



MINUTES OF THE MEETING OF THE PLANNING COMMITTEE

TUESDAY 3 JUNE 2025
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON
& HYBRID MEETING FACILITY

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Committee Members Present:

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

Other Councillors Present:

None

Council Officials Present:

Mr K Dingwall, Head of Development and Chief Planning Officer
Mr C Grilli, Service Manager – Governance
Ms E Taylor, Team Manager – Planning Delivery
Mr D Taylor, Planner
Ms J McLair, Planner
Ms J Newcombe, Biodiversity Officer
Mr J Canty, Transport Planner
Ms A Stewart, Housing Enabler
Ms M Haddow, Senior Roads Officer
Mr C Wiseman, Projects Officer – Landscape
Ms R Pringle, Team Manager – Housing & Strategy
Mr J Bee, Team Manager – Development & Regeneration
Ms P Gray, Communications Adviser
Ms E Barclay, Democratic Services Assistant

Clerk:

Ms B Crichton

Visitors Present/Addressing the Committee:

Item 2: Ms E Garland and Mr N McLean
Item 3: Ms K Heaney and Mr H Harper
Item 4: Mr N Shepherd

Apologies:

Councillor J Findlay
Councillor A Forrest

Declarations of Interest:

None

The clerk advised that the meeting was being held as a hybrid meeting; 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 East Lothian Licensing Board 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 five years from the date of the meeting.

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

1. MINUTES FOR APPROVAL
Planning Committee, 6 May 2025

Planning Committee members agreed the minutes as an accurate record of the meeting, subject to the correction of two typographical errors and a wording change at Item 2.

2. PLANNING APPLICATION NO. 24/00777/AMM: APPROVAL OF MATTERS SPECIFIED IN CONDITIONS 1(A) TO (I), 1(L), 1(M), 1(O), 5, 6, 9, AND 27 OF PLANNING PERMISSION 21/01580/PM – ERECTION OF 96 HOUSES, 39 FLATS, AND ASSOCIATED WORKS, BLINDWELLS, TRANENT

A report had been submitted in relation to planning application no. 24/00777/AMM. Julie McLair, Planner, presented the report, highlighting the salient points. The report recommendation was to grant consent.

Morag Haddow, Senior Roads Officer, responded to questions from Councillors McLeod and McIntosh. She advised that a bus shelter on the St. Joseph's School side of the road could only be added after the route to school pack had been provided as part of the masterplan proposal from Hargreaves; a wider area of hardstanding to accommodate a bus shelter would be installed as part of this work. She advised that the route to school path had been approved, but a construction date was awaited. She also advised that a Bus Strategy had been agreed with Hargreaves, but the bus stop for the development site would to be changed in light of the new proposals for the town centre. She reassured Committee members that the Council was keen for buses to serve the site as soon as possible, and said operators were keen to go into the site, but that this was dependent on the completion of roads.

Jon Canty, Transportation Planning Officer, added that no planning conditions had been applied to specific development pods within Blindwells because the pods were coming online at different times; there was a reliance on the core road network being adopted, and still a significant amount of construction traffic to the developments pods on the east of the site. He explained that construction traffic would have to decrease and bus companies would have to be content that they could run buses safely through the site. He made Committee members aware of difficulties applying conditions relating to buses when there were several different development pods, but said Road Services was working with Hargreaves to introduce buses

as soon as possible. The Convener commented that early options for bus services needed to be considered in the future to serve those already living in new developments.

Councillor McMillan highlighted the concerns of Prestonpans Community Council regarding parking and overflow at Prestonpans Railway Station. Ms Haddow advised that a planning condition on one of the masterplan permissions required that the route to school and the route to the station be built; the design had been approved, but a timetable for implementation was still awaited. She advised that the purpose of the route was to make it easier to walk and cycle to the station. She also highlighted that there was a link bus service from Blindwells to Prestonpans on the A198. The Convener added that there was an urgent need for a crossing to be installed on the main road alongside the railway at Prestonpans.

Councillor McGinn asked about the overall connectivity of active travel routes as the various sites came forward. Mr Canty advised of a Path Strategy for the wider Blindwells site, and said that Road Services was ensuring that the paths between sites were convenient and of good quality through planning applications and road construction consents. He also advised that three toucan crossings would be brought forward for the opening of the primary school.

Councillor Yorkston asked a number of questions of Niall McLean, representative of Hargreaves. Mr McLean explained that the work on the active travel route was tied to the works for the Bankton Roundabout; a Memorandum of Understanding had now been signed, and the detail and technicalities were being worked out. He advised that planning consent was not yet in place for the town centre, and the developer could not build shops or make commitments until they were certain of the concept. He reported that Hargreaves had been in discussion with the Blindwells Tenants' and Residents' Association (TRA) about provision of a temporary shop. He also reported that there had been interest in retail units, but retailers would not sign up without first having planning consent in place.

Responding to a question from Councillor Gilbert about the number of residents in Blindwells being important to retailers, Mr McLean expected that it would take a couple of years to construct and occupy the units; thus, temporary retail units were being sought. He advised that a supermarket retailer usually looked to serve around 1000 units, and Blindwells was currently approaching 400 occupations. As soon as consent was in place for the town centre, the formal marketing for retailers would be brought forward. He confirmed that there was a commitment from Hargreaves to build the town centre and other components as quickly as possible.

Councillor McMillan asked about initiatives to encourage 20-minute neighbourhoods. Mr McLean highlighted a number of projects, such as housing a tapestry commemorating the Battle of Prestonpans, creating space for community groups, and creating employment units. He also advised that an open day with members of the Midlothian and East Lothian Chamber of Commerce would be hosted to boost awareness of opportunities to establish businesses or community groups in Blindwells. He also reported that a haul road had been established to allow school construction to continue, and to enable the laying of the final surface on the road prior to the school's opening. He reported that the school was slightly behind schedule. He advised that paths would be opened as soon as they were safe, and pointed out that balance had to be found with the safety of construction traffic. He explained Hargreaves was anxious for buses to serve the area once the town centre had come forward and the loop could be completed. He reiterated that progress must be incremental because construction traffic safety could not be compromised, but said the developer aimed to build all components as quickly as possible.

Councillor McIntosh asked whether the direct cycle route to school could be prioritised. Mr McLean advised that the masterplan's Bus and Transport Strategies were being implemented. Only one plot could be brought forward each year, and this sequencing had been agreed as part of the masterplan. He said that the frustration was understood, and reported that

reassurance had been given that the next stage of active travel paths would be opened as soon as it was safe in a recent dialogue with the TRA. He said Hargreaves welcomed dialogue with the TRA and advised that a further meeting had been suggested at the school in August.

Responding to a question from the Convener, Mr McLean said that Hargreaves shared in the frustration over the length of time taken to reach agreement with Transport Scotland regarding the Bankton Roundabout. He advised that final discussions were now taking place to ensure that large events would not be compromised by the works, and much of the construction would be done at night to limit disruption; an update on these works could be provided to the Council shortly.

Councillor Yorkston commented that the school would be central to the community at Blindwells. He was pleased that there were so many one-bed and two-bed properties coming forward, as well as affordable properties. He shared in the frustrations regarding timing of infrastructure coming forward, but recognised the need for safe delivery of projects. He hoped that the work at Bankton and the active travel route would come forward swiftly.

Councillor McMillan commented positively on the future of the new school at Blindwells. He felt concerned about the comments from Prestonpans Community Council, and had taken these into account. He was delighted with Hargreaves' link with the Midlothian and East Lothian Chamber of Commerce and Federation of Small Businesses. He also praised the kirk session at Longniddry for their work towards establishing a community space for all religions, and the Battlefield Trust for their work to promote history and culture. He also highlighted the work undertaken by project officers liaising with Scotrail and the Bus Forum. He urged that modern living, which was not reliant on cars, be encouraged. He said the development would meet a housing need, and thought people would enjoy living in Blindwells with further development of community amenities.

Councillor McGinn said he welcomed many aspects of the application, and the piece of land coming back into community use. He was delighted that a TRA was already in place to keep pressure on developers, and to help form the new community. He was pleased to hear that the Memorandum of Understanding had been signed in relation to work at Bankton Roundabout, and said short-term upheaval would lead to long-term gain. He welcomed the progress being made at Blindwells.

The Convener commented that the application represented another example of the growth being delivered in East Lothian, and felt that the discussion had highlighted how difficult it was to bring such infrastructure together. He commented that the investment in East Lothian was helping the Scottish and UK economies, and said the Council needed governments to recognise and support this growth. He also commented that the units coming forward would be of significant help to the housing emergency.

The Convener moved to a roll call vote, and Committee members unanimously indicated their support for the application.

Decision

Planning Committee agreed that approval of matters in conditions of planning permission 21/01580/PM for the erection of 96 houses and 39 flats and associated works 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 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 buildings 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 Other than in exceptional circumstances where the layout or particular building type does not permit, the approved residential units shall be orientated to face the street. Notwithstanding that shown on the docketed site plan where a building is located on a corner of more than one street, it shall have enhanced gable(s) to ensure it has an active elevation to each street it faces;

Reason:

In the interests of ensuring active frontages and to enhance character and appearance of the area.

- 4 Notwithstanding that which is stated on the drawings docketed to this planning permission, a detailed specification of all external finishes of the houses and flatted blocks of the proposed development 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 flatted blocks shall be in accordance with a co-ordinated scheme of materials and colours that shall be submitted to and approved in advance by the Planning Authority. This co-ordinated scheme shall in detail promote render as the predominant finish to the walls of the buildings, 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. All such materials used in the construction of the houses and flatted blocks 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.

- 5 Notwithstanding that shown on the drawings docketed to this approval of matters, all semi private and defensible spaces in front of or to the side of the residential units hereby approved and to the side of parking courtyards shall be enclosed by walls/hedges/fences/ or railings to define areas of private space from public space.

Details of the form and appearance of all boundary treatments, including 1.8m high fences within the rear gardens of the residential units, shall be submitted to and approved by the Planning Authority prior to the occupation of the first house.

A timetable for the provision of those boundary treatments shall be submitted to and approved in advance by the Planning Authority and 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 appropriate boundary enclosures and in the interest of safeguarding the privacy and amenity of future residents of the development.

- 6 The development shall comply with the following transportation requirements:

(i) all adoptable footpaths shall be 2m wide;

(ii) 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;

(iii) within private parking areas, the minimum dimensions of a single parking space shall be 2.5 metres by 5 metres. All visitor parking spaces within these areas shall be clearly marked for visitors with the remaining private parking spaces allocated to individual dwellings;

(iv) all prospectively adoptable parking bays (i.e. that will form part of the public road) shall have minimum dimensions of 2.5 metres by 6 metres. This can be reduced to a minimum length of 5 metres on the proviso that there is adequate road space to manoeuvre in adjacent to the parking bay;

(v) Vehicle access to private parking areas shall be via a reinforced footway crossing and have a minimum width of 5.5m over the first 10m to enable adequate two movement of vehicles;

(vi) a Travel Information Pack with information for residents to encourage use of sustainable modes of transport such as trains, buses, cycling and walking shall be submitted to and approved by the Planning Authority prior to construction commencing. The Travel Information Pack will 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;

(vii) Prior to commencement of development, a Quality Audit to independently assess walking, cycling, access and road safety aspects within and around the development should be submitted and approved by the planning authority. This will be reviewed after construction is substantially complete and the developer required to make good any issues.

(viii) Prior to the commencement of development details of all electric vehicle charging points and required infrastructure, along with a timetable for provision, shall be submitted to and approved in writing by the Planning Authority. One electric vehicle charging point will be required for each residential dwelling.

(ix) a Road User Safety Audit to independently assess walking, cycling, access and road safety aspects within and around the development should be submitted and approved by the planning authority prior to construction commencing. This will be reviewed after construction is substantially complete and the developer required to make good any issues.

(x) submission for approval of a Construction Method Statement prior to commencement of any development to provide details of mitigation measures to be implemented during construction works to control noise, dust, construction traffic (including parking, routes to/from site and delivery times) and hours of construction work. Construction of the site shall thereafter be carried out in accordance with the Construction Method Statement so approved.

The housing development shall thereafter be carried out in accordance with the details so approved unless otherwise agreed in writing with the Planning Authority.

Reason:

In the interests of road and pedestrian safety.

- 7 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 and 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 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 bicycle parking in the interests of road safety.

- 8 No development shall be commenced on site unless and until written evidence that a contract has been entered into for the provision as affordable housing of 42 of the residential units hereby approved has been submitted to and agreed by the Planning Authority.

Reason:

In order to ensure that 42 of the residential units hereby approved are operated as affordable housing and that the development is therefore compliant with Policy HOU3 of the adopted East Lothian Local Development Plan 2018.

- 9 All planting, seeding or turfing comprised in the details of landscaping on docketed drawing Landscape Layout no. 2373/01 Rev C shall be carried out in accordance with a timetable that shall be submitted to and approved by the Planning Authority prior to the commencement of development.

Any trees or plants comprised in the details of landscaping 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.

The design of all landscaping must be carried out in conjunction with the design and positioning of all services, and sufficient space must be made available to accommodate the full establishment of all landscaping work without impacting on any services.

All the new planting shall be maintained in accordance with the maintenance and management programme as detailed in the docketed Report no. 5398-OOB-XX-RP-RP-L-0001_P02 titled 'Landscape and Habitat Management Plan' dated September 2022 by OOB Ltd.

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.

- 10 Prior to the commencement of development details of the bin storage facilities for the flatted buildings hereby approved shall be submitted to and approved in advance by the Planning Authority. Prior to the occupation of any of the flats the bin storage facilities shall have been formed in accordance with the approved details and made available for use. Thereafter, the storage facilities shall be retained in use solely 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.

- 11 Prior to commencement of development, a Factoring Plan shall be submitted clearly indicating the different responsibilities for long term maintenance including: private and shared private areas, factored areas, and prospectively adoptable roads.

Reason

In order to ensure the implementation and maintenance of a scheme to enhance the appearance of the development in the interests of the amenity of the area.

- 12 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 prior to the commencement of development. The Construction Method Statement shall recommend mitigation measures to control noise, dust, construction traffic (including routes to/from site) and shall include hours of construction work and routing of traffic. The Construction Method Statement shall also provide details of utility/service drainage connections.

The Construction Method Statement shall also make recommendations in respect of how building materials and waste will be safely stored and managed on site.

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.

- 13 To ensure that the site is clear of contamination, the following requirements shall be complied with:

Part 1

Prior to any works beginning on site an updated Gas Risk Assessment should be submitted to the Planning Authority for approval.

Following this (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 Part 2A 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 2

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 occupation of the new builds.

Part 3

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 further Site Investigation and subsequent Risk Assessment may have to be carried out, if requested by the Planning Authority. It may also be necessary to modify the Remediation Strategy should the reporting determine that additional measures are required. It should also be noted that a Verification Report would also need to be submitted confirming the satisfactory completion of all 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 occupation of the new builds

Reason

To ensure that the site is clear of contamination prior to the occupation of any of the buildings.

- 14 Prior to the commencement of development details shall be submitted to and approved by the Planning Authority of overlying subsoil/topsoil to be provided to the front and back gardens of the houses hereby approved on a plot by plot basis and on all soft landscaping areas to ensure the provision of a layer of subsoil/topsoil of at least 600 mm in thickness. Thereafter the subsoil/topsoil shall be provided in accordance with the details so approved unless otherwise agreed in writing by the Planning Authority.

Confirmatory testing for both subsoil and topsoil materials is to be included within the Remediation Strategies being produced for the development site, with validation of these results being included within subsequent Verification Reports.

Reason

To ensure the provision of a suitable growing medium for garden areas and other areas of soft landscaping.

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

(a) Housing completions in any one year (with a year being defined as being from 1st April to 31st March the following year) shall not exceed the following completion rates:

Year 2021/22	-	120 residential units
Year 2022/23	-	130 residential units
Year 2023/24	-	110 residential units
Year 2024/25	-	120 residential units
Year 2025/26	-	120 residential units
Year 2026/27	-	120 residential units
Year 2027/28	-	120 residential units
Year 2028/29	-	120 residential units
Year 2029/30	-	120 residential units
Year 2030/31	-	150 residential units
Year 2031/32	-	150 residential units
Year 2032/33	-	150 residential units
Year 2033/34	-	70 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 2036 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.

- 16 Unless otherwise agreed with the Planning Authority, after consultation with Transport Scotland, no part of the proposed development shall be occupied prior to the implementation and completion of the works to upgrade the Bankton Interchange to the satisfaction of the Planning Authority and Transport Scotland.

Reason:

To mitigate the adverse impact of the development on the safe and efficient operation of the trunk road network.

- 17 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.

- 18 Unless otherwise agreed by the Planning Authority, no residential unit shall be occupied unless and until measures within the docketed Waterman 'Blindwells Plot 4A Drainage Strategy and Flood Risk Assessment' July 2024 have been implemented to the satisfaction of the Planning Authority following consultations with SEPA, to accord with the Drainage Strategy approved within planning permission in principle (Ref: 21/01580/PPM) and any variations to that consent.

Reason:

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

- 19 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.

- 20 Prior to commencement of development, details of measures to protect and enhance biodiversity on the application site shall be submitted to and approved by the Planning Authority. The measures as so approved shall be implemented prior to any use being made of the agricultural building hereby approved and shall thereafter be retained, unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of protecting and enhancing biodiversity on the site and within the surrounding area.

Sederunt: *Councillor McLeod left the meeting.*

3. PLANNING APPLICATION NO. 24/00931/AMM: APPROVAL OF MATTERS SPECIFIED IN CONDITIONS 1(A) TO (I), 1(L), 1(M), 5, AND 27 OF PLANNING PERMISSION 21/01580/PM – ERECTION OF 197 HOUSES, 20 FLATS, AND ASSOCIATED WORKS, BLINDWELLS PLOTS 6A AND 6B

A report had been submitted in relation to planning application no. 24/00931/AMM. David Taylor, Planner, presented the report, highlighting the salient points. The report recommendation was to grant consent.

Responding to a question from Councillor Yorkston, Rebecca Pringle, Team Manager – Housing Strategy, advised that funding around affordable housing continued to be tight. She explained that this specific site had not been allocated within the funding for the following year, as there was only one year's funding in advance from the Scottish Government. She advised that this was an East Lothian Council development, which would be likely to be front funded through the Housing Revenue Account (HRA), and would come into the programme in future years. She advised that resource had just been provided on planning assumptions for future years, and this would continue to be monitored throughout the programme.

The Convener asked how the Council could ensure that residents would not be impacted by areas on site which still had to be developed. Mr Taylor advised that areas under development would still be subject to site safety rules, and a Construction Management Plan was in place to monitor the movement of construction traffic to and from the site.

Referring to another Bellway site located in Elphinstone, Councillor McGinn sought reassurance that such issues would not be experienced on this site. Henry Harper, representing Bellway, gave reassurance that the necessary infrastructure would be built as the site was developed, so there should be no similar issues.

Councillor Yorkston, local member, looked forward to the development being delivered, and was pleased to see the number of smaller properties coming forward. He thought that the overall masterplan was an exciting development, and would support the application. Councillor Gilbert, also a local member, echoed these comments.

Councillor McGinn expressed that he was happy to support the application, and reiterated his previous comments about the Bankton Roundabout and overall connectivity of the site. He also thought that representation in the area of Preston Seton Gosford must be considered in light of the significant population growth. He commented that the development would support

the housing emergency. He also made comment on the removal of the requirement for local connection, as this had caused real issue for the number of people from outwith the area presenting as homeless in East Lothian; he wanted Scottish ministers to look at this issue. He would support the development.

The Convener echoed the comments of his colleagues. He commented that people currently living in East Lothian must be supported to find a home. He was supportive of growth, but highlighted the need to carefully manage growth to be able to deliver appropriate infrastructure in a timely manner. He noted that there was still more to be done in the restoration of the site, and he hoped that developers would keep disruption to existing residents to a minimum.

The Convener moved to a roll call vote, and Committee members unanimously indicated their support for the application.

Decision

Planning Committee agreed that approval of matters specified in conditions 1(a) to (i), 1(l), 1(m), 5 and 27 of planning permission 21/01580/PM for the erection of 197 houses, 20 flats and associated works 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 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 buildings 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 Notwithstanding that which is stated on the drawings docketed to this planning permission, a detailed specification of all external finishes of the houses and flatted block of the proposed development 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 flatted block shall be in accordance with a co-ordinated scheme of materials and colours that shall be submitted to and approved in advance by the Planning Authority. This co-ordinated scheme 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. All such materials used in the construction of the houses and flats 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.

- 4 Other than in exceptional circumstances where the layout or particular building type does not permit, the approved residential units shall be orientated to face the street. Notwithstanding that shown on the docketed site plan where a building is located on a corner of more than one street, it shall have enhanced gable(s) to ensure it has an active elevation to each street it faces;

Reason:

In the interests of ensuring active frontages and to enhance character and appearance of the area.

- 5 Notwithstanding that shown on the drawings docketed to this approval of matters, all semi private and defensible spaces in front of or to the side of the residential units hereby approved and to the side of parking courtyards shall be enclosed by walls/hedges/fences/ or railings to define areas of private space from public space.

Details of the form and appearance of all boundary treatments, including the 1.8m high fences within the rear gardens of the houses, shall be submitted to and approved by the Planning Authority prior to the occupation of the first house.

A timetable for the provision of those boundary treatments shall be submitted to and approved in advance by the Planning Authority and 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 appropriate boundary enclosures and in the interest of safeguarding the privacy and amenity of future residents of the development.

- 6 Prior to the commencement of development details of the bin storage facilities for the flatted building hereby approved shall be submitted to and approved in advance by the Planning Authority. Prior to the occupation of any of the flats the bin storage facilities shall have been formed in accordance with the approved details and made available for use. Thereafter, the storage facilities shall be retained in use solely 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.

- 7 To ensure that the site is clear of contamination, the following requirements shall be complied with:

*Prior to any works beginning on site (and where risks have been identified), a detailed Remediation Statement shall be produced and submitted for the prior approval of the Planning Authority. The Statement shall show how 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 and site management procedures. 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 Statement must be submitted to the Planning Authority for approval;

*Prior to the commencement of any of the new uses hereby approved, and following completion of the measures identified in the approved Remediation Statement, a Validation Report demonstrating the effectiveness of the remediation carried out shall be submitted to and approved by the Planning Authority.

*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 prior to the occupation of any of the buildings.

- 8 Prior to the commencement of development details shall be submitted to and approved by the Planning Authority of overlying subsoil/topsoil to be provided to the front and back gardens of the houses hereby approved on a plot by plot basis and on all soft landscaping areas to ensure the provision of a layer of subsoil/topsoil of at least 600 mm in thickness. Thereafter the subsoil/topsoil shall be provided in accordance with the details so approved unless otherwise agreed in writing by the Planning Authority.

Confirmatory testing for both subsoil and topsoil materials is to be included within the Remediation Strategies being produced for the development site, with validation of these results being included within subsequent Verification Reports.

Reason

To ensure the provision of a suitable growing medium for garden areas and other areas of soft landscaping.

- 9 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.

- 10 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.

- 11 Prior to the commencement of development confirmation from Scottish Water shall be provided that demonstrates that there is an available connection to the public sewer and that Scottish Water will accept waste from this development. If Scottish Water cannot accept foul drainage from this site, proposals for alternative arrangements should be provided, prior to the commencement of development and SEPA should be re-consulted.

Reason:

In the interests of ensuring that foul drainage from the site can be accommodated.

- 12 Prior to the occupation of the last residential unit hereby approved, the proposed access roads, parking spaces, and footpaths to serve them 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 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 and pedestrian safety.

- 13 No development shall be commenced on site unless and until written evidence that a contract has been entered into for the provision as affordable housing of 65 of the residential units hereby approved has been submitted to and agreed by the Planning Authority.

Reason:

In order to ensure that 65 of the residential units hereby approved are operated as affordable housing and that the development is therefore compliant with Policy HOU3 of the adopted East Lothian Local Development Plan 2018.

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

(a) Housing completions in any one year (with a year being defined as being from 1st April to 31st March the following year) shall not exceed the following completion rates:

Year 2021/22	-	120 residential units
Year 2022/23	-	130 residential units
Year 2023/24	-	110 residential units
Year 2024/25	-	120 residential units
Year 2025/26	-	120 residential units
Year 2026/27	-	120 residential units
Year 2027/28	-	120 residential units
Year 2028/29	-	120 residential units
Year 2029/30	-	120 residential units
Year 2030/31	-	150 residential units
Year 2031/32	-	150 residential units
Year 2032/33	-	150 residential units
Year 2033/34	-	70 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 2036 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.

- 15 Private driveways for the houses hereby approved shall have minimum dimensions of 6 metres by 3.3 metres. Double driveways shall have minimum dimensions of 6 metres width by 6 metres length or 3.3 metres width by 11 m length. All driveways shall be fully hard formed with a gradient no greater than 10%.

Reason

In the interests of road and pedestrian safety.

- 16 Prior to the occupation of any of the residential units hereby approved, the electric vehicle car charging units and infrastructure for them, as shown on docketed drawing no. BLINDWELLS-6/DL/001 rev F titled 'PROPOSED DEVELOPMENT LAYOUT', shall be installed and made operational for use, and thereafter shall be retained and maintained and be available for use.

Reason:

To minimise the environmental impact of the development.

- 17 Prior to the occupation of any of the residential units hereby approved a Residents Travel Pack with information for residents to encourage use of sustainable modes of transport such as trains, buses, cycling and walking shall be submitted to and approved by the Planning Authority. The Residents Travel Pack will 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.

- 18 Prior to the commencement of development, a Construction Method Statement which sets out how the impact of construction activity on the safety and amenity of the area will be mitigated shall be submitted to and approved by the Planning Authority.

The Construction Method Statement shall include details of:

- * Mitigation measures to control noise, dust, construction traffic (including routes to/from site and delivery times);
- * Hours of construction work; and
- * Routes for construction traffic

The Construction Method Statement shall also make recommendations in respect of how building materials and waste will be safely stored and managed on site.

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 and the wheel washing facilities or any alternative facility so approved shall be provided and maintained in working order during the period of construction operations at the site.

Reason:

To minimise the impact of construction traffic in the interests of road and pedestrian safety in the locality.

- 19 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 interest of road safety.

- 20 The areas of open space amenity land detailed on drawings docketed to this approval shall be laid out and available for use within a period of 12 months following the first occupation of any of the residential units hereby approved.

Thereafter those areas of land shall be retained for such purposes and shall not be adapted or used for other purposes without the prior written approval of the Planning Authority.

Reason:

To ensure the satisfactory laying out of all areas of open space in the interest of visual and residential amenity.

- 21 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 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. 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:

To ensure establishment of a landscape scheme that improves the amenity of the area

- 22 The maintenance of all communal landscape areas, and hedges to private front gardens, as defined on the approved plans shall be adopted and maintained 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.

Reason:

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

- 23 Unless otherwise agreed with the Planning Authority, after consultation with Transport Scotland, no part of the proposed development shall be occupied prior to the implementation and completion of the works to upgrade the Bankton Interchange to the satisfaction of the Planning Authority and Transport Scotland.

Reason:

To mitigate the adverse impact of the development on the safe and efficient operation of the trunk road network.

4. PLANNING APPLICATION NO. 23/01052/AMM: APPROVAL OF MATTERS SPECIFIED IN CONDITIONS 1A, 1B, 1D, 1E, 1F, 1I, 1J, 1O, 2III, 3, 4, 5A, 7, AND 27 OF PLANNING PERMISSION IN PRINCIPLE 14/00903/PPM – ERECTION OF 29 HOUSES, 46 FLATS, CHILDREN'S HOME, AND ASSOCIATED WORKS, SITE WEST OF MASONS WAY, WALLYFORD

A report had been submitted in relation to planning application no. 23/01052/AMM. Keith Dingwall, Head of Development and Chief Planning Officer, presented the report, highlighting the salient points. The report recommendation was to grant consent.

Councillor McGinn, local member, welcomed the application, and particularly the opportunity to bring forward housing for local people. He hoped that developers would engage with officers and young people in the development of the children's home, and welcomed the small nature of that particular project.

Councillor McIntosh commented positively on the small size of the proposed children's home. She thought the site had great potential because it was well connected and was close to playing fields. She hoped that opportunities for co-design with young people would be explored.

Councillor McMillan commented that the high level of detail behind the officer's recommendation made consideration of this application, and the others heard at the meeting, relatively easy. He welcomed the application and the benefits to the community.

The Convener discussed the complexity of the overall site, including 1450 new houses and primary and secondary schools, and the significant amount of work required of all services of the Council. He welcomed the application and thanked the officers for their work towards bringing the development forward. He also highlighted the significant cost of growth to the Council, and pointed out that the level of growth could not be sustained without more support from the Scottish and UK Governments.

The Convener moved to a roll call vote, and Committee members unanimously indicated their support for the application.

Decision

Planning Committee agreed that Approval of Matters Consent 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 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 Prior to the occupation of any of the residential units hereby approved a Residents Travel Pack with information for residents to encourage use of sustainable modes of transport such as trains, buses, cycling and walking shall be submitted to and approved by the Planning Authority. The Residents Travel Pack will 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.

- 4 Prior to the commencement of development, a Construction Method Statement which sets out how the impact of construction activity on the safety and amenity of the area will be mitigated shall be submitted to and approved by the Planning Authority.

The Construction Method Statement shall include details of:

- * Mitigation measures to control noise, dust, construction traffic (including routes to/from site and delivery times).
- * Hours of construction work
- * Routes for construction traffic
- * Wheel washing facilities or alternative facilities to prevent deleterious materials being carried onto the public road on vehicle tyres.

The Construction Method Statement shall also make recommendations in respect of how building materials and waste will be safely stored and managed on site.

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 and the wheel washing facilities or any alternative facility so approved shall be provided and maintained in working order during the period of construction operations at the site.

Reason:

To minimise the impact of construction traffic in the interests of road and pedestrian safety in the locality.

- 5 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.

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/children's home use of the site 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.

- 6 All the open space recreation areas detailed on the docketed drawings, including all of the benches proposed to be installed in them, shall be available for use prior to the occupation of the last residential unit on the site. The open space recreation areas and benches, when provided, shall be used and retained 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.

- 7 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:

- o Phase I - A preliminary investigation incorporating a desk study, site reconnaissance, development of a conceptual model and an initial risk assessment.

- o Phase II - Incorporating a site survey (ground investigation and sample analysis) and risk evaluation. It is required if the Phase I investigation has indicated that the site is potentially contaminated and the degree and nature of the contamination warrants further investigation.

- o Phase III - Where risks are identified, a Remediation Strategy should be produced detailing and quantifying any works which must be undertaken in order to reduce the risks to acceptable levels.

Should remedial works be required then, prior to any residential units being occupied, 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 Strategy.

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.

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.

- 8 Prior to the commencement of the development hereby approved, a report, based on an on-site assessment, of the floodlighting on the adjoining sports pitches at Wallyford Learning Campus, shall be submitted to and approved by the Planning Authority. The details to be submitted in the report shall demonstrate compliance with the following requirement:

(i) Light Trespass (onto windows) of the residential properties to be formed at plots 40 and 41 of the development hereby approved, measured as Vertical Illuminance in Lux, (Ev), shall not exceed 10 between the hours of 0700-2300 and shall not exceed 2 between the hours of 2300-0700.

A Light Spill iso contour plot based on the results of the on-site assessment shall be provided to ensure the above requirement can be met.

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

Reason:

In the interests of the amenity of the future occupants of plots 40 and 41 of the site.

- 9 Prior to the commencement of the development hereby approved, a Noise Impact Assessment Report assessing impacts associated with the Air Source Heat Pumps (ASHP's) and the Exhaust Air Heat Pumps Noise (EAHP's) hereby approved, including cumulative impacts of a number of Heat Pumps operating simultaneously, shall be submitted to and approved by the Planning Authority. The details to be submitted in the report shall demonstrate compliance with the following requirement:
- (i) Noise associated with the operation of the ASHP's and ESHP's, including cumulative impacts, shall not exceed Noise Rating curve NR25 at any octave band frequency within any residential property. All measurements to be made with windows open at least 50mm.
- Reason:
To safeguard the amenity of the occupants of residential properties.
- 10 Details of measures to protect and enhance biodiversity on the site shall be submitted to and approved by the Planning Authority. The measures as so approved shall be implemented prior to any use being made of the development hereby approved, and shall thereafter be retained unless otherwise approved in writing by the Planning Authority.
- Reason:
In the interests of protecting and enhancing biodiversity within the site.
- 11 The actions to be taken to reduce the carbon emissions from the building and the provisions for electric vehicle charging all as detailed in the 'Energy Compliance Report', the 'Energy Strategy' Report and in the proposed site plan docketed to this approval of matters consent 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. Unless otherwise approved by the Planning Authority Type 2 electric vehicle chargers will be provided.
- Reason:
To minimise the environmental impact of the development.
- 12 Notwithstanding that which is stated on the drawings docketed to this approval of matters specified in conditions permission a detailed specification of all external finishes of the houses and flats hereby approved including a sample(s) of the brick(s) to be used in the flatted buildings shall be submitted to and approved by the Planning Authority prior to the use of the finishes in the development. All materials used in the construction of the houses and flats 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.
- 13 Prior to the occupation of any of the houses, flats and children's home hereby approved, a timetable for the provision of all boundary treatments, including the erection of the 1.8 metre high boundary enclosures for the rear gardens of the houses 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.
- 14 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 'Proposed Landscape Masterplan Layout' drawing numbered 1669-HLA-XX-XX-DR-L-90-001-F, 'Landscape Maintenance and Specification' drawing numbered 1669-HLA-XX-XX-DR-L-90-002, 'Proposed Landscape Softworks Layout 1/2' drawing numbered 1669-HLA-XX-XX-DR-L-

90-003, and 'Proposed Landscape Softworks Layout 2/2' drawing numbered 1669-HLA-XX-XX-DR-L-90-004.

