
COMMITTEE: Planning Committee

MEETING DATE: 4 November 2025

BY: Executive Director for Place

REPORT TITLE: Application for Planning Permission for Consideration

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Note: This consultation was called off the Scheme of Delegation List by Councillor Collins for the following reason: Extreme local concerns about the project and its potential impact on the local area.

ECU Application: ECU00004815 / ELC Reference: 25/00003/SGC

Proposal	Electricity Act 1989 – Application to construct and operate a solar development, electricity generating station and associated infrastructure
Location	Land located approximately 7.8km Southeast of Dunbar
Applicant	Voltalia UK Limited Per Alexander Hamilton The Wheelhouse Bond's Mill Estate Stonehouse Gloucestershire GL10 3RF
Ward	06 Dunbar and East Linton
Date	14 October 2025

REPORT

In Scotland, any proposal to construct, extend, or operate an onshore electricity generating station with a capacity of 50 megawatts (MW) or over requires the consent of Scottish Ministers under Section 36 of the Electricity Act 1989. Such applications are processed on behalf of the Scottish Ministers by the Energy Consents Unit ("ECU"). Onshore generating stations which will have a capacity of less than 50MW when constructed are not within the scope of the Electricity Act, and such proposals require an application for planning permission to be submitted to the relevant local planning authority. A battery energy storage system is to be treated as an electricity generating station.

The ECU consults East Lothian Council on all Section 36 applications within East Lothian. At the Council meeting of the 27 February 2024 a new procedure for processing Section 36 consultation requests was approved. It was agreed that once the consultation response has

been completed by the Planning Service it will be placed on the Committee Expedited List. Members then have seven days in which to request referral to Planning Committee. Otherwise, the consultation response is deemed to be accepted and the Service Manager for Planning shall be authorised to proceed on that basis.

The ECU have consulted the Council in respect of a proposed solar farm and battery energy storage system on land located approximately 7.8km southeast of Dunbar, East Lothian. The consultation response completed by the Planning Service is attached as Appendix 1.

RECOMMENDATION

It is recommended that the content of Appendix 1 is approved as the Council's consultation response to the ECU.

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Sent via email to econsents_Admin@gov.scot Cc
David King david.king2@gov.scot

ENERGY CONSENTS UNIT (“ECU”) CONSULTATION: PROPOSED SOLAR FARM AND BATTERY ENERGY STORAGE SYSTEM ON LAND LOCATED APPROXIMATELY 7.8KM SOUTHEAST OF DUNABR, EAST LOTHIAN (REFERRED THROUGHOUT THIS REPORT AS “SPRINGFIELD SOLAR & BESS”), EAST LOTHIAN COUNCIL’S RESPONSE

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 Solar Farm and 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.

SITE

The application site covers approximately 184 hectares and is located approximately 50 metres north of Oldhamstocks and 7.8 kilometres southeast of Dunbar. It comprises 20 agricultural fields, designated as a mix of Class 3.1 and 3.2 agricultural land, primarily used for rotational arable and livestock farming, interspersed with areas of woodland.

The proposed solar farm and associated infrastructure would span 15 of these fields, with an estimated generating capacity of approximately 165 MW. The precise number of solar panels has not been specified, as this would depend on the technology available at the time of procurement. A Battery Energy Storage System ("BESS") and associated infrastructure are proposed at the northern end of the site, with an estimated capacity of 80 MW.

The nearest residential properties include Oldhamstocks Mains Cottages and Farmhouse, which are encompassed by the site boundary. Agricultural fields to the east, south, and west of these properties are proposed to accommodate solar panels. Additional nearby residential groupings include Birnieknowes (approx. 150 m north), Springfield (approx. 100 m east), Cocklaw Cottages (approx. 330 m west), and the village of Oldhamstocks (approx. 50 m south) from the site boundary.

The Bilsdean Burn watercourse flows west to east through the site, along with several smaller burns and field drains. A core path is also located at the southern end of the site, providing a connection between Oldhamstocks and Dunglass.

The site lies within an area of countryside as defined by Policy DC1 of the adopted East Lothian Local Development 2018 ("ELLDP"). Several designated sites are located within the site boundary:

- Scheduled Monument - Oldhamstocks Mains, enclosure (SM5891);
- Oldhamstocks Conservation Area (CA288);
- Monymut to Blackcastle Special Landscape Area ("SLA"); and
- Two areas of Ancient Woodland (Cockit Hat Strip and unnamed long-established woodland).

The Applicant has undertaken an Environmental Impact Assessment ("EIA") and produced its findings in the EIA Report ("EIAR"). The EIAR informs readers of the nature of the Proposed Development, likely significant environmental effects and measures of mitigation proposed to protect the environment during site preparation, construction, operation and decommissioning.

PROPOSAL

The proposed development would have an estimated generating capacity of up to 165 MW from solar PV modules and 80 MW from BESS for an operational period of 40 years. The proposed development would consist of the following aspects:

- Solar panels (quantity not specified);
- 16 inverters;
- Up to 40 battery energy storage units;
- Up to 20 Power Control System (PCS) boxes;
- 10 MV transformers;
- Customer substation;
- Operations and Maintenance building;
- New and existing access tracks;
- Three watercourse crossings;

- Fencing;
- CCTV;
- Lighting;
- Temporary construction compound; and
- Biodiversity enhancement and management

The proposed development would connect to the consented Branxton Substation which is to be constructed approximately 1.2 km north of the site. The Transmission Network Operator (“TSO”) would be responsible for assessing, designing and obtaining consent for the connection therefore does not form part of the application for the proposed development.

The site would be accessed by a number of on-site access tracks. Chapter 3 of the EIAR notes that the main entrance would be via the northern boundary off the C120 road. Figure 3.1 (Site Layout Plan) illustrates a number of access tracks proposed off a number of roads north of Oldhamstocks to allow access across the 15 agricultural fields where the development is proposed. The proposed BESS facility would include two points of access off the C120.

The construction of the proposed development would take approximately 18 months including a temporary construction compound and laydown area southwest of the proposed BESS. Once completed, it is expected that maintenance activities would be restricted to vegetation management, equipment/infrastructure maintenance and servicing and monitoring to ensure the continued effective operation of the proposed development.

Once the proposal has reached the end of its operational life, approximately 40 years, it would need to be decommissioned. Following the conclusion of the operational period all PV panels, BESS and associated equipment would be removed from the proposed development area and then the site restored to an agreed condition.

The EIAR presents inconsistencies between the development description in Chapter 3 and the supporting figures, with specific reference to the transformers, PCS boxes and inverters.

There are 10 transformers and 20 PCS boxes proposed which paragraph 3.2.3.8 states they will be positioned alongside the BESS containers. The paragraph further states that their indicative locations are shown on Figure 3.1 (Site Layout Plan). Figure 3.1 illustrates transformers positioned through the site, whilst no PCS boxes are shown. Additionally, 16 inverters are proposed as stated in paragraph 3.2.2.5 which are said to be shown in Figure 1.2 (Site Layout Plan). There are no inverters shown on this figure.

Figure 3.1 and figure 1.2 (Site Layout Plan) also illustrate a TSO substation which would take the form of a combination of overhead line and underground cables. Chapter 3 states that the grid connection would be considered as part of any future application for consent made by the TSO. The omission of details and assessment regarding the TSO substation and associated cabling is a concern as this would form an integral part of the development.

Given the scale of the proposed development, there is a lack of sufficient figures to fully convey the layout and components of the site. It is recommended that enlarged and focused site layout plans are provided for distinct sections of the site, with particular emphasis on the BESS facility and proposed fencing.

THE DEVELOPMENT PLAN

This application is made under the Electricity Act 1989 and not the Planning (Scotland) Act, 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 the 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)

DC9 (Special Landscape Areas)
 NH3 (Protection of Local Site and Areas) NH4 (European Protected Species)
 NH5 (Biodiversity and Geodiversity Interest, including Nationally Protected Species), NH7 (Protecting Soils)
 NH8 (Trees and Development)
 NH11 (Flood Risk)
 NH12 (Air Quality)
 NH13 (Noise)
 CH2 (Development in Conservation Areas)
 CH4 (Scheduled Monuments and Archaeological Sites) CH6 (Gardens and Designed Landscapes)
 T2 (General Transport Impact)
 T4 (Active Travel Routes and Core Paths as part of the Green Network Strategy) DP1 (Landscape Character)
 DP2 (Design)
 SEH2 (Low and Zero Carbon Generating Technologies).

REPRESENTATIONS

East Lothian Council has received 51 representations, all of which make objection to the proposed development. The main grounds of objection are summarised in Table 1 below.

Table 1: Summary of Objections

Topic	Comments
<i>Agricultural Land & Food Security</i>	- loss of prime, productive farmland which is vital for local and national food production; - inappropriate use of agricultural land for an industrial-scale solar development; and - concerns that importing food due to land loss will increase prices and reduce food security.
<i>Environmental & Biodiversity Impact</i>	- the destruction of habitats, hedgerows and wildlife corridors; - threats to biodiversity including bird strikes, pollinators and protected species; and - contravention of biodiversity frameworks including the UN Convention on Biological Diversity, Scottish Biodiversity Strategy, and the Kuming-Montreal Framework.
<i>Landscape & Visual Impact</i>	- cumulative landscape overload from multiple energy projects; - visual intrusion on rural and coastal views, particularly near Oldhamstocks; and - inadequate LVIA omitting key viewpoints and underestimating the impact.
<i>Community, Amenity & Wellbeing</i>	- the industrialisation of a rural conservation area will affect the community character; - there will be negative psychological and social effects, including fear, intimidation and reduced quality of life as a result of the proposed development; - the loss of access to the countryside and core paths will impact on recreation and mental well-being; and - there are concerns about women's safety with particular reference to the high and extensive lengths of fencing proposed.
<i>Traffic, Safety & Infrastructure</i>	- there will be a significant increase in construction traffic, including HGVs; - fire and safety risk presents, especially from BESS; - there are flooding and watercourse contamination risks; and - there is a lack of emergency planning and fire mitigation.
<i>Economic Viability & Property Impact</i>	- the financial viability of the proposed development is questionable (with citation of a study by Professor Gordon Hughes); - there is no evidence of power generation modelling or economic justification for the proposed development; and - there are concerns of devaluation of nearby properties, with some considered unsellable.

<i>Policy & Legal Noncompliance</i>	- the proposed development breaches multiple NPF4 and ELLDP policies; - the submitted EIAR breaches the EIA Regulations 2017, especially regarding cumulative effects and accident hazards; and - the proposed development results in the violation of the Land Reform (Scotland) Act 2003 and Aarhus Convention.
<i>Consultation & Process Failures</i>	- a lack of meaningful public consultation and transparency has been identified; - the EIAR has misleading or incomplete information; and - the assessment fails to address all of the scoping opinion requirements.
<i>Alternative Solutions Ignored</i>	- there are better, less harmful sites that have not been considered; and - community-led solar proposals have been dismissed due to alleged lack of connectivity.

Of the 51 representations received, two objections were submitted in the form of substantial, detailed documents prepared by organised community groups: Save Our Rural East Lamhermuir Landscape (“SORELL”) and the Oldhamstocks Community Association (“OCA”). These objections have been summarised separately below.

The objection received by SORELL presents a comprehensive evidence-based objection on the proposed development which outlines planning policy breaches, environmental concerns and failures in community engagement. The document spans 80 pages and includes technical assessments of the EIAR chapters, review of statutory consultee feedback and community survey data. This objection is referenced and endorsed by many other representations objecting to the proposed development and East Lamhermuir Community Council.

The objection states that across the EIAR, there are recurring and material failures which are identified as follows:

- widespread breaches of NPF4;
- failure to meet scoping requirements;
- absence of cumulative impact assessments;
- omission of critical assessment;
- unsubstantiated claims of Biodiversity Net Gain (“BNG”);
- insufficient mitigation and lack of enforceable monitoring mechanisms; and
- inadequate public consultation.

The objection received by the OCA outlines four key grounds of objection which include the noncompliance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017, conflicts with NPF4 policies, no effective community engagement and unmet scoping responses. The OCA endorses the objection submitted by SORELL and references this throughout their objection.

COMMUNITY COUNCIL COMMENTS

East Lamhermuir Community Council

East Lamhermuir Community Council (“ELCC”) objects to the proposed development. A comprehensive document has been submitted by the community council which has been summarised below.

People, Place and Planet

Whilst ELCC acknowledges the importance of contributing to Net Zero goals and supports well-sited solar developments, the proposed development is seen as deeply harmful to the local community, offering no clear benefit to residents, the owners, or the planet. The community council are not persuaded that the proposed development can be classed as “essential infrastructure” and is viewed as contrary to planning policies protecting agricultural land and

community wellbeing.

Scope of the Submission

ELCC represents four villages, Oldhamstocks, Innerwick, Spott and Stenton, with Oldhamstocks Parish most affected. The Community Council endorses the SORELL submission (as discussed above) and requests it be treated as part of ELCC's statutory response. ELCC also recognises and supports the many individual objections submitted by residents.

ELCC Position

ELCC formally objects to the proposal and requests Scottish Ministers to refuse consent or call a Public Local Inquiry ("PLI") to fully examine the planning, environmental, and legal issues. ELCC also calls for a broader inquiry into the cumulative impact of 15 energy developments in East Lammermuir, noting that the EIAR fails to account for several nearby projects and infrastructure works.

Summary of Local Views

A survey of Oldhamstocks Parish (which is detailed in an appended annex) shows an overwhelming opposition to the proposed development, noting 93% strongly oppose and only 1% strongly supports. This confirms ELCC's mandate to object on behalf of the community.

Primary Reasons for Objection

The primary reasons for objecting include:

- significant breaches of multiple NPF4 policies, including those on biodiversity, natural assets, carbon reduction, blue and green infrastructure, and human health;
- inadequate landscape and visual impact assessment;
- failure to address statutory scoping requirements and significant stakeholder concerns;
- procedural errors and omissions within the EIAR;
- lack of meaningful public engagement and consultation; and
- unmistakable evidence of cumulative spatial overload and overdevelopment of East Lothian's rural landscape.

Supporting Reasons for Objection

Additional arguments from the community council are summarised below:

- the proposal does not take into account the validated East Lammermuir Local Place Plan;
- the development is unlikely to offset its own carbon footprint, especially with a delayed grid connection of October 2031; and
- key documents were inaccessible or prohibitively expensive, limiting public participation and violating environmental rights and as such demonstrating non-compliance with the Aarhus Convention.

The objection also includes five annexes to support the document which includes survey results from the local community in relation to the proposed development, comparative imagery of the scale and size of the proposed development, a detailed analysis of an economic case for the proposed

development, a carbon assessment of the proposed development and a list of examples of unavailable data within the submitted application.

West Barns Community Council

West Barns Community Council (“WBCC”), a neighbouring Community Council, also provides a response objecting to the proposed development outlining the following concerns:

- the developer’s public consultation was poor, with staff unable to answer key questions about the proposal, visual materials and fire safety;
- there is no evidence that alternative brownfield sites were considered before selecting this location;
- The development is very large and would have a significant, industrialising effect on the landscape;
- The proposed development, the largest of many in the area, would contribute to an unacceptable cumulative loss of productive farmland;
- construction would worsen safety on the A1, which already has dangerous junctions and a poor accident record. Developer contributions to junction upgrades are needed if approved;
- the project would add to existing road safety concerns on narrow rural roads. Developer contributions and adherence to local codes of practice are necessary if consented;
- the proposal would harm the setting of Oldhamstocks, with fences and panels close to property boundaries, contrary to local planning policy;
- the development would block established public rights of way, breaching access legislation and planning policy;
- key species and wildlife corridors would be affected by fencing and loss of hedgerows, contrary to biodiversity policies;
- the development would adversely affect the local economy and community, contrary to planning policy; and
- there are unresolved fire safety risks with the battery storage system, especially given its location and emergency access limitations, contrary to planning policy.

WBCC understand the desire to move towards net zero and a greater use of renewable technologies, however *‘it is felt that the long-term negative impacts on the environment and community both directly at Oldhamstocks but also more widely in the Dunbar and East Linton Ward, of this development outweigh any benefits of a renewable energy project.’*

East Lothian Council recommends that the ECU should carefully take into account the strong concerns and views of ELCC and WBCC 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 other issues that require to be considered. This is in line with Policy 11 of NPF4 which lists 13 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 and solar are technologies 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 comments on the proposed development and acknowledged the positive effects it would have on the climate emergency. They state that *'by simultaneously reducing emissions from agriculture and supporting decarbonisation of grid electricity, this development could significantly reduce East Lothian's greenhouse gas emissions. The complete and transparent greenhouse gas lifecycle assessment is particularly welcome.'*

However, they further note that *'the development would also result in a significant loss of agricultural land, which could result in East Lothian relying on imported food.'* They conclude that whilst *'Overall, the climate mitigation benefits are noted, but there may be overriding concerns with the development due to its scale and location. Any decision will need to carefully weigh these competing priorities.'*

NOISE AND VIBRATION

The agent has undertaken a Noise and Vibration Report which assesses the potential for significant noise and vibration effects arising from the construction, operation and decommissioning of the proposed development.

The **Council's Environmental Health Officer** has been consulted, and they state that the Noise Report assumes that mitigation in the form of 4.5m acoustic barrier with cantilever surrounding each Central Inverter Transformer and 3.5m acoustic barriers surrounding groups of BESS container, Power Conversion Systems, and MV Transformers, as presented in Figure 3.14 will be provided. However, the specific locations and extent of these barriers within the development site is not provided.

They request that clarity is provided on the specific locations and extents of any barriers referred to in Figure 3.14 of the Noise Report.

In the absence of the specific locations and extents of any acoustic barriers, the Council **objects** to the application in relation to **Noise and Vibration**.

CONTAMINATED LAND

The **Council's Senior Environmental Compliance Officer** has provided comments on the EIAR with particular regard to the section on ground conditions and notes that a Phase 1 has already been undertaken. They state that the findings of the Desk Study concluded that the maximum risk to the identified receptors was Low – Moderate when considering contaminated soils, harmful ground gases and the potential for contaminants to leach into the water environment. The recommendations are for wider ground investigations to identify any contaminants or potential ground gas sources at the Site with subsequent updates to the Conceptual Site Model. There is also an acknowledgement that the site lies within a high Radon Probability area (Class 5: 10 to 30% of properties are at or above the radon action level).

They would recommend that a condition is attached to ensure an appropriate Geo-Environmental Assessment and Remediation Statement are undertaken. In addition, they provided the following advisory note with regards to Radon Risk Areas:

'According to the latest Radon Mapping the proposed development site lies within a Radon Affected Area meaning it may require radon protection measures to be installed in accordance with relevant Building Standards legislation and appropriate guidance. It would be advisable to obtain a Site-Specific Radon Report to determine the actual radon potential for the site.'

SOILS

The proposed development site comprises predominantly agricultural land, of which approximately 20 hectares are classified as prime agricultural land (Class 3.1). In addition, around 160 hectares fall under Class 3.2, and approximately 3 hectares are classified as Class 6.1. This means that prime agricultural land accounts for approximately 12% of the total application site. This is clarified within paragraph 13.6.1.19 of Chapter 13 (Socioeconomics, Land Use, tourism and Recreation) of the EIAR.

NPF4 includes a strong policy presumption against development on prime agricultural land. There is one exception for the loss of prime agricultural land which is where the proposal is for 'essential infrastructure and there is a specific locational need and no other suitable site' as outlined in Policy 5 of NPF4. 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.

FLOOD RISK AND THE WATER ENVIRONMENT

Consultation was undertaken with the **Council's Structures and Flooding Team Manager** who highlighted that SEPA's Flood Hazard Mapping indicates that parts of the application site may be at risk from a surface water flood event with a return period of 1 in 200 years. These areas are fully limited to nearby the watercourses running through the application site which are the 0.5% annual risk of a flood occurring in any one year.

In relation to the EIAR, the proposed development is supported by a Flood Risk Assessment ("FRA") which was primarily desk-based rather than a hydraulic modelling-based FRA. The Council's Structures and Flooding Team Manager states that paragraph 9.4.3.6 of Chapter 9 (Water Resources and Flood Risk) indicates that the PV arrays are *"at risk of flooding in the baseline 1 in 200 year (+39% allowance for climate change) scenario"*. However, the depths are stated to be well below the 0.8m base height of the panels.

The Council's Structures and Flooding Team Manager outlines that this type of development has an increased risk of surface water runoff and as such would need to ensure that:

- The formation of any newly formed hard surfaces such as access roads should be attenuated to at least existing Greenfield runoff rates so that there is no increased effect on downstream receptors. Likewise, any discharges from SUDS and other drainage should be kept to existing Greenfield runoff rates. There will be an increased effect due to the hardstanding required for the infrastructure.
 - Chapter 9.6.1.1 states that *"The final detailed design of the BESS, substation, and construction compound will incorporate sustainable drainage systems (SuDS) to control runoff rates and provide pollution control measures. The drainage design will establish surface water interception and discharge measures for hardstanding areas in accordance with local and national best*

practice SuDS guidance and policy which will prevent an increase in surface water runoff and provide protection to the receiving water environment”.

- Within the Technical Appendix Chapter 6.3.4, the existing greenfield runoff rate has been calculated (1.1l/s at a 1 in 200 year flood). The applicant has proposed a limit of 5l/s. They would ask the applicant to limit the greenfield runoff to existing rates, so a maximum of 1.1l/s. The document the applicant references is 9 years old and since, ELC require to limit to existing rates.
- If there are to be any culverts, watercourse crossings or alterations to crossings, these must not reduce the flow conveyance of the watercourse.
 - Chapter 9.4.7.2 of the FRA states that there will be three watercourse crossings. Details are not yet known and these *“details of watercourse crossings will be provided as part of the Construction Method Statement secured through the final CEMP”.*
- Details of the silt traps and any other functions that the applicant proposes to minimise the amount of sediment entering the water course should be submitted.
 - SEPA should be consulted on the environmental pollution risks.
- No flooding to property at 1 in 200 year + CC flood event and no surcharging of drainage at 1 in 30-year event.
 - The FRA shows this site looks to comply; however, this is dependent on any changes due to greenfield runoff rate query above.

During construction, as stated in the FRA, it would be expected that the on-site risk for a number of issues including flood risk would be mitigated. These measures are detailed in Chapter 9’s technical appendix and seem appropriate.

The Council’s Structures and Flooding Team Manager encourages the applicant to look at their mitigation and surface water attenuation e.g. SUDS pond / retention at the earliest opportunity to mitigate the risks posed by this proposal.

It is recommended that additional information and clarification/corrections with regards to greenfield runoff, watercourse crossings and silt traps should be provided within the existing report to address the concerns above.

In the absence of this further and corrected information the Council **objects** to the application in relation to **Flood Risk** and the **Water Environment**.

BIODIVERSITY

The proposed development is supported by Chapter 8 (Ecology and Nature Conservation) along with supplementary appendices and Planning Statement. The **Council’s Biodiversity Officer** has raised multiple concerns regarding biodiversity impacts, policy compliance and insufficient mitigation which are summarised in Table 2 below. Their comments are appended in full to this report (Annex A).

Table 2: Summary of Biodiversity Concerns

Topic	Comments
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Policy Compliance	- NPF4 Policy 1 (Climate & Nature Crises): while solar panels supports climate goals, biodiversity concerns remain unaddressed; - NPF4 Policy 3 (Biodiversity): the EIAR fails to demonstrate significant biodiversity enhancement or ecological connectivity; - NPF4 Policy 4 (Natural Places): concerns raised regarding the Shadow Habitats Regulations Appraisal; and - ELLDP Policies NH3–NH5, DP1, DP2: multiple areas of non-compliance identified.
Protected Species	- bats: mitigation advice is not clearly reflected in the submitted plans; - badgers: lack of clarity on badger gate placement and methodology; - red squirrels: Protected Species Survey Report does not detail clearly any mitigation proposed and enhancements may need to be included; and - otters and water voles: surveys incomplete due to land access issues however no evidence of species was found. Restoration of watercourses is recommended which would indirectly benefit otter and water vole.
Habitat & Connectivity	- there is a loss of 61.46 ha of habitat acknowledged, but biodiversity net gain is not demonstrated; - Outline Habitat Enhancement Management Plan (“oHEMP”) lacks robust ecological connectivity and long-term guarantees; - the proposed 2m high fencing is extensive which may unnecessarily fragment habitats and restrict species movement; and
Topic	Comments
	- no evidence has been provided that proposes shade-tolerant mixes which are viable or ecologically beneficial.
Survey & Reporting	- timing mismatch between the Protected Species Survey (May 2025) and oHEMP (April 2025); - no ecological assessment or mitigation provided for habitats along construction traffic access routes; and - no reference to bat-friendly lighting guidelines.

In conclusion, the Council **objects** to the application in relation to **Biodiversity** due to insufficient evidence to demonstrate ecological connectivity of the site, no guarantee of biodiversity enhancements and as such is contrary to NPF4 Policy 3 and there is a lack of clarity on whether the protection of and mitigation for European Protected species has been applied.

LANDSCAPE AND VISUAL IMPACT

The **Council’s Landscape Project Officer** has provided comments on the application, and the full response is appended to this report (Annex B). They have reviewed the Landscape and Visual Impact Assessment (“LVIA”) forming part of the EIAR, and visited the site and viewpoints, and have highlighted a number of concerns regarding the lack of clarity in reasoning, insufficient justification for key conclusions and underestimation of effects in some instances. These concerns are summarised within Table 3 below.

