

REPORT TO: Planning Committee
MEETING DATE: Tuesday 6 November 2012
BY: Executive Director (Services for Communities)
SUBJECT: Application for Planning Permission for Consideration

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Application No. **12/00346/PM**

Proposal Changes to bunds, buildings, structures, landscaping and storage of inert materials and variations of Conditions 6, 7, 8 and 12 as changes to the scheme of development the subject of planning permission 09/00617/FUL

Location **Smeaton Bing
Carberry
East Lothian**

Applicant Hamilton Waste and Recycling

Per Wardell Armstrong LLP

Ward 2

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

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

The application site is some 20.83 hectares in area. It occupies a countryside location at Crossgatehall to the southeast of Whitecraig. The site is bounded to the northeast by the A6124 public road and by houses, with the Designed Landscape of Carberry Tower beyond. At its eastern corner is the road junction of Crossgatehall with houses beyond. To the southeast it is bounded by the B6414 public road with a builder's yard, a house and agricultural land beyond, to the southwest by an unclassified public road (U102) with two houses and agricultural land beyond, and to the northwest by agricultural land. The site is accessed from the A6124 public road.

The majority of the land of the application site was formerly the shale and coal waste heap of Smeaton Bing. The remaining part of the site was formerly agricultural land and that part of the site is within the Edinburgh Green Belt.

In March 2010, through a decision of the Planning Committee, planning permission (Ref: 09/00617/FUL) was granted for the use of the land as a waste recycling facility and, to enable that use, the reformation and reshaping of the existing bing to form bunds to contain an internal working area, the erection in it of buildings, the formation of an access road and a sustainable urban drainage system (SUDS) pond, and for associated planting.

The planning permission is subject to conditions to control aspects of the approved development and of the subsequent operation of the waste recycling facility, including: a requirement for a detailed scheme of landscaping (condition 6); that development be carried out in accordance with the phasing and details set out in the approved application drawings and Chapter 3 of the applicant's Environmental Statement (condition 7); a series of working controls on matters of noise and working hours for the development of the site and its subsequent operational use and that the physical works on the site be complete prior to it being used as a waste recycling centre (condition 8); and that the development be laid out and used only as a waste recycling centre as per the approved plans (condition 12).

On 11 August 2010 development of the site commenced. This involved the commencement of the major earthworks to reform and reshape the bing into bunds. The substantive major earthworks to form the bunds were completed in 16 weeks of working as per the timescale for that given in the phasing of the applicant's Environmental Statement that is the subject of the planning control of condition 7 of planning permission 09/00617/FUL.

Ongoing works to complete the profiling and surface finishing of the bunds have been hampered by operational issues, specifically; compaction and settlement of material, a deficiency in the amount of material available on site, the lack of availability of topsoil from off site to complete the surface finishing and to enable landscaping of the bunds and unfavourable weather conditions. The final profiling, surface finishing and landscaping of the bunds remain a work in progress.

In response to public complaints about aspects of the works that were being undertaken on the formation of the bunds, officers of the Council's Enforcement and Policy and Projects teams surveyed the site on 21 October 2010 and again on 7 July 2011. At that stage, the bunds as formed on their outer faces were found to be in compliance with planning permission 09/00617/FUL other than a section of the southwest bund which had a gradient steeper than as approved. The Council's Enforcement Team took this up with the developer.

In the course of the continuation of site works the developer sought the advice of Council officers on proposed amendments to the profiling of the bunds and to the layout and height of the buildings to be erected on the site as changes to that approved by planning permission 09/00617/FUL. The advice of officers was that those proposed changes would be material changes to planning permission 09/00617/FUL. Thereby, it was established that an application for planning permission for changes would have to be made to the Council.

What is now before the Committee is that application. Through it planning permission is now sought for changes to the profiling of the bunds and to the layout and height of the buildings to be erected on the site.

The changes to the profiling of the bunds are:

(i) Part of the northwest bund east of the haul road which passes through that bund would be reduced in height by some 2 metres. A 2 metres high acoustic fence would be erected on top of this bund to compensate for the reduction in height, running some 150 metres along the length of the bund. Amended plans have been subsequently been submitted which show the northwest bund east of the haul road to the height as approved by grant of planning permission 09/00617/FUL and the omission of the proposed 2 metres high acoustic fence which had been proposed to be erected on top of this bund to compensate for the reduction in height.

(ii) The land at the outer foot of the northeast bund would be raised in height by some 0.7 metres.

(iii) The land at the outer foot of the southeast, southwest and northwest bunds would be raised by some 0.3 metres.

(iv) The small bund to the east of the access road would be raised in height by some 2 metres. Amended plans also detail the raising of the bund to the west of the access road raised by a further 1 metre.

(v) The gradients of the lower slopes of the northeast, southeast and southwest bunds would be increased slightly along parts of their length. Parts of the upper slopes of the southwest and northwest bunds would be increased to some degree.

(vi) The gradient of the upper slope of the southern part of the southwest bund would increase from 1:2 to 1:1.85.

(vii) The profiles of the southeast, southwest and northwest bunds would be "thinner" such that their crests would be narrower where their outer and inner slopes meet. This would allow for some enlargement of the internal working area by moving the inner slope and inner edge of the southeast, southwest and northwest bunds outwards from the centre of the site. Conversely, the inner foot of the northeast bund would be graded to be slightly closer to the centre of the site. The intended finished level of the internal working area is to be some 0.3 metres higher than as approved by planning permission 09/00617/FUL towards the internal edge of the southeast and southwest bunds and the southern part of the northwest bund. This would have the effect of compensating for a slight drop in the approved levels between the east and west of the working area as approved.

The buildings of the waste recycling facility approved by planning permission 09/00617/FUL are a main sorting shed, sorted waste storage buildings, a workshop/garage and an office building. They are approved to be one storey high industrial buildings with metal panel finishes in grey and blue colours, other than the two storey, brick built office building. The main waste sorting shed is approved to have a ridge height of 11.994 metres above the ground level of the proposed working area of the waste recycling facility and to be positioned centrally in the proposed working area with the other, lower buildings to be positioned along the north-eastern and north-western end of the proposed working area.

The changes to the buildings to be erected on the site are:

(i) the main sorting shed would be larger, some 130 metres long to the 100 metres length of the approved building. It would thereby be some 30 metres closer to the southwest bund than as approved. It would be some 14.5 metres high to the ridge of its pitched roof and some 10 metres high to its eaves. It would have solar panels on its south facing roof slope.

(ii) the other buildings would be of the same size and height as approved. The sorted waste buildings and garage/workshop would remain located close to the northeast bund with their position moved 20 metres to the northwest. The office building would remain adjacent to the northwest bund with its position moved some 10 metres closer to the bund and some 5 metres to the west.

