



MINUTES OF THE MEETING OF THE PLANNING COMMITTEE

**TUESDAY 4 FEBRUARY 2025
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON
& HYBRID MEETING FACILITY**

Committee Members Present:

Councillor N Hampshire (Convener)
Councillor L Allan
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 Bruce

Council Officials Present:

Mr K Dingwall, Service Manager – Planning
Ms E Taylor, Team Manager – Planning Delivery
Mr D Taylor, Planner
Mr M Mackowiak, Planner
Ms S Robertson, Assistant Planner
Mr C Grilli, Service Manager – Governance
Ms P Gray, Communications Adviser
Ms M Haddow, Transportation Planning Officer
Ms J Newcombe, Biodiversity Officer
Ms S Cheyne, Projects Officer – Landscape
Ms E Barclay, Democratic Services Assistant

Clerk:

Ms B Crichton

Visitors Present/Addressing the Committee:

Item 1: Mr J Scott, Dr B Hall
Item 2: Mr R Carruthers
Item 3: Mr T Thomas, Mr E Revell, Mr N Heggie, Mr F Flockhart, Dr P Churn

Apologies:

Councillor C Cassini

Declarations of Interest:

None

The clerk advised that the meeting was being held as a hybrid meeting, as provided for in legislation; that the meeting would be recorded and live streamed; and that it would be made available via the Council's website as a webcast, in order to allow public access to the democratic process in East Lothian. She noted that the Council was the data controller under the Data Protection Act 2018; that data collected as part of the recording would be retained in accordance with the Council's policy on record retention; and that the webcast of the meeting would be publicly available for six months from the date of the meeting.

The clerk recorded the attendance of Committee members by roll call.

1. 24/00008/SGC: ENERGY CONSENTS UNIT (ECU) CONSULTATION: ELECTRICITY ACT 1989 – APPLICATION FOR BATTERY ENERGY STORAGE SYSTEM AND ASSOCIATED INFRASTRUCTURE. AMENDMENT TO APPLICATION ECU REFERENCE: ECU00004926, TO SUB DIVIDE THE SITE WITH PARCEL B BEING FORMED, COMPRISING 102 MW OF BESS AND ASSOCIATED INFRASTRUCTURE, LAND TO SOUTH-WEST OF INGLIS FARM, COCKENZIE

A report had been submitted regarding the Council's proposed response to the above consultation by the Energy Consents Unit (ECU) on an application to them under the Electricity Act 1989, East Lothian Council planning online reference 24/00008/SGC. Marek Mackowiak, Planner, noted a late representation, as well as two late consultation responses from Prestonpans Community Council and the Scottish Fire and Rescue Service. He also advised of an alteration to recommended Condition 17, which would now read thus:

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 be designed to have due regard to the construction traffic and programmes of other energy related developments within the Cockenzie area.* The CTMRP shall, unless otherwise approved in writing by the Planning Authority, include the following details...

Mr Mackowiak then spoke to the proposed response, highlighting the salient points. The report recommendation was to approve the proposed consultation response as outlined at Appendix 1 to the report, including the amendment to recommended Condition 17 noted above.

Mr Mackowiak responded to questions from Committee members. Responding to questions from Councillor Yorkston, he advised that the Council's comments in relation to the entire Cockenzie Battery Energy Storage System (BESS) scheme had already been submitted, and would not be consulted on again; it was currently under consideration by the ECU. Should Planning Committee refuse to support the officer's proposed response to this consultation, he did not consider that there would be any direct implication on the ECU's decision on the application for the overall scheme. He advised that mitigations would have to be put in place should noise levels be found to be greater than 5db. He also clarified that lighting would have to be agreed with the Planning Authority.

Responding to a question from Councillor McIntosh, Keith Dingwall, Service Manager – Planning and Chief Planning Officer (CPO), pointed out that the objection to the overall scheme had only been a technical objection on two points, but was not an objection to the principle of the development; Planning Committee had delegated responsibility to the CPO to seek to resolve the two outstanding objections and to agree conditions where possible. He

reported that the two objections had now been resolved satisfactorily and the Council's response was now with the ECU, therefore, it was not possible to consider the wider scheme during the current discussion. Carlo Grilli, Service Manager – Governance, added that the Council's decision as Planning Authority was entirely separate from the Council's ability as landowner, and should be considered as two different streams.

Councillor McIntosh suggested that recommended conditions relating to fire risk and heat recovery be strengthened. She was concerned that the Scottish Fire and Rescue Service (SFRS) did not have the resources to properly assess the risk and respond to more incidents. She suggested that the submission be used to lobby the Scottish Government for more national guidance and greater resourcing for the SFRS, particularly in growing authorities. She also asked that there be an obligation to connect to heat networks, if this was possible.