Table 3: Summary of Landscape Concerns

Topic	Comments
LVIA Methodology	- the methodology used broadly follows 'Guidelines for Landscape and Visual Impact Assessment: Third Edition' ("GLVIA3") principles; however, it appears not to have been applied consistently throughout the assessment; - the Council was not consulted on the 'Visualisation types', and further they are not labelled clearly, which limits our capacity to verify their accuracy; - no bare-ground ZTVs have been included, contrary to NatureScot guidance; - the Zone of Theoretical Visibility ("ZTV") figures lack clarity on the inclusion of BESS and substation visibility; - there is no evidence that the assumed woodland screening height (15m) used in the ZTVs has been verified in the field, which casts doubt over the accuracy of the figures; - areas of felled woodland identified in the baseline have not been modelled as such in the ZTVs, which may overstate the screening effect shown in the figures; and - there is no evidence that the projected mitigation planting growth rates have been calibrated to the local geography and climate.
Scope of Assessment	- the final viewpoint list was not agreed with the Council and key requested viewpoints have been omitted; and - the Residential Visibility Amenity Assessment ("RVAA") excludes properties beyond 100m without robust justification. - insufficient justification has been given to 'scope out' detailed assessment of the local road, Core Path, and homes around Oldhamstocks Burn to the west of the Application Site - the assessment does not sufficiently address how the potential impacts of the proposed development might interact with different phases of the baseline schemes referenced in section 6.6.4.3 and Table 6.1.
Design & Mitigation	- for most of the landscape and visual receptors, the LVIA states that the magnitude of change persists through all development stages, which suggest the effects cannot be removed or even reduced by the proposed mitigation; and - the proposed hedgerow management to a higher height would partly conflict with the 'Management Guidelines' for the Landscape Character Area ("LCA") 'Innerwick Coastal Margins'.
Landscape Fabric	- Insufficient evidence to support the LVIA (paragraph 6.6.2.2) finding that 'effects on landscape fabric would be positive and not significant'; - incomplete identification of receptors; - Incomplete assessment of impacts on landscape fabric for all phases of the proposed development; - Inconsistent application of the LVIA methodology;
Topic	Comments
	- the LVIA does not clarify the 'worst case' scenario used for the assessment; and - there are no cross-references to Chapter 8: Ecology and Nature Conservation, which may be relevant to the consideration of the value of physical landscape features.
Effects on Landscape Character	- the LVIA does not provide sufficient information to justify the conclusion that there would be no significant effects on the affected LCAs. - in our view, the sensitivity, magnitude of change - and therefore the level and significance of effects - is underestimated for affected LCAs; - the assessment states (section 6.6.4.11) that the proposed development would become '...the most dominant characteristic of the landscape.' We consider that, in such areas, this would constitute a significant effect. - the viewpoint selection underrepresents the availability of more open and/or elevated views within LCAs, which are part of the perceived character; - consideration of the geographic extent of change appears to contradict LI TGN 2024-01 'Notes and Clarifications on Aspects of Guidelines for Landscape and Visual Impact Assessment Third edition (GLVIA3)'; and - the proposed development does not accord with the Management Guidelines for the affected LCAs.
Visual Effects	- there are significant adverse effects on receptors within 0.4km (local roads, paths, residents); however, we consider the geographic extent of impacts is likely greater than stated; - some potential visual receptors scoped out without sufficient justification; and - Chapter 15 – Technical Appendix 15.1 Glint and Glare Report is not referenced which is a notable omission.

Designated Landscapes	- the LVIA does not provide sufficient information to justify the conclusion that there would be no significant effects on the affected Special Landscape Area (SLA) 4: Monynut to Blackcastle. - in our view, magnitude of change - and therefore the level and significance of effects - is underestimated; and - the proposed development does not accord with the Management Guidelines for the SLA.
Residual Visual Amenity Assessment	- the Council agrees with the findings but notes limited scope.

The Council formally **objects** to the planning application on the grounds of **Landscape and Visual Impact**. This objection is based, in part, on the findings of the Landscape and Visual Impact Assessment (LVIA), which identifies significant adverse visual effects on receptors located within 0.4 kilometres of the proposed development, including local roads, public paths, and residential properties. However, it

is the Council's view that the geographical extent of the likely impacts has been underestimated. Furthermore, the **Council's Project Officer – Landscape** has expressed concerns that the LVIA does not adequately assess the potential impacts on landscape character, nor on the Special Qualities and Features of SLA 4: Monynut to Blackcastle. In the Officer's professional opinion, these impacts may be significant.

HISTORIC ENVIRONMENT

The **Council's Archaeology/Heritage Officer** was consulted on the proposal, and they state that the EIAR acknowledges that the proposed development would not be seen from the village of Oldhamstocks itself, it would be visible from Oldhamstocks Conservation Area. Additionally, the approach to the conservation area would be significantly adversely impacted with the roads leading to the village, and the conservation area, from the north being lined by the arrays for a large proportion of their length. This is clearly illustrated on Figure 7.3 of the EIAR.

They further comment that 'the approach to the conservation area is an important element in how it is seen, understood and appreciated. The approach is currently through an open rural landscape which reflects the nature of the conservation area in that it is rural, containing traditional building styles with modern industrial infrastructure confined to the background. Indeed, the conservation area description mentions the rural landscape which surrounds the village as an essential characteristic. The positioning of the proposals along the roads that lead into the conservation area from the north will have a significant adverse impact on the approach to the conservation area and by default how the conservation area is seen and appreciated. It is considered that the change in character from rural to modern industrial will be a significant adverse impact upon the setting of the conservation area and from the submitted proposals it appears that it could not be mitigated in any meaningful way by the current scheme.'

The proposals are contrary to NPF4 Policy 7d and e which notes 'Development proposals in or affecting conservation areas will only be supported where the character and appearance of the conservation area and its setting is preserved or enhanced.....' and 'Development proposals...will ensure that natural and built features which contribute to the character of the conservation area and its setting...are retained'. The proposals are also contrary to Policy CH2 of the ELLDP which notes 'All development proposals within or affecting a Conservation Area or its setting must be located and designed to preserve or enhance the special architectural or historic character or appearance of the Conservation Area....'

The importance of the historic environment is fully recognised in NPF4 and Planning Advice Note (PAN 2/2011), where it is acknowledged that at times change to historic environment

assets is not possible. In this instance the potential benefits of this development are not deemed to be sufficient to counterweigh the impacts upon the Historic Environment as the character of the conservation area will be significantly adversely impacted upon.'

Therefore, due to the assessed impact of the proposed development upon the setting of Oldhamstocks Conservation area the Council **objects** to the application to in relation to **Historic Environment**.

Notwithstanding this advice, if the proposal is consented, they advise that a Programme of Archaeological Works will need to be conditioned. However, it should be noted there is not sufficient detail in the proposal to enable the **Council's Archaeology/Heritage Officer** to advise over the exact details of the required works but it can be secured with a standard Programme of works condition with the exact nature and scope of the works being agreed subsequently. The nature of the archaeological mitigation will be dependent upon the level of proposed ground disturbance but may include evaluation by archaeological trial trench, open area excavations, watching briefs etc and the investigations should be tailored to the level of impact.

Given that there is not sufficient detail in the submitted documents to finesse this to the exact nature and scope of any archaeological investigation this will need to be agreed prior to any works starting.

TRANSPORTATION

The site would be accessed by a number of on-site access tracks. Chapter 3 of the EIAR notes that the main entrance would be via the northern boundary off the C120 road. Figure 3.1 (Site Layout Plan) illustrates a number of access tracks proposed off a number of roads north of Oldhamstocks to allow access across the 15 agricultural fields where the development is proposed. The proposed BESS facility would include two points of access off the C120.

The agent has provided a Transport Statement (Chapter 11: Traffic and Transport) which assesses the traffic impacts associated with the construction of the proposed development on the surrounding public road network. A Construction Traffic Management Plan ("CTMP") has not been submitted. The potential impacts for the operation, maintenance and decommissioning phases have been scoped out of the assessment.

Consultation was undertaken with the **Council's Road Services** and the full response is attached (Annex C) to this report. Several areas of concern during the construction phase have been highlighted which are summarised in Table 4 below.

Table 4: Summary of Construction Traffic Phase Concerns

Topic	Comments
Traffic Generation	- Peak daily movements, 76 two-way total movements (48 light vehicles, 28 HGVs); and - Average HGV movements, 5 two-way movements per day.
Site Access Arrangements	- Main access point visibility splays (2.4m x 215m east, 160m west) are below standard and not acceptable. Visibility splays required are 4.5m x 215m; - Suggested relocation of access approximately 60m east to meet visibility standards; - Swept path analysis shows access too narrow for articulated HGVs; and - Track width (4m) only allows one-way HGV movement which is impractical.
Vehicle Routing	- Proposed route via U220 and C120 includes three pinch points; - Swept path analysis shows full road width required with no passing places proposed; - Temporary road closure of C120 proposed which is deemed impractical and detrimental to public access and safety; and - Route overlaps with National Cycle Route therefore there are safety concerns for cyclists.

Abnormal Load Vehicles	- No swept path analysis provided for abnormal load route; and - Draft Abnormal Load Route Assessment requested prior to determination.
CTMP	- A draft CTMP has not been provided which is required for review; and - The CTMP should include enforced 20mph speed limit via average speed cameras and driver site inductions for safe and courteous driving.
Local Road Network Capacity Assessment	- The assessment is based on assumed traffic volumes. This should be based on recorded traffic flow data; and - Two-way capacity not considered and as such deems the assessment flawed.
Accident Analysis	- No existing accident trends, but construction traffic mix is likely to increase risk, especially for vulnerable users.
Cumulative Impacts	- Coordination with other developments welcomed and should be secured via planning condition; and - Specific reference should be made to the approved Branxton Substation project (Planning Reference 23/00616/PM) and the associated temporary signalisation and road improvement works to the C120 / U220 junction to facilitate construction vehicle access between the proposed temporary slip road from the A1 and the construction haul road to the substation site itself.
Road Condition Survey	- Commitment to pre/post road condition surveys and repairs are welcomed; and - It is expected the any damage to the road network will be repaired in a timely manner and ensure clean roads during construction.

Paragraph 11.5.2.3 of the EIAR states that *‘the effect of operational traffic is therefore expected to be negligible and has been scoped out of this assessment. This is acknowledged by the Council and considered acceptable by Transport Scotland.’*

The Council’s response to the scoping report accepted that the operational phase would result in relatively lower traffic impact levels however did not accept the scoping out the impacts on operational traffic as a result of the proposed development.

Whilst the Council’s Road Services acknowledges that during the operational phase, the traffic numbers would be relatively low (i.e. less than one vehicle per week), the various site access points would still need to be designed such that they accord with the Council’s design standards and visibility criteria as set out in the Council’s *‘Transport Infrastructure in New Developments’* online guidance. The visibility splays of all permanent access points are sub-standard which cannot be supported without evidence of lower traffic speeds as recorded in up-to-date speed surveys at the relevant points on the road network.

The impact of the decommissioning phase is expected to be similar to, or less than, that of the construction phase. Given the difficulty in accurately predicting baseline conditions 40 years time, this phase has been scoped out of the assessment. This approach is considered acceptable.

The Council’s Road Services provide additional points within their comments noting that; all works affecting public roads must be authorised in advance, Road Construction Consent is required for new/extended roads, and temporary drainage measures must comply with relevant regulations.

The comments from the Councils Road Services (Annex C) should be fully addressed by the agent and appropriate changes to the proposals/additional information provided.

Unless and until these changes and appropriate information has been provided, the Council **objects** to the application in relation to **Transportation** due to the significant unresolved issues during the construction and operational phases.

ACCESS AND RECREATION

Chapter 13 (Socio-Economics, Land Use, Tourism and Recreation) of the EIAR provides an assessment of Tourism and Recreation which includes impacts on access and recreation within the application site. Paragraph 13.6.1.14 outlines that access rights permitted under the Land Reform (Scotland) Act 2003 do not apply to land on which crops have been sown or are growing and as most of the land is currently used for growing crops, the assessment has assumed that the existing recreational use of the land is limited to East Lothian Core Path 12, field boundaries and areas of woodland within the site.

Under the Land Reform (Scotland) Act 2003 there is a right of responsible access to most countryside in Scotland. This includes paths and tracks, grazed fields, woodlands and around the margins of arable fields. It also extends to arable fields when they are in stubble. Following a site visit, review of Google Streetview imagery, visualisations within the EIAR and photographs submitted through representations, it is clear that many fields within the application site are used for grazing. The Council, therefore, do not agree that the assessment of existing recreational use of the land should be limited to Core Path 12, field boundaries and areas of woodland within the site as stated within Chapter 13 of the EIAR.

The Council also disputes the conclusion that the proposed development would result in a minor adverse effect on tourism and recreation, and that this effect would not be significant. This position is based on two key concerns: (i) the assessment of recreational use is limited and does not fully consider the extent of land affected, and (ii) the evaluation of amenity impacts—arising from noise, visual impacts, and traffic—underestimates or inadequately justifies these effects. As outlined earlier in this response, the visual and traffic impacts are considered to be underestimated and/or insufficiently assessed. As such, the conclusion regarding potential impacts on tourism and recreation are considered inaccurate.

The **Council's Access Officer** has provided comments noting concerns about the impact the proposed development would have on public access rights. They state that:

"...this application covers 184 hectares and that most of the application site will be surrounded by 2 metre high mesh fencing. This will prevent people from being able to exercise their access rights over this land.

The solar panels will have a major impact on the views in this area and the general feel of lovely rural agricultural land will be lost. Anyone walking, cycling or horse riding along the roads in the area will be very much in an industrialised area.

The main impact will be on those wishing to walk around a field margin or ride a horse through a stubble field. All of this area will be lost to them.

There appears to be no detail about the exact location of the fences and gates. Horse riders using narrow roads such as these will use gateways to allow agricultural vehicles and larger lorries to pass. So gates would really need to be set back for them. It is unclear whether the fencing will be immediately behind the hedgerows, or if there will be a gap for maintenance. The Planning Statement appears to suggest that hedges will be thickened up and gaps filled in. However, if the hedges are to be maintained then they will require a gap behind them. If there is to be sufficient space behind the hedges to maintain them, then possibly these areas can be signposted as public access to go some way to mitigate against the loss of field margins and larger spaces where people currently have a right to walk.

There is a core path that runs right through the proposed solar farm between compartments 10 and

11. I note that a space has been left for the path, but with a 2 metre-high fence running along either side of the path. This will completely change the character of this walk, which is a lovely

wide open track running across grazed land and then between arable fields. It is currently possible to leave the core path and do a short circular walk around the margins of the adjacent fields, rather than retrace your steps back to Oldhamstocks. This would no longer be possible if the solar farm goes ahead with its high fences.

The use of fencing around all these areas of solar panels seems to go against Scottish access legislation and it will have an enormous impact on anyone wishing to walk there.”

Further to the comments received from the Council’s Access Officer, they have highlighted that the proposed development would be contrary to Policy 11(e) of NPF4. Policy 11(e) states that project design should demonstrate how various impacts will be addressed, including visual impacts on communities and individuals, and impacts on public access—such as long-distance paths, cycling routes, and scenic routes. The Access Officer notes that there is no reference to these considerations in the documentation provided within the EIAR.

The proposed solar farm would be constructed on both sides of several rural roads, which would be enclosed by six-foot fencing on either side. Oldhamstocks is a popular destination for cyclists, and a key part of its appeal lies in the scenic rural views from the surrounding roads. Policy 14 (c) of NPF4 states that developments which are detrimental to the amenity of the surrounding area will not be supported. Given the significant impact this proposal would have on the views and rural character of the area, it is considered to be detrimental.

In relation to the ELLDP, Policy T4 states that the Council will protect its existing core path and active travel networks and ensure that new development does not undermine them—including the convenience, safety, and enjoyment of their use. The proposed development and associated fencing would negatively affect the enjoyment of those using the core path and surrounding active travel routes.

Due to the potential impact the proposed development would have on recreational use, the Council **objects** to the application in relation to **Access and Recreation**.

ECONOMIC DEVELOPMENT

The Councils’ Economic Development Team have provided a response in relation to the proposed development and recognise the strategic nature of the proposal, particularly in relation to net-zero transition and energy grid resilience/services. However, they have noted several negative impacts on the local economy, particularly relating to visual impact, tourism and lack of embedded community wealth building mechanisms. They state that further investigation and/or mitigation is required to ensure alignment with the East Lothian Local Economy Strategy (2024-20234). They further note that it may not be possible for all potential impacts to be mitigated.

A summary of the positive contributions and potential negative impacts raised by the Councils’ Economic Development Team are displayed within Table 5 below.

Table 5: Summary of Economic Development Comments

Topic	Comments
<i>Strategic Alignment & Positive Contributions</i>	

Neto Zero & Energy Transition	The proposal is likely to contribute to national and local net zero targets through renewable generation and grid services, supporting Local Economy Strategy Objective 5: Just Transition to Net Zero. This is a technical matter that should be addressed in detail by others.
Short-Term Economic Activity	Construction-phase employment and local supply chain spend represent a modest but timelimited economic injection. This may support local businesses in accommodation, transport, and materials etc. but additional action would be required by the applicant.
Concerns and Potential Negative Impacts	
Visual Impact & Tourism	- the scale and location of the development is likely to introduce significant visual change to a sensitive rural area; - this may negatively affect perceptions of East Lothian's landscape quality and visitor experience; and - it is unlikely that glint and glare can be fully mitigated, this should be further assessed.
Lack of Sustained Employment or Skill Opportunities	- construction-phase employment and supply chain commitments lack detail and are shortterm and non-binding; and - beyond the construction phase, the project offers minimal permanent employment, missing opportunities to develop skills in partnership with local providers, offer placements or apprenticeships and support local training in BESS or renewable operation & maintenance.
Community Wealth Building & Local Reinvestment	- there is no commitment to a Community Benefit Fund, local procurement pledges, or community ownership elements; - it conflicts with the CWB Charter and Action Plan adopted by the Council and Strategy Objective 3, which seeks to maximise local retention of value; and - the absence of direct community reinvestment undermines public perception of fairness and may impact local support.

It is recommended that the following mitigation measures be considered to address the concerns and potential negative impacts outlined in Table 5:

- Employment & Skills – develop a Construction Employment and Skills Plan in partnership with local providers, including opportunities for placements and engagement with local schools (e.g. site tours, STEM projects);
- Local Supply Chain – set target percentage for procurement spend within East Lothian and the wider City Region and support local firms in securing contracts;
- Community Benefit – commit to a Community Benefit Fund or an equivalent local reinvestment mechanism;
- Tourism Mitigation – produce a landscape interpretation and biodiversity enhancement plan or similar, include signage or visitor-facing materials to explain the site's contribution to net zero goals etc. Note: this is unlikely to fully mitigate negative impacts; and
- Monitoring – introduce monitoring of visual impact, tourism footfall and public perception to assess unintended consequences and inform adaptive management. This is also noted to unlikely fully mitigate negative impacts.

Whilst the proposed development offers a contribution to climate and energy objectives and offers modest short-term economic value, it requires stronger and more visible local benefit measures to algin with the Local Economy Strategy's objectives for fair, inclusive and place-based growth. The proposed development should include binding commitments and/or mitigation measures to address these gaps, ensure positive legacy outcomes for the area and strengthen alignment with East Lothian's economic priorities.

Due to the potential negative impact the proposed development would have on the local economy, the

Council **objects** to the application in relation to **Economic Development**.

FIRE RISK

The EIAR contains a chapter (Chapter 15: Other Issues) that reviews the potential for battery fire in the BESS and states that a Battery Safety Management Plan (“BSMP”) would be developed to allow for the safe and efficient operation of the BESS components of the proposed development.

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.

Recent determinations by the ECU in relation to BESS developments have confirmed that fire safety considerations are adequately addressed through existing legislative frameworks. These include the requirement to undertake a comprehensive fire risk assessment, implement appropriate mitigation measures, and establish a robust emergency response plan. Furthermore, the provision of suitable access for fire and rescue services, along with an adequate water supply, should be incorporated into the design. It is recommended that these matters be secured through a planning condition requiring final layout approval prior to the commencement of development.

CUMULATIVE EFFECTS

Under the Electricity Works (Environmental Impact Assessment) Scotland Regulations 2017 the assessment of in-combination and intra-project cumulative effects is a key requirement of the EIA process. Chapter 15 (In-Combination Effects) of the EIAR presents an assessment of the proposed developments potential in-combination effects on varying receptors. Intra-project cumulative effects are assessed separately in each technical chapter.

The Council has concerns that the in-combination effects presented in Chapter 15 (In-Combination Effects) of the EIAR underestimate the potential cumulative impacts of the proposed development. As outlined in this response, there is a lack of sufficient information, justification for the assessment, and a potential underrepresentation of impacts in relation to Landscape and Visual Impact, Transportation, Access and Recreation, Flood Risk and the Water Environment, Historic Environment, Biodiversity and Economic Development. Consequently, the Council does not agree with the conclusion that no significant in-combination effects would arise from the proposed development.

Paragraph 16.4.1.5 of the EIAR states that, due to the temporary and reversible nature of construction effects, the potential in-combination impacts are not considered significant. However, the assertion that construction impacts are not significant solely because they are temporary and reversible is overly simplistic and lacks sufficient justification. The EIAR does not provide a clear rationale for dismissing their significance, particularly in relation to receptor sensitivity, timing, and mitigation measures. Temporary cumulative impacts should be assessed on their merits and not dismissed solely on the basis of their duration.

CONCLUSION

Whilst the proposed development would contribute to the decarbonisation of Scotland’s electricity system, in line with national policy objectives, the Council has significant concerns regarding the adequacy of the EIAR and the scale and nature of the potential impacts on the East Lammern area and beyond. Accordingly, the **Council strongly objects** to the proposal on the following grounds:

- the absence of the specific location and extent of any acoustic barriers;
- the absence of additional information or clarification/corrections with regards to greenfield runoff, watercourse crossings and silt traps;
- insufficient evidence to demonstrate ecological connectivity of the site, no guarantee of biodiversity enhancements and as such contrary to NPF4 Policy 3 and lack of clarity on whether the protection of and mitigation for European Protected species has been applied;
- the significant adverse effects on visual receptors, including users of local roads, public paths, and residents of nearby properties. The LVIA is deemed insufficient in its evaluation of these impacts and fails to adequately address the potential for significant adverse effects on both the landscape character and the Special Qualities and Features of SLA 4: Monynut to Blackcastle. In the professional opinion of the Council's Project Officer – Landscape, these landscape impacts may be significant;
- significant adverse impacts on the character of Oldhamstocks Conservation Area;
- significant unresolved issues during the construction and operational traffic phases;
- the potential impact the proposed development would have on recreational use;
- lack of visible local benefit measures and potential negative impact on the local economy; and
- lack of justification for the assessment and a potential underrepresentation of in-combination cumulative effects.

The Council is of the view that, irrespective of any further information submitted in an attempt to address the objections outlined above, the fundamental concerns arising from the nature, scale, and extent of the proposed development are such that they cannot be satisfactorily resolved.

RECOMMENDATIONS

1. 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;
2. That the East Lothian Chief Planning Officer be authorised to undertake any discussions with the Scottish Government Energy Consents Unit to review and consider any additional information aimed at resolving outstanding objections, provided that such discussions do not alter the overall nature of the Council's consultation response; and
3. That the East Lothian Chief Planning Officer be authorised to undertake any discussions with the Scottish Government Energy Consent Unit to agree any further conditions, provided that such discussions do not alter the overall nature of the Council's consultation response

RECOMMENDED CONDITIONS

The following sets out a list of recommended conditions for the proposed development. However, it excludes conditions relating to **Noise and Vibration, Flood Risk and the Water Environment, Landscape and Visual Impact, Transportation, Access and Recreation, Biodiversity and Economic Development**. Due to the objections raised by the Council and the current lack of sufficient supporting information, we are unable to recommend appropriate conditions for these technical disciplines at this stage.

- 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 the proposed site until the applicant has undertaken and reported upon a programme of archaeological work 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.

- 5 There shall be no lighting installed unless and until details of external lighting (including details of the lighting units and any emergency lighting, the time period for illumination for each unit, the angle and intensity of illumination and hours of operation) has been submitted to and approved in writing by the Planning Authority. Unless essential emergency lighting only, any other lighting must not be operational unless personnel are on site.

Reason:

In the interests of the visual amenity of the area.

- 6 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:

A Phase II Ground Investigation comprising the following:

- A survey of the extent, scale and nature of contamination, and reporting and reporting on the appropriate risk assessment(s) carried out with regards to Human Health, the Water Environment and Gas Regime as well as an updated conceptual model of the site 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.
- An appraisal of the remediation methods available and proposal of the preferred option(s). The Ground Investigation must be undertaken by suitably qualified, experienced, and competent persons and must be conducted in accordance with the relevant guidance and procedures.

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

Part 2

Prior to any works beginning on site (and where risks have been identified), a detailed Remediation Statement should be produced that shows the site is to be brought to a condition

suitable for the intended use by the removal of unacceptable risks to all relevant and statutory receptors. The Statement should detail all works to be undertaken, proposed remediation objectives and remediation criteria as well as details of the procedures to be followed for the verification of the remedial works. It should also ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land following development. The Statement must be submitted to the Planning Authority for approval.

Part 3

The approved Remediation Statement must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out the agreed remediation. Following completion of the measures identified in the approved Remediation Statement, a Validation Report should be submitted that demonstrates the effectiveness of the remediation carried out. It must be approved by the Planning Authority prior to occupation of the new development.

Part 4

If '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 contamination.

- 7 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.

- 8 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.

- 9 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.

- 10 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.

ECU Application No. ECU00004815

ELC Reference No. 25/00003/SGC

Proposal Electricity Act 1989 – Application to construct and operate a solar development, electricity generating station and associated infrastructure

Location Land located approximately 7.8km Southeast of Dunbar

Applicant Voltaia UK Limited
Per Alexander
Hamilton The
Wheelhouse Bond's
Mill Estate
Stonehouse
Gloucestershire
GL10 3RF
Ward 06 Dunbar and East Linton

Date 14 October 2025

Sent via email to
econsents.Admin@gov.scot Cc David King
david.king2@gov.scot

ANNEX A – BIODIVERSITY COMMENTS

This application is for the installation of solar panels modules, a 150MW capacity Battery Energy Storage System and all associated works to be constructed and operated on land approximately 50m north of Oldhamstocks, and 7.8km southeast of Dunbar. The Site will occupy an area of approximately 184 hectares (ha). The site is entirely located within East Lothian.

In reference to the Solar Farm and BESS Planning Statement and the supplementary information that has been supplied by the applicant, I have the following biodiversity comments to make:

National Planning Framework 4

Policy 1 Tackling the Climate and Nature Crises- While I acknowledge the use of solar PV as a key aspect of the move to tackle the climate crisis, and that the applicant has provided information in order to satisfy the compliance in regard to such within the application, I believe that there a number of concerns regarding this application, that if not addressed may result in the nature crisis impact not being fully addressed. Further details of my comments regarding this are detailed in section comments below.

Policy 3 Biodiversity- Please see my comments regarding the issues regarding the enhancement of biodiversity in relation to this application.

Policy 4 Natural Places- Please see my comments regarding the Shadow Habitats Regulations Appraisal.

Local Policy

NH1 Protection of Internationally Designated Sites

I appreciate the use of the precautionary approach and the mitigation measures in the shadow HRA document provided regarding the pink-footed geese and herring and common gull qualifying features of the following Ramsar and SPAs:

- Firth of Forth Ramsar
- Firth of Forth SPA
- Outer Firth of Forth and St. Andrews Bay Complex
- St. Abb's Head to Fast Castle

SPA ***NH4 European Protected***

Species Badger

The information provided regarding badgers is in part sufficient in that I support the conclusions regarding mitigation measures for the protection of badgers in the construction and operational phase of the application, including badgers in the CEMP and a Species Protection Plan to be conditioned. I would request that the consideration made regarding the potential loss of foraging habitat is included in the use of a metric to determine the level of habitat enhancement that is required in relation to badger foraging habitat.

