

REPORT TO: Planning Committee
MEETING DATE: Tuesday 4 September 2012
BY: Executive Director (Services for Communities)
SUBJECT: Application for Planning Permission for Consideration

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Note: this application was called off the Scheme of Delegation by Councillor McMillan for the following reasons: a) to explore the operational need of the applicant, and whether it could be met from other sources of renewable energy; b) to examine the effect of the wind turbine on the wider landscape, particularly the view from the Lammermuirs, and the visual effect on public users (walkers and riders), and from local properties; c) to discuss the wider aspects of renewable energy provision in East Lothian.

Application No. **12/00327/P**

Proposal Erection of wind turbine

Location **Land At Woodside
Gladsmuir
East Lothian
EH33 2AL**

Applicant Ian Brash Assoc. Ltd

Ward 6

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

Planning permission is sought by Ian Brash Assoc. Ltd for the erection of a wind turbine on agricultural land within the countryside at Woodside to the southeast of Gladsmuir.

The proposed wind turbine would be positioned in the southeast corner of a field some 60 metres to the west of the southern part of Liberty Hall North Wood and some 345 metres to the north of the U125 minor public road.

Woodside House, a building listed as being of special architectural or historic interest (Category B), is some 325 metres to the northwest of where the proposed wind turbine would be sited. Woodside House is contained within a wooded setting.

The proposed wind turbine would comprise of a lattice tower measuring 18.3 metres in height from the ground to the centre of the rotor hub. The twin blades of the rotor would each have a length of 6.5 metres. The wind turbine would therefore have a height of 24.8 metres from ground level to blade tip. The diameter of the rotating blades would be

13 metres. The lattice tower of the proposed wind turbine would be constructed of steel and the rotor hub and blades would be formed of fibreglass.

Through the determination of an application (ref: 11/01041/NAF) made to the Council by Vicki Sandison/Ian Brash Associates, prior notification approval was granted in December 2011 for the erection of an agricultural building within the same field in which it is now proposed to erect the wind turbine. The agricultural building has not yet been erected but would measure some 26.7 metres long, 19.5 metres wide and some 5.8 metres high to the highest point of its pitched roof. It would be positioned some 156 metres to the north of where the proposed wind turbine would be sited.

Under the provisions of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 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 Environmental Impact Assessment (Scotland) Regulations 1999 sets out the selection criteria for screening whether a Schedule 2 development requires an EIA. On 30 May 2012 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 wind turbine to be the subject of an EIA.

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 approved Edinburgh and the Lothians Structure Plan 2015 and the adopted East Lothian Local Plan 2008.

Policies ENV3 (Development in the Countryside), ENV6 (Renewable Energy) and ENV1C (International and National Historic or Built Environment Designations) of the approved Edinburgh and the Lothians Structure Plan 2015 and Policies DC1 (Development in the Countryside and Undeveloped Coast), DP13 (Biodiversity and Development Sites), NRG3 (Wind Turbines), ENV3 (Listed Buildings), ENV7 and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

Material to the determination of the application are:

1. The Scottish Government's policy on renewable energy given in Scottish Planning Policy: February 2010;
2. The Scottish Government web based renewables advice entitled "Onshore Wind Turbines", which has replaced Planning Advice Note 45: Renewable Energy Technologies;
3. The East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011);
4. The Council's Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010;

5. Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Scottish Government's policy on development affecting a listed building or its setting given in Scottish Planning Policy: February 2010;

Scottish Planning Policy on renewable energy states that the commitment to increase the amount of electricity generated from renewable sources is a vital part of the response to climate change. In this, there is potential for communities and small businesses in urban and rural areas to invest in ownership of renewable energy projects or to develop their own projects for local benefit. Planning authorities should support the development of a diverse range of renewable energy technologies whilst guiding development to appropriate locations. Factors relevant to the consideration of applications for planning permission will depend on the scale of the development and its relationship with the surrounding area, but are likely to include impact on the landscape, historic environment, natural heritage and water environment, amenity and communities, and any cumulative impacts that are likely to arise. When granting planning permission planning authorities should include conditions for the decommissioning of renewable energy developments including, where applicable ancillary infrastructure and site restoration.

The advice entitled "Onshore Wind Turbines" forms one section of the web based renewables advice that the Scottish Government have introduced to replace Planning Advice Note 45: Renewable energy technologies. It provides advice on, amongst other things, matters relating to landscape impact, wildlife and habitat, ecosystems and biodiversity, shadow flicker, noise, road traffic impacts, aviation, and cumulative effects. In relation to landscape impact, the advice is that wind turbines can impact upon the landscape by virtue of their number, size or layout, how they impact on the skyline, their design and colour, any land form change, access tracks and ancillary components anemometers, substations and power lines. The ability of the landscape to absorb development often depends largely on features of landscape character such as landform, ridges, hills, valleys, and vegetation. Selecting an appropriate route for access, considering landform change, surfacing and vegetation can also influence to what extent proposals are integrated into the landscape setting. In relation to landscape impact, a cautious approach is necessary in relation to particular landscapes which are rare or valued. In assessing cumulative landscape and visual impacts, the scale and pattern of the turbines plus the tracks, power lines and ancillary development will be relevant considerations. It will also be necessary to consider the significance of the landscape and views, proximity and inter-visibility and the sensitivity of visual receptors. Planning authorities are more frequently having to consider turbines within lower-lying more populated areas, where design elements and cumulative impacts need to be managed.

Policy ENV6 of the approved Edinburgh and the Lothians Structure Plan 2015 states that the development of renewable energy resources will be supported where this can be achieved in an environmentally acceptable manner. Local Plans should set out the specific criteria against which renewable energy developments will be assessed including cumulative impact.

It is stated in paragraph 9.6 of the adopted East Lothian Local Plan 2008 that the Council is supportive of Government policy to secure greater energy generation from renewable sources. The benefits will be weighed against the impact on the local environment and features of interest. With regard to wind turbines it is stated in paragraph 9.7 that because of the need for turbines to catch the wind it is not possible to hide them. The visual and landscape impact, both of the turbines themselves and associated infrastructure, is usually the main concern. In paragraph 9.8 it is stated that the Council wishes to protect valued landscape features, including North Berwick Law.

Policy NRG3 of the adopted East Lothian Local Plan 2008 states that subject to consistency with other plan policies, proposals for individual turbines or wind farms and associated access tracks and transmission lines will be supported where (i) they would not change the existing landscape character in an unacceptable way; (ii) they would not have an unacceptable visual impact on landscape or townscape including the impact on distinctive public views, landmark buildings or natural features, or routes; (iii) they would not have an unacceptable impact from noise at any noise sensitive property including the gardens of such properties however large; (iv) there would be no demonstrable nuisance from a shadow flicker effect; (v) they would have no unacceptable adverse impacts on hydrogeology or hydrology; (vi) alternative, better, sites are not available; and (vii) there are no unacceptable cumulative impacts. Policy NRG3 also requires that in assessing all proposals the Council will have regard to the findings and recommendations of the Landscape Capacity Study for Wind Turbine Development in East Lothian (May 2005).

The Landscape Capacity Study for Wind Turbine Development in East Lothian (May 2005) is not material to the determination of this application as its findings are not based on an assessment of the affect on the landscape of East Lothian of a single wind turbine lower than 120 metres high.

The Council's Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010 is relevant to the determination of this application. In setting out the policy framework and key considerations for wind turbine development the purpose of this supplementary planning guidance is (i) to provide potential applicants for planning permission for smaller and medium sized turbines with guidance on the range of issue which they should consider when preparing wind turbine proposals, and (ii) to indicate the matters which will be considered by the Council when assessing these applications. It is focused primarily on turbines with a height to blade tip ranging from between 20 to 120 metres but is also applicable to single and small groups of turbines in excess of 120 metres to blade tip where the same design and policy issues would be relevant.

The Council's East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011) is also relevant to the determination of this application. This Supplementary Landscape Capacity Study determines the capacity of the East Lothian lowland landscapes and the Lammermuir fringe to accommodate various scales of wind turbine development smaller than those addressed in the Landscape Capacity Study for Wind Turbine Development in East Lothian (May 2005).

The four principal development typologies of the East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011) are, (i) Typology A: wind turbines between 65m and 120m high, (ii) Typology B: Single wind turbines between >42m and <65m high, (iii) typology C: wind turbines between 20m and up to and including 42m high, and (iv) typology D: wind turbines between 12m and <20m high, with all wind turbine heights being from ground level to blade tip.

A total of 261 written representations have been received in respect of this planning application. Of these, 260 make objection to the proposed wind turbine. Many of the 260 written objections are based on a pro-forma letter and 2 take the form of petitions. The other written representation does not express support or objection to the proposed wind turbine but suggests that it could be feasible to use photovoltaic panels to generate renewable energy.

The main grounds of objection are that the proposed wind turbine:

- i) is of an inappropriate size and scale and would damage the landscape character and appearance of the area in an unacceptable way;
- ii) would have a harmful visual impact;
- iii) would be harmfully dominant in the landscape;
- iv) would harmfully impact on key features and views;
- v) would harmfully impact on the setting of Woodside House;
- vi) would have a harmful noise impact;
- vii) would have a harmful shadow flicker impact;
- viii) would harmfully impact on birds and bats;
- ix) would lead to an unacceptable cumulative impact;
- x) should be the subject of an EIA.

Other grounds for objection are that, (i) it has not been demonstrated that alternative, better sites are not available for the proposed wind turbine, (ii) the supporting information submitted with the application is very limited, (iii) the generating capacity of the proposed wind turbine would be in excess of what is needed to operate an agricultural building, (iv) the location of the proposed wind turbine is not efficient and, (v) other means of renewable energy should be sought.

As stated above East Lothian Council as Planning Authority have already issued a screening opinion stating that there is no requirement for the proposed wind turbine to be the subject of an EIA.

Whether or not there are other means to generate renewable energy is not a material planning consideration in the determination of this application. The applicant has the right to apply for planning permission for the proposed wind turbine in the proposed location for it and there is a duty of responsibility on the Council, as Planning Authority to duly consider and determine the application on such basis.

The National Air Traffic Services (NATS) and the Civil Aviation Authority (CAA) have been consulted on the application and both raise no objection to the proposed wind turbine on grounds of aircraft safety. The Ministry of Defence (MOD) has no comment to make on the application.

It is stated in Part 1(a) of Policy DC1 of the adopted East Lothian Local Plan 2008 that infrastructure type development will be acceptable in principle in the countryside of East Lothian provided it has a clear operational requirement for a countryside location that cannot reasonably be accommodated within an existing urban or allocated area. Policy ENV3 of the approved Edinburgh and the Lothians Structure Plan 2015 states that development in the countryside will be allowed where it has an operational requirement for such a location that cannot be met on a site within an urban area or land allocated for that purpose.

With its purpose to generate and supply electricity a wind turbine can reasonably be defined as being an infrastructure type development. A countryside location where wind power can be harnessed to generate electricity is a basis upon which the requirement to

operate a wind turbine infrastructure type development in the countryside can in principle be justified.

The application site is in a countryside location where wind power can be harnessed to generate electricity. The wind turbine the subject of this application is proposed as a renewable energy source in association with the operation of the agricultural building approved by the grant of prior notification 11/01041/NAF and thus as a form of new build infrastructure development in the countryside of East Lothian the proposed wind turbine can be justified. The proposed wind turbine is capable of providing the building with a renewable energy source. On these considerations the proposed wind turbine is consistent with Policy DC1 of the adopted East Lothian Local Plan 2008 and Policy ENV3 of the approved Edinburgh and the Lothians Structure Plan 2015.

Moreover, in its countryside location the proposed wind turbine would be the development of only a very small amount of agricultural land. Due to its physical form it could be easily removed if no longer required for its purpose and thus it would not involve a permanent development of the land and would not preclude the reversal of the use of the land to agricultural use. On this consideration too, the principle of the proposed development is consistent with Policy DC1 (Part 5) of the Local Plan and Policy ENV3 of the Structure Plan.

Policy NRG3 of the adopted East Lothian Local Plan 2008 stipulates that a proposed wind turbine(s) should not have an unacceptable impact from noise at any noise sensitive property and Part 5 of Policy DC1 requires there to be no significant adverse impact on nearby uses.

Paragraph 5.20 of Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010 states that the proximity of noise sensitive receptors (e.g. residential properties) will be a significant factor in the requirement for an assessment of the affect of noise from the turbine on such noise sensitive receptors. Paragraph 5.22 states that for single turbines in low noise environments the day time level measured as LA(), 10min should be 35 DB at nearest noise sensitive dwellings, up to wind speeds of 10m/s at 10 metres in height.

In this regard the Council's Senior Environmental & Consumer Services Manager is satisfied that the external free-field noise levels associated with the operation of the proposed wind turbine would not exceed 35dBLA90 10min at any wind speed up to 10m/s at any nearby residential property. Subject to such control the proposed wind turbine would not have a harmful noise impact on the nearest residential properties.

Policy NRG3 of the adopted East Lothian Local Plan 2008 stipulates that a proposed wind turbine(s) should not demonstrably give rise to nuisance from a shadow flicker effect and Part 5 of Policy DC1 requires there to be no significant adverse impact on nearby uses.

The Scottish Government web based renewables advice entitled "Onshore Wind Turbines" advises that as a general rule the shadow flicker effect of an operating turbine should not be a problem where the distance between the turbine and a dwellinghouse exceeds 10 times the diameter of the rotor blades of the turbine.

In the case of the proposed wind turbine 10 times the diameter of its rotor blades would be 130 metres. The nearest dwelling, being the property of Hopfield to the southwest, is some 285 metres away from where the proposed wind turbine would be sited. The proposed wind turbine would be some 325 metres away from Woodside House. Thus,

the proposed wind turbine passes the Scottish Government's general rule of shadow flicker effect.

Due to its height and distance from the nearest residential properties the proposed wind turbine would not be physically overbearing on any of them or in the outlook from them. On this count the proposed wind turbine would not harm the amenity of those residential properties.

Policy NRG3 of the adopted East Lothian Local Plan 2008 stipulates that a proposed wind turbine(s) should not have an unacceptable adverse impact on hydrogeology or hydrology.

There is no evidence on which to say that the proposed wind turbine would have an unacceptable adverse impact on the hydrogeology or hydrology of the area.

On these tests of shadow flicker effect and considerations of dominance, outlook and impact on hydrology the proposed wind turbine is consistent with, where applicable, Policies NRG3 and DC1 (Part 5) of the adopted East Lothian Local Plan 2008, Policy ENV6 of the approved Edinburgh and the Lothians Structure Plan 2015, The Scottish Government web based renewables advice entitled "Onshore Wind Turbines" and Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010.

On the matter of safety, paragraph 5.15 of Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010 states that although wind turbines erected in accordance with best engineering practice should be stable structures, it is desirable to achieve a set back from roads, railways and public footpaths. The Scottish Government web based renewables advice entitled "Onshore Wind Turbines" gives advice on the siting of wind turbines in proximity to roads and railways and states that it may be advisable to achieve a set back from roads and railways of at least the height of the turbine proposed.

The proposed wind turbine would achieve a set back distance well in excess of its 24.8 metres height in its relationship with the U125 minor public road to the south. The Council's Transportation service has been consulted on the application and raises no objection to the proposed wind turbine, being satisfied that due to its distance away from the public road it would have no significant adverse consequences for road safety.

On this consideration the proposed wind turbine is consistent with Policy T2 of the adopted East Lothian Local Plan 2008, The Scottish Government web based renewables advice entitled "Onshore Wind Turbines" and Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010.

Scottish Planning Policy on the historic environment echoes the statutory requirements of Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that in considering whether to grant planning permission for development which affects a listed building or its setting a planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

As stipulated in Policy ENV1C of the approved Edinburgh and the Lothians Structure Plan 2015 and Policy ENV3 of the adopted East Lothian Local Plan 2008, new development that harms the setting of a listed building will not be permitted. One of the key consideration set out in Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010 is that any proposal for

wind turbine development near or within the curtilage of a listed building must ensure that the listed building remains the focus of its setting and is not harmed by the presence of the proposed turbine(s).

The proposed wind turbine would be sited some 325 metres to the southeast of the listed Woodside House. Woodside House is not a prominent feature in its landscape setting because of the amount of visual containment given to it by the presence of the trees that are to the north, south, east and west of it. Consequently, the proposed wind turbine would not harmfully impose itself on the setting of that listed building.

Accordingly, the proposed wind turbine is not contrary to Policy ENV1C of the approved Edinburgh and the Lothians Structure Plan 2015, Policy ENV3 of the adopted East Lothian Local Plan 2008, Scottish Planning Policy: February 2010 or Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010.

Policy DP13 of the adopted East Lothian Local Plan 2008 generally presumes against new development that would have an unacceptable impact on the biodiversity of an area. One of the key considerations set out in Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010 is that sites or species designated or protected for their biodiversity or nature conservation interest will be protected in accordance with development plan policy. Proposals for wind turbines must have regard to both their site specific and wider impacts.

The Council's Biodiversity Officer advises that due to the position of the proposed wind turbine some 60 metres away from Liberty Hall North Wood it would not be in close proximity to any features where bats may forage and thus the proposed wind turbine would not have any harmful impact on bats. The Council's Biodiversity Officer is also satisfied that the proposed wind turbine would not have any other adverse biodiversity impacts, including any harmful impacts on birds.

The proposed wind turbine is not contrary to Policy DP13 of the adopted East Lothian Local Plan 2008 or Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010.

On the matter of landscape impact, an important material consideration in the determination of this planning application is the Council approved East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011) which determines the capacity of the East Lothian lowland landscapes to accommodate various scales of wind turbine development.

The land of the application site is within the 'Agricultural Plain – Sub Area 2, North' landscape character area of the East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011), which classifies that area as comprising an open, very undulating to flat landscape with a relatively expansive scale. The Study informs that the broad scale of the landscape and the general absence of distinctive landform and land cover features make this landscape character area less sensitive to larger turbine typologies.

The Study advises that within the 'Agricultural Plain – Sub Area 2, North' landscape character area very tall turbines of typology A would dominate both the scale of small domestic buildings but also the larger industrial and commercial buildings which feature in this landscape character. They would also be more likely to intrude on key views of the Firth of Forth and the Garleton Hills and could be perceived as contributing to the 'industrialisation' of the landscape. There would be a medium-high sensitivity to wind

turbines of typologies A and B. Smaller wind turbines would have a better scale relationship with existing settlements and would have reduced visual intrusiveness. There would be medium sensitivity to wind turbines of typology C and low sensitivity to wind turbines of typology D.