Because condition 7 of planning permission 09/00617/FUL requires that the bunds be constructed as per the phasing details set out in the approved application drawings and Chapter 3 of the applicant's Environmental Statement the need for further time to complete the bunds and to the re-profiling for which planning permission is now sought has to be considered as an amendment to the phasing control of condition 7.

The further time to complete the bunds has also to be considered as an amendment to the phasing control of condition 8(iv) of planning permission 09/00617/FUL.

Finalised landscaping plans have not yet been submitted to the Planning Authority for assessment and approval. Any such plans would have to have due regard to the re-profiled form of the bunds for which planning permission is now sought. If that planning permission is to be granted through amendments to conditions 7 and 8 of planning permission 09/00617/FUL, then there is the need to amend condition 6 in terms of the time given for submission of the detailed landscaping plans.

Condition 12 of planning permission 09/00617/FUL stipulates that the land of the waste recycling facility shall not be used other than as set out in the approved application drawings. Planning permission is now sought to use the area of land denoted as 'Phase 2' on the approved application drawings for the open storage of inert materials prior to the recycling of them. This proposed change has to be considered as an amendment to condition 12.

As a statutory requirement of major development type proposals the development for which planning permission is now sought was the subject of a proposal of application notice (Ref: 12/00001/PAN) and community consultation prior to this application for planning permission being made to the Council.

As an outcome of that and as a further statutory requirement a pre-application consultation report is submitted with this application. The report informs that 10 members of the public attended a pre-application public exhibition held in Whitecraig Community Hall in Whitecraig and that those attendees made a number of queries and suggestions regarding the proposals. The exhibition remained in the hall for a week, when comments sheets were made available to the public. No further comments were returned to the applicant's agent. In response to comments made, the applicant made some changes to the proposals, including increasing the height of a small bund along the access road to screen views from residents of houses to the southeast of the access road. The report advises that the consensus among those attending the public exhibition was for the bunds to be finished and planted as soon as possible.

The development for which planning permission is now sought is of the same character and description as that which was the subject of the community engagement undertaken through the statutory pre-application consultation of the proposal.

There is submitted with this application a Slope Stability Assessment, a revised Noise Modelling Diagram and a statement of predicted noise levels in respect of the re-profiling of the bunds.

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 ENV1G (Design of New Development) of the approved Edinburgh and Lothians Structure Plan 2015 and Policies DC1 (Development in the Countryside and Undeveloped Coast), C7 (Core Paths and Other Routes), DP1 (Landscape and Streetscape Character) and DP2 (Design) of the adopted East Lothian Local Plan 2008.

Also material to the determination of the application are the written representations received from the public.

Five written objections have been received. In some of the written objections support is expressed for the general principle of waste recycling and for the physical reshaping of the bing. Otherwise, the grounds of objection are summarised as follows:

(1) this is another modification of the original application and gives no details of the changes proposed, meaning neighbours of the site have to travel to Haddington to view the plans;

(2) residents in the area are extremely unhappy about the processes which led to the re-designation of the bing site out of the green belt and now with the series of "planning creep" applications to change the planning permission;

(3) the ongoing development of the site would result in noise and dust and mud on the roads generated by site traffic for the development;

(4) the lack of pavements means there is danger to pedestrians, particularly families with children, walking along the A6124 to go to Whitecraig, with lorries travelling at such great speed when turning into the development site. One objector suggests that there should be traffic lights at the site turn in;

(5) work on the site has been ongoing for some 27 months and not the 16 weeks stated by the developers to construct the bunds;

(6) the site is being used as a dumping site to create income for the applicant and not as a waste recycling site, material is being brought in to increase the height of the bunds because the centre hasn't been dug out enough to hide the proposed buildings and thus the internal levels inside the bunds are "way above" what was proposed originally. Also the reason for the proposed variations to decrease the width of the bunds is to increase the internal working area. There should be an independent survey of the bund and internal working area levels;

(7) the competency of the applicant's company as a civil engineering construction contractor is questioned given the extended length of time the project has taken, their inability to produce the original design, and neighbouring residents having had to report their concerns about several apparent breaches of health and safety regulations to the Health and Safety Executive;

(8) what is being proposed is a huge increase in the size of the bunds such that they overpower the landscape of the area;

(9) no start has yet been made to tree planting or the construction of a footpath/cyclepath around the south of the site as required by conditions;

(10) as an Environmental Statement was submitted with the original application then this should be revised in line with this application, including guaranteed timescales for the completion of the development works;

(11) approval of this application would reward the failure of the developer to complete the works in the timescale originally proposed, and raises the question as to whether or not the Council's Environmental Protection Service would have sanctioned the proposals had the time scale been as has turned out;

(12) there are doubts about the area being served by public transport because of the withdrawal of First Scottish bus services on the route of the A6124, leaving the nearest bus stop at Whitecraig some 2 kilometres away;

(13) there is no community council representation for the area as Whitecraig Community Council has been suspended, thus the East Lothian Community Council Association should be contacted to pass comment;

(14) the bund has taken away one resident's view and if the proposals go ahead there will be no view and a lack of sunlight, affecting the value of his property;

(15) if plasterboard is to be recycled it will release dust into the air leading to skin and breathing problems;

(16) use of "Zone 2" needs greater explanation, there is a concern that this would be used for breaking up vehicles and as an outside operation this would increase noise levels from the waste recycling centre;

(17) the internal levels of the site may allow for the erosion of the base of the bunds; and

(18) the greater angle of incline of some of the bunds is assessed as having a safety factor of 1.3 but no explanation is given as to what this means and there are questions about their viability and stability due to evidence of subsidence.

When consultations were duly undertaken on this application some months ago there was no active Whitecraig Community Council. Because of that the Chair of the East Lothian Community Councils was contacted for comment on the application. No comment has been received.

The reconfiguration of the former Smeaton Bing, the use of the site as a waste recycling facility and the access and transportation arrangements to facilitate such use are already approved by the grant of planning permission 09/00617/FUL.

The application has been subject to the required pre-application notification and consultation arrangements required for a major development.

It is the only application submitted for changes to the development already approved by planning permission 09/00617/FUL.

It was through the due processes of adoption of the East Lothian Local Plan 2008 that the former Smeaton Bing was removed from the Edinburgh Green Belt and due regard to this was paid in the decision of the Planning Committee to grant planning permission 09/00617/FUL. That decision also included acceptance of the planning merits of a part of

the operational site of the waste recycling facility being land still within the Edinburgh Green Belt.

The engineering integrity and management of site development works is a matter for the developer and is not a material planning consideration.

The applicant does not propose to vary the working hours of the waste recycling facility as controlled by condition 8 (vi) and (vii).

The effects of the proposed development on private views and property values are not material planning considerations.