Responding to questions from Councillor Gilbert, Mr Dingwall undertook to research other Scottish BESS schemes to provide comparators for scale. He also advised that, although the Council was only being asked to provide a consultation response, the consultation process with officers mirrored that of a planning application to East Lothian Council; he could therefore confirm that Environmental Health Officers were content that the noise conditions suggested for the overall BESS scheme would ensure there would not be significant harm to nearby noise sensitive properties.

Responding to questions from Councillor McMillan, Mr Dingwall agreed that officers also had concerns over the influx of BESS proposals; he highlighted that NPF4 Policy 11 was clear that development proposals for all forms of renewable low carbon and zero emission technologies would be in principle supported. He advised that the subject was discussed regularly at the Heads of Planning Group, and a letter from the Chief Planner referred to the Scottish Government being aware of calls for guidance in relation to BESS projects; a roundtable discussion would be convened to include Heads of Planning, and Mr Dingwall suggested that he could ask to be involved in these discussions. Councillor McMillan supported this suggestion. Mr Dingwall also advised that he was not aware that Emergency Planning Officers had ever been consulted on a planning application.

Jamie Scott, of Pegasus, the applicant's agent, spoke to the application. He explained that the application comprised 102 megawatts of the 352-megawatt total, and was part of the same underlying development as sought in the original application. He highlighted that the overall development was the same in respect of the location of the area of land, the type and scale of development, and with the same mitigations and enhancements. He advised that the reason for the subdivision of the application was an administrative matter to account for there being two separate grid connections for land A and land B parcels. He welcomed the recommendation not to object to the application, and endorsed the officer's assessment of the proposals against the development plan policy. He highlighted that the matters which formed the Council's original objection had now been resolved, and he welcomed the collaboration on these points. He advised that the applicant agreed with the position that the ECU should satisfy itself with regards to fire safety, and he highlighted that there had been no objections from the wide range of safety consultees. He gave reassurance that the applicant took safety extremely seriously; he pointed to the Battery Storage Safety Management Plan as providing site-specific assessment and details of an active detection system for fire and potential thermal runaway, with active in-container water suppression to fully contain fire risk, in line with National Fire Chiefs Council (NFCC) guidelines. He summarised that all matters had been, or could be, addressed through planning conditions, and asked Committee members to support the officer's recommendation.

Mr Scott responded to questions from Committee members. Responding to questions from Councillor Findlay, he explained that the vast majority of issues could be dealt with remotely. The operator could fully analyse the site remotely, so attendance would only be required in an

emergency, in which case the emergency services would take over; the operator would have to coordinate with the SFRS in such a scenario.

Councillor Bruce drew attention to the SFRS' response that they had no legal obligation to consider the application; he felt this was an important distinction to be made, and its lack of objection was not because the SFRS considered the proposals to be safe, but rather because it had not considered the proposals at all. Mr Dingwall clarified that no response had initially been received, but a response had been forthcoming after a follow up by the case officer. The SFRS had responded that it was satisfied that no further comments were required for the amended application; Mr Dingwall interpreted this to mean that they did not object to the amended proposals because their previous response had not been an objection.

Responding to a question from Councillor Yorkston, Mr Scott advised that 3m-3.5m between containers complied with NFCC and the manufacturer's guidance.

Responding to questions from Councillor McMillan, Mr Scott advised that it was typical for BESS systems to be monitored remotely. Identifying and managing risks would be part of overall safety planning, which would involve the SFRS. The applicant had other sites with remote monitoring of safety and security. He explained that the operator would engage with the SFRS as part of safety planning to ensure operational requirements were aligned. He emphasised that the operator would ensure that the site operated effectively, and that any incident could be dealt with appropriately.

Responding to questions from Councillor McIntosh, Mr Scott advised that safety and amenity assessments had been based on lithium-ion batteries, and that use of a lithium-ion product would allow the operator to comply with planning conditions, including those relating to safety and noise. He did not recognise lithium-ion as being a less safe technology, and reported that lithium-ion batteries were used at BESS sites across Scotland.

Councillor Findlay raised concern that the SFRS may not have sufficient experience in dealing with incidents at this type of facility. Mr Scott pointed out that the SFRS was aware of the projects, so thought that its training would take this into account.

Councillor McLeod asked about the security arrangements on site. Mr Scott reported there would be unclimbable fencing, and CCTV and lighting systems. He also advised that there were two proposed water tanks, however, he noted that systems could be shut off remotely to prevent an emergency. Responding to a concern raised by Councillor Gilbert that water would be ineffective in fighting a lithium-ion battery fire, Mr Scott advised that the water supply was for thermal runaway suppression purposes, which was industry practice and was also required for insurance purposes.