Bats

The Bat Survey Report (Technical Appendix 8.3, ERM, May 2025) makes the following recommendations:

5.1.1.1 Roost surveys confirmed the presence of habitats within the BSA suitable to support roosting bats. If any trees are to be removed, pruned or disturbed because of the Proposed Development, particularly those identified as FAR and having bat roost suitability, then further surveys to determine the presence of roosting bats will be required. To mitigate potential impacts of the Proposed Development, it is recommended to avoid development of areas in Locations B and D as these are

highly suitable for bats. Implementation of dark corridors in these locations within the Site will assist in mitigating the impacts of the Proposed Development on bats.

It is not clear whether that advice from the ecologist has been followed through to the oHEMP or the EIAR (though the oHEMP is dated prior to the bat survey results), as it appears from Figure 3.2.1 of the oHEMP that this advice has not been applied. At this time, I cannot conclude that due consideration has been made in regard to protection of and mitigation for European Protected Species, or that the advice given by the applicant's ecologist has been applied. **Therefore, I would need to object on these grounds at this point.**

Red Squirrels

While a number of potential dreys were identified, further mitigation is not deemed necessary as there is no felling specified in the proposal. If this was to change, a Red Squirrel Species Protection

Plan should be produced. This was not detailed clearly in the Technical Appendix 8.2 Protected Species Survey Report (ERM, May 2025) and should have been for avoidance of doubt.

It may be that enhancements to support red squirrels could be included in any future versions of the oHEMP. This would also be in alignment with actions within the East Lothian Local Biodiversity Action Plan.

Otter and Water Vole

A number of site surveys were carried out, mostly within the red line boundary, but it is noted that there was an area that the ecologist was not able to access due to lack of permission of the landowners of Oldhamstocks Mains as detailed in Section 2.2 of Technical Appendix 8.2 Protected Species Survey Report. While the conclusions drawn that the watercourses on the site are suitable for otter and water vole, but no evidence of these species was found, restoration and enhancements of these water bodies for these species would be beneficial to be incorporated into the oHEMP. Using landscape restoration techniques for these species will benefit a wide variety of species other than otter and water vole indirectly and should be considered. This would also align the application with actions which align with the East Lothian Biodiversity Action Plan (in consultation phase at present).

NH5 Biodiversity and Geodiversity Interests including Nationally Protected Species

Information presented includes:

Planning Statement 5.4.1.7

"The Proposed Development will result in a loss of 61.46 ha of habitats, that are common and widespread, and which support largely common and widespread species. Some protected species, including badger, bats and birds (nesting and foraging) are supported by these habitats; however, no significant residual effects on any IEF is predicted."

Planning Statement 5.4.1.9.

"Habitats lost will be compensated through the planting being undertaken within the LBMP; therefore, the Proposed Development will provide habitats of higher value than the baseline agricultural scenario, which will provide a significant, permanent, beneficial effect of low magnitude at the Site level for the following IEFs: Badger and Breeding birds."

With an application of this size and potential for impact on a number of Important Ecological Features that were outlined in the EIAR, it would be expected that a metric was utilised to determine the appropriate habitat conservation, restoration and enhancements.

NPF 4 Policy 3 states that:

b) Development proposals for national or major development, or for development that requires an Environmental Impact Assessment will only be supported where it can be demonstrated that the proposal will conserve, restore and enhance biodiversity, including nature networks so they are in a demonstrably better state than without intervention. This will include future management. To inform this, best practice assessment methods should be used. Proposals within these categories will demonstrate how they have met all of the following criteria:

- i. the proposal is based on an understanding of the existing characteristics of the site and its local, regional and national ecological context prior to development, including the presence of any irreplaceable habitats;*
- ii. wherever feasible, nature-based solutions have been integrated and made best use of;*
- iii. an assessment of potential negative effects which should be fully mitigated in line with the mitigation hierarchy prior to identifying enhancements;*
- iv. significant biodiversity enhancements are provided, in addition to any proposed mitigation. This should include nature networks, linking to and strengthening habitat connectivity within and beyond the development, secured within a reasonable timescale and with reasonable certainty. Management arrangements for their long-term retention and monitoring should be included, wherever appropriate; and*
- v. local community benefits of the biodiversity and/or nature networks have been considered.*

The applicant has provided an outline Habitat Enhancement Plan as well as mitigation measures that have been included in the EIAR. The application does not appear to have fully considered the opportunity for inter and intra site green networking other than to plant some new hedgerows, gap up existing hedgerows, plant wildflower seed and add some bird boxes. From the information provided, I have to determine that the ecological connectivity has not been satisfactorily interrogated and or demonstrated and therefore the key requirement of nature networks detailed above in Policy 3b, I cannot find the application in compliance at this time and **therefore I would further object on these grounds.**

in the application. The application has an inherent assumption that the land will be operational for 40 years and then the site will be handed back and therefore returned to agricultural land. Therefore, it cannot be guaranteed that the biodiversity enhancements that have been proposed can be secured in perpetuity. If the enhancements cannot be taken as such, then it could be argued that they cannot count towards the fulfilment of this policy.

I therefore find that until this has been provided, then **I would not be content that the NPF 4 Policy 3 test has been met, and I would object on these grounds.**

I have concerns over the need for the use of 2m fencing around a significant proportion of the site. While I understand the need for some security fencing, this is presumably not needed around the entire site. There is not a clear need to fence the solar panels area from the area of Ancient Woodland for example. It appears that there is a significant area of fencing that is unnecessary, which contributes to my concerns over the ecological connectivity across the site as presented. Further to this the fencing also poses issues for the public enjoyment of the site and with regard to this, and the compliance with the relevant policies I would defer to colleagues.

Another crucial point is that the Outline Habitat Enhancement Plan (Abseline) is dated April 2025. The Technical Appendix 8.2: Protected Species Survey Report was produced a month later in May 2025. I do not find that acceptable for submission as the EPS report finding must shape, in combination with other relevant reports, the mitigations and enhancements of the HEMP. Despite this, considering that this may be an error on dating of reports (which if so should be remedied) I still have the following points. I have concerns over the ability for mobile terrestrial species to move through and around the site. I am concerned that no evidence has been presented to ensure that other mobile species are able to and even will use the badger gateways to move in and out of the site. The Technical Appendix 8.2 Protected Species Survey Report (ERM, May 2025) and the EIAR Chapter 8 Ecology and Nature Conservation desk survey detail a sighting within the Ecological Survey Area and records respectively of brown hare. I do not consider the mitigations provided for badger to have been shown to benefit all mobile species including brown hare.

The information provided regarding badgers is in part sufficient in that I support the conclusions regarding mitigation measures for the protection of badgers in the construction and operational phase of the application, including badgers in the CEMP and a Species Protection Plan to be conditioned. I would request that the consideration made regarding the potential loss of foraging habitat is included in the use of a metric to determine the level of habitat enhancement that is required in relation to badger foraging habitat.

The desk survey and local knowledge communicated to the Biodiversity Officer has noted the use of the site for foraging owl species. No consideration of the mitigation measures required have been considered in this case. Solar farms can provide positive hunting grounds for owls and other raptor species, however if this is to be the case it must be considered by the applicant and presented as such.

The areas of grassland proposed around the collective areas of modules may well increase the grassland habitat for breeding birds and invertebrates but I would need to see evidence that the shade tolerant plant mix has been successful in other solar farm projects. This would need to include data that supports the presumption that has been made that the grassland between the rows of the modules is indeed wide enough for optimum establishment of the plants as well as being wide enough to be included as an ecologically viable connective space for the movement of mobile species. **The ecological connectivity of the site is not demonstrated and therefore not compliant with Local Development Plan DP1 and 2. I therefore would be required to object to the project on these grounds.**

Information provided regarding the chosen construction traffic route ecological value was minimal or missing. There is no impact assessment or subsequent mitigation proposed for the route to the site for construction and decommissioning traffic. There has been no consideration of the habitats along the route, these should have been considered as part of the ecological survey of the site and in turn be considered in regard in the oHEMP. Therefore, I find that this information is incomplete and is required for consideration.

With regards to lighting around the welfare buildings and the rural location, lighting should be in compliance with the most recent guidelines for bat-friendly Guidelines from the Institute of Lighting Professionals. Guidance documents are widely available and should be considered and referred to in any subsequent documents provided.

ELC Reference No. 25/00003/SGC

Proposal Electricity Act 1989 – Application to construct and operate a solar development, electricity generating station and associated infrastructure

Location Land located approximately 7.8km Southeast of Dunbar

Applicant Voltalia UK Limited
Per Alexander Hamilton
The Wheelhouse Bond's
Mill Estate Stonehouse
Gloucestershire
GL10 3RF

Ward 06 Dunbar and East
Linton

Date 14 October 2025

Sent via email to econsents_Admin@gov.scot
Cc David King david.king2@gov.scot

ANNEX B – LANDSCAPE COMMENTS

A review of the Landscape and Visual Impact Assessment (LVIA) chapter, figures, and technical appendices prepared by Abseline has been undertaken by Chartered Members of the Landscape Institute at East Lothian Council (ELC).

We have conducted a desk-based review of the LVIA and on-site fieldwork. The application site and LVIA study area was visited (driving, and walking, as appropriate) on 01/09/2025. Weather conditions were generally good, with extended periods of clear visibility throughout and well beyond the LVIA study area. Each of the 9 viewpoint ('VP') locations was visited. The review did not include visits to private residences.

The proposed development is described in detail in Volume 1 – Chapter 3: Development Description of the Environmental Impact Assessment Report (EIAR). The LVIA presents Assessment Scenarios and Potential Effects (6.1.9) which summarises the effects arising from the proposed development at the following key stages of its lifetime: construction, operation, and decommissioning. This information has informed the review.

A summary of findings of the review of the assessment methodology

The outline LVIA methodology described in 6.2, which is described in detail in Technical Appendix 6.3 broadly follow the Landscape Institute (LI) and Institute of Environmental Management & Assessment 'Guidelines for Landscape and Visual Impact Assessment: Third Edition' (GLVIA3) principles, including identification of landscape and visual receptors, assessment of sensitivity, magnitude of change, level of effect and significance of effect. Specific concerns regarding the consistency of how GLVIA3 and the methodology has been applied to the assessment are addressed below.

The consideration of cumulative schemes set out in LVIA Table 6.1 appears to be sufficient. The LVIA considers impacts with operational and consented schemes as part of the baseline, which follows Landscape Institute guidance. Regarding the LVIA visualisations, ELC was not consulted on the 'Visualisation Types.' The visualisations do not display the 'Visualisation Type' (1-4), which LI Technical Guidance Note (TGN) 06/19 'Visual Representation of Development Proposals' (3.7.5) states should be included for recipients to understand the approach being taken. Without this information and having not been consulted on this aspect of the LVIA, we are unable to fully verify that the methodology / presentation of the visualisations accords with LI TGN 06/19.

Regarding the LVIA ZTVs, contained in Figures 6.1, 6.2, 6.5, and 6.6, we have concerns regarding the methodology, set out below.

Figures 6.1, 6.2, 6.5, and 6.6 state that the ZTV is calculated from panels modelled at (3.2m) and inverter compounds (4.5m) for the Solar Panel Areas. Volume 1: Chapter 3, Table 3.1 states 'the exact number of panels will be subject to the technology available during procurement'. It is not clear in the LVIA methodology how the ZTV has determined the 'worst case' scenario based on the location of structures within the Solar Panel Areas.

LVIA Figure 6.6 key appears to show that the ZTV only considers the Solar Panel Areas. It is not clear whether the ZTV also includes theoretical visibility of the BESS and Substation.

The figures state that the ZTV for the substation area is modelled at 6.35m. This accords with elements of the outdoor electrical infrastructure shown on Figure 3.7. However, Volume 1: Chapter 3, pp. 3.2.4.1 states that the Customer Substation compound will be built on top of a concrete plinth of up to 0.5m in height. It is not clear whether the ZTV accounts for the 0.5m plinth.

The LVIA does not include any bare ground ZTVs of the Proposed Development. NatureScot Guidance referred to in the Technical Appendix 6.3 (pp.52), states '44. Any analyses that calculate characteristics other than simple visibility over bare ground should be produced in addition to bare ground visibility, not as an alternative to it.' The LVIA therefore contains insufficient information regarding the theoretical visibility of the proposed development.

Regarding the height of woodland screening, the applicant's ZTV figures state that the assumed height of all woodland screening within the DSM is 15m. The LVIA does not state how this value has been verified in the field: notes on Figures 6.1 and 6.2 say this is a 'conservative estimate of average heights.' The LVIA for the consented Berwick Bank Onshore Works, one of the identified cumulative schemes, had assumed 10m for woodland in screened ZTVs within its 5km LVIA study area – including much of

the 2km study area for this application. The relative difference of 50% in assumed woodland heights between the two LVIA is significant. Without supporting evidence, we cannot be certain that the assumed woodland height in ZTVs accurately represents the likely visibility within the study area.

Recent felling (annotated on Figure 3.2.1), notably at Cockit Hat Strip, and to the north of Field 19 as they are the baseline at the time of the assessment. These areas have been assigned the same height as existing woodland in the ZTV, which therefore overstates the screening effect they would provide in the short to medium-term of the Proposed Development. The LVIA states (6.6.3.6), 'None of these felled areas would markedly alter the pattern of visibility;' however, no bare ground ZTVs have been included in the assessment, so it is not possible to verify this finding.

Regarding the methodology for the predicted growth rates of mitigation planting, the LVIA (6.6.1.5) cites an article from the Institute of Sustainability and Environmental Professionals. The article discusses predicted growth of tree and hedge planting in the UK and provides 'rule of thumb' growth rates, which the LVIA has adopted. The article states "For more exposed locations it is recommended that annual growth is calculated by taking clues from the existing trees and hedges in the locality." The proposed development is located in eastern central Scotland. The LVIA methodology does not demonstrate how the 'rule of thumb' growth rates have been calibrated to account for the local geography and climate.

A summary of findings of the review of the scope of the assessment

The spatial scope of the LVIA is based on a 2km study area, which was agreed by ELC.

The LVIA 'scopes out' detailed assessment of impacts on the Special Landscape Area (SLA) 36: Berwickshire Coast (Scottish Borders) and landscape and visual receptors within the 2 km study area where there would be no visibility of the Proposed Development.

The LVIA scopes out assessment of SLA 30: Thorntonloch to Dunglass Coast (6.6.6.4), which is within the 2km study area and Zone of Theoretical Visibility (ZTV) (Figure 6.1). We agree with the reasoning given.

The LVIA states that a final list of viewpoints was agreed through consultation (6.1.5.2). This is factually incorrect. The authors of the LVIA have not been in contact with ELC following the scoping response of 20 December 2024. ELC has not been consulted on the final viewpoint list and has not agreed to it. The applicant has not assessed viewpoints requested by ELC where there is the potential for theoretical visibility of the proposed development. 6(6) of LI TGN 2024 01 states: 'It is recommended (GLVIA3 paragraph 6.18) to agree viewpoints to be considered in the assessment with the appropriate authority. If this is not possible, then EIA Regulations require the assessor to set out any limitations on or difficulties encountered in carrying out the assessment. It is recommended that the assessor demonstrates that efforts have been made to agree viewpoints for both LVIA's and LVAs.' The LVIA has not set out any limitations or difficulties that confirm further effort has been made to agree the final viewpoints with ELC.

The applicant has submitted an RVAA of effects on residential visual amenity for the properties at Oldhamstocks Mains Farmhouse and Oldhamstocks Mains Cottages as Technical Appendix 6.5.

Paragraph 6 of Technical Appendix 6.5 states 'Typically for solar farms this extends to 50 or 100m from the above ground development. In this case, consideration has been given to two properties located adjacent to the Application Site as requested by East Lothian Council (as set out in section 6.1.4 in Chapter 6: LVIA). Extending to a 100m study area would not include additional properties for this assessment.' Landscape Institute Technical Guidance Note (TGN) 2/19: Residential Visual Amenity Assessment states that 'development types including potentially very large but lower profile structures and developments such as road schemes and housing are unlikely to require RVAA, except potentially of properties in very close proximity (50-250m) to the development'. Our opinion is that the LVIA does not provide robust justification for scoping out properties over 100m from the RVAA.

The baseline description set out in 6.4.2 is brief, but the principal landscape and visual receptors within the study area are identified. Some further baseline description is provided in the sections on the assessment of effects, and on supporting figures 6.1-6.6.

The LVIA scopes out detailed assessment of the local road, Core Path, and homes around Oldhamstocks Burn to the west of the Application Site. These receptors are within the SLA, in some instances having views overlooking the landscape setting Oldhamstocks Conservation Area. The LVIA does not include a viewpoint or Illustrative View to support the justification to scope these receptors out. Because of the above, we do not agree that sufficient justification to exclude detailed assessment of these receptors.

In our view, the assessment does not sufficiently address how the potential impacts of the proposed development might interact with different phases of the baseline schemes referenced in section 6.6.4.3 and Table 6.1.

A summary of the Design and Mitigation

Section 6.5.2 of the LVIA sets out measures included within the design to prevent or reduce landscape and/or visual effects. These are expressed spatially on Figure 3.2.1.

The suite of approaches includes managing existing hedgerows to a maintainable, higher, height and panel setbacks from local roads and paths, reinforcement of existing hedgerows by 'gapping up' where sparse, retention of woodland within deans and cleughs, small areas of additional woodland planting, and seeding and management of panel areas.

The management of existing hedgerow to a higher height, to potentially provide degrees of screening of the proposed development would change the character of the local minor roads. In particular, it would partly conflict with the 'Management Guidelines' for the LCA 'Innerwick Coastal Margins' which states:

'b. Promote increase in roadside planting to reduce impact of major visual detractors without screening all views out.'

This mitigation measure would potentially impact upon the perceived character during the lifetime of the proposed development.

We note that in the assessment of effects, the LVIA conclusions for most of the landscape and visual receptors states that the magnitude of change and level of effect carry 'through [or during] all stages of the Proposed Development.' This suggests that effects cannot be mitigated and that the significant impacts identified would not be removed or even reduced by the proposed mitigation.

Effects on Landscape Fabric

Regarding potential effects on the landscape fabric, we are concerned that the LVIA does not provide a complete and robust assessment of impacts on individual receptors throughout all phases of the proposed development: construction, operation, and decommissioning.

The LVIA does not clearly quantify the geographic extent of change to agricultural farmland.

There are occasional hedgerow trees along roads passing through the application site. Trees and woodland are not discussed or assessed by the LVIA.

The LVIA does not appear to follow the methodology in Technical Appendix 6.3. The LVIA does not report the assessment of value and susceptibility to change of individual physical landscape receptors and no differentiation is made between the sensitivity of hedgerows and agricultural farmland. LI TGN 2024-01 5(2) states 'Landscape features, elements ... that could be subject to change must be clearly described in their own right ...'

Volume 1: Chapter 3, Table 3.1, states that it is possible that some solar panels may be mounted on surface level concrete footings. The LVIA does not make it clear what has been assessed as the 'worst case,' either in 6.6.2 or the assessment scenario in 6.1.9.

The LVIA does not cross-refer to Chapter 8: Ecology and Nature Conservation, which LI TGN 02/21 'Assessing landscape value outside national designations' notes may be relevant to the consideration of the value of landscape features.

Effects on Landscape Character

Innerwick Coastal Margin

The proposed development would be partly located within this LCA.

In summary, The LVIA judges the Innerwick Coastal Margin LCA to have Regional/Community value, and Medium/low susceptibility to change, with an overall judgement of Medium/low sensitivity.

The LVIA gives broad explanations of the judgements made on value and susceptibility. The table below highlights criteria where we disagree with or have comment on the assessment findings. For the reasons given, we consider the sensitivity of the landscape to be greater than Medium/low.

Factors affecting sensitivity	LVIA Explanation	ELC Comment
Value		

Factors affecting sensitivity	LVIA Explanation	ELC Comment
Cultural Heritage	<i>Parts of two Gardens and Designed Landscapes (GDL), a historic battlefield, and the conservation area at cover just under half of the LCA. The SLA SPG lists “a rich archaeological heritage”.</i>	An important scenic quality is the prominence of the Dunglass GDL wooded policies, set against the surrounding rural contextual character. The Historic Environment citation for Dunglass GDL notes that the landscape surrounding the GDL is ‘ <i>largely agricultural in use,</i> ’ and states ‘ <i>The woodlands...remain today as important features in the local landscape.</i> ’
Landscape condition/ quality	<i>Generally good condition with the cement works, Torness Power Station, the A1 and East Coast Main Line forming notable features. However, additional consented developments relating to the onshore works associated with Berwick Bank offshore wind farm, Branxton BESS and the convertor station and cable works Eastern Green Link electrical ‘superhighway’ will affect a wide extent of the central area of the LCA during their construction and introduce a number of new large-scale permanent infrastructure features.</i>	The LVIA acknowledges that in other parts of the LCA, large-scale infrastructure is having a modifying effect on perceived character. Given the ongoing change in other parts of the LCA, we consider that unaffected areas are likely to be of greater than ‘Community’ value.

Distinctiveness	<i>This LCA forms a transition between the Lammermuir Hills and the coast. It forms a fairly typical example of coastline within this area of Scotland and north-east England.</i>	North-east England is irrelevant and suggests limited appreciation of the locality. Key is how representative the LCA is of the perceived characteristics, which is not expressed in the LVIA explanation. Given ongoing change in other parts of the LCA, we consider the value likely to be greater than 'Community.'
Susceptibility to change		
Openness/enclosure	<i>Generally open farmland with expansive views to sea, some more sheltered in valleys or provided by woodland.</i>	The LVIA considers 'Open and exposed landscapes' to have lower sensitivity to solar development. We disagree, considering that such landscapes are likely to be more susceptible to the visual influence of development. Accordingly, we consider the
Factors affecting sensitivity	LVIA Explanation	ELC Comment
		susceptibility of this criteria likely to be greater than 'Medium/low.'
Land cover	<i>Mostly medium to large arable fields, with more intimate valley features concentrated more within the south of the LCA.</i>	This is a predominantly rural landscape. Woodland around Dunglass GDL is a notable feature within the landscape. We consider that the susceptibility to large-scale infrastructure is likely to be greater than 'Medium/Low.'
Built Environment	<i>...much industrial development located along the coast" (SLA SPG), including prominent industry, with additional consented large-scale infrastructure to be constructed. Transport corridors are also prominent. Minor settlements scattered farmsteads.</i>	The LCA description notes that 'intrusive industrial development and the major transport corridor detract from the otherwise calm character of this landscape.' We consider that the perceptual qualities of this landscape have greater susceptibility to change than 'Medium'

Landscapes that form settings, skylines, backdrops, focal points	<i>Low lying transitional landscape without distinctive landform.</i>	The LVIA does not take account of the landscape within the study area forming the setting to the Dunglass GDL and SLA 4: Monynut to Blackcastle, as well as the role it plays in views from the upland fringes to the coast, as shown by VP7 and VP8. LVIA Figure 6.3 also shows the landform not as lowlying, but part of the low hills at the transition to the upland fringes. We consider that the susceptibility to the type of change proposed is likely to be greater than 'Low.'
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The LVIA concludes 'with particular reference to the Limited extent of Large and Large/medium effects, there would be a Medium magnitude impact on the character of the LCA through all stages of the Proposed Development and effects would be Moderate, Adverse and not significant.

Regarding the conclusion, LI TGN 2024-01 'Notes and Clarifications on Aspects of Guidelines for Landscape and Visual Impact Assessment Third edition (GLVIA3)', 5 (11), p.13, states: 'The Panel suggests that geographical extent should reflect the relevance of the location (for example it may more strongly or weakly manifest one of the key characteristics than other areas, or it may have a geographic role in connecting parts of the receptor) and the spread of effects, as a 'modifier' to the scale of effect so that it does not understate the magnitude of effects for extensive receptors such as large character areas or designations.'

Our view is that within the LVIA study area, this part of the Innerwick Coastal Margin LCA is important as part of the transition from the fringes of the Lammermuir Hills (Eastern Lammermuir Fringe LCA) and the sea. It is also important to the delineation of part of the boundary to SLA 4: Monynut to Blackcastle. It provides contextual landscape setting to the Dunglass GDL. It is also representative of the characteristics of this landscape that have been, and will be, modified by large-scale infrastructure elsewhere in the LCA.

The LVIA appears not to use the geographic extent as 'modifier' but instead as the main justification to moderate the magnitude of change, which in our view understates the likely landscape impact.

The LVIA does not appear to describe the scale of change with reference to the criteria defined in the LVIA methodology, Technical Appendix 6.1, p.3 pp. 17. In our view, the LVIA does not provide sufficient information on the degree to which aesthetic or perceptual aspects of the landscape are altered and whether the effect changes the key characteristics of the landscape, which are critical to perceiving its distinctive character. Inconsistent application of the methodology raises concerns over the LVIA findings.

Only three viewpoints are located within this LCA: VP1, VP2, and VP3. VP2 is distant and partially screened. VP3 is in a location heavily screened by woodland. We consider that the viewpoint selection

under-represents the availability of more open and / or elevated views within this LCA, including to the west of the application site and near Springfield Farm at the boundary with Dunglass GDL.

The assessment states (6.6.4.5) there would be Large and Large/medium scale of change within the Application Site and adjoining fields, with the Proposed Development being '...the most dominant characteristic of the landscape.' VP1 is used to illustrate the scale of change. The assessment does not provide a level of effect within these areas. By not reporting the effect where the scale of change is greatest, it is our opinion that the assessment is insufficient.

We agree with the LVIA finding that there are areas where the proposed development would become 'the most dominant characteristic of the landscape.' and consider that, in such areas, this would constitute a significant effect. The assessment concludes (6.6.4.6) that there would be a Medium to Medium/small scale change between 300-500m to the east of the Application site, and within undeveloped parts of the application site to the northwest of Oldhamstocks Mains.

Technical Appendix 6.4 'Illustrative View A' is used in the assessment illustrate the threshold between Large and Large-Medium scale of change and Medium and Medium/small scale of change. We consider that the use of a baseline photo with a narrow field of view provides insufficient information to explain this conclusion; noting that in views to the east, the proposed development is likely to be a prominent part of the landscape beyond Oldhamstocks Mains, with extensive visibility as shown on Figure 6.6. We also consider that Technical Appendix 6.4 'Illustrative View C' should be included as a photomontage viewpoint to demonstrate the scale of change within this distance range to the west, noting that in the visual assessment (6.6.5.3) the LVIA states there would be 'close views of the Proposed Development' from this location. VP3 has been located within (i.e., to the east of) the wooded boundary of the GDL and does not appear to illustrate the 'worst case' visibility within the identified geographic extent.

The LVIA states 'the sense of separation provided by the wooded valley passing the houses and the open views out towards the coast and rolling hills beyond the Proposed Development (see illustrative view 1 in Technical Appendix 6.4) would moderate its characterising influence.' As above, we consider that insufficient information has been provided to justify the finding that at this distance the scale of change could be assessed as Medium/small.