Although the matter of the stability of the engineered bunds is not a material planning consideration, the applicant's Slope Stability Survey has been assessed by the Council's Consultant Engineer. He has accepted the accuracy of the calculations contained in it. He has raised no concerns on the matter of the stability of the bunds. Nonetheless, as a matter of prudence he has stated that no buildings erected on the site and permanently used by site operatives should be positioned within 5 metres of the toe of any of the inner slopes of the bunds. The proposed main sorting shed would be in the centre of the site, some distance from the toe of the inner slopes. The proposed office and smaller sorting buildings would be some 5 metres from the toe of the inner slopes. As the specific matter of the stability of the engineered bunds is not a material planning consideration, neither is this related matter of the positioning of buildings in proximity to the toe of the slopes of the bunds. It cannot be controlled through the determination of this application. The consideration of it has to be the responsibility of the applicant. If through the determination of this application planning permission is granted for the now proposed positioning of the office and smaller sorting buildings and, thereafter, the applicant decides to change that, then such further proposed re-positioning would have to be assessed on its planning merits either as an applied for material or non material amendment to the planning permission granted.

The material considerations in the determination of this application are; (i) whether or not the applied for changes to the profiling of the bunds and to the layout and height of the buildings to be erected on the site would be harmful in terms of their visual impact, their affect on landscape character and whether or not they would affect the acoustic screening of the site in operation as a waste recycling facility; and (ii) the merits of varying condition 6 of planning permission 09/00617/FUL to allow for an extension of time for the submission of the detailed plans for the landscaping of the site, of varying the phasing controls of conditions 7 and 8 to allow further time for the completion of the bunds in the re-profiled form for which planning permission is now sought, and of varying condition 12 to enable the now applied for open storage use of the land of the waste recycling facility denoted as 'Phase 2' on the drawings docketed to planning permission 09/00617/FUL.

The drawings submitted by the applicant include section drawings through the bunds showing a comparison of the shapes, levels and heights of them as approved by planning permission 09/00617/P and, by comparison, with the changes to them for which planning permission is now sought. It is not proposed to raise the tops of any of the main bunds to a height greater than that approved for them by planning permission 09/00617/P.

In respect of landscape and visual impact the proposed changes to the northeast, southeast and southwest bunds would be of such a relatively small degree that the re-profiling of them would not significantly change the appearance of them in their landscape setting and would not be harmful to the visual amenity or landscape character of this part of the East Lothian countryside.

At its raised height of some 2 metres the low bund to the east of the site access road would be viewed against the backdrop of the main bunds of the developed site and in relation to them would not appear as a dominant or incongruous landscape feature. The proposed raising of the bund to the west of the access road by 1 metre would not significantly change the appearance of that bund in the landscape. That bund so raised would provide additional screening of the access road and vehicles using it.

Initially it was proposed that a 2 metres high acoustic fence be placed on the top of the northwest bund for a length of 150 metres to the northeast side of the point at which the bunded site road cuts through that main northwest bund and that there be an associated lowering of that length of the bund by some 2 metres from the height approved for it by planning permission 09/00617/P. Such a fence on top of that length of the northwest bund, even with an associated 2 metres lowering of the bund, would be a prominent incongruous landscape feature. Accordingly, the Council's Policy and Projects Manager has objected to the provision of the acoustic fence. His advice is that the fence would be highly visible and not in keeping with the bund screening of the development as approved. His recommendation is that the 150 metres of the northwest bund should still be to the height approved for it by planning permission 09/00617/P but to a reduced width. As an amendment to this application such a reduction of the width of the bund as part of the proposed re-profiling of the bunds is now what planning permission is applied for and not for the erection of the acoustic fence.

Even as now proposed the buildings of the development would be almost wholly visually contained within the bunds. The applicant acknowledges that in some views of the site from the north, including from the A6124 public road as it approaches the site from the north, the northwest corner of the main sorting shed as now proposed would be partially visible until screen planting matures. Given the dark colour finishes proposed for this building, this small degree of initial visibility of main sorting shed would not be harmful to the visual integrity of the development or to the amenity of the area.

The majority of the re-profiling of the bunds would make them slimmer in section than as approved, allowing an increase in the size of the internal working area of the waste recycling facility. The internal working area would, for part of its western area, be some 0.5 metres higher than as approved. It is not proposed to site buildings on this part of the site. Instead planning permission is now sought to use the western area of the internal working area for open storage of materials. In which case the small 0.5 metres change to the ground level of the internal working area would not be harmful to the visual integrity of the development or to the amenity of the area.

The Council's Policy and Projects Manager advises that the final landscaping proposals for the development should pay regard to ash/oak woodland planting being at the bottom of the bunds with the density of planting reducing up the slope, moving to oak and birch planting and then to more sporadic birch woodland towards the top of the slopes. If planning permission is to be granted for the applied for amendment to condition 6 of planning permission 09/00617/FUL, then there would still be the requirement for the submission to and approval of the Planning Authority of the final landscaping details of the development.

The re-profiling of the bunds and the changes to the buildings to be contained on the internal working area within the confines of the main bunds would not significantly or harmfully affect the landscape character of the area or result in a greater degree of visual intrusion than would be the effect of the bunds and buildings as approved by planning permission 09/00617/FUL.

The landscaping and planting of the re-profiled bunds would soften their appearance in the outlooks from the residential properties and from short and long distance views of the site.

On these considerations of landscape and visual impact the re-profiling of the bunds and the changes to the buildings for which planning permission is now sought does not conflict with Policy ENV1G of the approved Edinburgh and Lothians Structure Plan 2015, Policies DC1, DP1 and DP2 of the adopted East Lothian Local Plan 2008.

As now shown in the application drawings part of the upper area of the outer (western) slope of the southwest bund would be of a steeper gradient than is approved for that bund and as re-profiled that upper part of that bund would be closer to the two houses on the south-western side of the south end of Smeaton Shaw Road. Towards the southern end of that bund the upper area of it would in places be up to some 5 metres closer to the closest of those two properties than is approved, yet would be some 60 metres away from that closest property. The foot of the bund would remain some 35 metres away from the closest of those two properties, with Smeaton Shaw Road between the closest property and the foot of the bund.

Due to the distance of some 60 metres between the closest house and the re-profiled upper part of the southwest bund and that the front elevation of that closest house is orientated southwards and not towards the bund, the re-profiled southwest bund would not impact harmfully on the outlook of that residential property or on the neighbouring property on the southwest side of it. Nor would it harmfully overshadow those properties or have a harmfully overbearing presence or affect on them. The impact of re-profiling of the southwest bund on the amenity of those two properties is not significantly greater than the bund as approved by planning permission 09/00617/FUL.

The raising of the low bund on the east side of the site access road by some 2 metres in height would improve the screening of the corresponding length of the access road and the movement of traffic on the road when viewed from the residential properties to the east.

On these further considerations the re-profiling of the bunds is consistent with Part 5 of Policy DC1 of the adopted East Lothian Local Plan 2008.

