264/LBC: INSTALLATION OF SOLAR PANELS, STAGGS, 81 NORTH HIGH STREET, MUSSELBURGH

A report had been submitted in relation to Planning Application No. 24/00264/LBC. Amy Law, Planner, had covered the relevant issues as part of the presentation for Planning Application No. 24/00267/P at Item 6.

The Convener moved directly to a roll call vote, and Members unanimously voted against the officer recommendation to refuse consent.

Decision

Members agreed to grant the application.

Signed

Councillor Norman Hampshire
Convener of the Planning Committee

Signed

Councillor John McMillan
Depute Convener of the Planning Committee (Convener Item 1)

DRAFT

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

2

Application No. **23/00616/PM**

Proposal Erection of 400KV substation and associated development, including associated temporary infrastructure including construction compounds and access road

Location **Fields to the South of Thornton Bridge Sealing
End Compound
Branxton
East Lothian**

Applicant SP Energy Networks
Per Laurie McGee

RECOMMENDATION Consent Granted

REPORT OF HANDLING

REGULATION

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 national development and thus it cannot be decided through the Council's Scheme of Delegation. It is therefore brought before the Planning Committee for a decision.

As a statutory requirement for national development proposals this development proposal was the subject of a Proposal of Application Notice (Ref: 22/00003/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 national development type applications a pre-application consultation report is submitted with this application. The report informs that the consultation comprised of two public events, one from 31 January to 1 February 2023 and the second from 13 February to 14 February 2023 at Innerwick Village Hall.

The PAC report informs that attendees made a number of queries and suggestions regarding the proposal and 17 feedback forms were received, with some changes made to the proposals as a result. The development for which planning permission is now sought is of the same character as that which was the subject of the community engagement undertaken through the statutory pre-application consultation of the proposal.

APPLICATION SITE

The application site is split into three parts. The two smaller northern parts are located in the countryside on the south side of the A1 trunk road at their closest point some 300m to the south of Torness Power Station. The nearest residential properties to these parts of the site are 16 Thorntonloch Holdings some 150m to the east and Station House some 45m to the west.

The larger southern part of the application site is mainly located in the countryside at Branxton, to the southeast of Innerwick but also includes a linear area of land some 2.8km in length stretching to the A1 to the east. The nearest residential properties to the main part of this site are located at Thornton some 250m to the north, and Black Castle Cottage and House some 500m to the south.

BACKGROUND

In their Planning Statement, the applicant advises that the UK is a world leader in offshore wind energy and its target of becoming net zero in all greenhouse gases by 2050 for England and Wales and 2045 for Scotland is now enshrined in law. In addition, the UK Government has shown clear commitment to developing offshore wind at scale through the Ten Point Plan and Energy White Paper which were published in 2020, identifying a target of delivering 40GW of wind energy by 2030 which is enough to power every home in the UK. In October 2021, the UK Government published their Net Zero Strategy which sets out they will fully decarbonise the power system by 2035, subject to security of supply. North Sea developments, including offshore wind and interconnectors, will be essential to meeting these climate change targets and driving economic growth across the country.

As the country transitions away from traditional forms of fuel to power vehicles and heat homes there will be a substantially greater need for green electricity. By the end of this decade the equivalent of every home in the country will be powered by offshore wind. To move this green energy from its source and into people's homes and businesses there will be a need to increase the capability of the electricity transmission network.

Significant offshore wind generation is being developed off the east coast of Scotland. The existing transmission network does not have enough capacity to cope with the level of connections required and therefore network reinforcements are required.

In January 2022 National Grid Electricity System Operator published its seventh Network Options Assessment (NOA) which describes the major projects considered to meet the future needs of Britain's electricity transmission system as outlined in the Electricity Ten Year Statement (ETYS) 2021 and recommends which investments in the year ahead would best manage the capability of the transmission networks against the uncertainty of the future. The NOA (2022) recommends the development of a number of High Voltage Direct Current (HVDC) reinforcements between the east coasts of Scotland and England, one being the Eastern subsea HVDC link: Torness to Hawthorn Pit, County Durham (E2DC), known as the Eastern Link 1 Project.

These additional reinforcements will transport renewable and low carbon energy from

Scotland to England and will in turn support the UK and Scottish Government net zero targets and the transition to a net zero economy.

On 2 May 2023, the Council granted planning permission in principle (ref: 22/00852/PPM) for the construction and operation of an onshore converter station, and for associated development including underground electricity cables and landfall at Thorntonloch; the proposal forming part of the Scottish Power Eastern Link 1 project, for a new subsea High Voltage Direct Current (HVDC) link. That application site has an area of some 146 hectares and stretches from the Broxburn junction of the A1 trunk road in the west, to the coast to the south of Thorntonloch to the east. It has a generally linear shape but includes a larger area situated between the Dunbar Energy Recovery Facility and Dunbar landfill site where the onshore converter station would be located. The development approved by planning permission in principle 22/00852/PPM is required to support and operate the wider Eastern Link 1 project which comprises a new subsea High Voltage Direct Current (HVDC) link between East Lothian, Scotland and Hawthorn Pit in County Durham, England. The Eastern Link 1 project will reinforce the electricity transmission system, enabling large volumes of renewable energy generated in Scotland to be transmitted to England whilst ensuring Scotland remains supported by a secure and stable supply of energy.

In December 2022 Berwick Bank Windfarm Limited submitted an application under Section 36 of the Electricity Act 1989 to Marine Scotland for the erection of an off-shore wind farm, to be known as the Berwick Bank Offshore Wind Farm - Firth of Forth. The Project array area (the area in which the wind turbines would be located) is some 1,010 km² and is located approximately 37.8 km east of the Scottish Borders coastline (St. Abb's Head) and 47.6 km to the southeast of the East Lothian coastline. A maximum of 307 wind turbines would be installed within the project array area. The Section 36 application is currently pending consideration. With the potential capacity to generate an estimated 4.1 GW, Berwick Bank is the largest offshore wind farm proposed and, once built, would be one of the largest offshore wind farms in the world. It would be a substantial infrastructure asset, capable of making a significant near-term contribution to decarbonisation objectives by delivering substantial amounts of low-carbon electricity - enough to power in excess of 5 million homes each year.

On 5 December 2023, the Council granted planning permission in principle (ref: 23/00162/PPM) for the construction and operation of onshore electricity transmission infrastructure in the form of either a substation or converter station on land between Skateraw and Branxton, and for associated development including underground electricity cables and landfall at Skateraw. That development forms the onshore transmission infrastructure for the offshore Berwick Bank Wind Farm.

The development proposed in this application would enable the Eastern Link 1 project to connect with the existing 400 kiloVolt (kV) transmission lines at Branxton. It would also enable a grid connection to connect Berwick Bank Offshore Wind Farm to the grid transmission network.

PROPOSAL

Planning permission is sought through this application for the construction of a new 400 kilovolt (kV) Gas Insulated Switchgear (GIS) substation that would be constructed on the larger southern part of the application site, on land at Branxton close to two existing electricity (sealing end) compounds at Branxton and Thornton Bridge. It would consist of the following component parts:

- * A new permanent access track from a local public road to substation compound;
- * A two-tiered platform for the proposed substation building and electrical equipment;

- * A new control building which would house gas insulated electrical switchgear and plant;
- * Gas insulated busbars;
- * Overhead line (OHL) terminal gantries;
- * Internal access roads and parking provision for up to ten cars (to include a minimum of two electric vehicle (EV) charging points);
- * Diesel generator;
- * Small distribution substation building to provide ancillary power, lighting, heating and ventilation;
- * A 3 metre high steel palisade security fence with 1.2 m power fencing above around the perimeter of the substation and internal fencing around the live compound;
- * A main water connection or grey water harvesting and storage;
- * Drainage systems comprising of swales, filter drains, pipes and settlement ponds;
- * Removal of existing vegetation and mitigation planting;
- * L12 overhead line tower;
- * 265 metre section of OHL circuit conductor; and
- * Underground cable diversions.

The proposed substation would have a square footprint, measuring 165.5 metres at its longest point by 135 metres at its widest point.

The proposed control building would measure 98.8 metres long by 30.5 metres wide by 12.3 metres high at its highest point and would be clad in olive green panels with a facing brick lower section. The proposed electricity transformation equipment within the substation would have a maximum height of 15 metres, the tallest of which would be the overhead line terminal gantries.

The proposed substation would have perimeter and compound lighting, which would be for operational use or switched on automatically in the event of a detected unauthorised intrusion or intrusion attempt into the substation compound. The lighting would be switched off and only used when operational staff access the substation in the dark and require lighting to enable safe access and egress around the site during planned maintenance or emergency works. The lighting would either be able to be controlled remotely or set to switch off after a predetermined time to avoid possibility of being left on.

In order to connect the proposed substation to the existing Overhead Line (OHL) towers, a new OHL tower is proposed to be constructed adjacent to the proposed substation and a new section of OHL would be installed between the closest existing tower. The proposed OHL tower would be of steel lattice construction tower, which is to the same as those currently supporting the line. The proposed new tower would be up to 61m in height.

It is proposed that a new 5m wide permanent access track would be formed from the existing road network into the substation site. Internal access roads would also be constructed within the site. There would be the provision for up to ten car parking spaces within the proposed substation site and a minimum of two EV charging points would be included.

As ground levels at the proposed substation site vary in excess of 30m, earthworks would be undertaken to provide a two-tier construction platform. As a result of the earthworks, excess soil would be removed from the site. The submitted EIA report informs that where possible excavated material would be reused on site, for example to create the substation compound capping layer, and surplus excavated material exported from site would be reused as far as possible, e.g. through use of an off-site waste segregation facility and resale for direct re-use or re-processing. The excavated material would not be sent to landfill in support of the applicant's Diversion from Landfill regulatory commitments.

In addition to the above, planning permission is also sought for the following temporary works:

- * Temporary construction compounds and associated temporary access;
- * Temporary access (haul) road to facilitate construction traffic movements from/to the substation site;
- * Temporary access to substation site (separate from the proposed permanent access road);
- * Temporary works areas associated with the tower installation, cable installation and sealing end compound removal;
- * Temporary top soil storage areas; and
- * Temporary earthworks storage areas.

Access for construction traffic to the main substation site would be taken from the A1 trunk road by way of the formation of a new temporary slip road some 300m south of the A1 junction with the U220 Bilsdean Road. The new temporary slip road would allow construction vehicles travelling north along the A1 to exit the A1, cross the bridge over the East Coast Main Line and onto the C120 Birnieknowes road. The construction traffic would then turn off the C120 some 135m southwest of the rail bridge onto the temporary access (haul) road all the way to the substation site, with necessary safety measures in place including localised road widening and clearance of vegetation to improve visibility. The temporary access (haul) road would cross existing local public roads at three locations along this route where there would be installed gates to ensure no use of the temporary access road from other general vehicles and traffic signals would be erected to ensure crossings can be made safely. Banksman would be positioned at all crossings over public roads to oversee the safe crossing of them by construction traffic.

The proposed off-slip arrangement would include modifications to the existing stone wall on either side of the approach to the C120 local public road and would form one arm of a proposed four-arm signal controlled junction between the C120 and U220 local public roads over the bridge across the East Coast Main Line. The proposed temporary signal-controlled junction would consist of four approaches of the C120 north, C120 south / west, the U220 and the A1 off-slip.

It is proposed that concrete barriers would be erected along the southwest side of temporary slip road and along the west side of part of the length of road that crosses over the East Coast Main Line and alongside part of the bridge parapet wall together with an additional vehicle restraint barrier to prevent the risk of collision with the bridge and safeguarding the railway. A traffic light signalised junction would be formed where the new slip road meets the public road prior to the crossing over the railway.

The temporary access (haul) road would be some 2.73km in length and some 8.5m in width within an approximately 20m wide corridor incorporating the road, drainage, excavated soil storage, and stock proof fencing where required. It would be used for all HGV traffic and the majority of non-HGV traffic to and from the substation site and would be constructed using stone and tarmac.