Therefore, as the Study informs there is no scope within the 'Agricultural Plain – Sub Area 2, North' landscape character area to accommodate wind turbines of typologies A and B due to the significant adverse impacts that would be likely to occur on a range of landscape and visual sensitivities. Wind turbines of typology C (i.e. wind turbines of a height of between 20 metres and 42 metres) could be more successfully located in this landscape as they would be less likely to dominate existing settlements. There are greater opportunities to locate wind turbines of typology D (i.e. wind turbines between 12 metres and <20 metres high), if visually associated with farms and buildings.

The proposed wind turbine with a height of 24.8 metres from ground level to blade tip is a typology C wind turbine that the East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011) advises might be capable of being successfully accommodated within the 'Agricultural Plain – Sub Area 2, North' landscape character area.

In further regard to this, a specific landscape and visual impact appraisal has to be made of the proposed wind turbine to fully inform a considered determination of whether or not it would be acceptable for its proposed location.

In this respect, Policy ENV3 states that local plans should require that development in the countryside is well integrated into the rural landscape and reflects its character and quality of place.

Part 5 of Policy DC1 stipulates that new development must be sited so as to minimise visual intrusion and landscape impact within the open countryside. With regard to its nature and scale new development must be integrated into the landscape, reflect its character and quality of place, and be compatible with its surroundings. As stipulated in Policy NRG3 of the adopted East Lothian Local Plan 2008 a proposed wind turbine(s) should not change the existing landscape character in an unacceptable way and should not have an unacceptable visual impact on landscape or townscape including the impact on distinctive public views, landmark buildings or natural features.

On the key considerations of landscape impact and impact on public views to and from landmark features Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010 states:

(i) wind turbine development will only be supported where the overall integrity and setting of key public views to and from landmark features, both natural and man-made, will not be compromised. Developments which would harm the character, appearance and setting of significant natural landscape features, landmark buildings and structures will be resisted;

(ii) wind turbines must be sited and designed so that they relate to their setting; that any adverse effects on visual amenity and landscape are minimised and that areas which are valued for their landscapes and scenery are protected;

(iii) wind turbines must be acceptable in terms of scale and character for their proposed location and must be well integrated into the landscape, reflect its character and quality of place and be compatible with its surroundings;

(iv) wind turbines must not appear incongruous or dominate the local landscape when viewed from a range of public places. They must be capable of being accommodated within an open landscape without detriment to landscape character. They must not result in a change of landscape character from a predominantly agricultural landscape to one that is a landscape dominated by wind turbines: cumulative impact will be a particular issue here.

In relation to cumulative impact paragraph 4.34 of Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010 states that individual wind turbine proposals must not be looked at in isolation. Cumulative visual impact, viz. the impact of the proposed turbine/s when viewed in association with other turbines already erected or in the planning process needs to be taken into account. A balance must be retained, so that wind turbines are integrated into their landscape setting and do not merge with other turbines to change the character of the landscape into a predominantly wind farm landscape where other significant landscape characteristics of an area become visually subservient to wind turbines.

There are no existing wind turbines in the vicinity of the application site and thus there would be no resultant harmful cumulative visual impact from the proposed wind turbine.

Policy & Projects confirm that the location of the proposed wind turbine is within the 'Agricultural Plain – Sub Area 2, North' landscape character area and that according to the East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011) the proposed wind turbine is of a height whereby it might generally be considered acceptable for this landscape character area.

Policy & Projects advise that the trees of Liberty Hall North Wood and others in the surrounding area are likely to be between some 15 and 20 metres in height and, although there is a lack of information provided with the application in terms of landscape impact assessment, all of those trees would provide the proposed turbine with a contextual fit within the landscape.

In its location the proposed wind turbine would be visible from a few places within its landscape setting. Those limited public views would principally be from parts of the U125 minor public road to the west, southwest and southeast. From the west the proposed wind turbine would only be visible from a 120 metres length of that road, where the east side of the road has little planting along it. Nonetheless in those short duration views the wind turbine would be seen at a distance of some 650 metres away from the road and against the backdrop of the trees of the southern end of Liberty Hall North Wood to which the proposed wind turbine would be in close juxtaposition. From the southwest the proposed wind turbine would only be visible in glimpses between gaps in the roadside hedgerows where a few field accesses exist. From those places the proposed wind turbine would be seen with a backdrop of trees. From the south views of the proposed wind turbine would be mostly restricted by existing high roadside hedgerows. Due to the existence of Liberty Hall North Wood and the strip of trees to the south of it little, if anything of the proposed wind turbine would be seen from the U125 minor public road to the south or from the Birk Hedges minor public road to the east. Due to the various wooded areas to the south of the A199 public road the proposed wind turbine would be well concealed from public views from that road. The existing trees around Woodside House would screen views of the proposed wind turbine from there.

At a height of 24.8 metres from ground level to blade tip the proposed wind turbine would not be excessively high and its supporting column would be relatively slim and due to its close juxtaposition with Liberty Hall North Wood and the screening that would be given to it by the large amount of woodland in the locality it would not be a harmfully exposed

intrusive or incongruous feature in its landscape setting. It would not change the existing landscape character of the area in a harmful way. It would not have a harmful visual impact on any key views of valued landscape, historic or natural heritage features. It is capable of being accommodated within this part of the 'Agricultural Plain – Sub Area 2, North' landscape character area.

On these considerations of landscape impact the proposed wind turbine is consistent with Policies DC1 (Part 5) and NRG3 and of the adopted East Lothian Local Plan 2008, Scottish Planning Policy: February 2010, the key considerations of landscape impact and impact on public views to and from landmark features of Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010 and the East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011).

With regard to Scottish Planning Policy it is appropriate to impose a condition on the grant of planning permission requiring removal of the wind turbine and restoration of the site should the wind turbine become operationally redundant.

CONDITIONS:

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

Reason:

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

- 2 The external free-field noise levels associated with the operation of the wind turbine hereby approved shall not exceed 35dBLA90 10min at any wind speed up to 10m/s at any residential property.

Reason:

In the interests of the residential amenity of the wider locality and to protect noise sensitive properties.

- 3 No symbols, logos or any other markings shall be displayed on any part of the wind turbine hereby approved without the written consent of the Planning Authority, except for over-riding reasons of health and safety.

Reason:

In the interests of the visual amenity of the area.

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

Reason:

To prevent a redundant turbine remaining on the application site, in the interests of the landscape amenity of the area.

Please note that the remainder of pages relating to this item have been removed as they contain personal information (for example - names and addresses of people that have made representation)

REPORT TO: Planning Committee
MEETING DATE: Tuesday 4 September 2012
BY: Executive Director (Services for Communities)
SUBJECT: Application for Planning Permission for Consideration

2a

Note: this application was called off the Scheme of Delegation by Councillor McMillan for the following reasons: a) there are a large number of conditions attached to this approval, and I would wish to explore them further with the applicant and those who have commented; b) this is a recognised "historical" site, on a complicated rural road junction; c) although the number of comments and objections is small, a high proportion of the local residents (at the time of the application) have made their contrary views known, and I believe they should be heard at the Planning Committee; d) the application also increases the number of properties on the "site" and in the small community from 7 to 22-a large increase.

Application No. **11/00663/P**

Proposal Conversion of agricultural buildings to form 15 houses, formation of vehicular access and associated works

Location **Begbie Farm Steading
Begbie
Haddington
East Lothian
EH41 4HQ**

Applicant H and K Enterprises Limited

Per Smith Architects

Ward 6

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

The application site is at Begbie Farm, which is located in the countryside to the southwest of Haddington.

The application site comprises the buildings of Begbie Farm Steading and some areas of agricultural land. It is rectangular in shape, with a small rectangular area projecting from the southeast corner. The site is some 0.78 hectares in area. The majority of the steading buildings are listed as being of special architectural or historic interest (Category B). These listed buildings consist of a large rectangular central range, a small rectangular eastern range, a long rectangular southern range and a 'T' shaped northern range. They are a variety of one, one and a half and two storeys in height. Along the

north-eastern boundary of the site are three small modern agricultural buildings and close to the southwest boundary are two large modern agricultural buildings.

The site is bounded to the north by agricultural land with houses beyond, to the northeast by a field used for the keeping of horses and by Begbie Farmhouse and its garden with the C67 public road and agricultural land beyond and to the southeast by another part of the C67 public road with agricultural land beyond. To the southwest and northwest it is bounded by agricultural land. Begbie Farmhouse is Category C(S) listed as being of special architectural or historic interest.

The listed steading buildings are all built of random rubble stone with dressed stone quoins, including around the major openings. The design of the buildings makes extensive use of gables. The roofs of the buildings are pitched and clad with pantiles.

The modern agricultural buildings on the northeast and southwest of the site are utilitarian, metal framed and metal clad agricultural buildings. The application drawings detail an intention to demolish those utilitarian buildings. Such demolition does not require planning permission.

Planning permission is sought for the conversion of the whole group of listed steading buildings other than a small building at the north end of the east range, to form 15 houses together with the formation of a vehicular access and for associated works including the erection of a building housing a biomass boiler, the erection of walls, fences and a bin store and the formation of hard surfaces. The small building at the north end of the east range is used as storage for the house of Begbie Farmhouse.

To facilitate the use of the listed steading buildings as houses, some modern utilitarian features and additions would be removed and a number of physical alterations, including part demolition of the central range, would be made. A communal courtyard would be formed within the central range. Communal garden ground would be formed to the south of the central range and on the north-western part of the site. Gardens would also be formed in the north range of the building to serve the proposed houses.

The proposed biomass boiler building would be positioned on the western corner of the site. The proposed bin store would be positioned on the south-western part of the site.

It is proposed that access would be taken from the C67 public road near the south corner of the site at a point south of an existing access to the site. The existing access at the south-eastern corner of the site, close to the south range of the group of steading buildings, would be stopped up. Parking and turning areas would be provided on the south-western part of the site, and a parking area at the southwest end of the south range.

A Supporting Statement, a written scheme of investigation for a Historic Building Survey, a European Protected Species Study; a Window Survey; a Daylight/Ventilation study, a letter from the applicant's consultant Structural Engineer and a Structures to be Removed report have been submitted with the application.

Revised plans have been submitted showing amendments to the thickness of the astragals proposed for new and replacement windows.

Listed building consent is sought separately through application 11/00663/LBC for alterations to the group of steading buildings, the erection of walls, fencing and gates and for the part demolition of buildings and walls. A separate report on application 11/00663/LBC is, at this time, on the Committee Expedited List.

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 approved Edinburgh and the Lothians Structure Plan 2015 and the adopted East Lothian Local Plan 2008.

Relevant to the determination of the application are Policies ENV1C (International and National Historic or Built Environment Designations), ENV1G (Design of New Development) and ENV3 (Development in the Countryside) of the approved Edinburgh and the Lothians Structure Plan 2015 and Policies DC1 (Development in the Countryside and Undeveloped Coast), ENV3 (Listed Buildings), DP2 (Design), DP6 (Extensions and Alterations to Existing Buildings), DP8 (Replacement Windows), DP22 (Private Parking), T2 (General Transport Impact), INF3 (Infrastructure and Facilities Provision), H4 (Affordable Housing) and Appendix 2: Farm Steading Design Policy of the adopted East Lothian Local Plan 2008.

Also material to the determination of the application is Scottish Planning Policy: February 2010 and Planning Advice Note 72: Housing in the Countryside.

Scottish Planning Policy echoes the statutory requirements of Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that in considering whether to grant planning permission for development which affects a listed building or its setting a planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

It is stated in Scottish Planning Policy that archaeological sites and monuments are an important finite and non-renewable resource and should be protected and preserved in situ wherever feasible. The presence and potential presence of archaeological assets should be considered by planning authorities when making decisions on planning applications. Where preservation in situ is not possible planning authorities should through the use of conditions or a legal agreement ensure that developers undertake appropriate excavation, recording, analysis, publication and archiving before and/or during development. If archaeological discoveries are made during any development, a professional archaeologist should be given access to inspect and record them. Planning Advice Note 42: Archaeology similarly advises.

Planning Advice Note 72 explains how the conversion or rehabilitation of rural buildings not only brings a building back to life but it may provide opportunities to sensitively conserve our built heritage, including buildings of merit which are not listed. The sympathetic restoration of buildings, which are structurally sound, largely intact, safely accessible and linked to water and other services maintains the character and distinctiveness of places.

Also material to the determination of the application are the written representations from the public. Four written objections and one written comment have been received. Three objections have been lodged by a planning consultant on behalf of the family who own and live in Begbie Farmhouse and the other one was from that family. The grounds of objection are that:

- (i) Due to its countryside location the proposed conversion of the steading buildings to houses is inconsistent with Scottish Planning Policy: February 2010 and development plan policy on new housing in the countryside;

- (ii) No design statement has been submitted, conflicting with Scottish Government Planning Advice Note 68: Design Statements and Policy DP4 of the adopted East Lothian Local Plan;
- (iii) There is no justification for enabling development to fund the restoration of the listed buildings;
- (iv) The farm buildings are not redundant and therefore there is no justification for their conversion;
- (v) The demolition would harm the historic character of the listed buildings;
- (vi) The bat survey and archaeological assessment submitted with the application give little reassurance and appear vague in their conclusions as to the likelihood of the proposals causing harm to natural and historic interests. The possibility of bats being present mean that there is a likelihood of a criminal offence being committed if any permission for conversion were to be implemented;
- (vii) There is no assessment of place, identity or context. Begbie has no facilities and is unsuitable for new residential development;
- (viii) Poor layout and lack of amenity space;
- (ix) The proposals relate poorly to the existing 'hamlet' of Begbie; and
- (x) The site has poor road access and raises road safety concerns, with most traffic likely to head towards Edinburgh or Haddington and having to negotiate a dangerous blind corner.

A letter from the Architectural Heritage Society of Scotland states that the society is impressed and encouraged by the general treatment of the listed steading, though they do raise concerns at the number of proposed houses, the level of parking provided and a lack of provision for children or play space.

No enabling development is proposed in this planning application.

The applicant's Supporting Statement includes a Design Concept Statement for Site Development together with a survey of the buildings and a commentary on the alterations to be made. In this the application accords with the relevant requirements of the Town and Country Planning (Development Management Procedures) (Scotland) Regulations 2008. Scottish Government guidance as set out in Planning Advice Note 68: Design Statements makes no statutory provision for the submission of a design statement with an application for planning permission. Policy DP4 of the adopted East Lothian Local Plan 2008 requires design statements for applications for planning permission only for strategic and local housing sites and for strategic employment sites, or where the Council otherwise requires.

Part 2 of Policy DC1 of the adopted East Lothian Local Plan 2008 presumes in favour of the change of use/restoration of existing buildings within the East Lothian countryside provided amongst other things the building(s) is worthy of retention by virtue of its architectural or historic character, stands substantially intact and is capable of conversion, and is physically suitable for the proposed use. In the case of the conversion of agricultural buildings to housing the change of use must involve the whole building group.

The Council's Policy and Projects Manager raises no objection to the principle of the proposed steading conversion. In respect of the objection raised on the grounds of policy on development in the countryside he advises that whilst Policy ENV3 of the approved Edinburgh and the Lothians Structure Plan 2015 has a general presumption against development in the countryside, it makes allowance for development that re-uses appropriate redundant rural buildings that make a positive contribution to the landscape, where justified in local plans. He further advises that the adopted East Lothian Local Plan 2008, in paragraph 2.11, justifies the specific circumstances where new development in the countryside is acceptable, including farm steading conversions. He is of the view that the buildings of the Category B listed Bebgie Steading are redundant rural buildings that make a positive contribution to the landscape and are worthy of retention by virtue of their special architectural or historic character. The Policy and Projects Manager further advises in respect of Policy DC1 that there is no requirement for change of use/restoration of a building to be directly related to agriculture, horticulture, forestry or countryside recreation. He advises that in part 2 of the policy, whilst acceptable changes of use are the same as for new build uses, the operational requirement as specified in part 1 does not apply. Providing that an acceptable use is being proposed only the requirements of part 2 must be met.

The steading buildings are listed as being of special architectural or historic interest (Category B). They make a positive contribution to the rural landscape and built heritage of the area. They are an established and attractive feature of their landscape setting and are part of the historic form and character of this part of the East Lothian countryside.

The steading buildings lend themselves to a sensitive residential conversion. They are all substantially intact, still having their traditional rubble stone walls and pitched roofs. A consultant Structural Engineer's letter and Supporting Statement submitted by the applicant in support of the proposed conversions concludes that the agricultural buildings are substantially intact and capable of being converted into the proposed 15 houses without the need for any significant demolition works. The Council's Structural Engineer verifies this.

The listed steading buildings which are proposed to be converted to houses are, by their historic architectural form, no longer reasonably capable of modern agricultural use. Whilst currently they might at times be used for agricultural storage purposes, they are not suited to the needs of modern, mechanised agriculture. The buildings are therefore in need of a new lease of life to preserve them. The other, modern, utilitarian agricultural buildings on the site are not subject to planning control of their demolition.

The proposed conversion to residential use would involve almost all of the steading buildings. The small building at the north end of the east range is used as storage for the house of Bebgie Farmhouse. Such use is compatible with the proposed residential use of the steading buildings. Thus there would be no scope for conflict of use between agriculture and housing.

On these matters of policy principle, the proposed conversion of the listed steading buildings accords with Policy ENV3 of the approved Edinburgh and the Lothians Structure Plan 2008 and Policy DC1 (Part 2) of the adopted East Lothian Local Plan 2008.

Removal from the site of the utilitarian agricultural sheds to the south of the group of steading buildings would serve to enhance the character and setting of the Category B listed steading, and of the Category C(S) listed Bebgie Farmhouse.

The central range of the listed steading buildings is formed of 4 parallel sections with northwest and southeast facing gables. To facilitate the formation of four of the proposed houses this range would be significantly altered by the removal of the greater part of the two central sections of it. An existing internal stone wall of the south part of the range would have window openings formed in it. The openings of the eastern and western sections of this range would have timber walls built up behind the line of existing metal columns to allow those columns to remain exposed. Glazed panels and windows would be formed in the new timber elevations. As so altered the central range would have a 'U'-shaped form around a northwest facing courtyard. The central part of the northwest facing elevation, with its large cartshed openings would be retained to wallhead height to complete the courtyard. Thus the central range of the steading buildings would retain the character of its existing rectangular shape.

