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# Former Lime Kiln, East Lothian

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## Written Statement - Grounds of Appeal

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## **WRITTEN SUBMISSION – GROUNDS OF APPEAL**

### **1.0 INTRODUCTION**

#### **1.1 Planning Appeal**

This planning appeal is lodged on behalf of Mr John Heron against the refusal of planning permission by East Lothian Council for the erection of a new house, workshop and associated works on land at the Former Lime Kiln, East Saltoun (Ref: 12/00644/P).

#### **1.2 Location of Appeal Site**

The site is located at Limekilns, an established group of buildings approximately 1 mile east of the small town of East Saltoun and two miles west of the small town of Gifford. The site is accessible from the B6355 road. The long-established group of buildings is bounded to the south and west by an area of raised, reclaimed land under the ownership of East Lothian Council. The group of houses and industrial buildings is bounded to the north by the B6355 road and to the east by agricultural land under the ownership of Hamilton-Kinneil Estates.

The site is currently utilised by the appellant as a builder's storage yard and forms part of a mixed use industrial and residential settlement comprising an existing furniture repair workshop, plant hire depot and sawmill workshop and storage building as well as two existing residential properties; Sunview and Oak Cottage.

### **2.0 PLANNING HISTORY OF THE SITE**

#### **2.1 Planning Application**

The most recent planning application for the proposed house and workshop at the Former Lime Kiln was submitted to East Lothian Council via the ePlanning Scotland Portal on 14 August 2012. The application comprised:

- Application Form
- Planning Supporting Statement
- Location Plan
- Site Plan
- Floor/ Roof/ Elevations/ Sections Plan
- Materials Palette

#### **2.2 Planning History**

The proposed development site has been subject to the following planning applications and appeals:

- 2011** – Planning Application ref. 11/00306/P: House and workshop
- 2006** – Planning Appeal ref. PPA/210/145: House, garage and works
- 2005** – Planning Application ref. 05/01106/FUL: House, garage and works

Reasons for refusal issued by East Lothian Council in relation to the 2005 and 2011 planning applications include the following four points:

- 1 Need to determine other employment use not demonstrated
- 2 Would set undesirable precedent for the development of housing in the countryside
- 3 House not be of a design sensitive to the countryside of East Lothian
- 4 Would generate increase in use of existing road junction

### **3.0 REFUSAL OF PLANNING PERMISSION**

#### **3.1 Refusal of Planning Application**

The planning application for the erection of a new house, workshop and associated works on land at the Former Lime Kiln was refused planning permission by delegated decision on 2 November 2012.

#### **3.2 Planning Officer's Report**

The Planning Officer's assessment of the proposal can be summarised as follows:

- Detailed description of proposal and planning history of site
- The recent planning history of the site
- No statutory or non statutory objections to the proposal
- No letters of representation received
- Consideration in terms of relevant plans and policies; SPP, PAN 72, Structure Plan Policies ENV3 and ENV1G and Local Plan Policies DC1, DP2, DP22 and T2
- Specification of the three reasons for refusal detailed below.

#### **3.3 Refusal of Planning Application**

Reasons for refusal:

- 1) The building of a house and workshop on the application site would be sporadic new build housing development in the countryside of East Lothian for which a need to meet the operational requirements of an agricultural, horticultural, forestry or other employment use has not been demonstrated. The proposal is therefore contrary to Policy ENV3 of the approved Edinburgh and the Lothians Structure Plan 2015, Policy DC1 of the adopted East Lothian Local Plan 2008, and Government policy guidance on housing and rural development given in Scottish Planning Policy: February 2010.
- 2) If approved the proposed development of a house and workshop on the application site would set an undesirable precedent for the development of new houses or workshops anywhere in the East Lothian countryside, the cumulative impact of which would result in a detrimental impact on the rural character and amenity of East Lothian.
- 3) The proposed house is not designed for place in the countryside of East Lothian and because of this is contrary to Policy ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015, Policies DC1 (Part 5) and DP2 of the adopted East Lothian Local Plan 2008 and with Government advice on the design of new housing development in the countryside given in Planning Advice Note 72.