The route of the temporary access (haul) road has been designed to follow the same alignment as the proposed cable corridor required for the installation of the underground high voltage direct current (HVDC) cables as part of the Eastern Link 1 project. Use of the access road rather than local minor roads has been proposed in order to minimise disruption to the local community. Use of the same corridor for the temporary access (haul) road and the HVDC cable installation would also minimise temporary land take and construction impacts in the local area.

It is anticipated that the period of construction would be 55 months. It is also anticipated that construction working hours would be 0730 - 1800 hours Monday to Saturday and 0800 - 1700 hours on Sundays. It is anticipated the proposed temporary works would be in place for some five years.

Upon completion of the construction works associated with the proposed development, the temporary compound, temporary works areas and temporary access (haul) road would be removed and the land reinstated to its former condition. Top soil would be stripped and stored adjacent to the works in a manner which ensures that the soil quality is retained when it is reinstated.

It is intended that the temporary access (haul) road would remain in place to facilitate the installation of the underground HVDC cables associated with the separate Eastern Link 1 project. This would result in the temporary access (haul) road remaining in place for some five years.

The applicant informs that the peak number of staff is estimated to be approximately 70 personnel on site during the erection and fit out of the substation building stages, with an average of 24-30 over the course of the construction programme.

The applicant also informs that the lifespan of the equipment within the proposed substation and OHL is approximately 40 years (with the potential for maintenance to extend the operational life). When the useful life has expired the materials would be removed and taken for recycling. It is expected that foundations would be removed to approximately 1m deep and subsoil and topsoil reinstated. Similar methods and access would be required as outlined for installation.

THE DEVELOPMENT PLAN

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the adopted National Planning Framework 4 (NPF4) and the adopted East Lothian Local Development Plan 2018 (LDP).

NPF4 identifies 18 national developments that are significant developments of national importance. National Development 3 of NPF4 (Strategic Renewable Electricity Generation and Transmission Infrastructure) supports renewable electricity generation, repowering, and expansion of the electricity grid. National Development 3 informs that the electricity transmission grid will need substantial reinforcement including the addition of new infrastructure to connect and transmit the output from new on and offshore capacity to consumers in Scotland, the rest of the UK and beyond. Whilst National Development 3 references a Scotland-wide rather than a specific location, the south of Scotland (including East Lothian) is identified for supporting on and offshore electricity generation from renewables and delivering new and/or upgraded infrastructure directly supporting on and offshore high voltage electricity lines, cables and interconnectors including converter stations, switching stations and substations.

Policies 1 (Tackling the climate and nature crises), 2 (Climate mitigation and adaptation), 3 (Biodiversity), 4 (Natural places), 5 (Soils), 7 (Historic Assets and Places), 11 (Energy), 13 (Sustainable Transport), 14 (Design, Quality and Place), 22 (Flood risk and water management) and 23 (Health and safety) of NPF4 are relevant to the determination of the application.

Policies EGT4 (Enhanced High Voltage Electricity Transmission Network), DC1 (Rural Diversification), NH1 (Protection of Internationally Designated Sites), NH5 (Biodiversity and Geodiversity Interest, including Nationally Protected Species), NH7 (Protecting Soils), NH11 (Flood Risk), T2 (General Transport Impact), T4 (Active Travel Routes and Core Paths as part of the Green Network Strategy), DP1 (Landscape Character), DP2 (Design) and SEH2 (Low and Zero Carbon Generating Technologies) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of the application.

With regard to Section 24(3) of the Town and Country Planning (Scotland) Act 1997, in the event of any policy incompatibility between NPF4 and the adopted East Lothian Local Development Plan 2018, whichever of them is the later in date is to prevail. In this case, the policies of NPF4 would prevail.

REPRESENTATIONS

There have been 62 written representations received to the application. Of these 61 make objection to the proposed development, which have been received from a total of 27 objectors, and one make comment on it. A copy of the written representations is contained in a shared electronic folder to which all Members of the Committee have access.

The main grounds of objection can be summarised as follows:

- (i) the surrounding area is bearing an unfair proportion of renewable energy developments;
- (ii) the proposed working hours are unacceptable;
- (iii) loss of amenity through noise, dust and vibration from both construction and operation of the proposed development;
- (iv) light pollution would be an issue;
- (v) construction traffic would be harmful to the amenity of the area and a danger to other road users;
- (vi) harmful cumulative impact with other developments in the area;
- (vii) the local road network is not suitable for high volumes of construction traffic and there would be a significant impact on traffic on the A1;
- (viii) issues of flood risk;
- (ix) the proposed development would have a harmful landscape impact on the area;
- (x) the proposals would be a danger to and lead to a loss of wildlife and biodiversity;
- (xi) not enough consideration was given to alternative sites;
- (xii) the proposed development would be harmful to the rural character of the area;
- (xiii) issues with construction spoil; and
- (xiv) the proposed development would damage residential properties.

COMMUNITY COUNCIL COMMENTS

East Lammermuir Community Council advise that whilst they are supportive of the aims of the Scottish Government and East Lothian Council in pursuing the renewable energy agenda, they cannot support the proposed development. The Community Council advise they do not object to the principle of the development, but wish for a determination of this application to be paused as the proposed development "is the key to all of the other developments" and "major schemes" in the area. Therefore, the Community Council object to the application on the following main grounds:

- (i) Secrecy of decision about the site;
- (ii) Cumulative impact;
- (iii) Loss of amenity;
- (iv) Visual impact;
- (v) Evidence that community will not be involved appropriately;

- (vi) Failure to minimise carbon impact - heat;
- (vii) Environmental impacts - inevitable loss of biodiversity;
- (viii) Insufficient geological investigation of proposed site; and
- (ix) Safety of traffic movements.

East Lammermuir Community Council have also advised of conditions they wish to see imposed on a grant of planning permission, were that to be the decision.

West Barns Community Council advise that they raise concern over the proposed development on the following main grounds:

- i) concerns about the cumulative impact of a large number of energy projects focussed on Branxton, Innerwick and the wider East Lammermuir area;
- ii) the substation is of considerable size which will impact on the landscape and be a dominant feature near to the small community of Branxton;
- iii) The site will be on agricultural land;
- iv) There are considerable concerns about road safety both on the small rural roads and on the A1, particularly with regard to the safety of any access points onto the A1;
- (v) the new grid connection is the breeder of a proliferation of energy projects seeking to gain access to the National Grid;
- (vi) the volume of applications coming forward is of concern;
- (vii) there is concern that in choosing Branxton over other potential sites SPEN did not fully consider the implications of this site in contrast to other potential sites north of the A1; and
- (viii) concerns about the provision of accommodation for construction workers.

Cockburnspath and Cove Community Council object to the proposed development, the main grounds of objection being that residents would be adversely affected by the number of HGV movements required on the A1 (and so impacting access to the A1 for residents via the Cockburnspath/Cove roundabout) required both to and from the site for delivery and extraction of materials and that the sheer volume of this traffic when added to the existing weight of traffic on the A1 would make accessing the road via the roundabout increasingly time consuming and dangerous for residents and would significantly increase the road traffic accident risk to the community.

SCOTTISH BORDERS COUNCIL

Scottish Borders Council raise no objection to the application.

ENVIRONMENTAL IMPACT ASSESSMENT

An Environmental Impact Assessment (EIA) Report has been submitted with the application, and has been duly advertised and consulted on. During the determination of the application updated chapters of the EIA Report were submitted, and these were also duly advertised and consulted on.

The submitted EIA Report contains chapters on the method and approach to preparing the Report, site selection and analysis of alternatives, the description of the development, policy and legislation, landscape and visual impact assessment, geology, hydrogeology and ground conditions, hydrology and flood risk, ecology and ornithology, archaeology and cultural heritage, noise and vibration, access, traffic and transport, land use and agriculture and socio-economics, tourism and recreation, and a summary of likely significant effects.

As required by Regulation 5(5)(b) of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017, to ensure the completeness and quality of the EIA Report, the applicant has submitted with it a table outlining the relevant expertise

or qualifications of the project team that has contributed to the EIA Report. Based on this submitted information, it can be reasonably concluded that the authors are suitably qualified.

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

The EIA Report has considered the likely significant effects from landscape and visual impact assessment, geology, hydrogeology and ground conditions, hydrology and flood risk, ecology and ornithology, archaeology and cultural heritage, noise and vibration, access, traffic and transport, land use and agriculture and socio-economics, tourism and recreation.

The EIA Report informs that a cumulative effects assessment is a requirement under the EIA Regulations. The assessment of cumulative effects provides consideration of the impacts arising from the proposed development alone and cumulatively with other relevant developments. Cumulative effects are therefore the combined effect of the proposed development in combination with the effects from a number of different projects, on the same receptor or resource. Each technical chapter within the EIA Report has undertaken an assessment of cumulative effects. Potential developments within the technical assessment study areas were screened to determine whether there is potential for overlap of environmental effects with the proposed development, and therefore a potential for a cumulative effect to occur. Where there is potential for cumulative effects to occur, each environmental receptor was screened, based on the technical expertise of the assessment team. The other developments factored into the cumulative effects assessment are:

- * The Eastern Link converter station project for which planning permission in principle has been granted (ref: 22/00852/PPM);
- * The onshore transmission infrastructure for the offshore Berwick Bank Wind Farm for which planning permission in principle has been granted (ref: 23/00162/PPM);
- * Branxton Battery Storage Systems Project (Scottish Government Energy Consents Unit application ref: ECU00004659).

Planning Circular 1/2017: Environmental Impact Assessment at paragraph 45 states that generally, it would not be feasible to consider the cumulative effects with other applications which have not yet been determined, since there can be no certainty that they will receive planning permission.

The EIA Report finds that:

- * Landscape and visual - There would be likely direct 'Moderate' adverse effects during construction of the proposed development on the landscape character of the substation site and the proposed route of the access road. However, construction effects are generally considered to be short-term and temporary in nature. In terms of operational effects, the proposed development would introduce new large-scale utilitarian structures to a currently undeveloped rural field, although the presence of adjacent electricity infrastructure features mean the proposed development and new steel tower would not be uncharacteristic features in the landscape. There would be a long-term change in landscape use and a major change to the existing landform resulting in the overall magnitude of landscape change being 'High'. However, the location of the substation site means that the proposed development would be reasonably well contained by surrounding

landform and there would be a lack of perceptibility of the substation from the surrounding landscape, with the exception of an area to the immediate north of the substation site.

* Geology, hydrogeology and ground conditions - With the implementation of good working practices and mitigation measures, including adherence to the Construction Environmental Management Plan, the likely effects and likely cumulative effects are considered to be not significant.

* Hydrology and flood risk - With the implementation of good working practices and mitigation measures, including adherence to the Construction Environmental Management Plan, the likely effects and likely cumulative effects are considered to be not significant.

* Ecology and ornithology - A Construction Environmental Management Plan will include a detailed landscape and ecological management plan that includes the restoration and remediation of habitats following the construction phase. Land has been identified surrounding the proposed development which will be used for lands capping and biodiversity enhancement purposes. The existing hedgerow boundaries would be reinforced with new sections of native hedgerow. In addition, small native woodland copses would be introduced within the west and south of the site and link in with the existing woodland belts and a further woodland copse would be introduced within the east of the site. It is considered that the likely effects on the receptors identified in the assessment will be not significant. This also includes the likely cumulative effects.

* Archaeology and cultural heritage - With the implementation of best practice mitigation such as pre-construction archaeological evaluation, archaeological and curatorial monitoring during construction, and a programme of post-excavation assessment on completion of the archaeological fieldwork, no significant residual construction effects are likely. No likely significant cumulative or in-combination effects are predicted from the proposed development.

* Noise and vibration - Following the introduction of appropriate good practice and mitigation measures, including adherence to a Construction Environmental Management Plan, it is considered that the likely significant construction phase noise effects that have been identified would be mitigated so that they are not significant in EIA terms. There are no likely significant operational or decommissioning phases effects associated with the proposed development.

* Access, traffic and transport - with proposed mitigation measures in place and given the temporary nature of the peak period of the construction programme all residual effects are likely to be not significant. Cumulative impacts result in effects of negligible significance (not significant in EIA terms) upon transport related receptors within the traffic and transport study area following the application of mitigation measures.

