

Appeal Decision Notice

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Decision by Richard Dent, a reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-210-2047
- Site address: Ferrygate Farm, Dirleton Road, North Berwick, EH39 5DJ
- Appeal by Miller Homes against the decision by East Lothian Council
- Application 14/00632/PPM for planning permission in principle dated 29 July 2014, refused by notice dated 3 December 2014.
- The development proposed: residential and associated works
- Application drawings (see Annex 1, schedule 1)
- Date of site visit by reporter: 5 March 2015

Date of decision: 13 November 2015

Decision

I allow the appeal and grant planning permission in principle subject to the conditions listed in Annex 1, schedule 2. Attention is drawn to the three advisory notes following the conditions.

Reasoning

1. On 11 May 2015, I issued a notice of intention to allow the appeal and grant planning permission in principle, subject to 11 conditions set out at the end of that notice, following the signing and registering of an obligation under section 75 of the Town and Country Planning (Scotland) Act 1997 between the appellant and the planning authority. The obligation required, firstly, a financial contribution for the provision of additional accommodation at Law Primary School and North Berwick High School and the provision of a school crossing patrol between Ware Road and Highfield Road. Secondly, the agreement required the provision of affordable housing, the number of units being equivalent to 25% of the total number of units in the development. Should this requirement, or, alternatively, an agreed off-site provision of affordable housing, not be possible, a commuted payment should be made to the council.

2. I have now received a copy of a section 75 agreement signed by the parties covering the above matters in respect of the proposed housing development at Ferrygate Farm, North Berwick. I have also received a copy of the confirmation of the receipt of the writ for recording in the General Register of Sasines issued by the Keeper of the Registers of Scotland on 5 November 2015.

3. Although the obligation has not yet been recorded or registered, clause 15 states “The Second Party [partners of and trustees for the firm of James B Miller and Co] shall not assign, burden, dispone, lease or convey their respective interest in the Planning Agreement Subjects prior to the registration of this Agreement in the Land Register of Scotland...” The planning authority has confirmed that it is satisfied the decision granting planning permission in principle can be issued. On this basis I am prepared to grant planning permission in principle.

4. Under Annex 1 I attach a copy of my notice of intention including schedule 1, a list of approved drawings, and schedule 2, a list of the 11 conditions applied to this planning permission in principle and the three advisory notes.

Richard Dent
Reporter

ANNEX 1

Directorate for Planning and Environmental Appeals

Appeal: Notice of Intention

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- Appeal by Miller Homes against the decision by East Lothian Council
- Application 14/00632/PPM for planning permission in principle dated 29 July 2014, refused by notice dated 3 December 2014
 - The development proposed: residential and associated works
 - Application drawings: see schedule 1
 - Date of site visit by reporter: 5 March 2015

Date of notice: 11 May 2015

Notice of Intention

For the reasons given below I am minded to allow the appeal and grant planning permission in principle subject to the conditions listed in schedule 2, following the signing and registering or recording of a planning obligation under section 75 of the Town and Country