The Council's Environmental Protection Manager raises no objection to the re-profiling of the bunds and the changes to the buildings for which planning permission is now sought. He confirms that the revised predicted noise levels of the operational use of the waste recycling facility as stated by the applicant's consultants are commensurate with the changes to the bunds and that the resultant noise limits would remain within acceptable levels.

The operational use of the waste recycling facility will be licensed by the Scottish Environment Protection Agency (SEPA) under the Waste Management Licensing Regulations 1994 (as amended) in respect of matters of noise, odour, dust and air quality.

In respect of the scheme of development approved by planning permission 09/00617/FUL, SEPA raised no objection. They advised then that the waste recycling facility is capable of being licensed under their regulatory powers. In respect of the re-profiling of the bunds SEPA advise that those changes, relative to the operational land of the waste recycling facility, are minimal. SEPA confirm that the operation of the waste recycling facility approved by planning permission 09/00617/FUL would not result in any adverse noise impact and that in respect of noise the site remains licensable under their regulatory powers.

As SEPA is the regulatory authority on matters of noise, odour, dust and air quality there is no locus for the Council, as Planning Authority, to conditionally control the use of the western part of the internal working area of the waste recycling facility as an open storage area, if approval is now to be given for that through the applied for amendment to condition 12 of planning permission 09/00617/FUL.

The relevant conditions of planning permission 09/00617/FUL in respect of noise, dust and air quality in respect of ongoing landscaping and construction works remain in place.

On these amenity considerations the re-profiling of the bunds and the changes to the buildings are consistent with Part 5 of Policy DC1 of the adopted East Lothian Local Plan 2008.

In respect of pedestrians and cyclists, the applicant still proposes to provide a length of level ground along the southern boundary of the application site in reserve for the formation of a pedestrian footpath/cycleway along that strip of ground to serve as part of the Council's Core Path network. This is not prejudiced by the re-profiling of the southeast bund. On this consideration the development remains consistent with Policy C7 of the adopted East Lothian Local Plan 2008.

Although the bunds on the development site were substantively formed within the 16 weeks set for that by the phasing controls of conditions 7 and 8 of planning permission 09/00617/FUL, they remain to be finished to the re-profiling for which planning permission is now sought and with a complete surface finish of top soil to enable the landscaping of them.

Under the separate control of condition 6 of planning permission 09/00617/FUL the landscaping of the bunds need not be completed until the end of the first planting and seeding season following the occupation of the buildings of the waste recycling facility or the completion of the development whichever is the sooner.

As explained earlier in this report works to the finishing of the bunds have been delayed due to operational issues of compaction and settlement of material, a deficiency in the amount of material available on site, the lack of availability of topsoil from off site to complete the surface finishing and to enable landscaping of the bunds and unfavourable weather conditions. The final profiling, surface finishing and landscaping of the bunds remain a work in progress.

At this time the applicant's agent informs that all of the bunds are up to their full heights. Works continue on top soiling, including the replacement of topsoil that slipped in heavy rains earlier this year. Parts of the outer faces of the bunds not yet grassed will be seeded in spring 2013. Some 20,000 cubic metres of topsoil is required to finish the top soiling of the bunds. It is confidently expected that the top soiling of the bunds can be completed by June 2013, with the proviso that this is dependent on the weather and on the availability of top soil. It is in light of this that the applicant is seeking through the determination of this application a time extension of 1 year to allow for the finishing of the bunds as an amendment to the phasing control on the development set by condition 7 and 8 of planning permission 09/00617/FUL.

The works to reshape the former Smeaton Bing into bunds, as approved by the grant of planning permission 09/00617/FUL, have lowered it in height from its highest point of some 40 metres above original ground levels to some 22 metres above those levels. The slopes of the bunds are less steep than some slopes of the bing were. The bunds appear as a much lower, less dominant and less prominent landform than the former bing. With landscaping of them they will ultimately be a less prominent, alien feature in medium to

longer views of the landscape of the area. The landform so altered is designed to allow for the visual containment of the waste recycling facility and for acoustic screening of the operation of use of it.

On the findings of the assessment of the re-profiling of the bunds given earlier in this report the bunds even as re-profiled will ultimately not be harmful to the landscape character of the area or result in a greater degree of visual intrusion than would have been the effect of them had they been finished to the form approved for them by the grant of planning permission 09/00617/FUL.

As also explained above the impact of the re-profiling of the southwest bund on the amenity of the two properties to the southwest of it is not significantly greater than it would have been had that bund been formed as approved by planning permission 09/00617/FUL, that the re-profiling of the bunds does not diminish their required capability of mitigating the impact of noise from the operation of the waste recycling facility on the neighbouring residential properties and that it does not prejudice the provision of a pedestrian footpath/cycleway along that strip of ground at the outer foot of the southeast bund to serve as part of the Council's Core Path network.

If this application is to be approved then in all of this it is reasonable to grant planning permission for an amendment to conditions 7 and 8 of planning permission 09/00617/FUL to extend the time period for the re-profiling and surface finishing of the bunds for 1 year from the date of that further grant of planning permission. This would also enable the completion of the other outstanding engineering development of the site that is the hardsurfacing of the full length of the internal site access road and of the internal working area of the waste recycling facility.

As the bunds are still to be fully re-profiled and surface finished a commencement of the landscaping of them is premature. Detailed discussions are on-going between the Council's relevant planning and landscape officers and the applicant's agent on the detailed landscaping of the development, including the bunds. Through these discussions completion of the finalised landscape proposal plans is imminent, in which case it would be reasonable to grant planning permission for an amendment to conditions 6 of planning permission 09/00617/FUL to extend the time period for the submission of the finalised landscape plans to within 2 months from the date of that further grant of planning permission. Otherwise the control of condition 6 remains that the landscaping of the bunds has to be completed by the end of the first planting and seeding season following the occupation of the buildings of the waste recycling facility or the completion of the development whichever is the sooner.

To enable the now applied for open storage use of the land of the internal working area of the waste recycling facility denoted as 'Phase 2' on the drawings docketed to planning permission 09/00617/FUL, condition 12 of that planning permission needs to be amended. The open storage use of that land would be wholly visually contained within the bunds around the internal working area and thus it would have no harmful impact on the landscape and visual amenity of the area. Since for the waste recycling facility SEPA is the licensing authority on matters of noise, odour, dust and air quality there is no locus for the Council, as Planning Authority, to conditionally control that open storage use of the internal working area of the waste recycling facility. On these considerations it is reasonable to approve an amendment to condition 12 of planning permission 09/00617/FUL to allow for such use.

RECOMMENDATION

That planning permission be granted for the re-profiling of the bunds, the changes to the buildings and the open storage use of the western part of the inner working area of the waste recycling facility and for the associated amendments to conditions 6, 7, 8 and 12.