* Land use and agriculture - Potential effects can be avoided or reduced through careful management and standard good practice construction measures that will be set out in a Construction Environmental Management Plan and by discussing techniques in advance with the landowner / tenant. It is considered that no additional mitigation is required and that the likely effects from the proposed development are not significant.

* Recreation, tourism and socio-economics - Likely adverse and beneficial effects have been assessed as not significant during the construction, operational and decommissioning phases and no specific mitigation requirements have been identified.

PLANNING ASSESSMENT

PRINCIPLE OF DEVELOPMENT

Policy 1 of NPF4 states that when considering all development proposals significant weight will be given to the global climate and nature crises.

The proposed development would enable the transmission of renewable electricity and would contribute to the delivery of infrastructure of national importance. The infrastructure is a key element in the provision of renewable energy and will ensure progress towards achieving net zero and a decarbonised economy. As transmission infrastructure to support renewable energy, it is also part of National Development 3 and is thus supported by NPF4.

As transmission infrastructure to support renewable energy, the proposal is also consistent with Policy 11 of NPF4, which states that development proposals for all forms of renewable, low-carbon and zero emissions technologies will be supported, including enabling works, such as grid transmission and distribution infrastructure. In this, the applicant informs that the proposed substation is directly required to connect the Eastern Link 1 project to the transmission network, which alone would allow for up to 2 gigawatts (GW) of power to be transmitted across the UK electricity network. It would also enable a grid connection to connect Berwick Bank Offshore Wind Farm to the grid transmission network.

In Chapter 3 of the submitted EIA Report, it informs that five potential substation locations were considered, and based on the consideration of the technical, economic and environmental factors relating to each of the site options, the application site was identified as the preferred site for the proposed substation.

Generally, both NPF4 and the LDP look to focus development within settlements or previously developed land, with only limited types of development being acceptable in the countryside. This substation proposal would be located on undeveloped agricultural land covered by Policy DC1 (Rural Diversification) of the LDP. However, as an infrastructure proposal, the principle of the proposed development is consistent with Policy DC1.

Policy EGT4 of the adopted East Lothian Local Development Plan 2018 states that the Council supports enhancement of the high voltage electricity transmission network on locations defined by operational requirements, subject to acceptable impacts on landscape, visual amenity, communities, natural and cultural heritage, and the provision of mitigation where required.

The proposed development is a National Development, being part of National Development 3 of NPF4. National developments are significant developments of national importance that will help Scotland deliver its spatial strategy. The development is essential to enable the transmission of renewable electricity and would make a significant and important contribution to decarbonisation and the delivery of renewable energy.

On all of the above considerations, the proposed development does not conflict with Policies 1 or 11 of NPF4, or with Policies DC1 or EGT4 of the LDP. As transmission infrastructure to support renewable energy technology, it is also part of National Development 3.

With regard to part b) of Policy 9 of NPF4, the proposed development would be on greenfield land, however as infrastructure development a countryside location is supported by Policy DC1 of the LDP, therefore the proposed development is not inconsistent with

Policy 9.

CLIMATE

It is acknowledged that construction of the proposed development will result in the release of greenhouse gas emissions (GHG) from the manufacture of construction materials and products, as well as direct emissions from the transport of materials to and from the site, and construction site operations such as generators and plant. However, as discussed in Chapter 4: Project Description in the submitted EIA Report, SP Energy Networks is committed to the principles of both Publicly Available Specification (PAS) 2080 - Carbon management in infrastructure and British Standard (BS) 8001 - Circular economy principles and sustainability and carbon reduction and recognise the need to consider energy usage and energy efficiency. The construction of the proposed development would include measures to promote water efficiency and conservation during construction, for example the monitoring and setting of targets for water reduction, the protection of the site as appropriate from increased risk of flooding from rainfall, and the implementation of appropriate pollution prevention systems.

The renewable energy transmitted by the operational development would deliver significant GHG emissions savings.

At its meeting on Tuesday 27 August 2019, the Council approved a motion declaring a Climate Emergency. Thereafter, at its meeting on Tuesday 3 September 2019, the Council's Planning Committee decided that a condition requiring a developer to submit for the approval of the Planning Authority a report on the actions to be taken to reduce the carbon emissions from the buildings and from the completed development should be imposed on relevant applications for planning permission, which should include the provision of electric car charging points. Such a condition should be imposed on a grant of planning permission for this proposed development, consistent with the requirements of Policy 2 of NPF4 and Policy SEH2 of the LDP.

In this case the applicant was asked to consider opportunities for heat recovery systems for waste heat to be reused. However, the applicant has advised that the proposed substation would have Gas Insulated rather than Air Insulated Switchgear, with no transformers, and therefore there would be no significant heat loss/opportunities for recovery.

LANDSCAPE AND VISUAL IMPACT

Chapter 6 of the submitted EIA Report considers the landscape and visual impacts of the proposed development. It establishes the areas from where the proposed development may be visible, the different groups of people who may experience views of the proposed development, the locations or viewpoints where they may be affected and the nature of the views at those locations. It also includes a viewpoint analysis to assess the proposed developments from a number of viewpoints in the surrounding area and further afield in East Lothian.

The Landscape and Visual Impact Assessment (LVIA) within Chapter 6 of the EIA Report informs that, in terms of the proposed temporary access road, the landscape of the access road is considered to have a medium value and a medium ability to accommodate the temporary interventions associated with the creation and use of the access road construction works for the proposed development, and therefore a medium susceptibility to the proposed development. Taking account the judgements on value and susceptibility, the overall sensitivity of the route of the access road to the proposed development is 'Medium'. In terms of operation effects, the LVIA informs that once construction works are

completed, the temporary access road would be removed and the landscape would be returned to its former state and use and any sections of hedgerow removed would be reinstated. It would take a short period before hedges become fully established to the height of adjacent sections, therefore some construction impacts would persist into the operational phase for a short duration creating short-term negligible impacts. There would be no long-term operational effects upon the landscape character of proposed route of the temporary access road and the overall level of effect would be 'Neutral'. The LVIA concludes there would be no cumulative landscape effects with other developments.

For the proposed substation, the LVIA informs that from within the north and east of the site, views are contained by the surrounding landform and vegetation; with close up views of the existing sealing end compounds and steel towers dominant. Longer distance views of the sea are feasible through the intervening vegetation, though these are all within the context of Torness Power Station to the foreground of the sea. On the higher ground within the southwest of the site, longer distance panoramic views of the wider landscape are possible. The landscape of the site is considered to have a medium value and a medium ability to accommodate the proposed development and change arising from the proposed development, and therefore a medium susceptibility to the proposed development. The overall sensitivity of the substation site to the proposed development is 'Medium'. In terms of construction effects, the LVIA informs that during construction the overall magnitude of landscape change is assessed as 'Medium' due to the short-term nature of the works, resulting in a 'Moderate adverse' and significant effect on the landscape character of the site. In terms of operational effects, the LVIA informs that the overall magnitude of landscape change during both year 1 and year 15 of operation is assessed as 'High', resulting in 'Major adverse' and significant effect on the landscape character of the site. The LVIA concludes there would be no cumulative landscape effects with other developments.

On the matter of landscape and visual impacts, NatureScot advise that they are only providing detailed advice on such impacts where the effects of proposals approach or surpass levels that raise issues of national interest, which in their view this development does not.

The proposed site for the substation lies within a landscape that exhibits an underlying rural character across sloping landforms. Existing vegetation and the undulating landform of the area would contribute to offering a degree of visual containment to the proposed development within the wider area by a combination of existing built structures, screening landforms and structural vegetation that contribute to the containment of impacts on neighbouring landscape and visual receptors. Moreover, views of the proposed development would to some degree be seen within the context of existing electricity infrastructure.

The **Council's Landscape Projects Officer** advises that she concurs with the findings of the Landscape and Visual Assessment within Chapter 6 of the EIA Report, that although the proposed development would be clearly visible in its surroundings, it would not give rise to significant physical landscape or landscape character effects and that likely significant construction effects would be localised, temporary and limited to visual effects upon high sensitivity receptors in close proximity to the construction activity. The Landscape Projects Officer has confirmed that the proposed development would not lead to an unacceptable visual and landscape impact on the character of the area given the locational position of the application site and the surrounding existing landscape features.

Outline landscape proposal drawings have been submitted within the EIA Report, which show significant landscape planting of areas of woodland to the northeast of the proposed substation and areas of native scrub planting and meadow grasslands to the other sides

of the substation.

The Landscape Projects Officer recommends that a detailed scheme of landscaping be submitted based on the applicant's outline landscape proposals to ensure that consistent and cohesive landscape measures are taken forward to achieve the best landscape fit for the proposed development in this location. She also recommends that trees are retained and protected during construction works and that arboricultural monitoring takes place. Such control can be competently imposed as conditions on a grant of planning permission, were that to be the decision.

In overall conclusion the proposed development would introduce a large scale significant development in this countryside location, however subject to above recommendations and appropriately worded conditions to secure the protection of existing trees and hedgerows and an appropriate scheme of landscaping, the proposed development could, in time, integrate into its landscape setting and would not appear significantly or harmfully prominent, incongruous or intrusive within the surrounding landscape.

On these considerations of landscape and visual impact and design the proposed development does not conflict with Policies 4 and 14 of NPF4 or Policies DP1 and DP2 of the LDP.

HISTORIC ENVIRONMENT

Chapter 10 of the EIA Report considers the potential direct and indirect impacts resulting from the proposed development on archaeology and cultural heritage. It concludes that there would be no likely significant effects arising from the proposed development during the construction phase and one potential slight effect on an area of archaeological interest.

In terms of likely cumulative effects, it is concluded that the proposed development is not anticipated to be intervisible with any other proposed cumulative developments and therefore no cumulative effects on setting are likely.

Historic Environment Scotland (HES) are content with the assessment in the Chapter 10 of the EIA Report, and have carried out their own assessment and are satisfied that there would be no significant adverse effects on any cultural heritage features as a result of the proposed development.

The **Council's Archaeology/Heritage Officer** advises that the application site has the potential for archaeological remains to be present. He therefore recommends that if planning permission is to be granted for this proposal, a programme of archaeological works (Evaluation by Archaeological Trial Trench; Historic Building recording; topographical survey) should be carried out prior to the commencement of development.

Subject to the above recommendation, which could be secured by condition, the proposed development is consistent with Policy 7 of NPF4, Policy CH4 of the adopted East Lothian Local Development Plan 2018 and Planning Advice Note 2/2011: Planning and Archaeology.

INTERNATIONALLY DESIGNATED SITES AND BIODIVERSITY

Chapter 9 of the EIA Report includes an assessment of the potential impacts of the proposed development on ecology and ornithology. A separate Biodiversity Assessment has also been submitted with the application.

A Habitats Regulations Assessment (HRA) screening report has been submitted with the

application to establish whether the proposed development is likely to have any significant effects on the qualifying interests of designated sites. It concludes that there would be no likely significant effects.

NatureScot advise that the application site is within 10km of the Outer Firth of Forth and St Andrews Bay Complex Special Protection Area (SPA).

NatureScot advises that they conclude that it is very obvious that the conservation objectives for the SPA qualifying interests will not be undermined despite a connection, and in their view no likely significant effects would arise from the proposed development on any designated sites, and therefore an Appropriate Assessment is not required.

The **Council's Biodiversity Officer** agrees with this conclusion that no Appropriate Assessment is required and is satisfied that the proposed development would not result in likely significant effects on the qualifying interests of the Outer Firth of Forth and St Andrew's Bay Complex SPA.

NatureScot further advise that they welcome the submitted Biodiversity Assessment and note the overall net gain in biodiversity units that would result from habitat creation and enhancement proposed within it.

The Council's Biodiversity Officer advises that the application site is in close proximity to the Thornton Burn, Bilsdean Coastal and the Dunglass Burn Local Biodiversity Sites. The Biodiversity Officer notes that the loss of habitat and disturbance of vegetation is not considered to be significant and advises that habitat and tree loss can be compensated for by mitigation planting.

