

REPORT TO: Planning Committee

MEETING DATE: Tuesday 5 February 2013

BY: Executive Director (Services for Communities)

SUBJECT: Application for Planning Permission for Consideration

Note: this application was called off the Scheme of Delegation List by Councillor Berry for the following reasons: this revision of a previous application required a site visit that was prompted by multiple objections from neighbours and the Community Council. The issue of safety of vehicle exit remains unresolved.

Application No. **12/00728/P**

Proposal Erection of 16 flats and associated works

Location **5-17 Station Hill**
North Berwick
East Lothian
EH39 4AN

Applicant Bass Rock Partnership

Per Somner Macdonald Architects

Ward 5

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

The site that is the subject of this planning application is that of the Bass Rock Garage on Station Hill, North Berwick. It has a broadly L-shaped footprint and has an area of some 0.13 hectares. The site consists of a showroom, workshops and offices, and a sales forecourt. The site is on the western edge of the mixed use area of North Berwick Town Centre as defined by Policy ENV2 of the adopted east Lothian Local Plan 2008. It is also within the North Berwick Conservation Area. Vehicular access to the site is taken from Station Hill at a point opposite the junction of West Bay Road and Station Hill.

The site is bounded to the northwest by properties that front onto Station Hill and which are in retail and other business use and also to the north by a length of the public road of Station Hill. The site is bounded to the east by the Folly Hotel, and to the south by a steep embankment. On top of the embankment, some 16 metres to the south of the application site at its nearest point, are the Craigleith View retirement flats. To the west of the site, on top of a steep embankment, is the residential flatted building of the Royal Apartments.

In September 2011 conservation area consent (Ref: 09/00006/CAC) was granted for the demolition of the garage building.

Also in September 2011 planning permission (Ref: 09/00006/FUL) was granted for the erection on the site of two, three storey flatted buildings containing a total of 16 flats and the carrying out of associated works, all as a replacement for the existing Bass Rock Garage. As approved, one of the flatted buildings would be located on the front (north) part of the site and other on the rear (southwest) part of the site.

No start has been made to that approved scheme of development. Planning permission 09/00006/FUL nonetheless remains extant until the 27 September 2014.

Planning permission is now sought for a revised proposal consisting of the erection on the site of one flatted building containing a total of 16 flats and the carrying out of associated works, all as a replacement for the existing Bass Rock Garage.

The proposed flatted building would be principally positioned on the front (northern) part of the site. It would be three storeys in height with the third floor of accommodation being largely contained within the roofspace of the building. It would have a broadly T-shaped footprint and its front elevation would face northwards, towards the public road of Station Hill. The front (northern) component of the building would occupy the full length of the frontage of the site such that the east and west ends of it would respectively adjoin the Folly Hotel to the east and the shop that is immediately to the northwest of the site. A ground floor pend would be formed through the building in order to provide vehicular and pedestrian access from the public road of Station Hill into the rear part of the site. The rear (southern) component of the building would be supported by 11 columns and would contain two storeys of accommodation above an open ground floor space designed for use as access and car parking. The building would not extend onto the southwest part of the site, which is to be developed and used as additional car parking spaces. In total 24 on-site car parking spaces are proposed. The east and west ends of the front component of the building would have 2 storey gable elements that would project out approximately 0.5 metres beyond the front line of the building. The accommodation within the roofspace of the building would be served by a combination of pitched roof dormers and rooflights. The external walls of the building would be finished with proprietary scraped texture render. All of the pitched roof slopes of the building would be clad with blue-black coloured natural slate. An on-site cycle store with 16 cycle racks, a small area of grassed open space and a bin store are all also proposed.

It was originally proposed that the frames of the windows of the proposed building would be made of UPVC. As an amendment to the application, the applicant now proposes that the window frames are to be of timber.