Councillor McMillan proposed amendments to Recommendation 1, regarding fire safety, so it would read:

The Council *insists* that the ECU satisfy themselves that either the proposed BESS would not result in an unacceptable fire safety risk or that the matter of fire risk is competently dealt with under other legislation. The Council further *insists* that the ECU should consider whether a safety management plan should be required, *and that Prestonpans and Cockenzie & Port Seton Community Councils be consulted on any safety management plan required.* The ECU should also consider whether it is necessary to further consult with the Health & Safety Executive on this matter.

Responding to a question from Councillor Collins, Mr Scott believed that the water tanks would be capable of providing the water supply in terms of volume and pressure required by the NFCC recommendation.

The Convener asked whether the operator would accept a heat recovery condition, such as to provide heat to neighbouring properties. Mr Scott said that the operator was happy to look at this, and had engaged with officers on the matter. Although it was not yet known whether this could be delivered, he said the operator was aware of the Council's imperative to improve sustainability.

Brian Hall spoke against the application. He pointed out that a strong westerly wind affecting the site meant that the whole of Cockenzie and Port Seton could be affected by safety issues. He advised that the Community Council took issue with the use of lithium-ion batteries because lithium-iron phosphate batteries had previously been mentioned as the battery of choice by Pegasus, which he considered a safer technology; he questioned whether Pegasus were now trying to keep their options open to using less safe lithium-ion batteries. As batteries had different storage capacities, he argued that if it was known that the capacity was 102 megawatts, then Pegasus must know which batteries would be used. He highlighted potential safety risks with fire suppression systems within battery containers; if aqueous mist failed and there was an explosion, then some battery types would release hydrofluoric acid, which would attack eyes and lungs, and others would release hydrogen, which was explosive. He was also deeply concerned that all monitoring was remote and about the consequences if the internet connection were to fail. He pointed to a recent serious BESS fire in California, where it was expected that the water suppression system had failed, causing an evacuation of 1500 people. He felt that the community had a right to know which type of battery would be used. He also pointed out that standard practice for responders was to let a BESS fire burn. He reported that Californian officials were now questioning the safety of the technology, and that hydrofluoric acid was found in the environment following the Liverpool BESS fire. He stated emphatically that Pegasus must come clean if they were moving from using the safer lithium-iron phosphate batteries to lithium-ion batteries. He explained that the formation of hydrogen fluoride was accelerated by the presence of water. He also pointed out that thermal runaway could be caused by security breaches and vandalism from thefts of battery components. He highlighted that noise measurements could have a margin of error of plus-or-minus three decibels; thus, the quoted five decibels could be as high as eight decibels, which would border on having a significant and adverse impact on society. He encouraged the Council to object to the application on the grounds of safety and disturbance.

Ben Morse made representation on behalf of Prestonpans and Cockenzie & Port Seton Community Councils. He advised that their responses applied to both consultations 24/00002/SGC and 24/00008/SGC; he reported that communities and the public were asked to update their responses to the former application and the new application, and would not accept that the Council had not updated its response. He considered that the site must be treated as a single site and that the updated recommendations must be applied to both applications. He said that the Council's position that somehow the applications were not linked was very disappointing to the community. He reported that an SFRS veteran had advised, following the guidance issued after the Liverpool BESS fire, that a fire would not be fought due to the presence of dangerous chemicals. He also took issue with references to the specialist training required for an incident at Torness, since a different fire station would respond and BESS training would be different to that for a nuclear incident. He advised that the NFCC guidance specified that six metres was required between containers, whereas only three metres was proposed between each unit. He reported that new NFCC guidance being issued this year would be more stringent. He agreed that perimeter lighting was important from a security perspective, but would increase the impact on neighbouring houses. He noted that the one point of access was contrary to NFCC guidance. He raised concern that an industry leader, Renewable Energy Systems (RES) Global, would not consider sites within 50-150m of houses on the basis of safety and loss of amenity, and therefore questioned why Pegasus claimed to follow industry practice. He stated that the community's position could be summarised as this being the wrong place, technology, and developer, and considered that brownfield sites should be used over greenfield sites. He was concerned by comparisons made by the Convener to domestic battery installations because of the different technologies employed and the huge

difference in size and scale. He was also seriously concerned about the scale of evacuation in an emergency; he drew comparison to the Californian BESS fire which had a 2.5-mile evacuation zone at a BESS site only a little larger than that which was proposed in Cockenzie. He described the lack of consultation with Resilience colleagues as being negligent.

