



MINUTES OF THE MEETING OF THE PLANNING COMMITTEE

WEDNESDAY 25 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 D Collins
Councillor A Forrest
Councillor N Gilbert
Councillor S McIntosh
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
Mr J Allan, Planner
Ms A Smith, Planner
Ms J Newcombe, Biodiversity Officer
Mr J Canty, Transport Planner
Ms R Pringle, Team Manager – Housing & Strategy
Mr J Bee, Team Manager – Development & Regeneration
Mr M Greenshields, Senior Roads Officer
Mr C Hamm, Sustainability and Climate Change Officer
Ms E Barclay, Democratic Services Assistant

Clerk:

Ms B Crichton

Visitors Present/Addressing the Committee:

Item 6: Mr S Cochrane
Item 7: Mr D Anderson and Mr M Scott
Item 8: Mr N McLean, Mr J Fraser, and Ms K Donald

Apologies:

Councillor J Findlay
Councillor C Cassini

Councillor C McGinn
Councillor K McLeod

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.

Keith Dingwall, Head of Development and Chief Planning Officer, advised that Item 5 would not be determined at the meeting. This was due to the applicant having incorrectly declared that they owned all land within the application site; formal notification of the landowner of part of the site had to take place before the application could be brought back to Planning Committee.

**1. MINUTES FOR APPROVAL
Planning Committee, 3 June 2025**

Planning Committee members agreed the minutes as an accurate record of the meeting.

**2. MINUTES FOR NOTING
Local Review Body (September 2024 to May 2025)**

Planning Committee members agreed to note the minutes.

**3. FURTHER REPORT OF HANDLING ON APPLICATIONS 24/01050/P AND
24/01051/CAC: ERECTION OF 14 FLATS AND ASSOCIATED WORKS, 34
DIRLETON AVENUE, NORTH BERWICK**

Further reports of handling had been submitted in relation to planning application no. 24/01050/P and conservation area consent no. 24/01051/CAC following Planning Committee's decision on 4 March 2025 to support the applications, subject to the submission of a report that demonstrated there would not be an unacceptable impact on bats. James Allan, Planner, presented the reports, highlighting the salient points. The recommendation of both reports was to grant consent.

Officers responded to questions from Committee members. Carlo Grilli, Service Manager – Governance, confirmed that Committee members were entitled to vote against report recommendations, and could take their feelings about the applications into account from when they were previously heard. Mr Allan confirmed the timeframe for the process following notification to Scottish ministers. Mr Dingwall advised that, if anyone had strong feelings about

the applications, they could write to Scottish ministers, but it would be at the discretion of ministers as to whether they took representations into account.

Councillor McIntosh said she would vote against the application because she felt there was not justification to demolish the historic building. She felt that Planning Committee's decision to ignore Historic Environment Scotland's (HES) objection was inconsistent with its recent calling out of HES for its lack of response to planning consultations. She felt that Planning Committee should pay attention to the Council's policy, its Planners, and to the body charged with preserving our historic environment.

Councillor Allan recalled that she was not present when the cases were first discussed in March, and felt extremely unhappy at what she saw as cultural vandalism in replacing the historic building with something dull.

Councillor McMillan noted the high level of detail in the bat survey. He acknowledged the opinions of Councillors McIntosh and Allan, but discussed how conservation areas changed and told a story. He felt that the proposals were a modernisation and would add value.

Councillor Collins said she would stand with her original decision, and felt it was a shame to demolish a historic building.

The Convener recalled that he had supported the application to demolish the building onsite. He thought that Planning Committee would never have supported the alterations which had been made to the building, and felt these did not enhance the Conservation Area. He commented on HES's lack of consistency in how they responded to planning applications. He felt that the building's appearance was far removed from when it was originally built, and highlighted that Councillor McFarlane had been inundated with constituents looking for smaller accommodation in North Berwick. He hoped Planning Committee would agree to support the recommendations and allow for quality properties to be developed.

The Convener moved to a roll call vote on the report's recommendations, and votes were cast as follows:

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

As there was a tie, the Convener was asked to confirm his casting vote. He confirmed his vote in support of the report's recommendations.

Decision

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

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

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 Part2A of the Environmental Protection Act 1990 in relation to the intended use of the land following development. The Statement must be submitted to the Planning Authority for approval.

Part 3

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 Dirleton 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 area 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 the Further Report of Handling for application 24/01050/P reported to the Planning Committee on 4 March 2025

4. FURTHER REPORT OF HANDLING ON CONSERVATION AREA CONSENT NO. 24/01051/CAC: DEMOLITION OF BUILDING, 34 DIRLETON AVENUE, NORTH BERWICK

The discussion for this item was heard alongside Item 3.

Votes were cast as follows on the report's recommendation at Item 4:

Support: 4 (Councillors Hampshire, Forrest, McMillan, and Yorkston)

Against: 4 (Councillors Allan, Collins, Gilbert, and McIntosh)

Abstain: 0

As there was a tie, the Convener was asked to confirm his casting vote. He confirmed his vote in support of the report's recommendations.

Decision

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

1. The undernoted conditions; 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:

- 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.

5. PLANNING APPLICATION NO. 24/01004/P: INSTALLATION OF SURFACE WATER PIPE, LAND EAST OF DUNBAR GARDEN CENTRE, SPOTT ROAD, DUNBAR

Due to issues of land ownership, this application would return to a future meeting of the Planning Committee.

6. PLANNING APPLICATION NO. 25/00024/PM: ERECTION OF 24 HOUSES, 36 FLATS, AND ASSOCIATED WORKS, LAND AT FORMER WALLYFORD PRIMARY SCHOOL, ALBERT PLACE (NORTH), WALLYFORD

A report had been submitted in relation to planning application no. 25/00024/PM. David Taylor, Planner, presented the report, highlighting the salient points. The report recommendation was to grant consent.

Officers responded to questions from Committee members. Mr Taylor advised that Amenity Services accepted the shortfall of open space and lack of play area because of a contribution to the construction of the footpath and play area at the east of the site; a written agreement between the Head of Housing and Chief Planning Officer would ensure that contributions would be used locally and effectively. He advised that parking would be monitored, and this could lead to further restrictions on parking, through traffic regulation, if necessary; the parking outwith the site was on the public highway and did not form part of the application. He advised there was a responsibility on developers to protect trees, and there should not be any damage, but any recourse would be through the relevant parties.

Steven Cochrane was present on behalf of the applicant to answer questions. He provided information about the Edinburgh Home Demonstrator Project (now the Regional Delivery Alliance (RDA)), which strove to construct net zero developments. He signposted the RDA website, available at the following link: <https://www.se-rda.org.uk/>. He gave a brief overview of how the heating system would work, which would provide ventilation and heating from waste hot air, and explained that it would be no more difficult for residents to use than a gas boiler.

Councillor Forrest, local member, welcomed the application, and particularly the development of 18 one-bedroom homes. He thought that the large play area nearby would be sufficient to serve the site, and the path would provide safe access to the play area and the new school.

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

Decision

Planning Committee agreed 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.

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 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. 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.

7. PLANNING APPLICATION NO. 24/01091/P: INSTALLATION OF ONE WIND TURBINE AND ASSOCIATED WORKS, FIELD TO THE WEST OF HOWDEN WOOD, GIFFORD

A report had been submitted in relation to planning application no. 24/01091/P. Amelia Smith, Planner, presented the report, highlighting the salient points. The report recommendation was to refuse consent.

Ms Smith answered questions from Committee members. She advised that the most recent policies would prevail where there was conflict between planning policies; in this case, National Planning Framework 4 (NPF4). She advised that while the principle of a wind turbine at the location which was linked to an existing agricultural business would be supported, the issue arose because it exceeded 42 metres in height. She reported that the Landscape Officer would support a proposal for two smaller wind turbines.

Dave Anderson, the applicant's agent, spoke to the application, and was accompanied by Michael Scott, applicant. Mr Anderson highlighted the weighting of NPF4 in terms of climate change policy. He pointed out that a smaller turbine would not work, highlighted how perception of wind energy had changed, and gave examples of areas whose policies had more recently permitted taller wind turbines. He explained that ten turbines under 42 metres would be required to match the proposed turbine at 67 metres, and reported that manufacturers of smaller turbines had folded due to the absence of feed-in tariffs. He pointed out that the East Lothian Local Development Plan (LDP) 2018 was written prior to the declaration of a climate change emergency. He described the policy as being from a different era in terms of renewables; he explained that this was why the applicant had submitted this application, despite being aware of the current LDP policy.

Mr Anderson and Mr Scott responded to questions from Committee members. Mr Anderson reported that current generation was 100,000kW per annum. He advised that turbines were designed to be recessive in terms of colour. He pointed to the main mitigation as being the siting of the turbine where the power would be used, so there would be a strong association with the hen sheds. Mr Scott advised that the development would not be relevant to the grid because so much of the power would be used by the hen sheds. There was also potential for moving off grid and combining with battery storage. Mr Anderson pointed out various issues with installing several smaller turbines, including supply issues and there being a cumulative noise impact. He pointed out that there was considerably more wind to be harnessed by a higher turbine, and that smaller turbines would also suffer because the site was on the wrong side of the woodland. He also considered that ten smaller turbines would have a more devastating visual impact. Mr Scott reported that the current power usage was 2.5 million kW each year, and further growth on the site was not currently predicted. He stated that the business did not seek to benefit from a feed-in tariff, but to become sustainable.

Councillor McIntosh asked Cheyne Hamm, Sustainability and Climate Change Officer, to explain why turbines were getting higher. Mr Hamm explained that larger turbines captured wind more efficiently, and taller turbines had been developed to accommodate increasing demand for electricity and renewable generation. Mr Hamm thought that ten smaller turbines would require more construction, transport, and would lead to greater upstream emissions.

Councillor McIntosh highlighted that many parts of the proposal met policy requirements, and she said that the Planning Committee had to decide whether policies which were around 12 years old were still working; she also highlighted that NPF4 policies should take precedence.

She felt that the planning system should be used to encourage such proposals. She discussed the shifting baseline effect, as people got used to changes and developments. She felt that guidance should be updated as greater energy independence was encouraged. She disputed the report's conclusions about NPF4 policies that the proposals would not meet, and she did not agree with the Landscape Officer's conclusion that a turbine would affect a special landscape area just because it could be seen from the area. She felt that allowing an important local business to generate its own electricity was of economic and environmental benefit of local importance, and the proposals would contribute to developing a sustainable place. She would vote against the officer's recommendation to refuse consent, and urged colleagues to do the same. She hoped that LDP2 would see the development of clearer guidance, such as Dumfries & Galloway Council's decision to increase their accepted turbine height. She felt that the proposals were proportionate to the business' needs, and hoped that LDP policy could be updated so that it was no longer in conflict with NPF4.

Councillor Collins said she had felt conflicted over the application because she had felt it was so tall for the area and its neighbours, including a horse breeding operation nearby. She was also aware of how difficult it was for farms to secure energy production. She commented that the large investment would ensure that the business was not exposed to volatile energy prices. She reported out that neighbours with horses were concerned about the noise of the turbine, and asked the applicant to make contact with them. She also asked that tree or hedge planting be used to mitigate the visual impact.

Councillor Allan supported the comments of Councillors McIntosh and Collins, and agreed that businesses had to futureproof against fluctuations in costs. She would support the application.

Councillor Forrest was concerned that further large turbines could be installed across the landscape, and pointed out that an alternative was available by installing a number of smaller turbines. He would support the officer's recommendation because he felt the proposed turbine was far too tall.

Councillor McMillan said he appreciated the difficulties for businesses around electricity costs. He also recalled the Planning Committee's recent decision not to support the large-scale wind development at Newlands Hill. He considered that the development had been proposed for the right reason, and discussed various features of the site; however, he felt that the development would bring a localised impact in terms of height and noise to a site that was close to neighbours. He felt that the impact of the height outweighed the benefits of the proposals, and would support the officer's recommendation to refuse consent.

The Convener appreciated the different arguments, and said he was a big supporter of renewable energy. He commented that the Planning Committee had tried to adhere to the findings of the Landscape Capacity Study. He felt that he would never support wind turbines in the lower Lammermuirs if it was purely to benefit income generation for an individual, however, he noted that the viability of many businesses was at risk because of energy costs. He thought that production of energy close to where it was used was a mitigating factor against visual impact. He also pointed out the importance of the business in terms of the food supply. He would vote against the officer's recommendation because the turbine would be located next to the existing business, and felt that the Council could support similar proposals.

Councillor Collins asked whether a tree screen to minimise impact on neighbours could be added as a condition. Mr Dingwall said he was unaware of many other examples of such conditions to have been imposed on similar projects; he noted the test of reasonableness in imposing conditions, but agreed that this would be a decision for the Planning Committee. Mr Anderson agreed that the applicant would be willing to add planting.

Responding to a question from Councillor McMillan, Mr Dingwall summarised draft conditions which would be added if Planning Committee voted to overturn the officer's recommendation

to refuse consent, and took into account Councillor Collins' suggestion for a condition to require planting to mitigate the localised impact of the turbine. Councillor Collins formally proposed this condition be added, and this was seconded by Councillor Allan.

Responding to a question from Councillor Allan, Mr Dingwall advised that the proposals' support of the local business was a material consideration, but in this case, the officer's conclusion was that the localised impact on landscape outweighed the benefits. He agreed that benefit to agricultural business was an important factor in considering an application.

Councillor McMillan noted the importance of LDP Policy DC1 in his decision to vote in support of the officer's recommendation.

The Convener moved to a roll call vote on the officer's recommendation to refuse consent. Committee members could vote as follows: (1) to support the officer's recommendation; (2) against the officer's recommendation, and to add standard conditions; (3) against the officer's recommendation, to add standard conditions, and to support an additional condition relating to planting; or to abstain. Votes were cast as follows:

- Position 1: 2 (Councillors Forrest and McMillan)
- Position 2: 0
- Position 3: 6 (Councillors Hampshire, Allan, Collins, Gilbert, McIntosh, and Yorkston)
- Abstain: 0

Decision

Planning Committee agreed 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 Details of the materials and colour of the supporting column, rotor hub and blades of the wind turbine shall be submitted to and approved in advance by the Planning Authority and the colour of them shall be of a matt finish. These details shall show the supporting column, rotor hub and blades of the wind turbine all being the same colour. When installed the column, rotor and blades of the wind turbine shall accord with the materials and colour so approved.

Reason:
To lessen the visual appearance of the wind turbine in the interests of the landscape character and appearance of the area.
- 3 No symbols, logos or any other markings shall be displayed on any part of the wind turbines hereby approved without the written consent of the Planning Authority, except for over-riding reasons of health and safety.

Reason:
In the interests of the visual amenity of the area.
- 4 In the event that any wind turbine installed on the application site fails to produce electricity for a continuous period of 6 months, then, unless otherwise approved in writing by the Planning Authority, it shall be deemed to have ceased to be required. If it is deemed to have ceased to be required the wind turbine shall be dismantled and removed from the site by the operator by no later than the date occurring 6 months after the end of the said continuous 6 months period, and the ground fully reinstated to the specification and approval of the Planning Authority.

Reason:

To prevent a redundant turbine remaining on the application site, in the interests of the landscape amenity of the area and to secure compliance with Policy WD6 of the ELLDP 2018 and Policy 11 (xi and xii) of NPF4.

- 5 Prior to commencing construction of any meteorological masts, or deploying any construction equipment or temporal structure(s) 50 metres or more in height (above ground level) the undertaker must submit an aviation lighting scheme for the approval of East Lothian Council in conjunction with the Ministry of Defence defining how the development will be lit throughout its life to maintain civil and military aviation safety requirements as determined necessary for aviation safety by the Ministry of Defence.

This should set out:

a. details of any construction equipment and temporal structures with a total height of 50 metres or greater (above ground level) that will be deployed during the construction of the meteorological mast and details of any aviation warning lighting that they will be fitted with; and
b. the location and height of the meteorological mast identifying the position of the lights on the mast; the type(s) of lights that will be fitted and the performance specification(s) of the lighting type(s) to be used.

Thereafter, the undertaker must exhibit such lights as detailed in the approved aviation lighting scheme. The lighting installed will remain operational for the lifetime of the development.

Reason:

To maintain aviation safety and in the interests of residential amenity.

- 6 The undertaker must notify the Ministry of Defence, at least 14 days prior to the commencement of the works, in writing of the following information:
a) the date of the commencement of the erection of wind turbine generators;
b) the maximum height of any construction equipment to be used in the erection of the wind turbines;
c) the date any wind turbine generators are brought into use;
d) the latitude and longitude and maximum heights of each wind turbine generator, and any anemometer mast(s).

The Ministry of Defence must be notified of any changes to the information supplied in accordance with these requirements and of the completion of the construction of the development.

Reason:

To maintain aviation safety.

- 7 Prior to the delivery of the wind turbine to the application site, a Construction Traffic Management Plan (CTMP) shall be submitted to, and approved by, the Planning Authority, after consultation with Transport Scotland. In particular, 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.

Reason:

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

- 8 Prior to the delivery of the wind turbine to the application site, an Abnormal Load Transport Management Plan shall be submitted to and approved in writing by the Planning Authority. The ALTMP shall, unless otherwise approved in writing by the Planning Authority, include the following details:
i. Details of the numbers and types of the abnormal loads expected (including their specifications), together with a schedule of their arrivals (including the dates and the times of the day);
ii. Details of the proposed routes for any abnormal loads on the trunk road network;
iii. Detailed swept path assessments of all abnormal load routes along the local road network from the A1 trunk road;
iv. Full details of temporary or permanent changes to the existing local road network including impacts on street furniture / lighting columns in order to facilitate the abnormal load deliveries,

including details of the protection measures to prevent damage to the street furniture / lighting columns;

v. Any traffic management measures or additional signage deemed necessary on either the local roads or trunk roads networks due to the size or length of any loads being transported must be undertaken by a recognised QA traffic management consultant and details submitted to the planning authority.

vi. Details of any Permits, Special Orders and Temporary Traffic Regulation Orders required to facilitate the deliveries;

vii. Details of the mechanisms and schedules for liaison with the emergency services, community groups and local businesses to ensure that their activities are not impeded by the abnormal load activity;

viii. Details of public information to be made available on the project website, together with a liaison committee with the local community and the emergency services;

ix. Details of the necessary convoy systems to escort the abnormal load movements.

x. Details of any trees or hedging proposed to be felled to make way for abnormal loads.

Reason:

To ensure that the transportation of abnormal loads will not have any detrimental effect on the either the local road network or the trunk road network and in the interests of road safety.

- 9 Prior to the delivery of the wind turbine to the application site, a Construction Method Statement (CMS) shall be submitted to the Planning Authority for approval incorporating the latest good practice guidelines and statutory advice as outlined in the PEA to protect European Protected Species. Once approved, development shall be carried out in accordance with the CMS unless otherwise approved by the planning authority.

Reason:

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

- 10 Noise associated with the operation of the Wind Turbine hereby approved shall be restricted to the noise limits detailed in Table 4.3 of Congeo's Noise Report Reference N6373-1535 Version 2 dated June 2024.

Reason:

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

- 11 Prior to commencement of development a scheme of landscaping shall be submitted to the Planning Authority for approval. The scheme of landscaping as submitted should include:

i) Mitigatory planting to compensate for the felling of any trees or hedging required to be removed to facilitate either the transportation of the wind turbine to the application site or the installation of the wind turbine and associated works; and,

ii) A landscape planting strip to the south-east of the wider field in which the wind turbine is proposed.

All planting comprised in the scheme of landscaping 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 within 5 years of planting being implemented, the planting 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.

Reason:

In the interests of the visual and residential amenity of the area and to mitigate against the loss of trees.

- 12 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 shall thereafter be implemented within 3 months of being 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.

8. PLANNING APPLICATION NO. 23/01155/AMM: 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, BLINDWELLS

A report had been submitted in relation to planning application no. 23/01155/AMM. Julie McLair, Planner, presented the report, highlighting the salient points. The report recommendation was to grant consent.

Officers responded to questions from Committee members. Rebecca Pringle, Team Manager – Housing and Strategy, advised that the distribution of affordable homes on the site would depend on the mix brought forward. Ms McLair advised that Class 4 and Class 6 units were businesses which could operate in close proximity to residential properties; the smaller units would be near the flatted properties, and the larger unit would be adjacent to the car park.

James Fraser, of EMA Architects, and Niall McLean, on behalf of Hargreaves, were present to speak to the application. Mr Fraser made a presentation about the key concepts of the people-focused town centre, with a strong sense of place, and in a sustainable 20-minute neighbourhood. He advised that the town centre would include affordable retirement apartments, office space and retail units, a welfare hub, and a proposed gym and nursery. He described the location of various features of the town, such as the primary school, the arrival square, the market square, the loch, and wider recreational green spaces. He also explained that the high street would have a pedestrian focus, with vehicle movements limited to the rear, and that the market square would connect to a wider landscaped area. He summarised by providing the square footage of the different types of spaces available for use, which would create a multifunctional mixed-use town centre and become a local destination to live, work, and play.

Mr Fraser and Mr McLean responded to questions from Committee members. Mr Fraser advised that the size of the supermarket, at 7,500 square feet, had been guided by market research, and was likely to be slightly smaller than an Aldi, but larger than a standard Co-op. Discussions had also taken place with the NHS for a facility in Blindwells, and these discussions could be taken forward after planning consent had been granted; designs had been left flexible to accommodate various facilities. He advised that the facility would be accessible and easily connected to the wider high street.

Responding to further questions, Mr McLean advised that there had been regular meetings with the newly formed Tenants' and Residents' Association (TRA) and the Chamber of Commerce. The developer looked to provide community space, so an ongoing facility would move and grow as the development grew, until something more permanent was brought forward. He advised that there had been interest from a nursery, café, and supermarket. Construction was expected to take two years, so temporary provision was being considered in the interim period.

Councillor Yorkston, local member, reported that residents were keen for movement, particularly with the provision of shops, and he was interested to hear more about temporary provision. He also welcomed the social housing in the town centre, which would be well received by residents.

Councillor Gilbert, local member, concurred with Councillor Yorkston's comments. He felt that the development would allow the heart of the community to form. Councillor Allan agreed, and described the difference between a housing estate and community as being able to access local amenities; she hoped these would come forward as soon as possible.

Councillor McMillan welcomed the links made with the Chamber of Commerce, and between the TRA and Reverend Robin Hill. He commented on the quality of the new school building. He felt that access for bus group partners must be considered. He also welcomed discussions with Economic Development and the Chamber of Commerce to create jobs. He would welcome the work being hastened, and would support the application.

The Convener concurred with his colleagues' comments. He thought the development looked to be of high quality and would create an attractive town centre. He hoped that activities could be developed alongside the town park and lake area. He thought that Blindwells town centre would be a destination right in the heart of the county, and he would support the officer's recommendation to grant consent.

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

Decision

Planning Committee agreed:

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; and
- 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.

CONDITIONS:

- 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 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.

- 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.

On the occasion of his last Planning Committee meeting as Chief Planning Officer, the Convener thanked Mr Dingwall for his work with the Planning Committee. The Convener spoke of how the planning applications determined at Committee had contributed to East Lothian's positive growth, and said that Mr Dingwall's new role as Head of Development would mean he had an overview across the county.

Signed

Councillor Norman Hampshire
Convener of the Planning Committee

DRAFT

COMMITTEE: Planning Committee
MEETING DATE: 19 August 2025
BY: Executive Director for Place
REPORT TITLE: Application for Planning Permission for Consideration

2

Note: This application has been called off the Scheme of Delegation List by Councillor McGuire for the following reason: Given the large number of objections and concerns raised against these proposals, I feel it is worthy of further consideration by the full Planning Committee.