Conservation area consent is sought separately through application 12/00728/CAC for the demolition of the existing garage building presently on the site. A separate report on application 12/00728/CAC is, at this time, on the Committee Expedited List.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved Edinburgh and the Lothians Structure Plan 2015 and the adopted East Lothian Council Local Plan 2008.

Policies HOU2 (Brownfield Housing Sites), ENV1D (Regional and Local Natural and Built Environmental Interests) and ENV1G (Design of New Development) of the approved

Edinburgh and the Lothians Structure Plan 2015 and Policies ENV2 (Town and Village Centres, Other Retail or Mixed Use Areas), ENV4 (Development Within Conservation Areas), DP1 (Landscape and Street Character), DP2 (Design), DP7 (Infill, Backland and Garden Ground Development), H4 (Affordable Housing), T2 (General Transport Impact), DP17 (Art Works- Per Cent for Art), DP20 (Pedestrians and Cyclists) and DP22 (Private Parking) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

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

Also material is Scottish Planning Policy on housing development and Scottish Government advice given in Planning Advice Note 67: Housing Quality and Scottish Planning Policy on development affecting archaeological sites.

Scottish Planning Policy: February 2010 echoes the statutory requirements of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that a planning authority must have regard to the desirability of preserving or enhancing the character or appearance of a conservation area in exercising its responsibilities in the determination of any application for planning permission for development affecting a conservation area. It is stated in Scottish Planning Policy that proposed development that would have a neutral affect upon the character or appearance of a conservation area (i.e. does no harm) should be treated as one which preserves that character or appearance. The design, materials, scale and siting of new development within a conservations area should be appropriate to the character of the conservation area.

Scottish Planning Policy: February 2010 states that infill sites can often make a useful contribution to the supply of housing land. Proposals for infill sites should respect the scale, form and density of the surroundings and enhance the character and amenity of the community. The individual and cumulative effects of infill development should be sustainable in relation to social, economic, transport and other relevant physical infrastructure and should not lead to over development.

It is also stated in Scottish Planning Policy: February 2010 that the Scottish Government's objectives of creating successful places and achieving quality residential environments should guide the whole process of delivering new housing. Further policy and advice on design is provided in Designing Places and Planning Advice Note 67: Housing Quality which explains how Designing Places should be applied to new housing. In PAN 67 it is stated that the planning process has an essential role to play in ensuring that: (i) the design of new housing reflects a full understanding of its context - in terms of both its physical location and market conditions, (ii) the design of new housing reinforces local and Scottish identity, and (iii) new housing is integrated into the movement and settlement patterns of the wider area. The creation of good places requires careful attention to detailed aspects of layout and movement. Developers should think about the qualities and the characteristics of places and not consider sites in isolation. New housing should take account of the wider context and be integrated into its wider neighbourhood. The quality of development can be spoilt by poor attention to detail. The development of a quality place requires careful consideration, not only to setting and layout and its setting, but also to detailed design, including finishes and materials. The development should reflect its setting, reflecting local forms of building and materials. The aim should be to have houses looking different without detracting from any sense of unity and coherence for the development or the wider neighbourhood.

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

There are a total of 4 written representations, all of which make objection to the proposed development.

The main grounds of objection are summarised as follows:

- * The proposed vehicular access would have inadequate sight line visibility, would be opposite West Bay Road, and thus would be a road safety hazard;
- * The proposed building works could lead to subsidence of the embankment on which Craigleith View is located on;
- * One of the drawings submitted with the application is misleading, as it does not show the ground level of the objector's flat, which is below the ground level of the flats shown on the submitted drawing; and
- * Loss of private view.

The Royal Burgh of North Berwick Community Council advise that the development now proposed is much better than that previously proposed, and the proposed single flatted building instead of the two previously approved is a vast improvement. They also advise that the roof of the proposed building would not seem to interfere with views from the flats of the Craigleith View and Royal Apartments. The Community Council do however raise concerns that road access for existing traffic coming from the High Street is dangerous because of the blind bend from the High Street to Station Hill. They also raise some concerns over the collection of refuse from the proposed flatted development by a refuse vehicle parked on Station Hill that would be a hazard to other unsighted traffic.