Continuing, Mr Morse concurred with Mr Hall's points about the margin for error in noise monitoring, and raised concern about the cumulative impact of development on the community. He reported that acoustic monitoring devices were not in appropriate locations and favoured picking up background noise, and he questioned how noise monitoring could be achieved accurately in an area of intense development. He explained that the community was also concerned with the loss of prime agricultural land and green space. He also pointed out that a valued playpark would have to close during the construction period. He feared that in the gold rush of renewable technology development, the area was dealing with 'cowboys', and implored Committee members not to allow East Lothian to become the 'easy county'. He supported Councillor McIntosh's questions about a heat recovery system, which would help nearby residents deal with a loss of amenity. He did not want his community to be a victim because the application had been made before national policies had caught up. He reported that the Community Council had raised the use of safer sodium batteries with Pegasus and the ECU, but had not received an answer as to whether this had been considered. Although the site was considered better than others because the shorter connection to the grid would mean less disruption through the construction period, Mr Morse stated that the community was united in wanting less disruption to daily lives for the next 30 years over a more convenient construction period.

Councillor Yorkston, local member, acknowledged the clear community frustration with the situation. He commented on the lack of national plan and strategy, and lack of engagement from the Scottish Government. He commented that communities felt they were not being listened to, and he held genuine concerns over fire and evacuation plans. He urged greater respect to be shown to communities, and would listen to the rest of the debate before deciding whether to support the recommended consultation response.

Councillor Gilbert, local member, echoed Councillor Yorkston's comments. He had concerns about the submission, mostly with regards to the distance of the proposed BESS from neighbouring residential properties; he noted that Australian guidance recommended that BESS sites be located a minimum of 300m from houses. He could not support the recommended consultation response.

The Convener pointed out that that a public inquiry would be called if the Council objected to the application, and the Council had already submitted their consultation response to the other part of the application; if an objection was submitted in this case, the Council would have to argue why they had already supported the other part of the application, which he felt would be difficult to defend and very costly.

Councillor Findlay considered the main concerns to be about safety and the closeness of the BESS to residential areas. He felt that questions had not been adequately answered by the applicant's agent. He pointed out that Councillors were here to represent the people of East Lothian, which may bear a cost. He would vote against the recommended consultation response.

Councillor McIntosh felt that the Council should object to the proposals on the basis that it was too close to housing. She was concerned about making assumptions that other agencies were making adequate preparations at a time when public sector funding and resourcing was becoming more limited; she felt the SFRS were not adequately resourced to deal with the number of BESS sites in terms of consultations or emergency response. She felt that concerns over noise were legitimate. She also felt there was a disjunct between the treatment of large companies and householders in terms of noise disruption requirements. She stressed that heat

recovery from the BESS should be obligated, and felt unsatisfied with the proposals unless these conditions could be strengthened.

Councillor McGinn commented that the Committee was on a steep learning curve. He commented on the lack of concerned approach from the Scottish Government with regards to how such applications were determined and who should take a lead. He intended to raise the issue with the SFRS at their quarterly meeting, because he felt that not commenting on applications was unacceptable. He referred to the decision made on the previous application, and indicated he would also support the officer's recommended consultation response here.

Councillor McLeod would support the officer's recommendation, but had deep concerns about security. He also was concerned about the emergency response time to certain areas because not all fire stations were staffed full time.

Councillor Collins had concerns about safety, and recalled enquiries made about BESS systems on her own land, which had required to be at least 200m away from housing due to risks of noise, fire, and contamination. She was also concerned about the reliance on remote monitoring, particularly the risk that monitoring equipment be destroyed in a fire. Although the Planning Committee had supported the last application, she would not support this consultation response.

Councillor McMillan discussed the economic and political needs to move to net zero energy and provide energy that was clean and affordable. Although the technology was a concern, he acknowledged it would change over the lifespan of the site. He considered there to be a gap in national policy, and said there had to be consideration of what was required of developers. He also took account of the environmental impact, and social and community issues. He pointed out the Council's role as consultee and not as decision maker. He thought the Council should be friendly towards such applications because this had been a site for energy generation, and energy security was of real importance. He would also support a heat recovery system. He thought that the Committee should ask the ECU to consider safety and proximity to houses, and to ask them to engage with Community Councils. He felt that there was not enough information either to stop or support the proposals, but felt the ECU could take on the development and listen to the community. He would support the amended proposals.

Councillor Forrest acknowledged the real concerns from the community, and described the agent's responses as 'blasé'. He would feel more content with a developer who had 'feet on the ground'; he commented that developers had to work with communities, particularly when there was such a strong response to proposals, and was disappointed that this developer was not listening.

The Convener described BESS sites as being a fundamental part of the move towards net zero energy. He considered that a fire at such a site would affect communities across East Lothian, but did not fundamentally feel there was a significant fire risk. He believed the technology would continue to improve, and was comfortable that technology would be used here as was utilised around the world. He felt that a BESS backup was needed, and hoped that decision making would not lead to a loss of energy capacity. He pointed out that the Council had already supported the proposals, and this application was only a technical decision to split the site. He warned that the Council would be in a ridiculous position and would waste public money at a public inquiry if an objection was submitted at this stage. He accepted that there were strong feelings and concerns around the proposals, but felt that the current position must be accepted.