Where possible, existing window and door openings would be used. Existing timber openings on the external elevations of the central range would be glazed and no new openings would be formed. The south elevation of the south range of the steading buildings faces the C67 public road. It is the main publicly viewed elevation of the listed steading buildings. No new openings would be formed in that elevation wall. Three roof windows would be formed on the central part of the roof slope of part of this range. Thus the character and appearance of that main public elevation of the south range would not be significantly altered. Only two new openings would be formed in the north elevation of the south range. Roof windows formed on the north facing roof slope of that range would face into the group of steading buildings and not outwardly to public views. No new openings would be formed in the gable elevations of the south range.

No new openings would be formed in the east elevation of the east range. Two existing window openings on the west elevation would be altered to form doorways and one new window opening would be formed. Roof windows would be installed on the west facing roof slope so as to line up with the openings on the west elevation. Existing openings on the south gable would be glazed. The elevation walls of the north range have few existing openings in them. In addition to these existing openings, several new window openings would be formed on each of its elevations.

By virtue of their number and positioning, the proposed new and altered openings and the proposed new roof windows would not harm the architectural character and appearance of the steading buildings.

New openings for windows and doors would be finished with dressed natural stone lintols, cills and rybats.

There are few existing windows remaining in the existing openings of the buildings. The applicant's Window Survey demonstrates that these remaining windows are either beyond repair or are later replacements inappropriate to the listed buildings. Replacement and new windows would be constructed of timber frames and fitted with 'Slimlite' double glazing. They would be casement windows with astragals. For fixed and larger glazed openings, the glazing would be single pane and would be set back within the openings.

Subject to the proposed roof lights being installed as near flush as possible with the upper surface of the roof into which they would be installed, and the glazing to larger openings being set back into their respective openings, these proposed alterations would not harm the special architectural or historical interest of the group of listed steading buildings.

The stone walls of the buildings would be repaired and repointed. Pantiled roofs would be re-clad with new clay pantiles. Existing and new rainwater goods would be in cast iron. No details of roof ventilation or of flues and wall mounted vents to be installed on the buildings have been submitted. To safeguard the special architectural or historic interest of the steading buildings it should be made a condition on the grant of planning permission that details of roof ventilation measures and the visible part of any new flues and vents be submitted to and approved by the Planning Authority prior to their use in the proposed development.

All of the above proposed alterations to the buildings are compatible with and would not harm any significant architectural features of the buildings and would be in keeping with the size, form, scale, proportions, massing and architectural character of the buildings. Nor would they be harmful to the special architectural or historic interest of the Category B listed steading buildings.

Historic Scotland raise no objection to the proposed conversion of the steading buildings. They do not consider that any complex or sensitive issues are raised by the proposals. They had expressed concern at the proposed astragal thickness of the new and replacement windows. The revised plans submitted by the applicant show an astragal thickness of some 28 mm rather than the 36 mm originally proposed, thus addressing Historic Scotland's concern on this detailed aspect of the application.

The proposed building housing the biomass boiler would be some 4 metres to the highest point of the ridge of its pitched roof. It would have two flues, to a height some 1.5 metres above the ridge level. The proposed building would be clad in timber with metal profiled sheet roofing. It would be positioned on the western corner of the site where the land levels of the site drop down. It would be set into those levels. It would be seen as a small agricultural type building set down in the landscape. It would be well contained and largely screened from public view by trees to the north and existing built development to the east, with only its roof and flues visible in views from the south. Hedging along the roadside to the south and west would screen it in views from those directions. Thus the proposed biomass boiler building would not be an intrusive or incongruous form of development. It would not be harmful to the character and appearance of the area.

The proposed bin store would be enclosed by 1.35 metres high stone walls and timber gates. Stone walls to a height of 0.9 metres would be erected to partially enclose the garden areas serving houses to be formed in buildings of the north and central ranges. Stone walls to a height of 1.5 metres, a metal farm gate and post and wire fencing would be erected to enclose the biomass boiler building. By virtue of their proposed height and materials these walls, fences and gates would not appear out of keeping with the scale, form and character of the existing steading buildings or harmful to the character and appearance or historic interest of the steading buildings.

Nineteen parking spaces would be formed in 4 separate groupings on the south-western part of the site. Four parking spaces would be formed on the south-eastern part of the site, to the south of the south range. The parking areas and the access road and internal roadway of the site would be surfaced with block paving stones with paths and surrounding hardstanding laid with natural stone paving slabs. These proposed changes would not be intrusive or harmful to the character and appearance of the steading buildings or of the area.

Communal garden ground would be provided on the north-western part of the site and to the south side of the central range. The two houses to be formed in the north range would have private garden areas. The change of use of land in the site to garden or communal ground, the formation of hardstanding areas and the enclosure of boundaries

in the manner proposed would not appear intrusive, incongruous or exposed in their landscape setting. They would not significantly alter the contribution the site makes to the character of this part of the countryside and would not be inappropriate to the rural character of the area.

None of the above parts of the proposed development would be harmful to the settings of the Category B listed steading or the Category C(S) listed Begbie Farmhouse.

None of what is proposed would involve a significant or unacceptable loss of agricultural land. The area of agricultural land within the site (i.e. to the north and south of the steading buildings) that would be changed to residential use is relatively small as required by Policy DC1 of the adopted East Lothian Local Plan 2008. Accordingly, the proposed change of use of the area of land from agriculture to residential use is not a significant departure from Policy DC1 of the adopted East Lothian Local Plan 2008.

However, although relatively small in area, the land on the north-western part of the site which is the subject of the proposed change of use to residential use is still of sufficient size to accommodate a new house(s) on it. Therefore, an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 is required, if planning permission for the change of use is to be granted, to prevent any future erection of a house(s) on it. This would have the effect of safeguarding the purpose and integrity of the Council's policies for the control of new housing development in the countryside.

What is proposed is a scheme of sensitive alteration, extension and conversion of existing buildings within this part of the countryside, together with a small amount of new build development, sensitively positioned and of an appropriate form, scale and appearance. The alterations, extension, conversion and small amount of new build development would not radically change the architectural form, character, appearance or setting of the listed group of steading buildings and thus there would not be significant change to their established affect on the character and appearance of this part of the countryside. With the development so proposed the buildings would continue to reflect the character and quality of their place in a manner compatible with their surroundings and would not be inappropriate to the rural character of the area.

On the foregoing considerations the proposed development is, as applicable, consistent with Policies ENV1C, ENV1G and ENV3 of the approved Edinburgh and the Lothians Structure Plan 2015, Policies DC1, ENV3, DP6 and DP8 of the adopted East Lothian Local Plan 2008 and with Scottish Planning Policy: February 2010.

If the proposed development were to be granted planning permission the 15 houses to be formed from the conversion of the agricultural buildings, once occupied, would benefit from permitted development rights for certain alterations and extensions to them. In addition, if the proposed development were to be granted planning permission, the land that would be changed from agricultural use to domestic garden ground for the new houses, would benefit from permitted development rights for the erection on it of structures such as garden sheds and garages and for other development of it. Such subsequent erection of structures and other curtilage development could harm the character, integrity and appearance of the buildings and/or lead to an over development of the site, create a density of built form harmful to the character and amenity of the area or cause harmful impacts on the privacy and amenity of neighbouring residential properties. It would therefore be prudent for the Council, as Planning Authority, to impose a condition on a grant of planning permission for the proposed development removing permitted development rights for any alterations and extensions to the houses and for any building of detached structures and the carrying out of other development on the land to be changed to domestic garden ground.

If the proposed development were to be granted planning permission and if the existing utilitarian agricultural buildings on the northeast and southwest parts of the site were to remain in place and not be demolished as is indicated on the planning application drawings, there would be conflict between the agricultural use of them and the residential use of the steading buildings, which would be harmful to the occupants of the houses to be created. Therefore, it should be made a condition of the grant of planning permission for the proposed steading conversion that prior to occupation of any of the proposed 15 houses that the utilitarian agricultural buildings be removed.

In respect of privacy it is the practice of the Council as Planning Authority to apply the general rule of 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 neighbouring residential properties.

Windows on the northwest elevation of the northeast part of the south range of the steading face towards the front garden of Begbie Farmhouse within 9 metres of the garden boundary. The boundary of that garden is enclosed by a 1.5 metres high stone wall with shrubs and trees to some 2 metres in height in the farmhouse garden. In such circumstances, no harmful overlooking of the farmhouse garden would arise. Roof windows proposed to be formed on the northwest facing roof slope of this part of the south range and which would also face towards the front garden of Begbie Farmhouse would be some 9 metres from the garden boundary and consequently would not give rise to harmful overlooking of that front garden. No other windows or other openings proposed to be formed would give rise to harmful overlooking of neighbouring gardens, nor would any window or other opening be within 18 metres of an existing directly facing window.

Windows on facing elevations of houses 1 and 10; 2 and 10; 8 and 11; and 7 and 12 would be directly facing within 18 metres.

In the cases of houses 1, 2 and 10, this would be a relatively small amount of intervisibility resulting from the closeness of those existing listed buildings and the use of existing openings in the elevations of them. It would not arise as a result of new buildings or the formation of new openings on the elevations of the existing buildings. In such circumstances where this intervisibility would affect only the houses to be so formed within the existing listed buildings and not affect any existing residential property, it would not be sufficient to warrant a refusal of planning permission.

In the cases of houses 8 and 11 and houses 7 and 12, the intervisibility would be across the courtyard to be formed within the footprint of the central range of the steading. The windows with intervisibility would be formed on the new elevations to be constructed after the demolition of the central part of the steading. They would serve ground floor rooms only. They would be some 17 metres apart. Intervening between the facing windows would be a 1.25 metres high wall which would remain from the otherwise demolished central wall of this range, and a 1.25 metres high wall around a ramp to be formed across the levels of part of the site. In such circumstances with some 17 metres between the windows and with the intervening structures, such degree of overlooking between those proposed houses would not warrant refusal of a grant of planning permission.

The residential accommodation to be formed in the buildings would be of a satisfactory size and layout.

On these considerations of privacy and amenity the proposed development does not conflict with Policy DP6 of the adopted East Lothian Local Plan 2008.

The Council's Transportation service raise no objection to the proposed development.

Following detailed discussions between the applicant and the Transportation service and the submission of a Speed Survey of traffic on the C67 public road, Transportation confirm that the proposed development could be satisfactorily accessed from the C67 public road. They are satisfied that the proposed visibility splays of 4.5 x 70 metres to the west of the proposed access and some 2.5 x 90 metres to the east would, in conjunction with the display of a road marking and road sign denoting the access in positions agreed with the Council, allow safe access and egress from the site. They recommend that the first 10 metres of the internal access road be hard formed and be drained to prevent surface water from the new access road flowing onto the C67 public road.

Transportation confirm that the proposed 23 car parking spaces give an acceptable level of parking provision for the 15 proposed houses. They recommend that the positioning of bollards to achieve the closure of the existing access to the C67 road from the southeast of the site be amended so as to remove any possibility of use of the part of that access road and the proposed position of the bollards for parking.

The above recommendations can be made conditional on the grant of planning permission. Subject to these planning controls, Transportation are satisfied with the proposed access, parking and turning arrangements. The proposed development complies with policies T2 and DP22 of the adopted East Lothian Local Plan 2008.

The Council's Waste Services Manager confirms that the proposed access and turning arrangements constructed to the applicant's specifications would allow for the servicing of the proposed 15 houses.

The Council's Policy and Projects Manager raises no landscape objection to the proposals. He advises that mature trees in the garden of Begbie Farmhouse should not be affected by the proposed conversion of the existing steading buildings. He recommends that hedgerow planting, in combination with post and wire fencing, be carried out along the western and northern boundaries of the site to enclose the development and screen the proposed parking areas, bin store and biomass building in a manner in keeping with the agricultural character of the area. He further recommends that some tree planting be carried out on the grass areas within the development. These requirements can be made the subject of a condition on the grant of planning permission.

The Council's Environmental Protection Manager raises no objection to the proposals.

The Council's Heritage Officer advises that as a historic building recording has been carried out to his satisfaction he has no requirements for any further archaeological work. In this the proposals are consistent with Scottish Planning Policy: February 2010, Planning Advice Note 42: Archaeology and with Policy ENV7 of the adopted East Lothian Local Plan 2008.

The Council's Biodiversity Officer raises no objection to the proposed conversion of the steading buildings. He informs that the applicant's species survey is well carried out and presented and does not find evidence of bats roosting at Begbie Steading. He advises that it would be beneficial if the applicant considered the installation of bat and swallow boxes to accommodate potential roosts and nests of those species.

The Council's Executive Director (Services for People) informs that the planning application site is located within the catchment areas of Haddington Infant School with its nursery class, Kings Meadow Primary School, St Marys RC Primary School, and Knox Academy. He confirms that there would be space at Kings Meadow Primary School and

St. Mary's RC Primary School for primary aged pupils that might arise from the proposed 15 houses but advises that nursery provision at Haddington Infant School and St. Mary's RC Primary School would not be capable of taking the pre-school children that could arise. He further advises that the existing facilities are not capable of expansion due to the very high parent pick up traffic movements associated with pre-school facilities and that the only available option would be to provide additional pre-school space as part of the new Letham Primary School proposal associated with the strategic housing allocation at that location. In respect of primary and secondary pupils he advises that Haddington Infant School and Knox Academy would not have capacity to accommodate the children that might arise from the proposed houses. He objects to new residential development proposals in the catchment area of Haddington Infant School and Knox Academy on the grounds of lack of permanent capacity at those schools. However, he would withdraw that objection provided the applicant makes a financial contribution to the Council of £105,339 (£7,022.60 per unit) towards the provision of additional accommodation at those schools and the new Letham Primary School. This 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 1/2010: Planning Agreements. Subject to the Council securing the appropriate developer contribution the proposal is consistent with Policy INF3 of the adopted East Lothian Local Plan, which stipulates that new housing will only be permitted where the developer makes appropriate provision for infrastructure required as a consequence of their development. This will include funding necessary school capacity. A legal agreement will be used to secure this provision.

The Council's Housing Strategy and Development Services section advise that the requirement for the provision of affordable housing arising from this proposed housing development is determined by the Council's Affordable Housing Policy approved by the Council in January 2006. Accordingly, 25% of the fifteen houses proposed should be affordable housing, which amounts to four units. In the circumstances of this case the Housing Strategy and Development service advises that the affordable housing requirement should be met by a commuted sum payment to the Council of a value equivalent to the cost of providing the affordable housing requirement of four units. The terms for the provision of an affordable housing requirement should be the subject of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997. Subject to the Council securing the affordable housing requirement the proposal is consistent with Policy H4 of the adopted East Lothian Local Plan 2008.

The decision to grant planning permission is subject to the prior conclusion of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 designed to:

- (i) Secure from the applicant a financial contribution to the Council of £105,339 towards the provision of additional school accommodation at Haddington Infant School, Knox Academy and the new Letham Primary School;
- (ii) Secure the provision of a commuted sum payment to the Council for a value equivalent to the cost of providing the affordable housing requirement of four units; and
- (iii) prevent any future development of any new build house(s) on the area of land comprising the north-western part of the application site.

In accordance with the Council's policy on time limits for completion of planning agreements 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 reasons that:

(i) without the developer contributions to be secured by the Section 75 Agreement the proposed development is unacceptable due to a lack of sufficient school capacity at Haddington Infant School, Knox Academy and the new Letham Primary School and a lack of provision of affordable housing, contrary to Policies INF3 and H4 of the adopted East Lothian Local Plan 2008;

(ii) without the control of the Section 75 Agreement to prevent a house(s) being built on the north-western part of the application site its change of use to residential use would be contrary to the purpose and integrity of the Council's policies for the control of new housing development in the countryside.

CONDITIONS:

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

Reason:

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

- 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 new build biomass boiler building element 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 new build element of the proposal; 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 and to protect the setting of the buildings listed as being of special architectural or historical interest.

- 3 No development shall take place until there has been submitted to and approved in writing by the Planning Authority a scheme of landscaping. The scheme shall include full details of:

(i) tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting, including hedgerow planting to the northern and western boundaries of the site and standard trees on the grassed areas of the site;

(ii) details of all surfacing treatment within the site, including for the gardens and communal areas for the houses, access roads and turning areas, car parking spaces, footpaths, and of any new means of enclosure or delineation of boundaries.

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 new houses or the completion of the development, whichever is the sooner, and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

Reason:

In order to ensure the implementation of a landscaping scheme to enhance the appearance of the

development in the interests of the amenity of the area and to protect the setting of the buildings listed as being of special architectural or historic interest.

- 4 No development shall take place until details of roof ventilation measures have been submitted to and approved by the Planning Authority and the ventilation measures used shall accord with the details so approved.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest and the character and visual amenity of the area.

- 5 All new and replacement stone to be used in the development shall be natural stone to match as closely as possible the existing stonework of the buildings, in accordance with a sample to be submitted to and approved by the Planning Authority prior to its use in the development and the stone used shall accord with the sample so approved.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest and the character and visual amenity of the area.

- 6 All new stonework, including infill stonework for the existing existing buildings shall match as closely as possible the existing stonework of the walls of the existing existing buildings and all the pointing or re-pointing of that stonework shall comprise a lime-based mortar, which shall match, as closely as possible, the existing lime pointing.

Prior to commencement of limework a detailed specification for limework together with details of the lime specialist contractor to be used, shall be submitted to and approved by the Planning Authority. The specification shall include a timetable for the limework; and also details of the masonry preparation; lime mortar mix, showing type of lime, aggregate and proportions and protective measures for the limework during and after the work being carried out. The specification shall be based on a lime specialists analysis of and report on the building, and a copy of this analysis and report shall be included with the detailed submission for this condition.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest and the character and visual amenity of the area.

- 7 Samples of replacement pantiles to be used in the development shall be provided for the prior inspection and approval of the Planning Authority and the replacement pantiles used shall accord with the samples so approved.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest and the character and visual amenity of the area.

- 8 The following shall be finished in a colour to be approved in advance by the Planning Authority and the colour of the finish applied shall accord with the details so approved:

1. the external face of all new and replacement exterior timber boarded doors, walls and timber boarded infill panels;
2. the external face of the frames of all new and replacement glazed doors, screens and infill panels;
3. the external face of the frames of all new and replacement windows.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest and the character and visual amenity of the area.

- 9 Samples of the new and replacement windows to be used in the development shall be provided for the inspection and approval of the Planning Authority prior to them being installed on the buildings.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest and the character and visual amenity of the area.

- 10 The glazed doors and windows to be installed in existing door, cart arch and other large openings of the steading buildings shown on the approved drawings docketed to this planning permission shall be installed as far back within those openings as possible, to a detail to be submitted to and approved in writing in advance by the Planning Authority.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest and the character and visual amenity of the area.

