



**MINUTES OF THE MEETING OF THE
PLANNING COMMITTEE**

**TUESDAY 6 NOVEMBER 2012
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Committee Members Present:

Councillor N Hampshire (Convener)
Councillor L Broun-Lindsay
Councillor T Day
Councillor A Forrest
Councillor J Gillies
Councillor J Goodfellow
Councillor D Grant
Councillor P MacKenzie
Councillor J McMillan
Councillor J McNeil
Councillor J Williamson

Council Officials Present:

Mr R Jennings, Head of Housing and Environment
Mr B Stalker, Development Management Manager
Ms M Ferguson, Corporate Legal Adviser
Mr F Mackay, Environmental Protection Manager
Ms C Molloy, Senior Solicitor
Ms S Greaves, Planner
Mr I McFarlane, Senior Planning Officer
Mr R Sinclair, Communications Officer

Clerk:

Ms A Smith

Visitors Present:

Item 1 – Mr N Sutherland, Mr B Scott
Item 2 – Mr S Stewart, Mr D Stephenson

Apologies:

Councillor D Berry
Councillor W Innes
Councillor P McLennan
Councillor T Trotter
Councillor M Veitch

1. PLANNING APPLICATION NO. 12/00346/PM: 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 AT SMEATON BING, CARBERRY

A report on the application for planning permission had been submitted. The Development Management Manager, Brian Stalker, summarised the key points of the report.

Mr Stalker responded to questions from Members on various aspects of the application including visibility of the buildings onsite, bund stabilisation and the inappropriateness of ash trees being included in the landscaping of the bunds.

Mr Sutherland of Wardell Armstrong, agents for Hamilton Waste and Recycling, addressed the Committee. He informed Members that the Hamilton family had invested considerable finance into Smeaton Bing and still had a significant amount to invest. It was appreciated that the local community was keen to see completion of the bunds; his client also had the same aim. The main issue to date had been the adverse weather, which had hampered work to the finishing of the bunds. He provided detail of the works still to be carried out, advising that almost the entire bund had now been seeded. The proposed changes to the buildings on site were to ensure a more efficient configuration. The Hamilton family's aim was to create a state of the art facility in East Lothian. An extension of a year was requested, but his client was confident that work would be completed by late summer as the intention was to have the main sorting shed operational by then.

Mr Scott of Crossgatehall spoke against the application. He informed the Committee that his property was adjacent to the southwest bund. He outlined his concerns: usage of the zone 2 area needed clarified; gradients on the southwest bund were too steep; works had been ongoing for 2 years as opposed to 16 weeks as originally stated; the external side of the southwest bund was too close to the road; omission of retaining walling; construction work carried out by Hamilton's employees not contractors and working practices did not adhere to conditions previously set. The nearest bund would be 1½ times higher than his house and his windows would look directly onto it. He stated that the bunds had been constructed in the wrong position from the very start, 2 years ago. He stated that the applicant had shown no consideration to residents.

Mr Stalker clarified aspects of the application, made reference to planning regulations in relation to a number of the points raised by Mr Scott and alluded to the wet weather of the past year as a contributor to delays in the completion and landscaping of the bunds.

Local Member Councillor Forrest referred to Mr Scott's comments about the work to construct the bunds taking longer than the 16 weeks originally programmed, but stated, as alluded to by Mr Sutherland, that the weather had been atrocious. He had been to the site on numerous occasions and had asked Planning Officers for advice on issues raised by constituents. Previously the bing had been an eyesore; it looked much better now and blended in with the landscape. Inside the site there was now a very good work area. With regard to the road into the site he had initially had concerns but felt now, the way the bunds had been constructed, that there was an improvement. He would be supporting the report recommendation.

Councillor McNeil referred to the site visit, remarking that it was evident that noise reduction measures had been carried out. He made reference to the delay to works due to the weather. He also had a concern about ash trees, as already highlighted. He referred to the burn close to the objector's house and presumed that the necessary precautions regarding possible flooding had been taken. In relation to the A68 road, past the objector's house, he felt that the pavement, cycle path, trees, etc., would greatly improve this area. He would be supporting the application.

Councillor Grant expressed sympathy with the concerns highlighted by the objector. However, for the reasons stated in the report, he was prepared to give the applicant the opportunity to complete the works. He would be supporting the report recommendation.