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Planning (Scotland) Act 1997, or some suitable alternative arrangement, covering the matters specified in paragraph 46.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise.
2. Having regard to the provisions of the development plan, the main issues in this appeal are whether residential development is justified in the context of the strategic housing land requirement and, if so, whether the characteristics of the site and its surroundings merit the granting of planning permission in principle.
3. The development plan comprises the South East Scotland Strategic Development Plan (SESplan) 2013, and the East Lothian Local Plan 2008.
4. SESplan Policy 5, Housing Land, sets out the overall housing requirement to 2024. The policy explains that supplementary guidance was to provide information for local development plans in the allocation of housing land within the six planning authorities comprising the SESplan area. That supplementary guidance was prepared and ratified by the constituent authorities. It was approved by Scottish Ministers and now forms part of the development plan. The housing land requirement for East Lothian is 6,250 in the period 2009 – 2019 and 3,800 in the period 2019 – 2024.
5. Policy 6, Housing Land Flexibility, requires a five year effective housing land supply to be maintained at all times, that supply deriving from the requirements set out in the supplementary guidance. Policy 7, Maintaining a Five Year Housing Land Supply, indicates that sites for greenfield development proposals, whether or not within identified strategic development areas, may be allocated in local development plans or granted planning permission to maintain the five year effective housing land supply. Three criteria are stipulated relating to the character of the settlement and local area, green belt objectives and the provision of any required additional infrastructure.
6. The appellant argues that there is a five year housing land shortfall of some 1,750 in East Lothian in the period 2013 - 2018. The council and the appellant dispute the method of calculation but, nevertheless, the council accepts that there is a shortfall in the effective housing land supply in East Lothian. This is stated in the Report of Handling, the approved interim planning guidance on Housing Land Supply and in the response to the appeal. Indeed, in the response, the council confirms “the parties are in agreement on the principle of there being a shortfall in the effective five year housing land supply in East Lothian” and that “the method of calculating the adequacy of the five year housing land supply is not a material issue.”
7. The council suggests the housing land supply position is improving although the appellant claims that this is a misleading statement as the sites referred to in support of this contention are already included in the current housing land audit. I do not believe it is necessary to examine the details of the housing land supply as, significantly, the appellant and the council agree there is a shortfall. I am therefore satisfied that, in turn, this leads to a need for an assessment of the appeal site against the provisions of SESplan Policy 7.

8. Prior to undertaking the assessment under Policy 7 it is appropriate to consider the terms of the East Lothian Local Plan. The council explains that local plan Policy DC1, Development in the Countryside and Undeveloped Coast, places the appeal site within the designated countryside where the scope for new residential development is severely restricted. The proposal under consideration is contrary to this development plan provision. However, in circumstances where there is a shortage in the five year effective housing land supply, as in this case, Scottish Planning Policy provides guidance indicating that development plan policies for the supply of housing land will not be considered to be up-to-date. In such cases, the presumption in favour of development that contributes to sustainable development will also be a significant material consideration. I shall consider sustainability as part of my assessment of the proposal under Policy 7.

9. Scottish Planning Policy also considers the possibility that granting planning permission would be prejudicial where a plan is under review. Prematurity is more relevant as a consideration the closer the new plan is to adoption or approval. The interim planning guidance on Housing Land Supply explains that the “new East Lothian Local Development Plan is unlikely to be approved much before late 2016 / early 2017”. The Report of Handing further indicates that the Main Issues Report is a consultation document in the local development plan preparation process but, whilst this is a material consideration, “it can only be afforded limited weight”. Gullane Community Council considers it would be inappropriate to allow the development of the appeal site until the Main Issues Report has been published. However, under the circumstances, I do not believe that the granting of planning permission for the residential development of the appeal site should be precluded on the grounds of prematurity or prejudice to the forthcoming local development plan.

10. On the foregoing basis, despite the proposal being contrary to local plan Policy DC1, the guidance in Scottish Planning Policy endorses my belief that assessment under SESplan Policy 7 is appropriate and justified.

11. Although the local plan must be regarded as out-of-date in respect of housing land supply, both the appellant and the council refer to policies which remain relevant to the appeal proposal. For the most part, these policies can be considered under my assessment under Policy 7 although some involve matters more directly related to detailed development proposals.

12. Turning to SESplan Policy 7, it is necessary in the first instance to determine whether the development would be in keeping with the character of the settlement and the local area. I note the appellant’s Design Statement indicates a development of some 140 houses. I agree with the council that this scale of growth would be significant in the context of North Berwick. However, North Berwick is described as one of the main towns in East Lothian and the council accepts that the development would be appropriate to the scale and character. Taking into account, the wider character of North Berwick as a settlement with a range of traditional and more recent residential development, I again agree with the council’s assessment and do not consider that the proposal would have an untoward impact on established ambience.

13. Insofar as the development would relate to the local area, I share the council’s opinion that the existing built form of the vicinity would provide a degree of visual containment. The

tree belt to the west is also important in this respect and once more I concur with the council that development could take place without detriment to the landscape setting of the local area. The green wedge to the north of the A168 at this point would remain as a strong landscape feature and would contribute to securing the character of the local area in the event of the development of the appeal site.

14. Secondly, Policy 7 requires development not to undermine green belt objectives. As the appeal site is not designated green belt there is no policy conflict in this respect.