The LVIA concludes that the proposed development would have a Negligible change on the LCA in remaining areas where visibility would be reduced, such as VP2 and VP3. We agree that scale of change is likely to reduce at these locations in part because the proposed development would be more distant, although the viewpoint figures show it would remain perceptible; however, as above, the degree to which aesthetic or perceptual aspects of the landscape are altered, or whether the effect changes that characteristics of the landscape have not been adequately reported in the LVIA. As above, we consider the assessment to be insufficient to justify the finding and disagree that the scale of change could be assessed as Negligible.

The LVIA acknowledges that the central part of the LCA is already influenced by existing and proposed large-scale infrastructure (6.6.4.3 and Table 6.1). In our view, the proposed development represents introduction of large-scale infrastructure development into the eastern part of the LCA, which risks further extending and consolidating this modified character, potentially resulting in degradation of the area's overall perceived coherence and integrity. Amongst the 'Positive attributes' of the LCA, the description notes:

'1. Agricultural character relatively unfragmented.'

The LCA descriptions also include 'Management Guidelines.' These include: 'a) Retain arable character.

b.) Promote increase in roadside planting to reduce impact of major visual detractors without screening all views out.

i.) Retain character of minor roads'

In our view, the assessment does not sufficiently address how the potential impacts of the proposed development might interact with different phases of the baseline schemes referenced in section 6.6.4.3 and Table 6.1.

In our opinion the LVIA does not provide sufficient information to justify the conclusion that there would be no significant effects on the LCA. The LVIA conclusions for this LCA appears to understate the sensitivity, magnitude of change, level of effect and its significance. Further, we consider that the proposed development does not accord with the Management Guidelines for this landscape.

Eastern Lammermuir Fringe

The proposed development would be partly located within this LCA.

In summary, The LVIA judges the Eastern Lammermuir Fringe LCA to have Community value, and Medium/low susceptibility to change, with an overall judgement of Medium/low sensitivity. Within the LVIA study area, much of this LCA lies within SLA 4: Monynut to Blackcastle.

The LVIA gives broad explanations of the judgements made on value and in particular susceptibility. The table below highlights criteria where we disagree with or have comment on the assessment findings. For the reasons given, we consider the sensitivity of the landscape to be greater than Medium/low.

Factors affecting sensitivity	LVIA Explanation	ELC Comment
Value		

Cultural Heritage	<i>A very small portion of the eastern and western edge of the LCA lies within a GDL. A small part of the LCA lies within a historic battlefield and a conservation area. Conservation estate at Spott is listed within the SLA SPG.</i>	An important scenic quality is the prominence of the Dunglass GDL wooded policies, set against the surrounding rural contextual character. The Historic Environment Scotland (HES) citation for Dunglass GDL notes that the landscape surrounding the GDL is 'largely agricultural in use', and states 'The woodlands...remain today as important features in the local landscape'.
Distinctiveness	<i>"Distinctive character of dense rural road network, including local features such as fords and bridges" (SLA SPG).</i>	The distinctive character of the LCA is recognised through the SLA designation. Accordingly, we consider that value is likely to be greater than 'Community.'
Amenity and recreation	<i>A small number of core paths with no wider accessible routes.</i>	Although there is a relatively small number of Core Paths, they offer access to within the LCA that also allows users to experience the Special Qualities and Features of the SLA. Accordingly, we consider the value is likely to be greater than 'Community.'
Perceptual (Scenic)	<i>"...fine open views" (SLA SPG) to the sea, with no other listed scenic qualities.</i>	The LCA description notes the 'extensive views towards the coast from smooth domed hill tops...strongly rhythmic pattern of open topped hills split by steep wooded valleys.'
Susceptibility to change		
Scale	Scale varies between the hill tops and steep valleys. Mostly large scale and open.	The proposed development is located in a transitional part of the landscape, at the boundary with the Innerwick Coastal Margin LCA, which was judged to be 'Medium.' The LVIA explanation does not refer specifically to the susceptibility of the scale in this part of the LCA. Further, given the extensive area of the proposed development, which could affect a perception of scale of the underlying landscape, we

		consider susceptibility is likely to be greater than 'Medium/low.
Landform	<i>'The strongly moulded landform is composed of an intricately interwoven series of smooth,</i>	We consider that the perceptual quality of 'smooth, rounded low hills and slopes' would be susceptible to the

Factors affecting sensitivity	LVIA Explanation	ELC Comment
	<i>rounded low hills and slopes, dissected by an abundance of streams" (SLA SPG).</i>	introduction of features with a strongly 'rectilinear' engineered appearance. Our view is that the susceptibility is likely to be greater than 'Medium.'
Openness/enclosure	<i>Generally an open landscape with some enclosure in valleys and localised depressions.</i>	The LVIA considers 'Open and exposed landscapes' to have lower sensitivity to solar development. Such landscapes are also likely to be more susceptible to the visual influence of development. Accordingly, we consider the susceptibility of this criteria is likely to be greater than Medium/low.
Land cover	<i>Generally simple landcover of fields and woodland, with greater complexity represented in the cleughs.</i>	The proposed development has the potential to introduce a new land use across an extensive area. This has the potential to alter the land cover and simplicity of the farmed landscape; accordingly, we consider this is likely to have greater than 'Medium/low' susceptibility to change.

Built Environment	<i>Limited built features. There is a contrast between traditional farmsteads and modern outbuildings. Small number of wind turbines in the south of the LCA and communications masts on top of hills.</i>	Given the limited built features, we consider that this landscape would be more susceptible to the introduction of extensive and varied built forms. Visual intrusion from new farm buildings is noted as a 'Negative Attribute' of this LCA. We consider that the susceptibility to the type of change proposed is likely to be greater than 'Medium.'
Landscapes that form settings, skylines, backdrops, focal points	<i>Transitional landscape between upland and coastal plain. No noted focal points.</i>	This part of the LCA is at the transition to the coastal margin. It is important to the definition of the SLA boundary – as noted in assessment of Designated Landscapes. The prominence of the Dunglass GDL wooded policies, set against the surrounding rural contextual character are noted by HES to be an important feature in the landscape. The LCA description also notes extensive views towards the coast, from hills, where the landscape would form part of the landward setting. Given the potential to affect the perception of the distinct, recognisable and consistent pattern of elements in the landscape that makes
Factors affecting sensitivity	LVIA Explanation	ELC Comment
		one landscape different from another, we consider that the susceptibility to the type of change proposed is likely to be greater than 'Low'.

The LVIA concludes 'with particular reference to the Limited extent of Large and Large/medium effects, there would be a Medium magnitude impact on the character of the LCA through all stages of the Proposed Development and effects would be Moderate, Adverse and not significant. '

Regarding the conclusion, LI TGN 2024-01 'Notes and Clarifications on Aspects of Guidelines for Landscape and Visual Impact Assessment Third edition (GLVIA3)', 5 (11), p.13, states: 'The Panel suggests that geographical extent should reflect the relevance of the location (for example it may more strongly or weakly manifest one of the key characteristics than other areas, or it may have a geographic

role in connecting parts of the receptor) and the spread of effects, as a 'modifier' to the scale of effect so that it does not understate the magnitude of effects for extensive receptors such as large character areas or designations.'

Our view is that within the LVIA study area, this part of the Eastern Lammermuir Fringe is important as part of the transition from the upland to coastal plain. The characteristics of this landscape contribute to the SLA 4: Monynut to Blackcastle. It is also important to the delineation of part of the SLA boundary.

The LVIA appears not to use the geographic extent as 'modifier' but instead as the main justification to moderate the magnitude of change, which in our view understates the likely landscape impact. The LVIA does not appear to describe the scale of change with reference to the criteria defined in the LVIA methodology, Technical Appendix 6.1, p.3 pp. 17. In our view, the LVIA does not provide sufficient information on the degree to which aesthetic or perceptual aspects of the landscape are altered and whether the effect changes the key characteristics of the landscape, which are critical to perceiving its distinctive character. Inconsistent application of the methodology raises concerns over the LVIA findings.

Viewpoints 5-9 are located within this LCA. VP 6 and VP9 illustrate the change around Oldhamstocks. VP5 and VP6 illustrates the change in the lower lying areas on the fringes of the adjoining LCAs and close to the Dunglass GDL. VP7 and VP8 are located in the hillsides to Cocklaw Hill. VP8 is located towards the top of Cocklaw Hill. Although at high point, VP8 it is not located in the areas shown to have the greatest extent of theoretical visibility (Figure 6.1), i.e., the 'worst case', to the north of 'Dirtside' where there are unobstructed views across this LCA and out to the coast and North Sea; one of the recognised characteristics of the landscape.

The assessment states (6.6.4.11) there would be Large and Large/medium scale of change within the Application Site and adjoining fields up to 0.3km to the west, with the Proposed Development becoming '...the most dominant characteristic of the landscape'. The scale of change is represented by VP7. As above, the assessment does not provide a level of effect within these areas. By not reporting the effect where the scale of change is greatest, it is our view that the assessment is insufficient.

We agree with the LVIA finding that there are areas where the proposed Development would become 'the most dominant characteristic of the landscape.' and consider that, in such areas, this would constitute a significant effect.

The assessment concludes (6.6.4.6) that there would be a Medium to Medium/small scale change between 0.6 to 0.8km further west, stating (6.6.4.12) '...where the landform continues to rise and where the proposed development would be a more distant feature in the expansive landscape'. No photomontage viewpoint has been included to evidence this judgement, which in our opinion is a notable omission. The ZTV (Figure 6.1) and fieldwork suggests that there would be an area between 0.3-0.6km to the west of the application site where the influence of the proposed development on perceived character, through visibility, is likely to be notable. This is likely to impact upon characteristics of the landscape including the extensive views towards the coast from the hills, and the perceptual quality of the transition in the landscape from the uplands to the coastal plain. We therefore disagree with the finding of Medium to Medium/small scale of change and the geographic extent identified in the LVIA.

The LVIA concludes that the proposed development would have a Negligible change on the LCA in remaining areas where visibility would be reduced, citing VP5, VP6, VP7, and VP8. We agree that scale of change is likely to be reduced at these locations in part because the proposed development would be more distant, although it would remain perceptible; however, as above, the degree to which aesthetic or perceptual aspects of the landscape are altered, or whether the effect changes that characteristics of the landscape have not been adequately reported in the LVIA. As above, we consider the assessment to be insufficient to justify the finding that the scale of change could be assessed as Negligible.

The LCA descriptions also include 'Management Guidelines.' These include:

- 'a) Retain distinctive strong local relationships between land cover and topography, emphasising the transition from upland to coastal plan.
- b) Reinforce visual and ecological contrasts between open hill slopes and steep valley sides.
- i.) Retain rural character of dense minor road network including characteristic features...'

In our view, the assessment does not sufficiently address how the potential impacts of the proposed development might interact with different phases of the baseline schemes referenced in section 6.6.4.3 and Table 6.1.

In our opinion the LVIA does not provide sufficient information to justify the conclusion that there would be no significant effects on the LCA. The LVIA conclusions for this LCA appears to understate the sensitivity, magnitude of change, level of effect and its significance. Further, we consider that the proposed development does not accord with the Management Guidelines for this landscape.

Other Landscape Types

The LVIA 'scopes' out detailed assessment of other landscape units within the study area. We agree with the justifications provided in the assessment.

Visual Effects

The LVIA has identifies three visual receptors:

Groups - Based around settlements or rural areas and representing effects on the community within public spaces including streets and local recreational routes in that place. Views from groups of homes may also be noted in the descriptions.

Routes – Users of longer distance transport and recreational routes through the study area.

Specific viewpoints – Visitors to locations which are recognised and valued for the views available.

The LVIA does not appear to cross-reference Volume 3: Chapter 15 – Technical Appendix 15.1 Glint and Glare Report. Since this is potentially a source of visual impact, we consider this a notable omission.

This receptor group encompasses the minor roads where they pass within or very close to the Application Site, and the Core Path to the west which extends south from Dirtside. Homes in this group include Oldhamstocks Mains Farmhouse and Cottage and the small group of homes at Birnieknowes as well as the financially involved property at Springfield.

The value of views within the SLA is assessed as Regional, elsewhere receptor's views are assessed as of Community value. Residents in public spaces near their homes and visitors to the area have a High susceptibility and sensitivity is judged to be High/medium. We agree with this finding.

In summary, the LVIA states that changes to views would be Large to Medium scale for an Intermediate extent of this receptor group giving rise to impacts of Large/medium magnitude through all stages of the Proposed Development. Effects would be Major/moderate, Adverse and significant.

We agree that receptors within 0.4km of the application site would experience these effects; however, we consider that the extent is likely to include sections of Core Path 16 up to approximately 0.6km further west, north of Dirtside. We agree with the LVIA findings that the magnitude of change would not be altered by mitigation and would remain through all stages of the proposed development.

Viewpoints 1, 6, 7 and 9 represent views from local roads and Core Paths. The LVIA states that the most open views from local roads are represented by VP1 and illustrative View C in Technical Appendix 6.4.

We consider that Illustrative View C should be a photomontage viewpoint to evidence the scale of change, as should Illustrative View A, both of which would be representative of views from minor roads where receptors may gain 'first impressions' of the proposed development travelling from Thornton and the wider countryside to the west.

Regarding VP6, the ZTV (Figure 6.1) and fieldwork suggests that more extensive visibility is likely to be experienced from Core Path 12 to the east of the application site. Therefore, we do not consider that this viewpoint represents the 'worst case' visibility from this route but note that the assessment accounts for locations where users of the route would experience a greater scale of change to views.

Visitors to Dunglass GDL

The LVIA concludes that changes to views during all stages of the Proposed Development would be Small/negligible to Negligible scale for a limited extent of the area, giving rise to a Negligible magnitude of change through all stages of the Proposed Development. This change is represented in VP3 and VP5.

VP5 shows the proposed development would be visible on the skyline above the GDL woodland. We consider that the proposed development is likely to detract slightly from the focus on the woodland in the midground of the view, and from the simplicity of the composition. However, it would be seen in the context of the pylon line. Overall, we consider that the magnitude of change is likely to be greater than Negligible.

The LVIA finds that effects would be Minor, Neutral and Not Significant. We agree that effects would not be significant. We agree with the LVIA findings that the magnitude of change would not be altered by mitigation and would remain through all stages of the proposed development.

Hoprig (0.8km, south)

The LVIA concludes that changes to views during all stages of the Proposed Development would be Small/negligible to Negligible scale for an intermediate extent of the area, giving rise to a Small/negligible magnitude of change through all stages of the Proposed Development. This change is represented in VP4 and VP5.

The LVIA finds that effects would be Minor, Neutral and Not Significant. We agree that effects would not be significant. We agree with the LVIA findings that the magnitude of change would not be altered by mitigation and would remain through all stages of the proposed development.

Other Visual Receptors

The LVIA 'scopes out' detailed assessment of other receptors within the study area where it judges there to be 'negligible' effects. This includes:

Local roads, homes, and Core Paths where no visibility is indicated on Figure 6.6. And the A1 and East Coast Main Line Railway which are likely to experience limited visibility of the Proposed development as shown by Figure 6.6. We agree with this finding.

Local roads and homes beyond 0.4 km to the northeast. The LVIA states that where visibility does arise changes to views tend to be Small/negligible scale as illustrated by VP2. We agree with this finding.

The LVIA scopes out detailed assessment of the local road, Core Path, and homes around Oldhamstocks Burn to the west of the Application Site. These receptors are within the SLA, in some instances having views overlooking the landscape setting Oldhamstocks Conservation Area. The LVIA does not include a viewpoint or Illustrative View to support the justification to scope these receptors out. Because of the above, we do not agree that sufficient justification to exclude detailed assessment of these receptors.

The LVIA considers impacts on the Special Qualities and Features of the SLA, which is summarised from the SPG. The summary headings do not include the full descriptions, which in our view is a notable shortcoming.

In Table 6.4 of the LVIA each SLA Special Quality and Feature is assessed for its susceptibility to change. We broadly agree with the susceptibility judgements of the LVIA. The assessment states that the special qualities affected vary between High and Medium susceptibility and would be of High/medium sensitivity taking account of the Regional value of the SLA.

The table concludes the scale of change on each Special Quality under 'Effects;' it does not actually assess the level of effect or significance in this column. The table below highlights where we disagree with or have comment on the assessment findings.

Identified SLA Special Quality / Feature	LVIA Scale of Change Judgement	ELC Comment
The landscape pattern and sense of place.	<i>Medium scale for a Limited extent – the Proposed Development would form a new, atypical feature at the edge of the SLA and would reduce the clear delineation of the woodland belt marking the change of the designated area to the north of Oldhamstocks.</i>	The LVIA acknowledges that the proposed development would reduce the delineation of the SLA boundary, thereby affecting the distinct, recognisable, and consistent pattern of elements in the landscape that makes one landscape different from another – the 'sense of place.' Our view is that the scale of change where this occurs is likely to be greater than 'Medium'.
Complex and contrasting mix of land uses.	<i>Medium scale for a Limited extent – the Application Site is located across an area of intensively managed agricultural land across rolling hilltops and away from more naturalistic areas. It would form a new type of land use within the SLA.</i>	The assessment does not refer to the openness of the landscape, extensive views, the strong rhythmic pattern of predominantly open topped hills split by steep wooded valleys, or the flowing form of the higher ground. Our view is that the assessment is incomplete and when considering this identified Special Quality in full, the scale of change is likely to be greater than 'Medium'.

Winding minor single track roads and associated scenic value.	<i>Medium to Small scale for a very Limited extent – there would be changes to views from the local road as it passes the Application Site, as illustrated by viewpoint 7.</i>	6.6.3.9 of the assessment states ‘The extent of Large and Medium scale visual changes, where the Proposed Development would form a major alteration to key elements, features, qualities and characteristics of the view
Identified SLA Special Quality / Feature	LVIA Scale of Change Judgement	ELC Comment
		such that the baseline will be fundamentally or notably changed, would be limited to the local roads which pass through the Application Site ... and elevated sections of these roads within approximately 250 m, such as at viewpoint 7.’ It is unclear how the assessment of this Special Quality of the SLA is judged to have a reduced scale of change.
Views of the Lammermuirs and distinct hills.	<i>Negligible - the Proposed Development would not be seen in views towards the Lammermuirs or distinct hills from within the SLA.</i>	Viewpoint 7 and the ZTV (Figure 6.1) demonstrates that there will be locations within the SLA where the proposed development is likely be seen in views towards the eastern Lammermuirs in close proximity to the application site.
Oldhamstocks village.	<i>Negligible – the Proposed Development is set back from the village and would not be visible from the village or the lower slopes around the village which form its immediate landscape setting.</i>	Viewpoint 7 and the ZTV (Figure 6.1) demonstrate that there will be locations within the SLA where the proposed development is likely be seen in views towards Oldhamstocks Village and its contextual landscape setting. This is referred to in the Statement of Importance for this SLA under the ‘Guidelines for Development.’ We therefore consider that the scale of change is likely to be greater than ‘Negligible’.

The LVIA judges the magnitude of change would be Medium/small at all stages of the Proposed Development and effects would be Moderate, Adverse and Not Significant. We disagree with the

magnitude of change judgment and consider that this is likely to be higher in respect of the identified Special Qualities and Features discussed above.

The Statement of Importance for this SLA includes 'Guidelines for Development,' of which the following are considered relevant:

'A.) Any proposed development must not harm the characteristic features reflecting transition from open upland to enclosed lowland landscape.

D.) Any proposed development must not harm views of Oldhamstocks from Cocklaw ...

E.) Any proposed development must not harm the agricultural character of the area.

L.) Any proposed development must not harm the existing character of the village of Oldhamstocks and the surrounding countryside.'

In our opinion the LVIA does not provide sufficient information to justify the conclusion that there would be no significant effects on the SLA. It is our view that the proposed development does not appear to accord with the Guidelines for Development for the SLA.

Residential Visual Amenity Assessment (RVAA)

The RVAA assesses two properties, Oldhamstocks Mains Farmhouse, and Oldhamstocks Mains Cottages.

The RVAA concludes a Medium magnitude of change during all stages of the proposed development, resulting in Major / moderate level of effect for both properties. The RVAA identifies that existing and proposed woodland would, to varying degrees, restrict visibility of the closest parts of the proposed development.

On pp.11, the RVAA states that 'Where it is identified that notable effects may arise at a property, the existing baseline visual amenity is described. This is done 'in the round' and considers ... views experienced when arriving or leaving the property.' LI TGN 02/19 'Residential Visual Amenity Assessment' clarifies that 'arriving or leaving the property' relates to views from private driveways / access tracks.

The RVAA states that as the magnitude of effects is below Large, and there is no potential for the RVA threshold to be exceeded at this property. We agree with the findings.

A summary of findings of the presentation of the assessment

The findings of the assessment are adequately set out.

The graphics (Figures) are suitably legible, although the location of Illustrative Views is not marked on the figures, visualisation types are not clearly labelled.

An understanding of the baseline schemes referred to in 6.6.4.3 and Table 6.1 would be assisted by including an LVIA figure showing the application boundaries and LVIA study area.

We have concerns regarding the presentation of the ZTVs and that the LVIA omits bare-ground ZTVs.

We consider that Illustrate View A and C should be included as photomontage viewpoints to provide sufficient information to support the assessment of these LCAs.

Our view is that locations for Viewpoints 3, 6, and 8 do not represent the 'worst case' visibility. The LVIA does not include viewpoints requested by ELC at the Scoping stage.

Overall conclusions

The review has identified areas where, in our opinion, there is concern regarding the lack of clarity in reasoning, insufficient justification for key conclusions and underestimation of effects in some instances.

Based on our review, we recommend objection on landscape grounds:

- due to the identified significant adverse visual effects;
- due to the potential for significant adverse effects on landscape character; and
- due to the potential for significant adverse effects on the Special Qualities and Features of SLA 4: Monynut to Blackcastle.

Design and Mitigation

For most landscape and visual receptors, the LVIA concludes that the magnitude of change would not be altered by mitigation and would persist throughout all stages of the proposed development.

The management of existing hedgerow to a higher height, to potentially provide degrees of screening of the proposed development would change the character of the local minor roads. It would partly conflict with the 'Management Guidelines' for the LCA 'Innerwick Coastal Margins'.

Visual Effects

The LVIA concludes that there would be Major to Moderate, adverse, and significant effects on users of local roads, paths, and residents within approximately 0.4 km of the proposed development, where frequent and close-range views of solar panels and associated infrastructure would occur. We agree with these findings, although we consider that the geographical extent of the impacts is likely to be greater than suggested in the assessment. The LVIA states that the magnitude of change would not be altered by mitigation and would persist throughout all stages of the proposed development.

The LVIA also concludes that other assessed visual receptors within the study area would experience non-significant effects. We agree with this conclusion; however, we believe that the magnitude of change - and therefore the level of effect - is underestimated in some instances.

We do not agree that sufficient justification has been provided for scoping out a detailed assessment of the visual receptor group comprising the local road, Core Path, and homes around Oldhamstocks Burn to the west of the application site.

Effects on Landscape Fabric

We are concerned that the LVIA does not offer a complete and robust assessment of impacts on individual receptors throughout all stages of the proposed development. In our view, the assessment does not align with LI TGN 2024-01, which states in section 5(2): 'Landscape features, elements ... that could be subject to change must be clearly described in their own right ...'

We believe there is insufficient evidence to support the LVIA's conclusion (section 6.6.2.2) that 'Effects on landscape fabric would be positive and not significant.'

Effects on Landscape Character

The LVIA concludes that for both the Innerwick Coastal Margin LCA and the Eastern Lammermuir Fringe LCA, there would be Large to Medium-scale changes to landscape character within parts of the application site hosting infrastructure, and across undeveloped areas in some directions where open views would be possible. It states that, in the context of these extensive character areas, the very limited extent of these changes would result in moderate, adverse, and non-significant effects. We disagree with this conclusion.

The assessment states (section 6.6.4.11) that the proposed development would become '...the most dominant characteristic of the landscape.' We agree with this finding and consider that, in such areas, this would constitute a significant effect.

Furthermore, we consider that within the LVIA study area, the Innerwick Coastal Margin LCA plays an important role in the transition between the fringes of the Lammermuir Hills (Eastern Lammermuir Fringe LCA) and the sea. It also contributes to the delineation of part of the boundary of SLA 4: Monynut to Blackcastle, provides the contextual landscape setting for the Dunglass GDL, and is representative of key characteristics of the landscape that have already been, and will continue to be, modified by large-scale infrastructure elsewhere in the LCA. Similarly, the Eastern Lammermuir Fringe LCA is important within the LVIA study area as part of the transition from upland to coastal plain. Its characteristics contribute to SLA 4: Monynut to Blackcastle and help define part of the SLA boundary.

The LVIA acknowledges that the central part of the Innerwick Coastal Margin LCA is already influenced by existing and proposed large-scale infrastructure. In our view, the proposed development introduces further large-scale infrastructure into the eastern part of the LCA, which risks extending and consolidating this modified character, potentially degrading the area's overall perceived coherence and integrity.

In our opinion, the LVIA does not provide sufficient information to justify the conclusion that there would be no significant effects on these LCAs. We consider that the sensitivity, magnitude of change, and therefore the level and significance of effects are underestimated in some instances. Additionally, we believe the proposed development does not appear to align with the Management Guidelines for each LCA.

Designated Landscapes

The LVIA concludes that localised or limited Medium to Small-scale changes to landscape pattern and colours, scenic value experienced from local roads, and views towards the sea would result in Moderate, adverse, non-significant effects.

In our view, the LVIA does not provide sufficient justification for the conclusion that there would be no significant effects on the SLA. We consider that the magnitude of change - and therefore the level and significance of effects - is underestimated in some instances. Furthermore, the proposed development does not appear to align with the Guidelines for Development for the SLA.

For most landscape and visual receptors, the LVIA concludes that the magnitude of change would not be altered by mitigation and would persist throughout all stages of the proposed development.

ECU Application No. ECU00004815

ELC Reference No. 25/00003/SGC

Proposal	Electricity Act 1989 – Application to construct and operate a solar development, electricity generating station and associated infrastructure
Location	Land located approximately 7.8km Southeast of Dunbar
Applicant	Voltaia UK Limited Per Alexander Hamilton The Wheelhouse Bond's Mill Estate Stonehouse Gloucestershire GL10 3RF
Ward	06 Dunbar and East Linton
Date	14 October 2025

Sent via email to

econsents_Admin@gov.scot

Cc David King david.king2@gov.scot

ANNEX C – ROAD SERVICES COMMENTS

Background

This response follows our review of the Transport chapter of the EIA report and sets out our appraisal of the proposals in the context of the local transport network during the construction, operational and decommissioning phases of the development. As part of this review, full consideration has been given to the relevant transport related policies within the adopted *East Lothian Local Development Plan* (2018) and *National Planning Framework 4* (2023) documents. Reference is also made to East Lothian Council's '*Transport Infrastructure in New Developments*' online guidance.