Responding to a request from Councillor McMillan, the proposed amendments to Recommendation 1 were reiterated. Mr Dingwall also clarified that Councillor McMillan wanted the Planning Authority to lobby hard and become involved in discussions around national strategy, and for Mr Dingwall to represent the views of the Planning Committee regarding local

and national issues in the roundtable discussion with the Scottish Government and Heads of Planning. Mr Dingwall suggested a wording for a new Recommendation 4, noted below.

Councillor McMillan formally proposed the new Recommendation 4 and the previously discussed changes to Recommendation 1, and this was seconded by Councillor Yorkston. Planning Committee members unanimously supported the amendments by roll call vote.

The Convener then moved to a roll call vote to approve the consultation response outlined at Appendix 1, including the amended conditions, and including the change to Condition 17 as outlined in the officer's presentation. Votes were cast as follows:

Support:	7	(Councillors Hampshire, Collins, Forrest, McGinn, McLeod, McMillan, and Yorkston)
Against:	4	(Councillors Allan, Findlay, Gilbert, and McIntosh)
Abstain:	0	

Decision

Planning Committee approved the proposed consultation response, subject to amendments to Recommendation 1 and recommended Condition 17, and a new Recommendation 4. The amended recommendations and recommended conditions would now read:

Recommendations:

- 1 The Council insists that the ECU satisfy itself that either the proposed BESS would not result in an unacceptable fire safety risk or that the matter of fire risk is competently dealt with under other legislation. The Council further insists that the ECU should consider whether a Safety Management Plan should be required, and that Prestonpans and Cockenzie & Port Seton Community Councils be consulted on any Safety Management Plan required. The ECU should also consider whether it is necessary to further consult with the Health & Safety Executive on this matter.
- 2 That the Scottish Government Energy Consents Unit is informed that East Lothian Council does not object to the granting of consent under Section 36 of the Electricity Act 1989 for the reasons set out in this report;
- 3 That the East Lothian Chief Planning Officer be authorised to undertake any discussions with the Scottish Government Energy Consents Unit to resolve any issues relating to conditions to be attached to the consent if required;
- 4 The East Lothian Chief Planning Officer to be authorised to seek to participate in the roundtable BESS meeting with the Scottish Government and put across the concerns of the Planning Committee as minuted; and
- 5 That if consent is granted then it be subject to conditions [listed at Appendix 1].

Recommended Condition amendment:

- 17 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 be designed to have due regard to the construction traffic and programmes of other energy related developments within the Cockenzie area. The CTMRP shall, unless otherwise approved in writing by the Planning Authority, include the following details...

2. PLANNING APPLICATION NO. 24/01266/PM: SECTION 42 APPLICATION TO VARY CONDITION 6 OF PLANNING PERMISSION 18/01366/AMM, LAND AT SALTCOATS FIELD, GULLANE

A report had been submitted in relation to Planning Application No. 24/010266/PM. David Taylor, Planner, presented the report, highlighting the salient points. The report recommendation was to grant consent.

Ross Carruthers spoke to the application on behalf of Cala Homes. He explained that the applicant considered that the wording of the original condition should have referred to areas of shrubs being 1.5 metres deep, rather than hedging, because it was almost impractical to maintain a hedge at 1.5 metres. He was aware of the objections, but responded that Cala looked to implement the hedging, shrubs, and planting per the approved schedule. He reported that Cala homes had employed a landscape architect to carry out quality audits at all developments, and their recommended works had already been carried out. He advised that the factor would maintain the hedging following a handover. He summarised that there had been no changes to the approved drawings, no detriment to visual impact, and no changes to biodiversity.

Responding to questions from Councillors McLeod and Forrest, Mr Carruthers explained that the hedges would be covered under the factoring agreement, so a resident would require permission to move a section of hedge, and it would have to be reinstated to maintain the approved landscaping scheme. He also advised that such large hedges would impact community spaces and gardens; residents had viewed drawings of the plots before they purchased them, and Mr Carruthers pointed out that a hedge of triple the size would be a significant change from what they had purchased.

The Convener then moved to a roll call vote on the officer's recommendation to grant consent, and this was unanimously supported.

Decision

Planning Committee members agreed to grant the application, subject to the following conditions:

- 1 Prior to the occupation of the last house or flat hereby approved, the proposed access roads, parking spaces, and footpaths shall have been constructed on site in accordance with the docketed drawings.

Those areas of land shall not thereafter be used for any other purpose than for accessing and for the parking of vehicles 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 in the interests of road safety.

- 2 All the open space recreation areas indicated on the docketed drawings shall be available for use prior to the occupation of the last house or flat on the site. The open space recreation areas, when provided, shall be used for such purposes at all times thereafter unless agreed in writing by the Planning Authority.