15. Finally, there must be confidence that the required infrastructure will be provided. In this respect the council has indicated that financial contributions would be necessary for the provision of additional accommodation at Law Primary School and North Berwick High School and the provision of a school crossing patrol between Ware Road and Highfield Road. These contributions would amount to £2,210,000 (£15,785.71 per residential unit based on 140 units) for the education infrastructure and £15,000 for the school crossing patrol. The appellant has indicated a willingness to provide the required contributions.

16. The council has not identified any other fundamental infrastructure deficiencies although it would be necessary to extend the 40mph speed limit. A suspensive condition could be applied in this respect.

17. On the foregoing basis, and having noted the responses of the service providers, I conclude that subject to a formal planning obligation in terms of the specified infrastructure contributions, the proposal conforms to the provisions of Policy 7.

18. In reaching the foregoing conclusion I have also taken account the presumption in favour of sustainable development contained in Scottish Planning Policy. Paragraph 29 of Scottish Planning Policy sets out 13 principles to guide decisions in respect of achieving sustainable development. These have been analysed by the appellant who argues that the proposal can be considered favourably against the principles and therefore should be regarded as contributing to sustainable development. In turn, claims the appellant, a presumption in favour of granting planning permission applies.

19. The council does not contest compliance with most of the principles but believes no evidence has been provided regarding climate change mitigation and adaptation and the Land Use Strategy. In respect of the former, the appellant points out that the development would not be subject to flood risk and that sustainable construction methods would be used in accordance with building regulations. In terms of the Land Use Strategy, the appellant points out that SESplan Policy 7 requires an assessment against green belt impact but includes no limitations or qualifications insofar as prime agricultural land is concerned.

20. I note that Scottish Planning Policy states that where it is necessary to use good quality land for development, the layout and design should minimise the amount of such land that is required. Development on prime agricultural land may be permitted where it is essential as a component of the settlement strategy or necessary to meet an established need. I believe the proposal is necessary to meet the established need reflected in the SESplan housing land requirement. In any event, the council has acknowledged the release of greenfield land will often result in the loss of prime agricultural land. In this case the council accepts that the nature of the proposed development is such that the loss of prime

agricultural land would be minimised. Under the circumstances, having noted the principles of the Land Use Strategy, I accept that the proposed development would not be in conflict with those principles.

21. Some third parties have expressed concern that the development of the site would lead to further commuting thereby increasing traffic on the local road network and adding further pressure to the train service. This, it is claimed, should be regarded as unsustainable. I recognise that, inevitably, tensions can exist between various aspects of the guidance contained in Scottish Planning Policy. On balance, however, having particular regard to the strategic housing land requirement and the 13 guiding principles set out in paragraph 29 of Scottish Planning Policy, I am prepared to accept that the development of the site would be sustainable.

22. Insofar as those local plan policies other than Policy DC1 are concerned, the council accepts that indicative landscape provision is consistent with Policy C1 and states a condition could be imposed to secure consistency with Policy C2, Play Space Provision. The submission of a satisfactory Transport Assessment has satisfied the council that the requirements of Policy DP18 have been met. Conditions could also ensure compliance with other relevant policies.

23. Policy H4, Affordable Housing, also applies and the council states that any planning permission in principle should be subject to a planning obligation requiring the provision of 25% of the housing units to be affordable housing. On the basis of the indicative layout plans, the council requires 35 affordable houses to be provided within the site. Should this requirement, or, alternatively, an agreed off-site provision of 35 affordable houses, not be possible, a commuted payment should be made to the council. The appellant has agreed to enter into a planning obligation to this effect.

24. All-in-all, I conclude that the proposal complies with the relevant provisions of the development plan. As previously indicated, residential development of the appeal site is contrary to local plan Policy DC1. However, the terms of SESplan Policies 5, 6 and 7, the subsequently approved supplementary guidance and the guidance contained in Scottish Planning Policy render Policy DC1 out-of-date insofar as housing land provision is concerned. I have therefore regarded Policy DC1 as being of very limited weight in terms of providing land to meet the strategic housing requirement. This conclusion points to the granting of planning permission in principle and it is therefore necessary to determine whether material considerations suggest that permission should be refused.