- 11 All roof windows shall be 'conservation type' roof windows and shall be installed as near to a flush fitting as possible with the roof surface and with minimum required flashing.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest and the character and visual amenity of the area.

- 12 Prior to their installation on the buildings, details of any flue and vent outlets shall be submitted to and approved by the Planning Authority. Details shall include scale 1:5 or 1:10 section drawings and brochures showing the size, design and numbers of the proposed flue and vent outlets. The details shall show the flue and vent outlets concealed as much as possible and for visible parts to match as closely as possible the colour and materials of the part of the buildings to which they would adjoin.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest and the character and visual amenity of the area.

- 13 All new and replacement cast iron rainwater goods shall be painted a colour to be approved in advance by the Planning Authority and the colour of the paint applied to them shall accord with the detail so approved.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest and the character and visual amenity of the area.

- 14 No fascia boards shall be installed behind the gutters on the buildings. All new and replacement sections of guttering shall only be attached to the steading buildings using sarking straps.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest and the character and visual amenity of the area.

- 15 Prior to their use in the development a schedule and samples of the materials and finishes for the biomass boiler building hereby approved shall be submitted to and approved in writing by the Planning Authority and the materials and finishes of the biomass boiler building shall be in accordance with the schedule and samples so approved.

Reason:

To enable the Planning Authority to control the materials, finishes and colour to be used to achieve a development of good quality and appearance to safeguard the character and appearance of the buildings listed as being of special architectural or historic interest and the character and visual amenity of the area.

- 16 Prior to the occupation of any of the houses hereby approved:

(i) a visibility splay of 4.5 metres by 70 metres shall be formed at the west side of the junction of the site access with the C67 public road and a visibility splay of 2.5 metres by 90 metres shall be formed at the east side of that junction. The visibility splays so formed shall be maintained such that no obstruction shall lie within the splay above a height of 1.05 metre measured from the adjacent carriageway surface;

(ii) bollards to close off the existing access to the site from the C67 public road at the southeast of the site shall be installed. They shall be of a type and in positions to be agreed in advance with the Planning Authority and shall be retained in their approved positions thereafter, unless otherwise agreed in writing by the Planning Authority; and

(iii) road marking shall have been carried out and a road sign denoting the access shall have been

erected, in positions agreed in advance with the Planning Authority.

Reason:

In the interests of road safety.

- 17 Prior to the occupation of any of the houses hereby approved the private access road within the site, of which the first 10 metres from its junction with the C67 public road shall be hard formed, the 23 car parking spaces, vehicular manoeuvring areas, and all footpaths all as delineated on drawing no. 626/104 docketed to this planning permission shall have been formed and made available for use and thereafter shall remain available for use unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of road safety and the residential and visual amenity of the development.

- 18 None of the fifteen houses to be created from the conversion of the group of steading buildings hereby approved shall be occupied unless the two utilitarian agricultural buildings positioned to the southwest of the group of listed steading buildings and the three utilitarian agricultural buildings positioned to the northeast of the group of listed steading buildings and which are stated to be demolished on the drawings docketed to this planning permission have been demolished and the materials of them completely removed from the site.

Reason:

To ensure that the fifteen houses benefit from an acceptable amount of residential amenity and in the interests of road safety.

- 19 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended, no development of the types specified in Part 1 and Part 2 of Schedule 1 of the Order or in any statutory instrument revoking and/or re-enacting those Parts of the Order shall be undertaken on the houses to be formed from the conversion of the steading buildings hereby approved, or on any part of the application site, other than the development shown on the drawings docketed to this planning permission, unless with the prior approval of the Planning Authority.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interests and the character and visual amenity of the area.

Please note that the remainder of pages relating to this item have been removed as they contain personal information (for example - names and addresses of people that have made representation)

REPORT TO: Planning Committee
MEETING DATE: Tuesday 4 September 2012
BY: Executive Director (Services for Communities)
SUBJECT: Application for Planning Permission for Consideration

2b

Application No. **11/00663/LBC**

Proposal Alterations to buildings, erection of walls, part demolition of buildings and walls

Location **Begbie Farm Steading
Begbie
Haddington
East Lothian
EH41 4HQ**

Applicant H and K Enterprises Limited

Per Smith Architects

Ward 6

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

The application site is at Begbie Farm, which is located in the countryside to the southwest of Haddington.

The application site comprises the buildings of Begbie Farm Steading and some areas of agricultural land. It is rectangular in shape, with a small rectangular area projecting from the southeast corner. The site is some 0.78 hectares in area. The majority of the steading buildings are listed as being of special architectural or historic interest (Category B). These listed buildings consist of a large rectangular central range, a small rectangular eastern range, a long rectangular southern range and a 'T' shaped northern range. They are a variety of one, one and a half, and two storeys in height. Along the north-eastern boundary of the site are three small modern agricultural buildings and close to the southwest boundary are two large modern agricultural buildings.

The site is bounded to the north by agricultural land with houses beyond, to the northeast by a field used for the keeping of horses and by Begbie Farmhouse and its garden with the C67 public road and agricultural land beyond and to the southeast by another part of the C67 public road with agricultural land beyond. To the southwest and northwest it is

bounded by agricultural land. Begbie Farmhouse is Category C(S) listed as being of special architectural or historic interest.

The listed steading buildings are all built of random rubble stone with dressed stone quoins, including around the major openings. The design of the buildings makes extensive use of gables. The roofs of the buildings are pitched and clad with pantiles.

The modern agricultural buildings on the northeast and southwest of the site are utilitarian, metal framed and metal clad agricultural buildings. The application drawings detail an intention to demolish those utilitarian buildings. They are not listed as being of special architectural or historic interest and their demolition does not require listed building consent.

Listed building consent is sought for alterations to the group of steading buildings, the erection of walls, fencing and gates and for the part demolition of buildings and walls. Additionally some modern, utilitarian features and additions would be removed.

Planning permission is sought separately through application 11/00663/P for the conversion of the whole group of steading buildings to form 15 houses and for associated works. A separate report on application 11/00663/P is, at this time, on the Scheme of Delegation List.

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 approved Edinburgh and the Lothians Structure Plan 2015 and the adopted East Lothian Local Plan 2008.

Relevant to the determination of the application are Policy ENV1C (International and National Historic or Built Environment Designations) of the approved Edinburgh and the Lothians Structure Plan 2015 and Policies ENV3 (Listed Buildings) and DP8 (Replacement Windows) of the adopted East Lothian Local Plan 2008.

Material to the determination of the application are Sections 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Scottish Government's policy on development affecting a listed building given in the Scottish Historic Environment Policy: December 2011 and Scottish Planning Policy: February 2010.

The Scottish Historic Environment Policy and Scottish Planning Policy echo the statutory requirements of Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that in considering whether to grant listed building consent for any works to a listed building the planning authority shall have special regard to the desirability of preserving the building or any features of special architectural or historic interest which it possesses.

Also material to the determination of the application are the written representation from the public. Two written objections have been received. Both objections have been lodged by a planning consultant on behalf of the family who own and live in Begbie Farmhouse. The grounds of objection are that:

- (i) Due to its countryside location the proposed conversion of the steading buildings to houses is inconsistent with Scottish Planning Policy: February 2010 and development plan policy on new housing in the countryside;

- (ii) No design statement has been submitted, conflicting with Scottish Government Planning Advice Note 68: Design Statements and Policy DP4 of the adopted East Lothian Local Plan;
- (iii) There is no justification for enabling development to fund the restoration of the listed buildings;
- (iv) The farm buildings are not redundant and therefore there is no justification for their conversion;
- (v) The demolition would harm the historic character of the listed buildings;
- (vi) The bat survey and archaeological assessment submitted with the application give little reassurance and appear vague in their conclusions as to the likelihood of the proposals causing harm to natural and historic interests. The possibility of bats being present mean that there is a likelihood of a criminal offence being committed if any permission for conversion were to be implemented;
- (vii) There is no assessment of place, identity or context. Begbie has no facilities and is unsuitable for new residential development;
- (viii) Poor layout and lack of amenity space;
- (ix) The proposals relate poorly to the existing 'hamlet' of Begbie; and
- (x) The site has poor road access and raises road safety concerns, with most traffic likely to head towards Edinburgh or Haddington and having to negotiate a dangerous blind corner.

Only ground (v) of the above objections are material to the determination of this application for listed building consent. The other matters are considered in relation to application for planning permission 11/00663/P.

One written comment has been received. A letter from the Architectural Heritage Society of Scotland states that the society is impressed and encouraged by the general treatment of the listed steading. Their other comments are considered in relation to application for planning permission 11/00663/P.

Removal from the site of the utilitarian agricultural sheds to the south of the group of steading buildings would serve to enhance the character and setting of the Category B listed steading, and of the Category C(S) listed Begbie Farmhouse.

The central range of the listed steading buildings is formed of 4 parallel sections with northwest and southeast facing gables. To facilitate the formation of four of the proposed houses this range would be significantly altered by the removal of the greater part of the two central sections of it. An existing internal stone wall of the south part of the range would have window openings formed in it. The openings of the eastern and western sections of this range would have timber walls built up behind the line of existing metal columns to allow those columns to remain exposed. Glazed panels and windows would be formed in the new timber elevations. So altered the central range would have a 'U'-shaped form around a northwest facing courtyard. The central part of the northwest facing elevation, with its large cartshed openings would be retained to wallhead height to complete the courtyard. Thus the central range of the steading buildings would retain the character of its existing rectangular shape.

Where possible, existing window and door openings would be used. Existing timber openings on the external elevations of the central range would be glazed and no new openings would be formed. The south elevation of the south range of the steading buildings faces the C67 public road. It is the main publicly viewed elevation of the listed steading buildings. No new openings would be formed in that elevation wall. Three roof windows would be formed on the central part of the roof slope of part of this range. Thus the character and appearance of that main public elevation of the south range would not be significantly altered. Only two new openings would be formed in the north elevation of the south range. Roof windows formed on the north facing roof slope of that range would be face into the group of steading buildings and not outwardly to public views. No new openings would be formed in the gable elevations of the south range.

No new openings would be formed in the east elevation of the east range. Two existing window openings on the west elevation would be altered to form doorways and one new window opening would be formed. Roof windows would be installed on the west facing roof slope so as to line up with the openings on the west elevation. Existing openings on the south gable would be glazed. The elevation walls of the north range have few existing openings in them. In addition to these existing openings, several new window openings would be formed on each of its elevations.

By virtue of their number and positioning, the proposed new and altered openings and the proposed new roof windows would not harm the architectural character and appearance of the steading buildings.

New openings for windows and doors would be finished with dressed natural stone lintols, cills and rybats.

There are few existing windows remaining in the existing openings of the buildings. The applicant's Window Survey demonstrates that these remaining windows are either beyond repair or are later replacements which are not appropriate to the listed buildings. Replacement and new windows would be constructed of timber frames and fitted with 'Slimlite' double glazing. They would be casement windows with astragals. For fixed and larger glazed openings, the glazing would be single pain and would be set back within the openings.

Subject to the proposed roof lights being installed as near flush as possible with the upper surface of the roof into which they would be installed, and the glazing to larger openings being set back in those openings, these proposed alterations would not harm the special architectural or historical interest of the group of listed steading buildings.

The stone walls of the buildings would be repaired and repointed. Pantiled roofs would be re-clad with new clay pantiles. Existing and new rainwater goods would be in cast iron. No details of roof ventilation or of flues and wall mounted vents to be installed on the buildings have been submitted. To safeguard the special architectural or historic interest of the steading buildings it should be made a condition on the grant of planning permission that details of roof ventilation measures and the visible part of any new flues and vents be submitted to and approved by the Planning Authority prior to their use in the proposed development.

All of the above proposed alterations to the buildings, including the part demolition of the central range, are compatible with and would not harm any significant architectural features of the buildings and would be in keeping with the size, form, scale, proportions, massing and architectural character of the buildings. Nor would they be harmful to the special architectural or historic interest of the Category B listed steading buildings.

Historic Scotland raise no objection to the proposed conversion of the steading buildings. They do not consider that any complex or sensitive issues are raised by the proposals. They had expressed concern at the proposed astragal thickness of the new and replacement windows. The revised plans submitted by the applicant show an astragal thickness of some 28 mm rather than the 36 mm originally proposed, thus addressing Historic Scotland's concern on this detailed aspect of the application.

The proposed alterations and selective demolitions are, as applicable consistent with Policy ENV1C of the approved Edinburgh and the Lothians Structure Plan 2015, Policies ENV3 and DP8 of the adopted East Lothian Local Plan 2008 and with the Scottish Historic Environment Policy: December 2011 and Scottish Planning Policy: February 2010.

RECOMMENDATION:

That listed building consent be granted subject to the following conditions:

- 1 The works to implement this listed building consent shall begin before the expiration of 3 years from the date of this grant of listed building consent.

Reason:

Pursuant to Section 16 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

- 2 No development shall take place until details of roof ventilation measures have been submitted to and approved by the Planning Authority and the ventilation measures used shall accord with the details so approved.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest.

- 3 All new and replacement stone to be used in the development shall be natural stone to match as closely as possible the existing stonework of the buildings, in accordance with a sample to be submitted to and approved by the Planning Authority prior to its use in the development and the stone used shall accord with the sample so approved.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest.

- 4 All new stonework, including infill stonework for the existing steading buildings shall match as closely as possible the existing stonework of the walls of the existing steading buildings and all the pointing or re-pointing of that stonework shall comprise a lime-based mortar, which shall match, as closely as possible, the existing lime pointing.

Prior to commencement of limework a detailed specification for limework together with details of the lime specialist contractor to be used, shall be submitted to and approved by the Planning Authority. The specification shall include a timetable for the limework; and also details of the masonry preparation; lime mortar mix, showing type of lime, aggregate and proportions and protective measures for the limework during and after the work being carried out. The specification shall be based on a lime specialist's analysis of and report on the building, and a copy of this analysis and report shall be included with the detailed submission for this condition.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest.

- 5 Samples of replacement pantiles to be used in the development shall be provided for the prior inspection and approval of the Planning Authority and the replacement pantiles used shall accord with the samples so approved.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest.

- 6 The following shall be finished in a colour to be approved in advance by the Planning Authority and the colour of the finish applied shall accord with the details so approved:

1. the external face of all new and replacement exterior timber boarded doors, walls and timber boarded infill panels;

2. the external face of the frames of all new and replacement glazed doors, screens and infill panels;

3. the external face of the frames of all new and replacement windows.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest.

- 7 Samples of the new and replacement windows to be used in the development shall be provided for the inspection and approval of the Planning Authority prior to them being installed on the buildings.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest.

- 8 The glazed doors and windows to be installed in existing door, cart arch and other large openings of the steading buildings shown on the approved drawings docketed to this listed building consent shall be installed as far back within those openings as possible, to a detail to be submitted to and approved in writing in advance by the Planning Authority.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest.

- 9 All roof windows shall be 'conservation type' roof windows and shall be installed as near to a flush fitting as possible with the roof surface and with minimum required flashing.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest.

- 10 Prior to their installation on the buildings, details of any flue and vent outlets shall be submitted to and approved by the Planning Authority. Details shall include scale 1:5 or 1:10 section drawings and brochures showing the size, design and numbers of the proposed flue and vent outlets. The details shall show the flue and vent outlets concealed as much as possible and for visible parts to match as closely as possible the colour and materials of the part of the buildings to which they would adjoin.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest.

- 11 All new and replacement cast iron rainwater goods shall be painted a colour to be approved in advance by the Planning Authority and the colour of the paint applied to them shall accord with the detail so approved.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest.

- 12 No fascia boards shall be installed behind the gutters on the buildings. All new and replacement sections of guttering shall only be attached to the steading buildings using sarking straps.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest.

- 13 Prior to their use in the development a schedule and samples of the materials and finishes for the biomass boiler building hereby approved shall be submitted to and approved in writing by the Planning Authority and the materials and finishes of the biomass boiler building shall be in accordance with the schedule and samples so approved.

Reason:

To enable the Planning Authority to control the materials, finishes and colour to be used to achieve a development of good quality and appearance to safeguard the character and appearance of the buildings listed as being of special architectural or historic interest.

Please note that the remainder of pages relating to this item have been removed as they contain personal information (for example - names and addresses of people that have made representation)

REPORT TO: Planning Committee
MEETING DATE: Tuesday 4 September 2012
BY: Executive Director (Services for Communities)
SUBJECT: Application for Planning Permission for Consideration

3

***Note:** this application was called off the Scheme of Delegation by Councillor Goodfellow for the following reasons: there are concerns as to whether the windows in the proposed extension conform to Policy DP6 for conservation areas; as this area is of extreme importance to tourism in North Berwick the committee should have the opportunity to consider this application.*

Application No. **12/00313/P**

Proposal Alterations, extension to house and associated works

Location **Fair Way
8 Cromwell Road
North Berwick
East Lothian
EH39 4LZ**

Applicant Mr and Mrs Stuart McMaster

Per Angus Wilson Associates

Ward 5

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

This application relates to a two storey house that occupies the eastern part of a large building that otherwise contains two flats and which is part of a row of large buildings on the north side of Cromwell Road. The house and its garden is within a predominantly residential area as defined by Policy ENV1 of the adopted East Lothian Local Plan 2008 and is within North Berwick Conservation Area.

The row of buildings of which the applicant's house is a part and their garden ground are bounded to the north by North Berwick Golf Course and to the south by the public road of Cromwell Road.

Planning permission is sought for; (i) a single storey extension to be attached to part of the ground floor north elevation of the house, (ii) the formation of an area of decking between the east elevation of the proposed extension and the east boundary of the north garden ground of the house, and (iii) the erection of a 4m long and 2.2m high timber

close boarded fence on the southern part of the west boundary of the north garden of the house.

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 approved Edinburgh and the Lothians Structure Plan 2015 and the adopted East Lothian Local Plan 2008.

Policies ENV1D (Regional and Local Natural and Built Environment Interests) and ENV1G (Design of New Development) of the approved Edinburgh and the Lothians Structure Plan 2015 and Policies ENV4 (Development Within Conservation Areas), DP2 (Design) and DP6 (Extensions and Alterations to Existing Buildings) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

Material to the determination of the application is Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Scottish Government's policy on development within a conservation given in Scottish Planning Policy: February 2010.

Scottish Planning Policy echoes the statutory requirements of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that a planning authority must have regard to the desirability of preserving or enhancing the character or appearance of a conservation area in exercising its responsibilities in the determination of any application for planning permission for development affecting a conservation area. It is stated in Scottish Planning Policy that proposed development that would have a neutral affect upon the character or appearance of a conservation area (i.e. does no harm) should be treated as one which preserves that character or appearance. The design, materials, scale and siting of new development within a conservations area should be appropriate to the character of the conservation area.