The Convener brought the discussion to a close. He referred to the substantial amount of work done to create the waste recycling facility and to the huge improvement of the site. He remarked that the western bund was very steep and there seemed to be no drainage. He stressed that the continued disturbance to people living nearby needed to be minimal. He asked Mr Stalker about a change to Condition 6 to remove the recommended requirement for the planting of ash trees, as discussed earlier. Mr Stalker advised that Condition 6 (iv) could be amended to read "a planting of deciduous woodland, including oak...". The Convener indicated that he would be supporting the recommendation to grant planning permission as set out in the report, with the rewording to Condition 6 (iv) as outlined, and moved that this be put to the vote.

Decision

The recommendation that planning permission should be granted was put to the vote and received **11 votes for** and **no votes against**; there were no abstentions. The Committee agreed to grant planning permission subject to the following conditions:

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 deciduous woodland, including oak, 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 banded 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.

2. PLANNING APPLICATION NO. 12/00410/P: ALTERATIONS TO BUILDING, FORMATION OF HARDSTANDING, BIN STORE/MAITRE D STATION, INSTALLATION OF AWNINGS AND ERECTION OF GATE (RETROSPECTIVE) AT FORMER COASTGUARD STATION, 26 VICTORIA ROAD, NORTH BERWICK

A report on the application for planning permission had been submitted. Mr Stalker summarised the key points of the report.

Mr Stewart, the applicant, addressed the Committee. He apologised for the retrospective application. He stated that the original application had taken 13 months to determine, permission had been granted in January 2012. At that time the building was barely wind and watertight; the intention was to open in May 2012 so a huge amount of work was required. He gave details of the alterations and additions made to the building, stating that the only other option would have been to suspend work and not open The Rocketeer until 2013. He pointed out that North Berwick Community Council, Historic Scotland and North Berwick Harbour Trust had not objected. He stressed that without some form of outdoor heating the business was not viable. The Rocketeer had created employment for a number of local people. It attracted visitors to North Berwick/East Lothian, there had been 10,000 customers in the first season; tourism was a major part of the local economy. The colour of the awnings matched those of the lifeboat station and was the same as many awnings on the High Street. Both awnings and heaters would be removed in the winter months. Regarding the discussion around other options he stated that having operated the business for one season any changes would be significant. He asked the Committee to approve all parts of the application.

Mr Stewart answered questions from Members regarding a number of aspects of the application, including the colour of the wall heaters and location of junction boxes.

Mr Stephenson spoke against the application on behalf of the North Berwick Harbour Resident's Association. In the Association's view the applicant had taken advantage of the original grant of planning permission in relation to alterations to the former Coastguard Station. The applicant had previously given assurances that he recognised this to be an iconic site and, in addition, the owner of the building had written to the Association confirming that the exterior look of the building would not change. After the original planning application had been granted, the applicant had embarked on a series of works, clearly in breach of planning controls. Despite being instructed to stop he had not and then made a retrospective application; he had made a mockery of the planning system. Mr Stephenson drew attention to the works carried out. He indicated that the Association had two main objections; the installation of wall heaters and wiring boxes and the installation of the awnings and awning housings. These were intrusive and did not reflect the historic nature of the area. The Association supported the Planning Officer's second recommended condition. It was hoped the building would be restored to a condition that correctly reflected its character in this Conservation Area.

Local Member Councillor Goodfellow referred to the original application, which had been extremely contentious, to the number of objectors, including the Community Council, and to the decision taken by the Committee to grant planning permission. He remarked that Members may have been persuaded by the employment and economic benefits outlined by the applicant. Members may also have been persuaded by the applicant's statement that, as a North Berwick resident, he knew the importance of preserving the town's heritage. Nonetheless, to give Mr Stewart credit, he had transformed a semi-derelict building into a thriving business. However, he had ignored conditions set in the grant of planning permission, including the stipulation that no freestanding canopies should be installed, despite six separate visits by Planning Enforcement Officers. As a result of the applicant's intransigence this was one of three retrospective applications. He agreed with the officials; the wall heaters, wiring boxes and awnings gave a cluttered affect and were intrusive and harmful to Anchor Green and St Andrews Church. He would be supporting the officer's recommendation and urged other Members to also do so.

Local Member Councillor Day commented that the applicant was well aware of the planning conditions applicable to the original permission but had decided to go ahead with the works anyway. This was a textbook example of "planning creep". However, this application had to be considered on its merits. The applicant ran a number of highly successful operations, providing jobs and contributing to the local economy. The Rocketeer was a success and brought people to the area. The economic argument had, however, to be balanced against other factors. Whilst he supported most of the various changes he could not support the retention of the awnings and heaters; he appreciated they may be viable to the ongoing success of the business. He would be supporting the officer's recommendation.