The scheme shall provide details of: 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. In addition to that shown, the scheme shall include hedge / shrub planting to all front gardens; scrub planting to the roadside of the woodland to the north and east boundaries; hedge planting to the eastern boundary of the children's home.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with the details so approved, including the timetable for implementation. All planting shall be established and maintained in accordance with the details on the approved drawings. Unless otherwise approved in writing by the Planning Authority, hedge planting to the rear garden boundaries shall generally be maintained at a height between 1.5 and 1.8m and front garden hedges shall be maintained at a minimum of 900mm in height. 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. All existing and new planting comprised in the scheme of landscaping shall be retained and maintained to accord with the details of the approved details of landscaping 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.

Signed

.....
Councillor Norman Hampshire
Convener of the Planning Committee

Local Review Body minutes for noting

2

Planning Committee is asked to note the minutes from the following meetings of the Local Review Body (Planning):

- 30 May 2024:
https://www.eastlothian.gov.uk/meetings/meeting/17132/local_review_body_planning
- 22 August 2024:
https://www.eastlothian.gov.uk/meetings/meeting/17277/local_review_body_planning
- 19 September 2024:
https://www.eastlothian.gov.uk/meetings/meeting/17278/local_review_body_planning
- 31 October 2024:
https://www.eastlothian.gov.uk/meetings/meeting/17286/local_review_body_planning
- 21 November 2024:
https://www.eastlothian.gov.uk/meetings/meeting/17287/local_review_body_planning
- 23 January 2025:
https://www.eastlothian.gov.uk/meetings/meeting/17288/local_review_body_planning
- 27 February 2025:
https://www.eastlothian.gov.uk/meetings/meeting/17289/local_review_body_planning

REPORT TO: Planning Committee

MEETING DATE: 25 June 2025

BY: Chief Planning Officer

SUBJECT: Further Report of Handling on Planning Application no. 24/01050/P
– Erection of 14 flats and associated works at 34 Dirleton Avenue,
North Berwick

3

1 PURPOSE

- 1.1 Planning application reference 24/01050/P for the erection of 14 flats and associated works at 34 Dirleton Avenue, North Berwick and conservation area consent application reference 24/01051/CAC for the demolition of the existing building at 34 Dirleton Avenue, North Berwick, both submitted by Baseline Developments Ltd, were reported to the Planning Committee on 4 March 2025.
- 1.2 The Planning Committee indicated at that meeting their support to overturn the officer's decision to refuse conservation area consent and planning permission and that both applications should be continued to allow a bat survey to be undertaken to investigate whether there is any evidence of bats within the existing building of 34 Dirleton Avenue, North Berwick.
- 1.3 This further report sets out the applicant's response to this matter and makes recommendations to the Planning Committee.

2 RECOMMENDATIONS

- 2.1 In relation to planning application 24/01050/P that Planning Committee agree to grant planning permission subject to:
 1. The conditions and Section 75 Agreements set below in this Further Report of Handling for application 24/01050/P reported to the Planning Committee on 25th June 2025; and
 2. Notification to Scottish Ministers under the Planning (Listed Buildings and Conservation Areas) (Notification of Applications) Direction 2015 regarding Planning Committees decision to grant conservation area consent 24/01051/CAC against the recommendation of Historic Environment Scotland and Council Officers.

3 BACKGROUND

- 3.1 Reports were submitted to the Planning Committee on 4 March 2025 recommending that planning permission be refused for the development proposed in planning application 24/01050/P and that conservation area consent 24/01051/CAC be refused for the reasons set out in those respective reports of handling. Councillor Hampshire asked the applicant whether they would be willing carry out a bat survey at the application site, to which the applicant subsequently agreed. Mr Dingwall added that as bats are a protected species, the bat survey had to be carried out before conservation area consent and planning permission could be granted, were those to be the decisions. Therefore, Committee members were required to take a vote on the current proposal; if members voted against the officer's recommendation, then Mr Dingwall recommended that the application be continued to allow the bat survey to be undertaken. Following the bat survey, a report would be brought to the Planning Committee, at which point, members would agree whether to grant conservation area consent and planning permission.
- 3.2 Historic Environment Scotland (HES) advised in their capacity as a statutory consultee on the application for conservation area consent that "34 Dirleton Avenue is an architecturally significant building, built c1900, and highly visible on the main street that leads into the town, in the western part of the conservation area. It is a large, two storeys plus attic, sandstone detached villa with slated gambrel roof containing dormer windows. The exterior stonework is a mix of blonde and red sandstone and contains many architectural details from this period, such as bay windows, stone balustraded parapets, chimney stacks, porch and a circular corner turret or bow designed to address the corner crossroads. This last point is mentioned in the recent Buildings of Scotland for Lothian (2024) with 'two prominent stone villas where Hamilton and South Hamilton Road cross, both with circular bows at their corners'. As such, Historic Environment Scotland objected to the proposed demolition of the building at 34 Dirleton Avenue, North Berwick.

REPORT ON ISSUES RAISED

- 3.3 All bat species were designated as European Protected Species by Article 12 of the European Habitats Directive 92/43/EEC (1992). This was enshrined in Scots Law by The Conservation (Natural Habitats etc) Regulations (1994). As such, there is a legal requirement for the applicant to undertake bat surveys to ensure the proposed development would not disrupt, harm, or kill any bat and/or disrupt, harm or destroy any bat roosts.
- 3.4 On 8 April 2025, the agent submitted a stage 1 bat survey which was undertaken at the application site, as well as a desk study of the site and surrounding habitat. The stage 1 bat survey investigated the roost potential of the buildings and potential of the surrounding habitat to support bats. The stage 1 survey notes the following observations were made:
- o 5 bat species were recorded within 5km of the site.
 - o The surrounding habitat was found to have moderate suitability to be used by bats for roosting, foraging, and commuting.
 - o The trees and outbuildings have negligible suitability to be used by roosting bats.
 - o The roof had several areas of missing, slipped and raised slates increasing the potential for roost sites.
 - o No direct evidence of bats was found during the stage 1 survey.

- o The main building was found to have moderate suitability for use by roosting bats.
 - o A stage 2 bat survey is recommended.
- 3.5 Subsequent to receipt of the above stage 1 bat survey, the Council's Biodiversity Officer was consulted, and she advised the findings of the report were that the building has a number of features particularly on the south side which deem the building to be of moderate suitability for bats. Therefore, the conclusion reached by the ecologist was that further surveys were required.
- 3.6 The Council's Biodiversity Officer advised a building such as 34 Dirleton Avenue would require two evening surveys, undertaken three weeks apart. The timeframes for stage 2 (or activity or presence/absence) surveys are such that they must be conducted between 1 May and 30 September (at least one survey must take place before end of August). As such, the applicant was advised that a stage 2 bat survey would require to be undertaken in line with the above criteria and submitted to the Planning Authority.
- 3.7 On 26 May, the agent submitted a stage 2 bat survey which was undertaken at the application site in line with current national guidelines and local planning policy. The survey consisted of two evening surveys, based on the roost potential of the building and the surrounding habitat.
- 3.8 During the stage 2 survey the following observations were made:
- o Two species of bats were recorded in flight at the site.
 - o No bat roosts were identified within the structure of the building.
 - o Moderate levels of bat activity were noted.
- 3.9 The report concluded that no further survey efforts regarding bats are necessary.
- 3.10 Subsequent to receipt of the stage 2 survey, the Council's Biodiversity Officer was re-consulted, and she advised that there is no further action required regarding bats, satisfied that there would be no harmful impact on bats from the development proposed in either application.

CONCLUSION

- 3.11 This Further Report sets out the findings of the stage 1 and stage 2 bat surveys undertaken at the application site in response to the requirement to undertake bat surveys in line with Policies 3 (Biodiversity) and 4 (Natural Places) of NPF4 and Policy NH5 (Biodiversity and Geodiversity Interests, including Nationally Protected Species) of the adopted East Lothian Local Development Plan 2018, subsequent to the decision by members at the Planning Committee meeting of 4 March 2025. This further report also concludes the Council's Biodiversity Officer is content that no further action required regarding bats in respect to this planning application and that the proposed development would not kill, harm, or disrupt any bats or bat roosts within the application site. The Council's Biodiversity Officer therefore raises no objection to the bat surveys submitted.
- 3.12 As HES objected to the conservation area consent application and members are minded to grant consent contrary to HES and Council Officer's recommendations, then East Lothian Council, as Planning Authority are required to notify Scottish Ministers under the Planning (Listed Buildings and Conservation Areas) (Notification of Applications) Direction 2015.

3.13 RECOMMENDATIONS

In relation to planning application 24/01050/P that Planning Committee agree to grant planning permission subject to:

1. The conditions and Section 75 Agreements set below in this Further Report of Handling for application 24/01050/P reported to the Planning Committee on 25th June 2025; and
2. Notification to Scottish Ministers under the Planning (Listed Buildings and Conservation Areas) (Notification of Applications) Direction 2015 regarding Planning Committees decision to grant conservation area consent 24/01051/CAC against the recommendation of Historic Environment Scotland and Council Officers.

CONDITIONS:

In relation to planning application 24/01050/P that Planning Committee agree to grant planning permission 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. 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:

- o the position within the application site of all elements of the proposed development and position of adjoining land and buildings;
- o 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 Benchmark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and
- o the ridge height of the building 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. Prior to their use on site, full details (including samples where requested) of materials and finishes to be used to externally clad the roof and walls of the flatted building, for the windows, doors and any ground surfacing on the site shall be submitted to and approved in writing by the Planning Authority.

The development shall thereafter be implemented in accordance with the approved details.

Reason:

To allow the consideration of details yet to be submitted and control the materials used on the site in the interest on visual amenity.

4. Part 1

Prior to any site development works a suitable Geo-Environmental Assessment must be carried out, with the Report(s) being made available to the Planning Authority for approval. It should include details of the following:

- o A Preliminary Investigation incorporating a Phase I Desk Study (including site reconnaissance, development of a conceptual model and an initial risk assessment);
- o Following demolition of the building 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.

Part 2

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 Part 2A 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

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 occupation of the new development.

Part 4

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

5. Notwithstanding that which is shown on the drawings docketed to this grant of planning permission, a drainage layout drawing(s) and a Drainage Impact Assessment/Surface Water Management Plan which outlines the full drainage details for the site in addition to any drainage calculations/attenuation calculations for the site shall be submitted to and approved by the Planning Authority prior to commencement of any part of the development hereby approved. The drainage details, layout drawing(s) and the Drainage Impact Assessment/Surface Water Management Plan shall thereafter be fully implemented in accordance with the details 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.

6. Prior to commencement of development a visibility splay of 2 metres by 20 metres in both directions shall be provided and maintained at the proposed site access junction with the public

road of Dirlerton Avenue so that no obstruction lies within it above a height of 1.05 metres measured from the adjacent carriageway surface.

Reason:

In the interests of road safety.

7. The development shall comply with the following transportation requirements:

- (i) All roads and paths shall conform to East Lothian Council Standards for Development Roads; and
- (ii) Vehicle accesses to private parking areas shall be via a reinforced footway crossing. Within private parking areas, the minimum dimensions of a single parking space shall be 2.5 metres by 5 metres;

Reason:

In the interests of road safety.

8. Prior to the occupation of the any residential unit hereby approved, the proposed access road, parking spaces, and footpaths to serve them 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 hereby approved 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 and pedestrian safety.

9. Prior to the occupation of any of the residential units hereby approved, each of the approved off-street parking spaces shall be supplied and fitted with an operational EV charging unit for the use of the flatted building. Those EV charging units shall be installed and made operational for use, and thereafter shall be retained and maintained and be available for use.

Reason:

To minimise the environmental impact of the development.

10. Notwithstanding that which is shown on the drawings docketed to this grant of planning permission, there shall be no gates installed within either the vehicular or pedestrian access to the site, hereby approved.

Reason:

In the interests of road safety.

11. 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. It shall also include a timetable for its implementation, details of the measures to be provided, the system of management, monitoring, review, reporting and duration of the Pack.

Reason:

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

12. Prior to the occupation of any of the flats, hereby approved the bin storage facilities, as shown on the docketed drawing number DETAIL-102 shall have been formed in accordance with the approved details and made available for use. Thereafter, the storage facilities shall be retained in use solely 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.

13. Following the occupation of the flatted building or completion of the development hereby approved, whichever is the sooner all planting, seeding or turfing comprised in the approved details of landscaping as shown on drawing number SITE-104 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 drawing. Any trees, or hedges 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 plan 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 establishment of a landscape scheme that improves the amenity of the area.

14. All trees detailed on the docketed drawings that are to be retained on the application site shall not be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the previous written consent of the Planning Authority. Any tree to be retained on site which dies, is removed or becomes seriously damaged or diseased within ten years of completion of the development shall be replaced in the next planting season with another of similar species and final size, unless the Planning Authority gives written consent to any variation.

Reason

To retain the visual amenity value afforded by the trees within the site.

15. Prior to the commencement of development, details of measures to protect and enhance biodiversity on the application site shall be submitted to and approved by the Planning Authority. The measures as so approved shall be implemented prior to any occupation of the flatted building and shall thereafter be retained, unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of protecting and enhancing biodiversity on the site and within the surrounding area.

16. 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. 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.

And

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) 25% affordable housing provision (4 flats); and
- (ii) financial contributions towards:
 - a) Additional school accommodation at North Berwick High School for the sum of £94,262 indexed; and
 - b) Play provision to enhance and upgrade local play area facilities in the vicinity of this site which would be impacted by the additional usage arising as a direct result of the proposed development for a sum of £566 per dwelling index linked.

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 provision of affordable housing, a lack of financial contributions towards additional school accommodation at North Berwick High School and a lack of financial contribution to enhance and upgrade local play are facilities, contrary to, as applicable, Policy 18 of NPF4, Policies DEL1, HOU3, HOU4, T32 and Proposals, CF1 and ED7 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 Secondary Education and Play 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 Play Provision Contribution will be increased from Q3 2017 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.

In relation to planning application 24/01050/P, that Planning Committee agree to grant planning permission subject to:

1. The conditions set out in this Further Report of Handling for application 24/01050/P reported to the Planning Committee on 4th March 2025

4 POLICY IMPLICATIONS

4.1 None.

5 INTEGRATED IMPACT ASSESSMENT

5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

6 RESOURCE IMPLICATIONS

6.1 Financial - None.

6.2 Personnel - None.

6.3 Other - None.

7 BACKGROUND PAPERS

Appendix A - Report of Handling for application 24/01050/P, reported to the Planning Committee on 4th March 2025

Appendix B - Stage 1 Bat Survey (David Dodds Associates Limited, March 2025)

Appendix C - Stage 2 Bat Survey (David Dodds Associated Limited, May 2025)

AUTHOR'S NAME	James Allan
DESIGNATION	Planner
CONTACT INFORMATION	Jallan@eastlothian.gov.uk 01620 827777
DATE	12 June 2025



REPORT TO: Planning Committee

MEETING DATE: 4 March 2025

BY: Executive Director for Place

SUBJECT: Application for Planning Permission for Consideration

***Note:** This application has been called off the Scheme of Delegation List by Councillor McFarlane for the following reason: Given the affordable housing crisis, this application warrants a discussion at Committee.*

Application No. **24/01050/P**

Proposal Erection of 14 flats and associated works

Location **34 Dirleton Avenue**
 North Berwick
 EH39 4BH

Applicant Caledonian Heritable Ltd

Per Baseline Developments Ltd

RECOMMENDATION Application Refused

REPORT OF HANDLING

APPLICATION SITE

The property to which this application relates is a two storey with attic and a lower ground level, detached building. The applicant states the building has been vacant for some 4 years. The building is situated on the north side of Dirleton Avenue and occupies a prominent corner plot between Dirleton Avenue and Hamilton Road. The building is situated within a predominantly residential area as defined by Policy RCA1 of the adopted East Lothian Local Development Plan 2018. The building is situated within the North Berwick Conservation but is not listed.

The property is bounded to the north and west by neighbouring residential properties, to the east by Hamilton Road and further beyond by neighbouring residential properties and to the south by Dirleton Avenue and further beyond by neighbouring residential properties.

PLANNING HISTORY

Planning permission (ref: 06/00303/FUL) was sought in March 2006 for the change of use of the former hotel building to a staff hostel for the Marine Hotel. That application was withdrawn in June 2006 without it being determined.

In August 2023 and July 2024, the applicant sought pre-application advice with East Lothian Council, as Planning Authority on a proposed scheme of development to alter and extend the existing building to form 14 residential units. The advice given by the Planning Service on those proposals was the proposed extensions would appear incongruous in their visual relationship with the architectural style of the building and the built form of the area, would not be in keeping with the size, scale, form, massing and proportions of the existing building and would appear as incongruous and unsympathetic additions to the existing building.

The advice also was that the demolition of the existing building on the site would unlikely to be supported as it contributes positively to the character and appearance of the North Berwick Conservation Area, and if demolition and a new build development was proposed, it would need to demonstrate that the requirements of Policy 30c of NPF4 and Policy TOUR4 of the East Lothian Local Development could be met with regard to the loss of the authorised hotel use of the site.

PROPOSAL

Planning permission is now sought for the erection of a four-storey, detached flatted building which would contain 14 residential units.

Planning permission is also sought for the following associated works:

- (i) The re-positioning of the existing vehicular and pedestrian access with associated gates to the eastern boundary of the site;
- (ii) The formation of a new pedestrian access with associated gate to the eastern boundary of the site;
- (iii) The formation of 14 parking spaces;
- (iv) The formation of paths and associated steps and hardstanding within the application site;
- (v) The erection of fencing and formation of hardstanding to form a refuse compound within the northeast corner of the application site; and
- (vii) The erection of three cycle shelters within the eastern component of the application site.

Through separate application 24/01051/CAC conservation area consent is sought for the demolition of the building. That application stands to be determined on its own merits.

The proposed four storey detached flatted building would be U-shaped and would be sited further to the south of the application site than the existing building. The proposed flatted building would also project further to the east than the front elevation of the existing building and would have a larger footprint than the existing building.

The proposed flatted building would have a length of some 29 metres, at its longest point, a width of some 28 metres at its widest point and would have a height of some 13.9 metres when measured at its highest point.

The proposed flatted building would contain 14 residential units which would comprise of 8 two-bedroom apartments and 6 three-bedroom apartments.

The external walls of the proposed flatted building would be finished in a white render with red sandstone which would be reused from the existing building. There would also be sections of timber cladding which would be painted anthracite grey. The pitched roof component would be clad in grey natural slate which would be salvaged from the existing building whilst the flat roof components would be clad in a slate grey roofing membrane. The proposed window and door frames would be of timber construction and would feature anthracite grey frames. The apartments to the top floor would feature terraces which would be enclosed by a glass balustrade and the decking to the terraces would comprise of composite deck boards.

The proposed flatted building would be served by a total of 14 off-street parking spaces, one of which would be designated as an accessible parking space. The parking would be situated on the northern part of the application site and would comprise of a tarmac finish.

Vehicular and pedestrian access would both be taken from the eastern boundary of the application site and would be accessed via Hamilton Road. Two pedestrian access are proposed to the south of the proposed vehicular access.

The submitted drawings show that three cycle shelters would be provided, one to the east of the flatted building and two within the southeast corner of the application site. The submitted brochure relating to the proposed cycle shelters states they would each have a height of some 1.35 metres, a width of some 2.3 metres and a depth of some 2.4 metres. It is further noted that each cycle shelter could store 5 bicycles.

With regards to waste storage, a refuse compound is proposed within the northeast corner of the application site which would be partially enclosed by a 1.6-metre-high timber fence. The hardstanding to the proposed refuse compound would be finished with natural stone paving.

The proposed path to the east of the proposed flatted building would comprise of a natural paving stone finish. The path to the south and west would comprise of gravel and the path to the north and partially the west of the building would comprise of block paving.

There are five existing trees shown to the north of the proposed flatted building,

however, these trees fall outwith the application site but are noted to be retained. The submitted drawings also show the retention of a tree to the east of the proposed flatted building and two trees to the south of it. However, the submitted landscape plan indicates that a total of 6 trees within the application site would be removed which are a mix of Holly, Laburnum, Bay Laurel and Norway Spruce. The submitted landscape plan also indicate the existing sycamore tree to the south of the site would have all deadwood cut out and retrenchment pruning to reduce the crown. It is also proposed to remove damaged limbs and retrenchment pruning to reduce the crown to the Cherry-gean tree to the east of the site. The submitted drawings indicate that additional landscape planting would be undertaken to the east, south and west of the application site with a total of 13 new trees proposed and new shrubs also proposed.

The agent has submitted a design and access statement which supports their submission for the erection of the proposed flatted building comprising of 14 residential units and associated works on the application site. The statement notes the proposal seeks to deliver a high quality, high specification and energy efficient development that benefits from the use of current construction and environmental enhancing technologies, and which will, over time settle into its surrounds and become a positive addition to the local fabric of the conservation area. As noted above in this report the statement confirms the flatted building would consist of 14 residential units which would comprise of 8 two-bedroom apartments and 6 three-bedroom apartments. With regards to the rationale of demolishing the existing building the agent has noted in their design and access statement that the existing building due to the form and location of the building make it extremely difficult to reuse in a viable way. It is noted that materials from the demolished buildings will be re-used where possible and other masonry material such as hardcore or aggregate will be re-used within the site where possible. The statement notes that high thermal insulation and air tightness values will allow the proposed flatted building to significantly reduce its heating and other carbon producing demands and emissions. Furthermore, zero and low carbon generating technology, systems and materials will be used to further reduce the flatted buildings imbedded carbon footprint and energy use. Subsequent to the registration of the application the agent has confirmed in writing that the proposed residential units would be heated via an electric boiler located in the utility room of flat and internal clothes drying would also be provided within the utility rooms.

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.

National Planning Framework 4 (NPF4) Policies 1 (Tackling the climate and nature crises), 2 (Climate mitigation and adaptation), 3 (Biodiversity), 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) and 30 (Tourism) of NPF4 would be relevant in the determination

of any forthcoming planning application. In addition, policies TOUR4 (Hotels and Guest Houses), RCA1 (Residential Character and Amenity), Proposal CF1 (Provision of New Sports Pitches and Changing Accommodation), CH2 (Development Affecting Conservation Areas), Proposal ED7 (North Berwick Cluster Education Proposals), HOU3 (Affordable Housing Quota), HOU4 (Affordable Housing Tenure Mix), T1 (Development Location and Accessibility), T2 (General Transport Impact), T32 (Transport Infrastructure Delivery Fund), SEH2 (Low ad Zero Carbon Generating Technologies), W3 (Waste Separation and Collection), NH5 (Biodiversity and Geodiversity Interests, including Nationally Protected Species), NH10 (Sustainable Drainage Systems), DP1 (Landscape Character), NH8 (Trees and Development), DP2 (Design), DP7 (Infill, Backland and Garden Ground Development) and DEL1 (Infrastructure and Facilities Provision) of the East Lothian Local Development Plan 2018 would be relevant to the determination of any forthcoming planning application.

Material to the determination of the application is Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that a planning authority must have regard to the desirability of preserving or enhancing the character or appearance of a conservation area in exercising its responsibilities in the determination of any application for planning permission for development affecting a conservation area.

Planning Advice Note 67: Housing Quality 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 to the determination of this planning application is the Council's Supplementary Planning Guidance on Affordable Housing and The Cultural Heritage and the Built Environment.

COMMUNITY COUNCIL

North Berwick Community Council have objected to this planning application in their capacity as a consultee. In summary their main grounds of objection are:

(i) The proposed building would be positioned at a higher ground level than the flats at Hamilton Road which would make the proposal stand out more;

(ii) The proposal would dominate the entire stretch of road and radically change the impression into North Berwick;

(iii) The site would be overdeveloped; and

(iv) The Community Council welcome the addition of new flats but any new building on this site should be lower and further set back from Dirleton Avenue.

REPRESENTATIONS

A total of 35 objections have been received in relation to this planning application. The main grounds of objection can be summarised as follows:

- o The loss of the hotel would add to the struggle for accommodation for visitors;

- o The demolition of the building will not preserve or enhance the character or appearance of the area;

- o The existing building should be submitted for consideration for listing as there has been no reassessment by HES in years;

- o The property could be turned into flats, if needed through an extension to the existing building;

- o The existing building makes a positive contribution to the North Berwick Conservation Area and has architectural merit;

- o There is no justification as to why the building needs to be demolished and why it cannot be renovated instead;

- o The proposal to demolish the existing building does not comply with Policy CH3 of the ELLDP;

- o The proposal does not comply with Policy CH2 of the ELLDP or PAN 67;

- o There is no methodology provided for the removal of asbestos;

- o The proposal is an overdevelopment of the site;

- o The proposed building is one storey higher than existing and would dominate the surrounding area;

- o The proposed building would not be in-keeping with the area and would not contribute or enhance the character of this part of the conservation area;

- o The proposed building does not accord with the size, proportions, alignment or materials or nearby buildings;
- o The footprint of the proposed building is larger than the existing building;
- o The elevations of the proposed building are wider than the existing building;
- o The building occupies a prominent site within North Berwick;
- o The proposed building would result in a loss of sunlight and daylight to neighbouring residential properties;
- o The proposed building would result in the loss of privacy to neighbouring residential properties;
- o The proposed off-street car parking is insufficient and the proposal would create additional pressure on nearby roads;
- o The proposed entrance to the site is dangerous given its proximity to the entrance to Broadsands;
- o An objector notes that EV charging should be required;
- o It will be difficult to store building equipment within the site due to the size of development and size of the site;
- o No CGI has been submitted to show the proposed building;
- o The proposed building does not show carbon emission reducing measures;
- o The proposed building should be reduced in height by one-storey as this would fit within the locality and result in better parking provisions within the site;
- o Additional tree planting should be provided within the site;
- o Any new building should be of a form that respects the style and setting of the location;
- o The construction works would cause disruption for neighbouring residential properties;
- o An objector queries the proposed access to the site and parking provision;
- o The cherry-gean tree is the most significant tree within the plot and should be pruned as little as possible;
- o The proposal does not include adequate communal land/gardens and environmentally friendly garden space for residents;
- o Outbuildings such as cycle storage and bin shelters should not be

positioned within public views within a conservation area;

- o If approved the proposal would result in the loss of all vegetation and trees within the site; and
- o The applicant must provide evidence of a formal marketing campaign at a reasonable price for a minimum of a year, including details of methods of marketing, relevant dates, copies of particulars, and details of all interest and offers received in relation to the loss of the hotel.

The comments received in relation to the proposed demolition of the existing building are not material to the consideration of this planning application. The assessment of the proposal to demolish the existing building relates to the associated conservation area consent application reference 24/01051/CAC.

The comments relating to the recommendation for the existing building to be considered by Historic Environment Scotland for listing is a separate matter and process that is not material to the determination of this application.

There is no planning requirement to provide information relating to the potential presence and removal of asbestos within the building the subject of this planning application.

Furthermore, there is no requirement for the submission of CGI images of the proposed flatted building.

The storage of any building equipment within the site would be temporary and this is not a material consideration in the determination of this application.

Any disruption caused by any works to demolish this building would be temporary in nature and would be investigated through separate environmental health legislation.

The proposed vehicular, pedestrian accesses as well as the proposed parking provision are shown on the submitted drawings.

PLANNING ASSESSMENT

The proposed (i) re-positioning of the existing vehicular and pedestrian access with associated gates; (ii) hardstanding areas; (iii) refuse compound with associated fencing; and (iv) cycle shelters would be readily visible from public views. However, they would be seen in relation to the proposed flatted building and as such they would not appear as overly prominent or incongruous features. Therefore, by virtue of their form, size, materials and positioning these proposals would not be harmful to the character or appearance of the surrounding area or to the North Berwick Conservation Area.

The use of the proposed hardstanding areas would not give rise to any harmful overlooking of any neighbouring residential properties.

The proposed refuse compound and cycle shelters would not give rise to a harmful

loss of sunlight or daylight to any neighbouring residential properties.

The **Council's Waste Services** have been consulted on the application and advise they raise no objection but advise that the Council supply individual 240 litre bins to flats and not communal bins. It would therefore be the resident's responsibility to present these out with the bin storage area for kerbside collection. The developer should order the containers for waste and recycling in bulk to avoid repeat journeys.

The **Council's Environmental Health Officer** has been consulted on the application and raises no objection to it, satisfied that the proposed development would not be harmful to the amenity of any neighbouring residential property.

The **Council's Contaminated Land Officer** has been consulted on the application and advises there is no direct evidence to suggest any previous contaminative use of the site as it was originally agricultural land prior to the construction of the hotel on the site. Following the demolition of the building there is the possibility that localised 'hotspots' of contamination may exist (possible asbestos containing materials in the building fabric) as well as areas of made ground in the wider site area.

The Contaminated Land Officer also states that it should be noted that according to the latest Radon Mapping data the site falls within a Radon Affected Area (Class 4: 5 to <10 % of properties are at or above the radon action level). This means that the new build will require basic radon protection measures to be installed. In this instance it would be advisable to obtain a Site-Specific Radon Report to determine the actual radon potential (as there is an existing building on the site).

Given the above and due to the nature of the development (residential), the Contaminated Land Officer advises that further information is required to determine the ground conditions and potential contamination issues impacting on the site (with the minimum of a Phase I Geo-Environmental Assessment being carried out). Such a requirement could be imposed as a condition on a grant of planning permission, were that to be the decision.

The **Council's Flooding Officer** has been consulted on the application and 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.

The Design and Access Statement submitted with the application informs that the main foul drainage from the proposed development would discharge into the existing sewer network and that a connection point is available at the existing manhole located on Hamilton Road adjacent to the site, and that surface water would be collected and taken to surface water attenuation located below the new parking court with controlled outfall to the existing surface water drainage network.

The Flooding Officer has no objection in principle to this arrangement, but advises that full drainage details for the proposed development, including a drainage impact assessment and surface water management plan which should outline any drainage calculations / attenuation calculations should be submitted. Such a requirement could be imposed as conditions on a grant of planning permission,

were that to be the decision.

Scottish Water have been consulted on the application and advise they raise no objection, being satisfied that there is sufficient capacity for in the Castle Moffat Water Treatment Works to service the proposed development and they advise there is sufficient capacity for a foul only connection in the North Berwick Waste Water Treatment works.

The **Council's Planning Obligations Officer** has highlighted that the application site is located within the school catchment areas of Law Primary School and North Berwick High School. Proposal ED7 (North Berwick Cluster Education Proposals) of the ELLDP stipulates that the Council will provide an additional phased permanent extension to North Berwick High School to meet the need arising from new housing development within the cluster. Development contributions will be sought from housing development where permanent provision is created in catchment primary schools with new primary and secondary school establishments and campus land and developer contributions being sought from developers of relevant sites to fund this additional provision.

The Council's Planning Obligations Officer advises that Law Primary School has sufficient capacity to accommodate children that could arise from the proposed development. However they advise that North Berwick High School will not have sufficient capacity to accommodate children that could arise from the proposed development. Therefore, The Council's Planning Obligations Officer advises that they would object to the application on the grounds of lack of permanent capacity at that school. However, they would withdraw that objection provided the applicant makes a financial contribution to the Council of £94,262 indexed towards the provision of additional school accommodation at North Berwick High School.

The required payment of a financial contribution of a total of £94,262 indexed linked from Q1 2019 until date of Payment using the BCIS All-in Tender Price Index towards the provision of additional school 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. The applicant has confirmed in writing that they are willing to enter into such an agreement and on this consideration the proposed development does not conflict with Policy 18 of NPF4, Proposal ED7 or Policy DEL1 of the LDP or with the Council's approved Developer Contributions Framework Supplementary Guidance.