There are 11 representations to the application which are all in support of the proposal.

There are 14 objections to the application. The main grounds of objection are:

(i) the proposed extension would not be in keeping with the architectural style of the building and would be readily visible from the adjoining golf course,

(ii) the proposed extension would dominate the north elevation of the building and would appear totally incongruous in views of it from the golf course which would be detrimental to the character and appearance of the North Berwick Conservation Area,

(iii) the proposed extension in its form of a square shaped sun room would be markedly different to the two existing traditional stone bays with sash and case windows that are part of the north elevation of the building and would protrude beyond the building line of the north elevation of the building and the stone bays, with an incongruous effect,

(iv) inadequate application drawings which do not have a scale key,

(v) loss of privacy through harmful overlooking and loss of amenity to a neighbouring house [flat],

(vi) the proposed fence would cause a loss of amenity to a neighbouring property as it would be overbearing, oppressive and would impact on the immediate outlook from the neighbouring house [flat],

(vii) the proposed fence would deprive the proposed extension of sunlight and would be detrimental to the amenity of the applicant's house,

(viii) boundary treatments in the area are generally stone boundary walls and hedges and there is no other fence of this height in the area, and

(ix) the proposed fence would abut the existing fence which would result in an awkward relationship.

North Berwick Community Council, as a consultee on the application state:

(i) the property is in a Conservation Area,

(ii) the rear elevations of the houses of Cromwell Road provides an important setting for the town,

(iii) the extension would not be in keeping with the design of the original building,

(iv) the proposed extension is of an inferior design using material incompatible with neighbouring properties,

(v) there is a lack of detail in the application drawings,

(vi) there would be a loss of privacy and amenity to no. 10 Cromwell Road,

(vii) the proposed fence would be overbearing on no. 10 Cromwell Road, and

(viii) the fence would be out of character with other walls, hedges and fences in the Conservation Area.

The scale of the application drawings is clearly stated on them and they effectively give the detail of the proposed extension, decking and fencing.

The buildings on the north side of Cromwell Road, which include houses, flats and an hotel. They are distinctive by their large massing, stone walls, slate clad roofs and timber framed windows that are mainly of a traditional sash and case type. They are not of a uniform architectural form or style and they display a variety of architectural detailing including protruding bays of varying degrees of projection. This is clear to see in views of the buildings from the golf course to the north of them. Individually and cumulatively the buildings are an intrinsic part of the character and appearance of the Conservation Area.

The proposed extension would be in the form of a rectangular shaped sunroom. It would have a natural stone dado wall and a flat topped, roof with pitched faces clad with slates. Otherwise it would be glazed with timber frames. It would protrude some 4 metres out from the north elevation of the house and would be some 4.7 metres in width and some 4.5 metres in height.

The proposed extension would cover less than a half of the width of the ground floor north elevation of the house and thus would be added to only a relatively small part of the larger north elevation of the building that contains the house. As a low, single storey structure it would be demonstrably lower in height than the existing building. In projecting some 4 metres out from the north elevation of the house the proposed extension would not, in comparison with the existing two storey projecting bays, be an excessive outward projection on the north side of the building. By the amount of its glazed form it would be a lightweight addition to the north elevation of the building. In all of this the proposed

extension would be subservient to the existing building. It would not be an overdevelopment of the house, of the building as a whole or of the north garden of the house.

The proposed extension would be built of traditional materials, reflective of those of the existing building and of the neighbouring buildings of the row. In that its roof would have slate clad pitched faces it would be in harmony with the flat topped and pitched roofed form of the building and of the neighbouring buildings of the row. The principal glazed form and white painted timber framing of its walls would harmonise with the pronounced arrangement of windows of the north elevation of the building and of the neighbouring buildings of the row. By virtue of its architectural form and finishes the proposed extension would be in keeping with the building and with the neighbouring buildings of the row.

There would be limited views of the proposed extension from some parts of the golf course, to the north. Because it would be subservient to and in keeping with the building it is to be added to and accordingly well integrated into its setting, the proposed extension would not, in those views, be a harmfully prominent, intrusive or incongruous feature and it would not be harmful to the character and appearance of the Conservation Area.

In its position and due to its single storey height the proposed extension would not have a harmfully overbearing affect on the ground floor windows of the adjacent part of the north elevation of the building or on the outlook from those windows that serve a ground floor flat within the building.

On those considerations the proposed extension would be consistent with Policies ENV1D and ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015, Policies ENV4 and DP6 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy: February 2010.

"Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice" by P.J. Littlefair gives guidance on the impact of a proposed extension on the daylight and sunlight received by neighbouring properties.

In the Guide it is stated that in designing an extension to a building it is important to safeguard daylight and sunlight to nearby buildings.

Application of the daylight test given in the Guide demonstrates that the proposed extension would not be of such a height or position to result in a harmful loss of daylight or sunlight to any windows of the neighbouring flats to the west and east.

In this case there is no relevant consideration of impact on sunlight due to the fact that the proposed extension would be positioned on the north side of the existing building and because the building already inhibits sunlight to the north garden of the neighbouring flat to the west.

In assessing whether or not a proposed new development would result in harmful overlooking and therefore loss of privacy to existing neighbouring residential properties it is the practice of the Council, as Planning Authority to apply the general rule of a 9 metres separating distance between the windows of a proposed new building and the garden boundaries of neighbouring residential properties and an 18 metres separating distance between directly facing windows of the proposed new building and the windows of existing neighbouring residential properties.

The proposed extension would be within 9m of the mutual east and west boundaries of the north garden of the applicant's house and would be within 18m of one window in each of the protruding bay components of the neighbouring ground floor flats to east and west.

However, given the architectural form of the protruding bay component of the neighbouring flat to the east, its westernmost window does not, due to the angle of it, directly face the part of the north garden of the applicant's house where the proposed extension would be positioned. Accordingly, the proposed extension would not allow for the harmful overlooking of that neighbouring window to the east. Furthermore, as the north garden of the neighbouring flat to the east is a shared garden and is overlooked by windows of other flats it does not benefit from any significant degree of privacy and, therefore, there would be no harmful loss of amenity to it.

The existing 1.5m high close boarded fence on the southern part of the west boundary of the north garden of the applicant's house would not be sufficient in height to prevent overlooking from the glazing of the west elevation of the proposed extension into the east window of the protruding bay of the neighbouring flat to the west and onto the adjacent part of the north garden of that neighbouring flat.

Therefore it is proposed that a new 2.2m high fence be erected on the east side of the existing fence. The proposed new fence would protrude some 4m out from the north elevation of the house in line with the west elevation of the proposed extension. With a height some 1.8m above the floor level of the proposed extension, the proposed new fence would prevent harmful overlooking of the neighbouring window and garden ground to the west.

On the foregoing considerations of overshadowing and overlooking the proposed extension is consistent with Policy DP6 of the adopted East Lothian Local Plan 2008.

The proposed 2.2m high fence would be erected on the east side of the existing 1.5m high fence and, although higher than that existing fence, it would not in its close relationship with it and with the fence that encloses the remainder of the west boundary of the north garden of the applicant's house, appear harmfully intrusive or incongruous. Furthermore, the north garden of the house is some 40m in length and is bounded to the north by a high stone wall, as are the adjoining north gardens of the neighbouring buildings. In views from the golf course, only the top of the proposed fence would be visible. By virtue of this, of its set back position within the garden some 36m away from the stone boundary wall with golf course, and when seen against the backdrop of the massing of the building its south end would abut, the proposed fence would not appear as a harmful feature in its setting and would not be harmful to the character and appearance of the Conservation Area.

In that it would be only 700mm higher than the existing 1.5m high west boundary fence the proposed new fence would not be harmfully overbearing or unsightly in the outlook from the ground floor windows of the neighbouring flat to the west.

The proposed area of decking would be contained on ground level between the east elevation of the proposed extension and the stone wall that encloses the east boundary of the north garden of the applicant's house. In that contained position it and the steps to be formed on the north side of it would be appropriate to their setting and would not be out of keeping with their surroundings. They would not harm the setting of the building that contains the applicant's house or the character and appearance of the Conservation Area.

Due to the height of the east boundary wall on its east side and the presence of the extension on its west side, the proposed decking would not result in a loss of privacy through harmful overlooking of the neighbouring residential properties to the east and west.

The proposed decking, steps and fence are consistent with Policies ENV1D and ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015, Policies ENV4 and DP2 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy: February 2010.

CONDITIONS:

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

Reason:

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

- 2 The extension hereby approved shall not be used unless the 2.2 metres high close boarded timber fence also hereby approved is in place on part of the west boundary of the north garden of the house of Fair Way as shown on docketed drawing 1104/2. Thereafter the screen fence shall remain in place unless otherwise approved by the Planning Authority.

Reason:

In order to protect the residential amenity of the neighbouring residential property to the west.

Please note that the remainder of pages relating to this item have been removed as they contain personal information (for example - names and addresses of people that have made representation)

REPORT TO: Planning Committee
MEETING DATE: Tuesday 4 September 2012
BY: Executive Director (Services for Communities)
SUBJECT: Application for Planning Permission for Consideration

4a

Note: this application was called off the Scheme of Delegation by Councillor Goodfellow for the following reasons: there are concerns that the materials used in construction at the proposed extension are not the traditional materials expected in a conservation area and therefore the committee should have the opportunity to consider this application.

Application No. **12/00288/P**

Proposal Alterations, extension to house, formation of hardstanding areas, erection of wall, seating and gate

Location **36 St. Andrew Street
North Berwick
East Lothian
EH39 4NX**

Applicant Mr and Mrs MacKinnon

Per Matthew MacKinnon

Ward 5

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

This application relates to a modern, detached house located within a predominantly residential area as defined by Policy ENV1 of the adopted East Lothian Local Plan 2008. The house is in North Berwick Conservation Area. In its position on the north side of St Andrew Street the front elevation of the house faces towards the street. Its higher rear elevation faces northwards onto the rear garden of the house and towards the rear of a restaurant that is on the south side of High Street

Planning permission is sought for: (i) the attachment of a mono-pitched roofed extension onto part of the rear (north) elevation of the house, (ii) the painting of the smooth render base-course of the rear elevation of the house white in colour, (iii) the formation of an area of hardstanding in the rear garden of the house, (iv) the installation of a concrete bench adjacent to the north boundary of the rear garden of the house, and (v) the erection of a 1.6m high wall that would be finished with a smooth white render on the north, east and a small part of the west boundaries of the rear garden of the house.

As an amendment to the application it is no longer proposed to form a gated opening in part of the wall proposed for the east boundary of the rear garden of the house.

Through separate application 12/00288/CAC conservation area consent is sought for the demolition of the existing timber fences that enclose boundaries of the rear garden of the house. A report on application 12/00288/CAC is at this time on the Committee Expedited List.

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 approved Edinburgh and the Lothians Structure Plan 2015 and the adopted East Lothian Local Plan 2008.

Policies ENV1D (Regional and Local Natural and Built Environment Interests) and ENV1G (Design of New Development) of the approved Edinburgh and the Lothians Structure Plan 2015 and Policies ENV4 (Development Within Conservation Areas), DP2 (Design) and DP6 (Extensions and Alterations to Existing Buildings) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

Material to the determination of the application are Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Scottish Government's policy on development within a conservation given in Scottish Planning Policy: February 2010.

Scottish Planning Policy echoes the statutory requirements of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that a planning authority must have regard to the desirability of preserving or enhancing the character or appearance of a conservation area in exercising its responsibilities in the determination of any application for planning permission for development affecting a conservation area. It is stated in Scottish Planning Policy that proposed development that would have a neutral affect upon the character or appearance of a conservation area (i.e. does no harm) should be treated as one which preserves that character or appearance. The design, materials, scale and siting of new development within a conservations area should be appropriate to the character of the conservation area.

There are two written objections to the application, both from the same person however one has been submitted by his solicitor. They are made on the grounds that the proposed extension;

- (i) would not be in keeping with the existing house,
- (ii) would be harmful to the character and appearance of the Conservation Area,
- (iii) would be built right up to the mutual boundary of the objectors property and its west elevation wall would be much higher than the existing timber fence that that presently encloses that boundary,
- (iv) would cause a loss of outlook from the windows in the rear (north) elevation of the objectors house,
- (v) would give rise to harmful overlooking of a neighbouring residential property, and

(vi) be overbearing and block sunlight to the garden of a neighbouring house.

North Berwick Community Council, as a consultee, acknowledge that the proposed development would not be seen from the road [St Andrew Street] but state that it contravenes Policies ENV4 and DP6 of the adopted East Lothian Local Plan 2008 because: (i) of the size, density, materials and boundary treatments of the proposal, and (ii) there will be almost total infill of the area causing a loss of amenity and privacy to neighbours as well as some daylight.

The front (principal) elevation of the house that faces towards St Andrew Street is clad with natural stone, but its east and west sides and most of its rear (north) elevation are finished with wet dash render. Owing to the falling ground level on which the rear part of the house has been built, the basement level wall of the rear elevation is finished with a smooth, blue coloured render.

It is proposed to paint the basement level wall white in colour. This change of colour to that part of the rear elevation of the house would not be appreciable from public places and would not harm the character and appearance of the house or the character and appearance of the Conservation Area.

Owing to the falling ground on which the house has been built the ground level of the rear garden of the house is some 1.7m lower in height than the ground floor level of the house. Unlike the existing conservatory which is built upon a 1.7m high basewall the proposed extension would be constructed on the ground level of the rear garden of the house. It would protrude some 5.8m out from the rear elevation of the house, be some 5.2m in width and the highest part of its mono-pitched roof would be some 4.5m in height, which is a similar height to that of the existing conservatory. The external walls of the proposed extension would be finished with a white, smooth render finish and its roof would be clad with zinc. The windows and glazed openings of the proposed extension would be constructed of grey coloured, powder coated aluminium.

The proposed extension would be well concealed from public view on the rear of the house. It would not be significantly wider than the existing conservatory it would replace. At its highest, where it would abut the rear wall of the house, the mono-pitched roof of the proposed extension would at a height of 4.5m be no higher than the ridge height of the existing conservatory. From that height the mono-pitched roof would slope down northwards to a height of 2.5m which, in turn would be the wall head height of its north elevation wall. Accordingly, the proposed extension would not be an overly large addition to the rear (north) elevation of the house. It would be subservient to the house. It would complement the architectural form and external finishes of the house. Although it would be built on the west boundary of the rear garden of the house the proposed extension would not cover the whole of the rear garden. The eastern part and a small northern part of the rear garden would remain as garden ground for the house. Therefore the proposed extension would not be an overdevelopment of the rear garden of the house.

On those considerations of design the proposed extension and painting are consistent with Policies ENV1D and ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015, Policies ENV4 and DP6 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy: February 2010.

In assessing whether or not a proposed new development would result in harmful overlooking and therefore loss of privacy to existing neighbouring residential properties it is the practice of the Council, as Planning Authority to apply the general rule of a 9 metres separating distance between the windows of a proposed new building and the garden boundaries of neighbouring residential properties and an 18 metres separating

distance between directly facing windows of the proposed new building and the windows of existing neighbouring residential properties.

The west elevation of the proposed extension would be positioned on the west boundary of the rear garden of the house. However there are no openings proposed to be formed in that west elevation and thus there would be no facility for harmful overlooking of the neighbouring residential property to the west.

The proposed extension would be within 9m of the north and east boundaries of the rear garden of the house.

Notwithstanding the wall to be erected on the north boundary of the rear garden of the house, the window to be formed in the north elevation of the proposed extension would face towards the rear garden of the neighbouring restaurant (Poonthias) to the north. As that rear garden is not a private rear garden of a residential property, there would not be a loss of privacy to it through any overlooking from the proposed extension.

The garden ground of the neighbouring house to the east is some 0.4m lower in height than the ground level of the rear garden of the applicant's house. Given this difference, the 1.6m high wall that is proposed for the east boundary of the rear garden of the applicant's house would be of sufficient height to prevent harmful overlooking of the neighbouring garden ground to the east from the glazed doors to be formed in the east elevation of the proposed extension.

Additionally there is a window proposed for the east elevation of the proposed extension which would be of a height relative to an internal floor level of the extension to allow for harmful overlooking of the neighbouring rear garden to the east. To prevent any such overlooking that window should be obscure glazed.

Due to its size, height and positioning the proposed extension would not result in a harmful loss of daylight or sunlight to any of the neighbouring residential properties.

Thus on the consideration of amenity the proposed extension is consistent with Policy DP6 of the adopted East Lothian Local Plan 2008.

Owing to their contained position within the rear garden of the house and by virtue of their form, size, scale and materials the proposed boundary walls, garden seat and area of hardstanding would be appropriate to their setting and would not be out of keeping with their surroundings. They would not harm the setting of the house or the character and appearance of the Conservation Area.

The proposed boundary walls, seat and area of hardstanding are consistent with Policies ENV1D and ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015, Policies ENV4 and DP2 of the adopted East Lothian Local Plan and Scottish Planning Policy: February 2010.

CONDITIONS:

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

Reason:

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

- 2 No use shall be made of the extension hereby approved unless the 1.6 metres high wall shown on

the docketed drawings to be positioned on the east boundary of the rear garden of the house has been fully built and thereafter that wall shall remain in place unless otherwise approved by the Planning Authority.

Reason:

To safeguard the privacy and residential amenity of the neighbouring property to the east.

- 3 No use shall be made of the extension hereby approved unless the upper window to be formed in the east elevation of the proposed extension has been fitted with obscure glazing and hereafter that window shall remain obscure glazed unless otherwise approved by the Planning Authority.

Reason:

To safeguard the privacy and residential amenity of the neighbouring property to the east.

Please note that the remainder of pages relating to this item have been removed as they contain personal information (for example - names and addresses of people that have made representation)

REPORT TO: Planning Committee
MEETING DATE: Tuesday 4 September 2012
BY: Executive Director (Services for Communities)
SUBJECT: Application for Planning Permission for Consideration

4b

Application No. **12/00288/CAC**
Proposal Demolition of fencing and gate
Location **36 St. Andrew Street
North Berwick
East Lothian
EH39 4NX**
Applicant Mr and Mrs MacKinnon
Per Matthew MacKinnon
Ward 5
RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

Conservation area consent is sought for the demolition of a 1.8m high timber fence and gate that enclose the rear garden of a detached house that is located in North Berwick Conservation Area.