Application No. **24/01122/P**

Proposal Change of use of land for the keeping of horses to the siting of six glamping pods for holiday let and associated works

Location **Land East of 23A Boggs Holdings
The Boggs
Pencaitland
East Lothian**

Applicant S A Fairgrieve Ltd

Per Glampitect

Recommendation Consent Granted

REPORT OF HANDLING

This application relates to a field in Boggs Holdings which is located in the countryside to the south of north of Pencaitland. By being in the countryside, the site is within an area defined by Policy DC1 of the adopted East Lothian Local Development Plan 2018 (ELLDP).

The application site is some 8171m² in area and is roughly rectangular in shape. The field is identified as being grade 3.1 prime agricultural land. The application site is bounded to the north, south, east and west by agricultural

fields. To the northwest is a residential property. The south east corner of the boundary of the property at 23a Boggs Holding abuts the site and the building is approximately 31m from its south boundary and 17.5m from its east boundary. The site has an existing vehicular access from the unclassified road to the north. At the time visiting the site the fields were in use for the keeping of horses.

Planning permission is sought the change of use of land for the keeping of horses to the siting of 6 glamping pods for holiday let and associated works. The associated works includes the formation of a new vehicular access and parking for each unit, decking, vehicle turning area, bin storage and timber fencing.

The glamping units would be located in two lines of three placed on a diagonal across the site with 50m separation between units. The parking area would be immediately adjacent to each unit at a ratio of 1 car space and 1 cycle rack per unit.

The site will be accessed from a new 5.5m wide vehicular access that would be formed through the widening of an existing gap in the hedgerow. To create the new access approximately 7m of hedgerow would need to be removed. The new access would link the existing lane at Boggs Holding to the first row of glamping pods via a 73m long driveway. The driveway would then extend further south to serve the other three glamping pods and also retain access to the adjacent field to the west.

Each of the glamping pods would be formed from the timber cladding, grey felt sloping elements and Upvc windows and doors and would have associated decking. Each glamping pod would provide 1 open plan bed/living area with kitchen and a small W.C./shower room measuring 6m x 6m at its largest (internal floor area = 24m²). The decking will extend 3.3m beyond the pod and be 6m in width.

Subsequent to the registration of the application the proposal additional information has been provided. The additional information comprises:

- Updated Management Plan.
- Revised Drainage Plan.
- Revised Visibility and HGV manoeuvring details.
- Revised Landscape Plan.

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 NFP4 and the adopted East Lothian Local Development Plan 2018 (ELLDP).

Policies 1 Tackling the climate and nature crises, 2 Climate mitigation and adaptation, 3 Biodiversity, 5 Soils, 13 Sustainable transport, 22 Flood Risk and

water management, 29 Rural Development and 30 Tourism of NPF4 are relevant to the determination of this planning application.

Policies DC1 Rural Diversification, NH5: Biodiversity and Geodiversity Interests, including Nationally Protected Species, NH7: Protecting Soils, NH10: Sustainable Drainage Systems, DP1 Landscape Character, T1: Development Location and Accessibility and T2 General Transport Impact of the ELLDP are relevant to the determination of this application.

REPRESENTATIONS

The application has received 35 objections and one neutral comment. The objection from the Boggs Community Association was signed by 62 people. The main grounds of objection are:

- * Landscape character would be wholly altered and an unacceptable change to the distinctive character and landscape of Boggs Holdings;
- * The glamping pods would appear incongruous in the rural setting resulting in unacceptable change in the landscape, contrary to Policy DP1-Landscape Character;
- * the site is not accessible by public transport, reliance on cars, fails to meet sustainable transport aims;
- * Access road not suitable for walking, no access to off road routes;
- * New access would result in the loss of the hedge and habitat;
- * Insufficient parking;
- * Inadequate emergency vehicle access;
- * Increase in vehicles on road with adverse impact on road safety;
- * Inadequate visibility at proposed access due to hedgerow part of which is out with applicant control;
- * Lack of information on drainage;
- * Drainage will impact on residents to the south;
- * Danger to public health as it would contaminate local water;
- * Field already saturated and soil does not allow water to permeate. Water from soakaway will run off into adjoining field;
- * There is no drainage assessment taking account of the existing drainage infrastructure crossing the development site which serves many existing properties;
- * Adverse impact on residents from additional noise, fumes and smells.;
- * Detrimental impact on neighbours health including those with protected characteristics (see DCP note below);
- * Loss of amenity from potential anti-social behaviour;
- * Harmful to visual amenity;
- * Loss of privacy to neighbouring house;
- * Impact on views including from the road and neighbouring properties;
- * Safety and security for neighbouring animals;
- * Any future on site management accommodation should be resisted and it is noted that it does not form part of the management proposal;
- * No on-site management and management proposals will be ineffective/inadequate;
- * Waste arrangements not adequate;

- * Illumination will be detrimental to the amenity of the area NPF4 item 2 "protection from...light pollution;
- * Not a sustainable location as there are no local amenities;
- * People entering private land, concerns over trespassing;
- * Additional humans will have a negative impact on local wildlife;
- * No economic benefit or positive contribution to the local community;
- * This development does not constitute acceptable diversification of an existing rural business;
- * The proposed development is inappropriate as it does not meet the criteria for new tourist use in a rural location as set out in NPF 4, Policies 29 and 30;
- * Would be best sited within an existing farming business where it would generate an additional source of income for an established farming business;
- * Already glamping provision in area. No clear business need/inadequate demand for use;
- * Loss of prime quality agricultural land;
- * Does not accord with LDP Policy DP1, DP2, DC1, DC4, EMP1, T1, T2, NN10, NH13 and para. 3.18;
- * Does not accord with NPF4 Policy 1,2, 3, 4, 5b, 13, 14, 22, 23, 26, 29, 30;
- * Does not align with NPF4 Annex 3 section on Sustainable Tourism;
- * Noise from existing houses will disturb glamping customers;
- * The information is inadequate and inaccurate - The Planning Authority considers there to be adequate information to assess the application.

A number of non-material objections were raised, these are:

- * The matters of the proposal restricting access to existing underground drainage within the field is a legal matter between the respective parties and not a matter relevant to the determination of this planning application.
- * The matters of the fire risk from camp fires, that the site could be sold on and impact on property values are not matters that are relevant to the determination of this planning application.
- * This proposal if approved will set a precedent - Each planning application is considered on its merits in accordance with the development plan unless material planning considerations indicate otherwise.
- * Applicant has not engaged with the community - As this is local development type then there is no statutory requirement for an applicant to carry out public consultation and engagement on the planning application.
- * Other properties in Boggs Holdings have been subject to conditions restricting the use of the property - The Planning Authority will assess each application on its own merits and if required may impose planning conditions relevant to the development proposed.
- * Not aligned with the approved land use granted in 2001 - This application is to change the use of the land and assessed on its own merits.

PLANNING ASSESSMENT

The application site is located within the countryside of East Lothian and the proposed glamping pods are for use as short stay holiday accommodation which is a tourism type development that would provide accommodation for visitors to East Lothian.

Policy 29 of NPF4 states that development proposals that contribute to the viability, sustainability and diversity of rural communities and local rural economy will be supported, including for the diversification of existing businesses.

Policy 30(a) of NPF4 provides qualified support for tourism development. It supports development proposals for new or extended tourist facilities or accommodation, including caravan and camping sites, in locations identified in the ELLDP. It states that development proposals for tourism related development will take into account amongst other things the contribution made to the local economy, compatibility with the surrounding area, opportunities for sustainable travel and measures taken to minimise carbon emissions.

Policy DC1 of the adopted East Lothian Local Development Plan 2018 sets out controls for development in the countryside, and states that development in the countryside, including changes of use will be supported in principle for uses including, amongst other things, businesses that have an operational requirement for a countryside location, including tourism and leisure uses.

The use of the application site for the siting of the proposed glamping units for holiday letting accommodation is a tourism and leisure use providing accommodation for tourists wishing to benefit from a stay in the East Lothian countryside. This type of visitor accommodation (glamping) is designed to provide the visitor with the experience of staying within the countryside. Therefore, in principle, based on the nature of the proposed tourism accommodation, there is an operational requirement for the proposed holiday accommodation use in this rural location. While these units would be in a rural location, they would be within reach of popular East Lothian attractions and towns. Furthermore, by its small scale of operation, the proposed holiday accommodation use of the site for 6 glamping units are of a scale and character that would not be inappropriate to this countryside location. It is not unreasonable to assume that such development would be likely, to positively contribute towards the tourist industry of East Lothian. Accordingly, the proposed glamping pods for use as holiday letting accommodation would not conflict with Policy DC1 of the adopted East Lothian Local Development Plan 2018. A condition can be imposed on any grant of planning permission that restricts the occupation of the accommodation to a period no longer than 28 days.

Policy 30 (Tourism) of NPF4 provides in qualified supports for development proposals for new or extended tourist facilities or accommodation. The site is located approximately 1 mile outside Pencaitland and is well located for walking and cycling routes to allow visitors to access the countryside and neighbouring settlements. Whilst there is no dedicated pedestrian footpath on the public road serving the site and there is no direct public transport serving the site the proposed glamping pod development is modest in size and therefore will have a limited negative impact on car based journeys. Given the accepted need for a rural or semi-rural site location of this type of accommodation the benefits of rural diversity and economic growth outweigh the restricted opportunities for the

use of sustainable travel options in this case. On this count the proposal is broadly supported by Policy 30 of NPF4 but not fully compliant in respect of accessibility.

Policy 29 (Rural Development) of NPF4 supports development proposals that contribute to the viability, sustainability and diversity of rural communities and local rural economy. The provision of tourist accommodation near the village of Pencaitland, and suitably located for access to other East Lothian visitor attractions, will benefit the local economy.

The **Council's Economic Development Service** support the application stating that there are demonstrable local economic benefits delivered by all types of short-term holiday lets in East Lothian and that existing provision of this type of accommodation must be retained, protected, and supported where there is no demonstrable and unacceptable impact on local amenity, the character of the area, or loss of residential accommodation. Therefore the proposal is aligned with Policy 29 of NPF4.

The site is identified as an area of prime agricultural land. Policy 5 of NPF4 supports development on prime agricultural land in limited circumstances, including where the proposal is small scale development directly linked to a rural business. Policy NH7: Protecting Soils of ELLDP 2018 provides qualified support for rural development. This land was granted permission for a change of use from agricultural land to use for the keeping of horses in 2001 and operates under this permission. This land is therefore not in agricultural use and this proposal is not in conflict with Policy 5 of NPF4 or Policy NH7 of ELLDP 2018.

On the matter of the principle of the development the proposals do not conflict with Policies 5, 29 or 30 of NPF4 or with Policies Policy NH7 or DC1 of the ELLDP 2018.

Policy DP1 of ELLDP, amongst other matters, requires that new development be well-integrated into its surroundings by responding to and respecting landform and retaining, where appropriate, existing natural and physical landscape features. Policy DP2 of ELLDP requires that, amongst other matters, all new development is appropriate to its location, respects and complements the site and the surrounding area, is not harmful to amenity, retains physical and natural features important to the amenity of the area, and can be suitable serviced and accessed with no significant traffic or other environmental impacts.

Each of the proposed glamping units would be relatively small in size, scale and height. From the south they will primarily be seen against the backdrop of mature woodland, hedgerow and buildings. From the north they will be partially screened by the existing hedgerow along the existing road. From the east and west the buildings will be more prominent as they extend into land which has an open aspect due to the relatively flat terrain and lack of immediate boundary planting. The proposal incorporates extensive areas of hedgerow planting to the boundaries and adjoining the pods the glamping pod development and tree

planting is also proposed. The proposed landscaping and planting will soften the visual impact of the proposal on the landscape. Therefore, due to their distance from the road and by virtue of their relatively small size, scale, massing and height, and external finishes, and landscape proposals the proposed six glamping pod development, would not appear harmfully intrusive, incongruous or exposed within their landscape setting and would not harm the landscape character of the area.

The applicant has also provided a proposed lighting plan which shows low level motion sensitive LED lighting. There will be one lighting unit adjacent to each of the accommodation pods. The principle of using low-level, PIR-activated lighting, with restricted lighting spread, as shown, is supported. By virtue of the size, height, form, number and positioning of the units, the proposed external lighting of the site would not appear harmfully intrusive, incongruous or exposed within its landscape setting, or be harmful to the landscape character of the area.

Amongst other matters, Local Development Plan Policy DP2 requires that new development should ensure privacy and amenity, with particular regard to levels of sunlight, daylight and overlooking, including for the occupants of neighbouring properties.

By virtue of their size, height, positioning, orientation and distance way from neighbouring properties, the proposed 6 glamping pods and associated development would not result in harmful overlooking or the loss of sunlight or daylight to any existing neighbouring residential property and therefore would not have a harmful effect on the residential amenity of them. Moreover, given their distance from the neighbouring residential properties and of their size and scale the proposed accommodation would not be overly dominating or imposing in views from those neighbouring houses.

The proposed glamping accommodation pods would have capacity to reasonably accommodate 12-18 people in total within the 6 proposed units. The **Council's Environmental Health Officer** states that it is not reasonable to assume any antisocial behaviour will arise from the guests staying in the holiday cabins. The applicant has submitted a Revised Management Plan which sets out the operational aspect of the accommodation, including monitoring, noise, waste and light management. This plan illustrates that the business will be operated by 4 people, who will all be co-owners of the development. The Plan further states that all members of the management team are local residents, meaning that should any issue arise on the proposed site, a member of the management team can be on-site within in a matter of minutes. The furthest management team member's residence is located approx. 2.5km to the northwest of the proposed glamping site. The level and range of activities anticipated from this type of development is similar to that of a residential use. It is also noted that the proposed pods are a significant distance from the closest residential property. Given the relatively modest scale and nature of this development the proposal is compatible with neighbouring residential properties. The proposed use is not incompatible with any of the neighbouring uses, including the keeping of animals. Subject to the imposition of a condition

that the glamping pods are operated in accordance with the Management Plan the Council's Senior Environmental Health Officer raises no objection to the proposal. Subject to the imposition of that planning control the proposal does not conflict with Policy DP2 of ELLDP.

Policy 3 a) of NPF4 sets out a requirement for development proposals to contribute to biodiversity enhancement.

To form the new vehicular access a section of approximately 7m of hedgerow would have to be removed. However, the proposed access would be located within an historic access where the existing boundary planting is of lesser quality than elsewhere on the road frontage. Furthermore, substantial compensatory planting is proposed within the site, including on the north section of the site where the hedgerow will extend along the south boundary and part of the west and north boundaries, measuring 130m in length. On the south section of site the hedgerow will extend along the south, west and east boundaries and measure 190m in length. The proposed planting of extensive hedgerow within this site will represent a significant enhancement to the landscape and biodiversity of the area.

As an existing field used for the keeping of horses the existing site has modest biodiversity at present and therefore there is an opportunity to enhance biodiversity and habitat connectivity for example through the planting of hedgerows around the boundary of the site. The position of the proposed access will minimise the loss of hedgerow and the revised visibility splay information shows that the impact has been minimised in this area. The applicant has provided a revised landscaping plan which shows extensive hedgerow planting, tree planting, wildflower areas and grazing areas. The proposal is considered to represent a biodiversity enhancement and is acceptable subject to a condition seeking a suitable planting specification. Therefore, subject to appropriate landscape and biodiversity related conditions the proposals do not conflict with Policy 3 of NPF4.

The site will be accessed from a new 5.5m wide vehicular access that would be formed through the widening of an existing gap in the hedgerow. In support of the application the applicant has provided a visibility splay diagram for the proposed access. This indicates that a visibility splay of 2.4m x 160m developed to the centreline of the carriageway can be achieved over land that lies within the control of the applicant or the Roads Authority. The **Council's Road Services** are satisfied that subject to the imposition of a condition to ensure that the visibility splay is maintained the proposed access would provide a safe means of access and egress to the site.

The applicant has also provided an estimate of vehicle movements that would be generated by the development which Road Services consider to be an underestimate. Road Services calculation of peak daily vehicle movements assumes that on full occupancy, residents of every pod would travel to local attractions, something they can realistically only do by car. Therefore, each pod would generate one trip to and one trip from the site each day. Management

and refuse collections would generate 2 movements each on two days a week. These could potentially fall on the same day:
Residents - 6 pod * 2 movements = 12 daily movements.
Management and refuse - 2 movements each = 4 daily movements.
Estimated peak daily trips = 16 daily movements (noting that this reflects full occupancy).

Notwithstanding that the Boggs Holdings road is a relatively lightly trafficked road and the estimated traffic movements may represent a noticeable increase in traffic flows, the road has no capacity issues and, based on published statistics, does not have an existing problematic personal injury accident record. Therefore, and as Road Services consider the access will provide safely for the estimated daily vehicle movements they do not anticipate the proposed development would have an adverse impact on road safety. Therefore the proposals do not conflict with Policy T2 of the adopted East Lothian Local Development Plan 2018.

The application contains information in relation to the handling of foul and surface water drainage. Foul water will enter and underground treatment plant and discharge into reed bed units and then into existing field drains. The border drainage around the pod unit will be of a French drain type design consisting of 100mm diameter perforated plastic pipe in a trench 300mm wide and 300mm deep sited up both sides of the pod to handle surface water. The applicant has advised that two separate field drains were exposed at a depth of 800mm the drains were found to be in very good condition and free from any silt build up. The **Council's Flooding and Structures Team** has considered the details provided and are supportive of the proposed arrangements. The proposals do not conflict with Policy NH10 of the ELLDP.

The principle of the proposed land use is considered to be acceptable in this location, and the design of the proposal has no unacceptable impact on the landscape character and natural environment. The proposed use and scale of development is compatible with the adjoining land uses. Subject to the recommended conditions, 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 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 The occupation of the accommodation units hereby approved shall be restricted solely to short term lets of not more than 28 days, and each of the holiday cabin holiday letting accommodation units shall not be re-let to the party/parties who last occupied it anytime within a period of two months following the date on which the previous time of occupancy ends.

A record of occupancy shall be maintained by the operators of the holiday lets, including details of the names and addresses of occupants and the dates of occupation. This record shall be made available for inspection by the Planning Authority at all reasonable times.

The holiday cabin accommodation units hereby approved shall at no time be occupied as permanent residential dwellings.

Reason:

To restrict the holiday letting use of the glamping pods to that applied for and in the interests of safeguarding the purpose and integrity of the Council's policy for the control of housing development in the countryside.

- 3 In the event that all accommodation on the site is not occupied for a continuous period of 12 months, then, unless otherwise approved in writing by the Planning Authority, it shall be deemed to have ceased to be required. If it is deemed to have ceased to be required the accommodation and all ancillary equipment, infrastructure and hard surfacing shall be removed from the site by the operator by no later than the date occurring 6 months after the end of the said continuous 12 months period, and the ground fully reinstated to the specification and satisfaction of the Planning Authority and the use shall revert to its former use for the keeping of horses.

Reason:

To prevent redundant accommodation remaining on the application site, in the interests of the reinstatement of the landscape.

- 4 Notwithstanding the approved landscape plan no above ground development shall take place until there has been submitted to and approved in writing by the Planning Authority a detailed planting specification and maintenance details. Thereafter that detailed planting specification shall be implemented in accordance with the details so approved and shall thereafter be retained and maintained in accordance with the implementation and management schedules, unless otherwise approved in writing by the Planning Authority.

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

Reason:

In order to ensure the implementation of a landscaping and biodiversity enhancement scheme to mitigate the visual impact on longer views and ensure the appearance of the development is appropriate to the landscape and amenity of the area.

- 5 Prior to the first occupation of any part of the accommodation hereby approved, the visibility splay shown on Drawing 231035-01-13 (2.4m x 160m in both directions developed to the centreline of the carriageway) to be created. The visibility splay must then be maintained for the lifetime of the development.

Reason:

In the interest of road safety.

- 6 The first 10m of the proposed access should be hardformed to ensure mud and debris is not carried onto the public road and any water runoff should be directed away from the road.

Reason:

In the interest of road safety.

- 7 The applicant shall submit details of EV charging provision, at the rate of one charger per accommodation pod, for the written approval of the Planning Authority. The approved EV provision shall be implemented in full prior to the first occupation of the approved accommodation, unless otherwise agreed by the Planning Authority.

Reason:

To ensure the development makes an appropriate contribution to the declared climate emergency.

- 8 The development shall be operated in accordance with the approved Noise Management Plan docketed to this decision notice.

Reason:

To minimise the potential disturbance of neighbouring residents.

COMMITTEE: Planning Committee
MEETING DATE: 19 August 2025
BY: Executive Director for Place
REPORT TITLE: Energy Consents Unit Consultation for Consideration

3

Note: *This consultation has been called off the Committee Expedited List by Councillor Collins for the following reason: For a full discussion due to local concerns over the safety of the site.*

Application No. 25/00001/SGC

Proposal Section 36: The development of a Battery Energy Storage System (BESS) and associated infrastructure, including connecting underground cabling to the existing substation, on approximately 1.4 hectares of land north of Pitcox, East Lothian, EH42 1RG (ECU00004992)

Location Land North of Pitcox
East Lothian
EH42 1RG

Applicant Abei Energy Group Ltd

Recommendation Approval of the consultation response appended to this report.

ECU Application No. ECU00004992

ELC Reference No. 25/00001/SGC

Proposal Electricity Act 1989 – Application to construct and operate an electricity generating station and associated infrastructure

Location Land North of Pitcox
East Lothian
EH42 1RG

Applicant Abei Energy Group Ltd
Per Richard Palmer
Broad Quay House
Prince Street
Bristol BS1 4DJ

Ward 06 Dunbar and East Linton

Date 12 June 2025

Sent via email to econsents_Admin@gov.scot
Cc Andrew Balnave Andrew.balnave@gov.scot

ENERGY CONSENTS UNIT (“ECU”) CONSULTATION: PROPOSED BATTERY ENERGY STORAGE SYSTEM ON LAND NORTH OF PITCOX NEAR DUNBAR, EAST LTOHIAN (REFERRED THROUGHOUT THIS REPORT AS “PITCOX BESS”), EAST LOTHIAN COUNCIL’S RESPONSE

Proposed Battery Energy Storage System (BESS), Transformers, Substations and Associated Infrastructure

BACKGROUND

This application has been made to the Scottish Ministers under Section 36 of the Electricity Act 1989 for the construction and operation of a Battery Energy Storage Facility (“BESS”). In the case of S36 applications planning authorities are a consultee to the application process and are not the Consenting Authority.

With regard to paragraph 2(2) of Schedule 8 to the Electricity Act and regulation 8 of the Consents Regulations, if a planning authority makes an objection within the timescale given by regulation 8 (1) and that objection is not withdrawn, the Scottish Ministers must cause a Public Inquiry to be held unless the Scottish Ministers propose to accede to the application subject to such modifications or conditions as will give effect to the objection of the planning authority.

The application site measures approximately 2ha in size and is located on land north of Pitcox, East Lothian, EH32 1RG. The site comprises agricultural land (categorised as prime agricultural land of class 3.1) with a short hedgerow boundary to the west of the site and a small area of mature deciduous woodland adjacent to the northern corner of the site. The

proposed BESS would consist of a compound containing 80 energy storage containers with a total capacity of an approximate 100 MW. The closest residential property is located approximately 80 metres northwest of the proposed battery containers, with the hamlet of Pitcox approximately 700 metres south. The nearest watercourse is Biel Water which is located approximately 200 meters northwest.