With regard to protected species, the Council's Biodiversity Officer notes that Chapter 9 of the EIA Report informs that full surveys were undertaken, and impacts identified on bat species, badger and bird species, and she advises that with the implementation of suitable mitigation measures no significant impacts on these species would occur.

She also advises that habitats within the application site boundary include mixed woodland, neutral grassland, gorse scrub, hedgerow, river, and cereal crops, and she agrees with the assessment of habitats as being of either poor condition or low conservation value.

In terms of Biodiversity Enhancement, Chapter 9 of the EIA Report informs that mitigation land has been identified surrounding the substation site which would be used for landscaping and biodiversity mitigation purposes over the operational lifetime of the substation. This would include landscape planting (including planting of meadow grassland, woodland areas with edge species, marginal planting and amenity grassland) and the existing hedgerow along the eastern boundary of the proposed development would be enhanced.

In terms of Biodiversity Net Gain (BNG), the existing hedgerow along the eastern boundary of the proposed development would be reinforced/improved, a new hedgerow would be planted along the southern boundary of the substation which would in time provide additional habitat for nesting birds and a commuting and foraging route for bats. Tree planting outside the perimeter of the substation footprint would be undertaken to increase tree cover in the area which would again provide additional nesting bird habitat and commuting and foraging habitat for bats.

Chapter 9 of the EIA Report informs that the use of the BNG calculator has not yet been made a requirement in Scotland, however the use of Biodiversity Metric 4.0 (published by

Natural England) has been used for the proposed development. Chapter 9 continues that this metric is designed to quantify biodiversity to inform and improve planning, design, land management and decision-making.

The submitted Biodiversity Assessment informs that the Biodiversity Metric 4.0 calculator indicates a current biodiversity baseline total of 137.77 area units, 7.52 hedgerow units and 0 watercourse units. In terms of post-development Habitat Creation and Enhancement, the submitted Biodiversity Assessment informs that a combination of the outline landscape planting proposal and construction layout plans have been used to identify that there will be 10 retained habitats, two enhanced habitats and seven new habitats with a total of 195.66 biodiversity area units, 12.31 terrestrial linear biodiversity units. It concludes that the proposed development would result in a positive net gain of +57.89 (+42.02%) biodiversity area units and +4.79 (+63.65%) terrestrial linear biodiversity units.

The Council's Biodiversity Officer is satisfied with the proposals for biodiversity enhancement and net gain and advise that the proposed retention, remediation and enhancement of habitats should be secured through a biodiversity habitat enhancement and management plan.

The Council's Biodiversity Officer there raises no objection to the proposed development subject to:

- (i) the appointment of an ecological clerk of works;
- (ii) the submission of a Species Mitigation and Management Plan;
- (iii) the submission of supplementary surveys for protected species; and
- (iv) the submission of a Biodiversity/Habitat Enhancement and Management Plan.

Accordingly, subject to the above recommended control, the proposals do not conflict with Policies 3 and 4 of NPF4, or with Policies NH1 or NH5 of the LDP.

SOILS

Land use within the application site is principally agricultural predominantly comprising medium-sized open arable and pastoral fields. The proposed substation site is predominately laid down with grass for sheep grazing, although in rotational pattern is cultivated periodically for a season of turnips for fattening lambs, before rotating to grass. The remaining agricultural land rotates arable crops, from winter or spring wheat/ barley, with occasional use for vegetable production; predominately Brussel sprouts in a few locations.

The Land Capability Classification for Agriculture (LCCA) system identifies that soils within the site include Class 2, Class 3.1 and Class 3.2. The land of the substation site is predominantly Class 3.2 agricultural land. Classes 1 to 3.1 are regarded as prime agricultural land.

Chapter 13 of the EIA Report sets out the assessment of potential impacts of the proposed development on soils (as well as cumulative effects of other relevant developments), and informs that during the construction phase of the proposed development, there is potential for increased compaction, erosion and loss of soils as a consequence of construction traffic, disturbance, creation of construction areas and excavations.

Chapter 13 informs that the formation of the temporary access road, temporary construction compounds, soil and spoil storage areas and laydown areas would all temporarily affect land currently under arable and pastoral management, influencing how

current agricultural practices within affected holdings are undertaken, however following completion of the works, those areas would be fully reinstated as near as practically possible to the former condition, allowing normal farming practices to continue (i.e. crop growth, ploughing, machine loads).

Chapter 13 further informs mitigation measures would be put in place during the construction phase in the form of a Soil Management Plan, which would ensure standard industry practice measures are followed with respect to stripping of soils, stockpiling, backfilling and reinstatement of soil material, its physical and chemical properties and functional capacity for agricultural use, and also that stockpiled soils would be protected by appropriate measures, for example, membranes, spraying or seeding.

In terms of the substation site, Chapter 13 informs that the construction of the substation would result in the permanent loss of approximately 5.0 ha of predominantly Class 3.2 agricultural land (which is not prime agricultural land). The engineered slopes around the substation platform and the landscape mitigation area surrounding the substation site would be vegetated and although none of this land would be retained for commercial agriculture, soils would remain in these areas.

The proposed development is essential infrastructure with a specific need for its location to reinforce the electricity transmission system, enabling large volumes of renewable energy to connect to the national grid, ensuring Scotland remains supported by a secure and stable supply of energy as part of National Development 3 of NPF4. Therefore, and subject to the requirement for the submission of a Soil Management Plan, on the above considerations the proposed development does not conflict with Policy 5 of NPF4 or Policy NH7 of the LDP.

NOISE AND VIBRATION AND AMENITY

Chapter 9 of the EIA Report considers potential noise and vibration effects arising from the proposed development on the site both during construction and when the development is operational, as well as cumulative effects of other relevant developments.

In terms of noise, it concludes that based on a 'High' receptor sensitivity for residential dwellings and a 'Low' impact magnitude, the likely noise levels would correspond to a likely 'Negligible' temporary adverse effect, which is not significant in EIA terms.

In terms of vibration, it concludes that based on a 'High' receptor sensitivity for residential dwellings and a 'Low' impact magnitude, the likely construction phase vibration levels would correspond to a 'Minor' temporary adverse effect, which is not significant in EIA terms.

The **Council's Senior Environmental Health Officer** advises he has appraised Chapter 9 of the EIA Report.

The Senior Environmental Health Officer advises that noise arising from the construction of the proposed development may harmfully impact on amenity of the following noise sensitive receptors in the following way:

- * the construction of the temporary access road may impact upon occupiers at Blackcastle Cottages; 1 & 2 Old Branxton, Branxton Farm Cottages; Branxton Farm House and Grieves Cottage;
- * substation and site preparation works may impact upon occupiers at 2 and 3 Thorntonloch; and
- * A1 temporary junction earthworks and road sub layers may impact upon occupiers at

Bilsdean Toll House.

Accordingly, the Senior Environmental Health Officer advises that specific mitigation measures would be required to reduce these impacts at the receptors, which should be contained within a Construction Environmental Management Plan (CEMP).

The Senior Environmental Health Officer advises that he is satisfied that noise due to construction vibration, construction traffic on public roads and operational noise, including noise associated with overhead lines, would not impact upon the amenity of any neighbouring land use, including residential properties.

In terms of air quality, the Senior Environmental Health Officer advises that any potential impacts that may arise from dust during the construction phase can be addressed by requiring any dust mitigation measures to be included within a CEMP.

The Senior Environmental Health Officer advises that the CEMP should take account of the following guidance:

* BS 5228_1:2009 A1:2014 "Code of practice for noise and vibration control on construction and open sites Part 1: Noise.

* The Institute of Air Quality Management Guidance on the assessment of dust from demolition and construction (2014).

Subject to the above planning control, which could be secured by the imposition of conditions imposed on a grant of planning permission, the proposed development would not have a harmful impact on amenity.

The **Council's Environmental Health Officer (Contaminated Land)** advises that there is the potential for areas of contamination to exist on the site that may impact upon the proposed development. Therefore, he recommends a Geo-Environmental Assessment be undertaken prior to the commencement of development on the site. He also recommends that in the event that unexpected ground conditions (contamination) are encountered at any time when carrying out the development, work on site shall cease and the issue shall be reported to the Planning Authority immediately. These requirements can be controlled by a condition attached to a grant of planning permission.

On these above considerations the proposed development is consistent with Policy 14 of NPF4 and Policy DP2 of the adopted East Lothian Local Development Plan 2018.

FLOOD RISK AND SCOTTISH WATER

Chapter 8 of the EIA Report considers the potential impacts resulting from the proposed development on flood risk, as well as cumulative effects of other relevant developments. It has considered the likely significant effects of the proposed development related to hydrology, flood risk, private water supplies (PWS) and designated sites. This includes contamination of surface watercourses or waterbodies, changes to surface water runoff, change in flow and/or contamination of vulnerable receptors and increased flood risk. It concludes that with the implementation of good working practices and mitigation measures, the likely effects and the likely cumulative effects are considered to be not significant.

The Scottish Environment Protection Agency (SEPA) advise that they have appraised Chapter 8 and raise no objection to the application, satisfied that there would not be an increase to flood risk or harmful impacts on any water bodies.

The **Council's Senior Engineer - Flood Protection** raises no objection to the application on the grounds of flood risk or drainage.

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

On the above considerations the proposed development is not contrary to Policy 22 of NPF4 or Policy NH11 of the LDP.

TRANSPORTATION AND ACCESS

Chapter 12 of the EIA Report considers the likely effects on access, traffic and transport associated with the construction of the proposed development, as well as cumulative effects of other relevant developments. It informs that during the anticipated 55 month construction period, the anticipated peak traffic flows associated with the proposed development would result in an average of 146 movements per day (73 trips in and 73 trips out) and a maximum of 266 movements per day (133 trips in and 133 trips out), of which on average 54 would be made by light vehicles (27 inbound and 27 outbound) and 92 by HGV (46 inbound and 46 outbound) and of which at a maximum 114 would be made by light vehicles (57 inbound and 57 outbound) and 152 by HGV (76 inbound and 76 outbound).

However as noted earlier in this report, a temporary access (haul) road is to be formed to take construction traffic off the local minor roads in order to minimise disruption to local traffic.

The EIA Report concludes that the proposed development would create a significant increase to HGV traffic levels within short sections of public roads included in the study area, but these levels would remain well within the design capacity of the local road network and therefore, the level of effect on road safety is considered to be 'Slight' and 'Not Significant'. It also concludes that no significant cumulative effects are predicted during construction of the proposed development. It is also noted that any increased traffic can be accommodated by the existing road network and could be managed effectively by implementation of a Construction Traffic Management Plan.

The **Council's Road Services** have appraised the assessment of the traffic impacts of the proposed development within the EIA Report and in the submitted Transport Assessment.

Road Services advise that the approach to the assessment in Chapter 12 is consistent with that of the submitted Transport Assessment in terms of the methodology, consideration of effects and the appropriate mitigation measures. The same conclusions have been drawn with regards to the traffic impact based on the observation that, whilst impacts are high in percentage terms, this is due to the fact that the baseline traffic is at a low level. Furthermore, it is stated that the impact on active travel modes would be minimal due to the low numbers of users in the area.

In terms of the proposed temporary slip road taken from the A1 onto the C120 public road and the associated signal controlled junction, Road Services advise that the design process for these proposed works has included Stage 2 Road Safety Auditing, which was completed by the applicant and the problems identified were resolved with appropriate liaison with them, Transport Scotland, BEAR Scotland and Network Rail to ensure that the proposals are satisfactory from a design and safety compliance perspective. Road Services advise that widening of the existing roads is necessary on the C120 and the U220

to allow the necessary vehicle swept path manoeuvres, which is shown to be undertaken on the submitted drawings, as well as the requirement for the resurfacing of the roads in the vicinity of the proposed signal-controlled junction which is also proposed and shown on the submitted drawings.