25. Scottish Planning Policy is a material consideration. I have already referred to the importance of the guidance in respect of assessing the proposal against the development plan, particularly in terms of the status of local plan Policy DC1, and sustainability. In the context of the acknowledged shortfall in the five year effective housing land supply, and the presumption in favour of sustainable development, the provisions of Scottish Planning Policy must be afforded very considerable weight.

26. The emerging local development plan is a further material consideration but, as previously indicated, the preparation process is at an early stage. Accordingly, the weight to be given to the forthcoming local development plan is very limited.

27. The council believes that the interim planning guidance on Housing Land Supply, which was updated during December 2014, to be a material consideration. Indeed, both reasons for refusing planning permission in principle relate to the interim planning guidance. The appellant argues the interim planning guidance should be accorded very little weight, particularly where it is at odds with Scottish Planning Policy or places “unjustified additional constraints” on the criteria set out in SESplan Policy 7.

28. In any event, I note that the council accepts the proposal complies with many aspects of the interim guidance. The site is agreed as being effective; as previously explained, the scale is regarded as appropriate and timing of the development is not an issue. In this final respect, the appellant would accept a condition limiting the duration of planning permission. Insofar as development plan strategy is concerned, the council accepts the proposed development would not prejudice the delivery of other elements of the strategy.

29. The fifth of the criteria of the interim guidance relates to locational considerations. For the most part, the council has not challenged the compliance of the proposal in terms of these considerations. However, as set out in the reasons for refusal, the council believes the appeal site would not have the required robust and defensible boundaries and may set a precedent for subsequent future expansion. Although the council accepts the site is generally well-contained, the first reason for refusal expresses concern about the strength of the southern boundary. The second reason for refusal refers to pressure for further development in the vicinity. Examples provided include a previous planning application and submissions in respect of the “call for sites” as part of the local development plan preparation process. To some extent, the second reason for refusal is at odds with the council’s opinion that “a grant of planning permission for the housing development now proposed would not prejudice any...future determinations”, a statement made in response to concerns about the loss of prime agricultural land.

30. It is the case that the southern boundary of the appeal site has no physical definition. However, the appellant has pointed out that a condition could be applied to require the creation of a robust boundary. The indicative drawings accompanying the application for planning permission in principle did not show such a boundary but a further indicative layout was submitted to support the appeal showing a landscape framework which, it is claimed, would contain the proposed development. The appellant further argues that any future housing should be more properly considered through the local development plan preparation process.

31. On the one hand, I accept that the interim guidance represents the most recent council approach to matters related to housing land supply. On the other hand, I note the appellant’s contention that the lack of public consultation reduces the value of the guidance. I agree that SESplan Policy 7 offers the relevant development plan basis for the determination of the appeal and that the interim guidance should not set out alternative criteria for assessing proposals. I therefore conclude that the interim guidance is a useful material consideration insofar as it builds on the criteria set out in Policy 7 but carries little weight where new matters are introduced.

32. In particular, I do not consider that Policy 7 justifies the consideration of the appeal site in terms of containment within a robust, defensible boundary or in terms of precedent. A development could be in keeping with the character of a settlement and local area without

being contained entirely within robust boundaries. Indeed, that is the case in this instance where the appellant has demonstrated the potential to create a robust boundary. I also agree with the appellant that the capacity for any further residential development in this vicinity would be best established through the local development plan preparation process.

33. I therefore conclude that, as a material consideration, the interim guidance does not carry any weight to support the refusal of planning permission for the proposal. Even if those matters relating to a robust boundary and precedent were to be afforded more weight, I consider that under the circumstances - where the appellant has provided an indicative landscape framework and the local plan review process is underway, albeit at an early stage - the assessment against Policy 7 should not be set aside.

34. I am aware of the recent Opinion of the Court delivered by Lord Eassie in the appeal by Miller Homes Limited against The Scottish Ministers. This related to a similar - but not identical - site at Ferrygate Farm. A reporter's decision to dismiss an appeal against the refusal of planning permission in principle for residential development was quashed by the Court. The council suggested that account should be taken of the appeal decision but offered no comments on the Opinion of the Court. The appellant believes the quashing of the appeal decision is not of great relevance.