The site lies within an area of countryside as defined by Policy DC1 of the adopted East Lothian Local Development 2018 (“ELLDP”) and is adjacent, but not within, Biel and Belton Special Landscape Area (“SLA”) and Biel Garden and Designed Landscape (“GDL”).

On 14 May 2024, the Scottish Ministers issued an Environmental Impact Assessment (“EIA”) screening opinion that the proposal does not constitute EIA development and that the application submitted for this development is not required to be accompanied by an EIA report.

PROPOSAL

The proposed application is for a 100MW BESS facility that would consist of:

- 80 BESS units;
- 20 transformers units;
- a switching station;
- a metering station;
- two emergency fire tanks;
- site drainage area with a contaminated water tank;
- two site accesses and internal access roads;
- acoustic fencing;
- site perimeter security fencing;
- circa 200m underground cabling; and
- scheme of landscaping and biodiversity enhancements.

The proposed BESS facility is intended to provide electricity for export to the grid from batteries which will store surplus electricity to be fed into the grid when required at short notice. A maximum of 100MW of electricity would be imported and exported to the grid network as required. The BESS and transformers would be linked through underground cabling to the switching station and metering station and connected to the Dunbar substation, located approximately 200 metres north of the site.

The BESS units would measure circa 4.45 metres in height, 6.1 metres in length and 2.5 metres in width and the transformers units would measure circa 3.4 metres in height, 6.1 metres in length and 2.6 metres in width.

The nature of BESS facilities means that the technology operates at varying times of the day dependent on demand.

There are two points of access to the site. The first being from the north, off the B6370, which would be for emergency purposes only. The second main access would be taken from the south, off the B6370, which would be for construction and standard operation.

The construction of the proposed development would take approximately 32 weeks including a temporary construction compound and laydown area located south/southwest of the site. Once completed, it is expected that no more than one or two vehicles would visit the proposed development each month to allow for routine maintenance and servicing.

THE DEVELOPMENT PLAN

The application is made under the Electricity Act 1989 and not the Planning Act and therefore the development plan does not have the primacy it normally would for planning decisions. It is still an important material consideration in this instance and informs the Council's consultation response.

The development plan comprises National Planning Framework 4 ("NPF4"), which was adopted by Scottish Ministers on 13 February 2023, and the ELLDP.

Appendix B (National Development Statement of Need) of NPF4 identifies 18 national developments that are significant developments of national importance. National development 3 of NPF4 (Strategic Renewable Electricity Generation and Transmission Infrastructure) supports renewable electricity generation, repowering, and expansion of the electricity grid.

National development 3 informs that the electricity transmission grid will need substantial reinforcement including the addition of new infrastructure to connect and transmit the output from new on and offshore capacity to consumers in Scotland, the rest of the UK and beyond.

Whilst National development 3 references a Scotland wide rather than a specific location, the south of Scotland (including East Lothian) is identified for supporting on and offshore electricity generation from renewables and delivering new and/or upgraded infrastructure directly supporting on and offshore high voltage electricity lines, cables and interconnectors including converter stations, switching stations and substations.

National Planning Framework 4

NPF4 is Scotland's national spatial strategy for Scotland. It sets out spatial principles, regional priorities, national developments and national planning policy. Relevant policies are:

- 1 – Tackling the climate and nature crises
- 2 – Climate mitigation and adaptation
- 3 – Biodiversity
- 4 – Natural places
- 5 – Soils
- 6 – Forestry, woodland and trees
- 7 – Historic Assets and Places,
- 11 – Energy
- 13 – Sustainable Transport
- 14 – Design, Quality and Place
- 22 – Flood risk and water management
- 23 – Health and safety

East Lothian Local Development Plan

The following policies within the ELLDP are relevant to the proposed development:

- DC1 (Rural Diversification)
- NH5 (Biodiversity and Geodiversity Interest, including Nationally Protected Species),
- NH7 (Protecting Soils)
- NH8 (Trees and Development)
- NH11 (Flood Risk)
- NH12 (Air Quality)
- NH13 (Noise)
- T2 (General Transport Impact)

DP1 (Landscape Character)
DP2 (Design)
SEH2 (Low and Zero Carbon Generating Technologies).

REPRESENTATIONS

East Lothian Council has received one representation which makes an objection to the proposed development. The main grounds of objection can be summarised as follows:

- loss of agricultural land
- further expansion and industrialisation
- detrimental visual effects until the proposed planting has matured
- the proposed BESS units will be 4.45m above ground level which is much higher than the 3.0m assumed at screening stage
- fire and pollution risk
- noise at surrounding properties and adding to background noise in the countryside
- drainage has not been fully thought through or detailed
- safety issues in relation to construction traffic. No account has been taken of vulnerable road users including horse riders
- proposal will affect the appearance of the first part of the “Hillfoots Trail” tourist route promoted by East Lothian Council

COMMUNITY COUNCIL COMMENTS

East Lammermuir Community Council has several concerns regarding aspects of the proposal, but at this stage they are neither objecting to nor supporting the proposed development. They also highlight that there are concerns within the local community about the proposal.

The response provides a list of conditions that the Community Council would like to be added to any consent for the proposed development by the way of mitigation for the concerns of local residents. These conditions cover the matters of fire safety, heat, landscape and visual, biodiversity, construction traffic management, lighting, and decommissioning.

West Barns Community Council, a neighbouring Community Council, located to the north of the site, also provides a response objecting to the development outlining the following concerns:

- cumulative loss of agricultural land with an impact on future food security
- cumulative impact on landscape, biodiversity, wildlife habitat and residents of the local community of BESS and other energy development
- there should be a clear biodiversity enhancement plan with clear information on species and timescales
- cumulative storage capacity of BESS being proposed in Scotland
- road safety during the construction phase
- dust emanating from the site during the construction phase
- road safety concerns about the access points to the site from the narrow, twisty B6370 road
- fire safety concerns about BESS technology
- noise emanating from the facility and the impact on nearby residents and on wildlife
- how the BESS will be removed and that it is essential for the land to be restored

The Community Council further note that, if approved, they would expect the applicant to agree to energy developers protocols that have been produced by East Lammermuir Community

Council and that the applicant should contribute an agreed sum of community benefits to the area.

The Council recommends that the ECU should carefully take into account the views of the Community Councils in their assessment of this proposal.

PRINCIPLE OF DEVELOPMENT

The proposed development would enable the storage of electricity and would contribute to the delivery of infrastructure of national importance. As transmission infrastructure to support renewable energy, it is also part of National Development 3 and is thus supported by NPF4.

As the proposal supports renewable energy, the principle of the proposal is also consistent with Policy 11 of NPF4, which states that development proposals for all forms of renewable, low-carbon and zero emissions technologies will be supported, including enabling works, such as grid transmission and distribution infrastructure.

The ELLDP helps facilitate the transition to a low carbon economy by supporting means of energy generation that help to reduce greenhouse gas emissions. It seeks to support a diverse range of renewable and low carbon energy generation in appropriate locations, taking environmental, community and cumulative issues into account.

The site is allocated within the ELLDP as countryside and therefore Policy DC1 (Rural Diversification) is relevant to the determination of this application. This policy states that development in the countryside, including changes of use or conversions of existing buildings, will be supported in principle where it is for:

- a) agriculture, horticulture, forestry, infrastructure or countryside recreation; or
- b) other businesses that have an operational requirement for a countryside location, including tourism and leisure areas

This policy recognises that countryside sites may be needed to provide infrastructure for operational reasons and states that proposals for renewable energy will be considered against other plan policies.

Whilst the principle of this development is acceptable, there are several other issues that require to be considered. This is in line with Policy 11 of NPF4 which lists thirteen criteria relating to the design and mitigation of energy related developments that require to be addressed to determine their compliance with the Development Plan.

CLIMATE

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

The Scottish Governments Climate Change Plan sets out the national Scottish Government's pathway to achieve the ambitious targets set by the Climate Change (Scotland) Act 2009, as amended by the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019, and the commitment to end Scotland's contribution to climate change by 2045.

Scotland's renewable electricity generation has grown rapidly over the last twenty years, and a large contribution to achieving the commitment set out in the plan will be made by the increased decarbonisation of our electricity system.

The Climate Change Plan notes operating a zero-carbon electricity system will mean finding new ways to provide a range of technical services and qualities currently provided by fossil fuel and nuclear generation. Battery storage is one technology which helps achieve these goals.

However, it is important to ensure that the lifecycle carbon impacts of the proposal itself are assessed and mitigated. At its meeting on the 27th of August 2019 the Council approved a motion declaring a Climate Emergency. Thereafter, at its meeting on the 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 completed development should be imposed on consents for relevant development proposals.

It is recommended that such a condition should be imposed on any consent for this proposed development, consistent with the requirements of Policy 2 of NPF4 and Policy SEH2 of the ELLDP.

The **Council's Sustainability and Climate Change Officer** provided comment that if consent is granted it is recommended that a low-carbon decommissioning plan is produced by including details on how raw materials will be recycled, re-use what is possible and restore the soil to the same quality it was before.

BIODIVERSITY

NPF4 policy 3 is applicable to all developments and requires that an overall biodiversity net gain is achieved, in the interests of addressing the nature crisis across Scotland. The policy intention is to "...*protect biodiversity, reverse biodiversity loss, deliver positive effects from development and strengthen nature networks.*"

The proposal is supported by a Biodiversity Net Gain Assessment ("BNGA"), Ecological Impact Assessment ("EclA") and Landscape and Ecology Management Plan ("LEMP") which are included within this application.

The **Council's Biodiversity Officer** notes that the BNGA outlines a net percentage gain of 83.70% Habitat Units (HU) and 12.01% Hedgerow Units (HeU). The good practice recommendation is more than 10% net gain for HU and HeU.

The Biodiversity Officer offers the following amendments and comments to the submitted LEMP:

- *The LEMP suggests to deliver the required low nutrient levels for the successful establishment of the wildflower meadows, that nutrient poor soil may be required to be brought into site. I would query whether this is the most appropriate delivery of nutrient-poor habitat provision and whether the applicant has considered soil stripping for areas of wildflowers and the nutrient rich soil being used for the woodland planting areas.*
- *the maintenance of hedges (section 4.4.8-4.4.9) should be altered to include incremental height trimming and for the hedges to be layed or a similarly appropriate management technique to ensure the long life and health of the hedges on the site.*
- *Details of ongoing monitoring and reporting (section 7.4.1) to be detailed through a 5-year management to be produced and reviewed at least every 5 years in consultation with relevant parties, I would recommend a condition which would support that regarding the implementation of the biodiversity enhancements if deemed appropriate.*
- *The enhancements for biodiversity are expected to be delivered in perpetuity and beyond the lifetime of the project, the applicant has not shown the implications*

regarding the decommissioning of the BESS. For the biodiversity enhancements to be successful this should be detailed. I would request a condition that ensures that the landscape design and biodiversity enhancements are maintained after decommissioning of the BESS. It is key that the design of the application takes this into account.”

The Biodiversity Officer further recommends the inclusion of a wildflower mix with local provenance to East Lothian.

Subject to the above concerns being addressed, the Biodiversity Officer recommends a condition that ensures the measures set out in the Landscape and Ecological Management Plan, Ecus, December 2024), the Biodiversity Net Gain Assessment (Ecus, December 2024) and the Landscape Plans submitted with this application are implemented in full.

Subject to the imposition of and compliance with the recommended condition, the proposal would conform to NPF4 Policy 3.

LANDSCAPE AND VISUAL IMPACT

The **Council’s Landscape Officer** has provided comments on the application, and the full response is appended to this report. A number of concerns are raised over the absence and completeness of the information supplied with the application, in particular the absence of sectional drawings, sightlines and potential loss of hedgerows which are important to the character of the area. Focussing on the conclusion, the Landscape Officer states that:

“...we object due to lack of information and possible/likely loss of hedgerows important to the character of the area as identified in the Landscape Character statement. Changing levels within the site may also impact on the adjacent hedgerow and trees. No information has been provided on this and this may have a greater impact on the existing landscape than suggested in the LVIA. In addition I would say inadequate landscape screening has been proposed to the south of the site and lack of assessment from the road as you exit Pitcox to the south of the site means that the proposal could have a far greater impact than suggested in the LVIA... Overall, we do have a number of concerns over the accuracy of the information submitted for consideration and we would ask that the additional information is submitted for our consideration. We would also recommend a number of conditions over implementation of landscaping and colouring of development.”

It has also been highlighted that the proposed BESS containers are much higher than previous BESS sites. Details of the development, including the height of the containers, is supposed to be provided to enable accurate consideration of significance during the screening process. This information was not provided and as such a presumption was based on previous schemes for the height of the containers.

Although the proposed height of 4.45m for the BESS containers is more than was presumed at the time of screening, it is thought that this would not require EIA on a landscape basis. The additional landscape buffers to the west and south, as requested, will help with this screening and should be sufficient to reduce visibility of the proposed development in the long term, however it should be noted that this will take longer to implement due to the greater height than the presumed height of the BESS containers.

The comments from the Councils’ Landscape Officer should be fully addressed by the applicant/agent and appropriate changes to the proposals/additional information provided before the Councils’ Landscape Officer will be in a position to support the proposals as it stands.

Therefore, the Council objects to the application due to a lack of information on the landscape issues set out above.

HISTORIC ENVIRONMENT

The **Council's Archaeology/Heritage Officer** was consulted on the proposal and a condition has been recommended to require a Programme of Work (Archaeological Evaluation by Trial Trenching). It is therefore recommended that, if consent is granted for this proposal, such a condition should be imposed.

It should be noted that the area of the current road can be excluded from the evaluation area but any areas that will be impacted by compounds, set down areas or haul roads should be included. If remains are identified then there may need to be further work to fully mitigate the impacts but this would be discussed between the applicant, archaeological contractors and the Archaeology Service (on behalf of ELC) once the evaluation has been undertaken.

SOILS

NPF4 has a strong policy presumption against development that is located on prime agricultural land. However, one exception is where the proposal is for 'essential infrastructure and there is a specific locational need and no other suitable site'. The definition of 'essential' infrastructure in the NPF includes energy storage and generation technologies therefore covering this proposal.

The proposed development is essential infrastructure with a specific need for its location, justified by its site selection process, to reinforce the electricity transmission system, supporting a secure and stable supply of energy as part of National Development 3 of NPF4. Therefore, the proposed development is not inconsistent with Policy 5 of NPF4 or Policy NH7 of the ELLDP.

The Council accepts the use of prime agricultural land has been minimised considering the other constraints in the area. The restoration of agricultural land capacity should be secured by condition, along with further consideration of the best use of soils on the site in the meantime.

NOISE, VIBRATION AND AMENITY

The **Council's Senior Environmental Compliance Officer** raises no objection to the proposal in respect of ground contamination.

The agent has undertaken a Noise Impact Assessment which looks at the noise impact of the proposed BESS on nearby land uses, known as "noise-sensitive receptors". A number of receptors have been identified and impacts have been assessed on them, with calculations provided for operational noise levels on site.

The **Council's Environmental Health Officer** has been consulted and state that they are satisfied that noise arising from the development will not exceed the +5dB above background, LA_{90,T} criteria. However, the assessment assumes that acoustic barriers as discussed in paragraphs 4.10-4.13 of the noise report would be incorporated into the proposed development. Any development should include this mitigation in its construction.

However, the Environmental Health Officer outlines that the noise report does not assess cumulative noise impacts, particularly those with the consented BESS on land to the north of Dunbar Grid Substation, (Ref: 23/01519/PM), as suggested at screening stage. A cumulative assessment should be carried out to confirm that the appropriate criteria will be met.

A cumulative assessment should be completed by the applicant/agent and any agreement on the required planning conditions, before the Council's Environmental Health Officer will be in a position to fully support the proposals as it stands.

In the absence of a cumulative assessment that satisfactorily demonstrates there will not be unacceptable cumulative noise impact, the Council objects to the proposal.

FLOOD RISK

The proposed development is supported by a Flood Risk Assessment and Outline Surface Water Drainage Strategy. Consultation was undertaken with the **Council's Structures and Flooding Team Manager**, with the response provided below:

"SEPA's Flood Hazard Mapping indicates that the site is not at risk from a fluvial (river) flood event with a return period of 1 in 200 years, plus climate change. That is the 0.5% annual risk of a flood occurring in any one year, with an allowance for climate change. However, pockets of the site are at risk from a pluvial (surface water) flood event at a 1 in 200 + CC flood event; the location of the units are outwith the surface water flood risk pockets shown on the SEPA maps.

As part of the application, a Flood Risk Assessment and Outline Surface Water Drainage Strategy was submitted.

In Chapter 1.1, it states "Consideration is given to....a return period of 1 in 100 years", albeit it is stated directly above that the 1 in 200 year flood event should be protected to. I also note that in Chapter 4.1.5 "Flood Designation", that it is stated that the SEPA maps show no specific risk of river flooding, which is correct. However, there is no mention of surface water flood risk, which is present. Chapter 5 later mentions the surface water risk.

Within the FRA, the following has been addressed;

- *Greenfield Runoff Rates – Rate identified as 7.0l/s. There is now proposed to be no off-site discharge, this will be attenuated on site.*
- *Attenuation*
 - *The attenuation pond is designed to a 1 in 100 + CC level of protection, and in Chapter 6.2.4 is shown to encroach into its freeboard allowance, leaving only a 0.12m freeboard.*
 - *I would ask that the infiltration / SUDS is designed to a 1 in 200 + CC level of protection, with 300mm freeboard allowance."*

It is recommended that additional information or clarification/corrections should be provided within the existing report to address the concerns above.

In the absence of this further or corrected information the Council objects to the application.

TRANSPORTATION AND ACCESS

It is proposed to access the site from the B6370 with a main access located to the south of the main part of the site, together with a secondary access at the northern part of the site which will be for emergency vehicle use only (and gated for general traffic).

The applicant/agent has provided a Construction Traffic Management Plan ("CTMP") and Transport Statement in support of the application. Consultation was undertaken with East Lothian **Council's Road Services** and the full response is appended to this report. The main

area of concern is that the visibility splays for both the north and south proposed accesses do not meet the Council's visibility requirements. A relaxation on the visibility splay requirements may be considered following the provision of updated information from the applicant/agent on up-to-date speed survey information, together with information on how speeds would be managed during the construction period. Subject to details of the emergency access gating arrangement and management, a further relaxation to the visibility at that junction may be acceptable.

The comments from the Councils' Road Services should be fully addressed by the applicant/agent and appropriate changes to the proposals/additional information provided, as well as agreement on the required planning conditions, before the Councils' Road Services will be in a position to fully support the proposals as it stands.

Unless and until these changes and appropriate information has been provided, the Council objects to the proposal due to the insufficiency of the proposed visibility splays and the absence of other transport related information as set out above.

FIRE RISK

Scottish Fire and Rescue Services advises that there is currently no statutory requirement for Fire and Rescue Services (FRSs) to engage in the planning process of BESS sites. However, The National Fire Chiefs Council (NFCC) encourages early engagement with the local FRS, continuing throughout the planning process, and have therefore provided a guidance document. This document relates specifically to grid scale BESS, in open air environments, using lithium-ion batteries.

The Council recommends that the ECU should satisfy themselves that either the proposed BESS would not result in an unacceptable fire safety risk or that the matter of fire risk is competently dealt with under other legislation.

CONCLUSION

The principle of the Pitcox BESS is acceptable, and it would contribute towards the increased decarbonisation of our electricity system, consistent with Scottish Government objectives. Whilst the principle of development is accepted, based on the assessment against other policy considerations, the Council **objects** to the proposal on the following matters:

- lack of information and assessment within the Landscape and Visual Impact Assessment;
- likely loss of hedgerows important to the character of the area as identified in the Landscape Character statement;
- absence of a cumulative noise impact assessment;
- insufficient information on surface water flooding; and
- proposed access arrangements for the site do not meet the Council's visibility requirements.

The Council recommends that the applicant is offered the opportunity to amend their proposal and to submit further information in order to seek to overcome the Council's objections above. It is further recommended that the Council should be reconsulted on any amended proposals and further information.

It should be noted that if these objections are not resolved then the application would likely have to go through an inquiry process.

RECOMMENDATIONS

1. The Council strongly recommends that the ECU should satisfy themselves that either the proposed BESS would not result in an unacceptable fire safety risk or that the matter of fire risk is competently dealt with under other legislation. The Council further recommends that the ECU should consider whether a safety management plan should be required. The ECU should also consider whether it is necessary to further consult with the Health & Safety Executive on this matter.
2. That the Scottish Government Energy Consents Unit is informed that East Lothian Council objects to the granting of consent under Section 36 of the Electricity Act 1989 for the reasons set out in this report;
3. That the East Lothian Chief Planning Officer be authorised to undertake any discussions with the Scottish Government Energy Consents Unit to resolve these objections and conditions to be attached to the consent if required;
4. That East Lothian Council's Chief Planning Officer be authorised to undertake any discussions with the Scottish Government Energy Consents Unit to agree any further amendment to the proposal, that in his/her opinion does not have a materially greater impact on interests within East Lothian; and
5. That if consent is granted then it be subject to the following conditions:

RECOMMENDED CONDITIONS

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

Reason:
To ensure that the development is commenced within a reasonable period.
- 2 Prior to the commencement of development details of the finishing colours for all of the components of development shall be submitted to and approved in writing by the Planning Authority. Development shall thereafter be carried out in accordance with the details so approved.

Reason:
In the interests of the visual amenity of the area.
- 3 Prior to the commencement of any development a report on the actions to be taken to reduce the Carbon Emissions 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 including the consideration of any opportunities for heat recovery systems, 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.
- 4 No development shall take place on site until temporary protective fencing in accordance with Figure 2 of British Standard 5837_2012 "Trees in relation to design, demolition and construction" and as detailed on drawing 'Figure 5 – Arboricultural Method Statement' numbered 22494-ARB-03 as detailed in the arboricultural report by Ecus Limited dated November 2024 has been installed, approved and confirmed in writing by the Planning Authority. The fencing must be fixed into the ground to withstand accidental impact from machinery, erected prior to site start and retained on site and intact through to completion of

development. The position of this fencing must be as indicated on the drawing 'Figure 5 – Arboricultural Method Statement' numbered 22494-ARB-03 in the above arboricultural report, shall be positioned outwith the Root Protection Area (RPA) as defined by BS5837:2012 for all trees and approved in writing by the Planning Authority.

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

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

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

Reason:

In order to form Construction Exclusion Zones around retained trees and protect retained trees from damage. All trees on and adjacent to the site shall be retained and protected in accordance with British Standard BS5837:2012 'Trees in relation to design, demolition and construction' and no tree works shall be undertaken without the prior approval of the local planning authority.

- 5 All planting, seeding or turfing comprised in the approved details of landscaping on the drawings titled 'Soft Landscape Proposals Overview' with drawing number 22494-LD-01 rev G [or as revised], 'Soft Landscape Proposals – Planting Plan' with drawing number 22494-LD-02 rev G [or as revised], 'Soft Landscape Proposals – Planting Plan' with drawing number 22494-LD-03 rev G [or as revised], 'Soft Landscape Proposals – Planting Plan' with drawing number 22494-LD-04 rev G [or as revised], 'Outline Specification and Planting Schedule' with drawing number 22494-LD-05 rev C [or as revised] 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.