Road Services advise that given concerns regarding the risks of impact of turning construction vehicles on the existing stone wall on the west side of the bridge, temporary concrete barriers are proposed along the western side of the bridge, together with an additional vehicle restraint barrier, and as a further measure, temporary reflective delineator posts in front of the concrete barrier are also proposed. They confirm that a swept path analysis has been provided of an articulated vehicle and a rigid lorry to demonstrate that the required manoeuvres can successfully be made through the junction whilst allowing a 0.5m additional buffer zone in front of the proposed concrete barriers. A 1m temporary road widening is proposed on the southern corner of the A1 off-slip onto the C120 local road to facilitate the manoeuvre. The proposals include associated signage, signal poles and road marking as shown in the submitted drawings.

Road Services advise that a capacity assessment of the proposed temporary signal-controlled junction has been provided, and this assessment is based on the junction operation of four phases for each of the separate approaches and use of surveyed background flows with the addition of predicted construction traffic flows during the observed weekday peak hours and demonstrates that the junction would operate well within capacity and without significant levels of queuing. Overall, Road Services advise that that the proposed temporary A1 off-slip and associated signal-controlled junction arrangement with the C120 and U220 local roads would be a satisfactory arrangement for accommodating the predicted level of construction vehicles associated with the proposed development during the predicted construction period of 5 years, subject to road safety auditing to Stage 3 and 4.

In terms of the proposed access (haul) road and junction between it and the local public road network, Road Services advise that the proposed junctions include localised widening of the public roads and give-way markings on the access (haul) road arms of the junctions (only straight-ahead movements along the haul road and across the public road will be permitted with no turning movements onto the local roads). Gates are proposed across the access (haul) road arms of each of the junctions, which would be managed during the construction period and appropriate signage would also be proposed as specified on the application drawings, together with localised resurfacing of the local roads in the vicinities of each of the junctions. Overall, Road Services advise that that the proposed give-way arrangements as shown in the application drawings would be acceptable arrangements for accommodating the predicted level of construction vehicles associated with the proposed development during the predicted construction period of 5 years, subject to road safety auditing to Stage 3 and 4.

In terms of construction traffic trip distribution, Road Services advise that it is recognised that the distribution of construction trips on the road network would vary depending on the types of loads being transported and the stage of the construction programme, but however they are supportive of the use of the temporary access (haul) road to substantially accommodate the construction traffic, thereby minimising the impacts on the local road network and confirm that that there would not be any significant capacity issues on the local road network as a result of the construction traffic.

Road Services advise that the proposed permanent access to the substation would be a priority-controlled T-junction with the C121 Oldhamstocks Road which would achieve adequate visibility and thus is acceptable.

Road Services note that included in Chapter 12 is a Cumulative Effects Assessment (CEA) which considers the impact associated with the proposed development alongside other proposals in the locality, and advise that the assessment has demonstrated that the road network would have sufficient capacity to accommodate both the levels of traffic associated with the proposed development and the projects identified in the cumulative assessment.

Road Services advise that the assessment of traffic impacts (including the cumulative assessment) is acceptable and robust and they agree with its findings.

In terms of pedestrian impacts, Road Services advise of the need for a, access management plan to manage and control the speeds of construction traffic on the local road network and detail measures to ensure the safe and convenient use of active travel routes in the area to cater for the needs of people living in the local area.

In conclusion, Road Services confirm they raise no objection to the proposed development on the grounds of road, rail or pedestrian safety, subject to the following requirements:

- (i) the submission of the detailed design and specification of the proposed left-in temporary construction access junction with the A1 trunk road;
- (ii) the forming of the access (haul) road junctions with the public road network as shown on the submitted drawings;
- (iii) the submission of Road Safety Audits;
- (iv) the submission of a swept path assessment;
- (v) the submission of dilapidation surveys;
- (vi) the submission of a Construction Traffic Management and Routing Plan (CTMRP);
- (vii) the submission of a Public Access Management Plan; and
- (v) the reinstatement of land following the temporary works.

Transport Scotland have been consulted on the application and raise no objection to the proposed development, being satisfied that subject to the requirement to submit a CTMP, similar to the requirement by Road Services above, and the submission of the detailed design and specification of the proposed left-in temporary construction access junction with the A1 trunk road, the traffic generated by the proposed development would be capable of being accommodated on the existing road network.

Network Rail have been consulted on the application and raise no objection to the proposed development, satisfied that the proposed safety measures to be implemented at the bridge over the East Coast Main Line in the form of concrete barriers would serve to mitigate against potential road vehicle incursion risks from construction traffic at the bridge. Network Rail also confirm that the placing of the proposed concrete barriers on the bridge would not compromise its structural integrity as it has been assessed for 40 tonnes loading.

Network Rail also advise that details of all changes in ground levels, laying of foundations, and operation of mechanical plant in proximity to the rail line must be submitted to Network Rail's asset protection engineer for approval prior to works commencing on site, and that this should be included as an advisory note for the applicant were planning permission to be granted, as this would require the applicant gaining consent directly from Network Rail.

Such an advisory note can be included with a decision notice on a grant of planning permission, were that to be the decision.

Subject to the above recommended control, which can be imposed as conditions on a grant of planning permission in principle, the proposed development is consistent with Policy 13 of NPF4 and Policies T2 and T4 of the adopted East Lothian Local Development Plan 2018.

CONCLUSION

Based on the planning assessment given above and subject to the aforementioned planning controls, the proposed development does not conflict with Policies 1, 2, 3, 4, 5, 7, 10, 11, 13, 14, 22 and 23 of NPF4 or with Policies EGT4, DC1, NH1, NH5, NH7, NH11, T2, T4, DP1, DP2 and SEH2 of the adopted East Lothian Local Development Plan 2018 or with the Council's Special Landscape Areas Supplementary Planning Guidance.

The proposal is considered to be in accordance 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

That planning permission be granted subject to the following 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 The development hereby approved shall be undertaken in accordance with the Environmental Impact Assessment Report docketed to this planning permission, except where altered by the conditions below, or unless otherwise agreed in writing by the Planning Authority.

Reason:

To ensure the reported likely environmental impacts of the development are not exceeded and the specified mitigation measures are fully implemented.

- 3 Prior to the commencement of development, a detailed scheme of landscaping for the application site, which shall be based on the Outline Landscape Proposals drawings Figure 6.7, 6.7a, 6.7b, 6.7c and 6.7d (drawing nos. 233-SHRK-XX-XX-DR-LA-1000 Rev 03, 233-SHRK-XX-XX-DR-LA-1000 Rev 01, 233-SHRK-XX-XX-DR-LA-1000 Rev 01, 233-SHRK-XX-XX-DR-LA-1000 Rev 01 and 233-SHRK-XX-XX-DR-LA-1000 Rev 01 respectively) all contained within the EIA Report docketed to this planning permission, shall be submitted to and approved in writing by the Planning Authority. The scheme shall provide details of: the height and slopes of any mounding on or re-contouring of, the site; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. The scheme shall also address long term management of the approved planting and boundary treatments.

In accordance with the approved scheme, all planting, seeding or turfing shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and managed in accordance with that scheme. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

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.

- 4 The development hereby approved shall be carried out in strict accordance with the 'Arboricultural Planning Statement Branxton Substation' Revision C report by RSK ADAS Ltd dated February 2024 docketed to this planning permission, unless otherwise agreed in writing with the Planning Authority.

Other than the trees shown to be removed in Appendix 4: Tree Protection Plan and listed in Appendix 7: Tree Works Schedule within the docketed 'Arboricultural Planning Statement Branxton Substation' Revision C report, no other trees or hedgerows which are to be retained on the site shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the previous written consent of the Planning Authority.

Reason:

To ensure the retention of trees which are an important landscape feature of the area.

- 5 No development shall take place on site until temporary protective fencing in accordance with Appendix 9: Example Tree Protection Barrier of the docketed 'Arboricultural Planning Statement Branxton Substation' Revision C report has been erected in the positions shown for it on the Tree Protection Plan drawings within Appendix 4: Tree Protection Plan of the docketed 'Arboricultural Planning Statement Branxton Substation' Revision C report.

The temporary protective fencing shall be fixed 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.

All weather notices shall be erected on the temporary protective fencing with words such as "Construction exclusion zone - Keep out". Within the areas so fenced off the existing ground level shall neither be raised or lowered and no materials, temporary buildings, plant, machinery or surface soil shall be placed or stored, no handling, discharge or spillage of any chemical substance, including cement washings, and no fires shall be lit thereon without the prior written approval of the Planning Authority. Planning of site operations shall take sufficient account of wide loads, tall loads and plant with booms, jibs and counterweights (including drilling rigs), in order that they can operate without coming into contact with retained trees. Details of any trenches or services required in the fenced off areas shall be submitted to and approved by the Planning Authority prior to any such works being carried out and such trenches or services shall be excavated and backfilled by hand and any tree roots encountered with a diameter of 25mm or more shall be left unsevered.

Reason:

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

- 6 No development shall take place on site until a person who has, through relevant education, training and experience, gained recognised qualifications and expertise in the field of trees in relation to construction, been employed by the developer to monitor the site works, including the installation of the temporary protective fencing as required by Condition 5 above. The arboriculturist employed shall be required to approve the temporary protective fencing and submit written confirmation and photographic evidence that this has been installed for the prior approval of the Planning Authority prior to the commencement of development.

The arboricultural consultant shall remain the main contact for all tree related matters or queries that arise on the development site. Arboricultural monitoring shall include the supervision and reporting (to include both written and photographic updates). The arboricultural consultant shall be responsible to come up with an appropriate solution to resolve any damage or loss to trees and hedgerows shown to be caused by the

development, the details of which shall be included in ongoing site inspection reports to the Planning Authority which shall be submitted quarterly. The Arboricultural consultant shall inspect the remaining trees and hedgerows on completion of the development, updating the tree condition survey and tree management schedule where required.

Reason:

To ensure the retention and protection of trees which are an important feature of the area.

- 7 No development shall take place (including demolition, ground works, and vegetation clearance) until supplementary surveys for protected species (bats, otter, badger, and breeding birds), to be carried out by a suitably qualified person, have been submitted to and approved in writing by the Planning Authority. The results of the approved surveys shall be used to inform construction activities, and detail of any required mitigation proposals for protected species on the site as identified as being required as a result of the approved surveys shall be submitted to and approved by the Planning Authority prior to the commencement of development. The detail shall include a timetable for the implementation of any required mitigation proposals. Development shall thereafter be carried out in accordance with the detail as so approved.

Reason:

To avoid or minimise disturbance of wildlife.

- 8 No development shall take place until a Species Mitigation and Management Plan, which shall include measures to mitigate and manage the effects of the proposed development on species including breeding birds, otter, bats and badger, has been submitted to and approved in writing by the Planning Authority.

The development shall thereafter be carried out in strict accordance with the approved Species Mitigation and Management Plan unless otherwise approved in writing by the Planning Authority.

Reason:

To avoid or minimise disturbance of wildlife.

- 9 No development shall take place until a Habitat Management and Enhancement Plan (HMEP) has been submitted to and approved by the Planning Authority, which shall include on-site and off-site measures as appropriate to restore and enhance habitats including broadleaved woodland, neutral grassland, lowland meadow, mixed scrub and native hedgerow. The HEMP shall also include a timetable for implementation of the measures identified within it.

The development shall thereafter be carried out in accordance with the approved Habitat Management and Enhancement Plan unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure the development results in the management and enhancement of biodiversity.

- 10 There shall be no commencement of development until the Planning Authority has approved in writing the terms of appointment by the applicant of an appropriately experienced and qualified Ecological Clerk of Works (ECoW). The terms of the appointment shall:

- o impose a duty to monitor compliance with the ecological mitigation measures described in the Environmental Impact Assessment Report docketed to this planning permission and the conditions imposed on this planning permission; and
- o detail the stages of the construction phase of the development when the ECoW shall be in post.

The EcoW shall be appointed on the approved terms unless otherwise agreed in writing by

the Planning Authority.

Reason:

To avoid or minimise disturbance of wildlife.

- 11 Prior to the commencement of development, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Planning Authority. The CEMP shall identify potential noise and dust impacts that may arise during construction of the proposed development and specify any mitigation measures necessary to minimise any such impacts on sensitive receptors, and shall include hours for construction work.

