

REPORT TO: Planning Committee
MEETING DATE: Tuesday 5 February 2013
BY: Executive Director (Services for Communities)
SUBJECT: Application for Planning Permission for Consideration

1a

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 Craigeith 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 Craigleith View retirement flats. Therefore the now proposed flatted building would not dominate or harmfully impose itself on any of the Craigleith 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.

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 5 February 2013
BY: Executive Director (Services for Communities)
SUBJECT: Application for Planning Permission for Consideration

1b

Application No. **12/00728/CAC**
Proposal Demolition of building, wall and railings
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 conservation area consent 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 within the North Berwick Conservation Area.

In September 2011 planning permission (Ref: 09/00006/FUL) was granted for the erection on the site of two flatted buildings containing a total of 16 flats and the carrying out of associated works. No start has been made to that approved scheme of development and planning permission 09/00006/FUL remains extant until the 27 September 2014.

Also in September 2011 conservation area consent (Ref: 09/00006/CAC) was granted for the demolition of the garage building. As there has been no start to the scheme of development approved by the grant of planning permission 09/00006/P, no start has been made to the demolition approved by conservation area consent 09/00006/CAC, which consent remains extant until 27 September 2016.

Conservation area consent is now again sought for the demolition of the building of the Bass Rock Garage. Conservation area consent is also sought for the demolition of a wall and railings that enclose the eastern end of the northern, roadside boundary of the Bass Rock Garage site.

The demolition is proposed to facilitate the redevelopment of the site by the proposed erection on it of 16 flats and associated works for which planning permission is sought through application 12/00728/P. A separate report on application 12/00728/P is, at this time, on the Scheme of Delegation List.

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

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

Policy ENV1D (Regional and Local Natural and Built Environment Interests) of the approved Edinburgh and the Lothians Structure Plan 2015 addresses the need to control development within conservation areas but is silent on the matter of the demolition of buildings. Thus it is not relevant to the determination of this application.

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

Material to the determination of the application are Sections 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, the Scottish Historic Environment Policy: July 2009 and Scottish Planning Policy: February 2010.

Section 64 of the Town and Country Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires that a planning authority, in exercising its responsibilities under planning legislation must have regard to the desirability of preserving or enhancing the character or appearance of a conservation area. This statutory duty should always be borne in mind in the determination of an application for conservation area consent to demolish an unlisted building in a conservation area. As is stated in the Scottish Historic Environment Policy: July 2009 and also in Scottish Planning Policy: February 2010 a planning authority, in deciding whether or not conservation area consent should be granted should take account of the merits of the building to the character or appearance of the conservation area and of proposals for the future of the cleared site. The general presumption should be in favour of retaining buildings that make a positive contribution to the conservation area, particularly where it can be demonstrated that the building is able to support a new viable use. Where demolition is considered acceptable careful consideration should be given to a replacement scheme of new development in terms of its design and quality.

One letter of objection to this application has been received. It is from The Architectural Heritage Society of Scotland. The objection is to the demolition of the garage building on the grounds that the use of UPVC framed windows in the flatted building proposed for the site through application 12/00728/P would be harmful to the character and amenity of the Conservation Area.

This objection relates to a proposed development that is the subject of another application and which is not pertinent to the particular matter of the demolition of the existing garage building. It cannot therefore be a material consideration in the determination of this application.

The garage building is designed for the functionality of its use and is not of any particular architectural merit. Consequently it does not make a positive contribution to this part of the North Berwick Conservation Area.

The wall and railings that enclose the eastern end of the northern, roadside boundary of the application site are not in themselves of such special architectural or historic interest that their retention is warranted.

The planning assessment given in the report on planning application 12/00728/P concludes that what is proposed to replace the garage building, wall and railings would, by virtue of its form, design and finish be an acceptable addition to the Conservation Area that would not harm its character or appearance. Consequently it would be an acceptable replacement for the garage building, wall and railings. In such circumstance the demolition of the garage building, wall and railings can be justified.