Reason:

To ensure the satisfactory laying out of all areas of open space in the interest of the amenity of the future occupants of the dwellings hereby approved.

- 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 provide details of: the height and slopes of any mounding on or re-contouring of the site including SUDS basin/ponds details; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. Non-thorn shrub species should be located adjacent to pedestrian areas. The scheme shall include indications of all existing trees and hedgerows on the land, details of any to be retained, and measures for their protection in the course of development.

It shall be based on the drawing titled 'Soft landscape layout' numbered SF-RF-AA-XX-DR-L-0002 and specifically include a mixed native species hedgerow along the full length of the southern boundary of the site, a native mixed woodland of a minimum of 20m wide along the full length of the western boundary of the site, groups of mixed sized species trees on the southerly located areas of open space, large species trees within open spaces throughout the site, and feature trees and landscaping on the eastern road frontage of the site. Large species trees should be spread throughout the site. Additional pine and oak trees should be included to the southern boundary areas. Holm oak should also be introduced to the mix. Feature pines, oaks and horse chestnuts should be placed within the centre of the large open spaces such as the linear park from plots 86 and 93 to 41 and 42; also within the park between plots 72 and 57 with root barriers to protect the underground services. Care should be taken in locating the large pine and beech trees close to property gables, no large species tree shall be located closer than 12m to any building. These should be substituted with hornbeams at plots 23, 30, 01 and 38. No shrub planted area shall be narrower than 1.5m to enable successful establishment of the landscaping to ensure successful amenity for the development. All hedging to rear of boundary wall shall be maintained at a height of between 1.75 and 2m in height.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the completion of the development or occupation of any house hereby approved, whichever is the sooner. Any trees or plants which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar species and final size, unless the Planning Authority gives written consent to any variation. No trees or shrubs, detailed in the approved landscaping plans to be retained on the site, shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the previous written consent of the Planning Authority.

Reason:

In the interests of achieving an appropriate landscaped setting for the housing development.

- 4 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, 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 titled 'Tree retention and removal' numbered SF-RF-AA-XX-DR-L-0003 rev B, 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.

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.

- 5 Prior to commencement of development on site, full details of the proposed Sustainable Drainage System shall be submitted to and approved in writing by the Planning Authority. Thereafter, the approved details shall be implemented as approved for the lifetime of the development.

Reason:

To ensure that the final Sustainable Drainage System design complies with 'Sewers for Scotland 3' and in the interest of flood prevention and the long term amenity of the site.

- 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. Such facility shall be retained in working order and used such that no vehicle shall leave the site carrying earth and mud in their wheels in such a quantity which causes a nuisance or hazard on the road system in the locality.

Reason:

In the interests of road safety.

- 7 Prior to the commencement of development, details showing compliance with the following transportation requirements shall be submitted to and approved in writing in advance by the Planning Authority.

(i) a supplementary construction method statement shall be provided for the site to expand on that already provided and controlled through planning permission in principle 16/00594/PPM. This shall take account of routes to the site from the A198;

(ii) cycle parking shall be provided at the rate of 1 space per flat. This shall be provided in a secure/ undercover area;

(iii) all footpaths and cycle paths from a zone under construction to their connections to existing pedestrian/cycle routes shall be constructed to an adoptable standard before the occupation of any of the residential units of the particular zone;

(iv) driveways shall have minimum dimensions of 6 metres by 3 metres. Double driveways shall have minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11 m length;

Reason:

In the interests of road safety.

- 8 The roof lights on the east facing roof slopes of the houses to be built on Plots 08,101 & 108, on the west facing roof slopes of the houses to be built on Plots 70, 94 & 111, on the north facing roof slope of the house to be built on Plot 20 and on the south facing roof slope of the house to be built on Plot 21 shall be obscurely glazed, prior to the occupation of those houses. Thereafter those roof windows shall continue to be obscurely glazed unless otherwise agreed in writing by the Planning Authority.

Reason:

To safeguard the privacy and amenity of the occupants of neighbouring houses.

- 9 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 windows or other glazed openings shall be formed on the first floor or within the roof slope of the east elevation of the houses to be built on Plots 08,101 & 108, the west elevation of the houses to be built on Plots 70, 94 & 111, north elevation of the house to be built on Plot 20 and on the south elevation of the house to be built on Plot 21 without the prior permission of the Planning Authority.

Reason:

In the interests of safeguarding the privacy and amenity of the occupants of neighbouring residential properties.

- 10 Notwithstanding that shown on drawings docketed to this Approval of Matters the car ports on plots 31-37 and 46-52 inclusive shall not have vehicular access doors installed within them but shall instead remain open fronted. Thereafter those car ports shall remain open fronted with no vehicular access doors unless otherwise approved in writing by the Planning Authority.

Reason

To meet the Council's Road Services parking standards for new housing.