With regards to noise the CEMP shall adopt "Best Practice Guidance" as recommended in BS 5228-1:2009+A1:2014 "Code of practice for noise and vibration control on construction and open sites, Part 1: Noise".

With regards to the control of dust the CEMP shall include details regarding practicable control measures for reducing visible dust emissions affecting properties beyond the site boundary. Control measures to be considered are identified in Section 8 of the Institute of Air Quality Management Guidance on the assessment of dust from demolition and construction (2014).

The development shall thereafter be carried out in strict accordance with the approved CEMP unless otherwise approved in writing by the Planning Authority.

Reason:

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

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

1. (i) A Preliminary Investigation incorporating a Phase I Desk Study (including site reconnaissance, development of a conceptual model and an initial risk assessment); and

(ii) A Phase II Ground Investigation (only if the Desk Study has determined that further assessment is required), comprising the following:

o A survey of the extent, scale and nature of contamination, and reporting on the appropriate risk assessment(s) carried out with regards to Human Health, the Water Environment and Gas Characteristic Situation as well as an updated conceptual model of the site;

o An appraisal of the remediation methods available and proposal of the preferred option(s).

The Desk Study and Ground Investigation must be undertaken by suitably qualified, experienced, and competent persons and must be conducted in accordance with the relevant guidance and procedures.

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

2. Prior to any works beginning on site (and where risks have been identified), a detailed Remediation Statement shall be produced that shows the site is to be brought to a condition suitable for the intended use by the removal of unacceptable risks to all relevant and statutory receptors. The Statement shall detail all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works as well as details of the procedures to be followed for the verification of the remedial works. It shall also ensure that the site will not qualify as contaminated land under Part2A of the Environmental Protection Act 1990 in relation to the intended use of the land following development; and

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

Reason:

To ensure that the site is clear of contamination and that remediation works are acceptable.

- 13 In the event that unexpected ground conditions (contamination) are encountered at any time when carrying out the permitted development, work on site shall cease and the issue shall be reported to the Planning Authority immediately. At this stage a Site Investigation and subsequent Risk Assessment may have to be carried out, if requested by the Planning Authority. It may also be necessary to submit a Remediation Strategy should the reporting determine that remedial measures are required. It should also be noted that a Verification Report would also need to be submitted confirming the satisfactory completion of these remedial works.

Reason:

To ensure that the site is clear of contamination.

- 14 Prior to the commencement of development a Soil Management Plan (SMP) shall be submitted to and approved by the Planning Authority. The SMP shall include appropriate measures for soil handling and storage of soils during construction and detail of soil reinstatement. Development shall thereafter be carried out in accordance with the SMP so approved.

Reason:

In the interests of soil management.

- 15 No development shall take place on the application site until the applicant has undertaken and reported upon a Programme of Archaeological Work (Evaluation by Archaeological Trial Trench; Historic Building recording; topographical survey) in accordance with a written scheme of investigation which has been submitted by the applicant (or their agent) and approved by the Planning Authority.

Reason:

In the interests of archaeological and natural heritage.

- 16 Notwithstanding that which is shown on the drawings docketed to this planning permission and prior to the commencement of the development, the detailed design and specification of the proposed left-in temporary construction access junction with the A1 trunk road shall be submitted to and approved in writing by the Planning Authority in consultation with Transport Scotland.

Thereafter, and prior to the commencement of development, the junction shall be constructed in accordance with the detailed design and specification as so approved, unless otherwise agreed in writing with the Planning Authority in consultation with Transport Scotland.

Reason:

To ensure that the standard of the left-in junction with the A1 trunk road complies with the current standards in the interests of road safety.

- 17 The temporary works hereby approved comprising of:

- * Temporary construction compounds and associated temporary access;
- * Temporary access (haul) road to facilitate construction traffic movements from/to the substation site including the access from the A1 trunk road;
- * Temporary access to substation site (separate from the proposed permanent access road);
- * Temporary works areas associated with the tower installation, cable installation and

sealing end compound removal;
* Temporary top soil storage areas; and
* Temporary earthworks storage areas;

shall all be removed in their entirety from the application site and any removed hedgerows and other field boundaries and the land upon which the temporary works are formed shall all be reinstated to their former condition within one year of the completion of the development hereby approved or on completion of the installation of the underground cables approved by separate planning permission in principle 22/00852/PPM, whichever is the later, unless otherwise approved in writing by the Planning Authority.

Prior to the cessation of the use and the restoration of the land of the site, details for the reinstatement of the land shall be submitted to and approved in writing in advance by the Planning Authority, and thereafter, the reinstatement of the land shall accord with the details so approved.

The date of completion of the development hereby approved and the date of completion of the installation of the underground cables approved by separate planning permission in principle 22/00852/PPM shall be provided in writing to the Planning Authority within 2 weeks of completion of each of the developments.

Reason:

In order to ensure a timely restoration of the land on which the temporary works will be formed in the interests of the character and amenity of the area.

- 18 Prior to any use being made by construction traffic associated with the proposed development of the temporary slip road taken from the A1 trunk road and the length of public road that crosses the bridge over the East Coast Main Line and onto the C120 Birnieknowes road, the road safety improvements all as shown on docketed drawing nos. CT1372-2-11HD-DO-AECOEC-3098 Rev 1, CT1372-2-11HD-DO-AECOEC-3097 Rev 1 and CT1372-2-11HD-DO-AECOEC-3090 Rev 1 shall be formed and installed and thereafter shall remain in place through to completion of development.

Reason:

In the interests of road and rail safety.

- 19 Unless otherwise agreed in writing with the Planning Authority, the junctions of the temporary access (haul) road with the local road network shall be constructed and formed in accordance with that shown on docketed drawings nos. CT1372-2-11HD-DO-AECOEC-2007 Rev 0, CT1372-2-11HD-DO-AECOEC-2008 Rev 0, CT1372-2-11HD-DO-AECOEC-2009 Rev 0B and CT1372-2-11HD-DO-AECOEC-2020 Rev 0B.

Reason:

In the interests of road safety.

- 20 Prior to the commencement of development, a Construction Traffic Management and Routing Plan (CTMRP) for the construction phase of the development shall be submitted to and approved in writing by the Planning Authority in consultation with Transport Scotland. The CTMRP shall, unless otherwise approved in writing by the Planning Authority, include the following details:

(i) detail for access from the A1 to the eastern part of the site, including a robust signage strategy and method of safely and physically controlling/preventing unauthorised access to construction only routes;

(ii) detail of any additional signing or temporary traffic control measures deemed necessary due to the size or length of construction loads being delivered, which shall be undertaken by a recognised Quality Assured traffic management consultant;

(ii) details of measures to reduce the number of construction vehicles;

(iii) details of and controls for access routes to and from the site for abnormal loads, large components and day-to-day deliveries/removals associated with the construction and decommissioning phases of the development;

(iv) vehicle tracking of all turning movements onto the local road network, especially from the access route off the A1;

(v) detailed swept path assessments of large component delivery routes and drawings detailing any required off-site mitigation works;

(vi) updated information on programme, construction tasks, vehicle types and trip generation;

(vii) frequencies and times of deliveries and arrangements for the removal of materials/plant from the site;

(viii) details of traffic management measures deemed necessary on the local and trunk road networks;

(ix) details of temporary signage in the vicinity of the site warning of construction traffic;

(x) arrangements for road maintenance and cleaning;

(xi) detail of how building materials and waste will be safely stored and managed on site;

(xii) details of wheel washing facilities which must be provided and maintained in working order during the period of construction and/or decommissioning of the site. All vehicles must use the wheel washing facilities to prevent deleterious materials being carried onto the public road on vehicle wheels;

(xiii) details of how the behaviour of contractor and subcontractor drivers will be monitored and enforced with particular regards to vehicle speeds;

(xiv) a Staff Travel Plan to include measures to minimise dependency on the private car to and from the construction compounds;

(xv) a summary of the arrangements for road maintenance, dilapidation surveys and repairs during the construction programme;

(xvi) details of measures to be undertaken to ensure the safety of vulnerable road users on the local road network within the vicinity of the development site and its associated temporary infrastructure, including a timetable for the implementation of those measures; and

(xvii) details of a Traffic Signals Management Plan to include maintenance of the signals to be installed via an appropriate traffic management company.

The development shall thereafter be carried out in accordance with the approved CTMRP unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of road safety and in the interest of the promotion of sustainable modes of transportation.

- 21 Prior to the commencement of the development hereby approved, a programme for monitoring the condition of and commitment to repair identified damage to the public roads to be used by construction traffic prior to, during and immediately following the completion of the development, shall be submitted to and approved in writing by the Planning Authority. The public roads to be monitored shall be the sections of the C120, C121, C124 and U220

as identified in Figure 12.1: Study Area within the Environmental Impact Assessment Report docketed to this planning permission and shall include the sections of the A1 trunk road. Thereafter the approved programme of monitoring and repairs shall be implemented.

Any remedial works required to those public roads shown by the monitoring as arising from the construction of the development shall be undertaken by the applicant with general repairs undertaken on a regular basis and periodic resurfacing where necessary in accordance with details to be submitted to and approved by the Planning Authority. Any damage to the road surface as a direct result of the construction process of this development that is identified during the monitoring period which could result in a significant risk to road safety shall be repaired immediately.

The final remedial works shall be completed within 3 months of the completion of the final monitoring undertaken, unless an alternative means of securing the works is approved in writing by the Planning Authority.

Reason:

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

- 22 Prior to any use being made of the temporary construction access (haul) roads as hereby approved, the date of which shall be provided in writing to the Planning Authority, a Stage 3 Road Safety Audit - Post Opening shall be submitted to and approved by the Planning Authority.

12 months following approval of the Stage 3 Road Safety Audit a Stage 4 Road Safety Audit shall be submitted to and approved by the Planning Authority for all works that are to remain permanently in place.

All the Road Safety Audits shall be carried out in accordance with GG119 Road Safety Audit Rev 1.

Reason:

In the interests of road and vulnerable user safety.

- 23 Prior to commencement of development, a swept path assessment shall be submitted to and approved by the Planning Authority, which shall demonstrate that the proposed temporary construction access (haul) roads and permanent site access roads can be accessed as required by a 10m rigid vehicle and 16.5m articulated vehicle.

Reason: In the interests of road safety.

- 24 Prior to the commencement of development, a Public Access Management Plan shall be submitted to and approved in writing by the Planning Authority. The Public Access Management Plan shall include the following details:

- (i) the proposed route of any temporary rerouting of Core Paths within the application site, the duration of the temporary rerouting, and any measures for its permanent diversion (including its new route) if required as a result of the proposed development; and
- (ii) a timetable for the implementation of any temporary or permanent diversions of the above Core Paths.

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

Reason:

To ensure continuity of the core path network in the interests of public access.

- 25 Prior to the commencement of development, a report on the actions to be taken to reduce

the Carbon Emissions from the build and from the completed development shall be submitted to and approved in writing by the Planning Authority. This shall include the provision of renewable technology for all new buildings, where feasible and appropriate in design terms, and new car charging points and infrastructure for them, where feasible and appropriate in design terms. The details shall include a timetable for implementation.

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

Reason:

To minimise the environmental impact of the development.

- 26 In the event the development hereby approved is no longer required for electricity transmission purposes and fails to be used for this purpose for a continuous period of 6 months then, unless otherwise approved in writing by the Planning Authority, it shall be deemed to have ceased to be required. If it is deemed to have ceased to be required, after the end of the said continuous 6 months period a decommissioning and site restoration plan (the 'Demolition and Restoration Scheme') shall be submitted to and approved in writing by the Planning Authority. The Demolition and Restoration Scheme shall include details of:

- i) The extent of substation and all associated infrastructure to be removed and details of site restoration;
- ii) Management and timing of works;
- iii) Environmental management provisions; and
- iv) A traffic management plan to address any traffic issues during the decommissioning period.

The Demolition and Restoration Scheme shall be implemented in its entirety, unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure that the application site is satisfactorily restored in the interests of the amenity of the area.