Existing Conditions

The local road network in the vicinity of the site is made up of mostly narrow two-way single carriageway rural roads subject to the national speed limit. The alignment of the road includes tight bends in places and there are very limited clearly defined passing places.

It is acknowledged that the roads are relatively lightly trafficked, however, there is prevalence of farming vehicles using the roads and tracks through the year. Furthermore, the road network is utilised by non-motorised traffic with frequent use by pedestrians, cyclists and horse riders.

CONSTRUCTION PHASE IMPACT

Construction Phase Trip Generation Assessment

It is noted that the construction phase is proposed to be 18 months in duration. The construction traffic trip generation assessment indicates that the peak traffic flows associated with the construction phase would result in the following additional vehicular movements per day:

- 76 two-way total movements (38 in and 38 out), of which 48 are by light vehicles (24 in and 24 out) and 28 are by HGVs (14 in and 14 out).

We note that the HGV movements on average during the construction period are predicted to be 5 two-way movements per day.

Construction Site Access Arrangements

It appears that there is one main construction site access proposed at the northern boundary of the site with a network of internal access tracks / haul roads that require to cross the existing road network at five locations.

Given the duration of the construction period and volumes of traffic utilising the construction site access, it should be designed to the same standards as any permanent junctions on the network. The required design standards are set out in our '*Transport Infrastructure in New Developments*' online guidance.

At the crossing points where the haul road network pass through the local public road network, these would need to be designed to an acceptable safe standard to The Council as the Roads Authority and discussions should take place in relation to their design with proposed designs required and agreed before determination.

The speed limit of the road where the construction site access (Site Entrance 01) is taken is the 60mph national speed limit and on this basis the minimum visibility splays that would be required to be achieved are 4.5m by 215m (with no obstructions above 1.05m in height). Reduced visibility splays can only be accepted if site specific speed data has been provided. The visibility splays indicated are 2.4m

by 215m to the east and 160m to the west, which is not acceptable. We would question why the construction access is proposed in this location as satisfactory visibility could be achieved if it would be placed approximately 60m to the east.

The proposed construction site access junction geometry of 14m radii is acceptable. A track width of 4m is indicated, which would only allow one way working through the site for HGVS and we would question the practicality of this as two-way construction traffic should be achieved in the vicinity of the site access.

The proposed type-1 surfacing for the track alignment with the first 10m from the public road as bound permeable surfacing and a gate beyond this is acceptable in the context of the proposals and expected traffic types / numbers, however, details of the construction specification are requested for our approval, together with details of how surface drainage will be dealt with.

The swept path assessment through the site access shows that the proposed site access would be too narrow to accommodate an articulated HGV and is not suitable, we therefore question the proposed design on that basis.

Construction Vehicle Routing

It is proposed that inbound HGVs will exit the A1(T) from the Cockburnspath Roundabout and pass along the U220, then turning left onto the C120, negotiating 3 pinch points (referenced as Pinch Points 1, 2 and 3) and then turning left into the site at Site Entrance 1. LVGs and cars are expected to use the same route. We have significant concerns in relation to the suitability of this route given the impact on residential properties located directly adjacent to the roads on the route. It should also be pointed out that this forms part of the National Cycle Route and construction traffic would have an impact on cycle safety.

A swept path assessment has been undertaken for articulated HGVs along the proposed route – this indicates that at the three pinch points the vehicles can only negotiate the bends in the road whilst using the full road width and with the need for temporary widening of the corners of the bends in the roads. On this basis, any traffic passing in the opposite direction would not be able to pass and there are no passing places to allow this to occur. There are also no proposals for new / temporary passing places along the road network to facilitate the passing of traffic in opposing directions, which is not acceptable.

The proposed mitigation measure to compensate the lack of opportunities for passing traffic is the temporary closure of a section of the C120 road to general traffic, it being stated that this would be with the exception of local access to properties along the road. Alongside this closure it is proposed to have a 'vehicle booking system' with a vehicle delivery 'hold-off area' for the duration of the construction along with warning and directional signage.

The proposed temporary road closure would not be practical as there would remain issues between construction traffic and the traffic accessing local properties (including farm land) needing to pass each other through the pinch points on the road network. Any temporary road closure would also need to be backed up by an appropriate diversion route that should be suitable for all vehicles and we question whether this could be achieved. Such a road closure would have a significant detrimental impact on the use of the road network in the area for the general public, including pedestrians, cyclists and horse riders that would not be acceptable. Overall, the proposed construction access arrangements are not considered to be acceptable on this basis.

Abnormal Load Vehicles

Abnormal load traffic is proposed to depart from the A1 to the north of the Dunglass Burn via the U221, passing under the railway line and onto the U220 through Bilsdean, taking the same route to the main construction access via the C120 and with departures to the north via the U219.

No swept path assessment has been provided to demonstrate that the proposed abnormal load route is achievable and these should be provided for our review. Until such drawings are provided, we cannot confirm the acceptability of this aspect of the construction phase.

It is stated that an Abnormal Load Route Assessment will be undertaken prior to commencement of works post permission, however, we would request that a draft is provided for our approval to show that it is workable in principle before determination with the final version to be secured through a relevant planning condition.

Construction Traffic Management Plan

An Outline Construction Environmental Management Plan (CEMP) has been provided with the application and reference is made to the provision of a Construction Traffic Management Plan (CTMP) to be finalised post consent. We would expect that a draft CTMP be provided with the planning application pack for our review as a consultee – noting that there are fundamental aspects in the report that would influence our general decision as to the acceptability of the proposals. We accept that the final / working version of the CTMP should be secured through a relevant planning condition.

As part of the CTMP, we would request enforcement of a 20mph speed limit for all construction traffic, which would be enforced through the use of average speed cameras with registration plate recognition. Furthermore, all drivers will be required to attend a site induction to ensure that they are aware of the driving rules to ensure that they drive in a safe and courteous manner.

Local Road Network Capacity Assessment

An assessment is made of the percentage impacts of construction traffic on the A1(T), which concludes that the impact would not be significant. The assessment states that there are no publicly available

traffic count data for the roads within the study area and makes an assumption that the average daily flows would be 100 vehicles (including 2 HGVs). We would expect any assessment to be based on recorded traffic flows and not assumed values.

An assessment has been made on the percentage impacts on the theoretical capacity of the local roads U220, U246 and C120 which determines that the percentage impact on the 8 hour capacity would be insignificant. However, this assessment does not consider the need for such roads to accommodate two-way traffic (it states 'N/A' for the two-way hourly capacity) and on this basis is flawed.

Overall, we do not accept the findings of the assessment of the impacts on the local road network during the construction phase and do not agree with the conclusion that the impacts are insignificant – particularly as these are not based on evidence gathering.

Accident analysis

An analysis of accidents in the area over the last five year period has been undertaken and it concluded that there were no trends in the accidents that would indicate that there are significant safety concerns with the existing conditions. We would point out that the construction phase proposals would result in a significant change to the operation of the local road network in terms of the mix of construction and general traffic that would likely result in a detrimental impact on road safety and therefore, accident risk, in particular at the identified pinch points, especially for more vulnerable road users including pedestrians, cyclists and horse riders.

Committed Developments / Cumulative Impact

Acknowledgement has been made of the potential overlap between this proposal and other projects in the vicinity and it is stated that any impacts arising should be managed out through the individual CTMPs and communication between ELC, Transport Scotland and the various developers and East Lammern Community Council – the principle of this is noted and welcome and could be referenced in a relevant planning condition to ensure that this is coordinated properly.

Specific reference should be made to the approved Branxton Substation project (Planning Reference 23/00616/PM) and the associated temporary signalisation and road improvement works to the C120 / U220 junction to facilitate construction vehicle access between the proposed temporary slip road from the A1 and the construction haul road to the substation site itself.

Road Condition Survey

A willingness to undertake pre/post road condition surveys and road repair agreement is confirmed by the applicant and this is welcomed, the scope of this should be agreed with us and the commitment to this process should be set out in a relevant planning condition.

With regards to abnormal wear and tear on the road network, our expectation is that all damage to the public road network will be repaired in a timely fashion such that it is maintained for use by the public in a good state of repair. There needs to be a commitment to permanent repairs to the road

network due to the construction activity. There should be an obligation to keeping all of the roads free of mud and debris during the construction period.

OPERATIONAL PHASE IMPACT

During the operational phase, the wider site is proposed to be accessed by a number of different access points from the local road network. In general, these operational site accesses would be accessed by light/medium vehicles with only site entrance 3B to accommodate HGVs.

Whilst it is acknowledged that the operational phase traffic numbers would be relatively low (i.e. less than one vehicle per week), the various site access points would still need to be designed such that they accord with our design standards and visibility criteria, as set out in our '*Transport Infrastructure in New Developments*' online guidance. The speed limit of the roads that the various site accesses are taken is the 60mph national speed limit and on this basis the minimum visibility splays that would be required to be achieved are 4.5m by 215m (with no obstructions above 1.05m in height). Whilst we would be willing to accept a relaxation of the 'x' distance to 2.4m at the operational site accesses used by infrequent light/medium vehicles only (i.e. all except site access 3B), the 'y' distance should be backed up with speed survey data for all of the proposed site access locations.

The proposed site access junctions generally have 8m radii (12m for site access 3B to accommodate HGVs), a track width of 4m and proposed type1 surfacing for the track alignment with bound permeable surfacing for at least the first 10m from the edge of the public road carriageway – these arrangements are generally acceptable in the context of the proposals and expected traffic types / numbers, however, we require construction details for our approval together with details of how surface water will be dealt with. The swept path assessments into / out of the junctions themselves are acceptable.

In summary, all of the permanent site accesses have sub-standard visibility splays, which cannot be supported without evidence of lower traffic speeds as recorded in up-to-date speed surveys at the relevant points on the road network.

DECOMMISSIONING PHASE IMPACT

It is stated that the decommissioning phase impact would be the same or less than the construction phase impact and that the baseline in 40 years time would be difficult to accurately predict and therefore it has been scoped out of the assessment, which is accepted in principle.

CONCLUSION

Based on the above, there are significant areas of the proposals during both the construction and operational phases of the development that require to be resolved before we can be in a position to support the proposals in the context of the local road and transport network operation.

ROAD CONSTRUCTION CONSENT

Please advise the applicant that all works within or affecting the public road including works on the footpath must be authorised in advance by this Council. Further, any proposals, which include new or extended roads, will also require Road Construction Consent prior to carrying out any works and for which application should be made to the Head of Infrastructure. In addition, it should be noted that temporary measures will be necessary to deal with surface water run-off during construction of the site, in accordance with the requirements of the Water Environment (Controlled Activities) (Scotland) Regulations 2005 and General Binding Rules.

Please advise the applicant that all works within or affecting the public road including works on the footway or verge must be authorised in advance by this Council as Roads Authority.

COMMITTEE: Planning Committee
MEETING DATE: 4 November 2025
BY: Executive Director for Place
REPORT TITLE: Application for Planning Permission for Consideration

3

***Note:** This application was called off the Scheme of Delegation List by Councillor Collins for the following reason:* Due to local concerns about flooding and possible environmental impact.

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

Applicant Burness Paull
Per RDRL Limited

RECOMMENDATION Consent Granted

REPORT OF HANDLING

APPLICATION SITE AND BACKGROUND

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

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

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

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

PROPOSAL

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

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

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

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

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

Since the application was registered additional information has been submitted in the form of additional drawings and method statements.

DEVELOPMENT PLAN

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

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

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

Proposal DR7: Land at Spott Road, Dunbar and Policies DP1 (Landscape Character), CH5 (Battlefields), NH1 (Protection of Internationally Designated Sites), NH3 (Protection of Local Sites and Areas), NH4 (European Protected Species), NH5 (Biodiversity and

Geodiversity Interests, including Nationally Protected Species) and NH11 (Flood Risk) of the LDP are relevant to the determination of the application.

REPRESENTATIONS

Nine written representations have been received to this application, eight of which object to the proposed development and one which makes comment on it. The main grounds of objection can be summarised as follows:

- * The proposed surface water drainage pipe would pass through private land jointly owned by the residents of Ancroft;
- * The proposed development could impact on protected species;
- * The proposed development could impact on trees;
- * The proposed surface water drainage pipe may affect a private septic tank;
- * It is not physically or technically possible to install the proposed surface water drainage pipe so close to the existing septic tank;
- * The proposal could cause leakage from the septic tank into the Brox Burn;
- * There already exists erosion at the bank of the Brox Burn; and
- * Use of the proposed surface water drainage pipe would lead to surface water flooding to adjoining land and properties.

It was confirmed that part of the application site crossed land in ownership of one of the residents of Ancroft. As such a revised land ownership certificate was submitted correctly identifying the relevant landowners, and notice served on the landowners.

As a result of this, and the receipt of an updated supporting statement and new drawings, the application was re-notified to neighbours and re-advertised.

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

COMMUNITY COUNCIL COMMENTS

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

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

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

- * the outflow of the pipe into the watercourse of the Brox Burn impacts on the septic tank infrastructure of the 6 homes at Ancroft. The residents have not given permission for excavation near their septic tanks to install the pipe;
- * the Brox Burn area has seen an increased history of flooding during heavy rain in recent

years; there is concern that this development will increase the flood risk to properties nearby;

- * there should be a masterplan for drainage across the site. At present it is not known what the eventual water use of the development will be once completed and thus it is not known what the potential will be for outflow through the pipe into the Brox Burn.

- * alternative options for drainage should be considered;

- * concern about the wider impact of developments along the A1 corridor on drainage and flooding; and

- * impacts on protected species.

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

ENVIRONMENTAL IMPACT ASSESSMENT

Under the provisions of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 the proposed development falls within the category of a Schedule 2 Development, being one that may require the submission of an Environmental Impact Assessment (EIA). Schedule 3 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 sets out the selection criteria for screening whether a Schedule 2 development requires an EIA. On 26 September 2025 the Council issued a formal screening opinion to the applicant. The screening opinion concludes that it is East Lothian Council's view that the proposed development is not likely to have a significant effect on the environment such that consideration of environmental information is required before any grant of planning permission. It is therefore the opinion of East Lothian Council as Planning Authority that there is no requirement for the proposed development to be the subject of an EIA.

PLANNING ASSESSMENT

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

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

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

Given the proximity of the proposed surface water pipe to an existing wastewater treatment tank at the residential properties at Ancroft and concerns over whether that tank would have to be replaced to facilitate construction of the proposed surface water pipe, the applicant has submitted method statements from their engineers detailing that the installation of the surface water pipe is technically possible without removal of the wastewater tank.

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

Policy 7 of NPF4 and Policy CH5 of the LDP.

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

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

Scottish Environment Protection Agency (SEPA) have been consulted on the application and advise they raise no objection to the proposed surface water drainage pipe, satisfied that predicated flows would not result in any flood risk.

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

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

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

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

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

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

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

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

(i) supplementary surveys being submitted for protected species (bats, otter and badger) to be carried out by a suitably qualified person; the results of the surveys to be used to inform any required mitigation proposals for protected species on the site;

(ii) the submission of a Species Protection Plan (including otter, bats and badger) for the approval in writing by the Planning Authority;

(iii) the submission of a Construction Environmental Management Plan; and

(iv) the appointment of an Ecological Clerk of Works.

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

The **Council's Senior Landscape Officer** has been consulted on the application and advises that to protect trees and a hedge adjacent to the proposed pipe route, temporary protective fencing should be erected. The Senior Landscape Officer also advises that should any trees require to be removed to facilitate the proposed development then new tree planting should take place to mitigate for such loss. The requirement for temporary protective fencing and any replacement planting that may be required can be imposed as conditions on a grant of planning permission.

In conclusion, the proposal is considered to be in accordance with the provisions of the stated relevant Development Plan policies and there are no material considerations which outweigh the proposal's accordance with the Development Plan.

CONDITIONS:

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

Reason:

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

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

Reason:

In the interests of flood protection.

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

Any mitigation measures required as a result of the approved Species Protection Plan shall be detailed within a Construction Environmental Management Plan (CEMP), which shall be submitted to and approved by the Planning Authority prior to the commencement of development. Development shall thereafter be carried out in accordance with the approved CEMP.

Reason:

In the interests of safeguarding the biodiversity of the area.

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

- * impose a duty to monitor compliance with the Construction Environmental Management Plan as required by Condition 3 above; and
- * detail the stages of the construction phase of the development when the ECoW shall be in post.

The ECoW shall be appointed on the approved terms unless otherwise agreed in writing by the Planning Authority.

Reason:

To avoid or minimise disturbance of wildlife.

- 5 Unless otherwise agreed in writing by the Planning Authority, no development shall take place on site until temporary protective fencing for trees and a hedgerow has been erected:

- * 3 metres to the south side of the surface water pipe route on the south side of the old A1 road;
- * on the southern side of hedge adjacent to 6 Ancroft, and;
- * around trees on the bank of the Brox Burn south of the new outfall to the burn.

The detail of the temporary protective fencing and its positioning shall be submitted to and approved in advance by the Planning Authority.

The temporary protective fencing shall be erected prior to site start and retained on site and intact through to completion of development.

Reason:

To ensure the protection of trees and hedging in the interests of safeguarding the landscape character of the area.

- 6 If any tree to be retained along the site of the surface water pipe is removed, damaged or dies as a result of the site works hereby approved it 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 the interests of the landscape character of the area.

- 7 Prior to the commencement of development, a detailed method statement shall be submitted to and approved by the Planning Authority, which shall set out the scope of works, site investigations and method of construction of the surface water pipe hereby approved.

Development shall thereafter be carried out in accordance with the detailed method statement as so approved.

Reason:

To ensure the surface water pipe can be installed as approved in the interests of the amenity of the area.

COMMITTEE: Planning Committee
MEETING DATE: 4 November 2025
BY: Executive Director for Place
REPORT TITLE: Application for Planning Permission for Consideration

4

Application no. **24/00902/PM**

Proposal Erection of 339 houses, 24 flats, 2 retail/commercial units (Class 1A) and associated works

Location **Land South of
Whitecraig
East Lothian**

Applicant Bellway Homes Limited and Buccleuch Property Development

Per Stantec

RECOMMENDATION Consent Granted

REPORT OF HANDLING

BACKGROUND

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

As a statutory requirement for major development proposals the residential development of this site was the subject of a Proposal of Application Notice (ref: 24/00001/PAN) and thus of community consultation prior to this application for planning permission being made to the Council.

As an outcome of that and as a statutory requirement for dealing with major development type applications a pre-application consultation (PAC) report is submitted with this application. The report advises that two public consultation events were held, both at Whitecraig Village Hub with the first held on 20 March 2024 and the second on 23 April

2024. The PAC report informs that it is estimated that some 34 people attended the first public consultation event, and 2 people attended the second event. For the first public consultation event, a total of 12 feedback forms were received and for the second public consultation event 1 feedback form was received. The development for which planning permission is now sought is of the same character as that which was the subject of the community engagement undertaken through the statutory pre-application consultation of the proposal.

APPLICATION SITE

The application relates to some 16.63 hectares of agricultural land located immediately to the southwest of the village of Whitecraig. It is bounded to the northeast by a combination of Whitecraig Primary School, a recreation ground with playing fields and a play park, and existing residential properties of Whitecraig with surrounding areas of grassed open space. To the southeast the site is bounded by the Smeaton Railway Walk which is core path no. 73 and to the southwest the site is bounded by Smeaton Farm Cottages and surrounding land which is part of the Edinburgh Green Belt, and a public road. On its east side the site is bounded by the A6094 Salters Road. On the opposite of Salters Road is the Dalkeith House (Palace) Inventory Garden and Designed Landscape and the River Esk Special Landscape Area.

The topography of the site is generally level with a gradual rise from west to east.

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

The application site is allocated for a mixed-use development by Proposal MH13 (Land at Whitecraig South) of the adopted East Lothian Local Development Plan 2018. A small part of the application site at its northern side also forms part of Proposal MH15 (Whitecraig Primary School Expansion Land).

PROPOSAL

Planning permission is sought through this application for the erection on the application site of 339 houses, 24 flats and associated works. The associated works include the formation of roads, footpaths and parking areas, the formation of areas of open space, the formation of a play area, the erection of boundary enclosures, and hard and soft landscaping.

Planning permission is also sought for the erection for 2 retail/commercial units at the northwest corner of the site and associated roads, footpaths and parking area.

Since the registration of the application, a number of non-material amendments have been made to the proposals resulting in the submission of revised site layout and landscaping plans, road and footpath layouts and amendments to house types and designs and an increase in the number of houses proposed. These revisions include changes to the road and footway layout, revisions to the layout and orientation of house plots, revisions to house types proposed resulting in a decrease in the number of detached units being proposed, changes to boundary treatments and landscaping.

As a result of these changes the application was re-registered, re-notified to neighbours and re-advertised.

The proposed development site layout plan shows how the proposed 339 houses and 24 flats and the 2 retail/commercial units would be accommodated on the site along with associated access roads, parking areas, landscaping, open space, paths and equipped play provision.

The houses would comprise of a mix of 194 detached, 76 semi-detached and 69 terraced houses. The houses would all be two-storey with the exception of 2 bungalows. The 24 flats would be 'cottage style' flats consisting of 4 flats each within two-storey flatted buildings.

In terms of size, of the proposed 339 houses 9 would contain 5 bedrooms, 159 would contain 4 bedrooms, 148 would contain 3 bedrooms and 23 would contain 2 bedrooms. Of the proposed 24 flats, 16 would contain 2 bedrooms and 8 would contain 1 bedroom.

Out of the proposed houses and flats, 12 of the semi-detached houses, 53 of the terraced houses, the 2 bungalows and the 24 flats would be affordable housing units. The remaining 272 houses would be private houses for sale.

The private houses would comprise of 31 different house types, and the affordable houses would comprise 4 different house types.

Vehicular, pedestrian and cycle access to the 339 houses and 24 flats would be way of the formation of 2 new accesses taken from the A6094 Salters Road and one new access taken from the public road at the southwest corner of the site. Also proposed is to form a new pedestrian/cycle connection from the site at its northeast corner through to the existing footway at Dean Court, a requirement of Proposal MH13 of the adopted East Lothian Local Development Plan 2018. A dedicated active travel route access would also be taken from the A6094 Salters Road.

The proposed commercial units would have a separate new vehicular access taken from the A6094 Salters Road leading to an access road, pedestrian route, servicing area and parking area.

There would be 3 path connections to the Smeaton Railway Walk which bounds the site to the east, that would link into active travel paths formed through the site. Two large areas of open space would be formed to serve the proposed development, one linking into the existing recreation ground with playing fields and a play park on the northeast side of the site and another at the southeast side which would include an equipped play area. The SuDS would be formed at the western part of the site adjacent to Salters Road. A new footway would be formed along part of the western boundary of the site linking into the existing footway into Whitecraig.

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

ENVIRONMENTAL IMPACT ASSESSMENT

Under the provisions of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 the proposed development falls within the category of a Schedule 2 Development, being one that may require the submission of an Environmental Impact Assessment (EIA). Schedule 3 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 sets out the selection criteria for screening whether a Schedule 2 development requires an EIA. On 13 May 2024 the Council issued a formal screening opinion to the applicant with the conclusion that the proposed development is not likely to have a significant effect on the environment such that consideration of environmental information is required before any grant of planning permission and therefore it is the opinion of East Lothian Council as Planning Authority that there is no requirement for the development the subject of this application to be the subject of an EIA.

DEVELOPMENT PLAN

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

The development plan is the adopted National Planning Framework 4 (NPF4) and the adopted East Lothian Local Development Plan 2018 (LDP) 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), 7 (Historic Assets and Places), 9 (Brownfield, vacant and derelict land and empty buildings), 12 (Zero waste), 13 (Sustainable Transport), 14 (Design, quality and place), 15 (Local living and 20 minute neighbourhoods), 16 (Quality Homes), 18 (Infrastructure First), 20 (Blue and green infrastructure), 21 (Play, recreation and sport), 22 (Flood Risk and Water Management), 24 (Digital infrastructure) and 31 (Culture and creativity).

Relevant LDP Proposals are PROP MH13: Land at Whitecraig South, PROP T9: Larger Station Car Parks, PROP T10: Platform Lengthening, PROP T15: Old Craighall Junction Improvements, PROP T17: A1 Interchange Improvements, PROP T21: Musselburgh Urban Traffic Control System, PROP T27: Tranent Town Centre One-Way System, PROP CF1: Provision of New Sports Pitches and Changing Accommodation and PROP ED1: Musselburgh Cluster Education Proposals.

Relevant LDP Policies are DP1: Landscape Character, DP2: Design, DP3: Housing Density, DP4: Major Development Sites, DP8: Design Standards for New Housing Areas, DP9: Development Briefs, HOU3: Affordable Housing Quota, HOU4: Affordable Housing Tenure Mix, OS3: Minimum Open Space Standard for New General Needs Housing Development, OS4: Play Space Provision in New General Needs Housing Development, CH5: Battlefields, RCA1: Residential Character and Amenity, DCN2: Provision for Broadband Connectivity in New Development, W3: Waste Separation and Collection, NH5: Biodiversity and Geodiversity Interests, including Nationally Protected Species, NH7: Protecting Soils, NH10: Sustainable Drainage Systems, NH11: Flood Risk, NH12: Air Quality, NH13: Noise, T1: Development Location and Accessibility, T2: General Traffic Impacts, T4: Active Travel Routes and Core Paths as part of the Green Network Strategy, T31: Electric Car & Bus Charging Points, T32: Transport Infrastructure Delivery Fund, SEH2: Low and Zero Carbon Generating Technologies and DEL1: Infrastructure and Facilities Provision.

A further material consideration is the Scottish Government Policy Statement: Designing Streets which provides an overview of creating places, with street design as a key

consideration.

Also material is East Lothian Council's approved Developer Contributions Framework Supplementary Guidance (SG) and the approved Supplementary Planning Guidance (SPG) on Design Standards for New Housing Areas, Affordable Housing and Sustainable Drainage Systems (SuDS).

Also material to the determination of the application is the non-statutory Development Brief (MH13 Whitecraig South, Whitecraig) which was adopted by the Council on 30 October 2018.

REPRESENTATIONS

Material to the determination of the application are the written representations received to it. There have been three written representations received to this application, two of which raise objection to the proposed development and one makes comment on it. Copies of the written representations are contained in a shared electronic folder to which all Members of the Committee have access.