As per the Adopted Supplementary Guidance: Developer Contributions Framework, all secondary Education 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 Play Provision Contribution will be increased from Q3 2017 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.

Policy T32 of the LDP 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.

In terms of Strategic Transport, the Council's Planning Obligations Officer advises this site lies out with the Strategic Intervention contribution zones within the DCF therefore no Strategic Transport contributions are required, and the **Council's Road Services** confirm there are no requirements for a local transportation contribution.

Proposal CF1 of the ELLDP states that development proposals for 5 or more homes must make provision for the delivery of new sports pitches and changing accommodation as set out in the Developer Contributions Framework Supplementary Guidance. The Council's Planning Obligations Officer advises the site lies out with the North Berwick Sports Facilities Contributions Zone within the Supplementary Guidance: Developer contributions framework therefore no sporting provision contribution will be sought. Therefore, the planning obligations officer advises there is no contribution to be sought.

Policy 16e) of NPF4 states that Development proposals for new homes will be supported where they make provision for affordable homes to meet an identified need. Proposals for market homes will only be supported where the contribution to the provision of affordable homes on a site will be at least 25% of the total number of homes. Policy HOU3 of the ELLDP states that development proposals that in their totality will bring forward five or more dwellings must make provision for affordable housing, with the required proportion being 25% of the total number of dwellings proposed for the site.

The **Council's Strategy and Development Team** advises that in accordance with the Council's Affordable Housing Policy, 25% of the proposed 14 flats require to be affordable housing units. The affordable housing component of the proposed development is 4 flats. The Strategy and Development Team advise that communication continues with East Lothian Council's Strategy and Development Team Housing Enabler to secure the provision of 4 affordable housing units within the flatted building or if it can be demonstrated to the Council that this, or the off-site provision of 4 affordable units is not practicable, to secure from the applicant a commuted sum payment to the Council in lieu of such an on or off-site provision. 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.

On-site play provision is not required for residential developments of this size. However, the **Council's Amenity Services Manager** confirms a developer contribution is required towards play provision for this proposed residential development to enhance and upgrade local play area facilities in the vicinity of this site which would be impacted by the additional usage arising as a direct result of the proposed development, which would be a contribution of £566 per dwelling index linked from Q3 2017. 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 applicant has confirmed in writing that they are willing to enter into such an agreement and on this consideration the proposed development does not conflict with Policy 21 of NPF4 or Policy DEL1 of the LDP or with the Council's approved Developer Contributions Framework Supplementary Guidance.

The Council's Amenity Services Manager further advises that sufficient levels of garden ground and communal space for future residents should be provided, in accordance with the supplementary planning guidance 'Design Standards for New Housing Areas'. The submitted drawings indicate there would be sufficient outdoor space provided for residents.

With regards to the proposed off-street car parking provision, cycle storage and alterations to vehicular and pedestrian accesses to the application site, the **Council's Road Services** have been consulted on this application. They note they support the rationalisation of the existing two vehicular site access points to a single point of access taken from Hamilton Road and they note the slight repositioning of this access point. Visibility at the repositioned site access should be 2m by 20m (with no obstructions above 1.05m) and the Council's Road Services are satisfied that this visibility splay could be achieved should planning permission be granted.

Furthermore, the Council's Road Services confirm the width of the proposed repositioned vehicular site access of 4.75m is acceptable, however, they do not support the inclusion of gates across the site access unless they are positioned a distance of 6.0m back from the rear of the footway into the site.

With regards to the proposed car parking provision the Council's Road Services note that 14 spaces would be provided which is equivalent to one parking space per unit which is below the Council's adopted car parking standards of 1.5 spaces per unit (i.e. 21 spaces) for properties of this size. However, given the last authorised use of the existing building is as a hotel, the Council's Road Services advise the parking requirements for a hotel use is 1 parking space per room, and with the hotel previously operated with 18 bedrooms according to sales particulars, means the historic parking requirement for the hotel use would be 18 car parking spaces. Therefore, use as a hotel would generate more vehicular trips than the proposed new residential development and as such the provision of 14 car parking spaces is considered acceptable.

In addition, Road Services note the dimensions of the proposed car parking spaces are 2.4m by 4.8m which are below the Council's standard dimensions of 2.5m by 5.0m and therefore this should be modified should planning permission be granted.

However, the Council's Road Services advise the application site could still accommodate 14 parking spaces whilst adhering to the standard parking space dimensions. Furthermore, the Council's Road Services advise there is sufficient space is provided in front of the bays for manoeuvring which is noted and the provision of one disabled bay as part of the parking provision is acceptable. However, they note that one EV charging unit should be provided for each car parking space if planning permission were to be granted.

With regards to the proposed refuse compound and cycle storage these are acceptable to the Council's Road Services.

The proposals include three pedestrian access points to the development from Hamilton Road which are proposed to include gates across these access points. The Council's Road Services recommend that the gates are removed from these accesses to allow ease of movement for those with a physical or sensory impairment, should planning permission be granted.

Therefore, given the above comments from the Council's Road Services and subject to the above recommended control being imposed as conditions on a grant of planning permission, were that to be the decision, the proposal would comply with Policy 13 of NPF4 and Policies T1 or T2 of the ELLDP.

In June 2006 planning application (ref: 06/00303/FUL) which sought planning permission for the proposed change of use from a hotel to a staff hostel for use in association with the Marine Hotel, was withdrawn. As such the last approved use of the site is a Class 7 (Hotel) Use.

In this a main material consideration in the determination of this planning application is whether the proposed change of use of the existing hotel use of the site to a residential use would be acceptable.

NFP4 policy 30 (c) requires that proposals for the change of use of a tourism related facility (e.g. hotels, guest houses, etc) will only be supported where it is demonstrated that the existing use is no longer viable and that there is no requirement for alternative tourism-related facilities in the area. ELLDP 2018 policy TOUR4 states similar.

With regards to the above policies the applicant has not submitted any information in support of their application which adequately demonstrates that the hotel use is no longer viable. As such the proposal is contrary to NFP4 policy 30 (c) and Policy TOUR4 of the ELLDP.

Thereafter, other main material considerations are whether the proposed flatted building with associated works would be appropriate within this part of the Conservation Area and, whether there would be any detrimental environmental or amenity impacts.

It also must be established whether the proposed flatted building on this application site would, as required by Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, preserve or enhance the character or appearance of the conservation area, and thereafter whether this form of

development would be consistent with national and local planning policy or if not whether there are any material considerations that would outweigh the fact that it would not accord with planning policy.

Whilst the former use of the building was a hotel (Class 7 Use), the application site is situated within a larger predominantly residential area as defined by Policy RCA1 of the adopted ELLDP. Policy RCA1 does not actively promote the development of land for new build residential development. The application site is not allocated for residential development in the adopted ELLDP. Although the principal purpose of Policy RCA1 is to ensure that the predominantly residential character and amenity of existing housing areas is safeguarded from the adverse impacts of uses other than housing it does state that proposals for new development will be assessed against appropriate local plan policies, which in the case of infill, backland and garden ground development is Policy DP7 of the adopted ELLDP.

Policy DP7 of the adopted ELLDP states that out with greenbelt and countryside and coastal locations, the principle of development within infill and backland locations will be supported where:

1. The site can accommodate the entire development, including an appropriate amount of open space, satisfactory vehicle and pedestrian access, car parking and where necessary vehicle turning space; and
2. The occupants of existing neighbouring development experience no significant loss of privacy and amenity and occupants of any new development must also enjoy privacy and amenity; and
3. The scale, design and density of the proposed development will be sympathetic to its surroundings, overdevelopment of the site will be unacceptable, and landscape and boundary features important to the character of the area must be retained where possible; and
4. There will be no material loss of greenfield land or open space important to the character or recreation and amenity requirements of the area, and no loss of important physical or natural features.

Policy DP2 of the adopted ELLDP requires that all new developments must be well designed and sets out a number of design principles. Amongst these are the requirement that all new development must be appropriate to its location in terms of its positioning, size, form, massing, proportion and scale and use of a limited palate of materials and colours that complement its surroundings and retain physical or natural features that are important to the amenity of the area or provide adequate replacements where appropriate.

Policy 14 of NPF states that development proposals that are poorly designed, detrimental to the amenity of the surrounding area or inconsistent with the six qualities of successful places, will not be supported

The proposed flatted building is of a contemporary design, and there would be a contrast between its design and the design of the existing building on the site and

the designs of other buildings within this part of the Conservation Area. Nevertheless, it would reflect elements of the existing variety of built form within the setting of the application site and in terms of its external finishes and some of its architectural features, would be respectful of the finishes and architecture of neighbouring buildings in this part of the Conservation Area.

The area around the application is characterised by buildings of predominantly traditional stone construction with slate roofs, timber windows and a display a variety of traditional features such as bay windows and turrets. A common character of this part of the North Berwick Conservation Area are architect designed Victorian, Edwardian and Georgian housing in a variety of styles which are typically set within large private grounds. This spatial character and density of development makes a positive contribution to the character and appearance of the North Berwick Conservation Area.

The North Berwick Conservation Area Character Statement contained within the Council's Cultural Heritage and the Built Environment Supplementary Planning Guidance makes particular reference to properties of this traditional style and setting. The size of the existing hotel building and its spatial relationship within its large grounds make it a component feature of Dirleton Avenue and thus of this part of North Berwick Conservation Area.

The proposed flatted building would have a larger footprint than the existing building on the site, its elevations would be wider, and the building would be one-storey taller than the existing building. Moreover, the proposed flatted building would extend further into the site on its east and south sides. The increased size and massing of the proposed new building in its relationship to the garden ground around it would erode the spatial character of large buildings in generous grounds in this part of the Conservation Area. It would result in a more dominant building that would be an overdevelopment of the site, would not represent a similar density of development of surrounding buildings and their gardens and thus would result in a significant change to the characteristic density of development of this part of the Conservation Area.

The proposed new flatted building by virtue of its size, scale, massing and positioning would appear as an overly dominant and incongruous addition to the streetscape, would not be sympathetic to its setting or well-integrated into its surroundings and would be harmful to the defined spatial layout of the existing buildings in this part of the Conservation Area. It would be inappropriate to its place. In this it would not preserve or enhance, but rather would be harmful to the character and appearance of this part of North Berwick Conservation Area.

As such the proposed flatted building is contrary to Policies 7 and 14 of NPF4 and Policies CH2, DP2 and DP7 of the ELLDP.

Policy DP7 amongst other things requires that the occupants of existing neighbouring properties experience no significant loss of privacy and amenity from new development and that the occupants of any new development must also enjoy privacy and amenity.

On the matter of the impact of the proposed flatted building on daylight and sunlight

on neighbouring properties, guidance is taken from "Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice" by P.J. Littlefair.

The sunlight test has been undertaken on March 21st in line with the guidance set out in Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice" by P.J. Littlefair. The sunlight test indicates the proposed flatted building would cast a gradual shadow on the garden ground of 1-6 Lamb Court between the hours of 08.00 and 11.00. The sunlight test also indicates the proposed flatted building would cast a gradual shadow on the garden ground of 5-9 Hamilton Road between the hours of 11.00 and 15.00 and would also cast a gradual shadow on the garden ground of 2 Hamilton Road and Broad Sands between the hours of 15.00 and 16.00. However, the guidance states that at least half of a garden should receive at least two hours of sunlight on 21st March. Therefore, the proposed flatted building by virtue of its size, form and positioning would not allow for a harmful loss of sunlight to any neighbouring residential properties.

Application of the 25-degree daylight test to the neighbouring residential property of 2 Hamilton Road indicates the proposed flatted building would fail in relation to the ground floor windows of that property. However, the ground floor windows that properties extension are served by other glazed openings. In addition, the two ground floor windows to the original component of that property would be situated between the two legs of the proposed flatted building and as such, they would pass the 25-degree daylight test.

Application of the 25-degree daylight test to the neighbouring residential properties of 1-6 Lamb Court indicates the proposed flatted building would fail in relation to the ground and first-floor bathroom windows of that flatted building. However, as the windows affected serve bathrooms then there is no requirement for natural daylight to those bathrooms of the flatted properties at Lamb Court.

Application of the 25-degree daylight test to the neighbouring residential properties of 55-59 Dirlerton Avenue indicates the proposed flatted building would pass in relation to the windows of those properties.

Application of the 25-degree daylight test to the neighbouring residential property of 5 Hamilton Road indicates the proposed flatted building would fail in relation to the ground floor windows of that property and as such the proposed flatted building due to its size, scale and positioning would result in a harmful loss of amenity to the neighbouring residential property of 5 Hamilton Road. The proposed flatted building is therefore

Therefore, given the above consideration it can be concluded that the proposed flatted building would result in a harmful loss of daylight to the neighbouring residential property of 5 Hamilton Road which is situated to the north of the proposed flatted building respectively, contrary to Policy 14 of NPF4 and Policy DP7 of the adopted East Lothian Local Development Plan 2018.

In assessing whether or not a proposed new development would result in harmful overlooking and therefore loss of privacy to existing neighbouring residential properties it is the practice of the Council, as a planning authority to apply the general rule of 9 metres separation distance between the windows of a proposed

new development and the garden boundaries of neighbouring residential properties and an 18 metres separation distance between directly facing windows of the proposed new development and the windows of existing residential properties.

In relation to the above, the glazed openings to be formed at ground, first and second floor levels within the front (east) elevation of the proposed flatted building would face over the application site, Hamilton Road and beyond to the high stone wall boundary of the neighbouring properties to the east for some 15 metres and those windows would not fall within 18 metres of any directly facing windows of the neighbouring residential properties to the east and as such the use of them would not allow for any harmful overlooking.

The use of the proposed terraces at third floor level would not fall within 18 metres of any directly facing windows of any neighbouring residential properties and as such the use of them would not allow for any harmful overlooking.

The glazed openings to be formed at ground, first, second and third floor levels in the side (south) elevation would not fall within 18 metres of any directly facing windows of the neighbouring residential properties to the south and as such the use of them would not allow for any harmful overlooking.

The glazed openings to be formed at ground, first, second and third floor levels in the rear (west) elevation would face over the application site for some 6 metres and beyond to the grounds of the flatted building named Lamb Court. However, the grounds of that development do not currently benefit from any significant degree of privacy as they are already overlooked by the occupants of Lamb Court. Furthermore, the front ground of Lamb Court is situated adjacent to Dirleton Avenue and therefore also has no significant degree of privacy at present. The side (east) elevation of Lamb Court features windows however, these windows are obscure glazed and as such the use of the proposed flatted building would not allow for any harmful overlooking of those neighbouring residential properties.

The glazed openings to be formed at ground, first, second and third floor levels in the side (north) elevation would face over the application site for some 14 metres and would not fall within 18 metres of any directly facing windows of the neighbouring residential properties to the north and as such the use of them would not allow for any harmful overlooking.

Therefore, given the above considerations it can reasonably be concluded that the use of the proposed flatted building would not allow for any harmful overlooking of neighbouring residential properties.

Policy NH8 of the ELLDP in summary states there is a strong presumption for the retention of individual and group of trees that make a significant positive contribution to the setting and amenity of the area. This is echoed by Policy 6 of NPF4.

The **Council's Landscape Officer** has been consulted on the application and advises there are a number of trees within the application site, and that the mature

sycamore to the south boundary is protected by a Tree Preservation Order (TPO). The other trees both on and adjacent to the site lie within the North Berwick Conservation Area. Another sycamore to the southern boundary, protected by Tree Preservation Order, was agreed to be felled on condition of replacement planting.

The Council's Landscape Officer notes the proposal increases the mass of building on the site such that the existing trees to the east and west boundaries could not be successfully retained. The Council's Landscape Officer advises that due to the size of the proposed new flat building the proposal does not provide sufficient space to enable new planting to be undertaken to mitigate for the trees proposed to be felled. In addition, no tree survey has been submitted with the application to indicate that these trees require to be removed for arboricultural reasons. Even if these trees required to be felled for arboricultural reasons, the Council's Landscape Officer would expect to see mitigating planting. Therefore, the Council's Landscape Officer objects to the application.

The proposed development would lead to the loss of trees within the application site that make a significant positive contribution to the visual amenity of the North Berwick Conservation Area. The loss of the trees would not facilitate a development that would contribute more to the good planning of the area than would retaining them.

Therefore, on this consideration the proposal is contrary to Policy 6 of NPF4 and Policy NH8 of the ELLDP.

Policy 3 of NPF4 notes that 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 a Biodiversity Enhancement Plan would be required that outlines measure the applicant proposed to enhance biodiversity within the application site. Should planning permission be granted then a condition could reasonably be imposed seeking the submission of a Biodiversity Enhancement Plan.

The Council's Biodiversity Officer further advises there are records of European Protected bat species less than 100m from the application site. Due to this and the nature of the proposal that includes demolition of the existing building the Biodiversity Officer advises that a Preliminary Roost Assessment for bats is required, and that bat surveys and reports must comply with the latest good practice guidelines. If evidence of bats or their roosts is found in the surveys, the applicant will be required to submit to the Planning Authority a Species Protection Plan for bats.

However, the applicant has not submitted a Preliminary Roost Assessment to satisfy this request and therefore, the Council's Biodiversity Officer objects to the planning application as it has not been demonstrated the proposal would not result in the loss, harm or disruption of any bats. The proposal is therefore contrary to Policy 3 of NPF4 and NH5 of the ELLDP.

In conclusion, for the reasons set out above the proposed development does not accord overall with the relevant provisions of the Development Plan and that there are no material considerations which outweigh the proposals discordance with the Development Plan.

REASONS FOR REFUSAL:

- 1 It has not been clearly demonstrated that all reasonable efforts have been made to retain the property in use as a hotel, nor has it been demonstrated that the use of the building as a hotel is no longer viable and that there is no requirement for alternative tourism-related facilities in the area. As such the proposal is contrary to Policy 30 part c of NPF4 and Policy TOUR4 of the adopted East Lothian Local Development Plan 2018.
- 2 The proposed new flatted building by virtue of its size, scale, massing and positioning would appear as an overly dominant and incongruous addition to the streetscape, would not be sympathetic to its setting or well-integrated into its surroundings and would be harmful to the defined spatial layout of the existing buildings in this part of the Conservation Area. It would be inappropriate to its place. In this it would not preserve or enhance, but rather would be harmful to the character and appearance of this part of North Berwick Conservation Area. Therefore, the proposed flatted building is contrary to Policies 7, 14 and 16 of NPF4 and Policies CH2, DP2 and DP7 of the adopted East Lothian Local Development Plan 2018.
- 3 The proposed flatted building, due to its size, scale and positioning would result in the harmful loss of daylight to the windows of the neighbouring residential property of 5 Hamilton Road, which would be harmful to the amenity of that neighbouring residential property. As such the proposal is contrary to Policy 14 of NPF4 and Policy DP7 of the adopted East Lothian Local Development Plan 2018.
- 4 Due to the proposed increases in the mass of building on the site the existing trees to the east and west boundaries could not be successfully retained. The proposal does not provide sufficient space to enable new planting to mitigate for the trees proposed to be felled. In addition, no tree survey has been submitted with the application to indicate that the trees shown on the submitted drawings for removal require to be removed for arboricultural reasons. The proposed development would lead to the loss of trees within the application site that make a positive contribution to the amenity of the North Berwick Conservation Area and as such the proposal is contrary to Policy 6 of NPF4 and Policy NH8 of the adopted East Lothian Local Development Plan 2018.
- 5 It has not been demonstrated the proposal would not result in the loss, harm or disruption of bats. The proposal is therefore contrary to Policy 3 of NPF4 and NH5 of the adopted East Lothian Local Development Plan 2018.

34 Dirleton Avenue, North Berwick

STAGE 1 BAT SURVEY (Desk Study & Daytime Bat Walkover Survey)



March 2025



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1. INTRODUCTION

This report refers to the compromised buildings of 34 Dirleton Avenue, North Berwick and its associated outbuildings and trees. It is proposed to be demolished for development for a new housing development. A bat survey was requested to determine bat presence in support of a demolition warrant.

David Dodds Associates Ltd. (DDAL) was commissioned by Peter Gibb at Baseline Developments to carry out the necessary survey, and this report details the methods and results, together with conclusions drawn and recommendations for further action.

Further information may be obtained from:

Sam Hughes BSc (Hons)
Consultant Ecologist
(NatureScot Bat Roost licence 252286)

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2. SUMMARY

A stage 1 bat survey was conducted at this site, as well as a thorough desk study of the site and surrounding habitat. The stage 1 bat survey investigates the roost potential of the buildings and potential of the surrounding habitat to support bats.

During the surveys the following observations were made:

- Five bat species have been recorded within 5km of the site.
- The surrounding habitat was found to have moderate suitability to be used by bats for roosting, foraging, and commuting.
- The trees and outbuildings have negligible suitability to be used by roosting bats.
- The roof had several areas of missing, slipped and raised slates increasing the potential for roost sites.
- No direct evidence of bats was found during the Stage 1 survey.
- The main building was found to have moderate suitability for use by roosting bats.
- Stage 2 bat survey is recommended.

Destruction or disturbance of these roosts is likely to constitute a criminal offence, unless carried out with a NatureScot license in place.

Recommendations are made below regarding further actions to be taken.

This survey report is valid until 21st September 2026.



3. LEGAL PROTECTION

3.1. Protection of bats under Scots law

All bat species were designated as European Protected Species (EPS) by Article 12 of **The European Habitats Directive 92/43/EEC (1992)**. This was enshrined in Scots Law by **The Conservation (Natural Habitats etc) Regulations (1994)**.

3.2. Possible offences

The following actions constitute criminal offences:

- **Capturing or killing bats.** This is an absolute offence – there is no need for the prosecution to demonstrate an intention to commit the offence to secure conviction.
- **Harassing bats.**
- **Disturbing bats:**
 - a. **Affecting their ability to survive, breed or rear young.**
 - b. **Affecting their local distribution or abundance.**
 - c. **Whilst rearing or caring for their young.**
 - d. **Whilst occupying a structure or place used for shelter or protection.**
- **Obstructing bats from accessing a breeding site or resting place.**
- **Damaging or destroying a breeding site or resting place used by bats.**
- **Possessing any live bat, dead bat, or part of a dead bat.**

In addition, the following are also offences:

- Attempting to commit one of the above offences.
- Knowingly causing or permitting someone else to commit one of the above offences.

Maximum fines for committing one of the above offences are £5,000 per animal.

3.3. Avoiding committing an offence

Most of these offences (excluding 1) can be committed recklessly as well as deliberately, meaning that ignorance of the presence of bats is not a defence: you are expected to do all you can to find out whether bats (or other protected species) are present and whether you are at risk of committing an offence. In practice this means instructing a consultant ecologist to carry out surveys and taking account of their professional advice.



3.4. Licensing

Development Licence:

In certain circumstances, a Scottish Government (issued by NatureScot) development licence may be obtained, permitting an offence to be committed without prosecution. For a licence to be issued, three legal tests must be met:

- The reason for committing the offence must fall within certain narrow parameters, including:
 - a. The proposal is in the public interest, e.g. the construction of a school or community centre.
 - b. The proposal is necessary on grounds of safety.
 - c. The proposal is necessary to safeguard property.
 - d. The proposal is necessary to safeguard livestock.
- All reasonable alternatives must have been considered.
- The favourable conservation status of the bat species must be undiminished.

This usually requires a mitigating work programme to minimise disturbance/harm and usually compensation measures to ensure the bats are not disadvantaged, e.g. the creation of a replacement roost.

Applications for development licences can take up to 8 weeks to be processed and often require strict timetables for action. Early action can therefore reduce delays caused by licencing, mitigation, and compensation.

Bat Low Impact Licensing (BLIMP):

In certain circumstances, a Scottish Government (issued by NatureScot) BLIMP licence may be obtained, permitting an offence to be committed without prosecution. For a BLIMP licence to be issued, the following criteria must be met:

1. The proposal affects non-breeding soprano pipistrelle or common pipistrelle roosts.
2. Bat surveys have been overseen by licenced bat worker.
3. Works on site affecting bats will commence within 18 months of the date bat surveys were completed.
4. A site-specific bat protection plan written by a licenced bat worker is in place, detailing how to minimise impacts on bats and bat roosts.
5. There is no alternative to the proposal will avoid the impact to bats.
6. The proposal has any needed statutory permissions in place.
7. The site has been registered with NatureScot licensing team.
8. Prior to works commencing on each site mitigation must be in place, i.e. woodcrete/woodstone bat boxes.
9. Prior to works commencing on site, all workers have been briefed by a licence holder.
10. A copy of the site-specific bat protection plan is displayed on site for the duration of all works covered by the BLIMP licence.



A BLIMP licence will permit the following actions:

- damage or destruction of non-breeding soprano pipistrelle or common pipistrelle bat roosts.
- temporary disturbance of those species in those roosts.
- obstructing access to those roosts.
- temporary handling of any bats of those species found during the course of works.

The BLIMP licence will not cover activities affecting other bat species or other types of roost. However, this will not preclude working under the BLIMP licence at a site where other species or roost types are present providing that the works will not affect them.

3.5. Disclaimer

DDAL are not lawyers and cannot offer a legal opinion. It is strongly recommended that legal advice be sought before taking any action which might expose you to a risk of prosecution. DDAL can recommend a specialist environmental lawyer.



4. BAT SPECIES IN SCOTLAND

4.1. Bat Ecology

There are 17 species of bat currently resident in the UK. Nine species are known from Scotland. All are believed to have declined as they face many threats to their highly developed and specialised life cycles. In general, their dependence on insects has left them vulnerable to habitat destruction, land drainage, habitat fragmentation, agricultural intensification, and increased use of pesticides. Their reliance on buildings and decaying trees has also made them vulnerable to felling, repairs, and the use of timber treatment chemicals.

In the UK, bats are generally active from late March to mid-October, hibernating from late October to mid-March. In early summer, females gather in maternity roosts to give birth, normally producing a single offspring per year. This slow rate of reproduction inhibits repopulation in areas of rapid decline. Bats are generally born in June/ July and are dependent on their mothers for about six weeks. In autumn and winter, male and females gather for mating. The females are able to store sperm until spring when an egg may be fertilized. In winter, bats hibernate in sites that have a cool, humid, and stable climate.

Bats generally return to the same roost sites every year which makes them particularly vulnerable to disturbance or destruction of these sites. Some species of bat move roost frequently and use a number of different roost sites.

4.2. Bat Species



Figure 1 - Soprano pipistrelle

Soprano Pipistrelle (*Pipistrellus pygmaeus*) is the most frequently encountered species in Central Scotland. They roost mostly in modern buildings, but occasionally in trees or other crevices. They range up to 4km from their roosts, using hedgerows and woodland edges to provide commuting routes to foraging sites and eat small flying insects and midges, with an affinity for habitats with a riparian element.

Common Pipistrelle (*Pipistrellus pipistrellus*) is less common in Scotland than further south, but still frequently encountered. Its habits are very similar to the Soprano Pipistrelle, but uses more generalised habitats.

Nathusius' Pipistrelle (*Pipistrellus nathusii*) is one of Britain's rarest bat species, with only a handful of records in Scotland. They tend to roost in tree-holes or buildings and are most commonly associated with large water bodies, such as reservoirs.



Brown Long-eared Bat (*Plecotus auritus*) is a relatively common, but rarely seen woodland bat. Primarily gleaners, they pick larger insects and arachnids off shrubs and trees, mostly in dense woodland. They roost in hollow trees or in the roof spaces of older buildings or barns, always very close to woodland.

Natterer's Bat (*Myotis nattereri*) is primarily a woodland bat, catching insects in flight and occasionally gleaned from trees and shrubs, though they also forage low over pasture. They most commonly roost in hollow trees, occasionally also in buildings near to woodland.



Figure 2 - Brown Long-eared Bat



Figure 3 - Cluster of Daubenton's bats

Whiskered Bat (*Myotis mystacinus*) is known in Central Scotland from a small number of records, though it is easily confused with Natterer's Bat and may be under-recorded. They forage in a variety of habitats, including hedgerows, woodland, and parkland. They roost in old stone buildings, and in tree crevices.

Daubenton's Bat (*Myotis daubentonii*) forages almost exclusively over water, eating insects and other arthropods

gaffed from the water surface or caught in flight just above it. Their roosts tend to be close to water, usually in hollow trees or cavities in bridges or other waterside structures.

Noctule (*Nyctalus noctula*) is the largest bat in Scotland and only rarely found north of the Borders. They mostly roost in hollow trees and emerge, often before dark to forage high over parkland, woodland and pasture on large flying insects.



Figure 4 - Noctule bat

NB: All images of bats are for illustrative purposes only, including image on front cover.



5. SURVEY METHODS

5.1. Desk study

Records of bats within a 5km radius were obtained from DDAL biological records. 1:25 000 and 1:10 000 Ordnance Survey maps, together with satellite pictures drawn from Google Earth (www.earth.google.co.uk) and Bing (www.bing.com/maps) were consulted to assess the site habitat. Understanding of this was validated with the project architect.

The DEFRA Magic Map and NatureScot websites were consulted, to establish whether the site lay within or close to any designated sites.

5.2. Stage 1 bat survey

The buildings were systematically examined for signs of bats and for structures with suitability for roosting bats. A high-power spotlight, close-focusing binoculars, ladders, and an endoscope were used where necessary, to understand the structure.

Structures with suitability could include sarked slate or tile roofs, wall-heads, cavity walls, attic, lofts, masonry crevices, rubble-filled walls, etc.

Signs of bat roosts could include droppings, urine spots, smear marks, corpses, ectoparasites, odour and social calls or scrabbling noises.

Upper stories, attics etc. were examined where they were accessible, and it was judged safe to do so.

This methodology follows the Collins Bat Survey Guidelines 4th edition for daytime bat walkover surveys.

5.3. Survey limitations

All British bats are peripatetic and move between different roosting sites through the seasons and sometimes within seasons. The absence of bats on a particular occasion does not necessarily rule out their presence at other times. An absence of physical signs does not always indicate the absence of a roost.

Physical surveys were carried out where it was safe to do so. Where unstable structures rendered it unsafe to enter a structure survey effort was increased.



5.4. Site plan



Figure 5 – Satellite picture of the site, showing the subject buildings.

KEY



34 Dirleton Road and associated outbuildings.



6. RESULTS

6.1. Desk study

6.1.1 Designated sites

The survey site does not lie within or adjacent to any designated sites.

The nearest designated site is the Firth of Forth which is designated as a site of Special Scientific Interest (SSSI), Special Protection Area (SPA) and Wetlands of International Importance (Ramsar). The designated area is located 0.57km North of the survey site and was last designated as a SSSI in August 2000. The status was given the site due for its population of non-breeding Bar-tailed Godwit (*Limosa lapponica*) with further protections of SPA and Ramsar added in October 2001 to further protect non-breeding and breeding species of wildfowl.

North Berwick Law (SSSI) is situated approximately 1.62km Southeast from the survey site and was last designated in January 2015 for its lowland calcareous grasslands. Within the designated area, is an area of ancient woodland of semi natural origin covering 2.79ha.

Carlekemp Plantation is an area of woodland, classified as long-established of plantation origin. It is located approximately 0.47km Northwest of the site and covers an area of 3.3ha.

6.1.2 Biological records

DDAL holds flight records for five species of bats within 5km of the site: Common pipistrelle (*Pipistrellus pipistrellus*), Soprano pipistrelle (*Pipistrellus pygmaeus*), Brown Long-eared bat (*Plecotus auritus*), Daubenton's Bat (*Myotis daubentonii*) and Natterer's Bat (*Myotis nattereri*).

6.1.3 Surrounding habitat

The site is located on the west side of the coastal town of North Berwick. It is immediately surrounded by other residential buildings and associated gardens and greenspaces.

Approximately 0.47 km to the South and West of the site is made up of arable farmland and hedgerows. A golf course and sandy, rocky shoreline is located approximately 0.67km to the North. These areas have potential to be used by a range of species for foraging and commuting.

The patches of woodland near to the site are likely to provide foraging opportunities for woodland specialists such as Brown Long-eared bats. The edge habitat around the woodlands also provide support for other species through commuting and foraging opportunities such as Soprano and Common Pipistrelles.



The residential buildings in the immediate surrounding area have the potential for roosting crevice dwelling bat species such as Soprano Pipistrelle's, with the gardens and greenspaces in the immediate surrounding area providing many foraging opportunities and means of commuting for a range of bat species.

6.2. Preliminary roost assessment

Date of survey	21 st March 2025
Weather conditions	Dry
Light conditions	Cloudy

Main Building (A)

The subject building, a former hotel, consists of three storeys and a large attic space. Currently unoccupied, it is in a state of disrepair, with the interior suffering from cold temperatures and evident signs of damp and mould in each room. This makes for unsuitable conditions for bat hibernation.

The roof is designed in the Mansard style, featuring dormer windows and covered with Scottish slate laid on sarking boards. The building's structure is primarily composed of rough ashlar stone, adorned with decorative corning at the edges of the building with wooden lintels around the doors and windows.