#### **4.0 FIRST GROUND FOR APPEAL**

##### **4.1 First Reason for Refusal**

The first reason for refusal states:

*The building of a house and workshop on the application site would be sporadic new build housing development in the countryside of East Lothian for which a need to meet the operational requirements of an agricultural, horticultural, forestry or other employment use has not been demonstrated. The proposal is therefore contrary to Policy ENV3 of the approved Edinburgh and the Lothians Structure Plan 2015, Policy DC1 of the adopted East Lothian Local Plan 2008, and Government policy guidance on housing and rural development given in Scottish Planning Policy: February 2010.*

##### **4.2 Sporadic New Build Housing Development in the Countryside**

The first reason for refusal provided by East Lothian Council is that the proposed house and workshop at the Former Lime Kiln would represent 'sporadic new build housing development in the countryside of East Lothian for which the need to meet the operational requirements of an agricultural, horticultural, forestry or other employment use has not been demonstrated'.

The Council state that the proposed development is contrary to Structure Plan Policy ENV3 and Local Plan Policy DC1, as well as guidance provided on housing and rural development in Scottish Planning Policy (2010).

We will now present our evidence as to why we feel the proposed development complies with the aforementioned plans and policies.

##### **4.3 Policy ENV3 of the Edinburgh and the Lothians Structure Plan**

Policy ENV3 states –

*The following types of development, where justified in local plans, may be allowed in support of rural diversification.*

- *Tourism or other recreational uses;*
- *Development that reuses appropriate redundant rural buildings that make a positive contribution to the landscape;*
- *Diversification of an appropriate scale and a character on agricultural land, including lowland crafting, as a means of supporting and diversifying the rural economy, maintaining communities and services or effecting landscape improvement.*

The proposed development at Former Lime Kiln represents rural diversification of an appropriate scale and character. The site is currently brownfield land used for occasional materials storage by the Appellant.

In the glossary of the current East Lothian Local Plan brownfield land is defined as:

*Land that has been previously developed. The term may encompass vacant or derelict land, infill sites, land occupied by redundant or unused buildings and developed land within a settlement boundary where further intensification of use is considered acceptable.*

*Source: SPP3: Planning for Housing*



We would argue that the appeal site is brownfield land, and as such is an infill site where further intensification of use is considered acceptable.

It is interesting to note that in the Planning Officer's report that there is not a single mention of the fact that this site comprises previously developed brownfield land as a material consideration in the determination of the application. The officer also fails to record that the brownfield character of the site would partially negate the Council's concern about the proposal creating an undesirable precedent for new houses or workshops anywhere in the East Lothian countryside.

Current land uses adjacent to the proposed site echo the industrial past of the site; there is currently a saw mill, furniture repair workshop and plant hire business located on land that forms the remainder of the former lime kiln site. There are also two existing residential properties.

The appellant would like to locate his home and business here for a number of reasons, notably:

- Mr Heron currently works from a number of different workshops between his home and which he needs to travel on a daily basis. Rising fuel costs are making this unviable. Consolidating his home and business premises on to one site will reduce costs associated with travelling and also make his business more sustainable by cutting emissions and reducing the business's carbon footprint.
- Consolidation of his business located adjacent to his residence will provide the appellant with increased security. He has been a victim of theft on a number of occasions in the past.
- Moving to a new workshop will allow the appellant to expand his business by providing him with facilities within which he can manufacture more products. Financially this will benefit his business.
- He will be able to purchase larger machinery with which he will manufacture more products, e.g. windows, doors, stairs, kitchens and bespoke pieces of furniture.
- Moving premises will allow the opportunity for Mr Heron to further develop working relationships with the neighbouring businesses on the Former Lime Kiln site – in turn benefitting the rural economy.