- 6 A full landscape management plan for the life of the development shall be submitted prior to commencement of development for the approval of the planning authority to show how the landscaping will be established and developed. The woodland shall be retained once the development is finished and shall not be included in any proposals to return the site to agricultural land.

Reason:

To ensure the establishment of woodland to aid the delivery of the Tree and Woodland Strategy for East Lothian

- 7 The measures set out in the Landscape and Ecological Management Plan (Ecus, December 2024), the Biodiversity Net Gain Assessment (Ecus, December 2024) and the Landscape Plans docketed to this application as so approved shall be implemented in full hereby approved and shall thereafter be retained, unless otherwise approved in writing by the Planning Authority.

Thereafter, the measures, as so approved, shall be implemented within 12 months of the date of this grant of planning permission and shall thereafter be retained and maintained in accordance with the implementation and management schedules, 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.

- 8 No development shall take place on the proposed site until the applicant has undertaken and reported upon a programme of archaeological work (8% Archaeological evaluation by trial trenching) in accordance with a written scheme of investigation which has been submitted by the applicant (or their agent) and approved by the planning authority.

Reason:

In the interests of the historic environment including archaeological remains.

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

- (i) Measures to manage and control the speeds of construction traffic, including advisory speed limit signage on the local road network; and
- (iii) Details of any temporary and permanent infrastructure that will be delivered to ensure the safe and convenient active travel routes in the local area, including a timetable for the implementation of the measures.

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

Reason:

To ensure the safe continuation of public access and amenity.

- 10 No external lighting shall be installed on site unless and until details of it have been submitted to and approved by the Planning Authority.

Reason:

In the interests of the visual amenity of the area.

- 11 The northern and western boundaries of the development site shall be provided with acoustic barriers as described in paragraphs 4.10-4.13 of the Noise Impact Assessment Report Ref 13809.01.v3 of November 2024, or equivalent barriers that provide the same level of attenuation of noise.

Reason:

To safeguard the amenity of nearby noise sensitive properties

- 12 Prior to commencement of development, the Flood Risk Assessment and Outline Surface Water Drainage Strategy shall be updated and submitted to and approved by the Planning Authority. The development shall thereafter be carried out in strict accordance with the details so approved, unless otherwise agreed in writing with the Planning Authority.

Reason:

To ensure the development is appropriately protected against flood risk and does not give rise to increased flood risk elsewhere.

- 13 The Development will disconnect from the grid and cease to import or export electricity no later than the date falling forty years from the date of Final Commissioning. The total period for operation of the Development, decommissioning and restoration of the Site in accordance with this condition shall not exceed forty-one years and six months from the date of Final Commissioning without prior written approval of the Scottish Ministers in consultation with the Planning Authority.

Reason:

To ensure the development only operates within its designed and planning lifespan.

- 14 If the Development fails to export electricity via the grid connection for a continuous period of twelve months, then it shall be deemed to be redundant and unless otherwise agreed in writing with the Planning Authority, the Company shall undertake the decommissioning, restoration and aftercare of the Site as required by other stated conditions.

Reason:

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

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

Unless the Development has been deemed to be redundant under condition 12, no later than twelve months prior to decommissioning of the Development or the expiry of the section 36 consent (whichever is the earlier) a Detailed Decommissioning, Restoration and Aftercare Plan, based upon the principles of the approved Decommissioning, Restoration and Aftercare Strategy, shall be submitted for the written approval of the Planning Authority.

If the Development has been deemed to be redundant under condition 12, no later than twelve months from the date the Development has been deemed to be redundant, a Detailed Decommissioning, Restoration and Aftercare Plan, based upon the principles of the approved Decommissioning, Restoration and Aftercare Strategy, shall be submitted for the written approval of the Planning Authority.

The Detailed Decommissioning, Restoration and Aftercare Plan shall provide updated and detailed proposals, in accordance with relevant guidance at that time, for the removal of above ground elements of the Development, the treatment of ground surfaces, confirmation of the status of subterranean elements of the Development (retention, removal, or other such proposal), the management and timing of the works and environment management provisions which shall include (but is not limited to):

- (a) a site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases);
- (b) details of the formation of any construction compounds, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
- (c) a dust management plan;

- (d) details of measures to be taken to prevent loose or deleterious material being deposited on the local road network, including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
- (e) a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
- (f) details of measures for soil storage and management;
- (g) a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
- (h) details of measures for sewage disposal and treatment;
- (i) temporary site illumination;
- (j) the construction of any temporary access into the site and the creation and maintenance of associated visibility splays;
- (k) details of watercourse crossings; and
- (l) a species protection plan based on surveys for protected species carried out no longer than eighteen months prior to submission of the plan.

The Development shall be decommissioned, the site restored, and aftercare undertaken in accordance with the approved Detailed Decommissioning, Restoration and Aftercare Plan, unless and until otherwise agreed in writing in advance with the Planning Authority.

Reason:

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

- 16 No development shall commence unless and until a bond or other form of financial guarantee in terms reasonably acceptable to the Planning Authority which secures the cost of performance of all decommissioning, restoration and aftercare obligations are submitted to the Planning Authority.

The value of the financial guarantee shall be agreed between the Company and the Planning Authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional as being sufficient to meet the costs of all decommissioning, restoration and aftercare obligations.

The financial guarantee shall be maintained in favour of the Planning Authority until the date of completion of all decommissioning, restoration and aftercare obligations.

The value of the financial guarantee shall be reviewed by agreement between the Company and the Planning Authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional no less than every five years and increased or decreased to take account of any variation in costs of compliance with decommissioning, restoration and aftercare obligations and best practice prevailing at the time of each review.

Reason:

To ensure that there are sufficient funds to secure performance of the decommissioning, restoration and aftercare conditions attached to this deemed planning permission in the event of default by the Company.

- 17 Prior to commencement of development details of measures to seek to maximise local employment opportunities relating to the proposed Battery Energy Storage System shall be submitted to and approved by the Planning Authority. Those measures shall include a timetable for implementation. Development shall thereafter be carried out in accordance with the details so approved.

Reason:
In the interests of the local economy.

APPENDIX A

Response from the Council's Landscape Projects Officer

The proposal comprises a Battery Energy Storage System (BESS) and associated equipment and infrastructure including 80 BESS units and 20 transformer units situated on an impermeable base with a circa 2m high impermeable wall to the north, east and south, acoustic fencing to the north and west areas of the BESS, a Switching station, a metering station, two emergency fire water tanks, internal access tracks, two paved site accesses to the west that connect the site with the B6370 Road, site perimeter security fencing at 2m height including CCTV cameras mounted on 2.5m high fenceposts.

Cabling to connect the BESS to the Dunbar substation to the north will be laid within the existing highway boundary of the B6370 Road.

A temporary construction compound and laydown area, including storage containers, car parking spaces and a site office and welfare facilities is also proposed.

A full landscaping scheme and sustainable drainage design have also been supplied.

Given the local undulations on the site we have concern that this may require platforming of sections of the site to provide level access and construction platform. No drawing showing existing and proposed levels appears to have been submitted. In addition no sectional drawings across the site appear to have been submitted. Changing the levels within the site could increase the landscape impact of the proposals. We require this information to enable a full understanding of the impact of the proposals on the landscape to be made. I have shown indicative lines for the sections required on the sketch below.

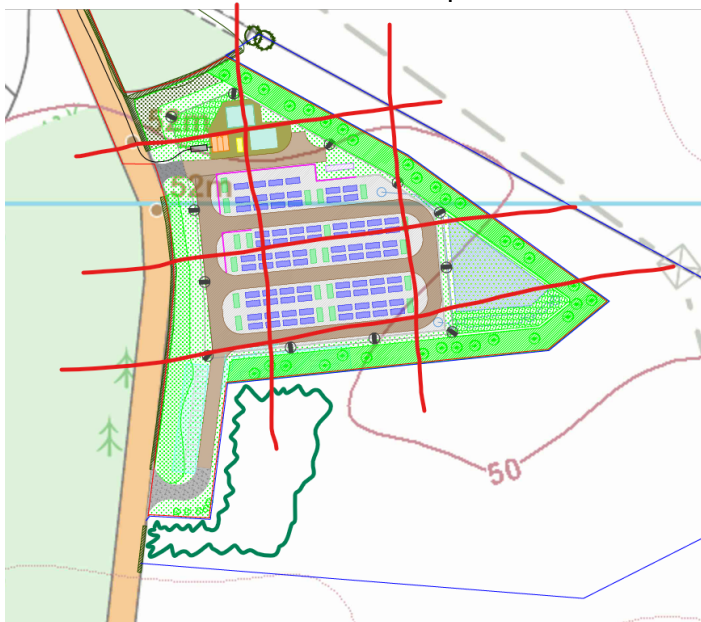


Figure 1 – Indicative lines for sections required

The site plan shows an acoustic fence at 4m to the north and east boundary. The elevations of the BESS units are shown at 4.45m high. These will be visible above the acoustic fence and in views from higher locations. A 2m high concrete wall is also shown to the south, east and north of the site. I can find no information on the construction of this or the reason for this. I would ask that the applicant provide reason for the concrete wall.

The proposals say that minimum hedgerow will be removed to form the two site access points and that the remaining hedge will be maintained at 3m in height. However no sightlines have been shown on the drawings. I have concern that significantly more hedgerow may need to be removed than indicated on the drawings to give adequate sightlines. This would not be supported. I would suggest that should hedgerow removal be required to create sightlines then consideration be given to removal of one access or the creation of a one way system so that sightlines are only required from one access. I would ask that the drawings are updated to show sightlines and any impacts on hedgerows.

The LVIA states that information sources included in the desk based assessment include the following: East Lothian Local Development Plan 2018; Local Development Plan Technical Note 9: Local Landscape Designation Review; Scottish Landscape Character Types, NatureScot, 2019; East Lothian Council Landscape Character Area Boundary Review. However no mention is made of the Special Landscape Areas Supplementary Planning Guidance 2018 here. The report incorrectly states that “the full Local Landscape Designation Review can be found in Technical Note 9 (Appendix I) of the proposed Local Development Plan 2016”. The Landscape Character Review and Special Landscape Areas Statements of Importance can be found in the Special Landscape Areas Supplementary Planning Guidance 2018.

Landscape impact

The LVIA includes a 2km study area. The site lies across the boundary of the Lowland Farmed Plain and Lowland River Valley landscape types as identified by NatureScot and almost completely within the Whittingehame Water Landscape Character Area (LCA) as defined by the East Lothian landscape character review (in the 2018 Special Landscape Areas Supplementary Planning Guidance).

The character of the **Whittingehame Water LCA** river valley is described as a progression of strongly-defined, interweaving slopes enclosing the small twisting river, which lies within a predominantly narrow valley occasionally opening out into areas of flatter ground. It is rich in mixed and broadleaved estate woodlands, which extend across the slopes and merge with sweeps of riparian deciduous planting fringing the river and its tributaries. The LCA has in general little large infrastructure. That which exists is well screened where possible and does not detract from the character of the area.

The LCA management guidelines include to seek to retain and enhance characteristic high proportion of mixed and broadleaved woodland through management and replacement planting; promote replacement of traditional oak and ash field boundary tree lines; retain the rural character of minor roads; and restore and maintain traditional hedge and stone wall field boundaries.

The development will lead to a substantial change to the landscape character of the site and its immediate environs due to the change of arable land to areas of BESS development. However, as shown in the ZTV, the proposed site is fairly well contained by the landform in which it sits and vegetation cover surrounding it. Together this will help the development to reduce impact on the wider landscape character. There is also opportunity to address the management guidelines through creation of new woodland and maintenance of the hedgerow boundary to the road in sections. The proposal is therefore unlikely to have a significant impact on the integrity of the Whittingehame Water LCA.

There are three Special Landscape Areas (SLA) within the 2km study area.

The **Biel to Belton SLA** lies nearly completely within the study area and is the closest SLA to the site. It lies directly to the west of the site, bounding the west side of the B6370. The SLA is described as a wooded river valley and hillfoot hamlet enfolded in agricultural land and woodlands, augmented by the designs of the Biel and Belton designed landscapes. The area

has a strong woodland structure, framing and enclosing views. The screened ZTV clearly shows how the woodland structure enclosing the SLA removes predicted visibility of the BESS proposal from all but all of this SLA. The proposal is therefore likely to have minimal to no impact on the special qualities of the Biel to Belton SLA.

The **Doonhill to Chesters SLA** is located to the south of the site with its northern edge just within the study area. It encompasses scenic, low hills that provide the backdrop to East Lothian to the views south from the East Lothian plain around Dunbar, with good views over East Lothian and beyond from within the SLA, and containing a coherent area of important prehistoric settlement. The ZTV shows no visibility from the SLA from within the study area, however there is visibility from the steeply rising ground of Spott Dod immediately south of the study area. From here the proposal will most likely appear as a fairly small area of development contained within the wider landscape by landform and vegetation cover. Given this it unlikely to harm the special character of the SLA.

The **Belhaven Bay SLA** is located to the north of the site with its southern edge just within the study area. The area was designated for the scenic value of the Tyne estuary area including the expansive sands of Belhaven Bay and dramatic Dunbar cliffs, which aside from their own scenic value; provide a backdrop to the Bay. The area is focussed on views of the bay and surrounding agricultural land. There are good wide ranging views from within the area. The screened ZTV indicates theoretical visibility of less than 25% of the development from areas within the SLA mainly beyond the 2km study area. Where there is visibility of the proposed development it will most likely appear as a fairly small area of development contained within the wider landscape by landform and vegetation cover. Given this it unlikely to harm the special character of the SLA.

The **Tree and Woodland Strategy** for East Lothian (TWS) shows this site to lie within the area for strategic connection. This is intended to provide a framework based on existing woodland, which will create connections across East Lothian from Scottish Borders area in the east to Midlothian in the west to enable species migration northwards. The woodland strip proposed within the site will help provide this much needed connectivity. However this development is only for forty years. I would ask that we condition the woodland created to be retained, even should the BESS area be returned to agricultural land, after the forty years has lapsed.

The LVIA concludes that construction of the proposed development would introduce substantial change to immediate landscape character due to loss of prime agricultural land and we agree with this. However it also notes that these impacts will be limited in extent. With the introduction of native woodland creation as part of the development will help to reduce and mitigate landscape impacts.

Visual Impact

Ten viewpoints were assessed for visual impact. The LVIA notes that “Carolanne Brown from East Lothian Council was contacted by email, initially on 8 February 2024, which was followed up on 29 February 2024, to consult on the scope of the LVIA and selected viewpoint locations”. There is no Carolanne Brown in the planning or landscape service at East Lothian Council and this may be why no response was received. No contact was made with the landscape team at East Lothian Council at scoping stage and we therefore had no opportunity to input into the viewpoint assessment.

If we had been consulted we would have asked for a viewpoint from the B6370 at the northern side of Pitcox to represent impact on the SLA, local road users and residents of Pitcox, and a north viewpoint from the core path at Thistly Cross to represent impact on recreational users to the north. In addition there appears to be several viewpoints where there will be no visibility

of the proposals given the intervening vegetation cover. Figures 13 from viewpoint 5 do not appear to have been submitted. We would ask that the applicant provide these.

Viewpoint 1 is taken from the B6370 directly south of the site. The road and site are both undulating however from this location there is an open view over the site. This viewpoint is representative of the views from the B6370 from the northern edge of Pitcox to the site, a distance of approximately 450m. The current view is open across farmland and woodland out to the North Sea. The visuals (Figure 7b) show the impact the proposals will have on this view. The majority of the development will be visible from the road given the raised position of the road above the site to the south of the site. The proposals create a large industrial element within the view. Their low height at 4.45m will help to contain their impact with views of the North Sea still visible above the development. The visuals do show how important colouring can be in reducing visual impact. The visuals show the acoustic fencing and BESS units in dark green. An appropriate colour could help to reduce the visual impact of the proposals, helping to reduce the industrial nature of the development. Should the development be granted we would ask that the colour of the different elements be conditioned to be agreed with East Lothian Council. Figure 7c gives a montage of the view of the site at year 15 which suggests full screening of the site by tree planting in this view.

The site plan does show a native tree belt to the west side of the site and this is supported. It however ranges in width from 12.5 m to 6.5 m and is proposed to be entirely planted with transplants at 60-80cm in height at 1.5m centres. These will take a long time to offer any screening to the site. Other woodland areas around the site include feathered trees at 1.25 m to 1.5 m in height and standard trees between 4.25 m and 6 m in height. I would ask that the native tree belt is widened up to the edge of the security fence, as is shown to the east side of the proposal, and feathered and standard trees are included. These will provide a higher landscape element immediately helping to reduce the impact of the industrial development short term. This is important as this is likely to be the view most often seen of the development even if just of a short duration. The importance of this could be further increased should there be a requirement to remove more of the road boundary hedgerow for sightlines.

In addition there is little screening landscaping proposed to the southwest corner of the site. I would ask that the applicant widen the woodland here to offer screening of the site in views further south along the B6370. I have included an area in green on the above sketch in the location where it would be beneficial to provide more woodland.

Viewpoint 2 is from the south from a track from raised ground under the overhead lines. The development at around 400m from this raised viewpoint forms a large element within this view. This does demonstrate how the proposal is contained within the landscape with woodland to the west. The visual for 15 years shows the development completely contained within a woodland belt such that the woodland just appears as a continuation of the woodland to the west side of the B6370.

Viewpoint 3a, 3b and 3c are from the B6370 to the north of the site. They are representative of the sequential views for road users travelling south towards Pitcox. Visibility of the site varies due to landform and location of trees in places along the verge edge. There is open visibility of the site from viewpoint 3c. The development will be seen from here spread across the site and due to the oblique angle of view the spread will appear greater across the landscape from here. It will however be fairly well contained by the woodlands to the west to the rear of the development in this view. A 10m wide belt of native woodland is proposed along the northeastern boundary of the site. In time this will help screen the development in views from the northeast thereby reducing visual impacts from the development in these views. In the meantime whilst the woodland planting establishes and grows to a height and mass to offer this screening, the use of appropriate colours to all elements of the development, could help reduce the impact of the proposals from the B6370 to the north of the site. As previously

noted, should the development be granted we would ask that the colour of the different elements be conditioned to be agreed with East Lothian Council.

Viewpoints 4 and 7 are from within the Biel Garden and Designed Landscape and Biel and Belton Special Landscape Area. Together with the view from the North Belton Local Designed Landscape to the northwest (**viewpoint 8**), these illustrate the containing nature of the valley woodlands and the limited impact the proposal would have on visual appreciation of these areas.

The visuals for **Viewpoint 5** have not been submitted.

Viewpoint 6 is from Core Path route 39 from higher ground 1.7m to the east of the site. Traprain Law is a dominant feature of this view rising above the woodlands of the river valley. The development will sit in the mid ground of this view contained by the woodland of the Biel valley behind and its visibility disrupted by the woodland along the valley in front of the site. The development will form a distinct but fairly distant element in the view. As with the view from the north, the introduction of a woodland belt to the northeast of the site will help, in time, to reduce visibility of the proposals in views from the east. As with other views, to reduce visual impact whilst the woodland planting establishes, the use of appropriate colours to all elements of the development should be used. As previously noted, should the development be granted we would ask that the colour of the different elements be conditioned to be agreed with East Lothian Council.

Overall we would agree with the LVIA that the proposed development will appear well contained in most views and will appear as a small element within wider views. This is not so for views immediately adjacent to the site and we have identified mitigation that could help to address this. The plans should be revised to include additional landscaping as suggested. In addition we do have a number of concerns over the accuracy of the information submitted for consideration and we would ask that the additional information is submitted for our consideration. We would also recommend a number of conditions over implementation of landscaping and colouring of development.

APPENDIX B

Response from the Council's Road Services

Proposed site accesses

- It is proposed to access the site from the B6370 with a main access located to the south of the main part of the site, together with a secondary access at the northern part of the site which will be for emergency vehicle use only (and gated for general traffic). Details of the gate for the secondary access should be provided for our approval (this can be secured through a relevant planning condition).
- The dimensions of the main site access are for a carriageway width of 6m and junction radii of 10.5m on both sides, whilst the secondary emergency only access would have a carriageway width of 6m and junction radii of 6m – the dimensions for each junction are considered to be acceptable and have been backed up by vehicle tracking that demonstrates access by a 16.5m length articulated vehicle into and out of the main site access can be achieved during the construction phase (based on the vehicles turning around within the site compound). It is noted that generally speaking a 3.5t panel van will be used during the operational phase and no vehicle tracking is required for such a vehicle given the junction dimensions.
- The proposed main site access is shown to achieve a visibility splay of 2.4m by 77m to the south and 2.4m by 131m to the north (note that the drawing in the TS report refers to a 4.5m setback whilst a 2.4m setback is plotted), with the northern emergency access shown to achieve a visibility splay of 2.4m by 113m to the north and 2.4m by 123m to the south. It is recognised in the Transport Statement that the splays do not meet the Council's visibility requirements and the justification given for this is that the volume of traffic would be very low during the operational phase at 1-2 movements per month and that, for the construction phase, there will be mitigation measures including warning signs on approach to the junction and the use of a banksman.
- The main site access would need to conform to our online design standards as set out in our *Transport Infrastructure in New Developments* guidance - the minimum visibility splay requirements for rural roads with a speed limit of 60mph would be 4.5m by 215m (with no obstructions within the splay above 1.05m in height). Given the low trip generating nature of the proposed development, we could accept a relaxation to the visibility splay requirement with a reduced 'x' distance of 2.4m and we could consider a reduced 'y' distance based on Table 2 of our guidance if provided with up to date speed survey information that demonstrates the recorded speeds to be lower than the speed limit of 60mph on this road, together with information on how speeds would be managed during the construction period. The agreed visibility splay would then need to be demonstrated as achievable for the site accesses within the land ownership limits of the applicant / within the adopted road corridor. Subject to details of the emergency access gating arrangement and management, a further relaxation to the visibility at that junction may be acceptable.

Car parking / trip generation

- Reference is made in the Construction Traffic Management Plan of a site compound to provide car parking and welfare facilities as well as to allow space for HGVs to turn around on site, which is noted.
- There does not appear to be any car parking for maintenance vehicles shown during the operational phase - details should be provided on the proposed site plan to allow for this on the site (note that we do not have any relevant car parking standards for this use so would be able to accept what would be required for the operational needs of the site).
- The proposed turning head within the site is noted and this, in combination with the internal loop roads, will allow the maintenance vehicles to depart from the site back onto the B6370 in forward gear, which is therefore acceptable.

- The information provided in the Transport Statement and CTMP states that the construction period will be of 32 weeks duration and that there would be a maximum of 15 two-way construction vehicle movements per day during the peak construction period. It also states that during the operation phase there would only be 1-2 movements per month, which is noted.

Construction impacts

- The submitted Construction Traffic Management Plan sets out the construction vehicle trip generation and routes from the A1, which is noted and is acceptable in principle. The measures to be put in place include the following, which is supported:
 - Warning signs on the B6370;
 - Use of a banksman at the site access;
 - Wheel washing.
- No mention is made of the need for any abnormal loads for the construction period – confirmation should be provided that no such abnormal loads are required to access the site.
- It is noted that the proposed facility will have an operational life of 40 years, following which it would be fully removed and therefore there will be an impact at the decommissioning stage, however, we would not require any further assessment for this.
- A final version of the CTMP should be secured through a relevant planning condition for agreement prior to the commencement of works on site.