The proposed development would be redevelopment of a brownfield site since it would replace an existing building to be cleared from the site. As the site is within the urban area of North Berwick the proposed redevelopment would be urban infill housing development. Therefore the principle of the proposed development is supported by Policy HOU2 of the approved Edinburgh and the Lothians Structure Plan 2015, Policy DP7 of the adopted East Lothian Local Plan 2008 and with national planning policy on housing development given in Scottish Planning Policy: February 2010.

Indeed, the principle of a proposed redevelopment of the site in the form of a residential development of 16 flats has already been established by the grant of planning permission 09/00006/FUL, which remains extant and is still capable of being implemented up until the 27 September 2014.

What in this case is different is the footprint and design of the building now proposed to contain the total of 16 flats and the layout of parking on the rear part of the site.

In this, the material consideration has to be whether or not the now proposed flatted building and the other components of the proposed development would be an acceptable form of development of the site as assessed against Policies ENV1D and ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015 and Policies ENV4, DP1, DP2 and DP7 of the adopted East Lothian Local Plan 2008.

Whilst it is not essential to replicate existing building styles to build successfully in a conservation area and indeed in other locations, both national planning and development plan policy nevertheless state that in designing proposed new buildings developers should

think about the qualities and the characteristics of places. The development should reflect its setting and local forms of building and materials. The aim should be to have buildings looking different without detracting from any sense of unity and coherence for the development or the wider neighbourhood.

The application site occupies a prominent position opposite the junction of West Bay Road and Station Hill, on part of the southern edge of the Conservation Area. It is highly visible from both of those streets. It is located within an area that contains buildings that are of a variety of size, form and architectural styles. The Folly Hotel, immediately to the east of the site, is a relatively low stone building of a traditional architectural style. To the immediate east of the Folly Hotel is a modern three storey flatted building characterised by its facing brick walls and mansard roofs. To the north of the site, on the other side of Station Hill, is the terrace of houses that are located on the eastern side of West Bay Road. Those stone buildings are of a traditional architectural style and are set back from the public roads of Station Hill and West Bay Road and are set within relatively large gardens. To the immediate north and west of the site is a parade of single storey flat roofed shops and other business premises. To the south and west of the site, positioned on land that is higher than the application site, are the Craighleith View retirement flats and the residential flatted building of the Royal Apartments. Those buildings are fairly recent additions to this part of North Berwick and are larger in terms of their size and height to those other surrounding buildings. Both of those buildings display some traditional architectural features, such as stone and wet dash render walls and slate clad pitched roofs.

The now proposed flatted building would not, by its size, height and massing be out of keeping with those nearby buildings or with the variety of architectural style of the other buildings in the locality. It would not appear prominent, intrusive or incongruous in its position on the southern side of Station Hill. It would have a similar front building line to the existing garage building and by being larger than that existing building would reinforce the streetscape on the southern side of this part of Station Hill. There would be a contrast between the design of the proposed building and the design of the garage building it would replace and the designs of other buildings within this part of the Conservation Area. Nevertheless it would sensitively reflect elements of and be complimentary to the existing variety of built form within the setting of the application site. It would have traditional materials for the majority of its external finishes (rendered walls, natural slate clad roofs and timber framed windows). Although the proposed building would appear distinctive it would nonetheless add architectural interest to the area, which is characterised by a variety of buildings of a range of ages, architectural styles and external finishes. The proposed building is well designed for its proposed place, would be an acceptable replacement for the garage building, and would not harm the character and appearance of the Conservation Area.

In their well contained position behind the proposed building the proposed 24 car parking spaces, vehicular access and turning area, and cycle store would not be an intrusive, incongruous or exposed form of development in association with the proposed flatted building. They would not have a harmful affect on the streetscape or the character and appearance of the Conservation Area.