At present, the appellant has limited premises which provide him with space for materials storage, therefore preventing him from expanding his business. The proposed development at Former Lime Kiln will provide him with the opportunity to build adequate working and storage space. The proposed development will diversify, and in turn benefit, the rural economy through providing the appellant with the opportunity to expand his business and provide additional employment opportunities within the local community, both directly and indirectly. This rural employment creation is not acknowledged within the Planning Officer's Report.

During the current difficult economic climate, it is acknowledged that it is the responsibility of Local Authorities to encourage economic development, particularly small business owners, rather than hinder their efforts. Mr Heron has been making a living in East Lothian for a number of years now, employing staff from the local area and it is his intention to continue to do so but this requires him to adapt his business to current market conditions in order for it to remain economically viable to continue trading (see Appendix 1).

For these reasons, it is argued that the proposed development at Former Lime Kilns will make a positive contribution to the diversification of the rural economy of East Lothian, therefore complies with Policy ENV3.

#### **4.4 Policy DC1 of East Lothian Local Plan**

Policy DC1 states:

*Development, including changes of use, will be generally acceptable in principle within the countryside and undeveloped coast where it is directly related to agriculture, horticulture, forestry and countryside recreation. Other business use will also be acceptable where it is of an appropriate scale and character for its proposed location in the countryside, it can be suitably serviced and accessed and there are no significant traffic or other environmental impacts.*

The proposed development at the Former Lime Kilns complies with each of the points outlined above.

The proposed development falls under 'other business use'. The appellant wishes to relocate his existing joinery business to the proposed site. As has been mentioned above, the site is underused brownfield land which has a long history of industrial use. We would suggest that the fact that the Former Lime Kilns site is not identified within the Local Plan is an omission on behalf of the Council given how long established nature of the existing group of buildings. The proposed site sits naturally within the boundary of the former lime kiln which once occupied the site and is screened by the surrounding woodland.

The proposed development is of an appropriate scale and character. The workshop is of a similar scale to those already existing on site and the proposed residential property has been sympathetically designed to include a materials palette suited to its rural location, notably a slate roof, natural stone, red harling, wood cladding and timber window frames and external doors. The site can be suitably serviced and safely accessed as acknowledged by the Planning Officer within her Report and there will be no significant traffic or other environmental impacts. From a landscape perspective, the proposed development will be completely screened by existing woodland and buildings surrounding the site.

Policy DC1, 1 New Build (b) states that a new house would be permitted where the Council is satisfied there is a direct operational requirement of an agricultural, horticultural, forestry or other employment use, and no appropriate existing building is available. As demonstrated within Section 4.2 above, the proposed business and residential development is suited to the proposed site and the proposed dwelling is a requirement of the appellant.

#### **4.5 Housing and Rural Development Guidance, Scottish Planning Policy (SPP)**

The proposed development complies with SPP as it promotes the efficient use of land through directing development to an underused brownfield site located within an existing cluster of business/industrial and residential properties.

The development represents positive rural diversification and sustainable economic growth through the provision of new employment opportunities within the local area, both direct and indirect. Mr Heron has indicated that the relocation and subsequent expansion of his business would have the potential to generate two new full-time positions (1 experienced and 1 apprenticeship) and a number of indirect employment opportunities for local subcontractors.

SPP specifically states in paragraph 94 that opportunities for small scale development in rural areas should be supported, including 'extensions to existing clusters and groups' of housing which are linked to rural businesses.

#### **4.6 Summary of First Ground of Appeal**

The proposed development will not constitute new sporadic development in the countryside. The submitted Supporting Statement demonstrates the operational requirements for a wood based workshop and dwelling house which will promote small scale rural diversification. The dwelling house will complement the two existing residential properties on the site, while the workshop will be compatible with existing wood based businesses on the site. The appeal proposal is compliant with the Council's Policy DC1 on the basis that it is of an appropriate scale and character for its proposed location on an existing well screened brownfield site in the countryside.