3. PLANNING APPLICATION 24/01140/P: ERECTION OF ONE HOUSE AND ASSOCIATED WORKS, FORMER GARDEN GROUND OF 1 DIRLETON AVENUE, NORTH BERWICK

A report had been submitted in relation to Planning Application No. 24/01140/P. Emma Taylor, Team Manager – Planning Delivery, presented the report, highlighting the salient points. She also noted that there had been an enquiry at the site visit as to whether installation of a new signal would be acceptable; she advised that Road Services would have to advise on acceptability, and recommended that the application should be continued if Committee members wished to explore this option. The report recommendation was to refuse consent.

Officers responded to questions from Committee members. Responding to questions from Councillor Findlay, Ms Taylor advised that no trees would definitely be removed, but an updated report had also not demonstrated root protection of trees; there had not been enough evidence to demonstrate whether trees would or would not be retained.

Responding to questions from Councillors Findlay and McLeod, Morag Hadow, Transportation Planning Officer, advised that the junction at the bottom of Station Road was busy and operated very close to capacity at peak times in North Berwick's busy season; although operation was mostly acceptable, additional use of the junction would cause concern. There were also concerns about pedestrian safety at the access, because visibility on egress from the development was poor. There were also concerns about the vehicle access not being signalled alongside the rest of the junction; Roads Officers did not want to exacerbate issues at the existing access when visibility was poor.

Ms Taylor responded to questions from Councillor McIntosh. She advised that there had been internal discussion as to whether permission could be granted for a no-car development, but officers questioned enforceability; although the development would be ideally located for a car-free development, it would be impossible to know who used the access, and a bollard could not be installed because of existing other uses. She also advised that Planning Officers made judgement calls as to whether to require further reports; in this case, they had not wanted the applicant to spend money on reports relating to trees and biodiversity when there was a robust reason for refusal relating to the access junction.

Responding to questions from Councillor Allan, Ms Hadow reported that there was no parking on site for visitors to the dental practice, and there was minimal parking available for the existing business and the flat. She thought that there was no history of accidents at the junction, and advised that the driveway had been there before the junction.

Responding to questions from Councillor Collins, Ms Haddow advised that the junction was in a 20mph zone. She explained that the standard obstruction height would have to be less than 600mm to protect pedestrians, and the walls were much higher.

Tony Thomas, the applicant's agent, spoke to the application. He considered that there was difficulty in quantifying intensification of use when use of the access junction was unrestricted. He would have been happy to engage in a conversation about a car-free site if this would have been looked upon favourably. He advised that Google Earth showed a four-way junction at the bottom of Station Road in 2008, and traffic lighting installed made the junction much safer. He felt that the reasons for refusal did not stand up to reasonable scrutiny. He advised that the applicants were a local family looking to build a new home on the vacant urban site they had owned for 12 years, which was close to public transport links and local amenities. He pointed out that the design and layout had support from the Planning Authority. He felt that this type of application should be encouraged and supported. He advised that the land had been used by the applicant for small-scale hobby gardening, for which planning permission had not been required. He also pointed out that the single-level adaptable home would suit the applicants into their later years. He pointed out the significant biodiversity and ecological enhancements, with all trees being retained, a green roof, sensitive and enhanced boundary planting, and with the house being designed to Passivhaus standards. He reported that a Roads Officer had acknowledged by email that there would be no intensification of use, and pointed out that the owners would not be required to use their car regularly. Mr Thomas pointed out that the dental surgery and flat had already used the site entrance for years, and he reiterated that the signalised main junction was safe. He pointed out that the site hosted little biodiversity, and highlighted the green roof and improvements to the garden ground proposed. He stated that all trees would be retained, and further tree survey work had been instructed to clarify that this was the case. Mr Thomas expressed frustration that more time had not been provided to allow for studies before recommending refusal, but also questioned what the harmful impact could be on biodiversity when the site currently lacked biodiversity; he considered that there was no need for tree or ecology surveys. He summarised that applications for sustainable and attractive new homes should be encouraged, and felt the concerns over impacts were misplaced.

Responding to a question from Councillor McIntosh, Mr Thomas advised that the applicant currently drove to the site several times a week, sometimes more than once a day.

Fraser Flockhart spoke against the application. He considered that the design was not in keeping with the historical aesthetic of Dirleton Avenue properties, with the surrounding buildings having stood for over 100 years. He had understood that the conservation area would protect his surroundings from newbuild properties, maintaining his privacy and views. He thought that the new property's west-facing windows would encroach on the privacy of his rear garden. He pointed out that two previous proposals had both been rejected on the grounds of parking. He pointed out that York Road was already heavily congested and would not benefit if the residents could no longer use the current car parking.

Responding to a question from Councillor Findlay, Mr Flockhart said he particularly objected to a modern style home being built at this location, and felt that the current landscape and use as a hobby garden should remain.