The masonry of the building is in good condition, with tightly sealed lintels and no visible cracks or gaps. However, one potential roost feature (PRF) has been identified on the East Elevation at the wall head, where the mortar has worn away. In contrast, the North Elevation features barge boards that are securely flush against the wall, with no PRFs present.

The roof is in poor condition, exhibiting multiple issues including areas of slipped, raised, and missing slates. This has created gaps enabling potential bat access into the voids adjacent to the dormers. This is particularly evident on the South elevation. Additionally, there are several gaps beneath the hanging slates, along with sections of deteriorated, raised flashing which has the potential to create additional bat access points.

The attic space was completely dry, with no signs of dampness on the sarking boards and no visible light coming in from the outside. While no direct evidence of bats, such as droppings, was found, a pair of butterfly wings was discovered upon entry. Additionally, numerous cobwebs were present, and rodent tracks were observed.

The building has been found to have moderate suitability to be used by roosting bats.



Outbuilding (B)

The outbuilding situated to the northern side of the main building was previously used as a garage. It is constructed of brick with roughcast harling and features a pitched tile roof supported by sarking. The roof is well-sealed, with no visible gaps, though it is covered in moss. On the south elevation of the garage, a small gap is present at the wall head, while the wall heads on the north elevation are tightly sealed.

The building has been found to have negligible suitability to support roosting bats.

Outbuilding (C)

Outbuilding C is located to the west of the main building (A) and is currently in a state of disrepair. It is constructed primarily of brick, with roughcast harling on its exterior. The roof of the structure is flat, made up of wooden planks, which are partially covered by felt. The wooden planks are showing significant signs of decay, resulting in water ingress into the interior of the building. A significant amount of overgrown vegetation is present on and around the exterior of the building. Additionally, there is a broken window, which has left the interior exposed to the elements.

Due to the combination of water ingress and the broken window, the interior of the outbuilding has suffered from damp and decay with the overgrown vegetation infiltrating the interior.

The building has been found to have negligible suitability to support roosting bats.

Trees

Two Sycamore (*Acer psuedoplatanus*) trees that are to be removed in the development process, were surveyed onsite for potential bat roosts. Both trees have Tree Protection Orders (TPO).

TPO - 8759

Situated on the southeastern side of the site, adjacent to the boundary wall, this tree exhibited several small gaps. Due to the specific locations and orientations of these gaps, rainwater can accumulate, resulting in damp and decaying conditions.

The tree has been found to be unsuitable for use by bats.

TPO – 8761

No gaps or holes were observed on this tree during the survey.

The tree has been found to be unsuitable for use by bats.



6.3. Photographs



Figure 6 – South elevation of subject building A



Figure 7 – South Elevation of subject building A



Figure 8 – Southwest elevation of A with a view of the dormers



Figure 9 –East elevation of A



Figure 10 – North Elevation of A. with view of bargeboards



Figure 11 – North Elevation of A including dormer windows



Figure 12 – Northwest Elevation of A and B



Figure 13 – West elevation of A showing loose hanging slates beside chimney stack



Figure 14 – North Elevation showing slipped tiles and raised flashing



Figure 15 – Northwest Elevation with barge board on the left of the frame



Figure 16 – Outbuilding C showing wooden plank roof and external walls



Figure 17 – Outbuilding B North Elevation



Figure 18 – Outbuilding B East elevation



Figure 19 – Internal attic with butterfly wings discovered on entry



Figure 20 – Internal attic space showing sarking boards and no evidence of damp from the outside



Figure 21 – East elevation taken from internally



Figure 22 – Examples of potential roost features on subject building A



7. CONCLUSIONS & RECOMMENDATIONS

The survey has been carried out to a suitable standard, using methods which comply with current guidelines.

No designated sites are relevant to this site with regard to bats.

Five different species of bats have been recorded within 5km of the site: Common and Soprano Pipistrelles, Natterers Bats, Daubenton's Bats and Brown Long-eared Bats.

The surrounding habitat to the site has moderate suitability to be used by a range of bat species for roosting, foraging, and commuting.

The subject buildings feature gaps at wall-heads, missing and raised slates and gaps created by deteriorating flashing, all of which may be used by roosting bats.

During the stage 1 preliminary roost assessment, the buildings on site were assessed. Whilst no direct evidence of bats was found during the survey, the building has several gaps throughout its entirety which have the potential for roosting bats.

The main building (A) was assessed as having moderate suitability for roosting bats given the number of potential roost features found throughout the survey.

Based on these findings it is recommended that two sunset surveys be conducted. The surveys should implement the use of infrared cameras and be carried out with sufficient surveyors, equipped with broadband bat detectors, to view all elevations of the building.

This survey report is valid until 21st September 2026.

Destruction or disturbance to the identified bat roosts is likely to constitute a criminal offence unless carried out with a NatureScot license in place.



8. REFERENCES

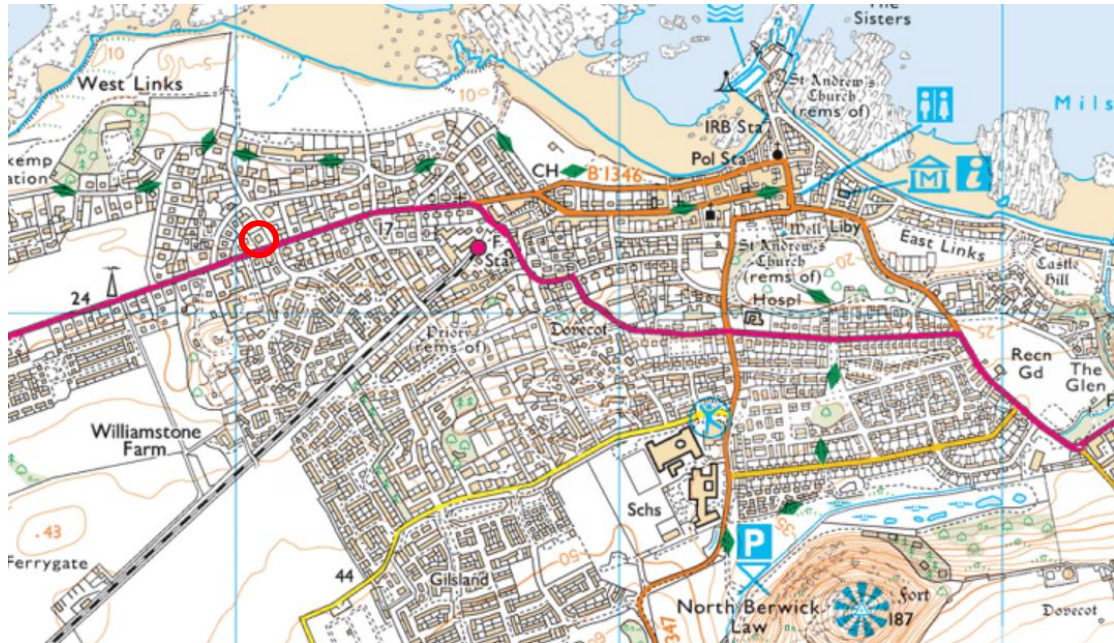
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9. APPENDIX I – LOCATION MAP

National Grid Reference (NGR): NT540851, site centroid.

Site location marked in red.



*(Ordnance Survey cartography reproduced under licence number
AC0000823066)*



10. APPENDIX II – SATELLITE VIEW OF THE SITE

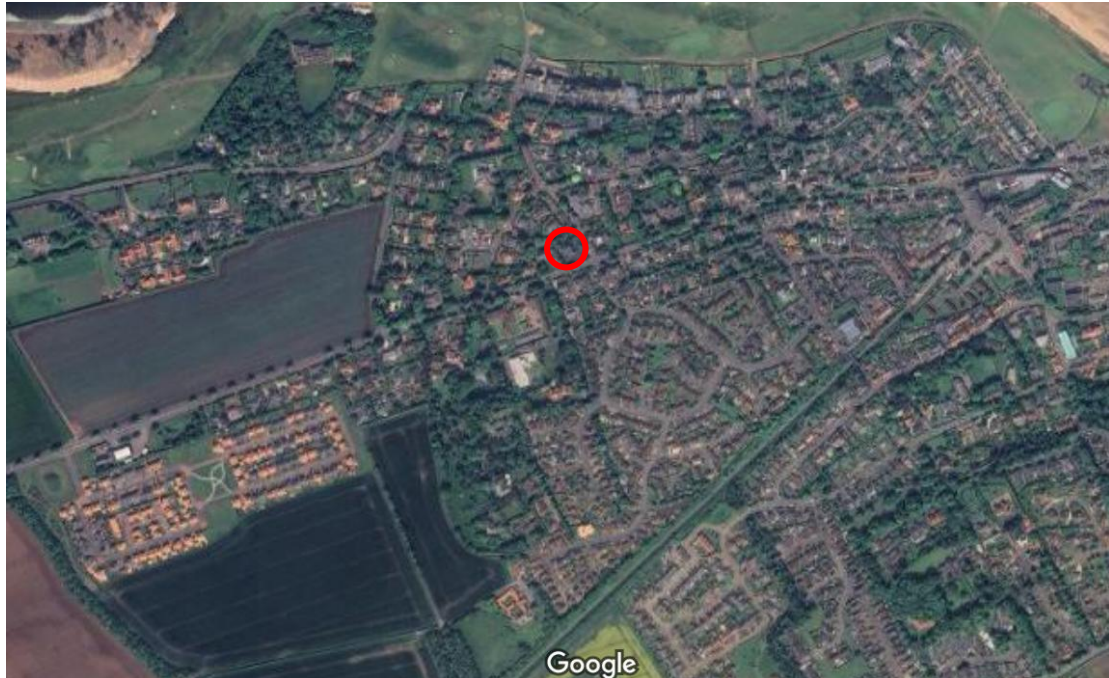
The subject buildings are highlighted in red.





11. APPENDIX III – SATELLITE VIEW OF THE SURROUNDING HABITAT

The subject survey site is highlighted in red.





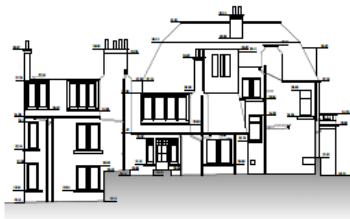
12. APPENDIX IV – EXISTING SITE ELEVATIONS



North East Elevation
ELEVATION 1



South East Elevation
ELEVATION 2



South West Elevation
ELEVATION 3



North West Elevation
ELEVATION 4

Project Name	Cleodonian Heritable
Address	34 Dirlston Avenue North Berwick East Lothian EH13 4BN
Client	Elevations as Existing
Scale	1:100
Drawn by	base-line
Checked by	base-line
Date	2025-01-20
Project No.	3578
Draw No.	ELE-001

**34 DIRLETON AVENUE, NORTH
BERWICK**

**STAGE 2 BAT
ABSENCE/PRESENCE SURVEY**



MAY 2025



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1. INTRODUCTION

This report refers to 34 Dirleton Avenue, North Berwick. It is proposed to demolish the building for a new housing development. A bat survey was requested to determine bat presence in support of a demolition warrant.

David Dodds Associates Ltd. (DDAL) was commissioned by Baseline Developments to carry out the necessary surveys, and this report details the methods and results, together with conclusions drawn and recommendations for further action. It should be read in conjunction with the DDAL “34 Dirleton Avenue, North Berwick – Stage 1 Bat Survey” report.

Further information may be obtained from:

Sam Hughes BSc (Hons)
Consultant Ecologist
(NatureScot Bat Roost licence 252286)

David Dodds Associates Ltd, 2 Caley Cottages, Caledonian Road, Peebles EH45 9DW

Email: Sam@daviddoddsassociates.com
Tel: 0131 608 0012

Report version	1.0
Issue date	26 th May 2025
Expiry date	25 th October 2026



2. SUMMARY

A stage 2 bat absence/presence survey was conducted at this site, in line with current national guidelines and local planning policy. The survey consisted of two evening surveys, based on the roost potential of the building and the surrounding habitat.

During the surveys the following observations were made:

- Two species of bats were recorded in flight at the site.
- No bat roosts were identified within the structure of the building.
- Moderate levels of bat activity were noted.

No further survey efforts regarding bats are necessary at this time.

This survey report is valid until 25th October 2026.



3. LEGAL PROTECTION

3.1. Protection of bats under Scots law

All bat species were designated as European Protected Species (EPS) by Article 12 of **The European Habitats Directive 92/43/EEC (1992)**. This was enshrined in Scots Law by **The Conservation (Natural Habitats etc) Regulations (1994)**.

3.2. Possible offences

The following actions constitute criminal offences:

- **Capturing or killing bats.** This is an absolute offence – there is no need for the prosecution to demonstrate an intention to commit the offence to secure conviction.
- **Harassing bats.**
- **Disturbing bats:**
 - a. **Affecting their ability to survive, breed or rear young.**
 - b. **Affecting their local distribution or abundance.**
 - c. **Whilst rearing or caring for their young.**
 - d. **Whilst occupying a structure or place used for shelter or protection.**
- **Obstructing bats from accessing a breeding site or resting place.**
- **Damaging or destroying a breeding site or resting place used by bats.**
- **Possessing any live bat, dead bat, or part of a dead bat.**

In addition, the following are also offences:

- **Attempting to commit one of the above offences.**
- **Knowingly causing or permitting someone else to commit one of the above offences.**

Maximum fines for committing one of the above offences are £5,000 per animal.

3.3. Avoiding committing an offence

Most of these offences (excluding 1) can be committed recklessly as well as deliberately, meaning that ignorance of the presence of bats is not a defence: you are expected to do all you can to find out whether bats (or other protected species) are present and whether you are at risk of committing an offence. In practice this means instructing a consultant ecologist to carry out surveys and taking account of their professional advice.



3.4. Licensing

Development Licence:

In certain circumstances, a Scottish Government (issued by NatureScot) development licence may be obtained, permitting an offence to be committed without prosecution. For a licence to be issued, three legal tests must be met:

- The reason for committing the offence must fall within certain narrow parameters, including:
 - a. The proposal is in the public interest, e.g. the construction of a school or community centre.
 - b. The proposal is necessary on grounds of safety.
 - c. The proposal is necessary to safeguard property.
 - d. The proposal is necessary to safeguard livestock.
- All reasonable alternatives must have been considered.
- The favourable conservation status of the bat species must be undiminished.

This usually requires a mitigating work programme to minimise disturbance/harm and usually compensation measures to ensure the bats are not disadvantaged, e.g. the creation of a replacement roost.

Applications for development licences can take up to 8 weeks to be processed and often require strict timetables for action. Early action can therefore reduce delays caused by licencing, mitigation and compensation.

Bat Low Impact Licensing (BLIMP):

In certain circumstances, a Scottish Government (issued by NatureScot) BLIMP licence may be obtained, permitting an offence to be committed without prosecution. For a BLIMP licence to be issued, the following criteria must be met:

1. The proposal affects non-breeding soprano pipistrelle or common pipistrelle roosts.
2. Bat surveys have been overseen by licenced bat worker.
3. Works on site affecting bats will commence within 18 months of the date bat surveys were completed.
4. A site-specific bat protection plan written by a licenced bat worker is in place, detailing how to minimise impacts on bats and bat roosts.
5. There is no alternative to the proposal will avoid the impact to bats.
6. The proposal has any needed statutory permissions in place.
7. The site has been registered with NatureScot licensing team.
8. Prior to works commencing on each site mitigation must be in place, i.e. woodcrete/woodstone bat boxes.
9. Prior to works commencing on site, all workers have been briefed by a licence holder.
10. A copy of the site-specific bat protection plan is displayed on site for the duration of all works covered by the BLIMP licence.



A BLIMP licence will permit the following actions:

- damage or destruction of non-breeding soprano pipistrelle or common pipistrelle bat roosts.
- temporary disturbance of those species in those roosts.
- obstructing access to those roosts.
- temporary handling of any bats of those species found during the course of works.

The BLIMP licence will not cover activities affecting other bat species or other types of roost. However, this will not preclude working under the BLIMP licence at a site where other species or roost types are present providing that the works will not affect them.

3.5. Disclaimer

DDAL are not lawyers and cannot offer a legal opinion. It is strongly recommended that legal advice be sought before taking any action which might expose you to a risk of prosecution. DDAL can recommend a specialist environmental lawyer.



4. BAT SPECIES IN SCOTLAND

4.1. Bat Ecology

There are 17 species of bat currently resident in the UK. Nine species are known from Scotland. All are believed to have declined as they face many threats to their highly developed and specialised life cycles. In general, their dependence on insects has left them vulnerable to habitat destruction, land drainage, habitat fragmentation, agricultural intensification, and increased use of pesticides. Their reliance on buildings and decaying trees has also made them vulnerable to felling, repairs, and the use of timber treatment chemicals.

In the UK, bats are generally active from late March to mid-October, hibernating from late October to mid-March. In early summer, females gather in maternity roosts to give birth, normally producing a single offspring per year. This slow rate of reproduction inhibits repopulation in areas of rapid decline. Bats are generally born in June/ July and are dependent on their mothers for about six weeks. In autumn and winter, male and females gather for mating. The females are able to store sperm until spring when an egg may be fertilized. In winter, bats hibernate in sites that have a cool, humid, and stable climate.

Bats generally return to the same roost sites every year which makes them particularly vulnerable to disturbance or destruction of these sites. Some species of bat move roost frequently and use a number of different roost sites.

4.2. Bat Species



Figure 1 - Soprano pipistrelle

Soprano Pipistrelle (*Pipistrellus pygmaeus*) is the most frequently encountered species in Central Scotland. They roost mostly in modern buildings, but occasionally in trees or other crevices. They range up to 4km from their roosts, using hedgerows and woodland edges to provide commuting routes to foraging sites and eat small flying insects and midges, with an affinity for habitats with a riparian element.

Common Pipistrelle (*Pipistrellus pipistrellus*) is less common in Scotland than further south, but still frequently encountered. Its habits are very similar to the Soprano Pipistrelle, but uses more generalised habitats.

Nathusius' Pipistrelle (*Pipistrellus nathusii*) is one of Britain's rarest bat species, with only a handful of records in Scotland. They tend to roost in tree-holes or buildings and are most commonly associated with large water bodies, such as reservoirs.



Brown Long-eared Bat (*Plecotus auritus*) is a relatively common, but rarely seen woodland bat. Primarily gleaners, they pick larger insects and arachnids off shrubs and trees, mostly in dense woodland. They roost in hollow trees or in the roof spaces of older buildings or barns, always very close to woodland.

Natterer's Bat (*Myotis nattereri*) is primarily a woodland bat, catching insects in flight and occasionally gleaned from trees and shrubs, though they also forage low over pasture. They most commonly roost in hollow trees, occasionally also in buildings near to woodland.



Figure 2 - Brown Long-eared Bat



Figure 3 - Cluster of Daubenton's bats

Whiskered Bat (*Myotis mystacinus*) is known in Central Scotland from a small number of records, though it is easily confused with Natterer's Bat and may be under-recorded. They forage in a variety of habitats, including hedgerows, woodland, and parkland. They roost in old stone buildings, and in tree crevices.

Daubenton's Bat (*Myotis daubentonii*) forages almost exclusively over water, eating insects and other arthropods

gaffed from the water surface or caught in flight just above it. Their roosts tend to be close to water, usually in hollow trees or cavities in bridges or other waterside structures.

Noctule (*Nyctalus noctula*) is the largest bat in Scotland and only rarely found north of the Borders. They mostly roost in hollow trees and emerge, often before dark to forage high over parkland, woodland and pasture on large flying insects.



Figure 4 - Noctule bat

NB: All images of bats are for illustrative purposes only, including image on front cover.



5. SURVEY METHODS

5.1. Stage 2 bat survey

The absence/presence surveys commenced 30 minutes before sunset and finished 90 minutes after sunset. Surveyors surrounded the building/s, in the locations marked in figure 5, which allowed all relevant faces of the building/s to be monitored for signs of emerging or returning bats. Contact was maintained with all surveyors by radio.

The supervising ecologist was equipped with a Titley Electronics Anabat Walkabout detector or Wildlife Acoustics Echo Meter Touch 2 Pro and accompanying tablet. This records bat calls to a memory card, whilst displaying them as a real time sonogram, allowing immediate identification and subsequent analysis if required.

Each surveyor was equipped with a Peersonic RPA2 heterodyne/full spectrum bat detector with integral digital recorder or EMT Touch Pro. The audio output was monitored for bat activity and the full spectrum output was recorded to a Secure Digital memory card. This allowed for further analysis using Anabat Insight software, where necessary. Each survey implemented the use of either Nightfox Red or Nightfox Whisker infrared cameras to view all elevations of the building.

A log of bat activity was maintained, paying particular attention to locations where bats may have emerged from and to, and to behaviour that could indicate commuting or hunting activity.

Weather conditions (ambient temperature in degrees Celsius, cloud cover in Oktas, wind speed using the Beaufort Scale and precipitation notes) were recorded at the start and end of the survey. Significant changes in weather during the survey were noted. Light conditions (measured in Lux) were recorded at the start and end of the survey.

5.2. Survey team

The survey program was planned by the director, David Dodds, a licensed bat specialist who has worked with bats for over fifteen years and who holds NatureScot bat scientific, conservation and training license number 135635. The stage 1 survey was carried out by the consultant ecologist Sam Hughes, who has extensive experience carrying out bat surveys, and holds a N.S. bat license number 252286.

Stage 2 surveys were conducted by consultant ecologist Sam Hughes and assistant ecologist Lauren Dixon, assisted by members of our bat survey team, all of whom are undergraduates or graduates in ecology or biological sciences and have undergone an intensive training program. The training program includes bat ecology, use of bat detectors, bat call identification, bat survey methods, health and safety and professional standards. Their individual experience is given in the table overleaf.



Survey	Surveyor	Experience
4 th May 2025	Anna Preston	18 months
4 th May 2025	Blair Munro	1 month
4 th May 2025	Ebba Vind	2 years
4 th May 2025	Isabella Jackson	1 month
4 th May 2025	Natalie Brownlie	1 month
4 th May 2025	Samantha Mein	1 month
4 th May 2025	Simone McKenzie	18 months
4 th May 2025	Skye Kenny	1 month
4 th May 2025	Stephanie Bartlett	1 month
25 th May 2025	Lauren Dixon	18 months
25 th May 2025	Skye Kenny	1 month
25 th May 2025	Isabella Jackson	1 month
25 th May 2025	Samantha Mein	1 month
25 th May 2025	Blair Munro	1 month
25 th May 2025	Ashley Macdonald	1 month
25 th May 2025	Natalie Brownlie	1 month
25 th May 2025	Jamie Thomson	1 month

5.3. Survey limitations

All British bats are peripatetic and move between different roosting sites through the seasons and sometimes within seasons. The absence of bats on a particular occasion does not necessarily rule out their presence at other times. An absence of physical signs does not always indicate the absence of a roost.

Physical surveys were carried out where it was safe to do so. Where unstable structures rendered it unsafe to enter a structure survey effort was increased.



5.4. Site plan



Fig. 5 – Satellite picture of the site, showing the subject building and surveyors' locations during the stage 2 survey.

KEY

- Location of surveyors during the 1st sunset emergence survey
- Location of surveyors during the 2nd sunset emergence survey

34 Dirleton Avenue



6. RESULTS

6.1. Stage 2 survey for bats

6.1.1 Table 1 – Activity survey data

Date	Survey Timing	Weather conditions (Temp, Relative humidity, Cloud cover, Beaufort wind, Lux, Precipitation)	Bat activity
04/05/25	Start time: 20:23 Sunset: 20:53 End time: 22:23	Start: 11°C, 56%, 6 Oktas, F1, 1645 Lux, Dry End: 8°C, 67%, 3 Oktas, F1, 0 Lux, Dry	Occasional overhead passes of Soprano Pipistrelles were recorded. No roosts were identified on this occasion. Low levels of bat activity were recorded.
25/05/25	Start time: 21:05 Sunset: 21:35 End time: 23:00	Start: 14°C, 65%, 5 Oktas, F1, 524 Lux, Drizzle End: 8°C, 91%, 8 Oktas, F2, 0 Lux, Rain	Frequent overhead passes of Common and Soprano Pipistrelles were recorded. No roosts were identified on this occasion. Moderate levels of bat activity were recorded between 21:27 and 22:30.



7. DISCUSSION AND CONCLUSIONS

These surveys have been carried out to a suitable standard, using methods which comply with current guidelines.

Two species of bats were noted in the vicinity of the building during the stage 2 activity surveys: Common and Soprano Pipistrelles.

No bat roosts were identified during the survey.

No further survey efforts regarding bats are necessary at this time.



8. REFERENCES

- Collins, J. (ed.) (2023) Bat Surveys for Professional Ecologists: Good Practice Guidelines (4th ed.). The Bat Conservation Trust, London
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9. APPENDIX I – INFRA-RED CAMERA STILL FRAMES





REPORT TO: Planning Committee

MEETING DATE: 25 June 2025

BY: Chief Planning Officer

SUBJECT: Further Report of Handling on Conservation Area Consent no. 24/01051/CAC – Demolition of building at 34 Dirleton Avenue, North Berwick

4

1 PURPOSE

- 1.1 Conservation area consent application reference 24/01051/CAC for the demolition of the existing building at 34 Dirleton Avenue, North Berwick and planning application reference 24/01050/P for the erection of 14 flats and associated works at 34 Dirleton Avenue, North Berwick, both submitted by Baseline Developments Ltd, were reported to the Planning Committee on 4 March 2025.
- 1.2 The Planning Committee indicated at that meeting their support to overturn the officer's decision to refuse conservation area consent and planning permission and that both applications should be continued to allow a bat survey to be undertaken to investigate whether there is any evidence of bats within the existing building of 34 Dirleton Avenue, North Berwick.
- 1.3 This further report sets out the applicant's response to this matter and makes recommendations to the Planning Committee.

RECOMMENDATION

- 2.1 In relation to conservation area consent 24/01051/CAC, that Planning Committee agree to grant conservation area consent subject to:
 1. The conditions set below in this Further Report of Handling for application 24/01051/CAC reported to the Planning Committee on 25th June 2025; and
 2. Notification to Scottish Ministers under the Planning (Listed Buildings and Conservation Areas) (Notification of Applications) Direction 2015 regarding Planning Committee's decision to grant conservation area consent 24/01051/CAC against the recommendation of Historic Environment Scotland and Council Officers.

3 BACKGROUND

- 3.1 Reports were submitted to the Planning Committee on 4 March 2025 recommending that planning permission be refused for the development proposed in planning application 24/01050/P and that conservation area consent 24/01051/CAC be refused for the reasons set out in those respective reports of

handling. Councillor Hampshire asked the applicant whether they would be willing carry out a bat survey at the application site, to which the applicant subsequently agreed. Mr Dingwall added that as bats are a protected species, the bat survey had to be carried out before conservation area consent and planning permission could be granted, were those to be the decisions. Therefore, Committee members were required to take a vote on the current proposal; if members voted against the officer's recommendation, then Mr Dingwall recommended that the application be continued to allow the bat survey to be undertaken. Following the bat survey, a report would be brought to the Planning Committee, at which point, members would agree whether to grant conservation area consent and planning permission.

- 3.2 Historic Environment Scotland (HES) advised in their capacity as a statutory consultee on the application for conservation area consent that "34 Dirleton Avenue is an architecturally significant building, built c1900, and highly visible on the main street that leads into the town, in the western part of the conservation area. It is a large, two storeys plus attic, sandstone detached villa with slated gambrel roof containing dormer windows. The exterior stonework is a mix of blonde and red sandstone and contains many architectural details from this period, such as bay windows, stone balustraded parapets, chimney stacks, porch and a circular corner turret or bow designed to address the corner crossroads. This last point is mentioned in the recent Buildings of Scotland for Lothian (2024) with 'two prominent stone villas where Hamilton and South Hamilton Road cross, both with circular bows at their corners'. As such, Historic Environment Scotland objected to the proposed demolition of the building at 34 Dirleton Avenue, North Berwick.

REPORT ON ISSUES RAISED

- 3.3 All bat species were designated as European Protected Species by Article 12 of The European Habitats Directive 92/43/EEC (1992). This was enshrined in Scots Law by The Conservation (Natural Habitats etc) Regulations (1994). As such, there is a legal requirement for the applicant to undertake bat surveys to ensure the proposed development would not disrupt, harm or kill any bat and/or disrupt, harm or destroy any bat roosts.
- 3.4 On 8 April 2025, the agent submitted a stage 1 bat survey which was undertaken at the application site, as well as a desk study of the site and surrounding habitat. The stage 1 bat survey investigated the roost potential of the buildings and potential of the surrounding habitat to support bats. The stage 1 survey notes the following observations were made:
- o 5 bat species were recorded within 5km of the site.
 - o The surrounding habitat was found to have moderate suitability to be used by bats for roosting, foraging, and commuting.
 - o The trees and outbuildings have negligible suitability to be used by roosting bats.
 - o The roof had several areas of missing, slipped and raised slates increasing the potential for roost sites.
 - o No direct evidence of bats was found during the stage 1 survey.
 - o The main building was found to have moderate suitability for use by roosting bats.
 - o A stage 2 bat survey is recommended.
- 3.5 Subsequent to receipt of the above stage 1 bat survey, the Council's Biodiversity Officer was consulted, and she advised the findings of the report were that the building has a number of features particularly on the south side which deem the

building to be of moderate suitability for bats. Therefore, the conclusion reached by the ecologist was that further surveys were required.

- 3.6 The Council's Biodiversity Officer advised a building such as 34 Dirleton Avenue would require two evening surveys, undertaken three weeks apart. The timeframes for stage 2 (or activity or presence/absence) surveys are such that they must be conducted between 1 May and 30 September (at least one survey must take place before end of August). As such, the applicant was advised that a stage 2 bat survey would require to be undertaken in line with the above criteria and submitted to the Planning Authority.
- 3.7 On 26 May, the agent submitted a stage 2 bat survey which was undertaken at the application site in line with current national guidelines and local planning policy. The survey consisted of two evening surveys, based on the roost potential of the building and the surrounding habitat.
- 3.8 During the stage 2 survey the following observations were made:
- o Two species of bats were recorded in flight at the site.
 - o No bat roosts were identified within the structure of the building.
 - o Moderate levels of bat activity were noted.
- 3.9 The report concluded that no further survey efforts regarding bats are necessary.
- 3.10 Subsequent to receipt of the stage 2 survey, the Council's Biodiversity Officer was re-consulted, and she advised that there is no further action required regarding bats, satisfied that there would be no harmful impact on bats from the development proposed in either application.

CONCLUSION

- 3.11 This Further Report sets out the findings of the stage 1 and stage 2 bat surveys undertaken at the application site in response to the requirement to undertake bat surveys in line with Policies 3 (Biodiversity) and 4 (Natural Places) of NPF4 and Policy NH5 (Biodiversity and Geodiversity Interests, including Nationally Protected Species) of the adopted East Lothian Local Development Plan 2018, subsequent to the decision by members at the Planning Committee meeting of 4th March 2025. This further report also concludes the Council's Biodiversity Officer is content that no further action required regarding bats in respect to this planning application and that the proposed development would not kill, harm, or disrupt any bats or bat roosts within the application site. The Council's Biodiversity Officer therefore raises no objection to the bat surveys submitted.
- 3.12 As HES objected to the conservation area consent application and members are minded to grant consent contrary to HES and Council Officer's recommendations, then East Lothian Council, as Planning Authority are required to notify Scottish Ministers under the Planning (Listed Buildings and Conservation Areas) (Notification of Applications) Direction 2015.

3.13 RECOMMENDATIONS

In relation to conservation area consent 24/01051/CAC, that Planning Committee agree to grant conservation area consent subject to:

1. The conditions set below in this Further Report of Handling for application 24/01051/CAC reported to the Planning Committee on 25th June 2025; and

2. Notification to Scottish Ministers under the Planning (Listed Buildings and Conservation Areas) (Notification of Applications) Direction 2015 regarding Planning Committees decision to grant conservation area consent 24/01051/CAC against the recommendation of Historic Environment Scotland and Council Officers.

CONDITIONS:

In relation to conservation area consent 24/01051/CAC that Planning Committee agree to grant conservation area consent subject to the following conditions:

1. The works to implement this conservation area consent shall begin before the expiration of 3 years from the date of this grant of conservation area consent.

Reason:

Pursuant to Section 16 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

2. No works for the demolition of the existing building shall be carried out unless written evidence that a contract has been entered into for the carrying out of the works authorised by planning permission 24/01050/P or by some other detailed planning permission for the development of the site granted by the Planning Authority, has been submitted to and agreed by the Planning Authority.

Reason:

In order to preserve the character and appearance of the North Berwick Conservation Area.