1 Condition 6

Within two months of the date of the grant of planning permission 12/00346/PM, a detailed scheme of landscaping and planting shall be submitted to and approved in writing by the Planning Authority. The scheme shall provide details of:

- (i) the final contours of the site;
- (ii) tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting;
- (iii) details of hedgerow planting along the external side of the boundary fencing of the site, including along the fencing running between the site and the residential properties adjacent to the northeast boundary of the site, and where the fence would be visible from the public road or footpath;
- (iv) a planting of ash/oak woodland at the bottom of the bunds with the density of planting reducing up the slope, moving to oak and birch planting and then to more sporadic birch woodland towards the top of the slopes;
- (v) details of the land to be safeguarded for the provision of a pathway along the southern boundary of the site, including the surface treatment of the reserved strip of land and the maintenance arrangements for it; and
- (vi) a long-term landscape and woodland management plan for the site.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the completion of the bunds, 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. Thereafter the landscaping, tree planting and hedging shall be maintained in accordance with the approved landscape and woodland management plan for the site.

Reason:

In order to ensure the implementation and long-term maintenance of a landscaping scheme to enhance the appearance of the development in the interests of the amenity of the area and to ensure provision of a pathway for the Council's Core Path Network.

2 Condition 7

The bunds shall be completed in accordance with the re-profiling of them approved by the grant of planning permission 12/00346/PM and the full length of the internal site access road and the land of the internal working area of the waste recycling facility shall be hardsurfaced no later than one year from the date of the grant of planning permission 12/00346/PM.

Reason:

To ensure that the works approved are completed timeously, in the interests of the amenity of neighbouring residents and of the visual amenity of the area.

3 Condition 8

Unless with the prior written approval of the Planning Authority:

- (i) Noise from the site during the carrying out of works comprising phase 1 of the engineering and construction development of the application site shall not exceed 70dB(A) LAeq.1 hour when measured free field at any residential property in the locality of the site.
- (ii) Noise from the site during the carrying out of works comprising the other three phases of the engineering and construction phased development of the application site shall not exceed 55 dB(A) LAeq.1 hour when measured freefield at any residential property in the locality of the site.

(iii) No working shall take place within the site during the finishing of the bund profiles and the construction of the buildings on the application site outwith the hours of 0700 to 1900 Monday to Friday inclusive and 0800 to 1300 on Saturdays. There shall be no working whatsoever on Sundays.

(iv) There shall be no commencement of use of the application site as a waste recycling facility unless and until all of the bunding has been formed, in accordance with the bund re-profiling approved by the grant of planning permission 12/00346/PM, around the internal working area and at the site access road of the waste recycling facility.

(iv) During the period of time of 0630 to 0700 Monday to Friday inclusive the only activity on site for the operation of the waste recycling facility shall be the movement from the site of skip lorries with a skip having already been attached to them during a previous working day's permitted hours of operation of the waste recycling facility. There shall be no loading or unloading of such lorries with skips during the period of time of 0630 to 0700 Monday to Friday inclusive.

(v) Other than for (iv) above no operational working of the waste recycling facility, including vehicle movements shall take place within the site outwith the hours of 0700 to 1800 Monday to Friday inclusive and 0700 to 1300 on Saturdays. There shall be no working whatsoever on Sundays.

Reason:

In the interests of protecting the amenity of residential properties within the area.

4 Condition 12

The development hereby approved shall be used solely for the purposes of waste recycling, including the ancillary office, parking and temporary overflow storage bays.

Of the internal working area of the waste recycling facility (i.e. the part of the site enclosed by the bunds but excluding the bunded site access road), the part denoted as 15 on drawing no. ED10822-003 Revision D docketed to planning permission 12/00346/PM shall only be used for the storage of inert materials. Neither that part of the internal working area nor any part of the site outwith the internal working area shall be used for the separation, processing or recycling of waste or any other materials, nor for parking or storage of vehicles.

Reason:

To ensure that none of the operations of the waste recycling facility or use of the site is harmful to the rural character of this part of the East Lothian countryside or the Edinburgh Green Belt.

5 Within one month of the date of this grant of planning permission, 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 1:500, giving:

- a. the position within the application site of all elements of the proposed development and position of adjoining land and buildings;
- b. finished ground and floor levels of the development relative to existing ground levels of the site and of adjoining land and building(s), including the bunds to be formed as part of the development. 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 buildings shown in relation to the finished ground levels and the height of the bunds 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.

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 6 November 2012
BY: Executive Director (Services for Communities)
SUBJECT: Application for Planning Permission for Consideration

2

Note: this application was called off the Scheme of Delegation List by Councillor Goodfellow for the following reason: the large number of objections received concerning this RETROSPECTIVE application indicate that this should be heard by a full Planning Committee

Application No. **12/00410/P**

Proposal Alterations to building, formation of hardstanding, bin store/maitre d station, installation of awnings and erection of gate (Retrospective)

Location **Former Coastguard Station
26 Victoria Road
North Berwick
East Lothian
EH39 4JL**

Applicant Harbour House Hotel Ltd

Per Somner Macdonald Architects

Ward 5

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

The building and land of the former coastguard station are on the east side of Victoria Road, close to the junction of Victoria Road with Melbourne Road. The building is detached and is single storey in height. A narrow strip of land surrounds it on each of its four sides. That area of land is enclosed by a rubble stone wall and on the opposite sides of the wall is a footpath. A pedestrian gate in the length of wall on the west boundary provides access to the property from the adjacent length of footpath. That length of footpath is accessed from the adjacent part of the public road of Victoria Road.

The property is bounded to the south and east by part of an area of public open space known as Anchor Green. On the part of Anchor Green to the south is a memorial cross. To the north is the scheduled monument of St Andrews Church, including the Category B listed Old Parish Church Porch. Also to the north are residential properties, the

harbourmasters office and the buildings of the Scottish Seabird Centre. To the west is the public road of Victoria Road, beyond which are residential properties.

The application site is in a mixed use area as defined by Policy ENV2 of the adopted East Lothian Local Plan 2008. It is also within North Berwick Conservation Area.

On 11 January 2012 planning permission (ref.11/00064/P) was granted for; (i) the change of use of the former coastguard station building to use as a restaurant and takeaway with an external decked seating area, (ii) the installation of vents and a flue on the building, and (iii) the addition of a bin store onto the north elevation wall of the building. The use of the building as a restaurant and takeaway that is named 'The Rocketeer' has commenced therefore, planning permission 11/00064/P has been implemented.

Planning permission is now retrospectively sought for; (i) alterations that have been made to the building, (ii) the formation of hardstanding, (iii) the erection of a bin store/maitre d station, and (iv) the installation of awnings and the erection of a gate.