Peter Churn spoke in favour of the application. He described the proposals as offering a perfect solution on this corner. He was a friend of the applicant and knew the junction well because family had property nearby. He had witnessed cars use the access junction without issue. He pointed out that the property would allow the applicants to drive less, and that another single-storey dwelling would help the housing crisis. He implored Committee members to approve the plans for an elegant and innovative solution at a junction he knew well.

Councillor Findlay felt that the increase of one or two car movements each day could not be considered 'intensification', and felt that sight lines were acceptable to a driver leaving the site. He pointed out that the applicant was being asked to prove a negative with regards to loss of trees. He acknowledged that the newer house would be a sustainable building. He felt that the site's current state of being covered in black plastic would not support nesting, so disagreed that the proposals could be harmful to birds. He would vote against the officer's recommendation.

Councillor McLeod felt that there would be no problems with overlooking. He shared a concern over access and had witnessed some cars coming and going, but otherwise could not object to the proposals.

Councillor McIntosh felt that conditions could address the problems with the application, such as submission of a Biodiversity Enhancement Plan, and requiring a low- or no-car development; she suggested that the application could be continued to explore this option. Mr Dingwall responded that Committee members would have to be satisfied that the trees could be protected, and it was the position of officers that sufficient evidence had not yet been submitted. He could not see how a low- or no-car development could be enforced because there was an existing access. He advised that Committee members could still move to approve the application, but advised that it could not be as a car-free development. The current access could be lawfully used by the existing users of the site, so he could not see a justification for removing the car parking spaces.

Councillor Allan felt there was no logic to refusing the application when the applicant would still visit the site a few times each day by car in any case. She had tested the entrance and had found it safe and easy to drive through.

Councillor Collins felt that the area was safe for pedestrians, and visibility was good. She felt the proposals would enhance biodiversity. She also pointed out that there were other modern buildings in the immediate area, and would support the proposal.

Responding to questions from Councillor Gilbert, Mr Dingwall felt that a condition that allowed only one car would still not be enforceable. Jonathan Revell, applicant, clarified that there were two parking spaces for his exclusive use, and the proposals would extend the turning circles to make a three-point turn safer.

Councillor Forrest still had concerns about traffic using the site entrance, particularly with the two sharp right turns; he felt it had been lucky that there was not an accident history.

Councillor McMillan thought a car-free development should be considered; he felt that neighbours would complain if spaces were being used in contravention of conditions. He was concerned that the development could affect biodiversity, and wanted to see evidence that tree roots would be protected. He would support having all reports to consider before making a determination, and may abstain if this further information could not be provided.

The Convener pointed out that the existing entrance would not be allowed to be developed now because it was dangerous. He thought that cars could speed up to try to get past the traffic lights, and pedestrians would have to walk around a car coming out of the access point and onto the carriageway. He understood the applicant's desire to develop the land, but felt that a car-free development was impossible when there were already cars using the access point, and adding another house would increase traffic movements. He would support the officer's recommendation to refuse consent.

Councillor McIntosh proposed that the application be continued to allow time to request submission of plans for biodiversity protection and to explore whether any car-free options

would be available. This was seconded by Councillor McMillan. The Convener then moved to a roll call vote on the proposal to continue the application, and votes were cast as follows:

Support: 3 (Councillors Allan, McIntosh, and McMillan)

Against: 8 (Councillors Hampshire, Collins, Findlay, Forrest, Gilbert, McGinn, McLeod, and Yorkston)

Abstain: 0

The proposal to continue the application fell, and the Convener moved to a roll call vote on the officer recommendation to refuse consent. Votes were cast as follows:

Support: 6 (Councillors Hampshire, Forrest, McGinn, McIntosh, McMillan, and Yorkston)

Against: 5 (Councillors Allan, Collins, Findlay, Gilbert, and McLeod)

Abstain: 0

Decision

Planning Committee refused planning permission for the following reasons:

- 1 The proposed development would, if permitted, result in the intensification of traffic movements at the access junction where Dirleton Avenue meets Station Road within a controlled traffic area and therefore within a very sensitive and busy location to the detriment of the road users and pedestrians, contrary to Policies T1, T2 and Part i of DP7 of the adopted East Lothian Local Development Plan 2018 and policy 13 of NPF4.
- 2 It has not been sufficiently demonstrated that the proposed development would not result in the loss of amenity value trees within a conservation area contrary to NH8 and Part iv of DP7 of the ELLDP and policy 6 of NPF4.
- 3 It has not been demonstrated that the proposals would not have a harmful impact on birds, invertebrates and mammals nesting and foraging within the site, contrary to Policy 3 and 9 of NPF4 and Policy NH5 of the adopted East Lothian Local Development Plan 2018.

Signed

Councillor Norman Hampshire
Convener of the Planning Committee