The site is capable of accommodating all of the proposed development including satisfactory vehicular and pedestrian access and amenity space without being an overdevelopment of it. The proposed development would not be of a density incompatible with existing densities of development in the locality. Development of the site would not result in any loss of open space important to recreation or amenity requirements.

On all of these considerations the proposed flatted building and associated components of the proposed development are, in detail consistent with Policies ENV1D and ENV1G of the

approved Edinburgh and the Lothians Structure Plan 2015, Policies DP1, DP2, DP7 and ENV4 of the adopted East Lothian Local Plan 2008, Planning Advice Note 67 and with Scottish Planning Policy: February 2010, with respect to the affect of it on the North Berwick Conservation Area.

The now proposed flatted building would be no higher than the flatted buildings approved for the site by the granting of planning permission 09/00006/FUL and with that permission could still be built on the site.

In one of the written objections to this present application the objector has raised a concern that one of the section drawings through the site submitted with the application is misleading, as it does not show the ground level of his flat of the Royal Apartments, which is below the ground level of those flats of the Royal Apartments that are shown on that particular section drawing.

A revised section drawing has subsequently been submitted, which does now show both the ground level of the objector's flat and the ground level of the other flats of the Royal Apartments.

Whilst the revised section drawing shows that the highest part of the proposed flatted building would be some 2.9 metres higher than the finished floor level of the lowest of the west facing ground floor habitable accommodation of the flats of the Royal Apartments (i.e. that objector's flat) it would nevertheless be positioned at its nearest point more than 37 metres away from the Royal Apartments. At such a distance away the now proposed flatted building would not dominate or harmfully impose itself on any of the flats of the Royal Apartments.

The submitted section drawings show that the highest point of the proposed flatted building would be some 1.8 metres below the finished ground floor level of the Craighleith View retirement flats. Therefore the now proposed flatted building would not dominate or harmfully impose itself on any of the Craighleith View retirement flats.

Given its height, positioning and orientation the now proposed flatted building would not give rise to significant harmful loss of sunlight or daylight to any neighbouring residence or garden.

It is the practice of the Council to consider a distance of 18 metres between directly facing windows and 9 metres between a window and a garden boundary as a sufficient separation distance to prevent harmful overlooking of neighbouring residential properties from proposed new buildings.

By virtue of their positioning and distance away from any neighbouring property, the windows and other glazed openings to be formed in the elevations of the proposed flatted building meet those required separation distances and would not lead to harmful overlooking of any neighbouring residential building or private garden. The occupiers of the proposed flats would also benefit from a sufficient level of privacy and residential amenity.

The Council's Environmental Protection Manager has no comment to make on the proposed development.

On these considerations of privacy and amenity the proposed development is consistent with Policies DP2 and DP7 of the adopted East Lothian Local Plan 2008.

It will be for the developer to demonstrate through the Building Standards Regulations that the built form and structural integrity of the proposed development on the application site complies with Building Standards. With regard to the structural stability of adjoining land and buildings it will be for the developer's professional advisors to take cognisance of the topography of adjoining land and the proximity of nearby buildings when carrying out their designs.

The proposals for site access and car parking are similar to those that are approved for the scheme of development the subject of planning permission 09/00006/FUL. This previous decision to grant planning permission has established the principle of the site being accessed from Station Hill at a point opposite the junction of Station Hill and West Bay Road via a pend to be formed in that position.

The Council's Transportation service raise no objection to the proposed development, advising that the proposed arrangements for vehicular and pedestrian access, parking and turning are of an acceptable standard.

The Council's Transportation service advise that the proposed new pend access, in terms of visibility, would be a significant improvement to the existing garage access. The visibility splays of the new site access to the west meet the Council's standards and are therefore acceptable. Whilst the visibility splays to the east are partially obscured and do not therefore meet the Council's normally applied standards, the Transportation service advise that in this specific case the visibility splays to the east are acceptable, as traffic speeds are lower from this direction due to the bend in the road (to the east of the application site) and from drivers driving through a constrained town centre environment. They further advise that, unlike the existing garage access, the proposed site access would allow adequate 2 way movement of vehicles.