The above comments should be fully addressed by the applicant and appropriate changes to the proposals / additional information provided, as well as agreement on the required planning conditions, before we will be in a position to fully support the proposals as they stand.

COMMITTEE: Planning Committee
MEETING DATE: 19 August 2025
BY: Executive Director for Place
REPORT TITLE: Application for Planning Permission for Consideration

4

Application No.	25/00236/PM
Proposal	Section 42 application to vary condition 3 of planning permission in principle 18/00937/PPM – to increase number of units to be built on the site to no more than 577
Location	Land at Windygoul South Tranent East Lothian
Applicant	Walker Group
Recommendation	Consent Granted

REPORT OF HANDLING

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

THE APPLICATION SITE

The application site is an area of some 35 hectares of former agricultural land at Windygoul on the southern edge of Tranent, the majority of which is allocated by Proposal (PROP) TT1 of the adopted East Lothian Local Development Plan 2018 (ELLDLP) for circa 550 homes, the expansion of Windygoul Primary School campus as well as other community uses, infrastructure and associated works.

Part of the site (approximately 1.12 hectares of land to the south of the current Windygoul Primary School campus) is also allocated by PROP TT2 for the expansion of Windygoul Primary School campus in line with PROP ED4, to accommodate the impacts generated by PROP TT1 and other housing sites in the school's catchment area. and to provide community facilities in line with PROP CF1 and PROP OS6 of the ELLDP. The land allocated by Proposal TT1 is also subject to a Development Brief which forms part of the Council's approved Supplementary Planning Guidance Development Briefs as required by the ELLDP.

The application site is bounded to the north by the Windygoul residential area of Tranent and by Windygoul Primary School, landscaped areas of open space and the southern end of the public road of Brotherstone's Way. It is bounded to the east by the B6371 public road of Ormiston Road and a core path, and beyond by agricultural land. To the south it is bounded by the farm access and agricultural and domestic buildings of Carlaverock Farm with further agricultural land beyond, and at the western end of its southern boundary by Elphinstone Research Centre which is operated by Charles River Laboratories. It is bounded to the west by a core path and beyond that by agricultural land which is land allocated in the ELLDP under PROP TT3 for employment use. Beyond the site of PROP TT3 lies the B6414 public road of Elphinstone Road.

The site has an undulating land form with heights varying from +114 metres in the south west to +94.5 metres in the north east. Generally, however, the site slopes down from the southern edge to the northern edge. There are woodland strips bounding parts of the site, in particular between the Elphinstone Research Centre and the western end of the southern boundary of the site and between parts of the existing residential developments to the north and the northern boundary of the site.

The eastern part of the application site is within an area identified by The Coal Authority as being a Coal Mining Development High Risk Area. The western part of the site is within an area identified by The Coal Authority as being a Coal Mining Development Low Risk Area. Small areas of land throughout the site are identified as being at risk from surface water flooding.

BACKGROUND

On 19 December 2019 planning permission in principle (reference 18/00937/PPM) was granted for a residential development with associated access, SUDS, roads, open space, future school expansion site, sports pitch and landscape works on the application site.

A detailed planning permission (reference 19/00378/P) was granted on the 12th September 2019 for the formation of a vehicular access from the classified road of Ormiston Road and for the formation of part of a spine/link road through the site and another detailed planning permission (reference 19/00379/P) was granted on the 23rd December 2019 for the formation of a sustainable urban drainage basin designed to serve the overall residential development the subject of planning permission in principle 18/00937/PPM. Since then, a

number of detailed planning permissions and approval of matter consents have been granted for residential developments across the overall site and the development of the site is now well underway with approximately 200 units now completed and occupied.

Planning permission in principle 18/00937/PPM was granted following the conclusion of a legal agreement to secure a number of developer contributions and subject to a number of conditions. Of those, condition 3 of planning permission in principle 18/00937/PPM states:

“No more than 561 residential units shall be erected on the site.

Reason:

To ensure that there is sufficient education capacity and to restrict the scale of development to that applied for.”

PROPOSAL

Through this current application permission is sought to vary condition 3 of planning permission in principle 18/00937/PPM to read:

“No more than 577 residential units shall be erected on the site.

Reason

To ensure that there is sufficient education capacity and to restrict the scale of development to that applied for.”

Since the original registration of the application the description has been revised with the applicant’s agreement to read “no more than 577 residential units” instead of “no more than 575 residential units” as it was originally described. This change in description is to take account of two affordable housing units which hadn’t been included in the initial description. The application has been re-registered with the amended description, all interested parties including notifiable neighbours have been re-notified on the change of description and re-advertisement of the application has taken place.

The applicant has submitted a supporting statement with the application setting out the reasoning for the proposed variation to condition 3. The supporting statement explains that the conditional planning permission in principle 18/00937/PPM requires that development of the site shall generally accord with the Site Layout drawing with drawing reference 18006(PL)001 F docketed to the planning permission in principle. Drawing reference 180006(PL) 001 F is a Masterplan showing a total of 561 residential units divided into a number of areas for private and affordable housing (described in later drawings as Areas A-F in the case of the private housing areas and Areas AH1-3 in the case of the affordable housing areas). The supporting statement explains that an examination of detailed consents approved to date show that Area A secured consent (reference 20/00764/AMC) for an additional 1 unit above the Masterplan, Area B secured consent (reference 21/00551/AMM) for an additional 2 units above the approved Masterplan number, Area AH1 secured consent (reference 19/01131/PM) for an additional 1 affordable housing unit above the Masterplan and Area C secured consent (reference 23/01253/AMM)

for a total of 10 units above that shown on the Masterplan. Areas D, E and AH3 have been approved with the same numbers as indicated in the Masterplan. The supporting statement explains that as matters stand and subject to the remaining two parcels of the overall site, which have not yet had detailed proposals approved for them, being developed in accordance with the Masterplan capacity, the total numbers for the site would exceed the number permitted by condition 3 of planning permission in principle 18/00937/PPM which states that no more than 561 residential units shall be erected on the site. The supporting statement also states that, as well as being to control the overall numbers to those being applied for, the reason for condition 3 restricting the overall numbers of residential units was to ensure that there is sufficient education capacity. The applicant considers that there is sufficient capacity within Windygoul Primary School to accommodate the additional residential units proposed through this application.

As well as a supporting statement the application is supported by a site layout plan detailing visually how numbers of residential units have varied, or would vary, throughout the overall site and an indicative layout demonstrating how the remaining site for affordable housing within the overall site could be laid out to accommodate an increase of two affordable housing units.

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 6th August 2025 the Council issued a formal screening opinion 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. 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.

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) together with its adopted supplementary guidance.

Relevant NPF4 Policies are Policies 1 (Tackling the climate and nature crisis), 2 (Climate Mitigation and adaptation), 3 (Biodiversity), 4 (Natural places), 5 (Soils), 6 (Forestry, woodland and trees), 7 (Historic Assets and Places), 12

(Zero waste), 13 (Sustainable Transport), 14 (Design, quality and place), 15 (Local living and 20 minute neighbourhoods), 16 (Quality Homes), 18 (Infrastructure First), 20 (Blue and green infrastructure), 21 (Play, recreation and sport), 22 (Flood Risk and Water Management) and 24 (Digital infrastructure).

Relevant ELLDP Policies and Proposals are PROP TT1: Housing at Windygoul South, Tranent, PROP TT2: Windygoul Primary School Expansion Land, PROP ED4: Tranent Cluster Education Proposals, PROP CF1: Provision of New Sports Pitches and Changing Accommodation, PROP OS6: Allotment Sites, Policy SECF1: Safeguarded Education and Community Facilities; Policy HOU3: Affordable Housing Quota, Policy HOU4: Affordable Housing Tenure Mix, Policy OS3: Minimum Open Space Standard for New General Needs Housing Development, Policy OS4: Play Space Provision in New General Needs Housing Development, Policy OS5: Allotment Provision, PROP OS6: Allotment Sites, Policy T1: Development Location and Accessibility, Policy T2: General Transport Impact, Policy T4: Active Travel Routes and Core Paths as part of the Green Network Strategy, PROP T9: Safeguarding of Land for Station Car Parks – Musselburgh, Longniddry, Drem, PROP T10: Safeguarding of Land for Platform lengthening – Musselburgh, Prestonpans, Longniddry, Drem and Dunbar, PROP T15: Old Craighall Junction Improvements, PROP T17: A1 Interchange Improvements (Salters Road, Dolphinstone Interchange, Bankton Interchange and Gladsmuir), PROP T21: Musselburgh Urban Traffic Control System, PROP T27: Tranent Town Centre One-Way System, PROP T28: Junction Improvements at Elphinstone Road and Edinburgh Road, Policy T31: Electric Car & Bus Charging Points, Policy T32: Transport Infrastructure Delivery Fund, Policy W3: Waste Separation and Collection, Policy NH5: Biodiversity and Geodiversity Interests, including Nationally Protected Species, Policy NH10: Sustainable Urban Drainage Systems, Policy NH11: Flood Risk, Policy NH12: Air Quality, Policy NH13: Noise, Policy CH4: Scheduled Monuments and Archaeological Sites, Policy DP1: Landscape Character, Policy DP2: Design, Policy DP3: Housing Density, Policy DP4: Major Development Sites, Policy DP8: Design Standards for New Housing Areas, Policy DP9: Development Briefs and Policy DEL1: Infrastructure and Facilities Provision.

Material to the determination of the application is the non-statutory Development Brief (TT1 – Windygoul South, Tranent) which was adopted by the Council on 30 October 2018, East Lothian Council's approved Developer Contributions Framework Supplementary Guidance (SG) and the approved Supplementary Planning Guidance (SPG) on:

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

A further material consideration is 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. PAN 67 states that the planning process has an essential role to play in ensuring that the design of new housing reflects a full understanding of its context in terms of its physical location and market conditions, reinforces local and Scottish identity, and 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 the application are the written representations received to it.

REPRESENTATIONS

A total of five written representations have been received, all of which raise objections to the proposal. Copies of written representations are contained in a shared electronic folder to which all Members of the Committee have access.

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

- * Impact on local infrastructure – the area already faces pressures on roads, schools, healthcare and other essential services and further plans would exacerbate these issues without clear plans for mitigation;
- * Overdevelopment – Tranent has already seen significant expansion in recent years and further large scale development risks harming the town's character and putting unsustainable pressure on resources;
- * There has been visible excess water penetration to neighbouring property since the commencement of works;
- * Traffic and Safety Issues – increased housing would result in more traffic congestion, potentially affecting road safety, particularly around schools and residential streets;

- * A recent change in Lothian buses scheduling will add more private car traffic than previous since the provision of public transport in this area is getting worse rather than improving;
- * There is no sign of the previously approved extension to Windygoul School and playing fields ever happening but yet we see more and more houses being built without any additional community amenities/pitches etc.;
- * Environmental concerns – concerns that the proposed development could lead to loss of green space, disruption to local wildlife and increased pollution which would impact on natural areas and the well being of current and future residents;
- * There will be noise and disturbance during the construction of the additional units;
- * Loss of privacy and not a safe environment for children to play as more houses will result in a lot more cars.

COMMUNITY COUNCIL

Tranent and Elphinstone Community Council have been consulted on the application however no response has been received from them.

PLANNING ASSESSMENT

By the grant of planning permission in principle 18/00937/PPM, approval has been given for the principle of the erection of 561 residential units and associated works over the allocated site following technical assessments which demonstrated that local and wider infrastructure, subject to financial contributions and conditions, can accommodate such level of development. Since then a number of detailed planning permissions and approval of matters consents have been approved for the detailed layout of most of the residential areas within the wider site and for the associated roads and drainage infrastructure including the SUDS basin. Those detailed consents have, for the most part, been implemented and now much of the overall site has been developed and approximately 200 of the residential units are occupied.

The determination of this application therefore rests only on the planning consideration of the consequences of varying condition 3 of planning permission in principle 18/00937/PPM to allow an increase in the overall numbers of residential units over the site from 561 to 577, an increase of 16 units overall.

Proposal TT1 of the ELLDP allocates the site for a residential development of circa 550 homes and thus the Council recognises its potential for residential development for circa 550 homes. The 561 residential units consented by the grant of planning permission in principle 18/00937/PPM, followed technical assessments which demonstrated that local and wider infrastructure, subject to financial contributions and conditions, can accommodate such level of development. The Council accepted that the 561 units proposed for the site sat comfortably with PROP TT1s allocation of the land for circa 550 dwellings. In principle, an increase of 16 more dwellings would also sit comfortably with PROP TT1s allocation of the land for circa 550 dwellings. Accepting higher

overall housing numbers on allocated housing sites is, if there is no impediment on other grounds such as educational, roads or other infrastructure capacity and no impediment on design grounds, supported as an efficient use of land. It is relevant to note that some other allocated sites of the ELLDP have seen planning permissions granted for a higher number of housing units than their site allocation and some have seen planning permissions granted for a smaller number of housing units than their site allocation. The provision of a larger number of housing units compared to an approximate capacity stated in the ELLDP does not in itself amount to a conflict with the development plan.

It is however necessary to consider the impact 16 additional residential units would have on infrastructure and facilities and on the design and layout of the overall site against relevant development plan policies, the development brief for the site and other material considerations to ascertain whether the site can accommodate the proposed increase in units and to consider the impact the proposals would have on amenity and on the climate emergency and nature crises.

The Masterplan with drawing reference 18006(PL)001 F docketed to planning permission in principle 18/00937/PPM is indicatively detailed down to the level of individual house plots and house types which could be accommodated on the overall site the subject of that planning permission in principle. Through the determination of detailed planning applications and approval of matters consents for the individual areas of residential development over the overall site, consents have been issued for layouts with either less numbers than indicatively detailed, the same number as indicatively detailed or more than indicatively detailed on the individual sites of the overall site. Through the determination of detailed planning applications and approval of matters consents for Areas D, E, F and AH2 overall numbers have remained the same as that indicated in the approved Masterplan. However, through the determination of approval of matters consent applications 20/00764/AMC, 21/00551/AMM, 23/01253/AMM and detailed planning permission 19/01131/PM respectively there has been an increase in residential units over and above those indicated on the approved Masterplan of 1 in Area A, 2 in Area B, 10 in Area C and 1 in Area AH1. Notwithstanding that in some of these detailed consents the overall numbers have varied from those indicated in the Masterplan, in all of these cases the detailed layouts the subject of the applications have proposed a layout, density and house types that are broadly consistent with the indicative layout docketed to planning permission in principle 18/00937/PPM. In the determination of all of these detailed proposals full regard has been had to the terms of the approved Masterplan that relates to the wider site and the developments have been found to be in conformity with the overall provisions of that Masterplan. In particular, the variations in unit numbers has not resulted in any changes to the road and footpath layouts, the amount and positioning of open space, play areas, landscape provision or in the general layout or overall size of each residential development area. I.e. the areas of residential development haven't spread out over a wider area than indicated in the Masterplan and there has been no loss of open space provision for example. Nor have these variations in housing numbers had a harmful impact on the character of the overall development or on the amenity of

neighbouring residential properties or on existing or future residential properties to be built on this site. The sites which have seen an increase in numbers from those indicated on the Masterplan still provide an attractive environment for future residents of the proposed houses and the units 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 residential units an appropriate level of privacy and residential amenity. The additional residential units are so sited, orientated and screened such as not to harm the privacy and amenity of existing or future neighbouring or nearby residential properties through overlooking or overshadowing. Therefore, on these considerations of design, layout and residential amenity it has already been demonstrated that the additional units can be accommodated throughout the overall site.

However, and as set out in the applicant's supporting statement, it is clear that as matters stand and subject to the remaining two parcels being approved in accordance with the Masterplan capacity, the total numbers for the site will exceed the number permitted by 18/00937/PPM, hence the reason for this application. The increase in overall numbers by 16 residential units covers the 14 additional units detailed on areas already consented and the principle of 2 additional affordable housing units on Area AH3 of the site.

There now remains only two areas of the overall site which have not received detailed planning permission or approval of matters consent for detailed layouts. Those are Areas F and AH3 (as annotated in the site plan submitted with this application) at the far western end of the site. An approval of matters consent application (reference 25/00403/AMM) has been submitted to the Council for Area F of the site and is under consideration. It is for the erection of 76 houses, which is the same number of units indicated for this area of the site in the approved Masterplan. No detailed proposals have to date been submitted for the remaining affordable housing area of the site, Area AH3. The approved Masterplan indicates that 32 residential units can be developed on this area.

In accordance with the Council's Affordable Housing Policies, an increase in the housing numbers as proposed, generates a requirement to provide an additional 2 affordable housing units and the applicant proposes that these be provided within Area AH3, which is the final of the three affordable housing sites within the wider site and the one which has not yet been the subject of a detailed consent. The applicant has provided an indicative layout to demonstrate that the detailed layout of that site could accommodate an additional two units whilst meeting the requirements of the Council's Housing Enabler who has provided comments to the applicant which they have taken into account in their indicative layout. The detailed layout of this site would have to be the subject of a detailed application, either an approval of matters consent application or a detailed planning application, and the detail of those proposals would be assessed through such an application but the indicative details submitted by the applicant demonstrate that in principle Area AH3 could be designed to accommodate two residential units more than the Masterplan docketed to planning permission in principle 18/00937/PPM currently indicates.

Therefore, on considerations of design, density, layout it has been satisfactorily demonstrated that an additional 16 units can be accommodated over the entire site in a manner that would ensure that the residential development would still integrate into its surroundings and the design, size, layout and positioning of the residential units would not have a harmful impact on the character of the overall development nor on the amenity of neighbouring residential properties or on existing or future residential properties to be built on this site.

As stated above, the roads, footpaths, open space layout, provision of landscaping, play provision, position and capacity of the SUDS basin and any other infrastructure works have not been altered or reduced in size or number as a result in the variations in housing numbers and nor are they proposed to be through this current application.

The Council's Road Services have been consulted and they have raised no objections to this proposal and nor have they recommended any changes to the conditions they recommended be imposed on the grant of planning permission 18/00937/PPM which would remain relevant to this current application. They have not advised that an increase in residential units from 561 to 577 would lead to any harmful impacts road or pedestrian safety, on parking provision or result in any impacts of additional traffic generation on the existing road network.

The Council's Team Manager for Structures, Flooding & Street Lighting has been consulted on the application and he raises no objections and nor does he recommend any changes to the conditions imposed on the grant of planning permission 18/00937/PPM which would remain relevant to this current application. He does not advise that an increase in residential units from 561 to 577 would have any implications on drainage infrastructure or result in any issues of flooding within the site or to any neighbouring residential properties.

The Scottish Environment Protection Agency (SEPA) have advised they have no comments to make on this application.

Scottish Water have been consulted on this current application but have not provided any comments on it.

Matters relating to environmental compliance, including noise and air quality impacts and the submission and approval of a geo-environmental assessment, are controlled by conditions imposed on the grant of planning permission in principle 18/00937/PPM and these would continue to be controlled through conditions imposed on a grant of planning permission for this current proposal, should that be the decision on this application. The proposals raise no new environmental compliance issues and there are no objections to this application from the Council's Environmental Health Officer or Contaminated Land Officer.

An Ecological Assessment of the site has previously been undertaken as part of the assessment of planning permission in principle 18/00937/PPM and that assessment included a badger survey, a dusk bat survey and observation for

ground nesting birds. The **Council's Biodiversity Officer** at that time raised no objection the proposals satisfied that they would not have a harmful impact on existing wildlife or on the biodiversity of the area. The Council's Biodiversity Officer has made no further comments on this current proposal to increase residential unit numbers overall by 16.

In terms of biodiversity enhancement and landscaping considerations, the existing planning permission in principle for the site (18/00937/PPM) includes areas of structural landscape planting around the perimeter of the overall site, other areas of landscaping within the site, areas of landscaped open space, formal and informal pedestrian routes within the landscaped areas and areas providing habitat connectivity. The implementation, management and maintenance of the already approved landscaping of the site, which will enhance biodiversity on the site, is controlled by conditions imposed on that grant of planning permission in principle. No additional landscaping treatment or variations to the already approved scheme of landscaping are proposed through this current application. The **Council's Landscape Team** and the Council's Biodiversity Officer have not made any comments on the proposed increase in numbers nor have they raised any objections to it.

On all of these foregoing findings on matters of density, design, layout, road, pedestrian, cyclist and other transportation design considerations, drainage, landscaping and amenity, and subject to the imposition of conditions, the proposed development is not inconsistent with the conditions imposed on the planning permission in principle 18/00937/PPM or with the indicative layout/masterplan docketed to that planning permission in principle. It is not inconsistent with NPF4 Policies 13, 14, 15, 16 or 22. Nor is it inconsistent with Proposal TT1 or Policies DP1, DP2, DP3, DP4, DP8, DP9, NH12, NH13, T1 or T2 of the ELLDP, the Council's adopted development brief for the site, the Council's adopted SPG on 'Design Standards for New Housing Areas' or the Scottish Government Policy Statement entitled "Designing Streets" or its PAN 67.

The **Council's Amenity Services** in consultation on this current application asked the applicant to demonstrate that the open space being provided on the overall site and the on-site play provision already agreed for this site would be sufficient to accommodate the additional residential units now proposed. The applicant has confirmed that the overall open space provision on the site equates to 63,861 square metres which remains unchanged despite the proposed increase in unit numbers. The applicant advises that taking account the increase in unit numbers, the open space provision still provides circa 30,000 metres square in excess of the 60 square metres per unit provision required by Policy OS3 of the ELLDP. In terms of play provision the applicant advises that three play parks over the wider site have been agreed through the approval of planning permission in principle 18/00937/PPM and since then the details of these play area have been discussed in detail with the Council's Amenity Services. The applicant considers the amount and quality of play equipment agreed for these play areas is sufficient to cover the increase in unit numbers proposed. The applicant has therefore demonstrated that there would be sufficient open space and formal play provision to accommodate the

proposed increase in unit numbers and the Council's Amenity Services have made no further comment nor raised any objection to the proposal. In these respects the proposals comply with Policies OS3 and OS4 of the ELLDP.

The application site lies in an area which contains previously identified cropmarks of a putative prehistoric enclosure and a condition imposed on planning permission 18/00937/PPM requires a programme of archaeological works (Evaluation by archaeological trial trench) be carried out prior to the commencement of development. This requirement has been carried out and completed to the satisfaction of the Planning Authority in consultation with the **Council's Heritage Officer** and there is no requirement to carry out any further archaeological works as a result of this current proposal. On this consideration the proposed development does not conflict with Policy 7 of NPF4 or Policy CH4 of the ELLDP.

As part of the site is within a Coal Mining Development High Risk Area a condition is imposed on the grant of planning permission in principle 18/00937/PPM to ensure that intrusive investigation works be undertaken prior to the commencement of development and that in the event that the site investigations confirm the need for remedial works to treat mine entries and any area of shallow mine workings, development shall not begin until a scheme of remedial work on the site has been submitted to and approved in writing by the Planning Authority. This current application raises no new or additional matters in relation to coal mining risks but as not all of the site has yet been developed it would be prudent to ensure that such a condition remains in place in the event of this current application being granted.

At its meeting on Tuesday 27th August 2019 the Council approved a motion declaring a Climate Emergency. Thereafter, at its meeting on 3 September 2019, the Council's Planning Committee decided that a condition requiring a developer to submit for the approval of the Planning Authority a report on the actions to be taken to reduce the carbon emissions from the building and from the completed development should be imposed on relevant applications for planning permission, including applications for the approval of matters specified in conditions of a planning permission in principle. Such a condition should be imposed on a grant of planning permission for this proposal, were that to be the decision. Subject to such a condition being imposed the proposals are consistent with Policies 1 and 2 of NPF4 and Policy SEH2 of the ELLDP.