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

- * no major development should be opening onto an unclassified road;
- * there would be a loss of agricultural land and a wildlife corridor;
- * there would be added pollution and carbon footprint from the proposed houses;
- * the field at Whitecraig floods frequently and flooding on the main road has worsened over the last 5 years;
- * the proposed development would lead to increased traffic in the local area which the local roads cannot accommodate;
- * the proposed development would cause a loss of amenity through overlooking;
- * the proposed development would lead to dust, dirt and noise pollution;
- * there could be a release of harmful gas from past mining activity, and;
- * there are mine shafts which could lead to ground movement and subsidence.

The main grounds of comments are that development of this allocated site is supported but it should be ensured that there is integration with the existing settlement.

COMMUNITY COUNCIL COMMENTS

Whitecraig Community Council have been consulted on the application. They advise that they do not object to the proposed development and that the proposed commercial units would be a great asset to Whitecraig.

PLANNING ASSESSEMENT

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

The development is proposed on land allocated for a mixed use development of housing and a small local centre under PROP MH13 of the LDP. Policy 16 of NPF4 supports the principle of housing on land already allocated for that use. The principle of housing and commercial units is therefore supported on this site.

Proposal MH13 of the LDP allocates the site for a mixed use development to include circa 300 homes. However, the development proposed in this application would result in 363 residential units being built on the allocated site. Accepting higher overall housing numbers is, if there is no impediment on other grounds such as educational or road capacity, supported as an efficient use of land.

The proposed site layout plan demonstrates that the site is physically capable of accommodating a greater number of dwellings than the allocation. It is also relevant to note that some other allocated sites of the LDP 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 LDP does not in itself amount to a conflict with the development plan.

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

The adopted Development Brief for the site sets out guiding principles, and indicative design, to be followed, where possible. These include (1) taking site access from the A6904 Salters Road; (2) providing tree planting along the western boundary and a well designed development frontage; (3) SuDS to provide an attractive open space; (4) the southern boundary consisting of a perimeter woodland edge incorporating a path with a connection to the Smeaton Railway Walk, (5) a minimum 5m set back of garden boundaries to the eastern boundary from the Smeaton Railway Walk with a minimum of 3 access points to the walkway; (6) the creation of a walking and cycling path along the northern boundary connecting the development to the existing village; (7) the Salters Road approach to provide a high quality sense of arrival to a village gateway; (8) a new area of open space to be provided as an extension to the existing area of open space to the north; and (9) potential for a local centre with the addition of a local shop and other facility.

The guiding principles of the Development Brief have been taken into account in the revised design of the development.

The development proposed in this application would, with its permeable street pattern, links to the Smeaton Railway Walk to the east of the site, road and pedestrian/cycle accesses, new and retained landscaped edges and other landscaping and open spaces, be a distinctive yet attractive urban expansion of Whitecraig respecting the guiding principles of the adopted Development Brief. In response to planning officer comments and consultation responses the applicant has revised the house type mix to include a greater mix of semi-detached and terraced homes and fewer detached homes to take better due regard to the existing built form of the settlement and neighbouring residential developments.

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

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

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

The **Council's Landscape Projects Officer** is generally content with the proposed scheme of landscaping, however she advises that some of the required landscaping planting should be supplemented and information on future maintenance of the landscaping of the site included. Therefore, a revised scheme of landscaping should be submitted with an accompanying maintenance schedule. Such a requirement can be made a condition of a grant of planning permission.

A scheme of landscaping would 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 Biodiversity Officer further advises that the submitted Ecology Report has identified the presence a European Protected Species near the site. Given this a Species Protection Plan report (SPP) has been submitted. The Biodiversity Officer has appraised the applicant's submitted SPP and advises that the mitigation measures identified within it are sufficient to ensure there would be no harm to the European Protected Species from construction of the proposed development.

As the application site has been identified as a foraging area for the European Protected Species the applicant has also submitted a Habitat Enhancement Management Plan (HEMP) to indicate where alternative foraging area(s) could be provided when construction works start on site for the proposed development, were planning permission to be granted. The Biodiversity Officer has appraised the submitted HEMP, which identifies an alternative foraging area for the protected species. The Biodiversity Officer advises the alternative foraging area identified is not sufficiently connected by green networks and would be unlikely to provide a suitable alternative foraging area and thus recommends that an amended HEMP should be submitted identifying a more appropriate area. Such a requirement can be imposed on a grant of planning permission, were that to be the decision.

Policy 15 of NPF4 seeks to encourage, promote and facilitate the creation of connected and compact neighbourhoods where people can meet the majority of their daily needs within a reasonable distance of their home, preferably by walking, wheeling or cycling or using sustainable transport options. Policy 16 of NPF4 encourages, promotes and facilitates the delivery of more high quality, affordable and sustainable homes, in the right locations, providing choice across tenures that meet the diverse housing needs of people and communities. It requires development proposals that include 50 or more homes to be accompanied by a Statement of Community Benefit which should explain the contribution of the proposed development to meeting local housing requirements, including affordable homes, providing or enhancing local infrastructure, facilities and services; and improving the residential amenity of the surrounding area. As is required by Policy 16 of NPF4, the

application is accompanied by a Statement of Community Benefit which sets out the community benefits the applicant considers this proposal will bring. These include the delivery of a wide range and mix of houses (private and affordable) which will contribute to meeting local housing requirements, providing developer contributions towards local education, transportation infrastructure and sports infrastructure, the provision of additional open space, woodland planting and footpath links to the benefit of residents in the new development and the wider community and the delivery of flexible retail/commercial space to provide opportunities for local services.

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

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

The site is capable of accommodating all of the proposed development including vehicular and pedestrian access and amenity space without being an overdevelopment of it. The pattern and density of the proposed development would not be at odds with the existing patterns and densities of housing and other development within Whitecraig. In all of this the proposals are consistent with Scottish Government Policy Statement: Designing Streets, Policies 3, 4, 9, 14, 15 and 16 of NPF4, Policies DP1, DP2, DP3, DP4, DP8, DP9 and NH5 of the LDP and with the Council's approved Design Standards for New Housing Areas SPG and the Council's adopted Development Brief for the site.

The proposed site layout includes areas of open space to be formed within the site including two large areas of open space, one linking into the existing recreation ground with playing fields and a play park on the northeast side of the site and another at the southeast side which would include an equipped play area.

In relation to open space provision Policy OS3 of the LDP sets out the minimum requirement for on-site provision of open space which is 60m² per dwelling. This will consist of provision of formal and informal open space as well as space for equipped play areas in accordance with Policy OS4. The applicant has provided details that demonstrate that, not including the smaller pockets of open space, the open space provision would amount to some 63m² per dwelling which exceeds the 60m² per dwelling required by Policy OS3. The site layout shows how the equipped play area would be laid out on the area of open space at the southeast side, with detail of the play equipment with a path running through it has also been provided.

The **Council's Strategy, Policy & Development Manager (Amenity Services)** advises that the areas of open space shown to be provided would provide sufficient, usable areas of open space for informal recreation for the proposed development. She also advises

that the play area would provide a variety and flexibility of play and spaces and the play equipment to be provided is sufficient and would enhance the amenity value of the site.

The Strategy, Policy & Development Manager does however advise that seating should be provided and the material of the surfacing of the path through the play area should be confirmed. Such requirements can be secured by conditions imposed on a grant of planning permission. Subject to this control the proposal is consistent with Policies OS3 and OS4 of the LDP.

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

Part of the application site lies within the Battle of Pinkie Battlefield Site. Historic Environment Scotland (HES) raise no objections to the application, being satisfied that the proposed development would not have a significant adverse affect on the key features of the Battle of Pinkie historic battlefield site. The Archaeology/Heritage Officer recommends that a programme of archaeological works (Archaeological Excavation) should be carried out prior to the commencement of development. This requirement can be secured through a condition attached to a grant of planning permission. Subject to such control the proposed development would not have a significant adverse effect on the key features of the battlefield, and is consistent with Policy 7 of NPF4 and Policy CH5 of the LDP.

The land of the application site is defined by the Macaulay Capability for Agriculture (LCA) classification system as being Land Capable of Supporting Arable Agriculture Classes 2 and 3.1, that being prime agricultural land capable of producing a wide and moderate range of crops. Policy 5 of NPF4 and Policy NH7 of LDP both provide significant protection for valued soils including prime agricultural land. Policy NH7 of the LDP states that development on prime agricultural land will not be permitted unless in the particular circumstances listed in the Policy. One of those circumstances is if it is to implement a proposal of the plan. As the land of this application site is allocated for residential development in the LDP the proposal does not conflict with Policy NH7 which already accepts the loss of this area of prime agricultural land to housing development. Policy 5 of NPF4 also sets out circumstances where development proposals on prime agricultural land will be supported and although housing development is not listed as one of those circumstances, Policy 16 of NPF4 supports development proposals for new homes on land allocated in LDPs. The Scottish Government's Transitional Arrangements for NPF4 states that "It is important to bear in mind NPF4 must be read and applied as a whole. The intent of each of the 33 policies is set out in NPF4 and can be used to guide decision making. Conflicts between policies are to be expected. Factors for and against development will be weighed up in the balance of planning judgement". In the circumstances of this application where it is a development proposal for new homes on land allocated for housing in the LDP, the proposal complies with Policy NH7 of the LDP and, although not falling within the types of acceptable development listed in Policy 5, it does not conflict with NPF4 when read as a whole.

The **Council's Access Officer** has advised he is supportive of the proposal to connect to the Smeaton Railway Walk which will provide an important off-road walking route to Whitecraig and Dalkeith.

The **Council's Road Services** have considered the details of the application and appraised the submitted Transport Assessment, Road Safety Audit and Quality Audit. Road Services advise they raise no objection to the proposed development, being satisfied that it could be accessed safely and would not lead to a road or pedestrian safety hazard. Road Services further advise that vehicle traffic associated with the proposed development

can be accommodated without additional mitigation works being required to the local road junctions.

The application drawings originally showed a proposal to form a road link between the site and Dean Court to the north. This was to reflect the wording in Proposal MH13 of the LDP that states a road connection should be provided connecting to Whitecraig Avenue and through to Salters Road. However, Road Services advised they were not supportive of a road link in this location as it was not required to serve the proposed development, and instead a footway/cycle link should be provided.

In this regard the **Council's Policy and Project's Manager** advises that the LDP was prepared in collaboration with various East Lothian Council Services including Road Services, and at that time, based upon relevant national planning policy and transportation policy, a road connection to allow traffic to move between the existing and new residential areas was deemed to be beneficial to the local area. However, the Policy and Projects Manager advises that both the National Transport Strategy and the Council's Local Transport Strategy, together with supporting Active Travel Improvement Plan have been updated since the production of the LDP, and there is now more emphasis on the sustainable transport hierarchy and for new developments to provide infrastructure which better supports more sustainable travel modes i.e. walking, cycling and wheeling, and these must be prioritised over infrastructure which supports private car journeys, with targets for reducing the number of car journeys. These recent changes to policy and associated discussions mean that, to be more in line with national policy regarding sustainable travel and reduction in car journeys, it has been necessary to reconsider the modal use at the access points for this development to create the greatest benefit to local residents at both the existing residential area and the future occupants of the housing proposed in this development. Thus, it is more appropriate to create a footpath connection between Dean Court and the proposed development rather than a road connection.

Therefore, it is now proposed to provide a footpath/cycle connection between the site and Dean Court, which Road Services support.

The **Council's Road Services** further recommend a number of transportation requirements which can be met through the imposition of conditions on a grant of planning permission for the proposed development. These include submission and approval by the Planning Authority of details of a Travel Information Pack to be distributed to new residents, a Construction Method Statement, Road Safety and Quality Audits, wheel washing facilities to be implemented during construction, a programme for monitoring the condition of the public road to be used by construction traffic for the period of development, the introduction of new speed limits along the site frontage, the provision of bus shelters and the implementation of proposed electric vehicle charging proposals.

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

The **Council's Waste Services Manager** has confirmed that he has no objections to the proposals and that the general collection and management of waste and recycling from the proposed development will be operated by the Council's Waste Services. The proposal complies with Policy 12 of NPF4 and with Policy W3 of the LDP.

The **Council's Environmental Health Officer** advises he has no objection to the proposed development, being satisfied that occupants of the proposed development would enjoy sufficient amenity and the proposals would not result in harm to the amenity of any neighbouring land use, subject to the proposed commercial units only being permitted deliveries between 0700 - 2300 hours on any day. Subject to the imposition of such a condition the proposals are compliant with Policies NH12 and NH13 of the LDP.

In relation to considerations of contaminated land issues, the **Council's Senior Environmental Compliance Officer** advises that he has reviewed the Site Investigation Report submitted with the application and agrees with its findings that no potential risks to on-site human health or the water environment have been identified and consequently there are no potential contaminant linkages considered to be present. He notes that the gas monitoring and risk assessment carried out have identified the site as falling within a Characteristic Situation 2 meaning that the appropriate gas protection measures should be installed. Therefore, the Council's Senior Environmental Compliance Officer recommends that a Remediation Statement be submitted detailing all the measures necessary and listing the validation procedures to be followed and that a Verification Report be submitted and approved to confirm the satisfactory completion of the remedial works (prior to the occupation of the residential units). These requirements can be secured through conditions attached to a grant of planning permission for the proposed development.

As the site is within a Coal Mining Development High Risk Area, The Coal Authority has been consulted on the application. The Coal Authority initially objected to the application on the grounds that the supporting Site Investigation Report submitted failed to address the implications posed by a recorded on-site mine shaft to the proposed development. In response to that objection the applicant submitted a Statement With Regard to Mine Entry which details the exact location and nature of the mine shaft, and concludes that it is not considered to present a constraint to the future development of the site. The Coal Authority, having considered the applicant's Statement With Regard to Mine Entry, subsequently withdrew their objection to the application subject to the imposition of conditions on any permission granted to secure the undertaking of remedial works in respect of the recorded mine shaft and shallow coal mining workings. The recommended conditions of The Coal Authority can be imposed on a grant of planning permission for the proposed development. Other advisory notes provided by The Coal Authority which are the responsibility of the developer to adhere to have been forwarded to the application for their information and attention.

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

The **Scottish Environment Protection Agency (SEPA)** have been consulted on the application and they have confirmed they have no objection to the application on the grounds of flood risk.

The **Council's Team Manager - Structures and Flooding** confirms that he is satisfied with the proposals and raises no objection on the grounds of flood risk or drainage. He advises that detail of what temporary measures shall be put in place to control surface water drainage during the construction of the development should be submitted prior to the commencement of development. This matter can be secured through a condition on a grant of planning permission. The proposals are therefore consistent with Policy 22 of NPF4 and Policies NH10 and NH11 of LDP and with the Council's SPG on 'Sustainable

Drainage Systems (SuDS)'.

Policy 24 of NPF4 and Policy DCN2 of the LDP support the delivery of digital infrastructure. Policy DCN2 of the LDP requires that development proposals of 5 or more homes, shall as part of the development make provision for deliverable opportunities for digital infrastructure to the proposed new homes or business premises as relevant, particularly provision for ducting and fibre or wiring for broadband connectivity. The applicant has confirmed that their proposals are to provide Fibre to the Premises (FTTP) to every housing plot across the development at habitation, and that they will also provide a duct for future digital infrastructure connections to the proposed commercial premises of the local centre. The applicant advises that they are signed up to a tri-party agreement with the main digital infrastructure providers (BT Openreach, Virgin Media and Hyperoptic) which will allow for future residents to have access to over 15 different Fibre Broadband suppliers. On this matter of provision of digital infrastructure the proposals comply with Policy 24 of NPF4 and Policy DCN2 of the LDP.

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

At its meeting on 27 August 2019 the Council approved a motion declaring a Climate Emergency. Thereafter, at its meeting on 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. This application is supported by a 'Statement on Energy' which sets out the measures to be taken to reduce the carbon emissions from the building and from the completed development which are designed to ensure compliance with the CO2 requirements of the Scottish Building Standards, and to meet the 15% reduction in carbon emissions from Low and Zero Carbon Generating Technologies (LZCGT) as required by the LDP. The Report sets out that it will be investigated whether roof mounted photovoltaic panels will be installed on each dwelling, and that air source heat pumps will be used on the affordable dwellings. This will ensure that both the private and affordable homes meet Bronze Active standard under Section 7 (Sustainability) of the building standards. In addition, the affordable dwellings will be designed to achieve Aspect Silver Level 1 & 2 in accordance with minimum funding requirements for affordable housing in Scotland. The proposals, on these climate change considerations, comply with Policies 1 and 2 of NPF4 and with Policy SEH2 of the LDP.

Consideration must then be given to the potential impact of the proposed development on the infrastructure of the area. Policy 18 of NPF4 requires development to take into account the capacity and any additional needs for community services and facilities, as part of the infrastructure first approach. This reflects Policy DEL1 of the LDP which stipulates that new housing will only be permitted where appropriate provision for infrastructure, required as a consequence of the development, is made. Proposal MH13 of the LDP stipulates that any development on the site is subject to the mitigation of any development related impacts, including on a proportionate basis for any cumulative impacts with other proposals including on the transport network, on education and community facilities, and on air quality as appropriate.

The East Lothian Council Health and Social Care Partnership (ELHSCP) have been consulted on the application and have not provided any comment.

PROP CF1: Provision of New Sports Pitches and Changing Accommodation of the LDP requires development proposals for 5 or more homes to make provision for the delivery of new sports pitches and changing accommodation in the relevant contribution zone as set out in Appendix 1 of the Plan and in the Supplementary Guidance: Developer Contributions Framework. The new facilities to be provided, and the sites within which they are to be delivered are identified in Part A of PROP CF1 and include at the site of PROP MH13 provision for one full size grass pitch and a two team changing facility.

The **Council's Planning Obligations Officer** in consultation with the Council's Amenity Service advises that this current proposal for an additional 363 residential units would generate a requirement for additional sport provision as set out above and therefore advises that a Sporting Provision Contribution of £461,010 (£1,270 per residential unit) indexed linked from Q1 2019 until date of payment using the BCIS All-in Tender Price Index is required for this proposal.

The required payment of a financial contribution of a total of £461,010 towards sport provision within Whitecraig be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. The applicants confirm in writing that they are willing to enter into such an agreement.

The Council's Planning Obligations Officer further advises that in order to provide such new facilities, the Council's Amenity Service also requests that the part of the application site shown as open space land to be provided adjacent to the existing recreation ground of Whitecraig be transferred to the Council at zero cost. The Council's Planning Obligations Officer in consultation with the Council's Amenity Service further advises that this would also require a Landscape Contribution to be paid to the Council to enable the Council to prepare the land, including drainage before establishing/ planting trees, hedges and open grass area on the land, which would be £48,688 indexed from Q3 2025 until date of payment using the BCIS All-in Tender Price Index.

The required payment of a financial contribution of a total of £48,688 towards the landscaping and the transfer of the land to the Council at zero cost can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. The applicants have confirmed in writing that they are willing to enter into such an agreement.

The Council's Planning Obligations Officer in consultation with the Council's Amenity Service also advises an open space and play provision contribution towards enhancement and provision of additional play facilities at the existing play park within the Whitecraig Park to the north of the site is required as a direct result of the proposed development. They have therefore requested a play provision contribution of £102,910 indexed from Q3 2017 until date of payment using the All-in Tender Price Index published by the BCIS. The required payment of a financial contribution of a total of £102,910 can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. The applicants have confirmed in writing that they are willing to

enter into such an agreement.

Subject to securing the above contributions, the proposal is consistent with Policy 18 of NPF4 and Proposal CF1 and Policy DEL1 of the LDP.

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

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

Residential element of the proposed development:

- * Improvements to Old Craighall Junction (PROP T15): £3,591.28
- * Improvements to Salters Road Interchange (PROP T17): £11,918.50
- * Improvements to Bankton Interchange (PROP 17): £1,639.55
- * Musselburgh Town Centre improvements (PROP T21): £4,532.66
- * Tranent Town Centre Improvements (PROP T27 and T28): £1,510.08
- * Rail Network Improvements (PROP T9 and T10): £2,837.45

The total contribution required for transportation improvements resulting from cumulative impacts from the residential element of the proposed development is therefore £26,030.

Commercial element of the proposed development:

- * Improvements to Old Craighall Junction (PROP T15): £48.16
- * Improvements to Salters Road Interchange (PROP T17): £24.62
- * Improvements to Bankton Interchange (PROP 17): £26.10
- * Musselburgh Town Centre improvements (PROP T21): £30.07
- * Tranent Town Centre Improvements (PROP T27 and T28): £13.59
- * Rail Network Improvements (PROP T9 and T10): £288.89

The Council's Planning Obligations Officer advises that from the table above all but one of the strategic transport interventions is above £100, therefore the Council will only be seeking a Strategic Transport (Commercial) Contribution of £290.00 (rounded up to the nearest £10).

The total contribution required for transportation improvements resulting from cumulative impacts from the commercial element of the proposed development is therefore £290.

The total developer contributions towards the transportation interventions of £26,320 (indexed linked from Q1 2019) can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. The applicants have confirmed in writing that they are willing to enter into such an agreement.

The **Council's School Estate Planning Officer** informs that the application site is located within the school catchment areas of Whitecraig Primary School and Rosehill High School, and that neither school will have sufficient capacity to accommodate children that could

arise from the proposed development the subject of this application. Therefore, the School Estate Planning Officer advises that he would object to the application on the grounds of lack of permanent capacity at those schools unless the applicant makes a financial contribution to the Council of £7,964,749 towards the provision of additional school accommodation at Whitecraig Primary School and additional school accommodation and campus land provision Rosehill High School.

The required payment of a financial contribution of a total of £7,964,749 towards the provision of additional educational accommodation can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the payment of the required contribution towards educational accommodation, the proposal is consistent with Policy 18 of NPF4 and Policy ED1 of the LDP, which stipulates that new housing will only be permitted where appropriate provision for infrastructure required as a consequence of the development is made. This will include funding necessary school capacity. The applicants confirm in writing that they are willing to enter into such an agreement.

The Council's School Estate Planning Officer further recommends that a condition be imposed if planning permission is to be granted requiring that annual housing completions on the site be controlled over a period of eight years with completions beginning in 2026/27. Such a condition can be imposed if planning permission is to be granted. This will ensure that sufficient education capacity can be provided for the pupil product of the development.

The **Council's Housing Enabler** advises that in accordance with the Council's Affordable Housing Policy, 25% of the proposed 363 residential units require to be affordable housing units. The affordable housing component of the proposed housing development is 91 units. The Housing Enabler advises that the mix, size and location of the 91 affordable units to be provided on the site is acceptable. The terms for the provision of this affordable housing requirement can be the subject of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the Council securing the affordable housing requirement, which the applicant is willing to do, the proposal would be consistent with Policy 16 of NPF4 in respect of affordable housing provision and Policies HOU3 and HOU4 of the LDP and the Council's adopted SPG on Affordable Housing.

In summary, the site is physically capable of accommodating the proposed development including vehicular and pedestrian access and amenity space without such development being an overdevelopment of the site and without significant impact on the global climate and nature crises. A grant of planning permission for the proposed development in the context of the site being part of housing allocation PROP MH13 of the East Lothian Local Development Plan, and in that its impacts in respect of amenity and technical considerations are acceptable in themselves, or can be mitigated through the appropriate use of planning conditions and necessary developer contributions, would not be inconsistent with National Planning Framework 4, with the relevant policies of the East Lothian Local Development Plan 2018 or with its adopted supplementary guidance.

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

RECOMMENDATION

It is recommended that planning permission be granted subject to:

1. The undernoted conditions.

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

(i) a financial contribution of a total of £7,964,749 towards the provision of additional accommodation at Whitecraig Primary School and Rosehill High School;

(ii) the provision of 91 affordable housing units within the application site;

(iii) a financial contribution to the Council of £461,010 towards sports and changing provision within Whitecraig;

(iv) a financial contribution to the Council of £102,910 towards enhancement and provision of additional play facilities at the existing play park within the Whitecraig Park to the north of the site;

(v) the transfer to East Lothian Council at no cost of the land as shown outlined in red on docketed drawing no. WC-TITLE-002 Rev A titled 'Proposed Title Area';

(vi) a financial contribution to the Council of £48,688 towards landscaping of the transfer land; and

(vii) a financial contribution to the Council of £26,320 for transport improvements to Old Craighall Junction, Salters Road Interchange, Bankton Interchange, Musselburgh town centre improvements, Tranent town centre improvements and rail network improvements.

3. That in accordance with the Council's policy on time limits for completion of planning agreements it is recommended that the decision should also be that in the event of the Section 75 Agreement not having been executed by the applicant, the landowner and any other relevant party within six months of the decision taken on this application, the application shall then be refused for the reason that without the developer contributions to be secured by the Agreement the proposed development is unacceptable due to a lack of sufficient primary and secondary school capacity within the catchment, a lack of provision of affordable housing, a lack of sports infrastructure improvements and a lack of roads and transport infrastructure contrary to, as applicable, Policy 18 of NPF4, Policies DEL1, HOU3, HOU4 and Proposals T9, T10, T15, T17, T21, T27, T28, ED1,CF1 and MH13 of the adopted East Lothian Local Development Plan 2018 and its adopted supplementary guidance: Developer Contributions Framework.

As per the Adopted Supplementary Guidance: Developer Contributions Framework, all Strategic Transportation and Sports Provision Contributions will be increased in line with indexation from Q1 2019 using the All-in Tender Price Index published by the Building Cost Information Service (BCIS) Limited for the Royal Institution of Chartered Surveyors until due date of payment, all Primary Education Contributions will be increased from Q3 2023, Secondary Education Contributions will be increased from Q4 2023 and the Secondary Education Campus Land Contribution will be increased 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 in line with indexation 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. The Landscape Contribution will be increased in line with indexation from Q3 2025 until date of payment using the BCIS All-in Tender Price Index.

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

Reason:

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

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

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

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

Reason:

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

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

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

Year 2026/27 - 40 residential units
Year 2027/28 - 50 residential units
Year 2028/29 - 50 residential units
Year 2029/30 - 50 residential units
Year 2030/31 - 50 residential units
Year 2031/32 - 50 residential units
Year 2032/33 - 50 residential units
Year 2033/34 - 23 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 2034/35 or beyond and not added to the subsequent year.

Reason:

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

- 4 Notwithstanding that which is stated on the drawings docketed to this planning permission a detailed specification of all external finishes of the houses, flats and garages hereby approved shall be submitted to and approved by the Planning Authority prior to the use of the finishes in the development. The external finishes of the houses and flats shall be in accordance with a co-ordinated scheme of materials and colours that shall in detail promote render as the predominant finish to the walls of the houses, with a use of more than one render colour and with a strongly contrasting difference in the colours such that they will

not each be of a light colour, and shall show the roofs being clad in more than one colour of roof tile. All such materials used in the construction of the houses, flats and garages shall conform to the details so approved.

Reason:

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

- 5 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.