Councillor McNeil made reference to the applicant's entrepreneurial projects in North Berwick. He had visited the site on Saturday with Councillor Grant; the Seabird Centre was a huge attraction to North Berwick/East Lothian, there was also Victorian style amusement facilities and now The Rocketeer. He remarked that many Members would like to have the facilities North Berwick had in their towns. He understood that Mr Stewart had been told that he did not have permission for the works but had gone ahead anyway. He pointed out that Historic Scotland had not objected. He noted that

only 13 objections had been made to this application. He asked Mr Stalker to clarify if the colour of the awning housings could be changed to the same colour as the walls.

Mr Stalker advised that even if the colour of the housings was changed to a more subdued colour the building was never designed to have long linear awning housings attached to it; it was an old historic building. A change of colour might mitigate the effect of these to some extent but they would still be incongruous on this building.

The Convener referred to the number of historic buildings lying derelict across East Lothian, many not converted into modern use as no-one was prepared to make the necessary investment. In relation to the application site, a private investor had the foresight to see the potential in this derelict building; it was a fantastic achievement, there had been substantial investment and the business was a huge success. It was very difficult as a local authority to reject this and potentially close the business. He accepted that the awning housings did not blend in; if possible, their colour could be changed so they did blend in. He remarked that as a councillor for Dunbar a facility like this in the town would be a huge asset to Dunbar. He commented that there had been constraints in the past regarding investment in East Lothian; the planning process had not been particularly supportive. There was a chance here to do something positive; restoration of an historic building into modern use, to the benefit of the local economy. He asked the Committee to support the application, along with approval for the awning housings and wall heaters, with a change of colour so they blended in to the surroundings. He would be putting this forward as a counter position to the report recommendation.

Councillor Broun-Lindsay stated that he disagreed fundamentally with the Convener. He applauded what had been achieved at The Rocketeer however, if the Committee accepted the basis for the Convener's argument, the Council would have virtually no planning controls in East Lothian as it would always be possible for an applicant to come forward and say that if Members did not accept particular alterations/additions that the business would not work. Even if the colour of the awning housings was changed they would still be sufficiently incongruous and harmful to that building and surroundings to be detrimental to an unacceptable degree. He did not think the Planners were obdurate and he did think that the applicant would be able to find other solutions. He supported the officer's recommendation as it stood.

Councillor McMillan remarked that he had not wanted to repeat the economic argument however, as Cabinet Spokesperson for Economic Development and Tourism, he felt compelled. He stated that in addition to the economic benefits that The Rocketeer had brought to North Berwick it had also added a sense of fun to the area, along with the Seabird Centre and Victorian style amusements. He gave consideration to the Convener's amendment. The applicant, Planners and residents must be able to find a way forward; there were wider issues to be considered.

Councillor Grant made reference to the original, contentious, application in January. He referred to his visit to the site on Saturday when he had been quite pleased to see the state of the building; the refurbishment had been very good. The awnings had, that day, been in a closed position, which he had not thought a problem however, looking at the photographs shown by the objectors; the awnings were obtrusive when open. He would, on reflection, be supporting the officer's recommendation.

The Convener stated there were two positions before the Committee, the recommendation in the report and his counter position to grant planning permission, including permission for the awnings and wall heaters, along with a condition that the awning housings should be painted to match the building and should be removed

outwith the operating season; seconded by Councillor McMillan. Mr Stalker advised that there was nothing in the grant of planning permission given in January that set an operating season so if such a restriction was going to be set it had to be in the same context and would have to be more prescriptive. The Convener clarified with the applicant the months that the business would be closed and moved that his suggested condition to his counter position should specifically include for the removal of the awning housings from the end of October to the first week in April. He asked Members to vote, firstly on his amendment.

The amendment proposed by the Convener was put to the vote and received **5 votes for** and **6 votes against**, with no abstentions. The amendment therefore fell.

The recommendation to grant planning permission as set out in the report was then put to the vote.

Decision

The recommendation that planning permission should be granted was put to the vote and received **7 votes for, 3 votes against**; there was **1 abstention**. The Committee agreed to grant planning permission subject to the following 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.

Signed

Councillor Norman Hampshire
Convener of the Planning Committee