4 POLICY IMPLICATIONS

- 4.1 None.

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – None.

- 6.2 Personnel – None

- 6.3 Other – None.

7 BACKGROUND PAPERS

Appendix A - Report of Handling for application 24/01051/CAC reported to the Planning Committee on 4th March 2025

Stage 1 Bat Survey (David Dodds Associates Limited, March 2025) (See Item 3 Appendix B)

Appendix C - Stage 2 Bat Survey (David Dodds Associated Limited, May 2025) (See Item 3 Appendix C)

AUTHOR'S NAME	James Allan
DESIGNATION	Planner
CONTACT INFORMATION	Jallan@eastlothian.gov.uk 01620 827777
DATE	12 June 2025



REPORT TO: Planning Committee

MEETING DATE: 4 March 2025

BY: Executive Director for Place

SUBJECT: Application for Planning Permission for Consideration

***Note:** This application has been called off the Scheme of Delegation List by Councillor McFarlane for the following reason: Due to the condition of the building, I think the Committee should consider this application.*

Application No. **24/01051/CAC**

Proposal Demolition of building

Location **34 Dirleton Avenue
North Berwick
EH39 4BH**

Applicant Caledonian Heritable Ltd

Per Baseline Developments Ltd

RECOMMENDATION Application Refused

REPORT OF HANDLING

PROPOSAL

This application relates to the former Golf Hotel which is a two storey with attic and a lower ground level, detached building. The applicant notes the building has been vacant for some 4 years. The building is situated on the north side of Dirleton Avenue and occupies a prominent corner plot between Dirleton Avenue and Hamilton Road. The building is situated within a predominantly residential area as defined by Policy RCA1 of the adopted East Lothian Local Development Plan 2018. The building is also situated within the North Berwick Conservation Area. The building is not listed as being of special architectural or historic interest.

Through this application Conservation Area Consent is sought for the demolition of the existing building.

The submitted drawings also show the intention to demolish the existing single storey, pitched roof garage which is situated to the north of the building as well as sections of retaining walls and gates.

Through separate application 24/01050/P planning permission is sought for the erection of 14 flats and associated works. That application stands to be determined on its own merits.

LEGISLATION AND GUIDANCE

Under the duty imposed by section 64(1) of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997, the Planning Authority is required to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Therefore, the determining issue in this appeal is the effect of the proposed demolition works on the character and appearance of the North Berwick Conservation Area.

Historic Environment Scotland's (HES) Interim Guidance on the Designation of Conservation Areas and Conservation Area Consent (2019) sets out considerations to take into account when assessing proposals for the demolition of an unlisted building within a conservation area. These include establishing the importance of the building to the character or appearance of any part of the conservation area and proposals for the future of the cleared site. Where demolition is to be followed by redevelopment the guidance advises that consent to demolish should generally only be given where there are acceptable proposals for the redevelopment of the site.

DEVELOPMENT PLAN

National Planning Framework 4 (NPF4) policy 7 (historic assets and places) and policy CH3 (demolition of an unlisted building in a conservation area) whilst not part of the statutory test for conservation area consent, are relevant considerations in the determination of this application.

Policy 7(f) of NPF4 in respect of the demolition of buildings in a conservation area which make a positive contribution to its character will only be supported where it has been demonstrated that:

- i. Reasonable efforts have been made to retain, repair and reuse the building;
- ii. The building is of little townscape value;
- iii. The structural condition of the building prevents its retention at a reasonable cost ; or
- iv. The form or location of the building makes it reuse extremely difficult.

Policy CH3 (Demolition of an Unlisted Building in a Conservation Area) of the adopted East Lothian Local Development Plan 2018 states that support will be given for the demolition of buildings within Conservation Areas provided there are appropriate proposals for redevelopment or intermediate treatment and:

- (i) the building to be demolished is incapable of reasonably beneficial use by virtue

of its location, physical form or state of disrepair;

(ii) the structural condition of the building is such that it cannot be adapted to accommodate alterations or extensions without material loss to its character; or

(iii) the building does not positively contribute to the character or appearance of the conservation area and its removal or replacement would not adversely affect the character of the conservation area or it would facilitate positive townscape benefits.

REPRESENTATIONS

A total of 27 objections have been received in relation to this application. In summary the main grounds of objection are as follows:

i) The building has architectural merit and original features and thus should be retained and restored;

ii) The existing building should be submitted for consideration for listing as there has been no reassessment by HES in years;

iii) The building occupies a prominent location within North Berwick and the Conservation Area and is in-keeping with the surrounding buildings;

iv) The existing building contributes positively to the North Berwick Conservation Area;

v) The building is a 'one-off' and represents the foundation of Victorian and Edwardian architecture within North Berwick;

vi) The demolition of the building would negatively impact the historic environment and would be a material change to the character of the town;

vii) No evidence submitted to note why redevelopment of existing building isn't possible;

viii) No methodology provided for removal of asbestos which is likely to be present;

ix) The demolition of the building would be environmentally damaging;

x) The proposed building is too large for the site and would be taller than existing;

xi) The proposed building would dominate the surrounding;

xii) The proposed building would overshadow neighbouring properties causing a loss of sunlight and daylight;

xiii) Proposed parking provision is insufficient;

- xiv) It will be difficult to contain all building equipment within the site;
- xv) No CGI is provided to show the proposed building;
- xvi) The building should contain renewable energy and the heating system should be entirely carbon neutral;
- xvii) The proposed building should be of a form that respects the style and setting of the location and first with the North Berwick Conservation Area;
- xviii) The works to demolish the building will cause disruption for pedestrians and traffic in nearby streets;
- xix) An objector queries what provision is made for occupiers of the proposed flats to enter and exit the building;
- xx) An objector notes the public notice at the application site contained an incorrect date;
- xxi) Objectors requests the building be protected and listed by Historic Environment Scotland;
- xxii) The proposal is likely to result in the loss of mature trees within the grounds of the building;
- xxiii) The proposed flats will be luxury high end flats and will not alleviate the housing issues within the county;
- xxiv) The building is set back from the frontages of Dirleton Avenue and Hamilton Road and thus the existing building has been designed for its surroundings;
- xxv) Objectors note the proposal is contrary to Policy CH3 of ELLDP, Policy 7 of NPF4 and PAN 67;
- xxvi) All of the proposed elevations are substantially wider than the elevations of the current building and the proposed buildings footprint is larger than the existing building; and
- xxvii) An objector raises query with the applicants' intent to develop the site.

There is no planning requirement to provide information relating to the potential presence and removal of asbestos within the building the subject of this planning application.

Furthermore, there is no requirement for the submission of CGI images of the proposed flattened building.

The site notice with the incorrect dates was replaced with a new site notice with the correct dates and the period of representation was extended accordingly.

The following matters raised in representation to the application are not material considerations in the determination of this application for Conservation Area Consent.

- o the potential loss of mature trees within the application site;
- o the intent of the developer with regards to the application site and the proposed development including the form and appearance of the proposed building;
- o disruption caused by any works to demolish this building;
- o the existing building should be considered by Historic Environment Scotland for listing.

APPLICATION ASSESSMENT

In accordance with Historic Environment Scotland's (HES) Interim Guidance on the Designation of Conservation Areas and Conservation Area Consent (2019) the first consideration in the determination of this application is to establish whether the building makes a positive contribution to the character or appearance of the North Berwick Conservation Area.

The building of 34 Dirleton Avenue is a large, two storey and attic detached villa which is located on a prominent corner site at the junction of Dirleton Avenue with Hamilton Road and is therefore readily visible from within this part of the North Berwick Conservation Area.

Historic Environment Scotland note in their consultation response that "34 Dirleton Avenue is an architecturally significant building, built c1900, and highly visible on the main street that leads into the town, in the western part of the conservation area. It is a large, two storeys plus attic, sandstone detached villa with slated gambrel roof containing dormer windows. The exterior stonework is a mix of blonde and red sandstone and contains many architectural details from this period, such as bay windows, stone balustraded parapets, chimney stacks, porch and a circular corner turret or bow designed to address the corner crossroads. This last point is mentioned in the recent Buildings of Scotland for Lothian (2024) with 'two prominent stone villas where Hamilton and South Hamilton Road cross, both with circular bows at their corners'".

Whilst some alterations and additions to the building have taken place, the main part of the building still retains most of its traditional vernacular form, proportions, features and details and is on a highly visible corner site within this part of the conservation area.

The attached outbuildings at the rear appear to be later additions to the building. These elements are less visually prominent and are mainly in a poor state of repair. Given their design and poor condition they do not contribute significantly to the appearance or character of the conservation area.

Overall, the original building is of historic and architectural interest and despite being vacant, contributes positively to the townscape and therefore to the character and appearance of the conservation area. This aligns with the view of HES who

object to the demolition of the building.

As the building is of townscape value and contributes positively to the conservation area, then it must be established whether any of the other considerations set out in the HES guidance can be met to support the proposed demolition.

Have reasonable efforts been made to retain, repair and reuse the building?

In this instance no evidence has been submitted by the applicant or agent to demonstrate that efforts have been made to retain, repair or reuse the building. Prior to the submission of this application the applicant and agent did engage with the Council via the submission of two separate pre-application enquiries that related to the alterations and extensions to the building. However, the applicant decided not to pursue that proposal and instead submitted this conservation area consent application to demolish the existing building along with an associated planning application to erect a new flatted building on the site. In addition, no evidence that the property has been unsuccessfully marketed for alternative uses has been provided. Therefore, there is no evidence before the Council that demonstrates that reasonable efforts have been made to retain, repair and reuse the existing building.

Does the structural condition of the building prevent its retention at reasonable cost?

In this instance the agent has not submitted a structural survey report or any other reports or assessments that concludes that the structural condition of the building would prevent its retention at reasonable cost. The design and access statement submitted with this application does make reference to the pre-application process and engagement with the Council during the pre-application enquiries made, and notes that the alterations and extensions to the building would require the existing building fabric to be brought up to modern standards of insulation and energy efficiency making them, in the applicants' opinion, an uneconomically viable option. However, no reports or calculations have been provided to support this or to make comparison with the costs of demolition and the construction of a new building on the site. Therefore, it has not been demonstrated that the structural condition of the building prevents its retention at reasonable cost.

Does the form or location of the building make its reuse extremely difficult?

The application site occupies a prominent roadside position within the North Berwick Conservation Area and is readily visible from public views. There is no apparent reason that the location of the building would impact adversely on its reuse. The existing building sits comfortably within the grounds of the application site and the property has historically been extended. If those later, unsympathetic, extensions were to be removed and replaced with extensions that were deemed to be of an appropriate size, form, material and positioning then the building would be capable of being reused. Given these considerations it can reasonably be concluded that the form and location of the property does not present a significant challenge to its reuse.

Is there an acceptable replacement development proposal?

As noted above in this report, through separate application 24/01050/P planning permission is sought for the erection of 14 flats and associated works. The Report of Handling for that application has been placed on the weekly scheme of delegation list alongside this report. The report for the associated planning application recommends refusal of the proposed replacement building for the reasons set out in that report. Therefore, it can be concluded that the proposal to demolish the existing property fails to meet the requirements of the guidance which advises that generally consent should only be granted where acceptable proposals are in place.

Historic Environment Scotland have been consulted on this application and advise they object to this application as the information presented within the application does not justify the loss of this unlisted building in the Conservation Area which is contrary to relevant national policy and guidance.

Given all of the above considerations, the proposal to demolish the existing property at 34 Dirleton Avenue, North Berwick is contrary to Policy 7 of NPF4, Policy CH3 of the adopted East Lothian Local Development Plan 2018 and HES Interim Guidance on the Designation of Conservation Areas and Conservation Area Consent (2019).

In all of the above considerations, the proposed demolition works would fail to preserve or enhance the character or appearance of the North Berwick Conservation Area. Therefore, this application for conservation area consent should be refused.

REASON FOR REFUSAL:

- 1 Given the particular architectural and historic interest of the existing building, and that the building is of townscape value and contributes positively to the conservation area, the demolition of it would neither preserve nor enhance the character and appearance of the North Berwick Conservation Area. Furthermore, insufficient evidence has been submitted to demonstrate that the building is not capable of being reused or that the structural condition of the building prevents its retention at reasonable cost. Accordingly, the proposal is contrary to Policy 7 of NPF4 and Policy CH3 of the adopted East Lothian Local Development Plan 2018, and HES Interim Guidance on the Designation of Conservation Areas and Conservation Area Consent (2019).

REPORT TO: Planning Committee
MEETING DATE: 25 June 2025
BY: Executive Director for Place
SUBJECT: Application for Planning Permission for Consideration

5

Application no. **24/01004/P**
Proposal Installation of surface water pipe
Location **Land East of Dunbar Garden Centre
Spott Road
Dunbar
East Lothian**

Applicant Burness Paull
Per RDRL Limited

RECOMMENDATION Consent Granted

REPORT OF HANDLING

APPLICATION SITE AND BACKGROUND

The application site consists of a linear area of land of 0.1 hectares that is partly located on the western part of what is currently an agricultural field comprising part of the allocated site of Proposal DR7: Land at Spott Road by the adopted East Lothian Local Development Plan 2018 and which continues eastward along the south side of the old A1 road, under the A1087 road and terminates at the Brox Burn to the east of the residential properties of Ancroft. The land of Proposal DR7 is allocated for employment uses.

The site is within the Battle of Dunbar II Historic Battlefield site.

On 22 April 2022 planning permission (ref: 20/00916/P) was granted for the laying of infrastructure including roads and footpaths, street lighting and drainage infrastructure within the Proposal DR7 site to facilitate development of it.

The drainage strategy approved by planning permission 20/00916/P showed that surface water drainage from the western part of the Proposal DR7 site would discharge into an existing manhole at Spott Road, with the surface water drainage from the eastern part of

the site discharging into the Brox Burn.

In the supporting statement submitted with this application it informs that through planning permission 20/00916/P approval was given to take the majority of the surface water from the future development of the Proposal DR7 site westwards to a connection point on Spott Road/Kellie Road, with later phases of development on the eastern part of the site utilising the existing surface water pipe infrastructure eastwards to the discharge into the Brox Burn.

The supporting statement further states in order to mitigate any potential capacity constraints at the combined drainage system at Spott Road/Kellie Road and not to inhibit future developments elsewhere in Dunbar connecting to it, Scottish Water have requested the applicant to take the entire surface water output from the Proposal DR7 site eastward to discharge into the Brox Burn. In addition to this the supporting statement informs that additional SuDS measures would be designed and installed for each development plot within the Proposal DR7 site to provide discharge flows within the required parameters.

The application is also accompanied by a Drainage Impact Flood Risk Assessment report and a Preliminary Ecological Appraisal.

PROPOSAL

Planning permission is now sought through this application for the installation of a surface water drainage pipe within the Proposal DR7 site which would run in an easterly direction to an existing outfall point at the Brox Burn. The route of the proposed surface water drainage pipe is some 790 metres long, with some 390 metres within the Proposal DR7 site and some 410 metres adjacent to the former old A1 road (where it would also pass under the East Coast Main Line), across the A1087 road to the south of the properties of Ancroft where it would connect to the existing outfall to the Brox Burn.

The proposed surface water drainage pipe would be 450mm in diameter and would replace the existing 150mm diameter surface water drainage pipe at a depth between 0.45 metres to 2.0 metres.

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).

Policies 4 (Natural Places), 7 (Historic assets and places) and 22 (Flood risk and water management) of NPF4 are relevant to the determination of this application.

Proposal DR7: Land at Spott Road, Dunbar and Policies DP1 (Landscape Character), CH5 (Battlefields), NH1 (Protection of Internationally Designated Sites), NH3 (Protection of Local Sites and Areas), NH4 (European Protected Species), NH5 (Biodiversity and Geodiversity Interests, including Nationally Protected Species) and NH11 (Flood Risk) of the LDP are relevant to the determination of the application.

REPRESENTATIONS

Five written representations have been received to this application, all of which object to

it. The main grounds of objection can be summarised as follows:

- * The proposed surface water drainage pipe would pass through private land jointly owned by the residents of Ancroft;
- * The proposed surface water drainage pipe may affect a private septic tank;
- * There already exists erosion at the bank of the Brox Burn; and
- * The proposed surface water drainage pipe would lead to surface water flooding to adjoining land and properties.

With regard to the objection on land ownership, the applicant was asked for information on land ownership of the area of land where the proposed surface water drainage pipe would be installed to the southeast of the properties of Ancroft, as it has been asserted this is jointly owned by the six residents of Ancroft. The applicant provided title plans from the Land Register of Scotland and information from Companies House that demonstrates the land is not jointly owned by the six residents of Ancroft but a now dissolved company.

This information was passed back to the objector, and the objector was not able to provide any information to prove the area of land in question is jointly owned by the six residents of Ancroft.

Any damage to private property as a result of the proposed development would be a civil matter and is not a material consideration in the determination of a planning application.

COMMUNITY COUNCIL COMMENTS

Dunbar Community Council object to the proposed development on the following main grounds:

- * the proposal is not connected in any way to future plans for the site and there is no way of knowing or understanding what the final demand for surface water disposal volumes will be for a fully developed site, all of which would seek to use this pipeline;
- * there is no provision for a sensitively designed SUDS pond on the Dunbar Park site which would ensure that surface water would only move off the site in exceptional (1 in 50/100 year) instances and then, only in volumes that would not increase flood risk at the Brox Burn;
- * current residents at Ancroft are already being refused insurance because of flood risk at the Brox Burn and any additional water load to the burn can only exacerbate this risk
- * the proposed route crosses privately maintained septic tank infrastructure and consent has not been given for a wayleave for any new pipework.

West Barns Community Council object to the proposed development on the following main grounds:

- * the outflow of the pipe into the watercourse of the Brox Burn impacts on the septic tank infrastructure of the 6 homes at Ancroft. The residents have not given permission for excavation near their septic tanks to install the pipe;
- * the Brox Burn area has seen an increased history of flooding during heavy rain in recent years; there is concern that this development will increase the flood risk to properties nearby;
- * there should be a masterplan for drainage across the site. At present it is not known what the eventual water use of the development will be once completed and thus it is not known what the potential will be for outflow through the pipe into the Brox Burn.
- * alternative options for drainage should be considered;
- * concern about the wider impact of developments along the A1 corridor on drainage and flooding.

As mentioned above any impacts to private property as a result of the proposed development would be a civil matter and is not a material consideration in the determination of a planning application.

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 9th June 2025 the Council issued a formal screening opinion to the applicant. The screening opinion concludes that it is East Lothian Council's view that the proposed development is not likely to have a significant effect on the environment such that consideration of environmental information is required before any grant of planning permission. It is therefore the opinion of East Lothian Council as Planning Authority that there is no requirement for the proposed development to be the subject of an EIA.

PLANNING ASSESSMENT

As the proposed surface water drainage pipe would provide for infrastructure that would facilitate development of the site the subject of Proposal DR7: Land at Spott Road such development would be consistent with Proposal DR7 of the adopted East Lothian Local Development.

The proposed surface water drainage pipe would be located underground. By being located beneath the upper surface level of the land in which it would be located it would not be visible in public views and thus would not be harmfully intrusive, incongruous or exposed in its landscape setting or be harmful to the character and appearance of the landscape of the area, consistent with Policy DP1 of the LDP.

The proposed surface water drainage pipe would not harm the residential amenity of any neighbouring residential properties.

Historic Environment Scotland raise no objection to the application being satisfied that it would not have a significant adverse affect on the key features of the Battle of Dunbar II historic battlefield site. On this consideration the proposed development is consistent with Policy 7 of NPF4 and Policy CH5 of the LDP.

The **Council's Road Services** advise that the information submitted with this application indicates that the proposed surface water drainage pipe would be private apparatus that will cross under the U222 and the A1087 roads, both of which are part of the public road network, and that only apparatus which is owned and maintained by a public utility may be placed in or under the public road. However, that is a matter between the applicant and the Council as Roads Authority and would be dealt with under legislation other than planning.

Network Rail have been consulted on the application and raise no objection to the proposed development, advising that the design and construction of the proposed surface water drainage pipe must be carried out in full agreement with Network Rail. Network Rail's response has been sent to the applicant.

Scottish Environment Protection Agency (SEPA) have been consulted on the

application and advise they raise no objection to the proposed surface water drainage pipe, satisfied that predicated flows would not result in any flood risk.

Scottish Water have been consulted on the application and raise no objection to it.

The **Council's Team Manager – Flooding and Structures** advises that the surface water output from the Proposal DR7 site through the proposed surface water pipe should be limited at the point of exit into the Brox Burn, and in this regard the pipe would be fitted with a hydrobrake to limit the output to 43 litres per second.

The Team Manager – Flooding and Structures advises that as long as that limit is maintained then the proposed surface water pipe, in its use as surface water run off for future development of the Proposal DR7 site, would not result in a flood risk to any property or neighbouring land use. Therefore, the Team Manager – Flooding and Structures raises no objection to the application.

This limit for the surface water output can be controlled by a condition on a grant of planning permission, in which case on the above considerations of flood risk, the proposed development does not conflict with Policy 22 of NPF4 or with Policy NH11 of the LDP.

Moreover, any future development on the Proposal DR7 site would have to be accompanied by a drainage strategy to ensure surface water would not lead to any on or off-site flooding.

The proposed underground pipe will discharge surface water into the Brox Burn which in turn, discharges into the sea from Broxmouth Estate and therefore into The Outer Firth of Forth and the St Andrews Bay Complex Special Protection Area. As this proposal is not connected with the conservation management of that SPA, it was subject to HRA and as a likely significant effect could not be ruled out it was also subject to an Appropriate Assessment as required by Policy 4 of NPF4 and Policy NH1 of the adopted East Lothian Local Development Plan 2018. The **Council's Biodiversity Officer** advises that the Appropriate Assessment concludes that with the mitigation measures in place there will be no likely adverse effects on the integrity of the Outer Firth of Forth and St. Andrews Bay complex SPA. Nature Scot agrees with the conclusions of the Appropriate Assessment.

Policy 4 of NPF4 and Policy NH4 of the ELLDP states that Development proposals that are likely to have an adverse effect on species protected by legislation will only be supported where the proposal meets the relevant statutory tests.

The **Council's Biodiversity Officer** advises that there are records of protected species (bats, otter and badger) within the vicinity of the Brox Burn. Therefore she requested a Preliminary Ecological Appraisal (PEA) be submitted to assess the impact of the proposed surface water pipe on those protected species. The Biodiversity Officer is satisfied with the conclusion of the PEA and raises no objection to the proposals subject to:

- (i) supplementary surveys being submitted for protected species (bats, otter and badger) to be carried out by a suitably qualified person; the results of the surveys to be used to inform any required mitigation proposals for protected species on the site, and
- (ii) the submission of a Species Protection Plan (including otter, bats and badger) for the approval in writing by the Planning Authority.

Subject to the imposition of that planning control the proposed surface water pipe is consistent with Policy 4 of NPF4 and Policies NH1, NH3 NH4 and NH5 of the adopted East Lothian Local Development Plan 2018.

In conclusion, 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.

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 Unless otherwise approved in writing by the Planning Authority, the surface water pipe hereby approved shall be designed and constructed such that the surface water output from it into the Brox Burn does not exceed 43 litres per second. The surface water pipe shall be fitted with a hydrobrake or similar flow-restricting device to ensure the surface water flow does not exceed that output amount.

Reason:

In the interests of flood protection.

- 3 Prior to the commencement of development a copy of the relevant European Protected Species licence, (or notification of works to be carried out under a Bat Low Impact Licence) and a Species Protection Plan (bats, otter and badger) have been submitted to and approved by the Planning Authority. The Species Protection Plan should be informed by supplementary surveys for the protected species (bats, otter and badger) to be carried out by a suitably qualified person.

Any mitigation measures required as a result of the approved Species Protection Plan shall thereafter be carried out in accordance with the approved Species Protection Plan.

Reason:

In the interests of safeguarding the biodiversity of the area.

REPORT TO: Planning Committee
MEETING DATE: 25 June 2025
BY: Executive Director for Place
SUBJECT: Application for Planning Permission for Consideration

6

Application No. **25/00024/PM**
Proposal Erection of 24 houses, 36 flats and associated works
Location **Land at Former Wallyford Primary School
Albert Place (north)
Wallyford
East Lothian**

Applicant East Lothian Council
Per Smith Scott Mullan

RECOMMENDATION Consent Granted

REPORT OF HANDLING

BACKGROUND

As 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: 24/00003/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 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 in the Wallyford Learning Campus on 29th October 2024 and 19th November 2024, with both events held between 1545 hours and 2000 hours. Exhibition boards from the consultation events were also available to view on the Council's website. The PAC report informs that

it is estimated that some 25 people attended the first public consultation event, with some 10 people attending the second event. For the first public consultation event, a total of 9 responses were received. For the second public consultation event a total of 3 responses were received.

The PAC report advises that overall, the majority of respondents to the public consultation process expressed support for the proposed development, particularly regarding the provision of affordable housing and the redevelopment of a vacant site. It goes on to further advise that some negative feedback was received, mainly relating to matters involving the scale of development already undertaken in Wallyford and the impacts of further development on the amenity of residents, the impacts of increased vehicle movements on existing roads infrastructure and that the proposed 4-storey flatted blocks are too high.

The PAC report explains that the proposals have evolved as a result of comments received during community consultation including the appointment of a specialised contractor and a proposed construction management plan to limit disruption.

Notwithstanding the above, 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.

SITE CONTEXT

The application site is identified as part of a mixed use regeneration proposal (PROP) MH9: Land at Wallyford area as defined by the adopted East Lothian Local Development Plan 2018. It relates to some 1.38 hectares of vacant land formerly in use as a primary school. The former school buildings have been demolished and the site cleared. An existing substation is located within the site adjacent to its northern boundary. To the south of the site is the public road of Albert Place with residential properties beyond. To the west are the residential properties of 1-10 Albert Close, the former St Clements and St Ninians Church building and an area of open space featuring mature trees with Salters Road beyond. To the north of the site is a public footpath with residential properties and industrial buildings beyond. To the northeast is the residential development of Oliphant Gardens and to the southeast is Wallyford Livingroom Church and a public park featuring a children's play area.

The topography of the site is undulating and slopes uphill from southwest to northeast. The site is most visible in the main approaches to Wallyford from Salters Road to the northwest and from Albert Place to the south. A number of mature trees are located within the site. The site is part of the designated area of Pinkie Battlefield. It is also within an area identified by The Coal Authority as being a Coal Mining Development Low Risk Area.

PROPOSALS

Planning permission is sought through this application for the erection of 24 houses, 36 flats and associated works.

All of the 60 residential units proposed for the site would be operated by the Council as Social Rent Housing.

Application drawings show how the proposed 24 houses and 36 flats would be accommodated on the site along with associated access roads, 60 parking spaces, cycle storage, landscaping, open space, footpaths and bin storage. The houses would comprise of a mix of 6 semi-detached and 18 terraced houses. The houses would all be two-storey. The 36 flats would consist of 12 flats each within 3 four-storey flatted buildings.

In terms of size, 8 of the proposed 24 houses would contain 2 bedrooms, 12 would contain 3 bedrooms and 4 would contain 4 bedrooms. Of the proposed flats 18 would contain 1 bedroom and 6 would contain 2 bedrooms. 6 of the 1-bedroom flats are proposed as ground floor accessible.

The proposed 24 houses would feature pitched roofs finished in grey concrete tiles. They would be constructed to a height of some 8.5 meters. Elevation walls would be finished in facing brick. Windows would be constructed of anthracite grey uPVC. External doors would be of a composite finish.

The proposed 36 flats would be contained within three 'L' shaped buildings consisting of a four-storey south-facing building to the north of the site and two four-storey west-facing buildings located at points to the northeast and centrally within the site respectively. The elevation walls of the flatted buildings would be finished in facing brick. Each of the buildings would feature a pitched roof finished in grey concrete tiles with a ridge height of some 15.9 meters. All windows would be constructed of anthracite grey uPVC. Other than those serving bathrooms all proposed window openings would be full size. A number of window openings above ground floor level would feature Juliet balconies finished in steel railings. Entrance to the proposed flats would be taken from doorways featuring canopies and formed on the front and rear elevations of the flatted blocks. Waste and recycling facilities, cycle storage, and drying areas would be formed to serve the proposed flats.

All of the proposed buildings would feature rainwater goods and external fascias finished in anthracite uPVC.

Principal vehicular access to the proposed development would be provided through the realignment of an existing access point from Albert Place to the south of the site. An external water tank enclosed by 1.8 meters high timber fencing would be located on an area to the south of the site entrance. No additional vehicular accesses to existing public roads outwith the overall site would be formed. The access road serving the proposed development would form a loop around the residential properties and terminate in a turning head. The proposed 24 houses and 36 flats would be located around the outer and inner sides of the loop road. A mix of in-curtilage and on street car parking is proposed throughout the development with provision for electric vehicle charging points for each residential unit.

Small areas of open space would be formed between residential properties in addition to a grassed public area in the centre of the site featuring benches and informal play equipment. Footpath connections would be formed to the north and east of the site to link with existing footpaths and to provide access to off-site amenity space. A SUDS detention basin is proposed for the northwest of the site alongside existing trees.

The proposed buildings would be served by a mix of air source heat pumps, exhaust air heat pumps and roof-mounted solar photovoltaic panels.

The submitted details also include the formation of roads, footpaths, boundary enclosures and retaining walls and indicative landscaping.

In addition to architectural drawings the application is supported by a Design and Access Statement.

The submitted Design and Access Statement explains that the proposals would deliver 60 homes for social rent under the Council's Strategic Housing Investment Plan to meet local needs and to provide much needed affordable homes in East Lothian. It purports that the

built form and massing of the proposed residential units would be sympathetic and in keeping with the wider area. The statement explains that use of brick as the primary external finish of the proposed buildings would reflect the brickworks once associated with Wallyford Village and would be in keeping with existing buildings and boundary enclosures that have a brick finish. It further informs that the proposals meet the criteria of the Edinburgh Home Demonstrator (EHD) project that seeks to positively contribute to place making and the delivery of net zero affordable housing and that the proposals meet the Council's target of 10% of homes in new developments being wheelchair accessible. The statement concludes that the proposals would facilitate the reuse of a brownfield site allowing for wider community benefits and improved connections for both existing and new residents.

The following documents have also been submitted in support of the application:

- Planning Statement incorporating a Statement of Community Benefit (Scott Hobbs Planning, January 2025);
- Accommodation Schedule (Smith Scott, Mullan December 2024);
- Arborocultural Impact Assessment (TD Tree and Land Services, November 2024);
- Assessment of Gas Monitoring Results (FWS Geotechnical & Environmental Consultants, May 2021);
- Phase 2 Ground Investigation (FWS Geotechnical & Environmental Consultants, March 2021);
- Preliminary Contamination and Mining Risk Assessment (FWS Geotechnical & Environmental Consultants, February 2021);
- Flood Risk Assessment and Drainage Strategy (Bayne Stevenson Associates Ltd, January 2025);
- Preliminary Ecological Appraisal (Wild Surveys Ltd, November 2024);
- Wallyford Transport Statement (McIlhagger Associates, December 2024);
- Quality Audit Summary Report (Drummond Black Consulting Ltd, January 2025);
- Stage 1 Road Safety Audit (Drummond Black Consulting Ltd, December 2024); and
- RIBA Stage 2 - Energy and Sustainability (Carbon Futures Consultancy Ltd, November 2024).

Updated application drawings have been submitted further to consultation comments received from the Council's Strategy, Policy & Development (Amenity Services), Protective Services, and Landscape (Projects).

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 the 9th December 2024 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 National Planning Framework 4 (NPF4) and the adopted East Lothian Local Development Plan 2018 (ELLDP).

Relevant NPF4 Policies are Policies 1 (Tackling the climate and nature crisis), 2 (Climate mitigation and adaptation), 3 (Biodiversity), 6 (Forestry, woodland and trees), 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), 21 (Play, recreation and sport), 22 (Flood Risk and Water Management) and 24 (Digital infrastructure). Also relevant are Proposal PROP MH9: Land at Wallyford and Policies DP1 (Landscape Character), DP2 (Design), DP3 (Housing Density), DP4 (Major Development Sites), DP7 (Infill, Backland and Garden Ground Development), DP8 (Design Standards for New Housing Areas), DP9 (Development Briefs), RCA1 (Residential Character and Amenity), 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), CH5 (Battlefields), DCN2 (Provision for Broadband Connectivity in New Development), W3 (Waste Separation and Collection), NH5 (Biodiversity and Geodiversity Interests, including Nationally Protected Species), NH8 (Trees and Development), NH10 (Sustainable Drainage Systems), NH11 (Flood Risk), NH13 (Noise), SEH2 (Low and Zero Carbon Generating Technologies), 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), SECF1 (Safeguarded Education and Community Facilities) and DEL1 (Infrastructure and Facilities Provision) of the ELLDP.