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

Reason:

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

- 7 Other than the area shown outlined in red on docketed drawing no. WC-TITLE-002 Rev A titled 'Proposed Title Area', all the open space recreation areas indicated on the docketed drawings shall be available for use prior to the occupation of the last house or flat on the site. The open space recreation areas, when provided, shall be used for such purposes at all times thereafter unless agreed in writing by the Planning Authority.

Reason:

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

- 8 Prior to the occupation of any of the residential units hereby approved a timetable for the implementation of the play area and its equipment also as hereby approved hereby approved shall be submitted to and approved in advance by the Planning Authority and the play area and its equipment shall be installed in accordance with the timetable so approved.

The equipped play area, when provided, shall be used for such purposes at all times thereafter unless agreed in writing by the Planning Authority.

Reason:

In the interests of the amenity of the development.

- 9 Prior to the occupation of any of the residential units hereby approved details of the surfacing of the path to be provided through the play area along with details of bins and benches to be installed at the play area shall be submitted to and approved by the Planning Authority, and such detail shall include a timetable for their installation. The path, bins, benches and any enclosure shall thereafter be installed in accordance with the detail and timetable so approved.

Reason:

In the interests of the amenity of the development.

- 10 No development shall take place on the site until the applicant has undertaken and reported upon a programme of archaeological work (Archaeological Excavation) in accordance with a written scheme of investigation which has been submitted by the applicant (or their agent) and approved by the Planning Authority.

Reason:

In the interests of archaeological and natural heritage.

- 11 Prior to the commencement of development, the footpath/cycle connection between the application site and Dean Court as shown on docketed drawing no. WC-DL-001 Rev V shall be constructed. Details of the route and construction of the footpath/cycle connection, including a timetable for its implementation, shall be submitted to and approved in writing by the Planning Authority and thereafter those works shall be implemented as so approved unless otherwise agreed in writing by the Planning Authority.

Reason:

To ensure appropriate pedestrian and cycle links to and from the site.

- 12 Prior to the commencement of development, a timetable for the provision of the 3 footpath/cycle connections from the application site to the Smeaton Railway Walk as shown on docketed drawing no. WC-DL-001 Rev V shall be submitted to and approved by the Planning Authority. The 3 footpath/cycle connections shall thereafter be provided in accordance with the timetable as so approved unless otherwise agreed in writing by the Planning Authority.

Reason:

To ensure appropriate pedestrian and cycle links to and from the site.

- 13 There shall be no deliveries to the 2 retail/commercial units hereby approved nor any loading or unloading of delivery vehicles in connection with the operation of the 2 retail/commercial units outwith the hours of 0700-2300 hours on any day.

Reason:

To ensure that the amenity of the occupiers of nearby residential properties is safeguarded.

- 14 Prior to the commencement of development details of the provision of pedestrian crossing points to be provided within the application site and the provision of pedestrian and cycle crossing facilities at the bellmouths of all access junctions into the site shall be submitted to and approved by the Planning Authority. Thereafter development shall be carried out in accordance with the details so approved.

Reason:

In the interests of pedestrian safety.

- 15 A visibility splay of 2.5 metres by 70 metres to the north and 2.5 metres by 90 metres to the south shall be provided and maintained at the site access junction to the commercial/retail units with the A6094 Salters Road so that no obstruction lies within it above a height of 1.05 metres measured from the adjacent carriageway surface.

Reason:

To ensure that adequate visibility is provided at the access in the interest of highway safety.

- 16 No residential unit shall be occupied unless and until the existing 20 miles per hour (mph) speed limit on the A6094 Salters Road has been extended southwards to the southern side of the site access junction to the commercial/retail units with the A6094 Salters Road. Details of the new 20 miles per hour speed limit shall be submitted to and approved in advance by the Planning Authority and shall include the provision of street lighting over the full extent of the proposed new 20mph speed limit. Thereafter the new 20 miles per hour speed limit and street lighting shall be implemented and installed in accordance with the details so approved.

Reason:

In the interests of road safety and the amenity of the area.

- 17 No residential unit shall be occupied unless and until a 30 miles per hour (mph) speed limit has been brought into effect on the A6094 Salters Road, from a point on the southern side of the site access junction to the commercial/retail units with the A6094 Salters Road to a point south of its junction with U102 Smeaton Farm Road and on the U102 Smeaton Farm Road to a point east of the proposed site access junction. Details of the new 30 miles per hour speed limit shall be submitted to and approved in advance by the Planning Authority and shall include the provision of street lighting over the full extent of the proposed new 30mph speed limit and shall incorporate village entry treatments on A6094 and U102 roads. Thereafter the new 30 miles per hour speed limit, street lighting and village entry treatments shall be implemented and installed in accordance with the details so approved.

Reason:

In the interests of road safety and the amenity of the area.

- 18 No residential unit shall be occupied unless and until bus shelters have been provided at both new bus stops within the application site, the detail and locations of which shall be submitted to and approved in advance by the Planning Authority. Thereafter the bus shelters shall be provided in accordance with the details so approved and shall remain in place unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of sustainable travel.

- 19 Prior to the commencement of development, a Stage 2 Quality Audit shall be submitted to and approved by the Planning Authority, which shall detail any further changes required to maximise the accessibility of the site for all modes of transport, including walking and the needs of users who are mobility impaired. The Stage 2 Quality Audit shall also recommend signage to ensure that vehicular and active travel routes through the development are clear and legible and shall include an implementation programme describing when measures identified in the audit will be provided in relation to construction of the development.

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.

- 20 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 roads, junctions, footways, cycle ways and pedestrian crossings where applicable 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.

- 21 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.

- 22 12 months following approval of the Stage 3 Road Safety Audit as required by Condition 21 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.

- 23 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.

- 24 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.

- 25 Prior to the commencement of the development, a programme for monitoring the condition of the public roads to be used by construction traffic throughout the period of the development shall be submitted to and approved in writing by the Planning Authority. Unless otherwise agreed in writing by the Planning Authority, the extent of public road to be monitored shall include the A6094 between its junction with the A1 to the north of Whitecraig and the boundary of the East Lothian Council area with Midlothian Council immediately north of the A68 Salter's Road interchange.

The programme shall include details of the monitoring inspection schedule and a plan of how any emergency repairs shall be identified and repaired for damage to the road surface

that could represent a significant road safety risk arising from the construction of the development.

Thereafter the approved programme of monitoring shall be implemented. Any remedial works shown by the monitoring as arising from the construction of the development shall be undertaken by the applicant within 3 months of the completion of the final monitoring undertaken, unless an alternative means of securing the works is approved in writing by the Planning Authority.

Reason:

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

- 26 The actions to be taken to reduce the carbon emissions from the build and from the completed development as detailed in the 'Whitecraig Statement on Energy' docketed to this planning permission shall be fully implemented on site prior to the occupation of the last residential unit hereby approved and thereafter shall be retained unless otherwise approved in writing by the Planning Authority.

Reason:

To minimise the environmental impact of the development.

- 27 Prior to the commencement of development, a 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.

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

Reason:

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

- 29 Following completion of the measures identified in the Remediation Statement as required by Condition 28 above, a Verification Report shall be submitted to and approved by the Planning Authority prior to the occupation of any of the residential units hereby approved, that demonstrates the effectiveness of the remediation carried out.

Reason:

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

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

Reason:

To ensure that the site is clear of contamination.

- 31 All of the remedial treatment works to address land instability arising from shallow coal mining legacy as identified in the Statement With Regard to Mine Entry 335669-007 (June 2025) docketed to this planning permission shall be carried out on site in accordance with the terms of that Report prior to the commencement of any other development on the site.

Reason:

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

- 32 On completion of the remedial works as required by Condition 31 above and prior to the occupation of any residential unit, a signed statement or declaration prepared by a suitably qualified person confirming that the site has been made safe and stable for the development hereby approved and confirming the completion of the remedial works and any mitigatory measures necessary to address the risks posed by past coal mining activity shall be submitted to and approved in writing by the Planning Authority and any mitigation works identified shall thereafter be fully implemented as so approved.

Reason:

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

- 33 Unless otherwise agreed in writing by the Planning Authority no residential unit shall be occupied unless and until details of artwork to be provided on the application site have been submitted to and approved by the Planning Authority. The details shall include a timetable for the provision of the artwork.

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

Reason:

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

- 34 Prior to the commencement of development, a Habitat Enhancement and Management Plan (HEMP) shall be submitted to and approved by the Planning Authority. The HEMP shall detail a gain in biodiversity through habitat creation and enhancement and identify suitable commuting and foraging routes for protected species.

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

Reason:

In the interests of safeguarding the biodiversity of the area.

- 35 The development hereby approved shall be carried out in accordance with Part 4: Recommendations of the Species Protection Plan Rev 1.0 by Ironside Farrar (ref: 62249) dated 18 September 2025 that is docketed to this planning permission.

Reason:

In the interests of safeguarding the biodiversity of the area.

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

- * impose a duty to monitor compliance with the Habitat Management and Enhancement Plan as required by Condition 34 and to monitor compliance with Condition 35; and
- * detail the stages of the construction phase of the development when the ECoW shall be in post.

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

Reason:

To avoid or minimise disturbance of wildlife.

- 37 Prior to the commencement of development, a revised detailed scheme of landscaping shall be submitted to and approved by the Planning Authority. 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. The scheme shall include indications of all existing trees and hedgerows on and adjacent to the application site, details of any to be retained, and measures for their protection in the course of development. The scheme shall also include a maintenance and management plan for the landscaping.

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

Reason:

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

COMMITTEE: Planning Committee

MEETING DATE: 4 November 2025

BY: Executive Director for Place

REPORT TITLE: Application for Planning Permission for Consideration

5

Application no. **25/00770/PM**

Proposal Section 42 application to vary condition 5 of outline planning permission 06/00754/OUT to extend occupancy in December

Location **Seton Sands Holiday Village and Residential Caravan Site
Seton
Port Seton
Prestonpans
EH32 0QF**

Applicant Haven Leisure Limited

Per Lichfields

RECOMMENDATION Granted Permission

REPORT OF HANDLING

The application relates to an area of land within Seton Sands Holiday Village. The site is within the countryside as defined by Policy DC1 of the adopted East Lothian Local Development Plan 2018. It is also within the Battle of Prestonpans Historic Battlefield as included in the inventory of historic battlefields and a Coal Authority Development High Risk Area.

The holiday village comprises of static caravans, touring caravan and camping pitches. There are onsite entertainment and sport and leisure facilities. The holiday village also includes various areas of open space, a golf course with golf pavilion and a fishing lake.

The site is bounded to the north by the B1348 public road and partly to the south and west by Seton House and Seton Collegiate Church and their respective grounds. The grounds of Seton House and Seton Collegiate Church are designated as the Seton House (Palace) Designed Landscape. Seton House and Seton Collegiate Church are also each listed as being of special architectural or historic interest (Category A). The building of Seton

Collegiate Church and its grounds are an ancient monument scheduled under the Ancient Monuments and Archaeological Areas Act 1979. The application site is otherwise bounded to the west by agricultural land and to the south by the A198 public road. To the east the site is bounded by a public footpath, by Seton Dean Woodland, and by the settlement of Seton Mains.

BACKGROUND

In November 2008, outline planning permission Ref: (06/00754/OUT) was granted for the expansion of the holiday village to accommodate in total 780 statics and 100 tourers, with a 9-hole family golf course with club house, together with relocation, upgrade and expansion to the existing commercial facilities, plus landscaping works and upgrade to the access and car parking. This consent has been implemented.

Condition 5 of outline planning permission Ref: 06/00754/OUT reads;

"The static holiday caravans within this hereby approved expansion of Seton Sands Holiday Village will only be occupied during the following specified periods and outwith these periods they will not be used for any purpose:

- (1) Seven days per week between 1st March and 30th November in any one calendar year, both dates inclusive.
- (2) Weekends (to include Friday night and Monday morning) between 1st December and 23rd December of any one calendar year, both dates inclusive.
- (3) Seven days per week between the 24th December and 7th January of the following year, both dates inclusive.

Reason:

To ensure that the static holiday caravans are not used as permanent residential accommodation."

PROPOSALS

Planning consent is now sought by way of a Section 42 application to vary condition 5 of outline planning permission 06/00754/OUT to extend occupancy of the static caravans to allow them to be occupied 7 days per week in December. It is proposed that the varied condition would read;

"The static holiday caravans within the application site can only be occupied seven days per week between 1st March and 7th January of the following calendar year, both dates inclusive and outwith this period they will not be used for any purpose.

Reason:

To ensure that the static holiday caravans are not used as permanent residential accommodation."

A Section 42 application, Ref: 25/00769/P was approved in October 2025 for the variation of condition 1 of planning permission 13/00678/P to extend occupancy in December. The newly approved timings would align with those currently sought under this current application.

Through a separate application Ref: 25/00768/PM permission is also sought to allow the variation of Condition 1 of planning permission 18/00843/PM to allow the same period of

occupancy in December. These timings would also align with those currently sought under this current application. This application is currently pending consideration and stands to be determined on its own merits.

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.

Policies 7 (Historic Assets and Places), 13 (Sustainable transport) and 30 (Tourism) of NPF4 are relevant to the determination of this application. Policy DC1 (Rural Diversification), CH5 (Battlefields) and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of this application.

REPRESENTATIONS

One letter of objection has been received in respect of this application. The main grounds of objection include;

- o The boundary around the homes at Seton Sands is more than 2/3 shallower at objectors boundary than at other properties. This should be the same as other properties;
- o Concern that with trees not having leaves beyond September to balance holidaymakers and homes, noise and light would become an issue;
- o Buffer fence on park side should be timber lined and barrier planting on the Park side of the fence should be installed to provide a year round sound, light & visual buffer;
- o Public guests in the caravans around neighbouring property should not be accommodated until the barrier planting has established; and
- o Objector has no issue with the Park maximising business potential but ask that Haven address neighbourly concerns so that harmony endures.

These concerns are addressed in the report below.

COMMUNITY COUNCIL

Cockenzie and Port Seton Community Council were consulted on this planning application but a response was not forthcoming.

PLANNING ASSESSMENT

As set out above, through the condition 5 attached to outline planning permission 06/00754/OUT the occupation of the static caravans on the site has been limited to:

- (1) Seven days per week between 1st march and 30th November in any one calendar year, both dates inclusive.
- (2) Weekends (to include Friday night and Monday morning) between 1st December and 23rd December of any one calendar year, both dates inclusive.
- (3) Seven days per week between the 24th December and 7th January of the following year, both dates inclusive.

These restrictions were imposed to restrict the occupation of the static caravans on the application site and to prevent them from being used as permanent residences.

The current application seeks the variation of this condition to allow occupation of the static caravan additionally for seven days per week between 1st December and 7th January the following year.

Accordingly, the revised condition would read;

" The 780 static holiday caravans within Seton Sands Holiday Village can only be occupied seven days per week between 1st March and 7th January of the following calendar year, both dates inclusive and outwith this period they will not be used for any purpose.

Reason:

To ensure that the static holiday caravans are not used as permanent residential accommodation."

The above suggested condition would only allow for additional occupancy of the static caravans on the site for 7 days a week in December. As such, the objectives of the original planning condition would still be achieved given that occupancy would still be restricted between 8th January and 28th February inclusive. As such, the static caravans could still not be occupied as permanent residential accommodation. The proposed variation of Condition 5 of outline planning permission 06/00754/OUT is therefore acceptable in this regard.

The application proposal would not allow for any physical alterations on the site and there would be no alterations to access arrangements.

From consultation with the **Council's Environmental Health Officer**, it was confirmed that they have not received any complaints with regards to lighting or noise during times when park is permitted to operate. The **Council's Environmental Protection Officer** has confirmed that they have no comment to make on the application and accordingly no objection has been raised of lighting or noise grounds.

The potential for the addition of a planning condition to provide additional screening to the boundary to reduce noise and impact of lighting has been raised by the Council's Environmental Health Officer. However, given that the park already operates throughout the year (other than late January and Feb) then it would not be reasonable to add a further condition to provide an acoustic barrier when all that is changing is that the static caravans will be occupied 7 days a week in December rather than just weekends between 1st and 23rd of December.

As such, the variation of Condition 5 of outline planning permission 06/00754/OUT to enable occupancy of the caravans present on site in December would not result in any harm to any neighbouring land use over and above the existing situation.

The **Council's Roads Services** have been consulted on this application. No response has been received and as such no objection has been raised. The proposal is not thought however to detrimentally increase traffic and parking demand over and above that experienced in the peak summer season. As such, the proposed variation of condition 5 of outline planning permission 06/00754/OUT to allow December occupancy is consistent with Policy 13 of NPF4 and Policy T2 of the adopted East Lothian Local Development Plan 2008.

The **Council's Landscape Policy Team** has been consulted on this application. No

response has been received and as such no objection has been raised. However, given that no physical alterations are sought to the site, the proposal would not detrimentally impact upon the landscape character of the area.

Given that the site falls within the Battle of Prestonpans Historic Battlefield, Historic Environment Scotland have been consulted on the proposal. They have responded to confirm that they have no comment to make on the application and accordingly no objection is raised.

Furthermore, given the potential of archaeological remains present in the area, the **Council's Archaeology Officer** has been consulted on the application. They have responded to state that in respect of the historic environment they have no comments to offer on this application. Accordingly, no objection has been raised.

Given the legacy of coal mining in the area, the Coal Authority has been consulted on this application. They have responded to state that the application site falls within the defined Development High Risk Area. Their records indicate that the site lies in an area where historic unrecorded coal mining activity is likely to have taken place at shallow depth. Such workings can pose a risk to surface stability and public safety.

They note that planning application 06/00754/OUT, to which the current application relates, was determined prior to the introduction by the Coal Authority of the risk-based approach to Development Management and our proactive involvement in the planning process. Nevertheless, as part of its assessment of ground conditions and land stability, they assume that the LPA will have given due consideration at the time of the original application to the safety and stability implications posed by coal mining legacy to the development proposed.

Based on the above assumption and given that the applicant is currently only seeking to vary a condition that does not relate to coal mining legacy matters and is concerned with occupancy of static caravans, the Coal Authority's Planning & Development Team confirm that they do not wish to raise objection to the current application.

SEPA has been consulted on the application. They have responded to advise that if the development is for an equal or less vulnerable use and there is no landraising or floodplain capacity loss involved then please refer to SEPA's Flood Risk Standing Advice. Given that the proposal is for an equal vulnerable use, no objection is raised.

The **Council's Flooding and Structures Officer** has also been consulted on this application. They have responded to state that in terms of information that this Council has concerning flood risk to this site, I would state that SEPA's Flood Hazard Mapping indicates that the site is not at any additional risk from a flood event with a return period of 1 in 200 years plus climate change. That is the 0.5% annual risk of a flood occurring in any one year with an allowance for climate change. The site has previously been assessed against this criteria and therefore extended site opening will not affect outcome.

Overall, as the site is not at flood risk, the Council's Flooding and Structures Officer has confirmed that they have no objection to the application on the grounds of flood risk.

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, planning permission should be granted subject to the applied for variation of condition 5, subject to all of those conditions from outline planning permission 06/00754/OUT, where it is intended these should apply. These outstanding conditions are Conditions 5 (as amended), 6, 7 and 10.

On these considerations, the proposals are consistent with Policies 7 (Historic Assets and Places), 13 (Sustainable transport) and 30 (Tourism) of NPF4 and Policies DC1 (Rural Diversification), CH5 (Battlefields) and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018. Therefore, 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 780 static holiday caravans within Seton Sands Holiday Village can only be occupied seven days per week between 1st March and 7th January of the following calendar year, both dates inclusive and outwith this period they will not be used for any purpose.

Reason:

To ensure that the static holiday caravans are not used as permanent residential accommodation.

- 2 No more than a total of 780 static caravans shall be located on those combined areas of land of the application site marked for caravans, other than touring caravans on the masterplan docketed to this outline planning permission.

Reason:

In the interests of ensuring a satisfactory density of development is achieved, and in the interests of preserving the amenity of neighbouring properties.

- 3 No parts of the lands of the application site designated on the masterplan docketed to this outline planning permission as golf course, wildflower meadows and scheduled ancient monument shall have touring caravans sited on them and elsewhere within the application site touring caravans shall only be sited during the period 1st March to 31st October in each calendar year.

Reason:

To safeguard the amenity of the area and to restrict the siting of touring caravans in a manner respectful of their intended purpose.

- 4 No lighting units shall be installed within the golf course or on or within the vicinity of the wildflower meadows unless with the prior approval of the Planning Authority.

Reason:

To safeguard the visual amenity of the area and the amenity of surrounding residential properties.

COMMITTEE: Planning Committee
MEETING DATE: 4 November 2025
BY: Executive Director for Place
REPORT TITLE: Application for Planning Permission for Consideration

6

Application no. **25/00768/PM**

Proposal Section 42 application to vary condition 1 of planning permission 18/00843/PM to extend occupancy in December

Location **Seton Sands Holiday Village and Residential Caravan Site
Seton
Port Seton
Prestonpans
EH32 0QF**

Applicant Haven Leisure Limited

Per Lichfields

RECOMMENDATION Granted Permission

REPORT OF HANDLING

The application relates to an area of land within Seton Sands Holiday Village. The site is within the countryside as defined by Policy DC1 of the adopted East Lothian Local Development Plan 2018. It is also within the Battle of Prestonpans Historic Battlefield as included in the inventory of historic battlefields and a Coal Authority Development High Risk Area.

The holiday village comprises of static caravans, touring caravan and camping pitches. There are onsite entertainment and sport and leisure facilities. The holiday village also includes various areas of open space, a golf course with golf pavilion and a fishing lake.

The application site occupies a central location on the wider holiday village site and is bounded to the north, east and north-west by existing static and touring caravan pitches. To the south, the site is bounded by the holiday village golf course, open space and exercise areas which include a lake to the south west. An existing internal site access road abuts the northern boundary of the application site. A mature landscape/tree strip is

located to the immediate west of the application site.

Seton House Gardens and Designed landscape and Seton Castle with terrace and walls, which is listed for its architectural or historic interest (Category A) are located to the southwest of the application site.

BACKGROUND

In November 2008 planning permission in principle (Ref: 06/00754/OUT) was granted for the expansion of the holiday village to accommodate 780 static caravan pitches, 100 tourers, a 9-hole family golf course with club house and the relocation, upgrading and expansion of the existing commercial facilities.

In June 2012 application (Ref:11/00975/AMC) was granted for approval of matters specified in conditions of planning permission in principle 06/00754/OUT for the expansion of the holiday village to accommodate an additional 195 static caravans, a 9 hole golf course and associated works (Part Retrospective).

In December 2018, planning permission Ref: (18/00843/PM) was granted for the development of an area for static and touring pitches and associated works. This consent has been implemented.

Condition 1 of planning permission Ref: 18/00843/PM reads;

"The static holiday caravans within the application site will only be occupied during the following specified periods and outwith these periods they will not be used for any purpose:

(1) Seven days per week between 1st March and 30th November in any one calendar year, both dates inclusive.

(2) Weekends (to include Friday night and Monday morning) between 1st December and 23rd December of any one calendar year, both dates inclusive.

(3) Seven days per week between 24th December and 7th January of the following year, both dates inclusive.

Reason:

To ensure that the static holiday caravans are not used as permanent residential accommodation."

PROPOSALS

Planning consent is now sought by way of a Section 42 application to vary condition 1 of planning permission 18/00843/PM to extend occupancy in December. It is proposed that the varied condition would read;

"The static holiday caravans within the application site can only be occupied seven days per week between 1st March and 7th January of the following calendar year, both dates inclusive and outwith this period they will not be used for any purpose.

Reason:

To ensure that the static holiday caravans are not used as permanent residential accommodation."

A Section 42 application, Ref: 25/00769/P was approved in October 2025 for the variation of condition 1 of planning permission 13/00678/P to extend occupancy in December. The

newly approved timings would align with those currently sought under this current application.

Through a separate application REF: 25/00770/PM permission is also sought to allow the variation of Condition 5 of planning permission Ref: 06/00754/OUT to allow additional occupancy in December. These timings would also align with those currently sought under this current application. This application is currently pending consideration and stands to be determined on their own merits.

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.

Policies 7 (Historic Assets and Places), 13 (Sustainable transport) and 30 (Tourism) of NPF4 are relevant to the determination of this application. Policy DC1 (Rural Diversification), CH5 (Battlefields) and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of this application.

REPRESENTATIONS

No letters of objection have been received in respect of this application.

COMMUNITY COUNCIL

Cockenzie and Port Seton Community Council were consulted on this planning application but a response was not forthcoming.

PLANNING ASSESSMENT

As set out above, through the condition 1 attached to planning permission Ref: 18/00843/PM the occupation of the static caravans on the site has been limited to:

- (1) Seven days per week between 1st March and 30th November in any one calendar year, both dates inclusive.
- (2) Weekends (to include Friday night and Monday morning) between 1st December and 23rd December of any one calendar year, both dates inclusive.
- (3) Seven days per week between 24th December and 7th January of the following year, both dates inclusive.

These restrictions were imposed to restrict the occupation of the static caravans on the application site and to prevent them from being used as permanent residences.

The current application seeks the variation of this condition to allow occupation of the static caravan additionally for seven days per week between 1st December and 7th January the following year.

Accordingly, the revised condition would read;

" The static holiday caravans within the application site can only be occupied seven days per week between 1st March and 7th January of the following calendar year, both dates inclusive and outwith this period they will not be used for any purpose.

Reason:

To ensure that the static holiday caravans are not used as permanent residential accommodation."

The above suggested condition would only allow for additional occupancy of the static caravans on the site in December. As such, the objectives of the original planning condition would still be achieved given that occupancy would still be restricted between 8th January and 28th February inclusive. As such, the static caravans could still not be occupied as permanent residential accommodation. The proposed variation of Condition 1 of planning permission Ref: 18/00843/PM is therefore acceptable in this regard.

The application proposal would not allow for any physical alterations on the site and there would be no alterations to access arrangements.

The variation of Condition 1 of planning permission 18/00843/PM to enable occupancy of the caravans present on site in December would not result in any harm to any neighbouring land use over and above the existing situation.

The **Council's Environmental Protection Officer** has confirmed that they have no comment to make on the application and raises no objection to the proposed variation of Condition 1 of planning permission 18/00843/PM to extend occupancy in December.

The **Council's Roads Services** have been consulted on this application. No response has been received and as such no objection has been raised. The proposal is not thought however to detrimentally increase traffic and parking demand over and above that experienced in the peak summer season. As such, the proposed variation of condition 1 of planning permission 18/00843/PM to allow December occupancy is consistent with Policy 13 of NPF4 and Policy T2 of the adopted East Lothian Local Development Plan 2008.

The **Council's Landscape Policy Team** has been consulted on this application. No response has been received and as such no objection has been raised. However, given that no physical alterations are sought to the site, the proposal would not detrimentally impact upon the landscape character of the area.