Through separate application 12/00288/P planning permission is sought for the addition of an extension to the house and for the erection of walls to enclose part of the west boundary and all of the north and east boundaries of the rear garden of the house. A separate report on application 12/00288/P/P is at this time on the Scheme of Delegation List.

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 approved Edinburgh and the Lothians Structure Plan 2015 and the adopted East Lothian Local Plan 2008.

Policy ENV1D (Regional and Local Natural and Built Environment Interests) of the approved Edinburgh and the Lothians Structure Plan 2015 addresses the need to control

development within conservation areas but is silent on the matter of the demolition of buildings. Thus it is not relevant to the determination of this application.

Policy ENV4 (Development within Conservation Areas) of the adopted East Lothian Local Plan 2008 addresses the need to control development within conservation areas, including the demolition of buildings and thus is relevant to the determination of this application.

Material to the determination of the application are Sections 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, the Scottish Historic Environment Policy: December 2011 and Scottish Planning Policy: February 2010.

Section 64 of the Town and Country Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires that a planning authority, in exercising its responsibilities under planning legislation must have regard to the desirability of preserving or enhancing the character or appearance of a conservation area. This statutory duty should always be borne in mind in the determination of an application for conservation area consent to demolish an unlisted building in a conservation area. As is stated in the Scottish Historic Environment Policy: December 2011 and also in Scottish Planning Policy: February 2010 a planning authority, in deciding whether or not conservation area consent should be granted should take account of the merits of the building to the character or appearance of the conservation area and of proposals for the future of the cleared site. The general presumption should be in favour of retaining buildings that make a positive contribution to the conservation area, particularly where it can be demonstrated that the building is able to support a new viable use. Where demolition is considered acceptable careful consideration should be given to a replacement scheme of new development in terms of its design and quality.

There are no objections to this application for conservation area consent.

Policy ENV4 of the adopted East Lothian Local Plan 2008 states that conservation area consent for the demolition of a building (including a fence and a gate) will only be considered in the context of appropriate proposals for redevelopment or intermediate treatment and will only be permitted where its removal or replacement would not adversely affect the character of the conservation area.

The existing fences and gate are to be taken down to facilitate their replacement with the extension and walls proposed in application 12/00288/P. The relevant parts of the planning appraisal of the development proposed in application 12/00288/P conclude that the proposed extension and walls would not have a harmful affect on the setting of the applicant's house and would not be harmful to the character and appearance of the Conservation Area. Accordingly, the removal of the existing fences and gate is justified.

It does not conflict with Policy ENV4 of the adopted East Lothian Local Plan 2008, the Scottish Historic Environment Policy: December 2011 or Scottish Planning Policy: February 2010.

RECOMMENDATION

That conservation area consent be granted subject to the following condition:

- 1 The works to implement this conservation area consent shall begin before the expiration of 3 years from the date of this grant of conservation area consent.

Reason:

Pursuant to Section 16 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

REPORT TO: Planning Committee
MEETING DATE: Tuesday 4 September 2012
BY: Executive Director (Services for Communities)
SUBJECT: Application for Planning Permission for Consideration

5

Note: this application was called off the Scheme of Delegation by Councillor Caldwell for the following reason: the Planning Committee should see the location of the building in relation to the surrounding area it sits in.

Application No. **11/01045/P**
Proposal Erection of 5 houses and associated works
Location **Carberry Candles**
Carberry
East Lothian
EH21 8PZ
Applicant Langlee Developments (Carberry) Ltd
Per McLaren Murdoch and Hamilton
Ward 2

RECOMMENDATION Application Refused

PLANNING ASSESSMENT

This application relates to two existing vacant industrial buildings and associated land on what is known as the 'Carberry Candles' site, at Carberry to the southeast of Whitecraig.

The application site is bounded to the northeast and southeast by parts of the extensive grounds of Carberry Tower. To the southwest is the A6124 public road with houses beyond. To the northwest are the vacant stone and brick industrial buildings of the other part of the 'Carberry Candles' site. An existing 1.4 metres high stone wall encloses the boundary of the site with the public footpath of the A6124 road.

The site is in a countryside location within the Edinburgh Green Belt. It is within the southwestern edge of the Carberry Tower Designed Landscape. The house of Pentland View, listed Category C(S) as being of special architectural or historic interest, is located a short distance away to the northeast of the site.

The two existing buildings on the application site are modern buildings with rendered walls and pitched roofs clad with a form of roof sheeting. One of the buildings is one storey in height; the other is two storeys in height.

In August 2009 it was resolved, through the Council's Scheme of Delegation, to grant planning permission (Ref: 08/00563/FUL) for the conversion of all of the existing buildings of the Carberry Candles site to form seven houses and two flats, for alterations to the existing house of Woodside Cottage, for the widening of the existing vehicular access to the Carberry Candles site and for associated works including the formation of parking areas and private garden ground, subject to the satisfactory conclusion of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 in respect of required developer contributions for education provision and affordable housing provision. That agreement has not as yet been concluded and the decision to grant planning permission has not, therefore, been issued.

That proposed scheme of conversion includes for a conversion of the two existing vacant modern industrial buildings into two houses and two flats.

What is now proposed is that those two modern industrial buildings be demolished and that five new build houses be erected in their place, together with a building to contain a biomass generator to serve those proposed houses and the houses proposed to be formed by the conversion of the stone and brick built industrial buildings of the former Carberry Candles.

The proposed 5 new build houses would be laid out in a terrace of three houses positioned on the southern part of the application site and a pair of semi-detached houses on the central part of the site. They would be aligned on a northeast-northwest access, parallel to the stone and brick buildings of the former Carberry Candles, with an access road and parking spaces between the proposed houses and those existing buildings. The proposed biomass generator building would be positioned on the northern part of the site. Access to the proposed houses from the A6124 public road would be via the access road which forms part of the proposed scheme of development for which there is the resolution to grant planning permission (ref.08/00563/FUL). Eight car parking spaces would be formed alongside that access road. A further two car parking spaces would be provided at the end of a turning head positioned between the two groups of houses.

The proposed houses are described in the applicant's Supporting Statement as one and three quarter storeys in height. They would have pitched roofs. The proposed house at the south end of the terrace and the north-most proposed house of the semi-detached pair would have gabled front elevations. The other three houses would have gable window features at first floor level. The pitched roofs of the end terrace houses would be hipped. The pitched roofs of the south-most semi-detached house would be gabled and that of the north-most one would be hipped.

The front gable elevations of the north-most and south-most houses would be clad with reconstituted stone blocks. The other elevations of the 5 houses would be finished with cream coloured render. The roofs of the houses would be clad with grey, slate-effect concrete roof tiles. Smooth cement window bands would be formed around the window openings of the proposed houses. Window frames and rainwater goods would be white in colour. No specification of materials is given for the windows or rainwater goods.

All of the proposed houses would have garden ground to the rear. The north-most and south-most houses would have garden ground to the side also. The northeast and southwest boundaries of the site would be enclosed by 1.2 metres high post and wire

fencing. Timber fences 1.2 metres in height would be erected to delineate the garden boundaries between each house.

The proposed biomass generator building would be one storey in height with a mono-pitched roof. Its walls would be finished with cream render. Its mono-pitched roof would be clad with grey coloured un-insulated profiled metal cladding.

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 approved Edinburgh and the Lothians Structure Plan 2015 and the adopted East Lothian Local Plan 2008.

Relevant to the determination of the application are Policies ENV2 (Green Belt), ENV1C (International and National Historic or Built Environment Designations) and ENV1G (Design of New Development of the approved Edinburgh and the Lothians Structure Plan 2015 and Policies DC1 (Development in the Countryside and Undeveloped Coast), DC2 (Development in the Green Belt), INF3 (Infrastructure and Facilities Provision), H4 (Affordable Housing), DP2 (Design), DP14 (Trees on or Adjacent to Development Sites), DP22 (Private Parking), T2 (General Transport Impact), ENV3 (Listed Buildings) and ENV8 (Historic Gardens and Designed Landscapes) of the adopted East Lothian Local Plan 2008.

Also material to the determination of the application is Scottish Planning Policy: February 2010 and Planning Advice Note 72: Housing in the Countryside.

Material to the determination of the application are Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Scottish Government's policy on development affecting a listed building or its setting given in Scottish Planning Policy: February 2010.

Scottish Planning Policy echoes the statutory requirements of Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that in considering whether to grant planning permission for development which affects a listed building or its setting a planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

It is also stated in Scottish Planning Policy: February 2010 that the Scottish Government's objectives of creating successful places and achieving quality residential environments should guide the whole process of delivering new housing.

Further policy and advice on design is provided in Designing Places. Planning Advice Note 72: Housing in the Countryside explains how Designing Places should be applied to new housing in rural areas. In PAN 72 it is stated that groupings of new houses should not be suburban, that they should be small in size, and sympathetic in orientation, topography, scale, proportion and materials to other buildings in the locality. PAN 72 also states that careful design of housing in the countryside is essential. Traditional buildings can be an inspiration but new or imaginative re-interpretation of traditional features should not be excluded. Where possible, the aim should be to develop high quality modern designs which maintain a sense of place and support local identity.

On the subject of Green Belts Scottish Planning Policy: February 2010 states that the purpose of their designation in the development plan as part of the settlement strategy

for an area is to: (i) direct planned growth to the most appropriate locations and support regeneration; (ii) protect and enhance the quality, character, landscape setting and identity of towns and cities; and (iii) protect and give access to open space within and around towns and cities. Green belt designation should be used to direct development to suitable locations, not to prevent development from happening. Where a proposal would not normally be consistent with green belt policy it may still be considered appropriate either as a national priority or to meet an established need if no other suitable site is available. Development in a designated green belt should be of a high design quality and a suitable scale or form.

Two written objections were submitted and subsequently withdrawn.

Eleven written representations have been received.

One representation, which is from The Architectural Heritage Society of Scotland, is neither in objection to nor in support of the application. In its comments are made on the opportunity to enhance the setting of the listed building of Pentland View by the demolition of the two modern industrial buildings; that the proposed form of development is very much at odds with the character of existing development which is characterised by isolated buildings each set in an extensive curtilage; and that it would be better visually if the proposed houses faced south and related to the main road.

The other ten representations, which are from local residents, support the proposed demolition of the existing two modern industrial buildings and their replacement with new houses.

In a letter forwarded to the Council by the applicant, Musselburgh Conservation Society supports the principle of the development but expresses concerns about the proposed suburban form of development and use of reconstituted stone and concrete roof tiles rather than natural stone and slate.

As part of the Carberry Candles site the application site is in a Green Belt location within the East Lothian countryside.

The scheme of development the subject of the resolution to grant planning permission (ref.08/00563/FUL) does not include for any new build housing development. It is a scheme of sensitive alteration and conversion of the whole group of existing industrial buildings on the Carberry Candles site, including the two modern buildings. Such alteration and conversion of the existing buildings would not radically alter the architectural form, character and appearance of them and thus there would not be significant change to their established affect on the built form, character and appearance of this part of the Green Belt.

What is now proposed is new build housing development in this part of the Green Belt and East Lothian countryside.

In Paragraph 84 of Scottish Planning Policy: February 2010 it is stated that the majority of housing land requirements will be met within or adjacent to existing settlements and this approach will help to minimise servicing costs and sustain local schools, shops and services. Authorities should also set out the circumstances in which new housing outwith settlements may be appropriate, particularly in rural areas.

In Paragraph 93 it is stated that the character of rural areas and the challenges they face vary greatly across the country, from remote and sparsely populated regions to pressurised areas of countryside around towns and cities. The strategy for rural

development set out in the development plan should respond to the specific circumstances in an area, whilst reflecting the overarching aim of supporting diversification and growth of the rural economy.

As is stated in paragraphs 2.10 and 2.11 of the adopted East Lothian Local Plan 2008 "East Lothian's countryside and undeveloped coast exhibits little need for regeneration, renewal or action to redress population decline. It is not a remote rural area where a more permissive planning policy approach to new housing in the countryside might be appropriate on these grounds. Rather it is an area where few, if any, locations are more than 1 hours travel time of Edinburgh and, on the whole, is characterised by increasing population and economic growth and a continuing pressure for housing development both within and outwith its towns and villages. Characteristic of the countryside is its wide range of types and sizes of attractive vernacular buildings that contribute greatly to its character."..."For these reasons, and consistent with Structure Plan Policy ENV3, new development, particularly housing, is directed to existing settlements. New development in the countryside is permitted only in the specific circumstances defined in Policy DC1."

In paragraph 2.18 of the adopted East Lothian Local Plan 2008 it is stated that "Local Plan Policy DC1 provides the detailed context for the consideration of development proposals in East Lothian's countryside and coast. The Edinburgh Green Belt also includes countryside and coast, its specific purpose being to maintain the identity and landscape setting of the City and neighbouring towns and to prevent their coalescence. Thus, the local plan's Green Belt policy must take these additional considerations into account. Most parts of Policy DC1 remain relevant to a consideration of development within the Edinburgh Green Belt, but new build development must be restricted further than in the wider East Lothian countryside."

Policy DC2 of the adopted East Lothian Local Plan 2008 states that development in the Edinburgh Green Belt will only be permitted in circumstances:

- a) where it is necessary for agricultural, horticultural or forestry operation, for countryside recreation, or where by its scale and nature it will not harm the rural character of the area; and
- b) where it meets the requirements of Local Plan Policy DC1 Part 5;
- c) in all cases where it does not detract from the landscape setting of Edinburgh and its neighbouring towns, or lead to their coalescence.

Part 5 (g) of Policy DC1 states that where an existing building is demolished, any proposals for a replacement building will be treated as new build and considered as such against Policy DC1.

Part 1(b) of Policy DC1 presumes against new build housing development other than where it can be justified as being a direct operational requirement of an agricultural, horticultural, forestry or other employment use.

Policy ENV2 of the approved Edinburgh and the Lothians Structure Plan 2015 presumes against development or changes of use in the Edinburgh Green Belt unless necessary for the purposes of agriculture, horticulture, forestry, countryside recreation or other uses appropriate to the rural character of the area.

Carberry, and thus the Carberry Candles site, is not designated as a settlement by the adopted East Lothian Local Plan 2008. The land of the application site is not allocated in

the Local Plan for new build housing development. It is part of the countryside of East Lothian and part of the Edinburgh Green Belt.

What is proposed in this application is five new build houses as replacements for the two existing vacant industrial buildings. To enable this, the two existing buildings will have to be demolished. In which case, and through the provisions of Part (b) of Local Plan Policy DC2 and Part 5(g) of Local Plan DC1 the proposal has to be assessed against Part 1(b) of Policy DC1.

The proposed new build housing development is not necessary for agriculture, horticulture, forestry or other employment use and thus is contrary to Part 1 (b) of Policy DC1 and, by association Policy DC2 of the adopted East Lothian Local Plan 2008 and Policy ENV2 of the approved Edinburgh and the Lothians Structure Plan 2015.

It follows to be assessed whether or not there are other material considerations to outweigh this development plan policy position.

In his Supporting Statement the applicant refers to other material considerations of national planning policy and guidance and strategic planning policy in respect of the development of brownfield land, green belts, design, sustainable development and climate change, housing and housing density.

The applicant contends that the site complies with the definition of 'brownfield land' within Scottish Planning Policy, and therefore that its redevelopment would accord with principles set out in the development plan, which seeks to prioritise the use of brownfield land over greenfield sites.

The approved Edinburgh and the Lothians Structure Plan 2015 and the adopted East Lothian Local Plan 2008 defines brownfield sites as land which has previously been developed, including land occupied by redundant or unused buildings, as is the case with the Carberry Candles site and thus with the application site. However as the application site is in the Edinburgh Green Belt and countryside of East Lothian there is no development plan policy support for new build housing as a form of redevelopment of it. The simple fact that the application site is a brownfield site does not outweigh the strict presumption of the development plan against new build housing development on the application site due to it being in the Edinburgh Green Belt and countryside of East Lothian.

The applicant contends that the application site is within a settlement of some 30 houses and should therefore be excluded from the green belt, and there should be a suitable area for future expansion. He refers to Scottish Planning Policy on Green Belts which states that existing settlements should be excluded from green belt designations in development plans. He concludes from this that settlement boundaries should be drawn so as to allow for appropriate expansion. He refers also to how the Main Issues Report for the City of Edinburgh's Local Development Plan addresses this issue of excluding settlements from the Green Belt and states that a consistent approach should be adopted across both authorities.

Carberry, and thus the Carberry Candles site, is not designated as a settlement by the adopted East Lothian Local Plan 2008.

The consideration of whether an area in the Green Belt and countryside should be re-defined as a settlement is one to be made through the development plan process.

Accordingly, the Policy and Projects Manager advises that it will be for the current due process of preparation of the new East Lothian Local Development Plan to address this matter.

The applicant also contends that the proposed 5 new build houses would be more in keeping with the local environment than the existing buildings on the application site and that they would comply with Scottish Planning Policy and guidance and development plan policy on design.

Through the scheme of development the subject of the resolution to grant planning permission (ref.08/00563/FUL) it is demonstrated how the existing two buildings on the application site could be converted to houses and flats in a manner in keeping with the character and appearance of the area.

The existing houses of the area are comprised of the two storey Category C listed house of Pentland View to the northeast of the site, the one storey modern houses to the northwest of the stone and brick buildings of Carberry Candles and the roadside row of traditional one storey houses to the southwest of the application site. Pentland View and the other traditional houses are finished with stone or render and slate other than the brick house of 7 Springfield Cottages. The two modern houses are finished with dry dash render and concrete roof tiles. The other buildings of Carberry Candles are built of stone, brick and slate.

The proposed five houses would have a footprint smaller than that of the two existing industrial buildings. At two storeys in height with their pitched roofs they would be higher than the existing one storey building and of a similar height to the existing two storey building.

Notwithstanding the variety of architectural form and finishes of the existing buildings in the locality, the proposed five new build houses by their layout and similarity of style and character would be radically different from the group of older buildings of Carberry Candles that they would be positioned alongside. In that context the proposed five new houses would be an alien form of suburban development disruptive of the established character and appearance of this countryside place.

On this consideration the proposed development conflicts with Policy ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015, Policies DC1 (Part 5) and DP2 of the adopted East Lothian Local Plan 2008 and with Scottish Planning Policy: February 2010 and Planning Advice Note 72: Housing in the Countryside.

Historic Scotland have no objection to the proposals. They offer no comment on them. Thus it can be concluded that the proposed development would not harm the conservation objectives of the Carberry Designed Landscape.