The Council's Transportation service does however recommend that cycle parking should be provided in a secure lockable area, that prior to any use being made of the pend access the southern part of it delineated on the site plan as being "PEDESTRIAN PATH DEMARCATION" should be permanently demarcated on the ground, and that the vehicular access should be taken over a reinforced footway. These matters can be controlled through a conditional grant of planning permission for the proposed development.

The existing road network is of an adequate standard to cope with the traffic levels likely to arise from the proposed development. The proposed development is consistent with Policies DP20, DP22 and T2 of the adopted East Lothian Local Plan 2008.

It is proposed that each flat would have an individual bin, which during the week would be stored in the communal bin stance at the rear of the proposed flatted building. Each flat owner would then have responsibility for taking their bin out onto Station Hill on collection day, and thereafter returning it to the communal bin stance. This is a similar arrangement to many other flatted developments in East Lothian. Neither the Council's Transportation service nor the Council's Waste Services Manager object to the proposed arrangements for the collection of waste. In the interests of safeguarding the amenity of the future occupiers of the proposed flats it should be made a condition of the grant of planning permission for the proposed development that the proposed bin storage facilities are formed prior to the occupation of the proposed flats.

In view of the garage use of the site there may well be localised areas of contamination in the soil. Therefore the Council's Senior Environmental & Consumer Services Manager advises on the need for a contaminated land report to establish whether the site is contaminated and whether the contamination can be remediated. The requirement for this

can be imposed through a condition attached to a grant of planning permission for the proposed development.

The Scottish Environment Protection Agency (SEPA) raises no objection to the proposed development. A copy of their response has been forwarded to the applicant's agent for his attention.

Given the scale of the proposed development and its prominent public location, it would be appropriate for artwork to be incorporated either as an integral part of the overall design of it or as a related commission to be located on the site or in an approved alternative location. This can be achieved by means of a condition on the grant of planning permission. This is consistent with the requirements of Policy DP17 of the adopted East Lothian Local Plan 2008.

The Executive Director (Services for People) advises that the application site is located within the primary school catchment area of Law Primary School and the secondary school catchment area of North Berwick High School. In his consultation response on previous planning application 09/00006/FUL, he confirmed that there would be sufficient capacity at both Law Primary School and North Berwick High School to accommodate children that could arise from the development of 16 flats on the application site and that there was no requirement for a developer contribution towards education provisions in North Berwick. Thus he raised no objection to the application. In their determination of application 09/00006/FUL the Planning Committee accepted this. Given all of this, and the fact that the proposal the subject of this application also is for the erection of 16 flats on the application site, then in the particular circumstances of this case, the Executive Director (Services for People) advises that there is again no requirement for the applicant to make a financial contribution towards education provision.

The Council's Housing Strategy Manager advises that the requirement for the provision of affordable housing arising from this proposed housing development is determined by the Council's Affordable Housing Policy approved by the Council in January 2006. Accordingly, 25% of the 16 flats proposed should be affordable housing. In this particular case, the Housing Strategy Manager is willing to accept from the applicant a commuted sum payment of a value equivalent to the cost of providing the percentage affordable housing requirement, in lieu of an on or off-site affordable housing provision. The terms for the provision of this affordable housing requirement should be the subject of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. The applicant's agent has confirmed in writing that his client is willing to enter into such a Section 75 Agreement. Subject to the Council securing the affordable housing requirement the proposal is consistent with Policy H4 of the adopted East Lothian Local Plan 2008.

The decision to grant planning permission is subject to the prior conclusion of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 designed to secure from the applicant the provision of a commuted sum payment of a value equivalent to the cost of providing a 25% affordable housing requirement for the proposed development of 16 flats, in lieu of an on or off-site affordable housing provision.