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 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; and

(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.

Also material to the determination of the application is the approved development framework for Wallyford. The framework sets out the land uses expected for the wider allocated site and how the Council requires the site to be developed.

REPRESENTATIONS

Also material to the determination of the application are the written representations received to it. A total of 5 written representations have been received, 4 of which raise objections to the proposals and 1 of which neither objects to nor supports the proposals.

The main grounds of objection are summarised below:

- i)the proposed development would alter the visual character of the area and is not in keeping with the surrounding landscape;
- ii)the proposed flatted buildings would be out of character with existing buildings and would disrupt the architectural harmony of the wider area. They would dominate the skyline, block views and create an imposing presence;
- iii)the proposed development would strain local resources and result in increased activity in terms of traffic congestion, noise and disruption impacting on existing residents;
- iv)the application site and surrounding area is on land previously subject to coal mining activity and may not be safe to build on and lead to sink holes appearing;
- v)there are already too many new-build developments within Wallyford, adding to congestion and emissions impacting on health;
- vi)construction of affordable flats will impact negatively on property resale value of existing private properties;
- vii)the Council should focus on bringing more shops or leisure facilities/green space to Wallyford, not more housing;
- viii)not all relevant neighbours have been notified of the development proposed by planning application ref 25/00024/PM; and
- ix)the proposed development is not consistent with Policy Des 11: Tall Buildings - Skyline and Key Views of the Local Development Plan.

A further written representation raises matters concerning loss of green space, impacts of increased vehicle movements and construction traffic on residents and a deterioration in the value of existing properties.

The application site is located within an area identified by The Coal Authority as being a Coal Mining Development Low Risk Area therefore records do not indicate the presence of coal mining features at surface or shallow depth that may pose a risk to surface stability or public safety.

Property values are not a material consideration in the determination of a planning application.

With regard to neighbour notification procedures all neighbours have been notified by the Council of the application in accordance with the requirements of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.

Policy Des 11: Tall Buildings - Skyline and Key Views is a policy of the former Edinburgh Local Development Plan 2016 and is not relevant to the determination of this application.

Copies of the written representations are contained in a shared electronic folder to which all members of the Committee have access.

COMMUNITY COUNCIL COMMENTS

Wallyford Community Council were consulted on the application but have not provided a response.

PLANNING ASSESSMENT

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

It is thereafter necessary to consider whether the size, form, design and architectural appearance of the proposed development is acceptable in terms of the potential impact of the development on the character and amenity of the area, including the impacts on the character and appearance of this part of Wallyford and neighbouring residential amenity, and whether the proposed development would be provided with a satisfactory means of vehicular access and a sufficient standard of on-site parking provision. Such consideration will involve the impact the proposals would have on the climate emergency and nature crises. The impact of the proposal on infrastructure and facilities will then be considered.

The proposed development would replace a former primary school deemed surplus to requirements further to the opening of the new Wallyford Primary School in April 2019. Proposals are therefore consistent with policy SECF1 of the ELLDP.

Amongst other matters PROP MH9: Land at Wallyford of the ELLDP states that any new development proposals for the site must conform with the approved development framework for Wallyford. The **Council's Policy and Projects Manager** has been consulted on the application and advises that Appendix 6 of the development framework identifies 'housing - community use' as a suitable use for any future development of the site of this application. Therefore, the principle of residential development on the site of the former Wallyford Primary School has support in the ELLDP and would not prejudice the residential and mixed uses promoted by PROP MH9 of the ELLDP.

The proposed 60 residential units would be provided as affordable housing by the Council and include provision for specialist housing. The **Council's Strategy and Development Team Housing Enabler** advises that the mix and size of the affordable units to be provided on the site is acceptable. The proposals are therefore consistent with Policy 16(c) 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. As the proposed development would be comprised entirely of affordable housing units there would be no requirement for the provision of any additional affordable housing units under the Council's affordable housing policy.

Policy 9 of NPF4 supports development that will result in the reuse of brownfield land including vacant and derelict land. The former primary school buildings have been demolished and the application site is vacant. The proposed development would therefore be redevelopment of a brownfield site, the principle of which is supported by Policy 9 of

NPF4.

The site is adjacent to a wider predominantly residential area as defined by Policy RCA1 of the ELLDP. Policy RCA1 does not actively promote the development of land for new build residential development. Its principal purpose is to ensure that the predominantly residential character and amenity of existing housing areas is safeguarded from the adverse impacts of uses other than housing. Policy RCA1 does however state that proposals for new development will be assessed against appropriate local plan policies, which in the case of infill, backland and garden ground development is Policy DP7 of the ELLDP. Policy DP7 supports development within infill and backland locations where the site can accommodate the entire development, the occupants of neighbouring development experience no significant loss of amenity and the scale, design and density of the proposed development will be sympathetic to its surroundings. As the site is within the urban area of Wallyford the proposed redevelopment would be urban infill housing development. Therefore, the principle of the proposed development is supported by Policy Policy DP7 of the ELLDP.

Thereafter, the main determining factor in this case is whether, having regard to national, strategic and local planning policy and guidance and other material considerations the detail of the proposed buildings are acceptable, with due regard to the potential impact on the character and amenity of the area, including the impact on neighbouring residential properties.

Policy DP2 of the ELLDP, amongst other things, requires that all new development must be well designed and integrated into its surroundings. It requires that a building must be appropriate to its location in terms of its positioning, size, form, massing, proportion and scale.

Policies 14, 15 and 16 of NPF4 also apply to this development to ensure that development proposals are designed to improve the quality of the area in which it is located, will contribute to local living and will improve the affordability and choice of housing in an area.

The application site occupies a backland location in Wallyford. It is visible in views from the public road of from Albert Place to the south and in glimpsed views from Salters Road to the northwest. It is located within an area that is characterised by buildings of mix of size, architectural form and character. Albert Place, immediately to the south of the site consists of 2-storey terraced residential properties finished predominantly in block and render. Albert Close to the west consists of modern 2-storey terraced houses with a further mix of 2- and 3-storey terraced buildings at Salters Road beyond. To the northeast of the site are modern 2-storey detached houses of Oliphant Gardens. The neighbouring buildings have a mix of slate finished pitched roofs and pantiles or more modern tiles. To the southeast is the large modern brick-built Wallyford Livingroom Church and to the north are industrial buildings.

In their positions and due to their height, the proposed three 4-storey flatted buildings would be relatively prominent in the street scene. They would however be seen in the context of ground level changes across the site of some 3.5 meters from southwest to northeast. Moreover they would be viewed against the slope of the hill leading up to the utilitarian Wallyford Livingroom Church to the east and existing industrial buildings to the north. By virtue of their form and positioning the proposed flatted buildings would fit comfortably into the pattern and density of the built form of the wider area. They would not appear harmfully overbearing or dominant when viewed from neighbouring residential properties. The proposed two storey houses would be viewed more in the context of the existing 2-storey properties of Albert Place to the south and those of Albert Close to the west. In their position alongside existing buildings the proposed houses would be of an

acceptable scale and massing for their setting. Due to their positioning on the site and by virtue of their density, size and scale, architectural design and finishing, all of the buildings proposed for the site would satisfactorily integrate into their surroundings and would not appear as prominent or intrusive features.

The proposed development would be of a pattern and density not out of keeping with patterns and densities of housing and other development in Wallyford. 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. A condition can be imposed on the grant of planning permission for the proposed development to ensure that the finishing materials to be used respect the character and appearance of the wider area.

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 site is capable of accommodating all of the proposed development including satisfactory vehicular and pedestrian access and amenity space without being an overdevelopment of it. The proposed development would not be of a density incompatible with existing densities of development in the area.

By virtue of their positioning and distance away from any neighbouring property, the windows and other glazed openings to be formed in the elevations of the buildings would not lead to harmful overlooking of any neighbouring residential building or private garden.

The occupiers of the proposed houses and flats would also benefit from a sufficient level of privacy and residential amenity.

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. Footpath links to existing path networks are proposed to the north and east of the site that would allow for pedestrian and cycle access to Wallyford Town Centre with local access to public transport, walking, wheeling and cycling networks, shopping, schools and playgrounds and informal play areas. Therefore, the proposed repurposing of the site for residential development accords with the principles of a 20 minute neighbourhood consistent with Policy 15 of NPF4.

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 involve:

- redevelopment of vacant brownfield site and its return to sustainable use for much needed new homes;
- delivery of 60 affordable residential units offering wide range of households and to include 6 wheelchair accessible ground floor flats;

- integration and improved access to existing footpath/cycle networks and existing offsite play provision;
- increased support for local shops and services through improved access and introduction of new residents;
- developer contributions towards education and transport infrastructure;
- employment opportunities during construction period and sourcing of local supply chains;
- delivery of long-term visual amenity benefits through tree planting and open space provision and improved ecological value of the site;
- improved local public transport connections and enhanced walking/wheeling opportunities; and
- Edinburgh Home Demonstrator Project will provide opportunities for school curriculum support, work experience and new apprenticeship opportunities.

The **Council's Protective Services** were consulted on the application and the **Council's Senior Environmental Health Officer** initially raised concerns regarding potential loss of amenity for neighbouring residential properties due to the cumulative impacts of noise associated with the proposed air source heat pumps. Further to the submission of additional information the Council's Senior Environmental Health Officer is satisfied that the proposed air source heat pumps will comply with relevant noise rating criteria and raises no objection to the proposals.

In all of the above, subject to the aforementioned controls, the proposed development and associated areas of ground, in their proposed groupings, orientations, and layout would be consistent with NPF4 Policies 14, 15 and 16, Policies DP1, DP2, DP3, DP4, DP7, DP8 and DP9 of the ELLDP, the Scottish Government Policy Statement entitled "Designing Streets" and the Council's Supplementary Planning Guidance on 'Design Standards for New Housing Areas'. The proposed layout of roads, pathways and parking spaces would also generally be consistent with those principles.

Policy 21 of NPF4 seeks to encourage, promote and facilitate spaces and opportunities for play, recreation and sport in new developments.

Policy OS3 of the ELLDP states that developments of 20 and more dwellings must provide open space in line with Section 1 of that policy. Section 1: 'On-site provision' states that for developments of 20 and more dwellings the minimum requirement for on-site provision of open space is 60 square meters per dwelling. Section 2: 'Off-site enhancement' of Policy OS3 states that the Council will require developer contributions toward off-site enhancement of existing open space in circumstances where:

- i. The open space to be enhanced is easily accessible from the development and is of a size that can accommodate increased use generated by the development; and
- ii. The fabric of the open space requires enhancement as a direct consequence of the development.

Policy OS4 of the ELLDP states that developments of 50 and more dwellings must provide play space in line with Section 1 of that policy. Section 1: 'On-site play space provision' states that for developments of 50 - 159 dwellings a play area suitable for children aged 0 - 8 will be required. Section 2: 'Off-site enhancement' of Policy OS4 states that the Council will require developer contributions toward off-site enhancement of existing open space in circumstances where:

- i. The open space to be enhanced is easily accessible from the development and is of a size that can accommodate increased use generated by the development; and
- ii. The fabric of the open space requires enhancement as a direct consequence of the development.

In relation to the above application drawings demonstrate that the open space provision for the site would amount to 898 square meters, a shortfall of some 2702 square meters on that required by Policy OS3. No formal play area is proposed for the development.

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. She advises that she is supportive of the proposed benches and informal play equipment however the proposed open space provision for the site would not provide sufficient, usable areas of open space for informal recreation for the proposed development. She notes that no formal play space is proposed for the site and further advises that an existing play area to the southeast of the site will be directly impacted by additional usage as a result of the proposed development.

The Council's Strategy, Policy & Development Manager (Amenity Services) states that a financial contribution is required towards enhancing the existing open space and play facilities to the southeast of the application site. The required contribution amount is £567 per dwelling and will total £34,020 indexed from Q3 2017 until date of payment, using the BCIS All-in Tender Price Index.

On these open space and play provision considerations, subject to the Council securing the appropriate developer contribution, the proposals are consistent with Policies OS3 and OS4 of the ELLDP and Policy 21 of NPF4.

On matters of landscape the applicant has taken into consideration the comments of the **Council's Landscape Projects Officer** in the submission of revised drawings to incorporate enhanced landscape planting within the site. The Council's Senior Landscape Projects Officer recommends that provision, maintenance and retention of the proposed scheme of landscaping of the site be made a condition of a grant of planning permission. She further recommends that no development 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 **Council's Landscape Officer** raises no objection to the proposed development subject to the above controls which can reasonably form the subject of conditions imposed on a grant of planning permission.

On the matter of safeguarding of trees the proposal is therefore consistent with NPF4 Policy 6 and Policy NH8 of the ELLDP.

The **Council's Biodiversity Officer** has reviewed the submitted Preliminary Ecological Appraisal along with proposed landscaping, maintenance schedule and associated biodiversity enhancements. She is satisfied that the proposals are considered appropriate and acceptable, and the development will represent biodiversity enhancement in accordance with NPF4 Policy 3 and ELLDP Policy NH5.

Policy 13 of NPF4 supports proposals that enhance and provide active travel infrastructure, are designed to incorporate safety measures including safe crossings for walking and wheeling and reducing the number and speed of vehicles. Policy T1 of the ELLDP requires that new developments should be located on sites that are capable of being conveniently and safely accessed on foot and by cycle as well as by private vehicles. Amongst other matters Policy T2 requires that new development must have no significant impact on road safety.

The site is well located for access to local services by foot and cycling including access to

public transport in the centre of Wallyford. Overall, the design prioritises pedestrian and cycle movement and will deliver attractive routes to encourage sustainable travel choices in accordance with Policy 13 of NPF4.

The **Council's Road Services** have been consulted on the application and are generally satisfied that the proposed road layout and access arrangements, levels of parking provision and electric vehicle charging points are sufficient to serve the proposed development. They do not object to the application on the grounds of road safety although they do recommend the following:

- i) submission for approval of a Residents Travel Pack prior to first occupation of the first dwelling on the site providing information for residents to encourage use of sustainable modes of transport such as trains, buses, cycling and walking; and
- ii) submission for approval of a Construction Method Statement prior to commencement of any development to provide details of mitigation measures to be implemented during construction works to control noise, dust, construction traffic (including parking, routes to/from site and delivery times), hours of construction work and how building materials and waste will be safely stored and managed on site.

These requirements can reasonably be made conditions of a grant of planning permission for the proposed housing development.

Subject to the above controls the Council's Roads Services raise no objection to the application.

On these foregoing transportation and other access considerations the proposed residential development is consistent with Policies T1 and T2 of the ELLDP.

Given the site's location within the Battle of Pinkie Historic Battlefield, Historic Environment Scotland has been consulted on the application. They have responded that the proposals have the potential to affect the following heritage assets: BTL15, Battle of Pinkie, Battlefield.

Historic Environment Scotland further confirm they have no comments to make on this proposal. As such, no objection is raised to the application and the proposal would not be detrimental to the character or appearance of the Battle of Pinkie Historic Battlefield. On this consideration the proposal is consistent with NPF Policy 7 and Policy CH5 of the ELLDP.

The **Council's Senior Engineer – Flooding** has been consulted on the application. Having perused the submitted Drainage Strategy and Flood Risk Assessment he confirms that he has no objection to the proposals on grounds of flood risk.

Scottish Water have been consulted on the application. Having undertaken a Water Capacity Assessment and a Waste Water Capacity Assessment they raise no objection to the proposals, being satisfied that there is sufficient capacity in the Rosebery Water Treatment Works and for a foul only connection in the Waste Water Treatment works to service the proposed development. Notwithstanding it can be made a condition of any grant of planning permission that prior to the commencement of development confirmation from Scottish Water shall be provided that demonstrates that there is an available connection to the public sewer and that Scottish Water will accept waste from this development. If Scottish Water cannot accept foul drainage from this site, proposals for alternative arrangements should be provided, prior to the commencement of development and SEPA should be consulted.

In relation to considerations of contaminated land issues, the **Council's Senior**

Environmental Compliance Officer has reviewed the submitted Preliminary Contamination and Mining Risk Assessment, Assessment of Gas Monitoring Results and Phase 2 Ground Investigation documents and is satisfied that no potential risks to on-site human health or the water environment have been identified. He notes that the Phase II reporting recommends that allowances should be made for further investigation should significant visual or olfactory evidence of contamination be noted during the site preparation and enabling works. He further notes that it has been advised that imported topsoil and subsoil be used as a clean cover layer in gardens and areas of soft landscaping due to the existing poor growing medium on site. To address these issues the Senior Environmental Compliance Officer recommends that upon completion of the proposed development, a Validation Report is submitted detailing the sampling and testing carried out on the imported topsoil and subsoil used for the clean soil cover layers in the garden and soft landscaping areas. The reporting should also confirm that the soils are uncontaminated when compared to the relevant soil guideline criteria. If unexpected ground conditions (contamination) are encountered at any time when carrying out the development (including during the initial site preparatory works), work on site shall cease and the issue shall be reported to the Planning Authority immediately. At this stage, a further Site Investigation and subsequent Risk Assessment may have to be carried out, if requested by the Planning Authority. It may also be necessary to prepare a Remediation Strategy should the reporting determine that remedial measures are required. It should also be noted that a Validation Report would also need to be submitted confirming the satisfactory completion of all 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 occupation of the new buildings. These matters can form the subject of a condition attached to a grant of planning permission.

Subject to the above controls the **Council's Senior Environmental Compliance Officer** raises no objection to the application.

The **Council's Waste Services** have been consulted and raise no objection to the proposals.

Policies 1 and 2 of NPF4 encourage, promote and facilitate development that addresses the global climate emergency and nature crises and that minimise emissions and adapts to the current and future impacts of climate change.

Amongst other matters Policy SEH2 of the ELLDP states that all new buildings must include Low and Zero Carbon Generating Technologies (LZCGT) to meet the energy requirements of Scottish Building Standards.

The applicant's agent has submitted an Energy and Sustainability Statement with regards to relevant NPF4 and ELLDP Policies stating that:

- The development will benefit from either Air Source Heat Pumps (ASHP), Exhaust Air Source Heat Pumps (EASHP) or Ground Source Heat Pumps (GSHP) for space and water heating within all homes. These technologies emit very low to zero levels of CO2 emissions and provide onsite energy generation to reduce / remove the reliance of fossil fuels;
- A 'fabric first' approach is to be adopted to the design of the proposed buildings that involves maximising the performance of the components and materials of those buildings prior to considering use of mechanical and electrical service systems;
- All buildings to be ventilated to ensure air quality is not a threat to the health of occupants or the building itself; and
- Buildings will be designed and insulated to limit air infiltration, reducing heat loss and lowering CO2 emissions.

Application submissions also propose the installation of photo voltaic panels on the

proposed buildings and 100% electric vehicle charging facilities and associated infrastructure.

Although the above provides some of the required information, further details on the actions to be taken to reduce the carbon emissions from the build and from the completed development are required and the requirement for this information can be secured through a condition imposed on a grant of planning permission for this proposed development. Subject to the imposition of this condition, the proposed development does not conflict with Policies 1 or 2 of NPF4.

Policy 24 of NPF4 and Policy DCN2 of the ELLDP support the delivery of digital infrastructure.

Applicants confirm that fibre broadband via existing digital infrastructure will be provided to the proposed 24 houses and 36 flats to allow direct access to internet services. They further advise of existing 4G and 5G cellular network coverage. The proposals therefore comply with the policy intent of NPF4 Policy 24 and Policy DCN2 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.

The East Lothian Council Health and Social Care Partnership (ELHSCP) have been consulted on the application and raise no objection to the proposals, being satisfied that the principle of residential development on the application site has support in the ELLDP and that ELHSCP will have taken the allocation of this site into account in planning for health care at the time of its allocation in the ELLDP. However, they advise that the increase in registrations at Musselburgh Primary Care Centre that might be expected from the proposed development will put considerable pressure on primary care services. Whilst concerns about the effects of increased 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 **Council's School Estate Planning Officer** informs that the application site is located within the school catchment areas of Wallyford Primary School and Rosehill High and that a nursery unit is contained within Wallyford Primary School that serves the locality.

On assessing the application against the current roll projections for the catchment schools and its impact on the Education Service's ability to deliver education within the catchment he advises that to accommodate this development there is a requirement for contributions to Primary Education. Education and Children Services will be seeking a primary contribution of £733,520.36 (£12,225.34 per unit) indexed linked from Q4 2023 until date of payment using the BCIS All-in Tender Price index. This is a proportional cost based on the scale of the development (projected pupil output from development) and costs associated with the school.

The Council's School Estate Planning Officer further advises that there is also a requirement for Secondary Education contributions within the Musselburgh Cluster. The Musselburgh Secondary Education contribution is to create additional secondary educational capacity within the Musselburgh cluster. Rosehill High School Phase 1 is completed with a capacity of up to 950 pupil and forms part of the Wallyford Learning Campus. Phase 2 is planned to be developed in the medium term which will increase

Rosehill capacity of approximately 1200 pupils, depending on the ASN requirements per year. Education and Children Services seek £395,710.06 (£6,595.17 per unit) indexed linked from Q4 2023 until date of payment using the BCIS All-in Tender Price index towards Musselburgh Secondary Education Contribution to provide the required additional secondary capacity for the pupil generated from the proposed development. The School Estate Planning Officer further advises of a requirement within SG: Developer Contributions Framework for a Musselburgh Secondary Campus Land of £426 per unit, totalling £25,560 indexed linked from Q1 2019 using the BCIS All-in Tender Index for 60 units. However, as this application is by the Council, the school campus contributions are not relevant and thus will be waived.

A total financial contribution of £1,129,230.42 is therefore required towards the provision of additional educational accommodation, all costs will be indexed in accordance with the BCIS All-in Tender Price index from the specified indexation quarter aforementioned until the date of payment.

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 contributions required for strategic transport interventions are as detailed below:

- * Improvements to Old Craighall Junction (PROP T15): £698.70
- * Improvements to Salters Road Interchange (PROP T17): £6,604.73
- * Improvements to Bankton Interchange (PROP 17): £1,005.15
- * Musselburgh Town Centre improvements (PROP T21): £314.18
- * Tranent Town Centre Improvements (PROP T27 and T28): £1,392.08
- * Rail Network Improvements (PROP T9 and T10): £13,987.20
- * SATR: £22,125.68

Therefore a total contribution of £46,127.72, indexed linked from Q1 2019 until date of Payment using the BCIS All-in Tender Price Index, is required for strategic transport interventions resulting from the cumulative impacts of the development.

The **Council's Planning Obligations Officer** further advises of the requirement for a local transportation contribution of £20,000 (indexed linked from Q1 2025 until date of payment using the BCIS All-in Tender Price Index) for the development of a path to the southeast of the site to create a sustainable link with the existing public park and children's play area.

The **Council's Planning Obligations Officer** in consultation with the **Council's Strategy, Policy & Development Manager (Amenity Services)** advises that a financial contribution towards the provision of additional sports facilities capacity in the Wallyford area which are needed to support the residents generated from the proposed development and to be paid prior to commencement of any development. This approach is aligned with the ELLDP Developer Contributions Framework Supplementary Guidance and consistent with other consented residential developments in the Wallyford Area. In total the contributions equate to £58,560 indexed from Q1 2019 until date of payment using the BCIS All-in Tender Price Index.

The payment of a financial contributions of £1,129,230.42 towards the provision of

additional educational accommodation, £46,127.70 towards strategic transport interventions, £20,000 towards local transportation, £58,560 towards additional sports facilities capacity and £34,020 towards open space and recreation would in most cases be secured by a legal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or some other legal agreement. However, as the applicant is East Lothian Council Housing Service the use of a S75 agreement is not possible. Therefore, in this instance the sums will be secured through a written Legal Undertaking where the **Council's Head of Housing Services** will commit to the **Council's Chief Planning Officer** to ensure that the contributions sought in association with this planning application will be paid within the necessary timescales to ensure that the required infrastructure and facilities can be developed to support the residents generated from this housing development will suffice. This would also be in compliance with 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.

If the applicant were to sell the whole or part of the site to a third party then the Legal Undertaking will include that sales missives will require the successor(s) in title to agree to enter a S75 agreement(s) to ensure planning obligations are placed on the land prior to land title transfer. The items to be covered by the S75 are as follows:

- 1) The proportion payment of the additional educational accommodation contributions, strategic transport interventions, local transportation contributions, sports facilities capacity contributions and open space and recreation contributions associated with the number of units with planning permission within the land being sold;
- 2) To ensure the provision for 25% of the overall housing units within the site are for Affordable housing; and
- 3) In the event that the applicant submits a S42 application to increase the number of units, additional contributions will require to be secured through a new S75 to support further development of infrastructure to support higher levels of housing and this may require further infrastructure assessments.

Subject to securing the aforementioned contributions, and the imposition of the recommended conditions, the proposed development accords with NPF4 Policies 1, 2, 3, 6, 9, 12, 13, 14, 15, 16, 18, 21, 22 and 24. The proposed development further accords with PROP MH9 and Policies DP1, DP2, DP3, DP4, DP7, DP8, DP9, RCA1, HOU3, HOU4, OS3, OS4, CH5, DCN2, W3, NH5, NH8, NH10, NH11, NH13, T1, T2, T4, T31, T32, SEH2, SECF1 and DEL11 of the ELLDP.

As 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

That planning permission 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 £1,129,230.42 towards the provision of additional educational accommodation, £46,127.70 towards strategic transport interventions, £20,000 towards local transportation, £58,560 towards additional sports facilities capacity, £34,020 toward open space and recreation and the provision of a minimum of 25% affordable housing provision on site.

- 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 buildings 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 Notwithstanding that which is stated on the drawings docketed to this planning permission, a detailed specification of all external finishes of the houses and flatted block of the proposed development 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 flatted block shall be in accordance with a co-ordinated scheme of materials and colours that shall be submitted to and approved in advance by the Planning Authority. All such materials used in the construction of the houses and flats 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.

- 4 Other than in exceptional circumstances where the layout or particular building type does not permit, the approved residential units shall be orientated to face the street. Notwithstanding that shown on the docketed site plan where a building is located on a corner of more than one street, it shall have enhanced gable(s) to ensure it has an active elevation to each street it faces;

Reason:

In the interests of ensuring active frontages and to enhance character and appearance of the area.

- 5 Notwithstanding that shown on the drawings docketed to this approval of matters, all semi private and defensible spaces in front of or to the side of the residential units hereby approved and to the side of parking courtyards shall be enclosed by walls/hedges/fences/ or railings to define areas of private space from public space.

Details of the form and appearance of all boundary treatments, including those within the rear gardens of the houses, shall be submitted to and approved by the Planning Authority prior to the occupation of the first house.

A timetable for the provision of those boundary treatments shall be submitted to and approved in advance by the Planning Authority and 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 appropriate boundary enclosures and in the interest of safeguarding the privacy and amenity of future residents of the development

- 6 Prior to the occupation of the last residential unit hereby approved, the proposed access roads, parking spaces, and footpaths to serve them 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 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 and pedestrian safety.

- 7 Prior to the commencement of development details of the bin storage facilities for the flatted buildings hereby approved shall be submitted to and approved in advance by the Planning Authority. Prior to the occupation of any of the flats the bin storage facilities shall have been formed in accordance with the approved details and made available for use. Thereafter, the storage facilities shall be retained in use solely 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.

- 8 In the event that 'unexpected' ground conditions (contamination) are encountered at any time when carrying out the development hereby approved (including during the initial site preparatory works), work on site shall cease and the issue shall be reported to the Planning Authority immediately. At this stage, a further Site Investigation and subsequent Risk Assessment may have to be carried out, if requested by the Planning Authority. It may also be necessary to prepare a Remediation Strategy should the reporting determine that remedial measures are required. It should also be noted that a Validation Report would also need to be submitted confirming the satisfactory completion of all 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 occupation of the new buildings.

Reason

To ensure that the site is clear of contamination prior to the occupation of any of the buildings.

- 9 Prior to the commencement of development details shall be submitted to and approved by the Planning Authority of overlying subsoil/topsoil to be provided to the front and back gardens of the houses hereby approved on a plot by plot basis and on all soft landscaping areas to ensure the provision of a layer of subsoil/topsoil is acceptable. Thereafter the subsoil/topsoil shall be provided in accordance with the details so approved unless otherwise agreed in writing by the Planning Authority.

Confirmatory testing for both subsoil and topsoil materials is to be included within the Remediation Strategies being produced for the development site, with validation of these results being included within subsequent Verification Reports.

Reason

To ensure the provision of a suitable growing medium for garden areas and other areas of soft landscaping.

- 10 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.

- 11 Prior to the commencement of development confirmation from Scottish Water shall be provided that demonstrates that there is an available connection to the public sewer and that Scottish Water will accept waste from this development. If Scottish Water cannot accept foul drainage from this site, proposals for alternative arrangements should be provided, prior to the commencement of development and SEPA should be consulted.

Reason:

In the interests of ensuring that foul drainage from the site can be accommodated.

- 12 Prior to the occupation of any of the residential units hereby approved a Residents Travel Pack with information for residents to encourage use of sustainable modes of transport such as trains, buses, cycling and walking shall be submitted to and approved by the Planning Authority. The Residents Travel Pack will 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.

- 13 Prior to the commencement of development, a Construction Method Statement which sets out how the impact of construction activity on the safety and amenity of the area will be mitigated shall be submitted to and approved by the Planning Authority.

The Construction Method Statement shall include details of:

- * Mitigation measures to control noise, dust, construction traffic (including routes to/from site and delivery times);
- * Hours of construction work; and
- * Routes for construction traffic

The Construction Method Statement shall also make recommendations in respect of how building materials and waste will be safely stored and managed on site.

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 and the wheel washing facilities or any alternative facility so approved shall be provided and maintained in working order during the period of construction operations at the site.

Reason:

To minimise the impact of construction traffic in the interests of road and pedestrian safety in the locality.

- 14 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 interest of road safety.

- 15 Private driveways for the houses hereby approved shall have minimum dimensions of 6

metres by 3.3 metres. Double driveways shall have minimum dimensions of 6 metres width by 6 metres length or 3.3 metres width by 11 m length. All driveways shall be fully hard formed with a gradient no greater than 10%.

Reason

In the interests of road and pedestrian safety.

- 16 Prior to the occupation of any of the residential units hereby approved, the electric vehicle car charging units and infrastructure for them, as shown on docketed drawing no. 7105-60-ST-01 rev A titled 'Electric Vehicle Charging' shall be installed and made operational for use, and thereafter shall be retained and maintained and be available for use.

Reason:

To minimise the environmental impact of the development.

- 17 All planting, seeding, or turfing comprised in the scheme of landscaping on docketed drawing no. ED14417-XX-XX-DR-L-0100 P05 titled 'Landscape General Arrangement' 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. 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:

To ensure establishment of a landscape scheme that enhances biodiversity and improves the amenity of the area.

- 18 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 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 within the docketed Arboricultural Impact Assessment Drawing no.191124003 titled 'Tree Constraints', 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, without supervision by the appointed arboriculturalist
- _ No mechanical digging or scraping
- _ No storage of temporary buildings, plant, equipment, materials or soil
- _ No hand digging, without supervision by the appointed arboriculturalist
- _ 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.

REPORT TO: Planning Committee

MEETING DATE: 25 June 2025

BY: Executive Director for Place

SUBJECT: Application for Planning Permission for Consideration

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***Note:** this application has been called off the Scheme of Delegation List by Councillor Collins for the following reason:* For further discussion on project for locals and applicant.

***Note:** this application has been called off the Scheme of Delegation List by Councillor McIntosh for the following reasons:* To allow discussion of the application in light of Policy 1 of NPF4, to look in further detail at policies 4b, 11 (ii) and 14 which are referenced in the recommendation to refuse, and to consider how the LDP and supplementary guidance note fit into our overall development plan. Further noting that the reference to the development being against NPF4 Policy 11(ii) appears to be a typo, as there is no section 11(ii) and clarity is requested on which part of Policy 11 has actually been drawn on for this refusal. It may also be useful to get input from the Climate Change Officer regarding this case, as if climate mitigation is being weighed against landscape effects, then a response from the officer with expertise in climate mitigation would help the Committee have a rounded view of the issues before making a determination.

Application no. **24/01091/P**

Proposal Installation of one wind turbine and associated works

Location **Field to the West of Howden Wood
Gifford
East Lothian**

Applicant East Lothian Eggs Ltd

Per Anna Balls

RECOMMENDATION Application Refused

REPORT OF HANDLING

BACKGROUND

This application relates to an area of agricultural land, some 0.12ha in size located to the west of Howden Wood and to the southeast of the village of East Saltoun. The application site is located within the countryside, as defined by Policy DC1 of the East Lothian Local Development Plan 2018 ('ELLDP 2018') and is identified as an area of Prime Quality

Agricultural Land (Class 3.1).