- 27 No development shall commence unless and until the Planning Authority has approved in writing the terms of appointment by the applicant (or their agent) of an independent and suitably qualified environmental consultant, as Planning Monitoring Officer ("PMO") to assist the Planning Authority in monitoring compliance with the terms of the planning permission and conditions attached to this consent.

The terms of appointment shall: (a) Impose a duty to monitor compliance with the terms of the planning permission and the conditions attached to it; (b) require to set out the frequency of PMO visits to site; (c) require the PMO to submit a monthly report to the Planning Authority summarising works undertaken on site; and (d) require the PMO to report to the Planning Authority any incidence(s) of noncompliance with the terms of the planning permission and conditions attached to it at the earliest practical opportunity.

The PMO shall be appointed on the approved terms throughout the period from commencement of development to completion of post construction restoration works.

Reason:

To enable the development to be suitably monitored to ensure compliance with the planning permission and the conditions attached to it.

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

3

Application No. **24/00699/P**
Proposal Formation of pathway and installation of lighting
Location **Woodland and Amenity Grass Area to the West Of Waterloo Place
Main Street
Elphinstone
East Lothian**

Applicant Bellway Homes Ltd (Scotland East)

RECOMMENDATION Consent Granted

REPORT OF HANDLING

PROPOSAL

This application relates to an area of grassed, amenity open space and an area of woodland which are located on the northwest edge of the existing village of Elphinstone between the cul-de-sac of Waterloo Place and the allocated housing site of PROP TT11:Elphinstone West as allocated by the adopted East Lothian Local Development Plan 2018 (ELLDP). The site, by being located in the existing village, is within an area defined by Policy RCA1 of the ELLDP as being a predominantly residential area. The land of the application site is within an area identified by The Coal Authority as being a Coal Mining Development Low Risk Area

Planning permission is sought for the formation of a footpath with associated lighting to connect the land of allocated housing site of PROP TT11 to the existing footpath network of Waterloo Place. A separate planning application (reference 23/01333/PM) has been submitted by the same applicant for the erection of 103 houses, eight flats and associated works on the allocated housing site of PROP TT11. That associated planning application is pending consideration and has not yet been determined.

The proposed footpath would run in a northeast direction from the site of PROP T11, through a strip of woodland then on through an area of grassed amenity space before connecting into the existing footpath network of Waterloo Place. The proposed footpath

would be 3 metres in width along the majority of its length but would taper to a width of two metres at its north eastern end where the existing footpath it would connect into is around two metres wide. The proposed footpath would be constructed to an adoptable standard with an asphalt surface and three street lighting poles. A number of trees are indicated to be removed from the woodland strip to facilitate construction of the path.

The woodland strip and area of grassed amenity space are in Council ownership and are currently maintained by the Council. The existing footpaths of Waterloo Place are in private ownership but are adopted by the Council and maintained by the Council.

The application is supported by detailed drawings and reports including a Tree Survey, an Ecology Survey and an Outdoor Lighting Report. Since the registration of the application, non-material amendments have been made to the proposals resulting in a slight adjustment to the alignment of the path in order to avoid the root protection areas of some trees and therefore resulting in the loss of fewer trees from the woodland strip and grassed amenity space.

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 National Planning Framework 4 (NPF4) and the adopted East Lothian Local Development Plan 2018 (ELLDP).

Policies 1 (Tackling the climate and nature crises), 2 (Climate mitigation and adaptation), 3 (Biodiversity), 4 (Natural Places), 6 (Forestry, woodland and trees), 13 (Sustainable Transport) 14 (Design, quality and place), 15 (Local living and 20 minute neighbourhoods), 18 (Infrastructure first) and 22 (Flood risk and water management) of NPF4 and Policies DP1 (Landscape Character), DP2 (Design) DP9 (Development Briefs), RCA1 (Residential Character and Amenity), NH5 (Biodiversity and Geodiversity Interests, including Nationally Protected Species), NH8 (Trees and Development), T1 (Development Location and Accessibility), T2 (General Traffic Impacts), NH11 (Flood Risk), DEL1 (Infrastructure and Facilities Provision) and Proposal TT11 (Elphinstone West) of ELLDP are relevant to the determination of the application.

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 23 written representations received to this application, all of which raise objections to the proposed development.

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

- * At no stage have residents been notified of this proposal;
- * This is not public land, this land is privately owned;
- * The applicant has no access rights over the path between 2 and 3 Waterloo Place;
- * A more sensible proposal would be a pathway through ELC/Housing Association land on MacFarlane Court, where a paved roadway already exists and where there would be better access to the bus stop and shop facilities in the village and less impact on trees;

- * The removal of trees would have a significant negative impact on local biodiversity and air quality;
- * Security risks and increased noise pollution to existing residents as a result of the increased foot traffic through Waterloo Place;
- * The proposal would alter the character of the Waterloo Place neighbourhood where there has been a deeply rooted commitment to preserving the unique safe and quiet environment for more than forty years;
- * The proposed lighting will intrude on numbers 2 and 3 Waterloo Place whilst causing light pollution and disturbance to the general environment and wildlife;
- * The proposed path will not be the required width for active travel;
- * There are already an adequate number of pathways around the new housing area and this path would have little added benefit to accessing local amenities for the new residents;
- * The proposed path is on already waterlogged ground which will surely aggravate the issue of waterlogging around the site behind Waterloo Place;
- * The applicant had previously assured residents that the pathway depicted on the plans was merely an “artist’s impression” and would be removed;
- * This proposal could lead to a substantial loss of property values to the residents;

Neighbour notification, in accordance with statutory requirements, and advertisement of the application in the local press was carried out at the point of registration of the application. The applicant has certified in the planning application forms that they have notified all relevant owners of land within the application site. Access rights are a legal matter but there is nothing in this proposal or in the representations made to it to suggest that there are no access rights over the adopted paths of Waterloo Place or over the land of this application site. The matters raised by objectors regarding loss of property value is not a material consideration in the determination of a planning application.

COMMUNITY COUNCIL

Tranent and Elphinstone Community Council object to the application. They make a number of statements in their consultation response that appear to be unsubstantiated or lacking in evidence to support them. They state that residents had previously been assured by East Lothian Council (ELC) staff, Bellway and Elected Members that there would not be a path formed through this land. They have not provided details or any evidence to substantiate that statement. They also state that ELC did not contact residents of Waterloo Place to inform or seek permission about the intention of Bellway to adopt or buy this land. There is no evidence to suggest that Bellway would be seeking to adopt or buy this land and it is therefore unclear what ELC would be making contact with residents on. The Community Council state they “are losing faith in ELCs ability to control large developers and their bullying and manipulative behaviour” but it is not clear what is meant by that statement or what alleged bullying or manipulative behaviour they consider is taking place.

The Community Council otherwise object on the grounds that this route leads into a quiet cul-de-sac with no amenities or public transport, there are other areas which should have been considered instead, on impacts on biodiversity, loss of trees, lead to additional littering by dogs and humans, light pollution from street lights causing disturbance to residents and wildlife, the path does not meet the width requirements required to be an Active Travel path, there are already enough paths around the new housing area and concerns the path could aggravate waterlogging in this area.

PLANNING ASSESSMENT

This proposal has been submitted in association with an application for residential development on the adjoining allocated housing site of PROP TT11. The adopted Development Brief for the site of PROP TT11 sets out guiding principles and indicative

design, to be followed, where possible. Amongst the principles listed in the Development Brief are enabling pedestrian and cycling connectivity through the site to adjoining land and creating a surfaced path connection between the housing site and the adjoining community to ensure good connections. The adopted Development Brief includes a map of the site which is annotated to indicate that such a path should be formed between the housing site and Waterloo Place, in the same position as is proposed through this application. The principle of the proposal therefore complies with Policy DP9 and PROP TT1 of the ELLDP and with the adopted Development Brief accompanying PROP T11. However, as this footpath is only required to be formed in association with the adjoining site being developed for residential development, and without such residential development taking place there would be nowhere for the footpath to connect to at its western end, a condition should be imposed on any grant of planning permission for this application that the footpath is not formed unless and until planning permission for the residential development the subject of planning permission 23/01333/PM has also been granted. This would preserve the landscape character of the area and prevent unnecessary development taking place.

With regards to Policies 1, 2 and 13 of NPF 4, the proposed development would provide a path that would connect the existing village with the allocated extension to the village, connecting the community by improving permeability and promoting the use of sustainable transport through walking and cycling and by increasing access to public transport and active travel routes. The provision of this path would also seek to reduce the reliance of car use within this local area and thus in these respects the proposal complies with Policies 1, 2, 13, 14 and 15 of NPF 4.

In its form, finishes and by connecting into the existing footpath network of Waterloo Place, and that proposed in the new housing development to be formed to the west, the proposed path and its lighting columns would be seen in relation to very similar paths and lighting and would be viewed in the context of adjoining residential developments. The proposed path would not appear harmfully intrusive or incongruous in its setting and would not be harmful to the character and appearance of the area. Although it would bring increased pedestrian and cyclist activity to the current cul-de-sac of Waterloo Place the nature and level of such activity would be consistent with that found in a residential area and would not be harmful to the privacy and amenity of residents of that cul-de-sac or any other neighbouring residential property or land use. In these respects, the proposals comply with Policies DP2 and RCA1 of the ELLDP.

The **Council's Environmental Health Officer** has been consulted on the application and has raised no concerns on matters of noise nuisance or air quality. He raises no objections to the proposals but recommends that a condition be imposed on any grant of planning permission to ensure that the design and construction of the lighting proposed for the path does not exceed criteria set out in Scottish Government Guidance for 'low district brightness areas' such as rural, small village, or relatively dark urban locations. Such a control can be imposed as a condition on a grant of planning permission to ensure that the lighting proposed is suitable for its location and does not harmfully impact on the amenity of neighbouring residential properties. Subject to such control the proposals would be not conflict with Policy RCA1 of the ELLDP in terms of light pollution.

The **Council's Road Services** have been consulted on the application and advise they have no objection to the proposal, being satisfied the pathway could be accessed safely and that it would not result in a road or pedestrian safety hazard. They raise no concerns that it could not be used for active travel purposes. They recommend conditions be imposed on any grant of planning permission to ensure that the gradient of the path should not be steeper than 5% at any point and that a 1metre wide level mown grass edge to both sides of the path be maintained to ensure that grass or other vegetation does not obstruct

the path for users of it. A condition can be imposed to ensure that the gradient of the path is not steeper than 5% at any point along its length. The matter of maintenance of the grass and woodland vegetation on either side of the path has been discussed with the applicant. As the applicant does not own the land on either side of the path they have advised they would struggle to maintain this land, which is currently maintained by the Council. The Council's Strategy, Policy & Development Manager of Sport, Countryside & Leisure, who oversee the maintenance of the open space and woodland to which this application relates, advise they would not be in a position to fund any additional maintenance which may be required which should be the responsibility of the developer. Therefore, the Council's Road Services in consultation with the Council's Policy & Development Manager of Sport, Countryside & Leisure have established the long-term maintenance costs of the maintenance works which would be required to be carried out as a consequence of the proposed development. They have established that these maintenance costs would come to a sum of £13,255 for regular maintenance over a 15-year period. These costs can be met through a developer contribution in line with Policy 18 of NPF4 and Policy DEL1 of the ELLDP.

The required developer contributions towards the path maintenance works 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 confirm in writing that they are willing to make the required developer contributions of £13,255 towards the path maintenance works and have advised their preference is to make the payment up front rather than entering into a Section 75 Agreement. The Council's Planning Obligations Officer is content with this approach as an alternative appropriate agreement provided the payment is made in full to the Council via a bank transfer prior to planning permission being issued.

With the imposition of the aforementioned condition and subject to the conclusion of an appropriate agreement to secure the developer contributions towards the maintenance costs listed above, the proposed development does not conflict with Policies 13 and 18 of NPF4 or with Policies T1, T2, or DEL1 of the ELLDP.

The **Council's Access Officer** has raised no objection to this proposal.