Given that the site falls within the Battle of Prestonpans Historic Battlefield, Historic Environment Scotland have been consulted on the proposal. They have responded to confirm that they have no comment to make on the application and accordingly no objection is raised.

Furthermore, given the potential of archaeological remains present in the area, the **Council's Archaeology Officer** has been consulted on the application. They have responded to state that in respect of the historic environment they have no comments to offer on this application. Accordingly, no objection has been raised.

Given the legacy of coal mining in the area, the Coal Authority has been consulted on this application. They have responded to state that the application site falls within the defined Development High Risk Area. Their records indicate that the site lies in an area where historic unrecorded coal mining activity is likely to have taken place at shallow depth. Such workings can pose a risk to surface stability and public safety.

They also note that the current application seeks to vary Condition 1 of planning

permission 18/00843/PM to enable occupancy of the caravans present on site in December. They therefore state that in light of their response to the original planning application and as Condition 1 does not relate to coal mining legacy matters, they confirm that they do not wish to raise objection to the current application.

SEPA has been consulted on the application. They have responded to advise that if the development is for an equal or less vulnerable use and there is no landraising or floodplain capacity loss involved then please refer to SEPA's Flood Risk Standing Advice. Given that the proposal is for an equal vulnerable use, no objection is raised.

The **Council's Flooding and Structures Officer** has also been consulted on this application. They have responded to state that in terms of information that this Council has concerning flood risk to this site, they would state that SEPA's Flood Hazard Mapping indicates that the site is not at any additional risk from a flood event with a return period of 1 in 200 years plus climate change. That is the 0.5% annual risk of a flood occurring in any one year with an allowance for climate change. The site has previously been assessed against this criteria and therefore extended site opening will not affect outcome.

Overall, as the site is not at flood risk, the Council's Flooding and Structures Officer has confirmed that they have no objection to the application on the grounds of flood risk.

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, planning permission should be granted subject to the applied for variation of condition 1, subject to all of those conditions from planning permission 18/00843/PM, where it is intended these should apply. There are no other outstanding conditions in this regard.

On these considerations, the proposals are consistent with Policies 7 (Historic Assets and Places), 13 (Sustainable transport) and 30 (Tourism) of NPF4 and Policies DC1 (Rural Diversification), CH5 (Battlefields) and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018. Therefore, 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 static holiday caravans within the application site can only be occupied seven days per week between 1st March and 7th January of the following calendar year, both dates inclusive and outwith this period they will not be used for any purpose.

Reason:

To ensure that the static holiday caravans are not used as permanent residential accommodation.

COMMITTEE:	Planning Committee
MEETING DATE:	4 November 2025
BY:	Executive Director for Council Resources
REPORT TITLE:	Confirmation of Tree Preservation Order at Land Adjacent to 12 Seggarsdean Terrace, Haddington [T.P.O. no. 151 (2025)]
REPORT STATUS:	Public

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1 PURPOSE OF REPORT

- 1.1 East Lothian Council placed a Tree Preservation Order (TPO) on a mature lime tree on land adjacent to 12 Seggarsdean Terrace in Haddington on 2 September 2025. The TPO continues in force for six months (until 1 March 2026) or until the order is confirmed, whichever happens first.
- 1.2 The Council must consider any objections and representations received before the Order is confirmed and determination of confirmation must be considered by the Planning Committee where there are outstanding objections. This report lays the facts before the Planning Committee for consideration when deciding whether to confirm this Order.

2 RECOMMENDATIONS

Members are recommended to:

- 2.1 Confirm the Order.

3 BACKGROUND

- 3.1 There is a large mature lime tree located to the south side of the road at the southeastern entrance to Haddington at the corner of Seggarsdean Terrace and Seggarsdean Park. This tree was planted as part of the open space and amenity provision when these houses were built in the late 1970s.

- 3.2 The land on which the mature lime tree is located was formerly owned by East Lothian Housing Association and managed by East Lothian Council, who undertook regular inspections and maintenance of the tree. The land has since transferred into private ownership.
- 3.3 A planning application (ref: 25/00514/P Erection of one house and associated works and erection of fence (Part Retrospective) [current status – withdrawn]) was submitted for development on the parcel of land where the lime tree stands and included a proposal for its felling. The applicant did not seek pre-application advice from the planning service. Had they done so, they would have been advised of the significance of the tree and therefore the likelihood that the planning service would not support the loss of the tree.
- 3.4 The tree is situated outwith the Haddington Conservation Area and is not protected by any conditions of existing planning consents. Confirmation of this TPO would afford the tree statutory protection under planning legislation, thereby prohibiting any pruning or removal without prior written consent from the Council.
- 3.5 The tree's contribution to visual amenity significantly outweighs the justification for its removal, for the following reasons:

Visibility

- 3.6 The tree makes a substantial contribution to the visual character of the area, offering an essential landscape setting for the residential properties at Seggarsdean Terrace and enhancing the overall streetscape.

Individual Impact

- 3.7 As a mature specimen, the lime tree forms a prominent landmark at the southeastern gateway to Haddington. It contributes significantly to the character and identity of the streetscape, reinforcing the identity and sense of place for the local community.

Wider Impact

- 3.8 The tree establishes a strong visual and ecological link with the mature canopy of Amisfield Park Local Garden and Designed Landscape, as well as with the Haddington Conservation Area to the north, thereby supporting wider landscape connectivity and biodiversity.

Future tree felling or tree work

- 3.9 The confirmation of this Order would not prevent the owner of the tree from applying to the Council for permission to do tree management work or to fell and replace the tree, if necessary, in the future. However, the Order would give the Council control over such proposals and this control would be used to ensure that amenity value and tree cover is retained in this area.

Local Member Support

- 3.10 The local members and Community Council were informed of the TPO. The community council wrote to confirm their support for the TPO.

Objections to the Order

- 3.11 The Council must consider any objections and representations received before the Order is confirmed.
- 3.12 The property owners and the public had 38 days from the time of the placing of the Provisional Order in which to object. One objection was received from the owner of the tree.
- 3.13 The objection states that the Council had previously advised that the tree could be removed, and the planning application was progressed with this in mind. As noted in paragraph 3.3, the Council has no record of the applicant seeking pre-application advice from the Council's planning service. Had they done so, they would have been advised of the significance of the tree and therefore the likelihood that the planning service would not support the loss of the tree.
- 3.14 The objector also states that the tree is a danger to the conservatory at 12 Seggarsdean Terrace. Making a TPO does not prevent work to trees if identified as necessary in the interests of safety. It does however give the Council control over the nature of the works to ensure the amenity value of the tree is retained.

4 POLICY IMPLICATIONS

- 4.1 None.

5 RESOURCE AND OTHER IMPLICATIONS

- 5.1 Finance: None
- 5.2 Human Resources: None
- 5.3 Other (e.g. Legal/IT): None
- 5.4 Risk: None

6 INTEGRATED IMPACT ASSESSMENT

- 6.1 ***Select the statement that is appropriate to your report by placing an 'X' in the relevant box.***

An Integrated Impact Assessment screening process has been undertaken and the subject of this report does not

X

affect the wellbeing of the community or have a significant impact on: equality and human rights; tackling socio-economic disadvantages and poverty; climate change, the environment and sustainability; the Council's role as a corporate parent; or the storage/collection of personal data.

or

The subject of this report has been through the Integrated Impact Assessment process and impacts have been identified as follows:

☐

Subject	Impacts identified (Yes, No or N/A)
Equality and human rights	
Socio-economic disadvantage/poverty	
Climate change, the environment and sustainability	
Corporate parenting and care-experienced young people	
Storage/collection of personal data	
Other	

[Enter information on impacts that have been identified]

The Integrated Impact Assessment relating to this report has been published and can be accessed via the Council's website:

https://www.eastlothian.gov.uk/info/210602/equality_and_diversity/12014/integrated_impact_assessments

7 APPENDICES

7.1 Appendix 1: TPO

7.2 Appendix 2: Photographs

8 BACKGROUND PAPERS

8.1 None.

9 AUTHOR AND APPROVAL DETAILS

Report Author(s)

Name	Sarah Cheyne
Designation	Senior Projects Officer - Landscape
Tel/Email	scheyne@eastlothian.gov.uk
Date	27-10-25

Head of Service Approval

Name	Keith Dingwall
Designation	Head of Development
Confirmation that IIA and other relevant checks (e.g. finance/legal) have been completed	Yes
Approval Date	28/10/2025

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
THE EAST LoTHIAN COUNCIL (land adjacent to 12 Seggarsdean Terrace, Haddington)
TREE PRESERVATION ORDER No. 151 (2025)

East Lothian Council constituted under the Local Government etc. (Scotland) Act 1994 and having their principal office at John Muir House, Haddington and in this Tree Preservation Order ("Order") referred to as the "Planning Authority", in exercise of the powers conferred on them by Section 160 of the Town and Country Planning (Scotland) Act 1997 and of all other powers enabling them in that behalf hereby make the following Order:-

1. Citation, commencement and interpretation

- (1) This Order may be cited as The East Lothian Council (land adjacent to 12 Seggarsdean Terrace, Haddington) Tree Preservation Order No. 151 (2025) and takes effect on 2 September 2025.
- (2) In this Order-
"the 1992 Order" means the Town and Country Planning (General Permitted Development) (Scotland) Order 1992;
"The Act" means the Town and country Planning (Scotland) Act 1997;
"Map" means the map annexed and executed as relative to this Order; and
"Protected Tree" has the meaning given in Article 2.
- (3) Words importing one gender shall be construed as importing any other gender.
- (4) Words importing the singular shall be construed as importing the plural and vice-versa.
- (5) References to any Act of the Scottish or UK Parliaments shall include any modification, extension or re-enactment thereof for the time being in force and shall include all Instruments, orders, notices, plans, regulations, byelaws, permissions and directions for the time being made, issued or given thereunder or deriving validity therefrom.

2. Protected Trees

- (1) A Protected Tree is a tree specified in Schedule 1 annexed and executed as relative to this Order.
- (2) The position of a Protected Tree is identified in the manner indicated in Schedule 1 and on the Map. Where any ambiguity as to the identification of a Protected Tree arises between the Map and the specification in Schedule 1 to this Order, the Map is to prevail.

- (3) The Planning Authority's reasons for making the Order are set out in paragraph (A) of Schedule 1 annexed to this Order.

3. Prohibited acts

Subject to the provisions of the Act and the exemptions specified in Article 4, no person is, except with, and in accordance with, the consent of the Planning Authority:-

- (a) to cut down, top, lop, uproot, wilfully damage or wilfully destroy a protected tree; or
- (b) to cause or permit the cutting down, topping, lopping, uprooting, or wilful destruction of a Protected Tree.

4. Exemptions

Nothing in article 3 is to prevent:-

- (1) the cutting down, uprooting, topping or lopping of a tree on land in the occupation of the Planning Authority when this is done by or with the prior written consent of the Planning Authority;
- (2) the cutting down, uprooting, topping or lopping of a tree by, or on behalf of Scottish Forestry on land placed at their disposal in pursuance of the Forest and Land Management (Scotland) Act 2018 or otherwise under their management or supervision;

5. Directions as to replanting

- (1) Where consent is granted under this Order for the felling of any tree, in the event that the provisions of Section 167(i)(a) and (b) of the Act apply the planning authority may give to the owner of the land on which the tree(s) are situated a direction in writing specifying the manner in which and the time within which the owner must replant trees on that land.
- (2) Where a direction is given under paragraph (1) and trees on the relevant land are felled (pursuant to the consent), the owner of that land must replant trees on the land in accordance with the direction.
- (3) Any direction given under paragraph (1) may include requirements as to -
 - (a) species;
 - (b) quantities;
 - (c) the erection and maintenance of fencing necessary for the protection of the replanting;

- (d) the preparations of ground, draining, removal of brushwood, weed control, and beating up; and/or
- (e) protective measures against fire.

6. Adaption and Modification of the Act

- (1) The provisions of the Act mentioned in column 1 of Part 1 of Schedule 2 annexed and executed as relative to this Order are to have effect, in relation to consents under this Order and applications for such consent, subject to the adaptations and modifications specified in column 2 of Part 1 of that Schedule 2.
- (2) The provisions referred to in paragraph (1), as so adapted and modified, are set out in Part 2 of Schedule 2 to this Order.

7. Compensation

- (1) Subject to paragraphs (2) to (5), any person who has suffered loss or damage caused or incurred in consequence of-
 - (a) any refusal of consent required under this Order; or
 - (b) any grant of any such consent subject to conditions,is entitled to recover from the Planning Authority compensation in respect of such loss or damage.
- (2) A claim for compensation under this Order shall be made by serving on the Planning Authority a notice in writing stating the grounds of the claim and the amount claimed.
- (3) The time within which any such notice shall be given is a period of six months -
 - (a) from the date of the decision of the Planning Authority; or
 - (b) where an appeal has been made to Scottish Ministers against the decision of the Planning Authority, from the date of the decision of Scottish Ministers on the appeal.
- (4) No claim may be made under this Article if the amount in respect of which the claim would otherwise have been made is less than £1,000.
- (5) No compensation shall be made payable to a person-
 - (a) for loss or development value or other diminution in the value of the land;
 - (b) for loss or damage which was not reasonably foreseeable when consent was refused or was granted subject to conditions;
 - (c) for loss or damage reasonably foreseeable by that person and attributable to failure to take reasonable steps to avert the loss or damage or to mitigate its extent; or

- (d) for costs incurred in appealing to the Scottish Ministers against the refusal of any consent required under this Order or the grant of any such consent subject to conditions.
- (6) In this Article-
"development value" means an increase in value attributable to the prospect of development; and in relation to any land, the development of it shall include the clearing of it.

8. Applications for consent

- (1) Any application for consent of the Planning Authority for all non-exempt tree management works must be submitted in advance in writing ("Application"). The Application must provide the following
 - (a) specify the tree management work for which consent is sought;
 - (b) give reasons for carrying out such operations;
 - (c) identify the Protected Tree which would be affected by such operations; and
 - (d) the Protected Tree must be identified by means of a map or plan of a size and scale sufficient for the purpose.

The Application may be sent by electronic communications.

All Applications must include the applicant's contact details, including but not limited to a current email and telephone number.

9. Application of Tree Preservation order to future planting

This Order applies to any tree specified in Schedule 1 of this Order which is to be planted in pursuance of a condition imposed by virtue of section 159(a) of the Act as from the time when those trees are planted.

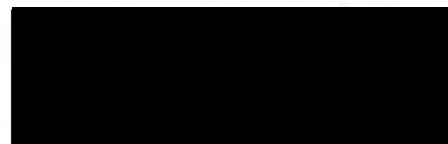
10. Offences and Penalties

- (1) Section 171 of the Act shall apply, if any person, in contravention of a tree preservation order—
 - (a) cuts down, uproots or willfully destroys a tree; or
 - (b) willfully damages, tops or lops a tree in such a manner as to be likely to destroy it,he shall be guilty of an offence.
- (2) A person guilty of an offence under subsection (1) shall be liable-
 - (a) on summary conviction to a fine not exceeding £20,000; and

- (b) on conviction on indictment, to a fine.
- (3) In determining the amount of any fine to be imposed on a person convicted of an offence under subsection (1), the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.
- (4) If any person contravenes the provisions of the tree preservation order otherwise than as mentioned in subsection (1), he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

IN WITNESS WHEREOF these presents consisting of this and the preceding 4 pages together with Schedule 1 and Schedule 2 (containing 2 parts) and the Map annexed are subscribed as follows:-

This Order is sealed with the Common Seal of East Lothian Council and signed for and on its behalf by Carlo Domenico Grilli at Haddington on 3 September 2025.



Service Manager – Governance
Proper Officer
East Lothian Council
John Muir House
Haddington

East Lothian Council in Exercise of The Powers Conferred on them by Section 160 of The Town and Country Planning (Scotland) Act 1997 Confirmed the foregoing Order and attached Map signed for and on its behalf on

Proper Officer
East Lothian Council
John Muir House
Haddington

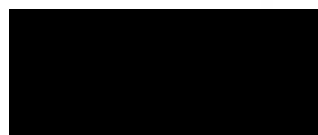
SCHEDULE 1

This is the Schedule 1 of The East Lothian Council (land adjacent to 12 Seggarsdean Terrace, Haddington) Tree Preservation Order No. 151 (2025)

Trees Specified Individually (coloured green on the map)		
No. on Map	Description	Situation
T1	Lime (Tilia sp)	Land adjacent to 12 Seggarsdean Terrace, Haddington, East Lothian, EH41 4RJ being the subjects registered in the Land Register under Title Number ELN23551
Trees Specified by Reference to an Area (within a continuous black line on the map)		
No. on Map	Description	Situation
NONE		
Groups of Trees (within a broken black line on the map)		
No. on Map	Description	Situation
NONE		
Woodlands (within a continuous red line on the map)		
No. on Map	Description	Situation
NONE		

Reason for promotion of order:

This Tree Preservation Order is being promoted to secure the retention of a large mature lime tree. The mature tree forms a landmark feature at the southeastern entrance to Haddington, contributing significantly to the character and identity of the streetscape. It greatly enhances the visual amenity of the area and provides an essential landscape setting for the housing at Seggarsdean Terrace. Its presence creates a strong visual and ecological connection with the mature tree canopy of Amisfield Park Local Garden and Designed Landscape and the Haddington Conservation Area to the north.



Proper Officer
East Lothian Council
John Muir House
Haddington

SCHEDULE 2 PART I

This is the Schedule 2, Part I of The East Lothian Council (land adjacent to 12 Seggarsdean Terrace, Haddington) Tree Preservation Order No. 151 (2025)

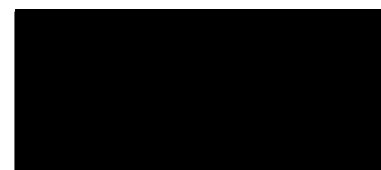
PROVISIONS OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 APPLIED WITH ADAPTATIONS OR MODIFICATIONS

Provision of the Town and Country Planning (Scotland) Act 1997	Adaptation or Modification
Section 36 (Registers of applications. etc.)	For subsections (1) to (3) substitute – "(1) The planning authority shall in relation to this Order keep a register of all applications for consent under this Order, containing – (a) information as to the nature of such applications, the decisions of the planning authority thereon; (b) information as to any appeal to Scottish Ministers and the decisions of Scottish Ministers thereon, any compensation awarded in consequence of the decisions of the planning authority or Scottish Ministers; and (c) any directions as to the replanting of woodlands."
Section 37 (determination of applications: general considerations)	1. In subsection (1) - (a) for "planning permission" where those words first appear, substitute "consent under a tree preservation order", (b) for "sections 278(2) and 59(1) (b) substitute "subsections (1A) and (1B)", (c) for "planning permission" in both of the other places (section 37(1)(a) and (b)) where those words appear substitute "consent under the order", (d) after "think fit", insert, "(including conditions limiting the duration of the consent or requiring the replacement of trees)",

	2. After subsection (1) insert - "(1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practise of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area. (1B) Where the planning authority grant consent for the felling of trees in a woodland area, they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting)." 3. Omit subsections (2) and (3); and 4. In subsection (4) for paragraphs (a) to (c) substitute; (a) consent under a tree preservation order; or (b) any consent, agreement, or approval required by a condition imposed on the grant of such consent
Section 44 (effect of planning permission)	1. for "planning permission" where those words first appear, substitute "consent under a tree preservation order" 2. for "the permission" substitute "the consent" 3. for "to develop land" substitute "to carry out works 4. "after "land" insert "on which the tree or trees to which the consent relates are situated"; and 5. Omit subsections (2) and (3)
Section 47 (right to appeal against planning decisions and failure to take such decisions)	1. For subsection (1) substitute- "(1) Where a planning authority - (a) refuse an application for consent under a tree preservation order or grant it subject to conditions;

	(b) refuse an application for any consent, agreement or approval of that authority required by a condition imposed on a grant of consent under such an order; (c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or (d) have not given notice or their decision on such an application within the period 2 months beginning with the date on which the application was received by the authority [or within such extended period as may at any time be agreed upon in writing between the applicant and the authority]. The applicant may by notice appeal to the Scottish Ministers". 3. Omit subsections (1A), (2) and (4). 4. For subsection (3) substitute – "(3) Any appeal under this section shall be made in writing, specifying the grounds on which the appeal is made and such notice shall be served on the Scottish Ministers within a period of three months beginning with, in the case of an appeal made under – (a) an appeal under paragraphs (a) to (c) of subsection (1), the date of the decision notice or the direction, as the case may be; and (b) paragraph (d) of that subsection, the date of expiry of the period mentioned in that paragraph," (d) For subsection (5) substitute "(5) For the purposes of the application of section 48(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question."
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Section 47A	To apply to the Order.
Section 48 (determination of appeals)	(a) In subsection (5)(a) – (i) for "sections 33, 37(1) to (3), 38(1) to (3), 41(1) and (2) and 42 Part I of Schedule 3" substitute "section 37(1), (1A) and (1B)"; and (ii) for "planning permission" substitute "consent under a tree preservation order". (b) Omit subsections (5)(b) and (6) to (8).



Proper Officer
East Lothian Council
John Muir House
Haddington

SCHEDULE 2 PART II

This is Schedule 2, Part II of The East Lothian Council (land adjacent to 12 Seggarsdean Terrace, Haddington) Tree Preservation Order No. 151 (2025)

PROVISIONS OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997, AS ADAPTED AND MODIFIED BY PART I

The following provisions of the Town and Country Planning Act 1997, as adapted and modified by Part I of this Schedule, apply in relation to consents, and applications for consent, under this Order.

Section 36

36 - (1) The planning authority shall in relation to this Order keep a register of all applications for consent under this Order, containing –

- (a) information as to the nature of such applications, the decisions of the planning authority thereon,
- (b) information as to any appeal to Scottish Ministers and the decisions of Scottish Ministers thereon, any compensations awarded in consequence of the decisions of the planning authority or Scottish Ministers: and
- (c) any directions as to the replanting of woodlands."

(4) Every register kept under this section shall be available for inspection by the public at all reasonable hours.

Section 37

37 - (1) Where an application is made to a planning authority for consent under a tree preservation order –

- (a) subject to subsections (1A) and (1B) they may grant consent under the order, either unconditionally or subject to such conditions as they think fit (including conditions limiting the duration of the consent or requiring the replacement of trees); or
- (b) they may refuse consent under the order.

(1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.

(1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).

(4) The date of the grant or refusal of-

- (a) consent under a tree preservation order; or
- (b) any consent, agreement or approval required by a condition imposed on the grant of such consent, shall be the date on which the notice of the planning authority's decision bears to have been signed on behalf of the authority.

Section 44(1) Effect of planning permission

44 - (1) Without prejudice to the provision of this Part as to the duration, revocation or modification of consent required by a tree preservation order, any grant of consent required by a tree preservation order shall (except in so far as the consent otherwise provides) ensure for the benefit of the land on which the tree or trees to which the consent relates are situated and all persons for the time being interested in it.

Section 47 Right to appeal against planning decisions and failure to take such decisions

47 - (1) Where a planning authority -

- (a) refuse an application for consent under a tree preservation order or grant it subject to conditions;
- (b) refuse an application for any consent, agreement or approval of that authority required by a condition imposed on a grant of consent under such an order;
- (c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of or by that authority required by such a direction; or
- (d) have not given notice of their decision on such an application within the period of 2 months beginning with the date on which the application was received by the authority [or within such extended period as may at any time be agreed upon in writing between the applicant and the authority],

the applicant may by notice appeal to the Scottish Ministers".

"(3) Any appeal under this section shall be made in writing, specifying the grounds on which the appeal is made; and such notice shall be served on the Scottish Ministers within a period of three months beginning with, in the case of an appeal made under –

- (a) sections 37(1), (1A) and (18) shall apply, with any necessary modifications, in relation to an appeal to the Scottish Ministers under section 47 as they apply in relation to an application for consent under a tree preservation order which falls to be determined by the authority.

(9) Schedule 4 applies to appeals under section 47, including appeals under that section as applied by or under any other provision of this Act.



Proper Officer
East Lothian Council
John Muir House
Haddington



- (a) an appeal under paragraphs (a) to (c) of subsection (1), the date of the decision notice or the direction, as the case may be; and;
- (b) paragraph (d) of that subsection, the date of expiry of the period mentioned in that paragraph,"

(5) For the purposes of the application of section 48(1), in relation to an appeal made under subsection (1) (d), it shall be assumed that the authority decided to refuse the application in question.

Section 47A

47A - (1) In an appeal under section 47(1), a party to the proceedings is not to raise any matter which was not before the planning authority at the time the decision appealed against was made unless that party can demonstrate –

- (a) that the matter could not have been raised before that time, or
- (b) that it's not being raised before that time was a consequence of exceptional circumstances.

(2) Nothing in subsection (1) affects any requirement or entitlement to have regard to -

- (a) the provisions of the development plan, or
- (b) any other material consideration.

Section 48 Determination of appeals

48 - (1) On an appeal under section 47 of the Scottish Ministers may –

- (a) allow or dismiss the appeal, or
- (b) reverse or vary any part of the decision of the authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to them in the first instance.

(3) If the Scottish Ministers propose to reverse or vary any part of the decision of the planning authority to which the appeal does not relate, they shall give notice of their intention to the planning authority and to the appellant and shall give each of them an opportunity of making representations about their proposals.

(5) In relation to an appeal to the Scottish Ministers under section 47 –

Site Plan - Scale 1:500 @ A4



Seggarsdean Terrace



OS Grid Reference:
E 352628, N 673693



TPO LEGEND

T1  Individual Tree

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East Lothian Council AC0000824676



Location Plan - NTS

This is the plan referred to in the foregoing Tree Preservation Order, land adjacent to 12 Seggarsdean Terrace, Haddington, No. 151 (2025) by East Lothian Council.



**East Lothian
Council**

Land adjacent to 12 Seggarsdean Terrace,
Haddington

TPO 151 (2025)

TOWN AND COUNTRY PLANNING
(SCOTLAND) ACT 1997

THE EAST LoTHIAN COUNCIL
(LAND ADJACENT TO 12 SEGgARSDEAN
TERRACE, HADDINGTON)
TREE PRESERVATION ORDER No. 151 (2025)

EAST LoTHIAN COUNCIL
JOHN MuIR HOUSE
HADDINGTON

TPO 151 at Land Adjacent to 12 Seggarsdean Terrace, Haddington



View of tree on approach to Haddington. Currently enclosed by a fence that does not have planning permission.



View of the lime tree looking east along the south side of Seggarsdean Terrace, providing setting and a focal point for the streetscape.



View of the lime tree on the exit from Haddington (enclosed by a fence that does not have planning consent)



Lime tree viewed from the southeast with clear links to the trees within the Amisfield Garden and Designed Landscape and Haddington Conservation Area to the north of the road.