The site is within a Coal Authority Development Low Risk Area. Howden Wood which is designated as an Ancient Woodland and a Local Biodiversity Site is located to the north-east of the application site. The application site is not located within a Special Landscape Area.

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The application site is bounded to the north by two large poultry buildings that are operated as organic free range egg production units by East Lothian Eggs Limited, beyond which is the public road of the B6368. The site is bounded to the east by agricultural land and an access track, beyond which is Howden Wood. The site is bounded to the south and west by agricultural land.

Access to the proposed wind turbine would be taken from an existing access junction off of the B6368 and in part, along an existing access track.

PLANNING HISTORY

Relevant planning history is detailed below:

In December 2011, Planning Permission was granted under ref: 11/00839/P for the erection of a wind turbine and associated works at Howden Farm, some 1km north of the application site. The wind turbine was approved with a total height of 34.4 metres from ground level to blade tip. This consent has been implemented and the wind turbine is in operation.

A number of other planning applications have since been granted for development including poultry buildings and associated structures relating to egg production in various locations at Howden Farm. These include (refs: 15/00541/P, 17/00027/P, 19/00330/P, 20/00238/P, 20/00851/P, 21/01235/P, 22/00239/P, 22/00952/P, 23/00680/P, 23/01262/P and 24/00563/P).

PROPOSAL

Planning permission is now sought for the erection of a wind turbine and associated works. The associated works would include: i) the erection of a GRP unit; ii) the erection of foundations to host both the turbine and the GRP unit and iii) the extension of an existing access track.

The wind turbine is proposed to be positioned to the southeast of the existing poultry shed and bunding approved under refs: 19/00330/P, 21/01235/P and 22/00239/P. It would be positioned facing in a south-westerly direction and would be embedded into a concrete foundation which would be some 15m in length by some 15m in width. The concrete foundation would have an approximate depth of some 4m.

The wind turbine column would have a height of some 40m. The wind turbine would have three blades, with each blade proposed to be some 27m in length. The total height of the wind turbine inclusive of its blades would be some 67 metres in height. It would have a generation capacity of some 900kW.

The turbine tower itself would be light grey (RAL 7035) in colour and would be of steel construction. The turbine rotor blades would also be light grey (RAL 7035) in colour and constructed from glass reinforced epoxy.

The GRP unit would be positioned to the northeast of the proposed wind turbine. It would

be some 4m in length by some 3m in width. It would have a height of some 2.55m from ground level. It would be constructed with glass reinforced plastic in a shade similar to bottle green (RAL 60007). It would have a set of double stainless steel louver style doors of some 600mm by 600mm on its front elevation. A thermostatically controlled extract fan would be positioned on the rear elevation of the GRP unit. The GRP unit would be situated on top of a concrete foundation of some 5.19m in length by some 3.4m in width.

The existing access track is proposed to be extended to the southeast to facilitate access to the proposed wind turbine location. The track extension would have a length of some 113m and a width of some 5m. It would be constructed with compacted crushed rock.

This application for planning permission is accompanied by a Planning Statement which is summarised below:

- i) The application is submitted on behalf of East Lothian Eggs Ltd ('ELE') an existing and successful agricultural business operating from Howden Farm and with their ongoing expansion comes an increased demand for energy on-site.
- ii) Maintaining the hen sheds at the required temperatures for egg production requires a significant amount of energy for heating. The Planning Statement states that this is a contributing factor to the climate crises.
- iii) Currently Howden Farm uses ground source heat pumps, an existing wind turbine and solar panels for electricity generation, however, the applicant's do still rely on grid energy which is noted to be burdensome to the existing agriculture business.
- iv) The applicant's agent states that increasing the renewable energy generation at Howden Farm will be a significant benefit to the business, environment and community.
- v) No other renewable technologies offer an electrical output as high as wind turbines, with the typology chosen to ensure impacts to residential amenity are minimised as much as possible.
- vi) In 2023, ELE consumed over 492MW/h of electricity with this figure set to rise.
- vii) The proposed turbine would allow this local rural business to secure green, low carbon and zero emission technology, positively contributing to ELE's declared climate emergency and associated climate change targets. Whilst playing a part in increasing the business' green credentials.

The application is also accompanied by the following reports: i) Bat Survey; ii) A Collision Risk Analysis Report; iii) A Noise Impact Assessment; iv) A Preliminary Ecological Appraisal; v) A Non-Technical Summary and vi) an Environmental Impact Assessment (EIA) and associated appendices.

The application is EIA development and is therefore accompanied by an Environmental Impact Assessment. A summary of the EIA and details relating to EIA procedures and associated legislation is set out later in this report.

DEVELOPMENT PLAN

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

The development plan is the approved National Planning Framework 4 ('NPF4') which was adopted by The Scottish Government on the 13th of February 2023 and the adopted ELLDP 2018.

The relevant policies contained within the NPF4 consist of 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), 23 (Health and Safety) and 29 (Rural Development) and Policies DP1 (Landscape Character), DP2 (Design), T2 (General Transport Impact), DC1 (Rural Diversification), DC9 (Special Landscape Areas), WD2 (Smaller Scale Wind Turbine Development), WD3 (All Wind Turbines), WD4 (Access Tracks), WD6 (Decommissioning and Site Restoration), NH7 (Protecting Soils), NH13 (Noise), NH3 (Protection of Local Sites and Areas), NH4 (European Protected Species), NH5 (Biodiversity and Geodiversity Interests, including Nationally Protected Species), CH1 (Listed Buildings) and CH6 (Gardens and Designed Landscapes) of the adopted ELLDP 2018 are relevant to the determination of the application.

Also, material to the determination of this application is:

1. The Scottish Government web-based renewables advice entitled "Onshore Wind Turbines", which has replaced Planning Advice Note 45: Renewable Energy Technologies;
2. The East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011); and,

The advice entitled "Onshore Wind Turbines" forms one section of the web-based renewables advice note that the Scottish Government have introduced to replace Planning Advice Note 45: Renewable energy technologies. It provides advice on, amongst other things, matters relating to landscape impact, wildlife and habitat, ecosystems and biodiversity, shadow flicker, noise, road traffic impacts, aviation, impacts on the historic environment including setting and cumulative effects.

The Council's Locational Guide for Smaller Scale Wind Energy Proposals is relevant to the determination of this application. This has been based on the Supplementary Landscape Capacity Study for Smaller Wind Turbines and determines the capacity of the Lowland Farm Plain to accommodate various scales of wind turbine development smaller than those considered in the Landscape Capacity Study for Wind Turbine Development in East Lothian (May 2005). In this regard four principal development typologies are considered in the study, namely, (i) Typology A: wind turbines between 65 meters and 120 meters high, (ii) Typology B: Single wind turbines between 42 meters and 65 meters high, (iii) typology C: wind turbines between 20 meters and up to and including 42 meters high, and (iv) typology D: wind turbines between 12 meters and 20 meters high, with all wind turbine heights being from ground level to blade tip.

Also relevant to the determination of the application is the Special Landscape Areas ('SLA') Supplementary Planning Guidance (SPG) of the ELLDP 2018 adopted by the Council in 2018.

REPRESENTATION

One letter of support has been received in respect of this application and two letters of objection have been received in respect of this application. Both objections of which are from the same party.

The letter of support is summarised below:

- i) The commentor states that they fully support farmers who are trying to reduce their carbon footprint with renewable energy projects.

The main grounds of objection are:

- i) The proposed development would have a materially overbearing and adverse effect on the visual amenity of the objector's dwellinghouse and views toward the Lammermuirs when approaching the B6368 from the west.

- ii) The proposed development causes concerns for the welfare of ponies and foals within the surrounding area due to noise.
- iii) The proposed turbine exceeds the 42m area designation by 25m or 60%. The objector advises that the fact that the area designation was decided in 2013 should not in itself make the designation outdated.
- iv) Noise levels would exceed 35dB if the wind turbine were to be commissioned. The objector states that these noise levels on top of existing noise levels would be unacceptable.
- v) The Objectors dwellinghouse will be adversely affected by excessive noise and shadow flicker.
- vi) Having read the Non-Technical Summary submitted in support of this application, the objector puts forth that the applicant upgrades the existing turbine and/or add an additional turbine at or close to this existing site as it would meet the applicant's renewable objectives and would not cause adverse effects on the amenity of their residential property and the wider area.
- vii) The materially adverse effect on How Knowe should be given precedence in determining this application over the applicant's need for this development to maximise the net economic impact on their already thriving business.
- viii) The objector notes that the applicant seeks to justify the proposed development on the basis that the business is a "large draw on traditional fossil fuelled networks". This is not substantiated and may now (and almost certainly during the lifespan of the proposed development will be) provided by other renewable energy projects.

The loss of private views is not a material consideration in the determination of this planning application.

COMMUNITY COUNCIL

None.

ENVIRONMENTAL IMPACT ASSESSMENT ('EIA')

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'). The proposal falls under the development description Schedule 2, Section 3(J)(ii) - the hub height of any turbine or height of any other structure exceeds 15 metres. The proposal therefore must be screened under Schedule 2 of the EIA (Scotland) Regulations 2017.

On 5 June 2023, a Scoping Request was submitted to East Lothian Council. On 21 July 2023, the Council issued a formal scoping opinion to the applicant concluding that proposals formed as 'EIA Development' due to the following issues:

- i) Scale of development including the introduction of new land uses and the influx of people to the site.
- ii) The visual impact of the development on the surrounding landscape including key views, protected trees and local designations.
- iii) The effects on cultural heritage in particular Scheduled Monuments, buried archaeological remains, conservation areas and nearby listed buildings.
- iv) The effects on biodiversity in terms of species and habitats; and,
- v) The effects on nearby populations in terms of pollution (odour, noise, dust and vibration).

An EIA was submitted to the Council on 9 October 2024 on the same date of submission of the associated application for planning permission. An advert was placed in the East

Lothian Courier and the Edinburgh Gazette on 15th November 2024 giving members of the public a period of 1 month with the opportunity to make representations to, and therefore be involved in the decision-making process of this EIA development.

The submitted EIA contains chapters on the method and approach to preparing the Report, project description and specifications, site selection, EIA legislation, Landscape and Visual Impact Assessment, Heritage Impact Assessment, Ecology, Noise Impact Assessment, Access and Transportation and Topics Scoped Out.

Following amendments to the EIA as submitted, namely with relevance to Chapter 9, Access and Transportation, a further advert was placed in the East Lothian Courier and the Edinburgh Gazette on 11th April 2025 giving members of the public a period of 1 month the opportunity to make representations to, and therefore be involved in the decision-making process of this EIA development.

The EIA is based on a proposal for the erection of a single wind turbine with a height to blade tip of some 67m and associated works on land to the west of Howden Wood, Gifford.

As required by Regulation 5(5)(b) of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 and to ensure the completeness and quality of the EIA, the applicant has submitted within Section 1.2 of the EIA a statement outlining the relevant expertise or qualifications of the project team that has contributed to the EIA.

Supplementary to Section 1.2 of the EIA, a further statement was submitted by the applicant's agent Cogeo on 12th February 2025 which detailed that: "Cogeo's team comprises numerous competent professionals with vast experience in renewable energy and EIA applications and... that Cogeo stand by their statements, assessments and conclusions in all aspects of environmental impact concerning the application". They further state that their EIA is compliant with Regulation 5 (5).

Based on the submitted statements, it can be reasonably concluded that the authors of the EIA Report 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. In line with the Scoping Opinion, the EIA has considered the likely significant effects from construction and operation of the proposed development on Landscape and Visual, Heritage, Ecology, Noise and Access and Transport.

The EIA report concludes that:

Landscape and Visual impact Assessment ('LVIA') - The findings in the LVIA conclude that the proposal will be the largest single turbine development within the lowlands, though overall, the proposed development would only have a moderate impact on views from the local area, with this diminishing to minor with increased distance from the development. The LVIA notes that a number of SLAs will be impacted, however, it notes that the extent of the impact would not cause harm to the intended purpose of the designation. Further, the LVIA acknowledges that the impacts to Core Path 4 and How Knowe are major/moderate, though the author does not consider that this breaches the level of unacceptable development in terms of being dominant or an overbearing feature. Rather, the LVIA concludes that this is a reflection of the proximity to the vertical structure.

Heritage Impact Assessment ('HIA') - All cultural heritage assets located within a 10km search area were analysed to assess the potential for risk of impact to heritage value through the installation of the proposed development. The Scoping Opinion received scoped out all aspects of the Historic Environment, apart from the potential indirect effects on Listed Buildings, Scheduled Monuments and Inventory Gardens and Designed Landscapes. Historic Environment Scotland requested that the following assets be appropriately assessed: Bolton Muir (Category A Listed Building), Pilmuir House (Category A Listed Building) and Pilmuir (Garden and Designed Landscape) amongst other relevant assets.

The HIA (Chapter 6) of the EIA Report details the assessment undertaken. Evaluation of the anticipated impacts in the HIA finds that the installation of proposed turbine at Howden Farm would create wide ranging impacts and fall below a threshold considered significant in Heritage and EIA terms, with the proposal considered compliant with relevant historic environment legislation and policy.

Ecology - The ecology section of the EIA references the PEA; the Bat Survey and the Collision Risk Analysis also submitted in support of this application which are summarised above. This chapter concludes that the development proposed would have no impact on the four European Sites within 20km of the application site.

Noise - Section 8 of the EIA concludes that a background survey was conducted at a location representative of the study area and a noise modelling exercise was undertaken to assess potential operational noise impacts. It references the NIA and concludes that the proposed turbine complies with limits derived from ESTU-R-97 when assessed both in isolation and cumulatively. As such, Section 8 of the EIA concludes that no mitigation measures are required.

Access and Transport - Section 9 sets out that once operational, there will be low vehicle movements required in association with the proposed development, limited to maintenance visits by standard sized vans upon operation of the wind turbine. Section 9 details that it is the construction phase where potential impacts are likely to arise and references a Swept Path Analysis undertaken and submitted in support of this application. Potential impacts and mitigation measures are outlined, and Section 9 concludes that driver safety is paramount, with measures taken to ensure no impact is posed to road users, with traffic generated as a result of the proposed development not anticipated to be significant.

The Environmental Impact Assessment (EIA) concludes that subject to relevant mitigation, the proposed development would not have any significant effects.

Historic Environment Scotland were consulted as part of the EIA component of this application. They raised no comments in respect of this proposal.

Transport Scotland has also commented on the EIA and have confirmed that their director does not propose to advise against the granting of permission.

Scottish Water has also commented following consultation on the EIA to state that they have no objection to the proposal. They state that there are no Scottish Water drinking water catchments or water abstraction sources, which are designated as Drinking Water Protected Areas under the Water Framework Directive, in the area that may be affected by the proposed activity. They do however state that they will not accept any surface water connections into their combined sewer system.

Nature Scot has also been consulted on the EIA and raised no objection.

PLANNING ASSESSMENT

The proposed wind turbine would be located on land classified as prime agricultural land. Policy 5 of NPF4 and Policy NH7 of the ELLDP 2018 support development on prime agricultural land in limited circumstances including where it is to be used for the generation of energy from renewable sources. Therefore, the proposals are compliant with Policy 5 of NPF4 and NH7 of the ELLDP 2018.

Policy DC1 of the ELLDP 2018 states that development in the countryside, including changes of use or conversions of existing buildings, will be supported in principle where it is for agriculture, infrastructure or other businesses that have an operational requirement for a countryside location.

Policy 29 of NPF4 supports development proposals that contribute to the viability, sustainability and diversity of rural communities and the local rural economy, inclusive of developments relating to farms, where use of good quality land is minimised, and business viability is not adversely affected and for the diversification of existing businesses.

With its purpose to generate and supply electricity, a wind turbine and associated works can reasonably be defined as being an infrastructure type of development. A countryside location where wind power can be harnessed to generate electricity is a basis upon which the requirement to operate a wind turbine infrastructure type development in the countryside can in principle be justified.

Moreover, the proposed wind turbine and associated works would generate renewable energy for an existing agricultural business located at Howden Farm and thus the proposal has an operational requirement for a countryside location. Proposals are therefore consistent in principle with Policy 29 of NPF4 and Policy DC1 of the ELLDP 2018.

Policy 11 of NPF4 supports development of all forms of renewable technologies including small scale renewable energy generation technology such as a single wind turbine. However, proposals must demonstrate how the following impacts have been addressed:

- i. Impacts on communities and individual dwellings, including, residential amenity, visual impact, noise and shadow flicker;
- ii. Significant landscape and visual impacts, recognising that such impacts are to be expected for some forms of renewable energy. Where impacts are localised and/or appropriate design mitigation has been applied, they will generally be considered to be acceptable;
- iii. Public access, including impact on long distance walking and cycling routes and scenic routes;
- iv. Impacts on aviation and defence interests including seismological recording;
- v. Impacts on telecommunications and broadcasting installations, particularly ensuring that transmission links are not compromised;
- vi. Impacts on road traffic and on adjacent trunk roads, including during construction;
- vii. Impacts on historic environment;
- viii. Effects on hydrology, the water environment and flood risk;
- ix. Biodiversity including impacts on birds;
- x. Impacts on trees, woods and forests;
- xi. Proposals for the decommissioning of developments, including ancillary infrastructure, and site restoration;
- xii. The quality of site restoration plans including the measures in place to safeguard or guarantee availability of finances to effectively implement those plans; and
- xiii. Cumulative impacts.

Policy WD3 of the ELLDP 2018 only supports free standing wind turbines subject to compliance with Policy WD2 and where a number of impacts, similar to Policy 11 of NPF4 are addressed.

On the matter of communities and residential amenity, the Scottish Government's web-based renewables advice entitled "Onshore Wind Turbines" advises that as a general rule, the shadow flicker effect of an operating turbine should not be a problem where the distance between the turbine and a dwellinghouse exceeds 10 times the diameter of the rotor blades of the turbine.

In this case, the diameter of the rotor blades proposed is some 54m, with the closest dwellinghouse being some 435m to the south of the proposed turbine location, falling short of the required 540m distance. The guidance continues that in instances where shadow flicker could be problematic, the developer should provide calculations to quantify this effect. In this instance and in determining whether there will be any detriment to residential amenity as a result of shadow flicker from the proposed wind turbine, the applicant's agent has used a methodology commonly used in England, Wales and Northern Ireland. It dictates that where properties are within 130 degrees either side of north, relative to the proposed turbine, shadow flicker should not be problematic as turbines do not cast long shadows on their southern side. As the closest residential property of How Know is south of the proposed turbine, it would not cause unacceptable levels of shadow flicker. All residential properties to the northeast are at least 540m away from the proposed position of the wind turbine.

During the scoping stage, prior to the submission of this application, it was identified that the proposal could have a significant impact upon residential amenity in respect of noise given initial calculations indicated an exceedance of the 35dB limit at How Knowe, a sensitive receptor some 435m away.

Consequently, a NIA was conducted by the applicant and submitted in support of this application. The Methodology for the NIA was agreed upon by the Planning Authority in consultation with the **Council's Environmental Health Service**.

The noise impact assessment found maximum cumulative emission levels of 38.6dB(A) at Location NAL1 ('How Knowe') for windspeeds greater than 10m/s. The NIA sets out that the collective levels gathered for all locations during the day and at night would meet the ETSU-R-97 noise limits by a maximum margin of 1dB during the daytime and 7.1dB during the night when considering existing background noise. The report therefore concludes that no mitigation is expected to be required.

The **Council's Senior Environmental Health Officer** has been consulted on the proposals and in respect of noise, they advised that given the suggested 35dB limit was exceeded slightly, ETSU-R-97 permits turbine noise in such cases to be limited to an absolute limit between 35 and 40dB(A) LA90,10min for quiet daytime periods and 43dB(A) for night-time periods or 5dB(A) above the background noise levels, whichever is the greater. As the NIA details, proposals comply with ETSU-R-97 when considering background noise levels. Accordingly, and in respect of noise, the Senior Environmental Health Officer raises no objections.

To ensure that noise levels do not exceed those detailed within the NIA, it would be prudent to attach a condition onto any such grant of planning permission restricting noise limits to those detailed in Table 4.3 of Congeo's Noise Report Reference N6373-1535 Version 2 dated June 2024. Therefore, subject to this condition if planning permission is granted, the proposed wind turbine would not be detrimental to the surrounding residential amenity in

terms of noise and proposals would be compliant with Policy 23 of the ELLDP 2018 and NH13 of the ELLDP 2018.

Whilst no lighting is proposed by the applicant as part of this application, a consultation response from the Ministry of Defence ('MOD') stipulated the requirement for infra-red (IR) aviation safety lighting to be fitted onto the turbine by condition. ELC's Environmental Health Officer advised that they did not expect any aviation lighting to impact upon residential amenity due to the type of lighting and separation distance. Should planning permission be granted, full details of the aviation lighting would be required to be submitted to the planning authority as part of conditions compliance process prior to the commencement of development to ensure the specification would not be harmful to the surrounding residential amenity.

Subject to conditions and on the matter of amenity with regards to shadow flicker, noise and lighting proposals are overall, compliant with Policies WD3(b) and DP2 of the ELLDP 2018 and Policies 11 e(i) and 14 of NPF4.

The **Council's Access Officer** was consulted as part of this application and advised that on the matter of public access, they raise no objection to this application.

The **Ministry of Defence** was consulted as part of this application and advised that their primary concern was the potential of the turbine creating a physical obstruction to air traffic movements as the development in this instance falls within the Low Flying Area 16 (LFA 16) within which fixed wing aircraft may operate as low as 250 feet, or 76.2m above ground level to conduct low level flight training. To address the impact upon low flying aircraft operating in the area, the MOD has stipulated that any such grant of planning permission be subject to conditions which requiring that the development i) be fitted with infra-red (IR) aviation safety lighting at a minimum and ii) that sufficient data be submitted to ensure that structures can be accurately charted to allow deconfliction.

National Air Traffic Services (NATS) has been consulted on the proposal. They have responded to state that the proposed development has been examined from a technical safeguarding aspect and does not conflict with their safeguarding criteria. Accordingly, NATS (En Route) Public Limited Company ("NERL") has no safeguarding objection to the proposal.

Edinburgh Airport has been consulted on the siting of a wind turbine in this location. They confirm that the proposed development has been fully examined from an aerodrome safeguarding perspective and does not conflict with safeguarding criteria. They therefore confirm that they have no objection to this proposal.

Therefore, subject to conditions if planning permission is granted, proposals would not impact upon aviation, defence interests or seismological monitoring and would comply with Policy WD3 (g) of the ELLDP 2018 and Policy 11 (iv) of NPF4.

ELC's Transport Planning Services were consulted as part of this application and following the submission of further documentation inclusive of a revised swept path analysis, they advise that they are satisfied that the information provided, and mitigation measures proposed are sufficient, subject to the condition that if planning permission is granted, an Abnormal Load Delivery and Traffic Management Plan be submitted.

Transport Scotland were also consulted as part of this application. They advised that they raised no objections, subject to any such grant of planning permission being subject to the following three conditions:

I) A Construction Traffic Management Plan shall be submitted to and approved by the Planning authority in consultation with Transport Scotland. The CTMP shall identify measures to control the use of any direct access onto the trunk road. Thereafter, all construction traffic associated with the development shall conform to the requirements of the agreed Plan.

II) Prior to commencement of deliveries to site, the proposed route for any abnormal loads on the trunk road network must be submitted to and approved by the Planning Authority, in consultation with Transport Scotland.

III) Prior to the movement of any components and/or construction materials, any additional signing or temporary traffic control measures deemed necessary due to the size or length of any loads being transported must be undertaken by a recognised QA traffic management consultant, to be approved by Transport Scotland.

On the matter of transportation and road safety and subject to such conditions should planning permission be granted, proposals would be compliant with Policies 11 (e) (vi) and 13 of NPF4 and Policies WD2 (k) and T2 of the ELLDP 2018, the Scottish Government web-based renewables advice entitled "Onshore Wind Turbines" and Planning Guidance for Lowland Wind Turbines: June 2013.

Whilst there are no historic designations within a 10km buffer of the application site, owing to the proposed turbine height, the EIA scoping exercise scoped in potential effects on the historic environment, namely potential indirect effects on Listed Buildings, Scheduled Monuments, Inventory Gardens and Designed Landscapes.

Historic Environment Scotland were consulted as part of this application being satisfied the proposed development would not have any indirect effects on the listed buildings, scheduled monuments, or inventory gardens and designed landscapes within the 10km or their setting.

Proposals are therefore compliant with Policies 7 and 11 (e) (vii) of NPF4 and Policies WD3 (d), CH1, CH4 and CH6 of the ELLDP 2018.

SEPA were consulted as part of this application and raised no comment. Further, Scottish Water were consulted as part of this application and raised no objection being satisfied that proposals would not detrimentally impact upon matters relating to hydrology and would accord with Policy 11 (e) (viii) of NPF4 and Policy WD3 (h) of the ELLDP 2018.

Having reviewed the Bat Survey, the PEA, the EIA and the Collision Risk Analysis, ELC's Biodiversity Officer advises that they are satisfied with proposals not detrimentally impacting on the adjacent Ancient Woodland and the Local Biodiversity Site of Howden Wood, or any protected species, subject to the condition that a Construction Method Statement be made a requirement of any such grant of planning permission, incorporating the latest good practice guidelines and statutory advice as outlined in the PEA to protect European Protected Species.

NatureScot were consulted as part of this application and were satisfied that proposals would not impact on the qualifying interests and features of the Firth of Forth SPA / SSSI or the North Berwick Law SSSI.

Therefore, subject to conditions, the Biodiversity Officer is satisfied that proposals comply with Policy 4 of NPF4 and Policies NH3, NH4 and NH5 of the ELLDP 2018.

Policy 3 of NPF4 states, among other things, that 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. Any grant of planning permission would be conditional upon securing the aforementioned biodiversity enhancement requirements. Whilst a small number of biodiversity enhancements have been proposed such as hedgehog boxes, log piles and hibernacula and insect hotels. No further detail has been supplied, nor has any detail on how the biodiversity enhancements will be maintained or managed. Therefore, any such grant of planning permission should be subject to the imposition of a condition requiring biodiversity enhancements. Subject to this condition, proposals do not conflict with policy 3 of NPF4.

On the matter of biodiversity overall, proposals comply with Policy 11 (e) (ix) of NPF4 and Policies WD3 (n) and WD2 (c) of the ELLDP 2018.

Policy WD6 of the ELLDP 2018 requires that all wind turbines must be decommissioned and the site restored to an appropriate condition within an agreed timescale after the earliest of: (a) expiry of planning consent; or (b) the failure of the wind turbine to produce electricity for a continuous period of 12 months, unless otherwise agreed in writing by the planning authority. Subject to a relevant condition requiring an outline strategy for appropriate decommissioning and restoration of the site and any relevant offsite works should planning permission be granted, proposals would comply with Policy WD6 of the ELLDP 2018 and Policy 11 (xi and xii) of NPF4.

On the matter of design, Policy DP1 of the ELLDP 2018 requires all new development to be well integrated into its surroundings by responding to and respecting landform and by retaining and where appropriate enhancing existing natural and physical features to assist in the developments integration.

Policy 14 of NPF4 states that proposals will be designed to improve the quality of an area whether urban or rural and regardless of the scale.

Policy DP2 of the ELLDP 2018 requires developments to be appropriate to their location in terms of positioning, size, form, massing proportion and scale and be appropriate to the site's context.

The proposed GPR unit and its associated foundation would sit some 7m to the east of the proposed wind turbine and some 200m away from the classified road to the north. It would be some 2.5m in height, green in colour and would sit to the south of an existing landscape bund. As such, the proposed GPR unit would not be visible from the public road. It would only be visible from within the agricultural field and in those views, it would be viewed in the context of the existing agricultural hen sheds and associated works to the north. By virtue of its proposed position, size, scale, colour and materials proposed, the GPR unit would not be harmful to the character and appearance of the surrounding rural landscape area. The proposed GPR Unit and associated foundation would therefore comply with Policy 14 of NPF4 and Policies DP1 and DP2 of the ELLDP 2018.

The proposed access road would form as an extension to an existing access track and various areas of hardstanding to the north of the wider site. It would be constructed from crushed rock and would therefore be similar in appearance to existing areas of hardstanding. The extension of this access track would be formed within an area of site which is relatively contained from public views, and it would therefore be satisfactorily integrated into the surrounding landscape. The formation of this access track extension would not therefore be harmful to the character and appearance of the surrounding rural landscape area. The formation of this access road would therefore comply with Policy 14 of NPF4 and Policies WD4, DP1 and DP2 of the ELLDP 2018.

Notwithstanding, the above and in accordance with Policy 11 of NPF4 and Policy WD3 of

the ELLDP it is now necessary to determine whether or not the proposed 67m high wind turbine would be acceptable to its place or if it would have significant visual impacts that would make it unacceptable in this location.

Policy WD2 of the ELLDP 2018 supports smaller scale wind turbine developments, inclusive of proposals for 1 to 3 turbines of any height. However, where proposals are for smaller scale wind turbines of 12m and over, Policy WD2 states it will only support proposals where they comply with the Locational Guide for Smaller Scale Wind Energy Proposals amongst other matters.

Policy WD3 supports free standing wind turbine development subject to policies WD1 and WD2 and provided the impact of the turbines and any other ancillary development is acceptable, including the impact on landscape and visual impacts.

The Council's Locational Guide for Smaller Scale Wind Energy Proposals identifies the application site as being within an area with potential for wind turbines of up to 42 metres in height.

The proposed wind turbine with a height of 67 metres to the blade tip, does not meet the Locational Guide for Smaller Scale Wind Energy Proposal as set out on Page 109 of ELLDP 2018 and therefore is contrary to Policy WD2 of the ELLDP 2018.

The proposed wind turbine would be located within the Lowland Farm Plain landscape character type and the Mid Tyne Valley Plain landscape character area as identified within the Special Landscape Area SPG. The landscape character review notes that the area does not contain much large infrastructure or industry. Rather, it is an extensive agricultural plain with an abundance of mixed small-scale shelterbelts and woodlands throughout the farmland that strengthen the chequerboard field pattern. This abundance of shelterbelts offers containment to lower-level development such as the existing chicken sheds and silos at Howden Farm which are some 7-9m in height.

The **Council's Senior Landscape Officer** was consulted as part of this application and advised that whilst there are several wind turbines present within the surrounding area including a two bladed wind turbine located close to the proposed site at Howden Farm and three three-bladed turbines within the Tyne valley to the west of Haddington. However, those existing wind turbines meet the criteria of the landscape capacity study for smaller wind turbines with heights of less than 43m and are generally contained within their own landscape setting.

The Council's Senior Landscape Officer advises that the Landscape and Visual Impact analysis (LVIA) appears to underestimate the impact of the proposed 67m high wind turbine on this landscape character area. She advises that due to its large size, the proposed turbine's visual impact would not just be localised as evidenced by the 10x viewpoints submitted by the applicant. Instead, as it would be much taller than the surrounding woodlands and nearby buildings it would be visible from long range views including from within the Bolton Special Landscape Area (SLA), The Lamer Law, Hopes to Yester SLA, the Samuleston SLA and the Galetton Hills. In those views due to its height, the wind turbine would not relate to the scale of the surrounding landscape and would be wholly out of scale with existing landscape features. Due to its positioning, form, height and scale it would appear as a highly exposed and obtrusive feature which would be visible in both local and more distant views of it, introducing a new industrialised component into a countryside setting which would detract from the otherwise rural nature of the area.

Such effects would harmfully detract from the landscape character of both the Lowland Farm Plain landscape character type and the Mid Tyne Valley Plain landscape character

area. Furthermore, the effects of the proposed development would also detract from key views of the Bolton SLA, Samuelston SLA, The Lamer Law, Hopes to Yester SLA.

Therefore, as the proposed 67m high wind turbine cannot successfully be accommodated in its proposed location within the Mid Tyne Valley Plain landscape character area it is not therefore compliant with Policies 4(d), 11 (ii) and 14 of NPF4 , or Policies WD2, WD3 (a & c), DP1, DP2 and DC9 of the ELLDP 2018.

In considering the acceptability of a development, the associated impacts of the proposals on the environment should be weighed against factors such as the global climate crises, the scale of contribution to renewable energy targets, effects on greenhouse gas emissions and the local and community socio-economic benefit of the proposal. Further, Policy 1 of NPF4 states that when considering all development proposals significant weight will be given to the global climate and nature crises.

Whilst this proposal for a singular wind turbine which would no doubt contribute to the global climate crises on a small scale, this does not outweigh the harmful impact the proposed wind turbine would have on the landscape character and appearance of the Lowland Farm Plain landscape character type and the Mid Tyne Valley Plain landscape character area. Nor does it outweigh the harmful impact that the proposal would have on the Bolton SLA, Samuelston SLA and The Lamer Law, Hopes to Yester SLA.