The **Council's Team Manager for Structures, Flooding & Street Lighting** advises that SEPA's Flood Hazard Mapping indicates that the site is not at risk from a flood event with a return period of 1 in 200 years, plus climate change. That is the 0.5% annual risk of a flood occurring in any one year, with an allowance for climate change. He advises that the Flood Hazard Mapping has been developed to provide a strategic national overview of flood risk in Scotland and whilst all reasonable effort has been made to ensure that the flood map is accurate for its intended purpose, no warranty is given by SEPA on this. Although the site is not at risk of flooding within SEPA's maps, the Council's Team Manager for Structures, Flooding & Street Lighting advises that residents have in the past noted that this area is at points waterlogged/wet. Likewise, there has been flooding overtopping from the allocated residential development site, affecting properties at Tranent Road (South of the site) in the past (this is slightly downstream of this section). He advises that generally, the installation of a small path is unlikely to have any significant impact on flood risk in the area. In this instance however, he notes there is the removal of trees and installation of a downslope path, in a reportedly already waterlogged area, and there is a property immediately downstream of the proposed path (2 Waterloo Place). He therefore recommends that in the particular circumstances of this case it would be prudent to ensure that drainage details for the proposed pathway, including details of any mitigation measures to ensure that the path will not lead to an increase in surface water runoff, be submitted and approved prior to the commencement of development of the path. Such a

condition can be imposed on a grant of planning permission for the proposed development. With the imposition of this conditional control the proposed development does not conflict with Policy 22 of NPF4 or with Policy NH11 of the ELLDP.

The route of the proposed path has been designed to minimise as far as possible the removal of trees within the woodland strip and to minimise the impact on the grassed area of amenity space by being routed closely to the outer edges of that space rather than through the middle of it. This will ensure that the grassed amenity space can still be used for informal play purposes.

The **Council's Strategy, Policy & Development Manager of Sport, Countryside & Leisure**, who oversees the maintenance of the open space and woodland to which this application relates, has raised no objections to the proposal to form a path through the grassed amenity space and woodland subject to the additional maintenance costs being met by the applicant as detailed earlier in this report, and subject to compensatory tree planting, alongside other suitable biodiversity compensation such as wildflower / pollinator planting being carried out within the site. She otherwise advises the Council's Tree Officer and Biodiversity Officer should be consulted for commentary of the specific proposal for the proposed path through the woodland including any conditions they consider necessary.

The **Council's Tree Officer** has advised he has no objection to the proposal and raises no objection to the felling of the trees identified as being necessary to remove to form the pathway. He recommends that (i) the work to remove the trees which require to be felled be carried out by a suitably qualified and insured contractor at the expense of the applicant and that details of the contractor and timings of work are notified to the Council's Tree Officer prior to any works commencing, (ii) that Category 'U' trees within the application site identified in the Tree Survey be removed at the same time as the main tree works in the interests of good tree management and (iii) that suitable temporary fencing to protect the trees which are to be retained is agreed in advance by the Council's Tree Officer prior to development commencing on site. These are matters which can be imposed as conditions on a grant of planning permission.

The **Council's Biodiversity Officer** notes that the applicant's Tree Survey states that the woodland to which this application relates holds 'high ecological value' and that it concludes that an Arboreal Management Plan is recommended. The Council's Biodiversity Officer concurs that an Arboreal Management plan would be beneficial to ensure that the ongoing management of this parcel of land is continued to be managed for biodiversity and nature but she does not recommend that such a Management Plan be carried out by the applicant. As the Council own the land the woodland area to which this application relates it would be a matter for the Biodiversity Officer to discuss and consider with the Council's Strategy, Policy & Development Manager of Sport, Countryside & Leisure and the Council's Tree Officer.

The Council's Biodiversity Officer notes that Policy 6 (c) of NPF4 states that "Development proposals involving woodland removal will only be supported where they will achieve significant and clearly defined additional public benefits in accordance with relevant Scottish Government policy on woodland removal". She adds that there would also be an expectation that, if trees were to be removed, that there would be a supplementary planting plan submitted that would follow Policy 3 of NPF4 (c) "Proposals for local development will include appropriate measures to conserve, restore and enhance biodiversity, in accordance with national and local guidance. Measures should be proportionate to the nature and scale of development."

The Council's Biodiversity Officer advises that the 'Proposed Woodland Path Survey

Report: Elphinstone Development Site, East Lothian (Blackhill Ecology Ltd, 2024)' submitted with this application states that the woodland does not show any records of European Protected Species such as bats. Notwithstanding this finding, the Council's Biodiversity Officer recommends the applicant considers a precautionary approach being taken and that they consider the installation of a bat box as part of their measures to benefit biodiversity. The applicant is proposing to install bat boxes within some of the houses in their adjoining residential development and the Council's Biodiversity Officer is content with this approach.

The Council's Biodiversity Officer recommends that a condition be imposed to ensure adherence to restrictions to work being carried out in bird breeding season and this is a matter which can be imposed on a grant of planning permission. Subject to this condition being imposed and subject to appropriate biodiversity enhancement measures being secured for the site, a matter which can also reasonably be secured through the imposition of a condition on a grant of planning permission, on these biodiversity considerations the proposals comply with Policies 3 and 4 of NPF4 and Policy NH5 of the ELLDP.

The tree survey submitted with this application identifies the condition of the trees within this area of the woodland together with their root protection areas and identifies trees which would require to be removed as a result of the proposed development.

The **Council's Landscape Project Officer**, in her initial consultation response to this application, advised that although she would not generally support the loss of trees she appreciates that this path is important to improve access between the site and active travel routes and public transport. She has therefore given consideration to the need to provide a path but with minimum tree loss and with a view to provide mitigating planting that could improve diversity of the woodland. In her initial consultation response the Council's Landscape Project Officer noted that the route of the path would result in the removal of 15 trees in total. Three of those trees being category U trees that require to be removed for arboricultural reasons. The rest being seven B category and five C category trees. The proposals plan originally submitted with the application indicated the retention of two of the category B trees, numbered 3569 and E1. However the proposals significantly encroached within their root protection areas and therefore it was unlikely that they could have been successfully retained. The Council's Landscape Projects Officer, having assessed the Tree Survey and detailed drawings made some recommendations to minimise tree loss by slightly re-aligning the path and lighting route through the woodland strip and amenity space. The detailed drawings and Tree Survey have been revised by the applicant with this slight re-alignment of the path and lighting route and having considered the revised details submitted the Council's Landscape Project Officer has advised the revisions have helped to reduce tree loss. Three B Category trees (3572, 3573 and E1) have now been shown to be retained and this is supported by the Landscape Projects Officer. Now a total of 13 trees, some of which are being felled for arboricultural reasons (U category trees) rather than as a direct result of the development, would be felled.

As no mitigating planting has been proposed, the Council's Landscape Projects Officer supports the submission of a replacement planting plan that includes for replacement trees on a two for one basis to both mitigate for the tree loss and provide biodiversity enhancement. She advises there appears to be space within the woodland and open space to the south side of the path for new tree planting. The proposals should include for a mix of tree species to include native species of a mix of sizes, large, medium, small and shrub species to provide diversity within this area of the woodland. The proposals should include for the management and maintenance of the new planting for the first ten years to establishment by the applicant. The Council's Landscape Project Officer also recommends that conditions to secure tree retention and protection (protective fencing) conditions be imposed on a grant of planning permission. The applicant has confirmed that they are

agreeable to all of the Landscape Project Officer's recommendations. Subject to these landscaping and tree protection measures being secured through the imposition of conditions on a grant of planning permission, mitigation will be secured for the tree loss and biodiversity enhancement will be provided. On these counts the proposals do not conflict with Policies 3, 4 or 6 of NPF4 or with Policies DP1 or NH8 of the ELLDP.

CONCLUSION

In conclusion, the proposals are considered to be overall in accordance with the provisions of the stated relevant Development Plan policies and with the non-statutory Development Brief (TT11 Elphinstone West, Tranent) which was adopted by the Council on 30 October 2018 and there are no material considerations which outweigh the proposal's accordance with the Development Plan.

The decision to grant planning permission is subject to the undernoted conditions and the satisfactory conclusion of an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997, or some other agreement, design to secure from the applicant a financial contribution to the Council of £13,255 for the long-term maintenance of the footpath verges.

In accordance with the Council's policy on time limits for completion of planning agreements the decision also is that in the event of a Section 75 Agreement or some other appropriate 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 footpath maintenance provision which could impact on the safety of footpath users contrary to, as applicable, Policies 13 and 18 of NPF4 and Policies T1, T2, or DEL1 of the ELLDP

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 tree removal shall take place and the pathway and lighting hereby approved shall not be formed unless and until the residential development the subject of planning application 23/01333/PM is granted planning permission.

Reason:

To safeguard the landscape character of the area.

- 3 Unless otherwise approved in writing by the Planning Authority, the gradient of the path shall not be steeper than 5% at any point along its length.

Reason:

To ensure accessibility of the path for different users.

- 4 The design and construction of the footpath lighting hereby approved shall take account of the Guidance contained within Annex 1 to Appendix 2 of Scottish Government Guidance to Accompany the Statutory Nuisance Provisions of the Public Health etc (Scotland) Act 2008. In particular, the footpath lighting hereby approved shall at all times comply with the following criteria:

Light Trespass (onto windows) of neighbouring residential properties, measured as Vertical Illuminance in Lux, (Ev), shall not exceed 5 between the hours of 0700-2300 and shall not exceed 1 between the hours of 2300-0700.

Reason:

To prevent lighting from spilling onto neighbouring land, in the interests of safeguarding the amenity of nearby residential properties and the character and appearance of the area.

- 5 Details of measures to control surface water drainage, including details of any mitigation measures to ensure that the path will not lead to an increase in surface water runoff, and a timetable for the installation of any surface water drainage/mitigation measures shall be submitted to and approved by the Planning Authority prior to the commencement of development of the path. The surface water control measures and any mitigation measures approved shall thereafter be fully implemented in accordance with the timetable and other details as approved by the Planning Authority.

Reason:

In the interest of flood prevention, environmental protection and the long term amenity of the area.

- 6 Only the trees marked for removal on the 'Off Site Path' drawing numbered L(0)010 rev E and tree numbered 3578 shall be felled.

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 ELC Tree Officer 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 set one metre beyond the edge of the path, to both the north and south sides and must tie into the existing fencing to the woodlands and adjacent properties to provide fully enclosed construction exclusion zones. It must be approved in writing by the Planning Authority.

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

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

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

Reason

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

- 7 No development or tree removal 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 in close proximity of trees on the site including the work to remove the trees which require to be felled and the installation of the tree protection fencing and construction of the footpath and lighting route. The works to install the footpath shall include for the installation of root protection barriers at the footpath edges. Details of the contractor employed and timings of work shall be notified to the Planning Authority prior to any works commencing.

Reason:

To ensure the retention and maintenance of the trees on the site which are an important

landscape feature of the area.

- 8 No development shall take place until there has been submitted to and approved in writing in advance by the Planning Authority a scheme of landscaping for the site. The scheme shall provide details of the replacement tree and shrub planting and other suitable biodiversity compensation measures such as wildflower / pollinator planting to be carried out within the site. It should include tree and shrub sizes, species, habitat, siting, planting distances, a programme of planting and a ten year management plan for establishment. Non-thorn shrub species should be located adjacent to pedestrian areas. The scheme shall include indications of all existing trees and hedgerows on the land, details of any to be retained, and measures for their protection in the course of development.

All planting comprised in the approved details of landscaping shall be carried out in the first planting season following the completion of the development hereby approved. All planting shall be established and maintained in accordance with the details on the approved drawings. 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 by the applicant in the next planting season with others of similar species and final size, unless the Planning Authority gives written consent to any variation.

Reason:

In order to ensure the implementation of a landscaping scheme to provide compensatory tree planting, to enhance the appearance of the development in the interests of the amenity of the area and in the interests of biodiversity enhancements.

- 9 No development shall be undertaken between the 1st March and 31st August in any calendar year unless a detailed check of the site for active birds' nests has been undertaken and written confirmation has been submitted to and approved by the Planning Authority.

Reason:

In the interests of nature conservation.

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 (ELLDP).

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 read 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.