The alterations and additions made to the building comprise; (i) the addition of a painted timber bin store and maitre d station onto the west elevation wall of the building, (ii) the installation of a rectangular aluminium vent grille in west elevation wall of the building, (iii) the removal of the white rendered finish of the north and south elevation walls of the building and the cleaning of the resultantly exposed stonework of those elevation walls, (iv) the re-rendering of the east elevation wall of the building with a buff/brown coloured render, (v) the provision of a circular glass window in the entrance door in the south elevation wall of the building, (vi) the installation of two wall mounted lights (Type B), one to each side of the entrance door in the south elevation wall of the building, (vii) the installation of two wall mounted lights (Type A) on each of the north, east and south elevation walls of the building, (viii) the installation of two wall mounted heaters with associated wiring boxes on each of the north, east and south elevation walls of the building, (ix) the installation of a retractable awning on each of the south and east elevation walls of the building, and (x) the installation of a dark green coloured gas meter housing cabinet in a position low down on the north elevation wall of the building.

The hardstanding has been formed around the building; between the building and the rubble stone boundary wall. It is surfaced with Indian sandstone slabs.

The gate that has been erected across the pedestrian entrance in the west boundary wall is of a black painted metal open railing type, some 1 metre wide and 1.3 metres high.

In a statement submitted with the application it is explained that having obtained planning permission (ref.11/00064/P) for the change of use of the former coastguard station building to use as a restaurant and takeaway with an external decked seating area and for the associated external alterations and additions to the building to facilitate such use of it, the applicant "has since developed and thought through all of his detailed requirements for the successful operation of the servery and takeaway and now seeks planning permission for these in this application".

The explanations given in the statement are that; (i) the stone paving slabs that have been used to surface the hardstanding provide a more appropriate, durable and hygienic design solution for the surface of the external seating area compared with the timber decking previously proposed and approved, (ii) the wall mounted lights are discreet and visually unobtrusive, and enhance the environment for customers, (iii) given the exposed nature of the site the wall heaters enhance the environment for customers and they will only be in place during the opening season of the business, (iv) given the exposed nature of the site the retractable awnings on the south and east elevation walls enhance the environment for

customers and will only be in place during the opening season of the business, (v) the requirement for storage of waste and separation of that waste requires a larger bin storage area than is approved by the grant of planning permission 11/00064/P, (vi) the nature of the proposed operation of the business requires an external maitre d station which has been designed to be similar to the bin store that it is adjacent to, (vii) the new circular glass window in the entrance door on the south elevation of the building is required for safety purposes, (viii) the installation of the gas meter housing is a requirement of gas safety regulations.

In the statement it is also said that it is the intention of the applicant to extend the opening season of the restaurant and takeaway to include the month of April. Condition 3 of planning permission 11/00064/P places restrictions on the days and hours of operation of the business but not on the months of the year that it can be operated. Therefore, such extension of the opening season of the restaurant and takeaway does not require any further planning permission, and it is not, therefore, the subject of this application.

Through separate application 12/00522/ADV advertisement consent is retrospectively sought for two non-illuminated timber panel signs that are being displayed on the building; one on the south elevation wall and the other on the east elevation wall. A separate report on application 12/00522/ADV 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 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), ENV7 (Scheduled Monuments and Archaeological Sites), DP2 (Design) and DP6 (Extensions & 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 Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Scottish Government's policy on development within a conservation area 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.

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 conservation area should be appropriate to the character of the conservation area.

Also material to the determination of the application are Scottish Historic Environment Policy: December 2011 and Scottish Planning Policy: February 2010 with regard to development on or within the setting of a scheduled monument.

It is stated in the Scottish Historic Environment Policy: December 2011 and Scottish Planning Policy: February 2010 that scheduled monuments are of national importance and that they should be preserved in situ and within an appropriate setting. Where works requiring planning permission would affect a scheduled monument, the protection of the monument and its setting are material considerations in the determination of whether or not planning permission should be granted for the proposed development.

With regard to archaeological sites and monuments Scottish Planning Policy states that they 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 2/2011: Planning and Archaeology similarly advises.

A total of 13 public representations to the application have been received. All of those representations raise objections to the application. The grounds of objection as summarised are that:

1. all of the alterations and additions the subject of the application have been carried out without first gaining the requisite planning permission and they disregard conditions set in the grant of planning permission 11/00064/P;
2. the character of the former coastguard station building has changed by its use as a restaurant and takeaway;
3. the alterations and additions to the building are out of keeping with the Conservation Area;
4. the olive green paint colour used on the bin store, maitre d station and door of the building is not in keeping with the harbour area;
5. the building is an eyesore as a result of the alterations and additions that have been carried out to it and is not in keeping with the character of the Conservation Area and setting and is harmful to the setting of the Category B listed Old Parish Church Porch and the scheduled ancient monument of St Andrews Church;
6. the changes that have been carried out to the building very much detract from the simplicity, purity and integrity of the building and the multiplicity of jarring colours creates disharmony on the building;
7. litter from the restaurant and takeaway use will detract from the attractiveness of the area;

8. the applicant had been asked not to proceed any further with the changes and additions to the building but ignored this request and continued to complete the development works, which makes a mockery of the planning process;

9. all of the alterations and additions the subject of the application are inappropriate and out of keeping with the building and area and make this iconic building resemble something out of 'Legoland';

10. signage is being displayed on the building that is not the subject of the application for advertisement consent;

11. the former surface finish between the building and the boundary walls surrounding it should be reinstated and the casings for the awnings should be painted a non-reflective dark grey colour and the metal grill of the west elevation wall should be painted black or a colour to match the stone of that elevation wall;

12. the new pointing of the stone of the north, west and south elevation walls should be re-done in lime based mortar with coloured sand and recessed joints;

13. the awnings by their size, form and colour are not in keeping with the building;

14. the opening times have been extended;

15. the stone paving is inappropriate in such an important site;

16. the position of the bin store and maitre d station is detrimental to the amenity of the neighbouring houses to the west;

17. the circular window in the door of the south elevation is completely out of character;

18. the removal of the harling on two of the walls of the building now means that the building is out of character with the adjacent listed church porch;

19. the development is not set in context with an overall plan for the harbour area and is not in keeping with the North Berwick 2015 Town Plan;

20. the development is not consistent with Policy ENV1A of the approved Edinburgh and the Lothians Structure Plan 2015;

21. the development causes annoyance to neighbouring properties and people;

22. the design statement does not address or advance any justification for the development to this building within the Conservation Area;

23. the clutter of unauthorised additions are entirely inappropriate for this historic and high profile building that is immediately adjacent to an ancient monument and is within a Conservation Area and are harmful to that ancient monument and Conservation Area; and

24. the new metal gate is not in keeping with the style of doors of the neighbouring Category B listed church porch.

Planning permission 11/00064/P approves the use of the building and surrounding ground as a restaurant and takeaway. In the determination of this application that approval is not for re-consideration. In the determination of this application the considerations must be restricted to those of the merits or otherwise of the alterations and works that have been

carried out at this property beyond those which were also approved by the grant of planning permission 11/00064/P.

Control of litter is already set by Condition 7 of the grant of planning permission 11/00064/P.