The applicant states that the conversion of the two buildings on the application site proposed as part of the scheme of development for which there is the resolution to grant planning permission (ref.08/00563/FUL) is poorly designed and energy inefficient, in contrast to the proposed new-build houses. He contends that the existing buildings do not lend themselves to conversion and that conversion is not economically viable. However, the applicant has presented no case to substantiate any of this.

The applicant makes no comment as to why the conversion of the other Carberry Candles buildings that is part of the the scheme of development for which there is the resolution to grant planning permission (ref.08/00563/FUL) would be viable whilst contending that the conversion of the two modern buildings would not. If the principle of

replacement of the two modern buildings by five new build houses were to be accepted, then this might be used as a precedent to justify replacement of the other Carberry Candles buildings with more new build houses, contrary to the policy provisions of the development plan and as a further radical change to the character and appearance of this countryside place.

The applicant states that in respect of sustainable development and climate change objectives the site is ideally suited to make use of extensive public transport routes from Wallyford and Musselburgh into Edinburgh City centre.

This point also applies to the proposed scheme of conversion of the existing two industrial buildings to houses and flats and would apply to any other proposed scheme of conversion of the two buildings to residential use. It is not a consideration specific to the proposed scheme of new building housing development.

The applicant contends that conversion of the two existing industrial buildings on the site would compromise the marketability of the houses that might be formed from conversion of the other Carberry Candles buildings. He contends that the proposed scheme of conversion of the two existing industrial buildings would be inappropriate, damaging and likely to have a harmful impact on the character and appearance of the "existing settlement". He states that the two existing industrial buildings should ideally be demolished.

There is no reason to prevent someone from applying to the Council, as Planning Authority for a prior approval to demolish the two buildings. The material consideration in the determination of such an application would merely be the proposed method of demolition and restoration of the site (i.e. that the site would not be left unsightly following the demolition of the buildings).

The applicant further seeks to justify his proposed development of five new build houses by the provision of a biomass district heating system that would conform with the provisions on climate change within Scottish Planning Policy: February 2010 and the Climate Change (Scotland) Act 2009.

The proposed biomass system is supported by Scottish Planning Policy. The Council is supportive of renewable energy developments in principle. There are no current local plan policies specific to biomass systems or any that require the inclusion of renewable energy technology in development proposals. The adopted East Lothian Local Plan 2008 was prepared prior to legislative requirements for such policies. Whilst the intention to provide a biomass district heating system as part of the proposed development of five new build houses is to be commended it is not of a sufficient material consideration to outweigh the strict policy provisions of the development plan against the five new build houses.

The residential accommodation of each of the proposed five new build houses would be of a satisfactory size and layout and each house would be provided with a sufficient amount of garden space. In respect of privacy it is the practice of the Council as Planning Authority to apply the general rule of 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 neighbouring residential properties.

None of the window openings proposed to be formed on the elevations of the proposed houses would be within 9 metres of an existing garden boundary or within 18 metres of

any directly facing windows of a house. Due to their positioning, none of those openings would be within 18 metres of any directly facing windows to be formed on the southeast elevation of the stone and brick buildings of Carberry Candles should they be converted as part of the scheme of development for which there is the resolution to grant planning permission (ref.08/00563/FUL). On this consideration of residential amenity the proposed development does not conflict with Policy DP6 of the adopted East Lothian Local Plan 2008, but is not a material consideration to outweigh the strict policy provisions of the development plan against the five new build houses.

The Council's Policy and Projects Manager raises no objections to the proposed development on landscape grounds. He informs that the site is bounded to the northeast and southeast by mature trees with several trees growing within the site and that there are three trees positioned along the southwest boundary of the site with the A6124. He advises that the proposed houses would be outwith the root protection area for the trees along the southeast and northeast boundaries of the site, except for the proposed bin store proposed to be positioned between the terrace and semi-detached pair of houses. In respect of the proposed bin store he advises that provided that the surrounds to the bin store are timber fences and all holes for fence posts are dug and backfilled by hand and repositioned as required to minimise damage to tree roots leaving any tree roots encountered with a diameter of 25mm or more unsevered, then the proposed location of the bin store is acceptable.

The site boundary to the southeast and northeast is indicated as a 1200mm high post and wire fence on the submitted drawing 'Site Layout Plan' with ref. 2568/PH2/PL/11A. This lies within the RPA for the woodland trees to the southeast and northeast and care should be taken when digging postholes to avoid severing any roots with a diameter of greater than 25mm.

In respect of the three trees positioned along the southwest boundary of the site with the A6124, the Policy and Projects Manager informs that they are semi-mature maple trees which are important in this location, helping to soften views into the site and linking the site with the surrounding wooded area. He advises that the two proposed parking spaces proposed along the south boundary of the site to the west of the southernmost house affect these trees. The middle tree of the three would have to be felled as it lies within the proposed two car parking spaces whilst the proposed two car parking spaces lie within the root protection area of the other two trees. However the Policy and Projects Manager recommends that these two trees be retained. He advises that this would be possible if the parking spaces were to be formed using a no dig construction method with a porous surface.

The Policy and Projects Manager also recommends that in order to protect the existing trees to the northeast, southeast and southwest during both demolition and construction, temporary protective fences should be erected around them.

Access to the proposed houses would be from the existing private vehicular access that serves the buildings of Carberry Candles and 5 existing houses. The Council's Transportation service does not object to the proposed development. They advise that the site can be safely and satisfactorily accessed using the existing private access provided that the junction of it with the classified A6124 public road is upgraded to include the provision of a visibility splay of 2.5 metres by 120 metres on each side of it. This would require the realignment of part of the existing stone roadside boundary wall and the repositioning of an existing electricity substation adjacent to that wall. The lengths of wall which would require realignment and the electricity substation are all on land owned by the applicant and the application drawings have been amended to demonstrate how the required sightlines can be met.

Additionally it is recommended by the Transportation service that a dropped kerb footway crossing should be constructed at the junction of the access road with the A6124. The proposed amount of car parking spaces and the turning areas to be provided within the site and the positioning and layout of them would all be to a satisfactory standard. The Transportation service is satisfied that the proposed development is acceptable in respect of the traffic movements it would generate to and from the site.

On these considerations the proposed development complies with Policies T2 and DP22 of the adopted East Lothian Local Plan 2008.

The Council's Senior Environmental and Consumer Services Manager advises that due to the previous industrial use of the site there may be localised contamination of the soils on the site. He recommends that a detailed site investigation be carried out in relation to land contamination and a report on this be submitted to the Council for approval prior to the commencement of site works.

The Council's Executive Director (Services for People) informs that the application site is located within the primary school catchment area of Whitecraig Primary School with its nursery class and the secondary school catchment area of Musselburgh Grammar School. He confirms that there would be sufficient capacity at Whitecraig Primary School to accommodate children that could arise from the proposed development but not at Musselburgh Grammar School. Thus the Executive Director (Services for People) objects to the application. However, he confirms that he will withdraw this objection if the applicant is required to make a financial contribution to the Council of £9,806.75 (£1,961.35 per new house) towards the provision of additional secondary school accommodation at Musselburgh Grammar School. The required contribution would have to be secured through 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 1/2010: Planning Agreements. Subject to the Council securing the appropriate developer contribution the proposal would be consistent with Policy INF3 of the adopted East Lothian Local Plan 2008, which stipulates that new housing will only be permitted where the developer makes appropriate provision for infrastructure required as a consequence of their development.

The Council's Housing Strategy and Development Services Section advise that the requirement for the provision of affordable housing arising from this proposed housing development is determined by the Council's Affordable Housing Policy approved by the Council in January 2006. Accordingly, they advise through assessment of the current application that 25% of the five houses proposed should be affordable housing, which amounts to one unit. The terms for the provision of an affordable housing requirement would have to be the subject of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997.

Notwithstanding such requirements for developer contributions the determination in this case has to be that the proposed development of five new houses is in principle and in design terms contrary to the relevant policy provisions of the development plan.

REASONS FOR REFUSAL:

- 1 The proposed new build housing development is not necessary for agriculture, horticulture, forestry or other employment use and thus is contrary to Part 1 (b) of Policy DC1 and to Policy DC2 of the adopted East Lothian Local Plan 2008 and to Policy ENV2 of the approved Edinburgh and the Lothians Structure Plan 2015.

- 2 If approved the proposed development would set an undesirable precedent for the development of new houses within the Edinburgh Green Belt and East Lothian countryside, the cumulative effect of which could result in a detrimental impact on the character and amenity of the Edinburgh Green Belt, the landscape setting of Edinburgh and of the settlements around Edinburgh and the suburbanisation of the countryside to the detriment of its character and amenity.
- 3 The proposed five new build houses by their layout and similarity of style and character would be radically different from the group of older buildings of Carberry Candles that they would be positioned alongside. In that context the proposed five new houses would be an alien form of suburban development disruptive of the established character and appearance of this countryside place, contrary to Policy ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015, Policies DC1 (Part 5) and DP2 of the adopted East Lothian Local Plan 2008 and with Scottish Planning Policy: February 2010 and Planning Advice Note 72: Housing in the Countryside.

Please note that the remainder of pages relating to this item have been removed as they contain personal information (for example - names and addresses of people that have made representation)

REPORT TO: Planning Committee
MEETING DATE: Tuesday 4 September 2012
BY: Executive Director (Services for Communities)
SUBJECT: Application for Planning Permission for Consideration

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Note: this application was called off the Scheme of Delegation by Councillor Gillies for the following reason: there are constituents in the Glebe who are concerned about proposed car parking arrangements.

Application No. **12/00062/PCL**

Proposal Resurfacing of existing footpaths, formation of new footpaths, car parking areas, erection of fencing, gates, wall, installation of lighting and a change of use from domestic ground to public ground and public ground to domestic ground (part retrospective)

Location **Pencaitland Parish Church, The Cottage
And Primary School
Pencaitland
East Lothian
EH34 5DL**

Applicant East Lothian Council

Ward 4

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

Planning permission is sought by East Lothian Council for: (i) the resurfacing of existing footpaths; (ii) the formation of new footpaths and car parking areas; (iii) the erection of fencing, gates and wall; (iv) the installation of lighting; (v) the change of use from domestic ground to public ground; and (vi) the change of use from public ground to domestic ground.

It is stated with the application that the proposed development would provide an alternative lit pedestrian route from Easter Pencaitland to Wester Pencaitland. The foundations of the proposed new footpath to be provide on the western part of the application site between the A6093 public road and the Church Offertory House and of the new footpaths to be provided within the churchyard have already been laid, therefore, the application is in part retrospective.

This application relates to the land and buildings of Pencaitland Parish Church, the house of The Cottage and its associated garden ground, which is to the east of the

church, and Pencaitland Primary School and grounds, which are to the southeast of the church and to the south of the property of The Cottage.

Pencaitland Primary School is accessed from the public road of The Glebe. Pencaitland Parish Church and The Cottage are located on the south side of the A6093 classified public road and are accessed from that road.

Pencaitland Parish Church, The Cottage and Pencaitland Primary School are all within Pencaitland Conservation Area. They are also all part of a larger area that is defined by Policy ENV1 of the adopted East Lothian Local Plan 2008 as being of predominantly residential character and amenity.

Pencaitland Parish Church, its churchyard and walls and the Church Offertory House are listed as being of special architectural or historic interest, Category A. The Manse house to the southeast of the church, its walls and gate piers, and the detached former stable court building to the northeast of it are together listed as being of special architectural or historic interest, Category B.

A small part of the far western part of the application site is within the Fluvial Flood Risk envelope of the Indicative River and Coastal Flood Map (Scotland) as defined by the Scottish Environment Protection Agency.

A small group of trees on the western part of the application site to the west of the churchyard and to the east of the driveway of The Manse are protected by Tree Preservation Order No. 10 and trees T53 and T54 of Tree Preservation Order No. 10 are located to the east of the churchyard, one on each side of the vehicular access to one of the proposed car parking areas.

The application site is bounded to the north by the classified A6093 public road, to the west by an area of scrubland and woodland beyond which is the Tyne Water, to the south in part by the residential properties of The Manse and The Courtyard Flat beyond which is the Tyne Water and in part by an area of scrubland and woodland beyond which is the Tyne Water, and to the east by residential properties of The Glebe.

Since the application was registered the annotation on the drawings has been amended with regard to the proposed change of use of the two areas of land, details of the proposed handrails have been provided, and at the request of the Council's Policy and Projects Manager replacement tree planting is shown to be provided on the western part of the site, changes have been made to the surface finishes that would be within the root protection areas of some of the trees on the eastern part of the site and alterations to the ground levels of the grass verge on the western side of the vehicular access road to one of the proposed car parking areas have been removed from the proposed development.

To facilitate part of the footpath route an existing 2.2 metres length of 1.75 metres high stone boundary wall located towards the southeast corner of the churchyard, an existing 35 metres length of 2.0 metres high mesh fencing located towards the northwest corner of the school grounds would be removed, and an existing 4.7 metres length of stone boundary wall also located towards the southeast corner of the churchyard would be reduced from 1.75 metres to 1.25 metres in height. The removal of the length of wall and the length of fencing and the reduction in the height of the wall do not require planning permission and therefore do not form part of the assessment of this application for planning permission. The removal of the length of wall and the reduction in height of the length of wall of the churchyard do however require listed building consent and form part of listed building consent application 12/00193/ELL.

Through application 12/00193/ELL the Council applied to Historic Scotland for listed building consent for the formation of the proposed new and replacement footpaths and for the part demolition of walls, all as associated with the development for which planning permission is sought. Historic Scotland has granted that listed building consent.

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 approved Edinburgh and the Lothians Structure Plan 2015 and the adopted East Lothian Local Plan 2008.

Policies ENV1C (International and National Historic or Built Environment Designations), ENV1D (Regional and Local Natural and Built Environment Interests) and ENV1G (Design of New Development) of the approved Edinburgh and the Lothians Structure Plan 2015 and Policies ENV3 (Listed Buildings), ENV4 (Development Within Conservation Areas), DP2 (Design) DP14 (Tree on or adjacent to Development Sites) and ED1 (Schools) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

Material to the determination of the application are Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Scottish Government's policy on development affecting a listed building or its setting given in Scottish Planning Policy: February 2010.

Scottish Planning Policy echoes the statutory requirements of Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that in considering whether to grant planning permission for development which affects a listed building or its setting a planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Also material to the determination of the application are Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Scottish Government's policy on development within a conservation given in Scottish Planning Policy: February 2010.

Scottish Planning Policy echoes the statutory requirements of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that a planning authority must have regard to the desirability of preserving or enhancing the character or appearance of a conservation area in exercising its responsibilities in the determination of any application for planning permission for development affecting a conservation area. It is stated in Scottish Planning Policy that proposed development that would have a neutral affect upon the character or appearance of a conservation area (i.e. does no harm) should be treated as one which preserves that character or appearance. The design, materials, scale and siting of new development within a conservations area should be appropriate to the character of the conservation area.

Nine representations to the application have been received. Six of the representations raise objections to the application. The grounds of objection as summarised are:

- i. part of the footpath on the western part of the application site is too close to the historic roadside boundary wall and damage has occurred to the wall, and in being so close to the historic wall with a drop down to the road on the other side of it, pedestrians using

this length of footpath will be in danger of falling, or if a handrail were erected in this location it would destroy the historic setting;

ii. there was no consultation with the residents of the houses of The Glebe or other properties affected by the proposals;

iii. the proposals include additional car parking spaces at the Primary School and footpath links to the church, and such proposals will increase traffic along The Glebe which is already congested during school hours and congestion will then extend for longer periods throughout the day;

iv. how much is this development costing the tax payer and what benefits are envisaged;

v. the proposals have come about due to a safety issue involving the main road (A6093) opposite the church and the safety concerns would not just be transferred to The Glebe;

vi. work has commenced on the proposed development;

vii. no pelican crossing is shown on the drawings and the absence of this will act as a disincentive to use the proposed footpath route;

viii. if the new gates that are proposed along the proposed footpath route are kept locked then pedestrians will be unable to use the route;

ix. the timber post and rail fence that is proposed as a guard rail on the northern side of the length of footpath that is to be on the western part of the application site is not in keeping with the character of the Conservation Area or the setting of this Category A listed building and is inadequate to prevent toddlers and children from falling through it or climbing on it;

x. what measures are proposed to ensure that no graves are disturbed by the proposed works?;

xi. the reduction in height of part of the historic boundary walls of the church will be harmful to the visual appearance of the listed building in the Conservation Area;

xii. the hot rolled asphalt surface of the footpaths in the churchyard would not be in keeping with the historic nature of the site;

xiii. the proposed parking spaces will increase traffic and have a negative effect on road safety, resulting in a loss of privacy for residents and increased activity to the detriment of the area;

xiv. the proposed lighting columns within the churchyard would be harmful to the visual appearance of the listed building in the Conservation Area;

xv. is the footpath route really necessary as there is already an alternative pedestrian route from Easter Pencaitland to Wester Pencaitland without having to use the narrow footpath on the north side of the A6093 opposite the church; and

xvi. is the additional parking really necessary?

One of the representations raises the question of when the application will be determined.

Whether or not the north (roadside) boundary wall on the western part of the application site was damaged, a small part of this wall has been repaired. However such repair of the wall does not require planning permission and therefore not subject to planning control.

There is no requirement under planning legislation for this application for planning permission to have been the subject of public consultation other than through Pencaitland Community Council, who have not asked to be consulted and have not commented on the application.

The application was, however, the subject of statutory neighbour notification and public notice of it was given by advertisement in the local press under the categories of the development affecting the character and appearance of a conservation area and development affecting a listed building or its setting.

On the matter that development has already commenced, the applicant informs that the foundations of footpaths were already laid to coincide with drainage works carried out by Pencaitland Parish Church and thus to avoid further disturbance within the churchyard at a later date. The fact that the foundations of footpaths have been laid does not prejudice the determination of this application.

The provision of a pelican crossing across the A6093 public road is not part of this application for planning permission.

The matters of the cost, necessity or otherwise of the proposed development are not material considerations in the determination of this application for planning permission.

The remaining three representations are supportive of the proposed development and their comments as summarised are:

- i. the proposals to create a safer off-road footpath through the heart of Pencaitland is to be welcomed as a major improvement to the existing situation but none of the application drawings refer to a new pedestrian crossing at the stone bridge to the west of the application site which was understood to be part of the plan;
- ii. the proposed footpath route and the additional parking at the school are favourable proposals; and
- iii. the proposed footpath route will improve safety for some pedestrians but the existing footpath along the north side of the A6093 classified public road still requires attention as pedestrians will still use that route. The road is too narrow at this location and vehicles sometimes mount the pavement to negotiate around other traffic waiting at the traffic lights.