Consideration must then be given to the potential impact this proposed increase in overall residential units from 561 units to 577 units (an increase in 16 units) could have on the infrastructure of the area. Policy 18 of NPF4 requires development to take into account the capacity and any additional needs for community services and facilities, as part of the infrastructure first approach. This reflects Policy DEL1 of the ELLDP which stipulates that new housing will only be permitted where appropriate provision for infrastructure, required as a consequence of the development, is made. Proposal TT11 of the ELLDP stipulates that any development on the site is subject to the mitigation of any development related impacts, including on a proportionate basis for any

cumulative impacts with other proposals including on the transport network, on education and community facilities, and on air quality as appropriate.

The East Lothian Council Health and Social Care Partnership (ELHSCP) have been consulted on this current application. They raise no concerns about the ability of its health and social care services to support the proposed increase in residential units from 561 to 577 residential units. They advise that as this site is allocated for circa 550 homes in the ELLDP it has been taken into account in planning for health care by the East Lothian Health and Social Care Partnership and they therefore have no objections to the proposal nor do they have any requirements for capital contributions to infrastructure as a result of the proposals.

Planning permission in principle 18/00937/PPM was granted following the conclusion of a legal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 designed to secure from the applicant:

(i) the transfer to the Council, at no cost, of ownership of the area of land indicatively shown on the application site plan for a sports pitch and either (a) provision by the applicant of a sports pitch on that land to a specification to be agreed in advance with the Council, to be transferred to the Council at no cost or (b) a financial contribution to the Council of £152,400 for provision of the sports pitch;

(ii) the transfer to the Council of 1.105 hectares of land required for the additional school campus in the area shown for this on the application site plan with that land formed to a specification to be approved by the Council;

(iii) the transfer to the Council, at no cost, of ownership of the proportion directly related to this proposal of the 0.605 hectares of land allocated as part of an expansion to the campus of Windygoul Primary School which is detailed on the application site plan

(iv) a financial contribution to the Council of £3,448,467 towards the provision of addition capacity at Windygoul Primary School;

(v) a financial contribution to the Council of £2,652,408 towards the provision of additional capacity at Ross High School;

(vi) a financial contribution to the Council of £108,295 for transport improvements to Old Craighall Junction, Salters Road Interchange, Bankton Interchange, Musselburgh town centre improvements, Tranent town centre improvements and rail network improvements;

(vii) a financial contribution to the Council of £7,010 towards allotment provision;

(viii) a financial contribution to the Council of £120,273 towards provision of a path from the primary spine road towards the open space to the east of Gavin's Lee as indicated on the application site plan;

(ix) the provision of land to deliver 141 affordable housing units at an agreed mix and within agreed locations, either through the transfer of serviced land or the transfer of completed units, or the off site provision of 141 affordable housing units or in exceptional circumstances if the Council agrees to it, the transfer of an agreed commuted sum.

The **Council's Planning Obligations Officer** has been consulted on this current application and has advised that as this proposal will increase the residential unit number on this site by 16 residential units it is critical that there is sufficient infrastructure and associated community facilities developed to accommodate the demand generated from these additional residential units. Having consulted with the Council's Amenity Services, Education and Children Service, Roads Service and Housing Service, the Council's Planning Obligations Officer has confirmed that these Services do not object to the proposal subject to securing the additional financial contributions which will be required, as set out below and subject to two of the additional 16 units being affordable housing units.

In terms of strategic transport contributions, the Council's Planning Obligations Officer advises that the additional contributions required for each transport intervention are as detailed below:

- *Improvements to Old Craighall Junction (PROP T15): £48.73
- * Improvements to Salters Road Interchange (PROP T17): £190.46
- * Improvements to Bankton Interchange (PROP 17): £745.57
- * Musselburgh Town Centre improvements (PROP T21): £291.29
- * Tranent Town Centre Improvements (PROP T27 and T28): £1627.64
- * Rail Network Improvements (PROP T9 and T10): £246.72

Therefore, a Transport Improvement contribution of £3,150.40 indexed linked from Q1 2019 until date of payment using the BCIS All-in Tender Price Index, would be required towards strategic transportation intervention for the additional 16 units based on the Supplementary Guidance: Developer Contribution Framework TT1 site Windygoul South costs.

The **Council's Road Services** have not identified any additional local transport requirements necessary for the additional 16 units.

The **Council's Planning Obligations Officer** advises that the additional contributions required for sports provision for 16 additional units is £4,416.00 and this will be indexed linked from Q1 2019 until date of payment using the BCIS All-in Tender Price Index. She advises changes will be required to the S75 to include a definition for "Sports Provision" and a Clause for the payment of the Sports Provision Contribution.

In respect of allotment provision, the Council's Planning Obligations Officer advises that the additional contributions required for this as a result of the increase in unit numbers is £200.00 and this will be indexed linked from Q1 2019 until date of payment using the BCIS All in Tender Price index. She also advises clause 11 of the S75 Agreement will require to be modified to enable a

second instalment of allotment contribution to the £200 indexed due for the additional 16 housing units.

In respect of Education provision, it is relevant to consider that the reason for the restriction on overall numbers of residential units to 561 imposed by Condition 3 of planning permission in principle 18/00937/PPM is to restrict the scale of development to that applied for and also to ensure that there is sufficient education capacity.

East Lothian Council has a duty under the Education (Scotland) Act 1980 “to secure that there is made for their area adequate and efficient provision of school education”. The Council also has a duty under the Local Government Etc. (Scotland) Act 1994 “to make proper arrangements for securing economy, efficiency and effectiveness in their use of resources”.

New development will only be permitted where the developer makes appropriate provision for necessary infrastructure and community facilities arising because of their development, including to mitigate cumulative impacts. Such development must be phased in line with the infrastructure and community facilities required.

The need for any developer contribution will be assessed on a cumulative basis with other proposed developments in the area, consistent with the principles and purpose of Scottish Government Circular 3/2012: Planning Obligations and Good Neighbour Agreements. The assessment has to be based on the best information available at the time. A planning obligation will be sought to secure all necessary developer contributions.

The **Council's Education and Children's Service** have provided a consultation response to this current application confirming that they have undertaken significant work to assess if the catchment schools can accommodate this increase in residential units and its impact on the Education Service's ability to deliver education within the catchment. The application site is within the catchment areas of Windygoul Primary School and Ross High School. There is a nursery and ASN unit contained within Windygoul Primary School that service the locality. The consultation response details their considerations in full and explains that having carried out a full assessment, the Education Service raise no objection to the additional 16 units subject to the provision of developers' contributions being made under an amended Section 75 Agreement towards additional pre-school and primary education within the catchment of £257,770.00 indexed linked from Q3 2024 until date of payment using the BCIS All-in Tender Price Index. The Council's Education and Children's Service confirm they are not seeking secondary school contributions as they advise there is sufficient capacity within Ross High School to accommodate any pupils generated from the additional 16 units. The Council's Planning Obligations Officer advises S75A modifications will be required for Clause 1 definitions for “Primary Education Contribution” as the amount will change and definition for “Indexed” as the primary contribution for the additional 16 units will be indexed from Q3 2024 not Q1 2019, as well as modifications to

Clause 3 of the S75 will be required to be incorporated to ensure the additional primary education contribution is captured.

In respect of affordable housing provision, the **Council's Planning Obligations Officer** in consultation with the **Council's Housing Enabler** confirms that in accordance with Policy HOU3 of the ELLDP, the increase in 14 private residential units requires that two additional affordable housing units will be required to be delivered on Area AH3 at the westernmost part of the site. The Housing Enabler has indicated that the additional affordable housing units can be added to the existing affordable housing area 3, that still require to be delivered, and these units would be for social rent. The actual details would require to be agreed with the Council's Housing Service, and would require the detailed approval of the Planning Service through an application for detailed planning permission or an approval of matters consent application. The Council's Planning Obligations Officer advises that in respect of the S75A there will need to be a modification in respect of Clause 5 and Clause 6 to reflect the affordable housing unit increase and changes in the delivery triggers for the affordable housing.

As per the Adopted Supplementary Guidance: Developer Contributions Framework, all Strategic Transportation, Allotment and Sports Provision Contributions will be increased in line with indexation from Q1 2019 using the All-in Tender Price Index published by the Building Cost Information Service (BCIS) Limited for the Royal Institution of Chartered Surveyors until due date of payment and the Primary Education Contribution will be increased from Q3 2024 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.

The applicant has confirmed in writing their agreement to the additional contributions detailed above, including the provision of the two affordable housing to be delivered on the site.

The **Council's Planning Obligations Officer** advises a Section 75A application to modify the existing Section 75 agreements including the core development definition and other clauses to incorporate the additional contributions required for the additional 16 units to make this planning application acceptable in planning terms will be required. She advises the modification will require to be approved and the Decision Notice for the S75A application registered prior to a planning permission being issued for this Section 42 application, should the decision be to grant planning permission for it. The applicant has recently submitted a Section 75A application (reference 25/00003/OBL) which has been validated and is now being considered by the Council's Planning Obligations Officer prior to it being decided.

CONCLUSION

In conclusion, subject to conditions and modification of the existing Section 75 Agreement as set out above, the proposed variation to condition 3 to allow for an additional 16 residential units to be accommodated on the site 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.

A revised version of Planning Series Circular 3/2013 (Development Management Procedures) was published by the Scottish Government in September 2015. Annex I of the Circular gives guidance on applications for planning permission under section 42 of the Town and Country Planning (Scotland) Act 1997, as amended. The application that is the subject of this report is made under section 42 of the Act. Annex I states that "Planning authorities should attach to the new permission all of those conditions from the previous permission, where it is intended these should apply and ensure (where appropriate) that permission is granted subject to the conclusion of any appropriate planning obligation". Therefore, it is recommended that planning permission should be granted for the applied for variation of Condition 3 of planning permission in principle 18/00937/PPM subject to the necessary modifications being made to the S75 Agreement associated with planning permission in principle 18/00937/PPM to encompass this application and any further planning applications associated with the subjects prior to their determination and the submission and receipt for registration of such modifications being made to the Land Registry of Scotland against the land title and subject to all of the remaining conditions from planning permission in principle 18/00937/PPM where it is intended these should apply. In this case, it is recommended that the majority of the conditions should continue to apply with the exception of those which have had details approved and the approved works have been implemented, such as the formation of the SUDS basin and the carrying out of archaeological evaluation. Pursuant to Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended it is recommended that a condition be added requiring the commencement of the development before the expiration of 5 years from the date of the permission. The wording of some of the other conditions require to be altered, for example to accurately reflect the planning permission in principle to which they relate. Condition 4 of planning permission in principle 18/00937/PPM relates to the annual housing completions within the site. Since the granting of the planning permission in principle East Lothian Council as Planning Authority has approved revised timings of housing completions for the site, as such condition 4 has been amended to reflect the approved updated housing completion figures. It is also recommended that an additional condition be added requiring the developer to submit for the approval of the Planning Authority a report on the actions to be taken to reduce the carbon emissions from the building and from the completed development. This is in accordance with the motion approved by the Council at its meeting on Tuesday 27th August 2019 declaring a Climate Emergency and thereafter, at its meeting on Tuesday 3rd September 2019 the Council's Planning Committee deciding that a condition requiring a developer to submit for the approval of the Planning Authority a report on the actions to be taken to reduce the carbon emissions from the building and from the completed development should be imposed on relevant applications for planning permission. Therefore such a condition should be imposed on a grant of planning permission in principle for this proposed development.

RECOMMENDATION:

It is recommended that planning permission be granted subject to:

1. The following conditions;
2. The prior conclusion of a satisfactory modification, under Section 75A of the Town and Country Planning (Scotland) Act 1997, of the existing Section 75 Agreement associated with planning permission 18/00937/PPM, to encompass the additional contributions and affordable housing provision detailed in this report, and any associated variations to clauses of that Agreement; and
3. That in accordance with the Council's policy on time limits for completion of planning agreements the decision also is that in the event of the Section 75A 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 it would not be regulated by the terms and obligations set out in the S75A agreement.

CONDITIONS:

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

Reason:

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

- 2 The submission for approval of matters specified in conditions of this grant of planning permission in principle shall include details of the siting, design and external appearance of all the residential units, any other buildings, any artwork to be erected on the site, the means of road, pedestrian and cycle accesses, the means of any enclosure of the boundaries of the site and of gardens and other subdivisions of the site and the landscaping of the site and those details shall generally accord with the Site Layout drawing with drawing reference 18006(PL)001F docketed to planning permission in principle 18/00937/PPM but additionally shall comply with the following requirements:

a) The residential units shall be no higher than two storeys in height and the external finish to their walls shall be predominantly rendered and coloured in accordance with a co-ordinated colour scheme that respects the layout of the development;

b) Other than in exceptional circumstances where the layout or particular building type does not permit, the residential units shall be orientated to face the street. Notwithstanding that shown on the docketed site plan the houses denoted with an asterisk shall have dual frontages. Otherwise 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;

c) There shall be no integral garages, unless it can be justified as an exceptional design feature, or where the house and garage would not be on a primary or secondary street frontage;

d) The detailed design of the layout shall otherwise accord with the principles set out in the Council's Design Policies and with Scottish Government Policy Designing Streets;

e) Notwithstanding that shown in the Indicative Masterplan docketed to this planning permission in principle, there shall be at least a 9 metres separation distance between the windows of a proposed new building and the garden boundaries of neighbouring residential properties and an 18 metres separation distance between directly facing windows of the proposed new building and the windows of existing or proposed neighbouring residential properties;

f) parking for the residential development hereby approved shall be provided at a rate as set out in the East Lothian Council Standards for Development Roads- Part 5 Parking Standards;

g) all access roads shall conform to East Lothian Council Standards for Development Roads and Design Standards for New Housing Areas in relation to roads layout and construction, footways and footpaths, parking layout and number, street lighting and traffic calming measures;

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

i) Within residential private parking areas the minimum dimensions of a single parking space shall be 2.5 metres by 5.0 metres.

j) All prospectively adoptable parking bays (i.e. that form part of the public road) shall have minimum dimensions of 2.5 metres by 6 metres.;

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

l) The front, rear and side boundary treatments of each residential, unit shall be in accordance with a detailed boundary treatment scheme which shall provide for wall, hedge or railing boundary treatments where those boundaries face public spaces and for other appropriate boundary treatments between individual properties where not facing public spaces;

m) Unless where detailed otherwise in the docketed Site Plan drawing footpaths within the site shall be hardsurfaced in accordance with details to be agreed in writing with the Planning Authority.

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

Reason:

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

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

o A north-south path from the north-west corner of the affordable housing to the northernmost proposed path which runs from the Ormiston Road to the school.

o A path connection from the south-east corner of the site to connect with the national cycle route N196 to Ormiston.

o A path linking the northern part of the application site to the public road of Winton Court

It must also include for public road links, including paths, to local services, schools and the public road network. It shall further include the provision of drainage infrastructure, equipped play facilities, sports pitch, landscaping and open space. The details to be submitted shall also include construction phasing plans.

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

Reason:

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

4 No more than 577 residential units shall be erected on the site.

Reason:

To ensure that there is sufficient education capacity and to restrict the scale of development to that applied for.

5 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 2025/26 – 71 residential units

Year 2026/27 – 116 residential units

Year 2027/28 – 117 residential units

Year 2028/29 – 49 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 2029/30 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.

6 Prior to the erection of any residential units full details of all noise mitigation measures shall be submitted to and approved in advance by the Planning Authority. The mitigation measures shall include, but may not be limited to,

* the construction of an acoustic barrier approx. 4 metres in height and comprising an acoustic fence atop an earth bund. The location of the barrier will be in the south portion of the site adjacent to the eastern boundary of the Research Centre;

* placement of bungalows in the cul-de-sac beyond the barrier, to eliminate the potential for lines of sight over the top of the barrier from first floor habitable rooms;

* positioning of principle gardens on the far side of associated dwellings from the Research Centre incinerator, to create localised acoustic screening, minimising the potential for any residual impacts; and

* minimising habitable room glazing elements facing directly towards the Research Centre by arranging future dwellings around recognised potential noise sources with the gable end orientated towards the source; this limits the angle of view from future habitable room windows.

These mitigation measures shall be such that the following design criteria shall be met:

1. The Rating Level, LArTr, of noise associated with the operation of the existing research facility (when measured 3.5m from the façade of any proposed residential property) shall be no more than 5dB (A) above the background noise level, LA90T. All measurements to be made in accordance with BS 4142: 2014 "Methods for rating and assessing industrial and commercial sound".

2. Noise associated with the operation of any plant and/or equipment serving the existing research facility shall not exceed Noise Rating curve NR20 at any octave band frequency between the hours of 2300-0700 and Noise Rating curve NR25 at any octave band frequency between the hours of 0700-2300 within any proposed residential property. All measurements to be made with windows open at least 50mm.

The details to be submitted shall also include a further noise report to demonstrate the noise mitigation measures required to ensure compliance with this design criteria, together with a timetable for the implementation of all of the proposed noise mitigation measures.

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

Reason:

To ensure an appropriate level of acoustic screening in the interests of the amenity of the future occupants of the site.

- 7 No residential units shall be erected within the yellow shaded area shown in Drawing No. CAR85-902 and titled Air Quality Mitigation Area dated 01.04.2019 docketed to planning permission in principle 18/00937/PPM unless and until such times as an updated Air Quality Assessment, that demonstrates all statutory Air Quality Objectives are being, and will continue to be met, has been submitted to, and approved in writing by, the Planning Authority.

Reason:

To ensure an acceptable standard of air quality in the interests of the amenity of the future occupants of the site.

- 8 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.

- 9 Prior to the commencement of development intrusive investigation works shall be carried out at the application site in accordance with detail to be submitted to and approved in advance by the Planning Authority following consultation with The Coal Authority to assess ground stability due to former mine workings at the site. In the event that the intrusive investigation works confirm the need for remedial works to treat any areas of shallow mine workings, development shall not begin until a scheme of remedial works on the site has been submitted to and approved in writing by the Planning Authority, and thereafter have been fully implemented as so approved.

Reason:

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

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

Reason:

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

- 11 Prior to the commencement of development, details of all boundary enclosures to be erected on the site of the residential development, and the timescales for their provision, shall be submitted to and approved in advance by the Planning Authority. Those details shall show 1.8 metre high enclosures around rear gardens of the houses hereby approved and where rear garden boundaries face or run parallel with roads these shall be feature boundaries in either render, stone or stone with timber panel infills and not full height close boarded fencing.

Development shall thereafter be carried out in full accordance with the details 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 visual amenity of the area and to safeguard the privacy and amenity of residential properties nearby.

- 12 A Green Travel Plan (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 Green Travel Plan (Travel Information Pack) shall have particular regard to provision for walking, cycling and public transport access to and within the site, and will include a timetable for its implementation, details of the measures to be provided, the system of management, monitoring, review, reporting and duration of the Plan, and details of how and when it will be distributed to all residents.

The Green Travel Plan (Travel Information Pack) shall thereafter be provided to residents in accordance with the details approved.

Reason:

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

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

The recommendations of the Construction Method Statement shall be fully complied with during the construction phase of the development. 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.

- 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 interests of road safety.

- 15 Development of the application site shall be carried out in accordance with the following transportation requirements:

a) Unless otherwise agreed to an alternative standard in writing by the Planning Authority, a visibility splay of 9 metres by 160 metres shall be provided and maintained on each side of the proposed access junction from the application site onto the B6371 such that there shall be no obstruction to visibility above a height of 1.05 metres measured from the adjacent carriageway level within the following defined area - a) A line of 9 metres long measured along the access road from the nearside edge of the main road carriageway; b) A line 160 metres long measured along the nearside edge of the main road carriageway from the centre of the access road in both directions; and c) A straight line joining the termination of the above two lines. Details of the provision of the visibility splays shall be submitted to and approved by the Planning Authority prior to the commencement of development and thereafter shall be provided and maintained in accordance with the details above prior to the occupation of any of the approved development;

b) Unless otherwise agreed in writing with the Planning Authority the junction of the primary spine road with the B6371 Ormiston Road shall incorporate a right turning lane protected by islands which could serve the dual purpose of providing crossing points to the national cycle route N196, all in accordance with details to be submitted to and approved by the Planning Authority prior to the commencement of development. It shall be provided in accordance with details approved and prior to the occupation of any of the approved development.

c) No residential unit hereby approved shall be occupied unless and until (i) a 40 miles per hour speed limit on the B6371 (Ormiston Road) has been brought into effect from a location at the southeast corner of the site and shall continue northwards until it meets with the existing 30 miles per hour speed limit and (ii) a gateway feature is installed at the southern end of the east boundary of the site. Details of the proposed 40 miles per hour speed limit and of the proposed gateway feature shall be submitted for approval by the planning authority. These measures shall be implemented in accordance with the details as approved by the planning Authority.

d) Prior to the occupation of any residential unit hereby approved a suitable crossing of the B6371 shall be provided, in accordance with details to be submitted to and approved in advance by the Planning Authority.

e) Prior to the occupation of any residential unit hereby approved, a 2 metres wide, lit (street lighting) footway shall be provided to tie into the existing footway and for the full length of the site on the west side of the B6371 in accordance with details to be submitted to and approved in advance by the Planning Authority. .

f) Prior to the occupation of any residential unit hereby approved, a 2 metres wide, lit (street lighting) footpath shall be provided along the full length of the western edge of the site in accordance with details to be submitted to and approved in advance by the Planning Authority. .

g) prior to commencement of development a scheme of traffic calming to deter through traffic and school drop-off by car and to prioritise walking and cycling routes to Windygoul Primary School shall be submitted to and approved by the Planning Authority. The details to be submitted shall include details of two signalised crossings to be installed on Brotherstone's Way (one to replace the existing zebra crossing and one south of George Grieve Way) and a signalised crossing of the primary spine road through the development site and a timetable for provision of the signalised crossings and other traffic calming measures. These measures shall be implemented in accordance with the details as approved by the planning Authority.

Reason:

In the interests of road safety.

- 16 Unless otherwise agreed in writing by the Planning Authority prior to the occupation of any residential unit, pairs of bus stops shall be provided on both sides of the primary spine road, in accordance with details showing the number and locations of the bus stops to be submitted to and approved in advance of their construction by the Planning Authority .

Unless otherwise agreed in writing by the Planning Authority no residential units to the west of Brotherstone's Way shall be occupied unless and until a suitable bus route (which avoids the need for reversing manoeuvres) through this western part of the development is constructed in accordance with details to be submitted to and approved by the Planning Authority.

Reason:

In the interests of road safety.

- 17 No development shall take place until there has been submitted to and approved in writing by the Planning Authority a scheme of landscaping. The scheme shall provide details of: the height and slopes of any mounding on or re-contouring of the site including SUDS basin/ponds details; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. Non-thorn shrub species should be located adjacent to pedestrian areas. The submitted scheme of landscaping shall show planting on both sides of the bund. The scheme shall include indications of all existing trees and hedgerows on the land, details of any to be retained, and measures for their protection in the course of development. Specific planting details shall include hedges

to front gardens; oaks, sycamores and limes as well as establishment species such as birch and smaller understorey species of whitebeam, hawthorn, rowan, cherry and hazel to the boundary woodland planting; large species feature trees in open spaces to include beech, Scots pine and oak. The scheme shall include a timetable for implementation of landscaping, and this scheme shall show that the structural landscape planting shall be implemented within 1 year of the commencement of development and shall include a tree protection and maintenance plan to safeguard new structural tree planting during the course of development.