The proposed demolition of the garage building, wall and railings is consistent with Policy ENV4 of the adopted East Lothian Local Plan 2008, the Scottish Historic Environment Policy: July 2009 and with Scottish Planning Policy: February 2010 with respect to the affect of it on the Conservation Area.

RECOMMENDATION

That conservation area consent be granted, subject to the following conditions:

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

Reason:

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

- 2 No works for the demolition of the building, wall and railings shall be carried out unless written evidence that a contract has been entered into for the carrying out of the works authorised by planning permission 12/00728/P, or by some other detailed planning permission for the development of the site granted by the Planning Authority, has been submitted to and agreed by the Planning Authority.

Reason:

In order to safeguard the character and appearance of the Conservation 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)

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SUBJECT: Application for Planning Permission for Consideration

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Note: this application was called off the Scheme of Delegation List by Councillor Berry for the following reasons: these are for two wind turbines that will be prominently visible from nearby tourist routes and Tantallon Castle. Because of the controversy still raging about permission being given to one adjacent to Dirleton Castle the full Planning Committee should consider it.

Application No. **12/00934/P**

Proposal Erection of 2 wind turbines

Location **Blackdykes
Tantallon
North Berwick
East Lothian
EH39 5PQ**

Applicant Mr & Mrs Hew & Janey Dalrymple

Per Mint Energy (Scotland) Ltd

Ward 5

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

Planning permission is sought for the erection of two wind turbines on a small part of the agricultural land of Blackdykes Farm that is in the countryside to the southeast of North Berwick.

The proposed two wind turbines would, on a roughly north-south axis be positioned within a field to the west and northwest of the agricultural buildings of Blackdykes Farm, respectively. In their positions one of the turbines would be some 55 metres away from the agricultural buildings and the other would be some 100 metres away from them.

Within the group of agricultural buildings of Blackdykes Farm are the buildings of Blackdykes Farm Steading that are listed as being of special architectural or historic interest (Category B).

There is a mature tree belt (comprising the Blackdykes Strip and Halfland Strip) on an east-west axis to the north and northeast of where the proposed two wind turbines would

be positioned. The proposed wind turbines would be to the south of the Blackdykes Strip component of the tree belt. One of the turbines would be some 305 metres away from the Blackdykes Strip and the other would be some 420 metres away from it.

Leuchie House, a Category A listed building is located some 850 metres to the west of where the proposed two wind turbines would be positioned.

The gardens surrounding Leuchie House, land to the north of them and the tree belt of the Blackdykes and Halfland Strips comprise the designated Leuchie Designed landscape. This early 19th century informal landscape of parkland, woodland, lawns and walled garden together form an attractive setting for the Category A Leuchie House.

Each of the proposed two wind turbines would consist of a supporting column measuring 15.4 metres in height from the ground to the centre of the rotor hub. The triple blades of the rotors would each have a length of 6.5 metres. The wind turbines would therefore have a height of 21.9 metres from ground level to blade tip. The diameter of their rotating blades would be 13 metres.

Under the provisions of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 the proposed development falls within the category of a Schedule 2 Development, being one that may require the submission of an Environmental Impact Assessment (EIA). Schedule 3 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 sets out the selection criteria for screening whether a Schedule 2 development requires an EIA. On 8 January 2013 the Council gave a formal screening opinion. The screening opinion concludes that the proposed development is unlikely to have significant effects on the environment to the extent that expert and detailed study through EIA would be necessary to properly assess any effect. Therefore, there is no requirement for the proposed wind turbines to be the subject of an EIA.