The grounds of objection concerning the use of the building and litter control are not material planning considerations in the determination of this application for planning permission.

The signage being displayed on the building is the subject of separate advertisement consent application 12/00522/ADV, which is at this time reported on the Committee Expedited List and of advertisement consent application 12/00737/ADV which at this time is not yet registered but in time will be brought to a separate determination.

In response to one of the grounds of objection to the application clarification is hereby given that the application site is not within a Natura 2000 area and therefore Policy ENV1A of the approved Edinburgh and the Lothians Structure Plan 2015 is not relevant to the determination of this application for planning permission.

North Berwick Community Council as a statutory consultee state that at their public meeting on Tuesday, 7th August 2012 no objections were raised to this planning application.

Historic Scotland have no comment to make on the application.

Whilst in the statement submitted with this application it is said that after planning permission 11/00064/P had been granted the applicant had thought through all of his detailed requirements for the successful operation of the servery and takeaway, the fact of the matter is that, without any discussion with the Council's development management service he went beyond that and proceeded to carry out the alterations and other works for which planning permission is now retrospectively sought.

It was due to the development management service's receipt of public complaints about these unauthorised alterations and other works that an enforcement investigation was undertaken through which the applicant was clearly informed of how the unauthorised alterations and other works were a breach of planning control. At that time he was also advised of concerns the development management service had over particular elements of the unauthorised alterations and other works and that because of this he should stop what he was doing to enable discussion to take place.

All that did thereafter happen was the applicant's submission to the Council of this retrospective application.

Notwithstanding the circumstances of this case and the retrospective nature of it, this application has to be determined on its merits or otherwise with due regard to the relevant policies of the development plan and other material considerations.

The hardstanding that has been formed on the narrow strips of ground between the external walls of the building of "The Rocketeer" and the rubble stone boundary wall that encloses those strips of ground are surfaced with Indian sandstone slabs, instead of the timber decking approved by the grant of planning permission 11/00064/P. In its enclosed positions at ground level on the narrow strips of ground the sandstone slabs of the hardstanding are not readily visible in public views of the property from Victoria Road to the west, from the north and from Anchor Green to the south and east. There are limited views

of it from the footpath that surrounds the stone boundary wall. However, in those public views of it the sandstone slabs of the hardstanding are seen in the context of the predominantly stone finish of the building and of the stone boundary wall. In this context the sandstone slabs harmonise with the building and the stone boundary wall in a manner acceptable to its place and consequently they do not appear as a harmfully intrusive and incongruous feature in its setting.

The 1.3 metres high black painted open railing type metal gate erected across the pedestrian entrance in the west boundary wall of the property is readily visible in public views from Victoria Road. However, in its position it is seen in the context of its association with the existing building and stone wall. Moreover, it is not dissimilar in its height, style, form, materials and colouring to metal railings that can be seen in the streetscape of Victoria Road. Thus, the metal gate, by virtue of its position, height, style, form, materials and colouring, is not inappropriate to its location and does not appear as a harmfully intrusive and incongruous feature in its setting.

At the time of the grant of planning permission 11/00064/P the north, east and south elevation walls of the building were finished with white render and the west elevation wall was of natural stone. The white render has been stripped from the north and south elevation walls to reveal the original stonework of them and that stonework has been repaired. Consequently the original form, character and appearance of those walls is restored, so as to match the form, character and appearance of the west elevation wall. This is an enhancement to the architectural character and appearance of the building. A characteristic of the wider area are the stone and rendered finishes of the existing buildings and the variety of colours of the rendered finishes, including white, buff, green, pink, blue and cream. In all of this context, the re-rendering of the east elevation of the building and the new buff/brown colour of it are appropriate to the character and appearance of the building. It does not cause the building to appear as a harmfully intrusive and incongruous feature in its setting.

Through the grant of planning permission 11/00064/P approval was granted for the installation of a small circular flue vent on the west elevation wall of the building. Instead, a rectangular aluminium vent grille has been installed in that position. The vent is visible from Victoria Road. However, it is small in size and flush fitted. If coloured to match as closely as possible the stone of the west elevation wall it is on, it will not appear as a harmfully obtrusive addition to the building. This planning control can be secured through a condition attached to the grant of planning permission. Subject to such planning control, the vent would be a sympathetic addition to the building that would not be harmful to the character and appearance of it and would not cause the building to appear as a harmfully intrusive and incongruous feature in its setting.

The bin store that is attached to the west elevation wall of the building measures some 3.6 metres wide and is some 1.0 metre in height. It projects some 400mm away from that elevation wall. Attached to its southern end is a maitre d station, which measures some 1.2 metres wide and is some 2 metres in height. The lower half of the maitre d station also projects some 400mm away from that elevation wall. Its upper half projects some 150mm away from that elevation wall. Together the bin store and maitre d station extend along the full width of the west elevation wall of the building. They each have a lean-to form with a shallow mono-pitched roof, and are of timber vertical boarded construction. The timber cladding of them is painted olive green and their mono-pitched roofs are clad with a grey Sarnafil roof cladding.

By their limited size and height and in their form and positioning the bin store and maitre d station are reflective of an architectural association of a small, ancillary outbuilding attached to a larger building that is a historic feature of older parts of towns and villages in

East Lothian. Only the upper part of the bin store and the maitre d station and their roofs are readily visible above the stone boundary wall of the property in public views from Victoria Road and parts of Anchor Green. The olive green colour of the timber parts of the bin store and maitre d station contrasts harmoniously with the colour of the stone work of the building and of the rendered east elevation wall of the building and their grey Sarnafil roof cladding has the traditional appearance of lead cladding. By their small size, scale, form and proportion the bin store and maitre d station are subservient additions to the building and are not out of keeping with its architectural form, character and appearance. As sympathetic additions to the building they are appropriate to their surroundings and do not cause the building to appear as a harmfully intrusive and incongruous feature in its setting.

The timber door of the south elevation wall of the building has been painted the same olive green colour as the timber cladding of the bin store and maitre d station. Into the upper third of that door a small circular window with a diameter of 300mm is fitted. On each side of the door an external wall light (Type B) is installed. Each of the lights has a polished nickel and glass finish and is positioned on the wall some 1.8 metres above ground level. In addition, two external wall lights (Type A) have been installed on each of the north, south and east elevation walls of the building at a height of some 850mm above ground level. Each of these external wall lights is small and round with a diameter of 22cms, and they have a stainless steel and glass finish.