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. Any trees or plants which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar species and final size, unless the Planning Authority gives written consent to any variation. No trees or shrubs, detailed in the approved landscaping plans to be retained on the site, shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the previous written consent of the Planning Authority. All existing and new planting comprised in the scheme of landscaping shall be retained and maintained 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.

- 18 The maintenance of all communal landscape areas, and where applicable hedges to private front gardens, shall be adopted and maintained by Estate Management or Factored 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.

- 19 Details of the play areas, including the equipment to be provided within them and a timetable for installation, shall be submitted to and approved in advance by the Planning Authority. The play areas shall be installed in accordance with the details so approved.

Prior to the commencement of development, details of how all the areas of open space and equipped play areas are to be maintained shall be submitted to and approved in advance by the Planning Authority.

The details shall include a timetable for implementation. Development shall thereafter be carried out in accordance with the details so approved and the play areas and open space shall thereafter be maintained in accordance with the details so approved..

Reason:

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

- 20 Notwithstanding that detailed on the site plan at least one electric vehicle charging point shall be provided adjacent to the approved primary spine road and to the south of the approved sports pitch. Prior to the commencement of development details of the electric vehicle charging point(s) shall be submitted to and approved in writing by the Planning Authority. The details to be submitted shall include a timetable for provision. Development shall thereafter be carried out in accordance with the details to approved and shall be retained unless other approved in writing by the Planning Authority.

Reason:

In the interests of sustainability.

- 21 Cycle parking shall be included at a rate of 1 space per flat. The cycle parking shall be in the form of 1 locker per flat or communal provisions in the form of a lockable room or shed in accordance with details to be submitted to and approved in advance by the Planning Authority. Thereafter the cycle parking approved shall be provided and be made available for use prior to the occupation of each flatted property it is associated with and shall thereafter be retained unless other approved in writing by the Planning Authority.

Reason:

To ensure the provision and retention of cycle parking.

- 22 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 electric 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.

COMMITTEE: Planning Committee
MEETING DATE: 19 August 2025
BY: Executive Director for Place
REPORT TITLE: Application for Planning Permission for Consideration

5

Application No. **24/00200/AMM**

Proposal Approval of matters specified in conditions (1a to j & k, 2(ii), 8, 24, 27 & 29) of planning permission in principle 15/00537/PPM – Erection of 84 houses, 9 flats, and associated works

Location **Land Located to the South and East of Wallyford and at Dolphingstone East Lothian**

Applicant Taylor Wimpey UK Limited

Recommendation Consent Granted

REPORT OF HANDLING

Although this application is for the approval of matters specified in conditions of planning permission in principle 15/00537/PPM, it is required 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.

APPLICATION SITE

This application relates to some 2.7 hectares of undeveloped land located to the south and east of Wallyford, situated within the wider Dolphingstone expansion area which is allocated for development by Proposal MH10 of the adopted East Lothian Local Development Plan 2018.

The application site is to the east of the Wallyford expansion area, and is bound by the A199 public road to the north, agricultural land to the east and undeveloped land to the south and west which comprise the wider Dolphingstone expansion area. It slopes gently rising from north to south and has a rough grass finish with no trees or any other landscape features present on it.

SITE HISTORY

On 30 November 2009 planning permission in principle (Ref: 09/00222/OUT) was granted for a mixed use development on some 86 hectares of predominantly agricultural land to the east, south and southwest of Wallyford. The site included Wallyford Community Woodland, the public roads of Salters Road and Inchview Road, and land to the south of Fa'side Avenue South, to the south of the existing village. The land is the allocated housing site of Proposal MH9 of the adopted East Lothian Local Development Plan 2018.

Planning permission in principle (ref: 12/00924/PPM) was subsequently sought for the renewal of planning permission in principle (ref: 09/00222/OUT), as submitted to the Council on 26 November 2012. On 1 April 2014 the Council resolved to approve the application subject to the required Section 75 Agreement and planning permission in principle was duly granted with conditions on 14 November 2014 following the registration of that agreement.

In September 2015 planning permission in principle (ref: 14/00903/PPM) was granted for amendments to planning permission in principle 12/00924/PPM, including an increase in number of residential units from 1050 up to a maximum of 1450, relocation and redesign of open space, development for residential purposes of areas previously proposed as open space and relocation and redesign of the proposed local centre.

The elements of the approved mixed use development include residential development, community buildings including a new school and community facilities, office units, a restaurant, business units, general industrial units, storage and distributions units, trade counter units, a residential institution, a non-residential institution, hot food takeaways, playing fields, open space, allotments, landscaping and associated infrastructure provision.

In December 2020 planning permission in principle (ref: 15/00537/PPM) was granted for residential development with associated educational and community facilities and open space on the land known as Dolphingstone to the immediate south and east of the site the subject of planning permission in principle 14/00903/PPM. Through a condition attached to the grant of planning permission in principle 15/00537/PPM, the number of residential units on the combined sites the subject of planning permission in principle 14/00903/PPM and 15/00537/PPM is limited to no more than 2050. A revised indicative masterplan was submitted and approved as a part of planning permission in principle 15/00537/PPM to show that the positions shown for the distributor

road, SUDS ponds, school campus and local centre would be the same as that approved by planning permission in principle 14/00903/PPM.

The indicative masterplan docketed to planning permission in principle 15/00537/PPM shows an area in the southeast corner of the site as a large area of open space, denoted as a public park incorporating a play area, which public park is to serve future residents of the Dolphingstone site. It is the largest consolidated area of open space shown on the masterplan, the other areas of open space being small areas formed between the housing development sites.

In March 2023 approval of matters specified in conditions (ref: 22/00749/AMM) was granted for infrastructure works including the construction of roads, cycle/footpaths, vehicular access, landscaping, SuDS, the formation of areas of open space and play areas and associated works on land on the northeastern part of the larger site to which planning permission in principle 15/00537/PPM relates. Approval of matters specified in conditions permission 22/00749/AMM has been implemented and work has begun constructing the road through the site.

In June 2024 approval of matters specified in conditions (ref: 23/00498/AMM) was granted for the erection of 137 houses and 9 flats on the northern part of the Dolphigstone site to the west of the new spine road approved by the grant of approval of matters specified in conditions 22/00749/AMM. Development of the site has not yet begun.

The drawings docketed to approval of matters specified in conditions 22/00749/AMM approved the detail of the landscaping and open space strategy for the Dolphingstone site to which planning permission in principle 15/00537/PPM relates. This included for the provision of a large, consolidated area of open space in the southeast corner of the site to serve future residents of the allocated Dolphingstone expansion area, in the same position shown for it on the indicative masterplan docketed to planning permission in principle 15/00537/PPM. The approved drawings for 22/00749/AMM also show how 2 play areas would be formed within the site and a condition attached to that approval of matters specified in conditions also requires the provision of an additional toddlers play area.

In March 2024 planning permission in principle (ref: 23/01266/PPM) was refused for a proposed residential development on the land approved for the large, consolidated area of open space to serve future residents of the allocated Dolphingstone expansion area, both by the indicative masterplan docketed to planning permission in principle 15/00537/PPM and the detailed drawings docketed to approval of matters specified in conditions permission 22/00749/AMM.

Subsequently the applicant appealed the Council's refusal of planning permission in principle 23/01266/PPM to the Planning and Environmental Appeals Division (DPEA). On 27 December 2024 the Reporter appointed by the DPEA to determine the appeal overturned the Council's decision and

granted planning permission in principle for a residential development on the land approved for the large, consolidated area of open space.

In his decision letter, the Reporter concluded that he was satisfied that the other open space areas to be provided over the whole Wallyford/Dolphingstone expansion area (Proposals MH9 and MH10 of the adopted East Lothian Local Development Plan 2018) were adequate to serve future residents of the expansion area without the need for the whole of the land of the appeal site to be provided for the large, consolidated area of open space, and granted planning permission in principle for a residential development of it, with a small part of the appeal site accommodating an open space area.

PROPOSAL

Through this application, the approval of matters specified in Conditions 1 parts a to i & k, 2(ii), 8, 24, 27 and 29 of planning permission in principle 15/00537/PPM is sought for the erection of 84 houses, 9 flats and associated works on the application site, which is on the northeastern part of the Dolphingstone site and comprises what is referred to on the drawings as Phase 3. The associated works include the formation of roads, footpaths and parking areas, the formation of small pockets of open space, the erection of boundary enclosures, and hard and soft landscaping.

All of the 84 houses and 9 flats to be erected on the site would be for private sale. The houses would comprise of 15 different house types, with 42 being terraced, 6 being semi-detached and 36 detached.

Of the 84 houses, 44 would have 4 bedrooms, 24 would have 3 bedrooms and 16 would have 2 bedrooms. The 9 flats would all have 2 bedrooms.

Vehicular and pedestrian access to the site would be taken from two points off one of the new distributor roads that would serve the wider Dolphingstone site (once fully constructed), with additional pedestrian accesses taken from the new footway on the west side of the site (once fully constructed) and from a new pedestrian footpath on the north side of the site.

Subsequent to the registration of this application, further drawings have been submitted showing revisions to the site layout and associated updated plans including the incorporation of more landscape planting.

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 (LDP).

In terms of Policies 1 and 2 of NPF4, the contribution this development could make to addressing the climate and nature crises (Policy 1) or to make adjustments or incorporate features that reduce greenhouse gas emissions (Policy 2), is largely predetermined by the grant of planning permission in principle 15/00537/PPM.

Therefore, NPF4 Policies 3 (Biodiversity), 7 (Historic Assets and Places), 12 (Zero Waste), 13 (Sustainable Transport), 14 (Liveable Places), 15 (Local living and 20 min neighbourhoods), 16 (Quality Homes), 18 (Infrastructure First), 21 (Play, recreation and sport) and 22 (Flood Risk and Water Management) are relevant to the determination of this application.

Also relevant to the determination of the application are Proposal MH10 (Land at Dolphinstone) and Policies HOU1 (Established Housing Land), HOU3 (Affordable Housing Quota), DP1 (Landscape Character), DP2 (Design), DP3 (Housing Density), DP4 (Major Development Sites), DP8 (Design Standards for New Housing Areas), CH5 (Battlefields), NH13 (Noise), W3 (Waste Separation and Collection), OS3 (Minimum Open Space Standards for New General Needs Housing), OS4 (Play Space Provision in new General Needs Housing Development), NH10 (Sustainable Drainage Systems), NH11 (Flood Risk), DEL1 (Infrastructure and Facilities Provision), SEH2 (Low and Zero Carbon Generating Technologies), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the LDP.

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. 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.

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 15/00537/PPM. The masterplan sets out the land uses expected for the allocated site and how the Council requires the site to be developed.

Also material to the determination of the application is the Council's Design Standards for New Housing Areas Supplementary Planning Guidance.

REPRESENTATIONS

No public objection to this application has been received.

COMMUNITY COUNCIL

Wallyford Community Council have been consulted on the application but no response has been received.

PLANNING ASSESSMENT

By the grant of planning permission in principle 14/00903/PPM and 15/00537/PPM approval has been given for the principle of the erection of up to 2050 houses on the combined Wallyford and Dolphingstone sites following technical assessments which demonstrated that local and wider infrastructure, subject to financial contributions and conditions, can accommodate such level of development.

Therefore, there can be no objection in principle to the erection of the 84 houses and 9 flats now proposed on this particular part of the wider Dolphingstone site.

Consequently, 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 landscaping of and means of access to the site and the means of any enclosure of the boundaries of the site. In this regard the detailed proposals have to be considered against relevant development plan policy, the approved masterplan of, and conditions attached to planning permission in principle 15/00537/PPM.

The proposed residential development would be seen in relation to the new housing that is under construction on land at Wallyford and would also, in time, be seen in relation to the new housing on other parts of the wider Dolphingstone site.

The proposed houses and flatted building, due to their positioning on the application site and by virtue of their height, size and scale, architectural design and finishes would satisfactorily integrate into their surroundings and would not appear as prominent or intrusive features. The other components of the proposed development would not be harmful to the character and appearance of the area.

The details submitted for approval are for a scheme of development comprising a mix of detached, semi-detached and terraced houses, with the houses being two stories in height and a 3-storey pitched roofed flatted building. The layout reflects the nearby Wallyford development, which is generally characterised by detached, semi-detached and terraced houses mostly being two-storey, and the housing development approved to the west at Dolphingstone by approval of matters specified in conditions permission 22/00749/AMM. The range of house types proposed would give a variation of architectural form to the development, 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 houses is of a traditional pitched roof form. Render would be the predominant wall finish of the buildings but it should be ensured more than one render colour is provided and more than one colour of roof tile

to ensure the development is of a satisfactory appearance. A condition can be imposed on a grant of approval of matters specified in conditions for the proposed development to address these matters of wall and roof finishes.

The proposed development would provide an attractive residential environment for future residents of it. The residential units are shown to be laid out in such a way that adheres to the normally accepted privacy and amenity criteria on overlooking and overshadowing, whilst affording the future occupants of the houses and flats an appropriate level of privacy and residential amenity. The proposed new houses would be so sited, oriented and screened such as not to harm the privacy and amenity of existing or future neighbouring or nearby residential properties through overlooking or overshadowing.

The application site is capable of accommodating all of the houses and flats without being an overdevelopment of the site and without being incompatible with the density of existing housing development in the area.

Footpath links to the wider residential site and the A199 are proposed, and they would allow for pedestrian and cycle access to the wider area and will allow for good connectivity with the remainder of the Dolphingstone site.

A scheme for the landscaping of the site has been submitted with the application. The proposed scheme would provide a suitable landscaping setting for the proposed development which would serve to soften the impact of the buildings and associated works. The **Council's Landscape Officer** has been consulted on the application and he raises no objection to the proposed scheme of landscaping.

The proposed scheme of landscaping would also serve to encourage habitat creation and strengthen nature, enhancing the biodiversity of the site.

The **Council's Biodiversity Officer** has been consulted on the application and advises that the site in its present condition is of low biodiversity value and that the proposed scheme of landscaping would serve to enhance the biodiversity value of the site.

The **Council's Environmental Health Officer** has appraised the submitted noise report and advises that houses and gardens next to the A199 will require mitigation in the form of closed window attenuation on the facades of houses and 2m high acoustic walls/fencing to garden boundaries. Drawings have been provided showing such mitigation on properties and garden boundaries where required, which the Environmental Health Officer is content with. Subject to these mitigation measures being implemented, which can be secured by conditions imposed on a grant of approval of matters specified in conditions, there would be no loss of amenity to future occupiers of the proposed houses.

On these considerations of design, layout, amenity, landscape, nature and biodiversity, the proposals are consistent with Policies 3, 14, 15 and 16 of NPF4 and with Policies DP1, DP2, DP3, DP4 and NH13 of the LDP, the Scottish Government Policy Statement entitled "Designing Streets", the Masterplan

approved by planning permission 15/00537/PPM and the Council's Supplementary Planning Guidance on 'Design Standards for New Housing Areas'.

The **Council's Waste Services** raise no objection to the proposed development, being satisfied that waste servicing vehicles could satisfactorily negotiate the proposed development providing convenient access for the collection of waste. The proposed development does not conflict with Policy 12 of NPF4 or with Policy W3 of the adopted East Lothian Local Development Plan 2018.

The masterplan docketed to planning permission in principle 15/00537/PPM indicates how areas of formal and informal open space could be located throughout the allocated site. Also, the masterplan docketed to planning permission in principle 14/00903/PPM indicates how areas of formal and informal open space, including two community sports pitches, could be located throughout that separate allocated site.

However, it must now be recognised that the DPEA Reporter's approval of planning permission in principle 23/01266/PPM granted permission for the principle of a residential development on the land approved for the large, consolidated area of open space at the southeast corner of the wider Dolphingstone site.

The development now proposed does not have any dedicated open space areas included within it. However, there would be areas of open space formed across the wider Dolphingstone site and there would be further areas of open space and sports pitches on the neighbouring Wallyford expansion area which could be accessed.

Consequently, although the proposed development does not include dedicated open space provision, there would be accessible open space provided elsewhere, which the DPEA Reporter in his decision on application 23/01266/PPM determined was adequate to serve future residents of the wider Dolphingstone site.

The proposed development would not provide a play area, however one is not required on this particular site as others are to be formed elsewhere in the wider Dolphingstone site. An equipped toddlers play area is approved to be located on the site the subject of approval of matters specified in conditions permission 22/00749/AMM, which is to the west of this site.

On the matters of open space and play, the **Council's Strategy, Policy & Development Manager** raises no objection to the application, acknowledging the conclusions of the DPEA Reporter in his decision on application 23/01266/PPM that such facilities can be accessed elsewhere on the wider Dolphingstone and Wallyford sites.

Consequently, although the proposed development does not include dedicated open space or play provision, the proposed development is not contrary to Policy 21 of NPF4 or with Policies OS3 and OS4 of the LDP.

The means of accessing the larger development comprising the Dolphingstone expansion is already decided by the grant of approval of matters specified in conditions permission 22/00749/AMM. These include vehicular access to the proposed housing plots being taken from the new distributor road through the Dolphingstone site.

The **Council's Road Services** raise no objection to the submitted details, being satisfied that the proposed development would not result in unacceptable traffic congestion on the local road network and that it would not result in a road or pedestrian safety hazard. Road Services advise that the location and amount of parking within the site is acceptable and that the site is in close proximity of public transport provision and access to alternative active travel modes.

The Council's Road Services recommend a number of transportation requirements which can be met through the imposition of conditions on a grant of approval of matters specified in conditions for the proposed development. These include the submission of a Quality Audit, Road Safety Audit and a Construction Method Statement.

With the imposition of conditions to cover these recommendations of Roads Services, the proposed development does not conflict with Policy 13 of NPF4 or with Policies T1 or T2 of the adopted East Lothian Local Development Plan 2018.

The indicative masterplan docketed to planning permission in principle 15/00537/PPM indicates how SuDS could be formed within the site to attenuate the flow of surface water run-off. Condition 29 of planning permission in principle 15/00537/PPM states that a SUDS scheme should be submitted for the written approval of the Planning Authority, in consultation with the Scottish Environment Protection Agency. The position and detail for the SuDS to serve the wider Dolphingstone site has already been approved by approval of matters specified in conditions permission 22/00749/AMM.

The applicant's agent has confirmed that onsite drainage will be served by the SuDS scheme previously consented by approval of matters specified in conditions permission 22/00749/AMM, and that the SuDS will be implemented and operational in July 2025.

The **Council's Flooding and Structures Officer** advises that the drainage details for the site are satisfactory and he therefore raises no objection to the application.

The Scottish Environment Protection Agency (SEPA) have been consulted on the application and advise that they have reviewed the drainage proposals and are satisfied with them. Accordingly, SEPA raise no objection to the application.

Scottish Water as a consultee on the application advise that they have no objection to the proposal.

On the foregoing drainage considerations the proposed details are consistent with Policy 22 of NPF4 and with Policies NH10 and NH11 of the LDP.

Historic Environment Scotland (HES) have been consulted on this application and they have raised no objection to the proposed development nor do they have any comments to make in terms of impact of the proposals on the Battle of Pinkie Battlefield Site. On this consideration the proposed details are consistent with Policy 7 of NPF4 and Policy CH5 of the LDP.

The Coal Authority advises that it has been demonstrated that previously identified shallow coal mine workings have been stabilised and that further investigations did not encounter any further evidence of workings, and that confirmation has been provided that the numerous recorded mine entries within the site have been investigated and remediated, where located. Therefore, the Coal Authority advise that they have no objection to the application.

The mechanism of a financial contribution towards additional educational provision has already been secured through the grant of planning permission in principle 15/00537/PPM, as has the phasing of completions of the residential units to ensure sufficient education capacity can be provided for the pupil product of the development. Financial contribution towards road and rail improvements have also already been secured through the grant of planning permission in principle 15/00537/PPM. The **Council's Planning Obligations Officer** has confirmed that, as an approval of matters specified in conditions of planning permission in principle 15/00537/PPM, there are no requirements for additional developer contributions associated with this application.

The mechanism of the provision within the residential development of the wider Dolphingstone site of 25% affordable housing units is already secured through the grant of planning permission in principle 15/00537/PPM. There is no affordable housing proposed to be provided within this site. The applicant has provided a masterplan layout for the wider Dolphingstone site which indicates where affordable housing would be provided on later phases.

The **Council's Housing Enabler (Strategy and Development)** raises no objection to the application, satisfied that affordable housing units will be delivered on other phases of the Dolphingstone site in accordance with that secured through the grant of planning permission in principle 15/00537/PPM, and that there is no requirement to deliver affordable housing on this phase. In this regard the proposal is not inconsistent with Policy 18 of NPF4 or Policy HOU3 of the LDP.

At its meeting on 27 August 2019 the Council approved a motion declaring a Climate Emergency. Thereafter, at its meeting on Tuesday 3rd September 2019 the Council's Planning Committee decided that a condition requiring a developer to submit for the approval of the Planning Authority a report on the actions to be taken to reduce the carbon emissions from the building and from

the completed development should be imposed on relevant applications for planning permission, including applications for the approval of matters specified in conditions of a planning permission in principle. Such a condition can be imposed on an approval of matters consent for this proposal

In respect of electric vehicle (EV) charging provision, the layout has been designed to incorporate EV charging infrastructure in parking courtyards and on driveways. The **Council's Road Services** advise that some of the proposed electric vehicle charging points appear remote from the properties they are to serve, and recommend that a revised electric vehicle charging layout is submitted. A condition can be imposed on an approval of matters consent to secure a revised electric vehicle charging layout.

Subject to a condition being imposed for this proposed development to ensure that the proposed actions to be taken to reduce the carbon emissions from the building and from the completed development, including revised proposals for electric vehicle charging provision to be implemented on site, the proposals are consistent with Policy SEH2 of the LDP.

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 specified in conditions be granted subject to the following conditions:

- 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 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.

- 2 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 shall be submitted to and approved by the Planning Authority prior to the use of the finishes in the development. The external finishes of the houses and flats shall be in accordance with a co-ordinated scheme of materials and colours that shall in detail promote render as the predominant finish to the walls of the houses and flats, with a use of more than one render colour

and with a strongly contrasting difference in the colours such that they will not each be of a light colour, and shall show the roofs being clad in more than one colour of roof tile. All such materials used in the construction of the houses 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.

- 3 Prior to their occupation, mitigation in the form of glazing units that comply with daytime and night-time internal noise levels specified in Table 4 of BS8233:2014 "Guidance on sound insulation and noise reduction in buildings" shall be installed in the elevations of the houses as shown in purple and as detailed on docketed drawing no. 23349/11/01 Rev C.

Thereafter such form of attenuation shall be retained in place unless otherwise approved by the Planning Authority.

Reason:

In the interest of safeguarding the residential amenity of future occupiers of the proposed residential development.

- 4 Mitigation in the form of acoustic barriers comprising both a 2 metre high type V screen wall with close boarded timber fence as shown on docketed drawing no. DET/22 and a 2 metre high type W close boarded timber fence as shown on docketed drawing no. DET/23 shall be erected in the positions for them as shown and detailed on docketed drawing no. 23349/11/01 Rev C prior to the occupation of the houses on the plots where such acoustic barriers are required.

Thereafter the acoustic barriers as so erected shall be retained in place unless otherwise approved by the Planning Authority.