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

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

Policies ENV1C (International and National Historic or Built Environment Designations), ENV3 (Development in the Countryside), ENV6 (Renewable Energy) and of the approved Edinburgh and the Lothians Structure Plan 2015 and Policies DC1 (Development in the Countryside and Undeveloped Coast), DP13 (Biodiversity and Development Sites), NRG3 (Wind Turbines), ENV3 (Listed Buildings), ENV7 (Scheduled Monuments and Archaeological Sites), ENV8 (Gardens and Designed Landscapes) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

Material to the determination of the application are:

1. The Scottish Government's policy on renewable energy given in Scottish Planning Policy: February 2010;
2. The Scottish Government web based renewables advice entitled "Onshore Wind Turbines", which has replaced Planning Advice Note 45: Renewable Energy Technologies;

3. The East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011);
4. The Council's Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010;
5. Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Scottish Government's policy on development affecting a listed building or its setting given in Scottish Planning Policy: February 2010.

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

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

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

It is stated in paragraph 9.6 of the adopted East Lothian Local Plan 2008 that the Council is supportive of Government policy to secure greater energy generation from renewable sources. The benefits will be weighed against the impact on the local environment and features of interest. With regard to wind turbines it is stated in paragraph 9.7 that because

of the need for turbines to catch the wind it is not possible to hide them. The visual and landscape impact, both of the turbines themselves and associated infrastructure, is usually the main concern. In paragraph 9.8 it is stated that the Council wishes to protect valued landscape features, including North Berwick Law.

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

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

The Council's East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011) is also relevant to the determination of this application. This Supplementary Landscape Capacity Study determines the capacity of the East Lothian lowland landscapes and the Lammermuir fringe to accommodate various scales of wind turbine development smaller than those considered in the Landscape Capacity Study for Wind Turbine Development in East Lothian (May 2005). In this regard four principal development typologies are considered in the study, namely, (i) Typology A: wind turbines between 65m and 120m high, (ii) Typology B: Single wind turbines between >42m and <65m high, (iii) typology C: wind turbines between 20m and up to and including 42m high, and (iv) typology D: wind turbines between 12m and <20m high, with all wind turbine heights being from ground level to blade tip.

Only one letter of objection to the application has been received. It is from The Architectural Heritage Society of Scotland. The grounds of objection are that the proposed wind turbines would harm the setting of the listed buildings of Blackdykes Farm Steading and Leuchie House, and would harm the setting of the Leuchie Designed Landscape.

The Landscape Capacity Study for Wind Turbine Development in East Lothian (May 2005) is not material to the determination of this application as its findings are not based on an assessment of the affect on the landscape of East Lothian of a wind turbine(s) lower than 42 metres high.

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

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

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

The application site is in a countryside location where wind power can be harnessed to generate electricity and thus by their siting and operation in relation to the business use of Blackdykes Farm the proposed wind turbines can as a form of new build infrastructure development in the countryside of East Lothian be justified. The proposed wind turbines are capable of providing the farm with a renewable energy source. On these considerations the proposed wind turbines are consistent with Policy DC1 of the adopted East Lothian Local Plan 2008 and Policy ENV3 of the approved Edinburgh and the Lothians Structure Plan 2015.

Moreover, in their countryside location the proposed wind turbines would not involve any permanent development and furthermore would not preclude the reversal of the use of the land of the application site to agricultural use. On this consideration too the principle of the proposed development is consistent with Policy DC1 of the Local Plan and Policy ENV3 of the Structure Plan.

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

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

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

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

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

In the case of each of the proposed two wind turbines 10 times the diameter of its rotor blades would be 130 metres. The nearest dwellings, being those of Blackdykes Cottages to the east, are some 230 metres away from where the proposed wind turbines would be sited. Thus, the proposed wind turbines pass the Scottish Government’s general rule of shadow flicker effect.

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

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

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

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

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

Each of the proposed two wind turbines would achieve such a set back distance in its relationship with the public road to the south. The Council’s Transportation service has been consulted on the application and raises no objection to the proposed wind turbines, being satisfied that due to their distance away from the public road they would have no significant adverse consequences for road safety.

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

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

The Council's Biodiversity Officer is satisfied that the proposed wind turbines would not have any adverse biodiversity impacts.