35. The earlier appeal decision included a conclusion that the proposal was contrary to the development plan. However, since that time, the housing land requirement has been approved as supplementary guidance for SESplan and the new version of Scottish Planning Policy has been published. Although it was concluded that the earlier proposal infringed local plan policy for prime agricultural land - and that was regarded as significant - the situation has now changed. As previously explained, the loss of prime agricultural land is not now a determining consideration. In turn, having reviewed the terms of the Opinion of the Court, I conclude that neither the Court decision nor the earlier appeal decision is a consideration that is of assistance in respect of the determination of this appeal.

36. I have noted the representations received from third parties which I regard as material considerations insofar as they relate to planning matters. Various infrastructure deficiencies have been claimed but these are not endorsed by the service providers subject to appropriate conditions and to contributions to support the provision education infrastructure.

37. Despite the concern expressed over the loss of prime agriculture land, I have explained that this is not a determining issue. Although reference has been made to ribbon development and coalescence with Dirleton, the characteristics of the site are not such that these are valid fears.

38. I have also considered other material considerations raised by the appellant including other more general guidance in Scottish Planning Policy, National Planning Framework 3, and the provisions of PAN 2/2010, Affordable Housing and Housing Land Audits in respect of "effectiveness". None of these documents leads me to consider that the provisions of the development plan should be set aside.

39. Overall, I conclude, for the reasons set out above, that the proposed development accords with the relevant provisions of the development plan and that there are no material

considerations to justify refusing to grant planning permission in principle. I have taken account of all the other matters raised but there is none to lead me to a different conclusion.

40. It is necessary to consider the imposition of conditions and in this respect I have taken account of the advice contained in Circular 4/1998, The Use of Conditions in Planning Permissions. Any conditions imposed must also be appropriate for an application that is seeking planning permission in principle.

41. The council suggested nine conditions of which the first includes fourteen specific requirements. The appellant has commented on the proposed conditions. Three requirements have been claimed by the appellant to be “overly prescriptive and restrictive” but, otherwise, the conditions are acceptable to the appellant subject to some minor amendments.

42. Additionally, the appellant has indicated that a direction limiting the duration of the planning permission to less than the timescale indicated in section 59 of the Act would be acceptable. However, whilst I note the intention of the appellant to proceed with the development in early course in the event of planning permission in principle being granted, unforeseen circumstances may cause a delay and I am therefore satisfied that the standard time limits would be appropriate in this case.

43. Insofar as supporting drawings are concerned, the council considered a “red-line” site location plan (11019(OS)100), along with an indicative layout plan (11019 SK 004) and a landscape layout plan related to the indicative layout (1842/1). As explained, the appellant provided an additional indicative layout plan to demonstrate the potential for planting along the southern boundary of the site. Despite the concern of the council, I accepted this plan as being a further illustration of what could be achieved.

44. In view of the “in principle” nature of the proposals and the indicative basis of the layout drawings, I believe that the supporting plans should not be afforded any formal status. In turn, it is inappropriate to apply detailed conditions related to the indicative drawings. In this respect, therefore, I agree with the appellant that certain suggested conditions are too prescriptive and restrictive. Details of the siting, design and external appearance of the proposed houses, landscaping and means of access will require subsequent approval. Indeed, this is stated in the suggested conditions. I recognise, nevertheless, that any detailed proposals coming forward in due course may well relate to or derive from the indicative drawings submitted.

45. On the basis of the foregoing, I have accepted the conditions suggested by the council subject to the following amendments:

- Condition 1a should simply require a maximum height of two storeys to reflect the character of the vicinity;
- Condition 1b should be deleted: development management should ensure a satisfactory relationship between houses and streets;
- Conditions 1c and 1d should be deleted: again, if necessary, these matters should be the subject of development management procedures;
- Condition 1g should commence “Details of any allotments, ...” as allotments are not specifically referred to on the application form;

- Condition 3 should include the appellant's suggested amendment in order to permit the potential for flexibility in the rate of construction.