Reason:

In the interest of safeguarding the residential amenity of future occupiers of the proposed residential development.

- 5 With the exception of the acoustic barriers as required by Condition 4 above, notwithstanding that shown on the drawings docketed to this approval of matters specified in conditions permission, the boundary enclosures shown on those drawings are not hereby approved. Instead, and prior to the commencement of development, revised details of all boundary enclosures to be erected on the application site, and the timescales for their provision, shall be submitted to and approved in advance by the Planning Authority. Those details shall show 1.8 metre high solid enclosures around and between rear gardens of the houses hereby approved except where those boundaries are adjacent to a road or pathway where they shall be feature boundaries in either render, stone or stone with timber panel infills and not full height close boarded fencing to heights and finishes to be approved in advance by the Planning Authority. The details shall also show all semi private and defensible spaces in front of or to the side of the houses hereby approved and to the side of parking courtyards to be enclosed by walls/hedges/fences/ or railings to define areas of private space from public space.

Thereafter the boundary treatments erected shall accord with the details so approved unless otherwise agreed 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 The development shall comply with the following transportation requirements, unless otherwise approved in writing by the Planning Authority:

(i) All roads and paths shall conform to East Lothian Council's Transport Infrastructure in New Developments;

(ii) Vehicle accesses to private parking areas (i.e. other than driveways) 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. The circulation lane should be 6m wide for nose-in parking; a narrower lane is acceptable for echelon parking;

(iii) Cycle parking for dwellings without a private back garden with a gate (e.g. flats/mid-terraces), shall be included at a rate of 1 space per dwelling. This shall be in the form of a lockable room or shed;

(iv) A visibility splay of 2.4 metres by 30 metres in both directions shall be provided and maintained on each side of the internal junctions serving the development such that there shall be no obstruction to visibility above a height of 1.05 metres measured from the adjacent carriageway surface;

(v) A visibility splay of 2.5 metres by 40 metres in both directions shall be provided and maintained on each side of the vehicular access into the site from the distributor road such that there shall be no obstruction to visibility above a height of 1.05 metres measured from the adjacent carriageway surface;

(vi) Where a private access joins a main distributor road, a visibility splay of 2.5 metres by 40 metres in both directions shall be provided and maintained on each side of the vehicular access such that there shall be no obstruction to visibility above a height of 1.05 metres measured from the adjacent carriageway surface.

Reason:

In the interests of road safety.

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

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

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

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.

- 9 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.

- 10 Prior to the commencement of development a Stage 2 Quality Audit shall be submitted to and approved by the Planning Authority. The Quality Audit shall provide details on accessibility and connectivity from the wider transport network and between different elements of the application site and consider all different modes of transport including walking and the need of users who are mobility impaired.

The approved Quality Audit shall thereafter be implemented through the detailed design stages and the full audit process completed through to construction/occupation.

Reason:

In the interests of road and pedestrian safety.

- 11 Prior to the commencement of development a Stage 2 Road Safety Audit shall be submitted to and approved by the Planning Authority, which shall be undertaken for the detailed design of all roadworks, footways and cycle paths within the development hereby approved, and shall include an implementation programme describing when measures identified in the audit will be provided in relation to construction of the proposed development.

The Road Safety Audit shall be carried out in accordance with the most recent revision of GG119 Road Safety Audit.

Reason:

In the interests of road and pedestrian safety.

- 12 Immediately following completion of the development, the date of which shall be provided in writing to the Planning Authority, a Stage 3 Road Safety Audit - Post Opening shall be submitted to and approved by the Planning Authority.

The Road Safety Audit shall be carried out in accordance with the most recent revision of GG119 Road Safety Audit.

Reason:

In the interests of road and pedestrian safety.

- 13 12 months following approval of the Stage 3 Road Safety Audit as required by Condition 12 above, a Stage 4 Road Safety Audit shall be submitted to and approved by the Planning Authority.

The Road Safety Audit shall be carried out in accordance with the most recent revision of GG119 Road Safety Audit.

Reason:

In the interests of road and pedestrian safety.

- 14 All planting, seeding or turfing comprised in the details of landscaping on docketed drawing nos. 2297/40 Rev E, 2297/41 Rev E, 2297/42 Rev E, 2297/43 Rev E, 2297/50, 2297/51, 2297/53, 2297/54, 2297/55 and 2297/56 shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of ten years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

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 'Dolphingstone Pod 3 Planting Notes & Landscape Maintenance and Management Proposals' document by Brindley Associates dated February 2024.

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.

- 15 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 in advance by the Planning Authority. This report shall include, but not exclusively, 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.

- 16 Notwithstanding that which is shown on the drawings docketed to this approval of matters specified in conditions permission and prior to the commencement of development, a revised scheme for the provision of electric car charging points to serve all of the residential units, and associated infrastructure for them, where feasible and appropriate in design terms, shall be submitted to and approved in writing by the Planning Authority. The scheme shall show 1:1 ratio provision with the installation of one 7kW Type 2 charger per dwelling, either socketed or tethered. Where it is not possible to connect to the household's own electrical supply then a factored arrangement shall be provided.

The scheme shall include a timetable for implementation and details of factoring and maintenance arrangements for any charging units which are to be installed outwith the curtilages of residential units. Development shall thereafter be carried out in accordance with the details so approved and charge points shall be maintained in

accordance with the details so approved and shall remain in place unless otherwise approved by the Planning Authority.

Reason:

To minimise the environmental impact of the development.

COMMITTEE: Planning Committee
MEETING DATE: 19 August 2025
BY: Executive Director for Place
REPORT TITLE: Application for Planning Permission for Consideration

6

Application No. **25/00083/AMM**

Proposal Approval of matters specified in conditions 2 of planning permission in principle 22/00852/PPM

Location **Land Adjacent to Dunbar Landfill Site
Oxwell Mains
Dunbar
East Lothian
EH42 1SW**

Applicant SP Energy Networks

Per Arcadis

Recommendation Consent Granted

REPORT OF HANDLING

The development proposed in this application is, under the provisions of The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, defined as a national development and thus it cannot be decided through the Council's Scheme of Delegation. It is therefore brought before the Planning Committee for a decision.

APPLICATION SITE

The application site has an area of some 146 hectares and stretches from the Broxburn junction of the A1 trunk road in the west, to the coast to the south of Thorntonloch to the east. It has a generally linear shape but includes a larger area situated between the Dunbar Energy Recovery Facility and Dunbar landfill site.

The northwestern part of the site is situated in the countryside on the north side of the A1. The remainder of the site generally consists of more countryside on the southern side of the A1, although the easternmost part crosses back over the A1 to the coast.

The area of land comprising the southeasternmost part of the application site where it meets the coast is within the Thorntonloch to Dunglass Coast Special Landscape Area.

The part of the application site located between the Dunbar Energy Recovery Facility and Dunbar landfill site is within the boundary of the Battle of Dunbar II, a battlefield included within the Inventory of Historic Battlefields.

The part of the application site located between the Dunbar Energy Recovery Facility and Dunbar landfill site is also safeguarded for waste management purposes by Policy W1 of the adopted East Lothian Local Development Plan 2018.

The nearest residential properties to this main part of the application site are located some 450m to the southwest in Easter Meikle Pinkerton.

RELEVANT PLANNING HISTORY

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

The development proposed in this application is required to support and operate the wider Eastern Link 1 project which comprises a new subsea High Voltage Direct Current (HVDC) link between East Lothian, Scotland and Hawthorn Pit in County Durham, England. The Eastern Link 1 project will reinforce the electricity transmission system, enabling large volumes of renewable energy generated in Scotland to be transmitted to England whilst ensuring Scotland remains supported by a secure and stable supply of energy.

On 2 May 2023 planning permission in principle (ref: 22/00852/PPM) was granted for the construction and operation of an onshore converter station, and for associated development including underground electricity cables and landfall at Thorntonloch. The proposal forms part of the Scottish Power Eastern Link 1 project, for a new subsea High Voltage Direct Current (HVDC) link and comprises the following key elements:

- o A new converter station to switch electricity from conventional alternating current (AC) to direct current (DC) for onwards transmission of electricity (or vice versa depending on the direction of operation);
- o Onshore underground high-voltage direct current (HVDC) electricity cables required to deliver electricity from the converter station to a landfall south of Thorntonloch Beach (or vice versa). These cables will connect to the onwards marine cables;
- o Onshore underground high-voltage alternating current (HVAC) electricity cables required to deliver electricity from Branxton substation to the converter station (or vice versa); and
- o A Landfall area where marine cables come ashore and will be joined onto the onshore underground cables.

It was indicated in planning permission in principle 22/00852/PPM that a converter station platform could have a maximum footprint of approximately 300m by 200m and would be located within the larger area of the application site situated between the Dunbar Energy Recovery Facility and the Dunbar landfill site. A converter station housing the electrical infrastructure would be located on the substation platform and the electrical infrastructure could have a maximum height of some 29 metres. The application submissions in planning permission 22/00852/PPM informed that the converter station is likely to comprise several elements to facilitate the conversion from AC to DC (or vice versa):

- o AC Switchgear: To connect the converter station to the existing AC transmission system. This would include a range of equipment including high voltage electrical switchgear, filters and compensation units. The main function of this equipment would be to harmonise the converter AC systems characteristics with the wider transmission AC system;
- o Converter Transformers: These align the converter AC voltage with the wider transmission network voltage. These units are normally sited outdoors within segregated transformer bays. It is anticipated that there will be six (plus one critical spare) single phase transformers in total;
- o Valve Halls: Contain power electronics equipment that convert AC voltages to DC (or vice versa). The suite of converter units cannot be accommodated outdoors and need to be maintained in a controlled environment. Due to the layout of the devices and operating voltage, the DC buildings are usually the tallest within the converter station (maximum 29 m height has been assumed). The semiconductor devices generate heat during operation and require associated localised cooling equipment and wider HVAC plant and systems;
- o DC Hall: Houses the converter high voltage DC equipment including switchgear and network resistors and houses the transition equipment for the connection of the DC cables;
- o Control Building: Contains building services equipment, control panels and associated control room, protection and communication equipment, offices and welfare facilities and other auxiliary systems all located within an enclosed building;

- o Spare Parts Building: To house spare parts and consumable components, supplemented by hardstanding areas provided for storage of spare transformer and spare cable drums; and
- o Additional equipment within the site is likely to include a standby/backup diesel generator and fire deluge storage tanks.

It was indicated in planning permission in principle 22/00852/PPM that the cable route would run generally south-east to north-westwards for some 5.8 km from the proposed site for landfall south of Thorntonloch, under open countryside to the south of Dunbar landfill site, where the proposed cable route would then split so that the HVDC cable runs around the south side of the landfill site, and the HVAC cable runs around the north side of the landfill site to both connect with the converter station.

It was indicated in planning permission in principle 22/00852/PPM that access to the converter station would be provided by a new permanent access road from the existing Dunbar Energy Recovery Facility access road.

Condition 2 of planning permission in principle 22/00852/PPM states:

The submission for approval of matters specified in conditions of this grant of planning permission in principle shall include details of the layout, siting, design and external appearance of the converter station, electricity cables and associated infrastructure, the means of access to them, the means of any enclosure of the boundaries of the site and landscaping (including landscape and visual mitigation) of the site in accordance with the matters listed below. No work shall begin until the written approval of the Planning Authority has been given, and the development shall be carried out in accordance with that approval.

- a) Details of the finished ground levels and finished floor levels of the buildings;
- b) The total height of any building shall not exceed 29 metres from the finished ground levels, as approved. The finished ground level shall be no higher than the highest part of the existing ground level of the site;
- c) Details of the proposed colour treatment of the converter station and any other landscape and visual mitigation (which shall include architectural mitigation) to be incorporated into its design and external appearance;
- d) Details of all external lighting proposed;
- e) Details of the area and positioning of the converter station platform, which shall not exceed a footprint of 300 metres by 200 metres and which shall generally accord with that shown on the drawing titled 'Eastern Link Northern Point of Connection Converter Station and Cable Corridor: Converter Station Layout' Rev 02 docketed to this planning permission in principle;
- f) Details of the final route of the onshore export cables (with proposed micro siting limits), and the locations of any underground joint bay(s); and

g) Details of the siting, design and external appearance of any permanent above ground features associated with the onshore export cables.

In this condition, the converter station means all the electrical equipment, ancillary equipment, internal roads and any perimeter security fence to be located on the converter station platform, as indicatively described in Chapter 4 (Development Description) of the Environmental Impact Assessment Report docketed to this planning permission in principle.

No part of the development hereby approved under that application for approval of matters specified in conditions shall be begun on the site until all of the above details pertaining to such development have been submitted to and approved in writing by the Planning Authority.

Reason:

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

PROPOSAL

Through this application, permission is sought for the approval of matters specified in condition 2 of planning permission in principle 22/00852/PPM, so for the detail of the layout, siting, design and external appearance of the converter station, electricity cables and associated infrastructure, the means of access to them and the means of any enclosure of the boundaries of the site and visual mitigation.

The proposed converter station platform would have a footprint of some 300 metres by 200 metres and would be located within the larger area of the application site situated between the Dunbar Energy Recovery Facility and the Dunbar landfill site.

The converter station itself would comprise of eight buildings, an HVDC building, two ACY-ACF buildings, a service building, a storage building, two cooling buildings and a fire protection building. The buildings all take the form of simple, pitched roof industrial buildings clad in vertically orientated composite cladding panels. The composite cladding panels would comprise of a mix of colours to include anthracite (RAL 7016), Squirrel Grey (RAL 7000), Light Grey (RAL 7035) and Pure White (RAL 9010) and arranged to provide a graduation in colour bandings from dark to light from the bottom to the top of the buildings. The roof of the buildings would be clad in a standing seam roofing system coloured Pure White (RAL 9010).

The maximum building height would be 25.85m above the finished ground level, which would be the HVDC building. As a comparison, the highest point of the largest component of the existing Dunbar Energy Recovery Facility building is some 47 metres in height.

The converter station would also include external electrical and other equipment including transformers, fan cooling areas, water storage tanks, oil tank, oil separator, switchrooms, diesel generators and a wastewater tank.

It is proposed that the converter station would be contained within security fencing with access gates. The proposed perimeter security fencing would comprise of inner lengths of 3m high palisade fencing topped with post and wires, with an outer security fence being 2.4m high palisade fencing. Two sets of 3m high metal sliding gates would facilitate access from a new access road into the converter station.

Manual and sensor controlled external lighting would be located across the site and will be mounted on individual columns and on buildings and structures. The lighting is to be designed as such to minimise the environmental impacts of glare and light spill. The applicant has submitted an external lighting schedule which demonstrates that there would be zero upward light and all lighting is dark sky approved, which would not constitute light pollution or light trespass given the low level.

Access to the site would be by way of a new access road taken from the existing access road to the Dunbar Energy Recovery Facility. A new footway would be provided along the side of the new access road.

Car parking and vehicle turning would be provided on the converter station platform, with 20 car parking spaces for the use of operations and/ or maintenance staff who will be required to operate, monitor, and maintain electrical equipment and plant. Of the 20 spaces, 4 spaces would be accessible parking bays and a minimum of 5 spaces would be provided with EV charging points.

The application drawings show the route of the underground cables from landfall to the converter station with a micro siting limit either side of the cable route, and the location of underground joint bays. The access points to the underground joint bays would be enclosed by 1.5m high timber fencing.

THE DEVELOPMENT PLAN

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

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

NPF4 identifies 18 national developments that are significant developments of national importance. National development 3 of NPF4 (Strategic Renewable Electricity Generation and Transmission Infrastructure) supports renewable electricity generation, repowering, and expansion of the electricity grid. National development 3 informs that the electricity transmission grid will need substantial reinforcement including the addition of new infrastructure to connect

and transmit the output from new on and offshore capacity to consumers in Scotland, the rest of the UK and beyond. Whilst National development 3 references a Scotland wide rather than a specific location, the south of Scotland (including East Lothian) is identified for delivering new and/or upgraded infrastructure directly supporting on and offshore high voltage electricity lines, cables and interconnectors including converter stations, switching stations and substations.

The development approved by planning permission in principle 22/00852/PPM would enable the transmission of renewable electricity and would contribute to the delivery of infrastructure of national importance. The infrastructure is a key element in the provision of renewable energy and will ensure progress towards achieving net zero and a decarbonised economy. As transmission infrastructure to support renewable energy technology, it is also part of National Development 3 and is thus supported by NPF4.

In terms of Policies 1, 2 and 3 of NPF4, the contribution this development could make to addressing the climate and nature crises (Policy 1), to make adjustments or incorporate features that reduce greenhouse gas emissions (Policy 2), or to protect, conserve, restore and enhance biodiversity (Policy 3), is largely predetermined by the previous grant of planning permission in principle 22/00852/PPM.

Therefore Policy 14 (Design, quality and place) of NPF4 is relevant to the determination of this application. Also relevant to the determination of the application are Policies DP1 (Landscape Character), DP2 (Design), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the East Lothian Local Development Plan 2018.

REPRESENTATIONS

None

COMMUNITY COUNCIL COMMENTS

East Lammermuir Community Council have been consulted on the application and no response has been received.

PLANNING ASSESSMENT

The principle of the siting of an onshore converter station, electricity cables and associated infrastructure, the means of access to them, the means of any enclosure of the boundaries of the site and landscaping (including landscape and visual mitigation) are already decided by the grant of planning permission in principle 22/00852/PPM.

Therefore, in the determination of this application the Council, as Planning Authority, can only concern itself with the layout, siting, design and external appearance (including architectural mitigation) of the converter station, electricity cables and associated infrastructure, the means of access to them

and the means of any enclosure of the boundaries of the site. In this regard the detailed proposals have to be considered against relevant development plan policy and the requirements of condition 2 attached to planning permission in principle 22/00852/PPM.

The layout proposed through this approval of matters application for the converter station, electricity cables and associated infrastructure, the means of access to them and the means of any enclosure of the boundaries of the site is broadly consistent with the indicative layout docketed to planning permission in principle 22/00852/PPM.

The proposed converter station is an essential component of the Eastern Link 1 project which will reinforce the electricity transmission system, enabling large volumes of renewable energy generated in Scotland to be transmitted to England whilst ensuring Scotland remains supported by a secure and stable supply of energy.

Amongst other matters policy DP1 of the East Lothian Local Development Plan 2018 requires that all new development, with the exception of changes of use and alterations and extensions to existing buildings, must be well integrated into its surroundings by responding to and respecting landform.

Policy DP2 requires, amongst other matters, that the design of all new development, with the exception of changes of use and alterations and extensions to existing buildings, must be appropriate to its location in terms of its positioning, size, form, massing, proportion and scale and ensure privacy and amenity, with particular regard to levels of sunlight, daylight and overlooking, including for the occupants of neighbouring properties.

The proposed development would be aligned with the existing pattern of industrial development along the north side of the A1 in this location within East Lothian, situated to the east of Dunbar Cement Works between the Dunbar Energy Recovery Facility and Dunbar landfill site, with the east coast main line to the north of it and a quarry beyond. The site sits at a lower level to the A1 trunk road and would be screened to a certain degree by a combination of existing built structures, screening landforms and structural vegetation that contribute to the containment of impacts on neighbouring seascape, landscape and visual receptors.

The application drawings show that the external walls of the buildings and their roof cladding would be finished in vertically orientated composite cladding panels coloured anthracite (RAL 7016), Squirrel Grey (RAL 7000), Light Grey (RAL 7035) and Pure White (RAL 9010). It is proposed that cladding panels would be fitted so to provide a banding graduation of colours from dark to light (bottom to top).

The overall composition of the converter station site would have a coordinated approach to the façade design across the different buildings so that, although separate, they would look cohesive in views within the wider landscape. The graduation of colour on the cladding panels and their banding effect would help

minimise the visual impact of the buildings and create a cohesive composition of buildings to help blend them into the sky around the coastline, and would take some recognition of colours on the nearby Torness Power Station. The smooth faced, vertically orientated composite cladding panels would provide an unbroken appearance, avoiding unnecessary shallow articulations and recesses. The colour pattern would help to visually reduce the impact of the large buildings, by not having large, solid blocks of one colour, which would only emphasize the mass of the larger buildings. This approach would assist in reducing the apparent overall massing and improve the visual coalescence of the site.

The **Council's Senior Landscape Officer** advises that the colour banding with grey colours that transition from darker grey at the base to lighter grey at the top would help to reduce the perceived height of the buildings, helping them to blend into the skyscape when seen in views from the coast. The Senior Landscape Officer also notes that the stepping of the coloured bands would help to reduce the overall perceived width of the buildings and therefore would reduce the prominence of these large structures in the wider environment. The Senior Landscape Officer also advises that the colour palette would help the buildings be read with the adjacent structures.

When seen in this context the proposed development would successfully integrate into its landscape setting and would not appear harmfully prominent, incongruous or intrusive within the surrounding landscape.

The requirement for a detailed scheme of landscaping is embodied in Condition 13 of planning permission in principle 22/00852/PPM and therefore remains in force. The approval of this matters as specified in Condition 13 is not sought through this application but remains in force. Thus, there is no requirement to also secure this again through conditions attached to this approval of matters specified in conditions application.

The proposed converter station would be located at a considerable distance away from residential properties in the area. It would not give rise to a harmful loss of privacy or amenity to any residential property.

The requirement for the submission of a Construction Environmental Management Plan (CEMP) to identify and minimise any potential noise and dust impacts that may arise during construction of the proposed development is embodied in Condition 5 of planning permission in principle 22/00852/PPM. The approval of these matters as specified in Condition 5 are not sought through this application but remain in force. Thus, there is no requirement to also secure these again through conditions attached to this approval of matters specified in conditions application.

In all of the above the proposals are consistent with Policy 14 of NPF4 and Policies DP1 and DP2 of the East Lothian Local Development Plan 2018.

The requirement for a Species Mitigation and Management Plan and Habitat Management and Enhancement Plan is embodied in Conditions 18 and 19 of

planning permission in principle 22/00852/PPM and therefore remain in force. The approval of these matters as specified in Conditions 18 and 19 are not sought through this application but remain in force. Thus, there is no requirement to also secure these again through conditions attached to this approval of matters specified in conditions application.

The **Council's Roads Services** raise no objection to the proposed development, satisfied the arrangements for access are acceptable and would not result in a road or pedestrian safety hazard, consistent with Policies T1 and T2 of the East Lothian Local Development Plan 2018.

The requirement for a Construction Traffic Management Plan is embodied in Condition 8 of planning permission in principle 22/00852/PPM and therefore remains in force. The approval of this matter as specified in Condition 8 is not sought through this application but remains in force. Thus, there is no requirement to also secure this again through a condition attached to this approval of matters specified in conditions application.

Historic Environment Scotland have been consulted on the application and make no comment on the proposals.

Scottish Water raise no objection to the application.

The **Council's Team Manager – Structures and Flooding** raises no objections to the application on the grounds of flooding or drainage. The Scottish Environment Protection Agency (SEPA) also raise no objection to the application.

Network Rail raise no objection to the application.

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 proposal's accordance with the Development Plan.

RECOMMENDATION

That approval of matters specified in conditions be granted subject to the following conditions:

- 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 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.

- 2 Prior to the commencement of development, samples of the composite cladding panels to clad the buildings, including their colour, and a sample of the roof cladding for the buildings, including its colour, shall be submitted to and approved by the Planning Authority. The external finishes used in the development shall conform to the details so approved.

Reason:

To ensure the development is of a satisfactory appearance in the interest of the landscape character of the area.