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

It is stated in Scottish Planning Policy that archaeological sites and monuments are an important finite and non-renewable resource and should be protected and preserved in situ wherever feasible. The presence and potential presence of archaeological assets should be considered by planning authorities when making decisions on planning applications. Where preservation in situ is not possible planning authorities should through the use of conditions or a legal agreement ensure that developers undertake appropriate excavation, recording, analysis, publication and archiving before and/or during development. If archaeological discoveries are made during any development, a professional archaeologist should be given access to inspect and record them. Planning Advice Note 2/2011: Planning and Archaeology similarly advises.

As stipulated in Policy ENV7 of the adopted East Lothian Local Plan 2008, new development that would harm a site of archaeological interest or its setting will not be permitted. One of the key considerations set out in Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010 is that wind turbine development that would harm an archaeological site or its setting, will not normally be permitted.

The Council's Archaeology Officer advises that the proposed wind turbines would be situated in an area known to contain a number of remains dating from the prehistoric period through to the 19th century. Because of this the Archaeology Officer recommends that a programme of archaeological works be carried out prior to the commencement of development. This could be secured through a condition attached to a grant of planning permission for the proposed wind turbines. This approach is consistent with Scottish Planning Policy: February 2010 and Planning Advice Note 2/2011: Planning and Archaeology.

On this consideration the proposed two wind turbines are not contrary to Policy ENV7 of the adopted East Lothian Local Plan 2008 or Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010.

As stipulated in Policy ENV1C of the approved Edinburgh and the Lothians Structure Plan 2015 and Policy ENV3 of the adopted East Lothian Local Plan 2008, new development that harms the setting of a listed building will not be permitted. One of the key considerations set out in Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010 is that any proposal for wind turbine development near or within the curtilage of a listed building must ensure that the listed building remains the focus of its setting and is not harmed by the presence of the proposed turbine(s).

The proposed two wind turbines would be sited some 130 and 160 metres, respectively to the west of the listed buildings of Blackdykes Farm Steading. However, between those listed buildings and the proposed two wind turbines would be the existing modern agricultural buildings of Blackdykes Farm that are already a prominent feature within the immediate setting of the listed steading buildings. The proposed two wind turbines would as much be seen in relation to them as they would in relation to the listed steading buildings. The presence of the existing modern agricultural buildings would prevent a direct visual relationship between the proposed two wind turbines and the listed steading buildings. In such circumstance and due to the relatively low height and limited massing of them, the proposed two wind turbines would not have a harmfully prominent or imposing visual relationship with and would not harmfully impose themselves on the setting of the listed Blackdykes Farm Steading.

The listed building of Leuchie House is located some 850 metres to the west of where the proposed wind turbines would be sited. Moreover, that Category A listed building is visually well contained in its immediate setting of landscaped grounds that are part of the designated Leuchie Designed Landscape and which provide tree cover to all sides of the listed building. Consequently, Leuchie House is not obvious in its setting and, because if this, the proposed two wind turbines would not be seen to harmfully impose themselves on its setting.

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

Policy ENV1C of the approved Edinburgh and the Lothians Structure Plan 2015 also stipulates that development which would harm the character, appearance and setting of a Designed Landscape should be resisted.

Policy ENV8 of the adopted East Lothian Local Plan 2008 stipulates that development that harms the conservation objectives of Designed Landscapes will not be permitted.

The proposed two wind turbines would not be positioned on any part of the lands of the designated Leuchie Designed Landscape and, therefore, they would not change the character and appearance of the Designed Landscape and would not be harmful to the conservation objectives of it.

On this consideration the proposed two wind turbines do not conflict with Policy ENV1C of the approved Edinburgh and the Lothians Structure Plan 2015 or Policy ENV8 of the adopted East Lothian Local Plan 2008

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

The land of the application site is within the 'Agricultural Plain – Sub Area 1, East' landscape character area of the Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011). The Study classifies this landscape character area as being a rolling landform with pronounced ridges and occasional landmark features, with a relatively high proportion of woodland which increases containment and reduces scale. The Study further classifies this landscape character area as being of high sensitivity to

Typology of wind turbine A and B, of medium-high sensitivity to Typology of wind turbine C and low sensitivity for Typology D.