46. I further conclude that a planning obligation should be completed in order to secure the contributions specified in paragraphs 15 and 23 in respect of additional accommodation at Law Primary School and North Berwick High School, the provision of a school crossing patrol between Ware Road and Highfield Road, and the provision of affordable housing at a level of 25% of the number of residential units proposed. As this notice of intention relates to an application for planning permission in principle, the appellant and the council should determine a method of agreeing contributions reflecting the final number of houses approved in any subsequent detailed planning permission.

47. I will accordingly defer determination of this appeal for a period of six months to enable the relevant planning obligation (either an agreement with the planning authority or a unilateral obligation by the appellant under section 75 of the Town and Country Planning (Scotland) Act 1997 or some suitable alternative arrangement as may be agreed by the parties) to be completed and registered or recorded, as the case may be. If, by the end of the six months period, a copy of the relevant obligation with evidence of registration or recording has not been submitted to this office, I will consider whether planning permission should be refused or granted without a planning obligation.

Richard Dent

Reporter

SCHEDULE 1

APPLICATION DRAWINGS

Site location plan; 11019 (OS) 100
Proposed development: indicative layout; 11019 (SK) 004*
Landscape layout; 1842/01*

* these drawings are indicative.

SCHEDULE 2

CONDITIONS

1. Plans and particulars of the matters listed below shall be submitted for consideration by the planning authority, in accordance with the timescales and other limitations in section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended). No work shall begin until the written approval of the authority has been given, and the development shall be carried out in accordance with that approval.

Reason: to ensure that the matters referred to are given full consideration and to accord with section 59 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

2. The submission for approval of matters specified in conditions of this grant of planning permission in principle shall include details of the siting, design and external appearance of the residential units, the means of access to them, the means of any enclosure of the boundaries of the site and the landscaping of the site. Whilst these details may generally accord with the submitted layout and landscaping plans (see Schedule 1), these plans are indicative and are not prescriptive in terms of the final development requirements.

Reason: the application is for planning permission in principle.

3. The details submitted in terms of condition 2 shall have regard to the following requirements:

a. the development shall be limited to houses that shall in no case be greater than two storeys in height subject to the provision of accommodation in the roof space.

Reason: to reflect the character of existing building in the vicinity of the site.

b. there shall be at least a 9 metres separation distance between the windows of a proposed new building and the garden boundaries of neighbouring residential properties and an 18 metres separation distance between directly facing windows of the proposed new building and the windows of existing or proposed neighbouring residential properties.

Reason: to protect the residential amenity of existing neighbouring properties.

c. details of the play / sports field and the play area, including a timetable for installation and the equipment to be provided within the play area, shall be submitted to and approved in advance by the planning authority. The details to be submitted shall show an acceptable range of individual play activities for the play area across the age range of toddler to 12 years old. The play / sports field and the play area shall be installed in accordance with the details so approved.

Reason: to ensure the play / sports field and play area are constructed and equipped to the satisfaction of the planning authority.

d. details of any allotments, including a timetable for installation and long-term management arrangements, shall be submitted to and approved in advance by the planning authority and the allotments shall be installed in accordance with the details so approved;

Reason: to ensure any allotments are sited and maintained to the satisfaction of the planning authority.

e. parking for the housing development shall be provided at a level conforming to the East Lothian Council Standards for Development Roads- Part 5 Parking Standards.

Reason: to ensure parking is provided in accordance with the established standards of the planning authority.

f (i) a continuous two metres wide footway shall be provided on the south side of the A198, Dirleton Road, to the east of the site access to link into the existing footway network with dropped kerbs provided as necessary.

f (ii) a remote footpath leading to Williamstone Court shall be provided to connect into the existing public footway network on Williamstone Court. It shall be constructed prior to the occupation of the first house hereby approved.

Reason: in the interests of the safety and amenity of pedestrians.

g. driveways shall have minimum dimensions of 6 metres by 3 metres. Double driveways shall have minimum dimensions of 5 metres width by 6 metres length or 3 metres wide by 11 metres length.

Reason: to ensure residential properties are provided with driveways of appropriate dimensions.

h. within residential private parking areas the minimum dimensions of a single parking space shall be 2.5 metres by 5.0 metres. All visitor parking spaces shall be clearly marked for visitors.