The proposed change of use of a small triangular shaped area of land of the south-western part of the rear garden of the house of The Cottage to public ground would facilitate the formation of the footpath connection between the Primary School and the church land to the west. The area of land is small in size and directly abuts the school grounds on its southeast side and the church land on its western side. There would be only limited long range views of it from the western end of The Glebe and from the A6093 public road and only short duration views of it from the existing vehicular access to the west of the property of The Cottage. The change of use of this area of garden ground to public land would not be harmful to the amenity of the occupiers of the house of The Cottage or the character and appearance of the area. It would not have a detrimental impact on the character and appearance of the Conservation Area or on the

setting of the Category A listed building of Pencaitland Parish Church or the Category B listed building of the former stable building, both to the west.

In exchange for the change of use of the small area of garden ground of the house of The Cottage to public ground it is proposed to change the use of a small part of an existing grassed area within the school grounds to the north of the existing school car park from public use to private garden ground for the house of The Cottage.

By currently being part of the school grounds this area of land is covered by Policy ED1 of the adopted East Lothian Local Plan 2008, which requires that school buildings and their playgrounds/playing fields are retained for educational and community use.

The area of land the subject of the change of use to garden ground is small in size when compared to the overall size of the school grounds. It is part of a larger area of rough grassed land that is to the north of the existing school car park and to the west of the 'Janitors House'. It does not form part of the school playgrounds or playing fields. The change of use of this small area of the school grounds to garden ground would not have an appreciable impact on the use of the Primary School and its playgrounds and playing fields for educational and community use and does not conflict with Policy ED1.

It directly abuts the southern boundary of the rear garden of The Cottage. There would be only limited views of the area of land from the A6093 public road and from the vehicular access to the house of The Cottage. It would not have a detrimental impact on the character and appearance of the Conservation Area or on the setting of the Category A listed building of Pencaitland Parish Church or the Category B listed building of the former stable building, both further to the west.

One of the proposed car parking areas would form an extension to the northern end of the existing school car park that is on the west side of the school site. It would be surfaced with hot rolled asphalt. As does the existing school car park it would be accessed from The Glebe.

The other proposed car parking area would be formed to the east of the former stable building. This area of land is presently used as an informal car park. It would be surfaced with charcoal coloured permeable tegula block paving. It would be accessed from the existing vehicular access from the A6093 public road. The existing vehicular access would be re-surfaced with hot rolled asphalt for the first 20 metres of it and thereafter the remaining length of it leading to the proposed car parking area would be surfaced in permeable tegula block paving.

The proposed new and resurfaced footpaths would be located: (i) to the west of the churchyard; (ii) to the north, northeast, east and southeast of the church within the churchyard; (iii) to the east side of the former Manse stable building; (iv) to the south of the east boundary wall of the churchyard across the vehicular access to the proposed car parking area; (v) across the land the subject of the change of use from garden ground to public ground; and (vi) within the school grounds.

All of the lengths of new and resurfaced footpaths would be surfaced with hot rolled asphalt with 6mm buff chips with the exception of the proposed length of footpath that would be to the south of the east boundary wall of the churchyard and which would cross the existing vehicular access to the proposed car parking area at the stables building. That proposed length of footpath would be surfaced with heather coloured permeable tegula block paving.

The length of footpath to the west of the churchyard and part of the length of the proposed new footpath that is to give access to the school car park would each have a handrail along one side of it. Each of the proposed handrails would be 1.1 metres high and would be of nylon coated rolled steel construction supported on timber posts with a timber kick plate close to ground level.

A 1.3 metres high retaining wall is proposed to be erected along part of the east side of the proposed car parking area at the stables building. The external face of that wall would be finished with natural stone to match the existing walls of the churchyard and lime mortar would be used for the pointing of the stonework.

The proposed lengths of new fencing would be: (i) a 1.8 metres high metal post and chain mesh fencing that would be positioned along the new boundary between the school grounds and the residential property of The Cottage and along the northeast and southeast boundaries of the land the subject of the change of use to public ground; and (ii) a 1.3 metres high timber post and rail fencing that would be positioned: (a) to the west of the churchyard and immediately to the south of and parallel to the A6093 roadside retaining boundary wall and which would extend for some 22 metres in a westerly direction from a position immediately to the west of an existing set of pedestrian access steps; (b) on the northeast side of the existing driveway leading to The Manse; and (c) on the southwest side of the existing driveway leading to The Manse and there from some 22 metres in a south-westerly direction.

A pair of metal pedestrian gates is proposed to be erected across the footpaths at the northwest corner of the school grounds, at the southwest corner of the churchyard where the new opening is to be made in the boundary wall and at the existing western entrance into the churchyard. Those metal gates and their metal gate posts would be painted gloss black. The gates would be respectively, 1.6 metres high, 0.98 of a metre high and 1.575 metres high. The gate posts of the proposed gates to be erected at the southwest corner of the churchyard and at the existing western entrance into the churchyard would not be attached to the listed boundary walls of the church but would instead be freestanding.

A new timber gate is proposed to be erected at an existing pedestrian stepped access that is to the west of the churchyard wall and to the north of the Church Offertory House. The proposed timber gate would be 1.975 metres high. It would be of timber construction and would be stained in a colour to match the colouring of the stone work of the boundary wall it would be adjacent to. The stepped access leads directly to the public road at a point where there is no footpath on the south side of that road and therefore, this new timber gate is proposed to be kept locked.

A new steel tubular framed field gate and posts would be erected across the driveway to The Manse in a position set back some 10 metres from the southeast side of the A6093 public road, and an existing steel tubular framed field gate and posts would be relocated from a position at the western edge of the site to a new position adjacent to the southwest side of the driveway to The Manse.

It is proposed to erect 2 street lighting columns to the west of the churchyard, 6 within the churchyard, 1 to the east of the stables building, 1 on the east side of the vehicular access to the proposed new car parking area that would be to the south of the eastern part of the churchyard and 2 within the school grounds. The street lighting columns would illuminate the proposed footpaths. The 6 street lighting columns that are proposed to be within the churchyard would be 5 metres high and have a heritage style lantern fitting at the top of them. They would be painted black. The other street lighting columns

would also be 5 metres high but would be of a more modern construction and would have a galvanised steel finish.

The proposed car parking areas and new and resurfaced footpaths would be finished in materials suitable to the locality and would not be inappropriate within this part of the Conservation Area or within the settings of the listed buildings of Pencaitland Parish Church, The Manse and the stables building. The proposed metal and mesh fencing would be in keeping with the existing fencing of the school grounds. The proposed timber post and rail fencing would not be dissimilar to other styles of timber fencing that can be seen from the A6093 classified public road and thus would not be inappropriate within this part of the Conservation Area or within the settings of the listed buildings. The proposed gates in their respective positions would be in keeping with existing styles of gates in the locality and would not be inappropriate within this part of the Conservation Area or within the settings of the listed buildings. The proposed street lighting columns that are proposed to be outwith the curtilage of the Church would be in keeping with the height and form of other street lighting columns in the locality. They would not be inappropriate within this part of the Conservation Area or within the setting of the Church. The proposed heritage style street lighting columns that would be within the curtilage of the Church would be of a more historic traditional form and design that would not be harmful to the setting of that listed building or the character and appearance of the Conservation Area.

Historic Scotland comments that the resurfacing of the gravel footpaths within the churchyard with hot rolled asphalt with buff chips would provide a DDA compliant surface that would replace a gravel surface finish that can sometimes be problematic for some users. They are satisfied that the proposed development would be in keeping with the overall character of the area and that the development within the curtilage of the Category A listed building of Pencaitland Parish Church and the Category B listed building of the former stables building would not be harmful to the settings of those listed buildings.

The proposed development would not result in any harmful loss of privacy or amenity to any neighbouring residential property.

On all of these considerations, as relevant, the proposed development is consistent with Policies ENV1C, ENV1D and ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015, Policies ENV3, ENV4 and DP2 of the adopted East Lothian Local Plan 2008 and the Scottish Government's policy on development affecting a listed building or its setting and on development within a conservation given in Scottish Planning Policy: February 2010.

The trees between the west side of the churchyard and the driveway of The Manse and The Courtyard Flat are protected by Tree Preservation Order No. 10 (Group G1). The landscape advice from the Council's Policy and Projects Manager is that the laying of the foundation of the footpath through this group of trees has severed some of the roots of some of the trees and that those trees have subsequently been removed on safety grounds. She recommends that 8 replacement trees be planted in this area to the west of the churchyard. The application drawings have been amended to show the 8 replacement trees requested by the Policy and Projects Manager.

There are also some trees to the east of the churchyard, between it and the school grounds. Two of these trees are also protected by Tree Preservation Order No. 10 (Trees T53 and T54). Tree T53 (sycamore) is positioned on the grass verge on the west side of the existing vehicular access that is to the east of the churchyard and is some 10 metres to the south of the A6093 public road. Tree T54 (beech) is positioned on a small

embankment that is on the east side of the existing vehicular access some 27 metres to the south of the A6093 public road. Additionally, there is a lime tree positioned on the grass verge on the west side of the existing vehicular access and some 9 metres to the south of the sycamore tree. The lime tree is not protected by Tree Preservation Order No. 10 but is protected by virtue of being within Pencaitland Conservation Area.

No tree works are proposed to be carried out to any of these three trees. However, parts of the proposed footpaths and part of the proposed car parking area would be within the root protection area of the beech tree (T54) and the lime tree. The resurfacing of the existing vehicular access to the proposed car parking area at the stables building would be within the root protection area of tree T53 of Tree Preservation Order No. 10 and the lime tree.

The Council's Policy and Projects Manager advises that the resurfacing of the existing vehicular access to the proposed car parking area would not be harmful to the trees because the existing surface finish of the access has limited permeability.

However, parts of the proposed footpaths and part of the proposed car parking area would be within the root protection area of the beech tree (T54) and the lime tree. The surface finish of the part of the footpath that is proposed to cross the vehicular access has been amended to be permeable block paving and the construction of the edging for the footpath that is proposed to extend from the vehicular access to the extended car park within the school grounds has been amended to be formed with timber edging as oppose to concrete edging. The Policy and Projects Manager is satisfied that the use of such amended surface finishes and edging would safeguard against harm to the two trees.

The Policy and Projects Manager advises that any excavation for the length of footpath that is proposed to extend from the vehicular access to the extended car park within the school grounds should be carried out by hand and that an arboricultural watching brief should be undertaken during construction works within the root protection area of the beech tree (T54). These controls can be reasonably be made conditions of a grant of planning permission for the proposed development. Subject to such controls the Council's Policy and Projects Manager is satisfied that the proposed development would not be harmful to the beech tree (T54).

However, he further recommends that temporary protective fencing should be erected to protect the beech tree (T54), the sycamore tree (T53) and the lime tree.

Subject to the recommended planting of 8 replacement trees on the area of land between the west side of the churchyard and the driveway to The Manse, the hand digging in respect of part of the proposed footpath, an arboricultural watching brief being undertaken and the erection of temporary protective fencing the Policy and Projects Manager is satisfied that the proposed development would not have a harmful impact on the trees on and adjacent to the application site. Subject to the aforementioned controls the proposed development does not conflict with Policy DP14 of the adopted East Lothian Local Plan 2008.

The Council's Transportation service raises no objection to the proposed development.

The Council's Archaeology Officer advises that he is satisfied that the works already carried out to form the foundations of the proposed new footpath to the west of the churchyard and those of the new and resurfaced footpaths within the churchyard have not been harmful to archaeology in the locality and that the remaining proposed works

the subject of this application would not require any further archaeological work. Thus, he raises no objection to the proposed development.

A small part of the western part of the application site is within the Fluvial Flood Risk envelope of the Indicative River and Coastal Flood Map (Scotland) as defined by the Scottish Environment Protection Agency. However, the development of a part of a new footpath and the erection of timber post and rail fencing on that part of the application site would be unlikely to have a significant detrimental impact on local flooding.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1 The natural stone of the external face of the retaining wall hereby approved to be erected along part of the east side of the car parking area to be formed to the east side of the former Manse stable building and to the south of the eastern part of the churchyard shall match as closely as possible the natural stone of the walls of the churchyard in its colouring, coursing and pointing.

The pointing of the stone retaining wall shall be carried out with lime mortar and shall match as closely as possible in colour and form of the pointing of the existing churchyard walls.

Reason:

In the interests of the character and appearance of the Conservation Area and of the setting of the listed buildings of Pencaitland Parish Church, The Manse and The Manse former stable court building.

- 2 Samples of the tegula block paving, including their colour, to be used to surface the car parking area hereby approved to be formed to the south of the eastern part of the churchyard and the footpath that is approved to extend across the vehicular access to that car parking area shall be submitted to and approved in advance in writing by the Planning Authority prior to their use in the development. Thereafter the tegula block paving used shall accord with the samples so approved.

Reason:

In the interests of the character and appearance of the Conservation Area and of the setting of the listed buildings of Pencaitland Parish Church, The Manse and The Manse former stable court building.

- 3 The three pairs of metal gates and their gate posts hereby approved as shown on docketed drawing nos. 005, 006 and 007 shall be painted gloss black unless otherwise approved by the Planning Authority.

Reason:

In the interests of the character and appearance of the Conservation Area and of the setting of the listed buildings of Pencaitland Parish Church, and The Manse former stable court building.

- 4 Details of the paint, stain or timber preservative to be used to finish the external face of the timber gate hereby approved as shown on docketed drawing no. 008 shall be submitted to and approved by the Planning Authority prior to its use in the development, and thereafter the paint, stain or timber preservative used shall accord with the details approved.

Reason:

In the interests of the character and appearance of the Conservation Area and of the setting of the listed buildings of Pencaitland Parish Church and The Manse former stable court building.

- 5 The 6 street lighting columns with heritage style lantern fittings hereby approved to be sited within the churchyard of Pencaitland Parish Church shall be painted black unless otherwise approved by the Planning Authority.

Reason:

In the interests of the character and appearance of the Conservation Area and of the setting of the listed building of Pencaitland Parish Church.

- 6 In the first planting and seeding season (October - March) following the footpath to the west of the

churchyard being brought into use or the completion of works for this part of the development, whichever is the sooner, eight replacement trees shall have been planted on the area of land to the west of the churchyard, all in accordance with the positions and details shown for them on docketed drawing no. 001/Rev E.

All of the replacement trees shall be planted as standard size 8-12cm girth, 2.75-3 metres high and shall be protected by a single stake and weldmesh guard as per the docketed drawing titled 'GR8 Tree pit system installation' unless otherwise approved by the Planning Authority.

In the event that any such replacement tree(s) die, are removed, or become seriously damaged or diseased within a period of 5 years following planting they 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:

To ensure the implementation of landscaping in the interests of the character, appearance and amenity of the area and of the Conservation Area.

- 7 No trees or shrubs, which are to be retained on the site, shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the prior written consent of the Planning Authority.

Reason:

To ensure the retention of vegetation important to the appearance and environment of the development.

- 8 A qualified and experienced arboriculturist shall be employed to carry out an arboricultural watching brief during the construction works.

Reason:

To ensure the retention of and the health of trees within the application site, which are important to the landscape character and amenity of the area and of the Conservation Area.

- 9 All excavation for the section of footpath extending from the east side of the existing vehicular access to the proposed extension of the school car park, which is within the root protection area of the beech tree (T54) shall be dug and backfilled by hand and any tree roots encountered with a diameter of 25mm or more shall be left unsevered.

This length of footpath shall be constructed with timber edge boards and timber peg supports in accordance with the detail shown for it on docketed drawing no. 001/Rev E.

Reason:

To ensure the retention of and the health of trees within the application site, which are important to the landscape character and amenity of the area and of the Conservation Area.

- 10 The only construction access to the application site shall be taken along the line of the existing driveway to The manse and of the existing access to the east side of the churchyard.

Reason:

To ensure the retention of and the health of trees within the application site, which are important to the landscape character and amenity of the area and of the Conservation Area.

- 11 No development shall take place on site until temporary protective fencing comprising standard scaffold poles as uprights driven into the ground avoiding tree roots, with 3 standard scaffold poles as horizontal rails (top, middle and bottom), all with weld mesh wired to uprights and rails. This temporary protective fencing should be 2.3 metres in height, erected prior to works commencing and kept in good condition throughout the works, all in accordance with Figure 2 of British Standard 5837: 2005 'Trees in Relation to Construction'.

The temporary protective fencing shall protect the lime tree, sycamore tree (T53) and the beech tree (T54) and shall be positioned as follows:

- i. For a length of some 20 metres along the western edge of the vehicular access road leading to the proposed car parking area that is to be formed to the south of the eastern part of the churchyard, and returning in a westerly direction at each end of the grass verge on the western side of the access road to tie into the east boundary wall of the churchyard; and

ii. Along the southern edge of the footpath hereby approved to extend from the school car park extension to the east side of the vehicular access and then turning in a southwest direction along the northern edge of the embankment on which the beech tree is positioned and then following the eastern edge of the car parking area hereby approved and then turning in an easterly direction to tie into the existing west boundary fencing of the school.

A drawing showing the positioning of the temporary protective fencing shall be submitted to and approved in advance in writing by the Planning Authority.

All weather notices should be erected on said temporary protective fencing with words such as "Construction exclusion zone - Keep out" and the fencing shall remain on site and intact through to completion of the development.

Once erected the temporary protective fencing shall be retained in place until works on the application site have been completed and all plant and machinery associated with those works have been removed from the site.

Within the fenced off areas the existing ground level shall neither be raised nor lowered, no materials, temporary buildings, plant, machinery or surface soil shall be placed or stored and no herbicides shall be used.

Care should be taken when planning site operations to ensure that wide or tall loads, or plant with booms, jib and counterweights can operate without coming into contact with any retained trees.

Any materials whose accidental spillage would cause damage to a tree should be stored and handled well away from the outer edge of a trees root protection area.

Fires should not be lit in a position where their flames can extend to within 5 metres of tree foliage, branches or trunk, and due cognisance must be taken of wind speed and direction prior to and during operations.

Details of any trenches or services in the fenced off areas shall be submitted to and approved in advance in writing by the Planning Authority, and all trenches shall be dug and backfilled by hand and any tree roots encountered with a diameter of 25mm or more shall be left unsevered.

Reason:

In order to ensure protection of the trees within the application site in the interests of safeguarding the landscape character of the area.

Please note that the remainder of pages relating to this item have been removed as they contain personal information (for example - names and addresses of people that have made representation)