The Study states that within the 'Agricultural Plain – Sub Area 1, East' landscape character area: (i) there are no opportunities to locate wind turbines of Typology A (between 65 metres and 120 metres high) or of Typology B (single wind turbines between more than 42 metres and less than 65 metres high); (ii) there are very limited opportunities to accommodate wind turbines of Typology C, being wind turbines between 20 metres high and up to and including 42 metres high (subject to impact on key views) and that any such wind turbines should be towards the lower height band of Typology C, being below 30 metres high from ground level to blade tip in order to attain a better scale relationship to small buildings in this well settled area and minimise effects on views of landmark features; (iii) there are opportunities to locate wind turbines of Typology D, being wind turbines between 12 metres and less than 20 metres high, if visually associated with farms and buildings.

Although the Study advises that within the 'Agricultural Plain – Sub Area 1, East' landscape character area there are some opportunities to accommodate Typology C wind turbines, it particularly states that the part of the Agricultural Plain – Sub Area 1, East' landscape character area in which the site of the proposed two wind turbines is located cannot accommodate any Typology C wind turbines.

In that each of the proposed two wind turbines would be of a height of 21.9 metres from ground level to blade tip and thus of Typology C they would be only marginally higher than a Typology D wind turbine, being one between 12 metres and 20 metres high which the Study states can generally be accommodated within this landscape character area.

In light of this it is necessary to determine, through a specific landscape appraisal of their likely impact, whether or not the proposed two wind turbines, notwithstanding being of Typology C yet only of a height of 21.9 metres from ground level to blade tip, would be acceptable to their place. In this due regard has to be paid to the terms of Structure Plan Policy ENV3, Local Plan Policies DC1 and NRG3 and Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010.

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

Part 5 of Policy DC1 of the adopted East Lothian Local Plan 2008 stipulates that new development must be sited so as to minimise visual intrusion and landscape impact within the open countryside. With regard to its nature and scale new development must be integrated into the landscape, reflect its character and quality of place, and be compatible with its surroundings.

As stipulated in Policy NRG3 of the adopted East Lothian Local Plan 2008 a proposed wind turbine(s) should not change the existing landscape character in an unacceptable way and should not have an unacceptable visual impact on landscape or townscape including the impact on distinctive public views, landmark buildings or natural features.

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

(i) wind turbine development will only be supported where the overall integrity and setting of key public views to and from landmark features, both natural and man-made, will not be

compromised. Developments which would harm the character, appearance and setting of significant natural landscape features, landmark buildings and structures will be resisted;

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

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

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

(v) a wind turbine development that would harm the character, appearance and setting of a designed landscape will be resisted.

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

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

The specific landscape appraisal undertaken by Policy & Projects finds that:

* In views towards them from the public road to the south the proposed two wind turbines would have as a backdrop to them the Blackdykes Strip component of the existing tree belt to the north. The proposed two wind turbines would not be out of scale with that tree belt that, consequently would effectively serve to mitigate the visual impact of them on the landscape of the area. Moreover when viewed from the road to the south the proposed two wind turbines would be seen in relation to the nearby buildings of Blackdykes Farm. The two wind turbines would not be out of scale with those existing farm buildings and, because of their nearby presence those buildings by their height and massing would in a visual relationship with the two wind turbines mitigate the visual impact of the turbines.

* In views towards them from the public road to the northeast the proposed two wind turbines would again be viewed in the context of the farm buildings of Blackdykes Farm and in those views too the two wind turbines would not be seen to be out of scale with those existing farm buildings and, because of their nearby presence those buildings by their height and massing would in a visual relationship with the two wind turbines mitigate the visual impact of the turbines.

* In south-westwards views from the north the proposed wind turbines would also benefit from a backdrop of mature trees which would serve to further mitigate their landscape impact.

