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**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 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.