

EAST LOTHIAN DEVELOPMENTS LTD

PLANNING STATEMENT

Section 42 Application - Variation of Condition 5 of Planning Permission
15/00537/PPM – Planning Permission in Principle for Residential
Development with Associated Educational and Community Facilities
and Open Space at Land Located to the South and East of Wallyford
and at Dolphingstone, East Lothian

17th December 2020

HolderPlanning

CONTENTS

1.0	INTRODUCTION.....	2
2.0	THE S42 APPLICATION PROPOSAL AND JUSTIFICATION	4
3.0	CONCLUSION	7

1.0 INTRODUCTION

1.1 This planning statement has been prepared on behalf of East Lothian Developments Ltd (ELDL) in support of a Section 42 application to vary Condition 5 of Planning Permission 15/00537/PPM - Planning Permission in Principle for Residential Development with Associated Educational and Community Facilities and Open Space at Land Located to the South and East of Wallyford and at Dolphingstone, East Lothian. Permission for this was granted on 3rd December 2020.

1.2 Condition 5 of this permission states:

Unless otherwise agreed in writing by the Planning Authority, housing completions in any one year (with a year being defined as being from 1st April to 31st March the following year) shall not exceed the following completions rates:

Year 2022/2023 – 40 residential units

Year 2023/2024 – 60 residential units

Year 2024/2025 – 60 residential units

Year 2025/2026 – 60 residential units

Year 2026/2027 – 82 residential units

Year 2027/2028 – 120 residential units

Year 2028/2029 – 120 residential units

Year 2029/2030 – 120 residential units

Year 2030/2031 – 120 residential units

Year 2031/2032 – 18 residential units

If less than the specified number of residential units are completed in any one year then those shall be completed instead at year 2032/2033 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.

1.3 During the consideration of the Dolphingstone application ELDL had sought higher rates of housing completions than stated above, based on their view that there was more

education capacity than that indicated by the Council, and because their information from housebuilders indicated that the market could indeed deliver these higher rates. However, that position was rejected on more than one occasion and the application was determined with Condition 5 above.

- 1.4 However, it was accepted by the Council that if circumstances changed and future education capacity was more than that originally calculated by the Council, then there would be a basis to amend the phasing conditions to accelerate the phasing contained in the conditions on both the Dolphingstone and St Clements Wells permissions.
- 1.5 As explained in the following section, circumstances have now changed, and this application to vary Condition 5 of the Dolphingstone permission is being submitted alongside a similar S42 application to amend Condition 5 of the St Clements Wells permission.

2.0 THE S42 APPLICATION PROPOSAL AND JUSTIFICATION

- 2.1 Based on recent calculations of education capacity by the Council, as set out in its response to the Goshen Appeal on 25th November 2020, it is now the case that there is more education capacity than the Council was aware of when the Dolphingstone application was reported to Committee in May 2020. In response to the Goshen appeal, the Council has indicated that it would not object to the application on education grounds if the following phasing of the Goshen development is made conditional:

Year 2022/2023 – 90 residential units

Year 2023/2024 – 90 residential units

Year 2024/2025 – 90 residential units

Year 2025/2026 – 30 residential units

- 2.2 Given that Goshen would be within the same school catchment areas as St Clements Wells and Dolphingstone, and the above figures will presumably have taken account of the phasing conditions on the St Clements Wells and Dolphingstone permissions, it follows that this capacity should be made available to those developments. Aside from the obvious logic of directing limited available education capacity to support the LDP strategy, which allocates the Wallyford sites for housing and not the Goshen site, which is in the Green Belt, the terms of LDP Policy Hou 2 (4) are clear that infrastructure should be directed to existing housing commitments.

- 2.3 As the Goshen appeal has not yet been determined, this education capacity should therefore be directed towards the allocated Wallyford sites in preference to Goshen. In our view it makes sense to split this additional educational capacity 50/50 between the Dolphingstone and St Clements Wells sites. In so doing our proposed amendments exactly correspond to the completion rates and years which the Council has indicated now have available education capacity in respect to the Goshen appeal. For clarity the amendments being proposed for the relevant conditions on both the Dolphingstone and St Clements Wells permissions are given below. So, this Section 42 application for Dolphingstone seeks permission only for the amendments to Condition 5 of the Dolphingstone permission, and we have submitted a separate application to amend Condition 5 of the St Clements Wells permission at the same time. **We would expect the Council to determine both applications at the same time as they are clearly related to each other.**

2.4 We have identified the revised phasing proposed and, for clarity, have provided a note identifying the difference between the existing phasing and that proposed. It will be noted that the overall number of units remains unchanged – we have simply accelerated the phasing to accommodate an additional 300 homes (split 50/50 between Dolphingstone and St Clements Wells) in the period 2022 – 2026, and subtracted 300 homes from later phases.

1. Dolphingstone Permission

Year 2022/2023 – 85 residential units (45 added)

Year 2023/2024 – 105 residential units (45 added)

Year 2024/2025 – 105 residential units (45 added)

Year 2025/2026 – 75 residential units (15 added)

Year 2026/2027 – 82 residential units (no change)

Year 2027/2028 – 120 residential units (no change)

Year 2028/2029 – 75 residential units (45 subtracted)

Year 2029/2030 – 75 residential units (45 subtracted)

Year 2030/2031 – 75 residential units (45 subtracted)

Year 2031/2032 – 3 residential units (15 subtracted)

2. St Clements Wells Permission

Condition 5 on the St Clements Wells permission is expressed in slightly different terms, in that the specific years are not specified, rather Year 1, Year 2 etc. House completions began in 2018/19, which would therefore correspond with Year 1. Our proposed amendments therefore cover Years 5 – 8, which are equivalent to Years 2022/2023 to 2025/2026. Year 11 is not required as the accelerated phasing will allow the development to be completed before then.

Year 1 – 90 residential units (no change)

Year 2 - 150 residential units (no change)

Year 3 – 150 residential units (no change)

Year 4 - 150 residential units (no change)

Year 5 – 195 residential units (45 added)

Year 6 - 195 residential units (45 added)

Year 7 - 195 residential units (45 added)

Year 8 - 165 residential units (15 added)

Year 9 – 105 residential units (45 subtracted)

Year 10 - 55 residential units (90 subtracted)

(Year 11 – this year is no longer required and is therefore deleted - 15 subtracted)

- 2.5 We do not propose any other amendments to Condition 5, and for clarity the notes in brackets above are simply notes and not proposed amendments.

3.0 CONCLUSION

- 3.1 This Section 42 Application proposes to amend Condition 5 of the Dolphingstone permission granted on 3rd December 2020, in order to increase the permitted rate of housing development for which there is now additional education capacity. This additional education capacity was reported by the Council in response to the ongoing Goshen appeal in November 2020. Planning policies provide support for that capacity to be allotted to the allocated housing sites at Dolphingstone and St Clements Wells.
- 3.2 We have therefore also submitted a similar S42 application to amend Condition 5 of the St Clements Wells permission, splitting the now possible accelerated phasing of housing equally between the two sites, and expect the Council to determine both applications at the same time.