* The proposed two wind turbines would be visible in longer distance views from the east and west, but due to the visual containment afforded to them by their positioning near to the existing buildings of Blackdykes Farm and their positional relationship to the tree belt to the north and northeast and the tress of the landscaped grounds of Leuchie House to the southwest, they would not appear harmfully prominent, intrusive or incongruous in their landscape setting.

In overall conclusion, the proposed two wind turbines due to their positioning, form, height and scale would not appear as prominently intrusive features in their particular landscape setting, would not change the existing landscape character of the area in a harmful way. They would not have a harmful visual impact on any key views of valued landscape, historic or natural heritage features, including the setting of the Leuchie Designed Landscape.

From these specific findings of the particular landscape assessment of their likely visual impacts it is demonstrated that the proposed two wind turbines can successfully be accommodated in this particular location within the 'Agricultural Plain – Sub Area 1, East' landscape character area, consistent with Policies DC1 (Part 5), NRG3 and ENV8 of the adopted East Lothian Local Plan 2008, Scottish Planning Policy: February 2010 and the key considerations of landscape impact and impact on public views to and from landmark features of Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010.

These specific findings outweigh the statement in the East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011) that the part of the Agricultural Plain – Sub Area 1, East' landscape character area in which the site of the proposed two wind turbines is located cannot accommodate any Typology C wind turbines.

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

CONDITIONS:

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

Reason:
In the interests of the residential amenity of the wider locality and to protect noise sensitive properties.
- 2 No symbols, logos or any other markings shall be displayed on any part of the wind turbine hereby approved without the written consent of the Planning Authority, except for over-riding reasons of health and safety.

Reason:
In the interests of the visual amenity of the area.
- 3 No development shall take place until the applicant has, through the employ of an archaeologist or archaeological organisation, secured the implementation of a programme of archaeological work (Archive Assessment and Monitored Strip) on the site of the proposed development in accordance with a written scheme of investigation which the applicant will submit to and have approved in advance by the Planning Authority.

Reason:

To facilitate an acceptable archaeological investigation of the site.

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

Reason:

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

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

REPORT TO: Planning Committee
MEETING DATE: Tuesday 5 February 2013
BY: Executive Director (Services for Communities)
SUBJECT: Application for Planning Permission for Consideration

3

Note: this application was called off the Scheme of Delegation List by Councillor Trotter for the following reasons: to give the people who have raised concerns a chance to put their case to the committee.

Application No. **12/00641/P**

Proposal Variation of condition 3 of planning permission P/1218/90 to allow delivery and collection of goods between the hours of 6am and 10pm 7 days a week

Location **32 Hopetoun Drive
Haddington
East Lothian
EH41 3AT**

Applicant The Co-operative Group

Per GL Hearn

Ward 6

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

This application relates to the Co-Op shop on the north side of Hopetoun Drive. The shop is within a predominantly residential area as defined by Policy ENV1 of the adopted East Lothian Local Plan 2008.

Planning permission (ref.P/1218/90) was granted on 13 March 1991 for an extension to the shop building, subject to 3 conditions. Of these, Condition 3 stipulates that:

“Between the hours of 10.00pm and 7.00am each day of the week no deliveries will be made to, and collections made from, the shop, no delivery goods will be deposited on its forecourt, and no delivery vehicles will be parked with their engines running on that forecourt.

Reason:

To ensure that the proposed expansion in the use of the shop does not have an adverse affect on the residential amenity of the area.”

As originally submitted this application first sought a variation of Condition 3 of planning permission P/1218/90 to allow delivery and collection of goods to and from the shop between the hours of 6.00am and 11.00pm 7 days a week. Subsequently the applicant's agent has confirmed in writing that the applicant does not require an extension to the delivery and collection of goods times to 11.00pm, and thus this extended time period is no longer proposed.

Therefore, through this application planning permission is now sought for a variation of Condition 3 of planning permission P/1218/90 to allow delivery and collection of goods to and from the shop 1 hour earlier each morning of the week. Thus the now applied for variation to Condition 3 is to allow the delivery and collection of goods to and from the shop between the hours of 6.00am and 10.00pm 7 days a week.