Reason: to ensure private of appropriate dimensions and the identification of visitor parking spaces.

i. the location and route of the Strathearn Culvert and the field drain shall be identified within the site and no built development located over these structures unless an alternative system of field drainage is prepared and approved in writing by the planning authority.

Reason: to ensure field drainage systems are retained to the satisfaction of the planning authority.

j. the proposed site access junction onto the A198, Dirleton Road, shall be a priority junction designed in accordance with i. The Design Manual for Roads and Bridges, Volume 6, and, ii. an independent road safety audit.

Reason: to ensure the access is provided in accordance with the established standards of the planning authority and satisfies an independent assessment.

4. A maximum of 140 residential units are approved.

Reason: to ensure sufficient education capacity.

5. Housing completions on the site in any one year (with a year being from 1 April to 31 March the following year) shall not exceed the following rates, unless agreed in writing by the planning authority:

- Year 1: 10 residential units
- Year 2: 36 residential units
- Year 3: 36 residential units

- Year 4: 36 residential units
- Year 5: 22 residential units

If less than the specified number of residential units should be completed in any one year, those shall be completed instead at Year 5 and beyond and not added to the subsequent year, unless agreed in writing by the planning authority.

Reason: to ensure that the completion rate accords with the provision of education capacity.

6. No development shall take place until a scheme of landscaping has been submitted to and approved in writing by the planning authority. Notwithstanding the terms of condition 2, the scheme, which shall be based on the landscape proposals shown indicatively in the Landscape Layout, shall provide details of: the height and slopes of any mounding on or recontouring of, the site; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. If any part of the existing hedgerow along the site frontage with the A198 road is removed, the scheme shall include provision of a mixed hedgerow in the proposed woodland planting. It shall also include planting to the north of the allotments, should these be approved in the position indicated under Condition 3d.

The scheme shall also include a survey of any existing trees and hedgerows on the land, details of any to be retained, and measures for their protection in the course of development.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of ten years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the planning authority gives written approval for any variation.

Reason: in order to ensure the implementation of a landscaping scheme to enhance the appearance of the development in the interests of the amenity of the area.

7. A Green Travel Plan shall be submitted to and approved by the planning authority prior to the occupation of any of the residential units hereby approved. The travel plan shall have particular regard to provision for walking, cycling and public transport access to and within the site, and will include a timetable for its implementation, details of the measures to be provided, the system of management, monitoring, review, reporting and duration of the plan. The Green Travel Plan shall thereafter be implemented in accordance with the details so approved.

Reason: in the interests of ensuring sustainable travel patterns.

8. A Construction Method Statement to minimise the impact of construction activity on the amenity of the area shall be submitted to and approved by the planning authority prior to the commencement of development. The statement shall recommend mitigation measures to control noise, dust, construction traffic and shall include hours of construction work. The recommendations of the Construction Method Statement shall be implemented prior to the

commencement of development.

Reason: to minimise the impact of construction activity.

9. No residential unit shall be occupied unless and until details of artwork to be provided on the site or at an alternative location away from the site have been submitted to and approved by the planning authority and the approved artwork shall be provided prior to the occupation of the final residential unit.

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

10. Details of the proposed integrated sustainable drainage scheme (SuDS) shall be submitted to and approved in writing by the planning authority following consultation with the Scottish Environment Protection Agency. The scheme shall thereafter be fully implemented in accordance with the approved details.

Reason: to ensure the provision of a satisfactory sustainable drainage scheme.

11. No development shall commence unless and until the existing 40 miles per hour speed limit on the A198, Dirleton Road has been extended to the west, beyond the proposed site entrance, to a point approved in advance by the planning authority.

Reason: in the interests of road safety.

ADVISORY NOTES

1. **Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action. (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).)

2. **Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position. (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended).)

3. **Display of notice:** A notice must be displayed on or near the site while work is being carried out. The planning authority can provide more information about the form of that notice and where to display it. (See section 27C of the Town and Country Planning (Scotland) Act 1997 Act (as amended) and Schedule 7 to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.)