In accordance with the Council's policy on time limits for completion of planning agreements the decision also is that in the event of the Section 75 Agreement not having been executed by the applicant, the landowner and any other relevant party within six months of the decision taken on this application, the application shall then be refused for the reason that without the conclusion of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 to secure a commuted sum payment of a value

equivalent to the cost of providing a 25% affordable housing requirement for the proposed development of 16 flats, in lieu of an on or off-site affordable housing provision the proposed development is unacceptable due to a lack of provision of affordable housing, contrary to Policy H4 of the adopted East Lothian Local Plan 2008.

CONDITIONS:

- 1 No development shall take place on site unless and until final site setting out details have been submitted to and approved by the Planning Authority.

The above mentioned details shall include a final site setting-out drawing to a scale of not less than 1:200, giving:

- a. the position within the application site of all elements of the proposed development and position of adjoining land and buildings;
- b. finished ground and floor levels of the development relative to existing ground levels of the site and of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and
- c. the ridge height of the proposed shown in relation to the finished ground and floor levels on the site.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the amenity of the area.

- 2 Details and samples of materials and finishes to be used in the development shall be submitted for the prior inspection and approval in writing by the Planning Authority for the walls, roofs, windows, doors, boundary treatments and ground surfaces. The development shall be thereafter undertaken in accordance with the details and samples so approved.

Reason:

To enable the Planning Authority to control the materials, finishes and colour to be used to achieve a development of good quality and appearance in the interest of the visual amenity of the Conservation Area.

- 3 Prior to the commencement of development, details of the how the pedestrian access part of the pend access is to be demarcated shall be submitted to and approved in writing by the Planning Authority.

Prior to the occupation of any of the flats hereby approved (i) the pedestrian access part of the pend access shall be demarcated in accordance with the details so approved and the vehicular access arrangements; (ii) the vehicular access from Station Hill shall be taken over a reinforced footway crossing in accordance with East Lothian Council's Standards for Development Roads; and (iii) the 24 on-site car parking spaces, and turning area delineated on drawing number 1251-11-A docketed to this planning permission shall have been formed and made available for use.

The demarcated pedestrian access, reinforced footway crossing, vehicular access arrangements, 24 car parking spaces, and turning area shall thereafter remain available for such use unless otherwise approved by the Planning Authority.

Reason:

To ensure the provision of adequate access and parking provision in the interests of pedestrian and road safety.

- 4 No residential unit shall be occupied unless and until details of artwork to be provided on the site or at an alternative location away from the site have been submitted to and approved by the Planning Authority and the artwork as approved shall be provided prior to the occupation of the final residential unit approved for erection on the site.

Reason:

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

- 5 Development shall not begin until a scheme to deal with contamination on the site has been submitted to and approved in writing by the Planning Authority. The scheme shall contain details of the proposals to deal with contamination to include:

- 1 the nature, extent and type(s) of contamination on the site,
- 2 measures to treat/remove contamination to ensure the site is fit for the use proposed,
- 3 measures to deal with contamination during construction works,
- 4 condition of the site on completion of decontamination measures.

Before any of the flats are occupied the measures to decontaminate the site shall be fully implemented as approved by the Planning Authority.

Reason:

To ensure that the site is clear of contamination prior to the occupation of any of the flats.

- 6 Prior to the commencement of development details of the bin and cycle storage facilities for the flatted properties shall be submitted to and approved in advance by the Planning Authority. The details shall show at least 1 cycle space per flat to be provided in a secure lockable area. Prior to the occupation of any of the flats the bin and cycle storage facilities shall have been formed in accordance with the approved details and made available for use. Thereafter, the storage facilities shall be retained in use solely as bin and cycle storage areas.

Reason:

To ensure the provision of adequate bin and cycle storage in the interest of the residential amenity of the future occupants of the flats hereby approved and the visual amenity of the locality.