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.

There are no policies of the approved Edinburgh and the Lothians Structure Plan 2015 relevant to the determination of this application.

Relevant to the determination of the application is Policy ENV1 (Residential Character and Amenity) of the adopted East Lothian Local Plan 2008.

Three written objections to the application have been received. The main grounds of objection are:

- (i) the proposed extended hours for deliveries and collections would lead to a noise nuisance harmful to the amenity of neighbouring and nearby residential properties;
- (ii) delivery vehicles sometimes park on double yellow lines;
- (iii) vehicles in the area cause congestion;
- (iv) driveways of properties are blocked by vehicles; and
- (v) groups of people hang around the shop and are noisy.

The Royal Burgh of Haddington and District Community Council, as a consultee on the application raise objection to the proposed extended hours for deliveries and collections to and from the shop as it would lead to a noise nuisance harmful to the amenity of neighbouring and nearby residential properties.

The matter of illegal parking on double yellow lines is a road traffic offence and, therefore, it is not a material consideration in the determination of an application for planning permission.

Antisocial behaviour is controllable under other legislation and, therefore, it too is not a material consideration in the determination of this planning application.

The determination of this application rests on the planning considerations of the likely additional impacts the proposed extension to the hours of delivery and collection of goods

to and from the shop for an additional hour between 6.00am and 7.00am of the morning of each day of the week would have on the residential character and amenity of the predominantly residential area in which the shop is located.

With regard to these considerations Policy ENV1 of the adopted East Lothian Local Plan 2008 requires that the predominantly residential character and amenity of an existing housing area has to be safeguarded from the adverse impacts of uses other than housing.

In that the additional service vehicle movement and parking likely to occur as a consequence of the applied for 1 hour extension to the existing delivery and collection times would take place during that early time of the morning it would not readily conflict with the greater vehicle movements and parking generated by customers of the shop at other times of the day.

The Council's Environmental Protection Manager acknowledges that it is possible that the applied for extension to the hours of delivery and collection of goods to and from the shop would result in some additional noise generation in the locality of the shop. However he advises that provided deliveries and collections were made by vehicles no larger than transit van size, as the applicant's agent informs would be the case, then any noise arising from any such activity between 6.00am and 7.00am would not have a harmful impact on the amenity of the neighbouring residential properties. This is because the amount of potential noise generating activity resulting from the use of such smaller vehicles would, in each instance, be less in comparison to that which would result from the use of larger vehicles, due to the lesser amount and shorter duration of unloading and loading.

The Councils Transportation service confirms that the Department of Transport categorises transit van sized vehicles as N1 vehicles having a maximum mass not exceeding 3.5 tonnes.

In conclusion, the Environmental Protection Manager is satisfied that provided deliveries and collections to and from the shop during the applied for additional hour of 6.00am to 7.00am each morning of the week are carried out using only vehicles with a maximum mass not exceeding 3.5 tonnes, the impact of such additional activity of delivery and collection to and from the shop would not have a harmful noise impact on the amenity of the neighbouring residential properties.

In which case what is applied for as a variation of Condition 3 of planning permission P/1218/90 does not conflict with Policy ENV1 of the adopted East Lothian Local Plan 2008.

CONDITION:

1 Condition 3:

Between the hours of 10.00pm and 6.00am each day of the week no deliveries will be made to, and collections made from, the shop, no delivery goods will be deposited on its forecourt, and no delivery vehicles will be parked with their engines running on that forecourt. Between the hours of 6.00am and 7.00am deliveries made to, and collections made from, the shop shall only be made by vehicles having a maximum mass not exceeding 3.5 tonnes, no delivery goods will be deposited on its forecourt, and no delivery vehicles will be parked with their engines running on that forecourt.

Reason:

In the interests of safeguarding the amenity of neighbouring residential properties.

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)