The paint colour of the door matches that of the bin store and maitre d station and, therefore, also contrasts harmoniously with the colour of the stone work of the building and of the rendered east elevation wall of the building. The small circular window of the door does not detract from the form and character of the door. The lights are all small in size and have a lightweight form and appearance and are not harmfully obtrusive additions to the building. Due to them being no higher on the north, south and east elevation walls of the building than some 850mm above ground level, the small circular lights are not readily visible from Victoria Road or elsewhere within the locality due to the 1.2 metres height of the stone boundary wall of the property. In the limited views of them they do not appear as harmfully obtrusive additions to the building and combined with the two (Type B) lights they do not give the building a cluttered appearance. The paint colour applied to the door, the circular window of the door, the two Type B lights and the six Type A lights are not unsympathetic additions to the building. They are not harmful to the character and appearance of the building and do not cause the building to appear as a harmfully intrusive and incongruous feature in its setting.

The gas meter housing attached to part of the north elevation wall of the building is small in size and is positioned at the base of part of that elevation wall. It is not readily visible from Victoria Road or elsewhere within the locality due to the 1.2 metres height of the stone boundary wall of the property. In the limited views of it the gas meter housing does not appear as a harmfully obtrusive addition to the building and combined with the bin store and maitre d station, aluminium vent grille and lights it does not give the building a cluttered appearance. It is not harmful to the character and appearance of the building and it does not cause the building to appear as a harmfully intrusive and incongruous feature in its setting.

In that they are sympathetic to their place the hardstanding area, metal gate, the altered finishes to the building, the rectangular aluminium vent grille, the bin store and maitre d station, the painting of the timber door and the circular window of the door, the two external wall Type B lights and the six external wall Type A lights, and the gas meter housing are not harmful to the character and appearance of the Conservation Area; neither are they harmful to the setting of the scheduled monument of St Andrews Church and the Category B listed Old Parish Church Porch.

They are consistent with Policies ENV1C, ENV1D and ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015, Policies ENV3, ENV4, ENV7, DP2 and DP6 of the adopted East Lothian Local Plan 2008, Scottish Planning Policy: February 2010 and the Scottish Historic Environment Policy: December 2011.

Due to its small size and its positioning on the west elevation of the existing building the proposed bin store and maitre d station do not result in a change to the existing impact of the building on daylight and sunlight received by the residential properties to the north and west.

On this consideration of overshadowing the bin store and maitre d station are consistent with Policies DP2 and DP6 of the adopted East Lothian Local Plan 2008.

The Council's Environmental Protection Manager has no comments to make on the application.

The two wall mounted heaters installed on each of the north, south and east elevation walls of the building (6 heaters in total) each measure 480mm (wide) by 120mm (high) by 120mm (thick). The wiring box of each of the heaters measures some 100mm (wide) by 100mm (high) by 60mm (thick). The heaters and their wiring boxes are coloured black. They are each positioned high up on the building, some 2.2 metres above ground level.

The retractable awning added to the south elevation wall of the building measures some 5.4 metres in width and the one added to the east elevation wall measures some 4.4 metres in width. Respectively, each retractable awning extends across the majority of the elevation wall it is on. When fully opened the south elevation awning projects some 2.0 metres out from the building and the east elevation awning projects some 2.5 metres out from the building. The plastic box housing of each of the two awnings is coloured white and the brackets of the housings are coloured black. The fabric of the awnings is coloured in blue and white stripes.

The applicant's agent advises in an email that the intention of the applicant is to have the wall heaters, wiring boxes, awnings and respective brackets removed outwith the operating season for the restaurant and takeaway.

As is stated earlier in this report there is no planning control over the months of opening of the approved restaurant and take-away of "The Rocketeer". Therefore, there is no planning control in respect of an operating season for the restaurant and takeaway.

"The Rocketeer" occupies a prominent position in the streetscape on the west side of Victoria Road and close to the junction of Victoria Road with Melbourne Road. The building is of a simple rectangular form and is of a traditional vernacular design that contributes to the special character and appearance of the Conservation Area and the setting of Anchor Green and of the scheduled monument of St Andrews Church and the Category B listed Old Parish Church Porch. At their height and by their size and distinctive form and colouring the wall heaters and their wiring boxes are readily visible on the building. So too are the plastic box housings of the retractable awnings.

They are readily visible in views from Victoria Road to the west, from Anchor Green, and from Melbourne Road to the south of Anchor Green. Due to their modern utilitarian form, size, colouring and prominence the wall heaters, wiring boxes, awning housings and their respective brackets do not respect the historic architectural character and appearance of building. They are each harmfully obtrusive additions to the building and together give a cluttered appearance to the building. In the case of the awnings the harmful affect of them is even more pronounced when they are extended out from their housings. Consequently

the wall heaters, wiring boxes, awning housings, awnings and respective brackets cause the building to appear intrusive and incongruous within its setting and cause the building to have a harmful affect on the character and appearance of the Conservation Area and the setting of Anchor Green and of the scheduled monument of St Andrews Church and the Category B listed Old Parish Church Porch.

On these considerations the wall heaters, wiring boxes, awning housings, awnings and respective brackets are all contrary to Policies ENV1C, ENV1D and ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015, Policies ENV3, ENV4, ENV7, DP2 and DP6 of the adopted East Lothian Local Plan 2008, Scottish Planning Policy: February 2010 and the Scottish Historic Environment Policy: December 2011.

Because of this it should be made a condition of the grant of planning permission for the other elements of development included in this retrospective application that planning permission is not granted for the wall heaters, wiring boxes, awning housings, awnings and respective brackets.

If the wall heaters, wiring boxes, awning housings, awnings and respective brackets are not all removed permanently from the building within 1 month of the date of the decision notice for this application then enforcement action will be taken to secure the removal of the unauthorised wall heaters, wiring boxes, awning housings, awnings and respective brackets, with the period for compliance with the enforcement notice being one month.

CONDITIONS:

- 1 Within one month from the date of this grant of planning permission, the rectangular aluminium vent of the west elevation wall of the building shall be painted a red/brown colour to match the red/brown colour of the existing stonework of the west elevation wall of the building.

Reason:

To safeguard the character and appearance of the building, the character and appearance of the Conservation Area and the setting of the scheduled monument of St Andrews Church and the Category B listed Old Parish Church Porch.

- 2 Planning permission is not hereby granted for the wall heaters, wiring boxes, awning housings, awnings and respective brackets the subject of application 12/00410/P.

Reason:

The wall heaters, wiring boxes, awning housings, awnings and respective brackets are each harmfully obtrusive additions to the building that give a cluttered affect to the building all harmful to its architectural character and appearance and as such cause the building to appear intrusive and incongruous within its setting and cause the building to have a harmful affect on the character and appearance of the Conservation Area and the setting of Anchor Green and of the scheduled monument of St Andrews Church and the Category B listed Old Parish Church Porch. Accordingly, the wall heaters, wiring boxes, awning housings, awnings and respective brackets are all contrary to Policies ENV1C, ENV1D and ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015, Policies ENV3, ENV4, ENV7, DP2 and DP6 of the adopted East Lothian Local Plan 2008, Scottish Planning Policy: February 2010 and the Scottish Historic Environment Policy: December 2011.

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)