Proposals are therefore contrary to Policies 4(d), 11 (ii) and 14 of NPF4, Policies WD2 (a), WD3 (a & c), DP1, DP2 and DC9 of the ELLDP 2018, the East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011), The Council's Planning Guidance for Lowland Wind Turbines: June 2013 and the Council's SPG on Special Landscape Areas.

The proposal is therefore contrary to the development plan and no material considerations outweigh this conflict. It is therefore recommended that planning permission be refused.

REASONS FOR REFUSAL:

- 1 The proposed wind turbine is contrary to Policy WD2, part A of the ELLDP 2018 and the East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011) which states that a wind turbine over 47 metres in height cannot be accommodated within the 'Agricultural Plain - Sub Area 3, south' landscape character area.
- 2 Due to its positioning, form, height and scale, the proposed wind turbine at 67m in height would appear as a highly exposed and obtrusive feature which would be visible in both local and more distant views of it, introducing a new industrialised component into a countryside setting which would detract from the otherwise rural nature of the area. Such effects would harmfully detract from the landscape character of both the Lowland Farm Plain landscape character type and the Mid Tyne Valley Plain landscape character area. Further, the effects of the proposed development would also detract from key views of the Bolton SLA, Samuelston SLA, The Lamer Law, Hopes to Yester SLA. The proposed wind turbine at some 67 metres in height is not therefore compliant with Policies 4(d), 11 (ii) and 14 of NPF4 or Policies WD3 (a & c), DP1, DP2 and DC9 of the adopted East Lothian Local Development Plan 2018.

REPORT TO: Planning Committee

MEETING DATE: 25 June 2025

BY: Executive Director for Place

SUBJECT: Application for Planning Permission for Consideration

8

Application no. **23/01155/AMM**

Proposal Approval of matters specified in conditions 1(a) to (m) and (o), 5, 6, 9, 11, 12, 18, 19, 22, 23, and 27 of planning permission 21/01580/PM - Erection of local centre including 65 residential units, employment units (Classes 4 and 6), retail units (Class 1A), gym (Class 11), nursery (Class 10), wellbeing facility (Class 1A), supermarket (Class 1A) and associated works

Location **Blindwells**
East Lothian

Applicant Hargreaves Services (Blindwells) Limited

Per CBRE

RECOMMENDATION Consent Granted

REPORT OF HANDLING

BACKGROUND

Although this application is for the approval of matters specified in conditions of planning permission in principle 14/00768/PPM it has to be determined as a major development type application because the area of the application site is greater than 2 hectares and the number of dwellings detailed is greater than 49. Accordingly, the application cannot be decided through the Council's Scheme of Delegation. It is therefore brought before the Planning Committee for a decision.

The allocated land constituting the Blindwells site is in close proximity to the settlements of Prestonpans, Tranent, Cockenzie and Port Seton. It is within the inventory boundary of the Battle of Prestonpans, a battlefield included within the Inventory of Historic Battlefields. A Scheduled Ancient Monument, known as the Seton West Mains Enclosures 500M SW Of, is located some 300 meters to the northwest.

A Development Framework for the allocated land at Blindwells was approved by the

Council on the 8 June 2010. It sets out the role of the new settlement in the settlement hierarchy and its characteristics in terms of service provision, the consequent scale and range of development/ land uses expected, and how the Council requires it to be developed in terms of infrastructure and design requirements.

Planning permission in principle 14/00768/PPM was granted in May 2018 for the creation of a new settlement that could comprise residential, employment, education and commercial uses with park and ride and rail halt facilities and associated works all on land at Blindwells, which is located in close proximity to the settlements of Prestonpans, Tranent, Cockenzie and Port Seton.

The indicative masterplan approved with planning permission in principle 14/00768/PPM shows how the various components of development could be accommodated on the site including how the site could be accessed at three points from the A198 road, to the west of the application site. It shows how one of the accesses could be taken from the Bankton Interchange, which is at the southwest edge of the site. The northernmost proposed access is shown to involve the upgrading of the existing vehicular access into the site. It is further indicated that the third access could be formed at a central point on the western boundary of the site, in a position opposite an existing vehicular access that serves the former St Joseph's School.

Since the granting of planning permission in principle 14/00768/PPM a number of detailed planning applications and Section 42 applications to vary conditions of planning permission in principle 14/00768/PPM (18/00420/P, 18/00725/AMC, 18/00825/AMC, 19/00242/AMC, 19/00620/AMM, 19/00900/AMM, 19/01068/AMM, 20/01030/PM, 21/00308/AMM, 21/00120/AMM and 21/01580/PM, 22/00682/AMM, 23/00011/AMC, 23/00410/AMM) have been granted for various schemes of development including road infrastructure, landscaping, residential units, a car park and a primary school. These planning permissions have been implemented with road infrastructure including the three access roads off the A198 into the site, landscaping and residential units having been undertaken within the western part of the Blindwells site and a number of residential units are now occupied.

The granting of planning permission 21/01580/PM in varying conditions 1, 13, 30 and deleting condition 31 of planning permission 20/01030/PM had the effect of granting a new planning permission in principle for the Blindwells site through planning permission 21/01580/PM.

PROPOSAL

Approval of matters is now sought for the erection of a local centre including 65 residential units, employment units (Classes 4 and 6), retail units within planning permission in principle 21/01580/PM. (Class 1A), gym (Class 11), nursery (Class 10), wellbeing facility (Class 1A), supermarket (Class 1A) and associated works constituting part of the town centre area approved within planning permission in principle 21/01580/PM.

Within Approval of Matters (Ref 19/00620/AMM) planning permission is granted for 2 main distributor spine roads providing access to the wider Blindwells site from the A198 Road to the west at a point to the north opposite an existing vehicular access on the A198 Road that serves the former St Joseph's School, and from Bankton Interchange to the south.

The application site occupies a central position within the wider Blindwells site. It is 4.65 hectares in size and is located to the immediate west of the area identified on the approved masterplan for the residential plot 4A, to the north of the central distributor road, to the east of an internal access road on the opposite side of which lies residential plot 1. To the south

and north of the current application site lie other areas of land detailed on the approved masterplan as being within the town centre. These areas of land are not included in this current planning application.

The planning permission in principle for the wider Blindwells site was granted subject to the prior conclusion of a Section 75 legal agreement to secure (i) 30% affordable housing provision; (ii) financial contributions towards (a) primary and secondary education, (b) community sports facilities, (c) equipped play (d) allotments, (e) cemetery plots and (f) maintenance depot; (iii) transfer to the Council, at no cost, ownership of the (a) site for the new primary school, (b) sites for the equipped play areas, (c) site of the community sports facilities, (d) sites for allotment and cemetery plots and (e) site for a new rail halt; and (iv) the provision of the bus services to Cockenzie Primary School, St Gabriel's Primary School, Preston Lodge High School and Prestonpans Railway Station. In March 2020 a Section 75A 20/000001/OBL was concluded to modify the planning obligations associated with the planning permission in principle for the Blindwells development of 1,600 homes. (Ref:14/00768/PPM. Additionally, the masterplan docketed to planning permission (Ref: 14/00768/PPM) indicates the parts of the wider Blindwells development that will provide for affordable housing.

Of the 65 residential units proposed within this application 11 are proposed as private for sale and 54 are proposed as affordable housing (including 12 later living) dwellings. When considering the wider Blindwells development, these 54 residential units will be taken into account, with the total number of affordable units required under the affordable housing policy which is 30% of the proposed 1600 residential units within the wider Blindwells site.

The application proposes a scheme of development composed of a mixture of buildings including 12 retail/food and drink (Class 1A/3) units, 1 larger (7,500sqft) retail (Class 1A) unit for use as a local supermarket, 36 employment (Class 4) units, 6 commercial (Class 1A/3/4/10/11) units, 4 trade (Class 5/6) units, a gym (Class 11), a nursery (Class 10), a wellbeing facility (Class 1A) along with 65 flatted dwellings.

The local centre would be served by a public car park within the western part of the application site which would be served by a loop road off the existing road which runs adjacent to the western boundary of the application site, the loop road would also serve as a bus route into the town centre with bus stops and a taxi pick up/drop off located in this area. Three additional vehicle accesses to serve the buildings within the southern part of the application site would be provided off the central distributor road which runs to the immediate south of the application site. The principal local centre 'High Street' running north/south through the site would be pedestrianised with additional pedestrian footpath access provided from the west, south and east connecting into the previously approved path network of the adjacent sites.

The submitted details also include for internal roads, parking courts and landscaping.

Since the application was first registered updated drawings have been submitted to address various matters raised by consultees.

The application is supported by a Planning Statement, Transport Statement, Ecological Appraisal, Design and Access Statement, Environmental Noise Assessment, Drainage Statement and Flood Risk Assessment, Landscape Strategy Report, Landscape and Habitat Management Plan, Geo-Environmental Assessment, Business Space Market Report and Commercial Market Report.

DEVELOPMENT PLAN

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

The development plan is the approved National Planning Framework 4 (NPF4) which was adopted by The Scottish Government on 13 February 2023 and the adopted East Lothian Local Development Plan 2018 (ELLDP).

Relevant NPF4 Policies are 1 (Tackling the climate and nature crisis), 2 (Climate Mitigation and adaptation), 3 (Biodiversity), 12 (Zero waste), 13 (Sustainable Transport), 14 (Design Quality and Place), 15 (Local living and 20 min neighbourhoods) and 16 (Quality homes).

Also relevant to the determination of the application are Proposal BW1 (Blindwells New Settlement) and Policies HOU1 (Established Housing Land), HOU3 (Affordable Housing Quota), HOU4 (Affordable Housing Tenure Mix), DP1 (Landscape Character), DP2 (Design), DP9 (Development Briefs), CH5 (Battlefields), T1 (Development Location and Accessibility), T2 (General Transport Impact), W3 (Waste Separation and Collection), OS3 (Minimum Open Space Standards for New General Needs Housing), NH10 (Sustainable Drainage Systems) and NH11 (Flood Risk) of the ELLDP.

Material to the determination of the application is the non-statutory Development Framework for Blindwells New Settlement which was approved by the Council on 8 June 2010.

Also material to the determination of this application is Scottish Government Advice given in Planning Advice Note 67: Housing Quality. 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 to the determination of this application is the Scottish Government Policy Statement entitled "Designing Streets". It provides an overview of creating places, with street design as a key consideration. It advises on the detail of how to approach the creation of well-designed streets and describes the processes which should be followed in order to achieve the best outcomes.

Also material to the determination of the application is the approved masterplan for the site as approved by the grant of planning permission in principle 21/01580/PM. The masterplan sets out the land uses expected for the allocated site and how the Council requires the site to be developed.

REPRESENTATIONS

No public objection to this application has been received.

COMMUNITY COUNCIL

None

PLANNING ASSESSMENT

By the grant of planning permission in principle 21/01580/PM approval has been given for the principle of the erection of up to 1600 houses on the wider Blindwells site along with a local centre and employment land all of which are the subject of Proposal BW1 of the adopted East Lothian Local Development Plan 2018, following technical assessments which demonstrated that local and wider infrastructure, subject to financial contributions and conditions, can accommodate such level of development. There can therefore be no objection in principle to the erection of a local centre comprising of 65 residential units, employment units (Classes 4 and 6), retail units (Class 1A), gym (Class 11), nursery (Class 10), wellbeing facility (Class 1A), supermarket (Class 1A) on this particular part of the larger Blindwells site.

Therefore, in the determination of this application the Council, as Planning Authority, can only concern itself with the siting, design and external appearance of the development, the means of access to the site. In this regard the detailed proposals have to be considered against relevant development plan policy, and the Illustrative Masterplan and conditions attached to planning permission in principle 21/01580/PM.

The proposed layout is broadly consistent with the layout shown in the Illustrative Masterplan docketed to planning permission in principle 21/01580/PM with the application site the subject of this application occupying part of a larger area of land identified as being allocated for the local centre in the Illustrative Masterplan.

It is proposed that the local centre would contain a mixture of uses including small retail units and a larger supermarket unit, commercial/employment/trade units, a wellbeing facility, a nursery together with 65 flatted residential properties.

It is indicated that a pedestrian 'high street' would be located within the central part of the site running north-south with pedestrian linkages into approved footpaths on adjacent sites providing connectivity with the wider Blindwells site. The illustrative layout indicates that two four storey buildings (Blocks B and C) would front onto the 'High Street' on the eastern side of the southern part of the pedestrianised 'High Street'. These buildings would contain commercial/offices at ground floor level with flatted residential properties on the first, second and third floor. Due to the sloping nature of this part of the site these buildings would be stepped and have an architectural design, form and finish of individual terraced buildings with individual pitched roofs clad in grey rooftiles with the walls finished in predominantly facing brick of a mixture of colours including light buff, buff, red and grey with render aspects. The buildings would have grey windows and doors. The architectural form and finish of the buildings reduces the visual mass of the buildings. Block B being at the southern end of the pedestrian 'high street' would have a dual frontage being located immediately to the north of the central distributor road. To the east of block B would be located Block A, a four storey building which would contain offices at ground floor level with flatted residential properties on the first, second and third floor would front directly onto the central distributor road.

Parking to serve the commercial and residential properties within Blocks A and B would

be provided within parking areas to the north and east of the buildings respectively accessed directly off the central distributor road which lies to the immediate south of the application site. Open and space and drying areas for the residential properties would also be provided adjacent to the parking areas.

Parking to serve the commercial and residential properties within Block C would be provided within parking areas to the east of the building accessed off the proposed internal access road which would lie to the immediate north of the block and which would run west-east through the site providing access into the town centre from the west. Small areas of amenity space with drying areas would also be provided adjacent to the parking areas to serve the residential properties.

Within the south eastern part of the site would be located three rectangular single storey buildings positioned with a north-south orientation, Blocks D would provide 4 trade units and would have the appearance of four terraced buildings each with their own pitched roof. Block E would provide six class 4 units and would have the appearance of six terraced buildings each with their own pitched roof. Block F would provide seven class 4 units and would have the appearance of seven terraced buildings each with their own pitched roof. Blocks D and F would be finished externally in a mix of buff multi facing brick and grey metal cladding with their pitched roofs clad in grey standing seam metal cladding. Block E would be finished externally in buff multi facing brick with its pitched roofs clad in grey standing seam metal cladding. The buildings would have grey windows and doors.

Blocks D, E and F would be provided with adjacent car parking areas served by two vehicular accesses which provide an internal loop road directly off the central distributor road that runs to the immediate south of the application site.

The illustrative site layout plan details the provision of a larger retail unit together with 5 smaller retail units located within the northwest part of the application site contained in Block N, Block N would be single storey in height with the larger retail unit having a flat roof and the 5 smaller retail units having individual pitched roofs. The units would be finished in brick of varying colours with their rear elevations finished in grey metal cladding, and the pitched roof elements clad in grey standing seam metal cladding giving the Block the appearance of five terraced buildings. These retail units would be served by a service yard and lane located to the rear (north) with a service access to be provided off the existing road which runs to the immediate west of the site. The retail units would be located to the north of a proposed public car park which would be served by a loop road off the existing road which runs adjacent to the western boundary of the application site. In addition to providing access to the car park the proposed loop road would also serve as a bus route into the town centre with bus stops and a taxi pick up/drop off located in this area.

To the east of the proposed public car park would lie two 2 storey buildings, blocks L and M which would have a dual frontage with the principal frontage elevations to the east facing onto the northern section of the proposed pedestrian 'high street'. Block L is illustrated as a welfare facility and would be finished externally in light buff brick with pre-cast stone surrounds, a pitched roof clad in grey concrete roof tiles and grey windows and doors. Block M is illustrated as being 2 separate units one to be used as a gym with the other to be used as a nursery, it is to be finished to match Block L with walls be finished externally in light buff brick with pre-cast stone surrounds, a pitched roof clad in grey concrete roof tiles and grey windows and doors.

To the east of the Block L is to be a central public square which would occupy the central part of the local centre and be in the middle of the pedestrian 'high street' a second public square in proposed to be located at the north end of the pedestrian 'high street' illustrated

as a 'market square'.

On the opposite side of the northern section of the proposed pedestrian 'high street' would be located two single storey blocks J and K which would contain four and three retail units respectively. Each of the units would have their own pitched roof clad in grey standing seam metal cladding, with their walls finished in brick of varying colours or metal cladding which would give the blocks the visual appearance of individual buildings. To the east of Block J and K would lie a public car park which would be accessed from the new road to the west which would form part of the loop road around the main public car park located to the west of the local centre site.

Also accessed off this road would be u-shaped building, block G, which would be single storey in height and is illustrated as containing fourteen class 4 units of varying sizes. The building would be finished in buff brick with pitched roofs clad in grey standing seam metal cladding. Block G would be served by a central parking area.

Within the north-east corner of the site would lie block H, a three storey flatted building which would be finished in brick and render with a pitched roof clad in concrete tiles. Block H would be accessed through the neighbouring residential plot 4 to the east with parking to serve the flatted properties and amenity space provided to the immediate south of the building.

The range of building types proposed would give a variation of architectural form to the local centre, which coupled with the orientation and layout of the buildings, would give a degree of variety of appearance to the development. The architecture of the proposed buildings is of a relatively traditional pitched roof form. The proposed buildings, due to their positioning on the application site and by virtue of their height, size and scale, and architectural design would satisfactorily integrate into their surroundings and would not appear as prominent or intrusive features. This would ensure a visually attractive and cohesive development, with the proposed local centre buildings visible, but not appearing incongruous or intrusive in their surroundings.

The other components of the proposed development in the form of the car parking, public squares and pedestrian routes would not be harmful to the character and appearance of the area.

The proposed local centre development would provide an attractive mixed use local centre for existing and future residents of the wider Blindwells site and flatted residential properties proposed within it. It would provide a mixture of retail, commercial, business, trade, leisure and employment facilities.

The masterplan docketed to planning permission in principle 21/01580/PM indicates how areas of formal and informal open space could be located throughout the Blindwells allocated site.

The site that is the subject of this approval of matters application is not shown on the masterplan to have any areas for play area provision within it. The masterplan does show that there is to be a substantial area of open space to the immediate northeast of the site adjacent to Princess Loch that would include a local park with formal play area.

Consequently, although the proposed local centre development does not include the provision of formal play area provision, this is consistent with the docketed masterplan. On this consideration the proposed development is consistent with Policy OS3 of the adopted East Lothian Local Development Plan 2018 and with the indicative masterplan docketed to planning permission in principle 21/01580/PM.

On all of these foregoing findings on matters of design, density, layout, landscaping and amenity the details submitted for approval are consistent with Policies DP1, DP2, DP3 and DP4 of the adopted East Lothian Local Development Plan 2018, the Council's approved development framework for Blindwells and the Scottish Government's Designing Streets.

The application site is capable of accommodating all of the proposed local centre development including vehicular and pedestrian access without being an overdevelopment of it. The proposed positioning of the variety of mixed use buildings and other components of the development would not prejudice the form of development of the remainder of the 1600 houses approved in principle by the grant of planning permission in principle 21/01580/PM for the wider Blindwells site.

A mixture of public car parking and on street car parking for residents and visitors is proposed throughout the development with provision for electric vehicle charging points and accessible car parking spaces also provided. The Main town centre car park has been for each residential unit.

The **Council's Road Services** have been consulted on the application and advise that in general terms the main aspects of the design of the proposed scheme of development including site access, layout arrangements and parking are considered acceptable. However the Council's Road Services advise that while there a number of minor details which remain to be satisfactorily addressed and detailed they are satisfied that these matters can be satisfactorily addressed/secured through the implementation of specifically worded planning conditions. These matters can be secured through conditions of a grant of planning permission. Subject to the imposition of the required Road Services recommended conditions Road Services raise no objection to the application.

Transport Scotland have been consulted on the application and raise no objection to it provided that a condition be attached to any grant of planning permission stating that: 'Unless otherwise agreed with the Planning Authority, after consultation with Transport Scotland, the Class 9 residential elements of the development shall not be occupied until the proposed upgrades to Bankton Interchange, as specified in Condition 30 of the consent for application 21/01580/PM, are implemented.' This condition is required given that Transport Scotland are aware that current housing completions on the wider Blindwells site are currently approaching the occupation limit stated in Condition 30 of planning permission 21/01580/PM and as such the occupation of any units in the scheme of development the subject of this application requires the works to the Bankton Interchange to have been undertaken. As such it is reasonable to impose the required condition on this grant of approval of matters.

On these foregoing transportation and other access considerations and subject to the aforementioned conditions the proposed local centre development is consistent with Policies T1 and T2, of the adopted East Lothian Local Development Plan 2018.

The Council's Housing Enabler and East Lothian Mid-Market Homes Officer as a consultee on the application advises that within the current S75, clause 4 (ii) (c) states there should be no more than 50% of the total housing units should be affordable housing unit in the relevant phase, therefore this application does not comply with this clause. There is approximately 84% affordable units to private units in this application that are proposed as affordable housing. The Housing Strategy and Development Team have discussed this with Places for People and we are supportive of this clause being amended to include the wording:

(c) the number of Affordable Housing Units and the Serviced land delivered, shall be such that the number of Affordable Housing Units delivered and/or to be constructed on the Serviced land shall not be more than 50% (when rounded to the nearest whole number)

of the total number of Housing units in the relevant Phase, with the exception of the area highlighted in yellow in Plan 4 (will be the plan highlighting the area covered by planning application site 23/01155/AMM) which will allow a maximum of 85% Affordable Housing Units.

The Council's Housing Enabler and East Lothian Mid-Market Homes Officer advises she is supportive of the amendment as the local centre application will provide much needed affordable housing within a local centre development, near amenities and providing a sense of place.

Delivery of the affordable housing is reliant on this site as to enable further affordable housing on an adjacent site with shared preliminaries due to the tenure of housing that is being provided by the developer. Lower numbers of affordable units on this site would render the site unviable.

The Council's Planning Obligations Officer as a consultee on the application advises that, given the number of affordable housing units proposed within this development, Clause 4(ii)(c) of the current S75 will require to be modified through S75A to allow the higher percentage of affordable housing units. The Council's Planning Obligations Officer notes that Housing Services have submitted a note for the support of this amendment to increase the affordable housing units restricted in S75 Clause 4 (ii) (c) from 50% to a maximum of 85% of this specific AMSC red line boundary, noting this area only will have the 85% AHU. As such the Council's Planning Obligations Officer advises that that she has no objection to the proposed scheme of development subject to any recommendation for approval being subject to the required Section 75A to be registered, and all legal and registration fees associated to be paid in full by the developer prior to permission being issued for this application.

The **Council's Waste Services Manager** has been consulted and has advised he has no objection to the scheme of development as now proposed.

The **Council's Senior Environmental Health Officer** as a consultee on the application recommends that a condition be attached to any grant of planning permission restricting any deliveries to between 0700-2300 on any day with no delivery vehicle accessing or egressing the site outwith those times. This matter can be controlled through a condition of a grant of planning permission.

The **Council's Amenity Services** advise they are supportive of the public realm proposals including greenspaces, raingardens, seating and accessible pathways. The Council's Amenity Services queried whether there are private 'garden ground' spaces/drying greens for the residents of the flatted units. The drawings submitted with the application illustrate small amenity space/drying areas to serve the residents of the flatted units adjacent to the buildings containing the flatted properties. Publicly accessible open space areas are illustrated on the submitted drawings to be provided in the town centre in the form of the central and market squares.

The site that is the subject of this approval of matters application is not shown on the masterplan to have any areas for public open space within it. However, the masterplan does show that there is to be a substantial area of publicly accessible open space to the immediate northeast of the site adjacent to Princess Loch which would provide the residents of the proposed flatted properties easy access to a significant area of public amenity open space.

The **Scottish Environment Protection Agency (SEPA)** have been consulted and advise that they have no concerns over proposals from a flood risk perspective subject to

proposals aligning with the drainage strategy approved by planning permission (ref: 21/01580/PM) for the wider Blindwells site.

The **Council's Senior Engineer – Flooding** has been consulted on the application. Having perused the submitted Drainage Strategy and Flood Risk Assessment, he confirms that he has no objection to the proposals on grounds of flood risk.

On the foregoing drainage considerations the proposed details are consistent with NPF4 Policy 22 and Policies NH10 and NH11 of the ELLDP.

Scottish Water as a consultee on the application advise that they have no objection to the proposal.

Historic Environment Scotland raise no objection to the proposed development, advising that whilst the development has the potential to impact upon the Prestonpans Battlefield landscape, the Greendykes Scheduled Monument, Seton Collegiate Church and Seton Mains West Enclosures scheduled ancient monument, they do not consider this to be of such a level as to warrant their objection. On this consideration the proposed development would not have a significant adverse effect on the key features of the Battlefield.

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 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 approval of matters for this proposed development.

In conclusion, the proposals are considered to be in accordance with the provisions of the stated relevant Development Plan policies and there are no material considerations which outweigh the proposals accordance with the Development Plan.

RECOMMENDATION

That approval of matters in conditions of planning permission 21/01580/ for the erection of a local centre including 65 residential units, employment units (Classes 4 and 6), retail units within planning permission in principle 21/01580/PM. (Class 1A), gym (Class 11), nursery (Class 10), wellbeing facility (Class 1A), supermarket (Class 1A) and associated works be granted subject to:

- i) The undernoted conditions;
- ii) The satisfactory conclusion of a modification of Clause 4(ii)(c) of the Section 75 to increase affordable housing units restricted in S75 Clause 4 (ii) (c) from 50% to a maximum of 85% of this specific AMM red line boundary;

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

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

- a. the position within the application site of all elements of the proposed development and position of adjoining land and buildings;
- b. finished ground and floor levels of the development relative to existing ground levels of the site and of adjoining land and building(s). The levels shall be shown in relation to an

Ordinance 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 buildings shown in relation to the finished ground and floor levels on the site.

Reason:

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

- 2 Notwithstanding that which is stated on the drawings docketed to this planning permission, a detailed specification of all external finishes of the houses and flatted blocks of the proposed development 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 buildings and flatted block shall be in accordance with a co-ordinated scheme of materials and colours that shall be submitted to and approved in advance by the Planning Authority. This co-ordinated scheme shall promote a use of more than one brick and render colour and with a strongly contrasting difference in the colours such that they will not each be of a light colour. All such materials used in the construction of the buildings and flatted block 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.

- 3 A High Street Maintenance Plan shall be submitted to and approved by the Planning Authority prior to the commencement of development. The High Street Maintenance Plan shall include reference to aspects such as cycle access, litter bin provision, street cleaning, winter maintenance, street trading licenses and emergency access requirements.

Reason:

In the interests of pedestrian and road safety.

- 4 Details of the bus stop provision and position including seating, signage and community features for the bus stop shall be submitted to and approved by the Planning Authority prior to the commencement of development.

Reason:

In the interests of pedestrian and road safety.

- 5 Prior to the commencement of development, a Stage 2 Road Safety Audit shall be submitted to and approved by the Planning Authority. In addition, immediately following completion of the works, a Stage 3 Road Safety Audit shall be submitted to and approved by the Planning Authority. Finally, 12 months following completion of the works, a Stage 4 Road Safety Audit shall be submitted to and approved by the Planning Authority. All issues raised within each stage of the Road Safety Audit process will be required to be addressed to the satisfaction of the Planning Authority.

Reason:

In the interests of pedestrian and road safety.

- 6 Details of the use of bollards/landscaping to prevent prohibited vehicular access between the turning head and the adjacent loading bay / car park within the northeast corner of the site shall be submitted to and approved by the Planning Authority prior to the commencement of development.

Reason:

In the interests of pedestrian and road safety.

- 7 A Town Centre Car Parking Management Plan shall be submitted to and approved by the Planning Authority prior to the commencement of development to include details of parking

controls and restrictions to ensure that the car parking is effectively managed. The Town Centre Car Parking Management Plan shall include details of: i) ii) taxi drop off/pick up point; parking controls and restrictions; The Town Centre Car Parking Management Plan shall be a working document for the life of the site with the ongoing review of on-street car parking on the core road network to allow for the possible future introduction of waiting restrictions to ensure that any overspill on-street car parking does not impact bus access.

Reason:

In the interests of pedestrian and road safety.

- 8 Full details of the EV chargers including specifications and operation shall be submitted to and approved by the Planning Authority prior to the commencement of development. The details shall refer to the following: for the commercial element of the site, EV charging will be provided at 10% of the overall provision (one charger should be provided in each of the disabled bay locations) plus 40% passive provision; for the residential element, one EV charger per dwelling will be required.

Reason:

To ensure the provision of adequate EV charging facilities.

- 9 Notwithstanding that shown on the drawings docketed to this permission a detailed drawing showing the provision of one accessible parking bay within the parking area to serve block G shall be submitted to and approved by the Planning Authority prior to the commencement of development.

Reason:

To ensure the provision of adequate accessible parking facilities.

- 10 Details of public use cycle parking in appropriate locations within the site and with appropriate specifications shall be submitted to and approved by the Planning Authority prior to the commencement of development.

Reason:

To ensure the provision of adequate cycle parking facilities.

- 11 Prior to commencement of use of:
i) the large retail units, community facilities and the main commercial businesses in the Class 4 units hereby approved, tailored made Travel Plan documents shall be submitted to and approved by the Planning Authority;
ii) the smaller retail and employment units hereby approved, generalised Travel Plan documents shall be submitted to and approved by the Planning Authority;
iii) the residential units hereby approved a Travel Information Pack shall be submitted to and approved by the Planning Authority.

The Travel Plans/Information Pack shall include details of the measures to be taken to encourage active and sustainable travel, monitoring and review procedures, and shall particularly consider restricting the movement of HGVs through the local centre at busy times, particularly school times. The Travel Plans/ Information Pack shall thereafter be implemented in accordance with the details so approved.

Reason:

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

- 12 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 prior to the commencement of development. The Construction Method Statement shall recommend mitigation measures to control noise, dust, construction traffic (including routes to/from site) and shall include hours of construction work and routing of traffic. The Construction Method Statement shall also provide details of utility/service drainage connections. The Construction Method Statement shall also make recommendations in respect of how building materials and waste will be safely stored and managed on site.

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.

- 13 Unless otherwise agreed with the Planning Authority, after consultation with Transport Scotland, none of the residential units hereby approved shall be occupied prior to the implementation and completion of the works to upgrade the Bankton Interchange to the satisfaction of the Planning Authority and Transport Scotland.

Reason:

To mitigate the adverse impact of the development on the safe and efficient operation of the trunk road network.

- 14 Deliveries within the application site shall be restricted to between the hours of 0700-23000 on any day with no delivery vehicle accessing or egressing the site outwith those time.

Reason:

In the interests of protecting residential amenity.

- 15 The areas of open space amenity land detailed on drawings docketed to this approval shall be laid out and available for use within a period of 12 months following the first occupation of any of the residential units hereby approved. Thereafter those areas of land shall be retained for such purposes and shall not be adapted or used for other purposes without the prior written approval of the Planning Authority.

Reason:

To ensure the satisfactory laying out of all areas of open space in the interest of visual and residential amenity.

- 16 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 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. 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:

To ensure establishment of a landscape scheme that improves the amenity of the area

- 17 Prior to commencement of development, a Factoring Plan shall be submitted clearly indicating the different responsibilities for long term maintenance including: private and shared private areas, factored areas, and prospectively adoptable roads/footpaths.

Reason

In order to ensure the implementation and maintenance of a scheme to enhance the appearance of the development in the interests of the amenity of the area.

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

(a) Housing completions in any one year (with a year being defined as being from 1st April to 31st March the following year) shall not exceed the following completion

rates:

Year 2021/22	-	120 residential units
Year 2022/23	-	130 residential units
Year 2023/24	-	110 residential units
Year 2024/25	-	120 residential units
Year 2025/26	-	120 residential units
Year 2026/27	-	120 residential units
Year 2027/28	-	120 residential units
Year 2028/29	-	120 residential units
Year 2029/30	-	120 residential units
Year 2030/31	-	150 residential units
Year 2031/32	-	150 residential units
Year 2032/33	-	150 residential units
Year 2033/34	-	70 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 2036 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.

- 19 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.

- 20 Unless otherwise agreed by the Planning Authority, no residential unit shall be occupied unless and until measures within the docketed Waterman 'Blindwells Local Centre Drainage Strategy and Flood Risk Assessment' September 2024 have been implemented to the satisfaction of the Planning Authority following consultations with SEPA, to accord with the Drainage Strategy approved within planning permission in principle (Ref: 21/01580/PPM) and any variations to that consent.

Reason:

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

- 21 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.

- 22 Prior to commencement of development, details of measures to protect and enhance biodiversity on the application site shall be submitted to and approved by the Planning Authority. The measures as so approved shall be implemented prior to any use being made of the agricultural building hereby approved and shall thereafter be retained, unless

otherwise approved in writing by the Planning Authority.

Reason:

In the interests of protecting and enhancing biodiversity on the site and within the surrounding area.