## **5.0 SECOND GROUND FOR APPEAL**

### **5.1 Second Reason for Refusal**

The second reason for refusal states:

*If approved the proposed development of a house and workshop on the application site would set an undesirable precedent for the development of new houses or workshops anywhere in the East Lothian countryside, the cumulative impact of which would result in a detrimental impact on the rural character and amenity of East Lothian.*

### **5.2 Setting of Undesirable Precedent**

It is considered that the proposed development at Former Lime Kiln would not set an undesirable precedent for housing in the countryside as, as is mentioned above, it would be situated adjacent to what the Planning Officer describes in her Report as a 'long-established' cluster of business and residential properties on brownfield land which is currently underused. The proposal would represent positive development on a site that currently lies vacant except for occasional use for material storage purposes by the Appellant.

Given the location of the proposed development, it would not result in the loss of any prime or indeed working agricultural land. The development would be screened on all sides by existing woodland and buildings therefore would not be obtrusive or visible from public places.

The proposed development would use an existing access road currently utilised by the existing properties on site and would have access to all other infrastructure requirements.

If the proposed house and workshop were located on an area of prime agricultural land, separate from existing properties then this would set an undesirable precedent. However, as the proposal is located next to existing development on redundant brownfield land we feel it is acceptable and indeed would be a positive attribute to the character of the Former Lime Kiln site.

The residential property, although of a simple design, will not detract from the rural nature and character of the area and the sympathetic material's palette will reflect existing traditional and modern development which currently exists in East Lothian. Mr Heron's profession as a joiner means that he will have significant input in to the construction of the buildings; therefore it will be ensured that the development is finished to a high standard.

In addition, as brownfield land, the appeal proposal cannot be considered as 'sporadic development in the countryside' on the basis the appeal site has a long history of industrial use, and more recently residential use. The appeal proposal will reflect the current long established uses on this site in the countryside, rather than constitute a new unrelated development in the countryside.

### **5.3 Summary of Second Ground of Appeal**

The proposed development will not set an undesirable precedent for sporadic development in the countryside. The proposed residential property and workshop are to be built on an existing infill brownfield site within a long-established cluster of business and residential properties. The proposal is of an appropriate scale for the area and will be well screened by existing woodland.

## **6.0 THIRD GROUND FOR APPEAL**

### **6.1 Third Reason for Refusal**

The third reason for refusal states:

*The proposed house is not designed for place in the countryside of East Lothian and because of this is contrary to Policy ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015, Policies DC1 (Part 5) and DP2 of the adopted East Lothian Local Plan 2008 and with Government advice on the design of new housing development in the countryside given in Planning Advice Note 72.*

### **6.2 Design of Proposed Residential Dwelling**

The third reason for refusal states that the proposed house is not designed for its location in the countryside of East Lothian, and as a result it is contrary to Structure Plan Policy ENV1G, and Local Plan Policy's DC1 (Part 5) and DP2 and PAN 72. The Officer's Report makes the following observations regarding the proposed house at the Former Lime Kilns:

- The proposed house would not be readily visible from public spaces.
- The proposed house would not appear intrusive or exposed.
- The proposed house would be finished with a combination of natural stone, a deep red coloured harling and vertical cedar cladding.
- The roof would be clad with natural slate.
- This palette of materials and colours are of a more traditional nature and the house would have some traditional detailing.
- It is a modern architectural style – typical form and appearance of a suburban type bungalow.
- The design does not reflect a sensitive appreciation of the architectural character and appearance of the traditional buildings and quality of place of the East Lothian countryside.

As there is no supplementary housing design guidance available to developer's in East Lothian, the appellant followed guidance provided within Structure and Local Plan Policies, as well as Planning Advice Note 72. He also considered examples of existing traditional and modern developments located throughout the East Lothian countryside (see Appendix 2 - Materials Palette), while also taking in to consideration the size and scale of the neighbouring residential properties.

The proposed house complies with Structure Plan Policy ENV1G as it represents a high quality design scaled appropriately to its rural location. The proposed development complies with the 7 criteria of Policy DC1 (Part 5) as it is of an appropriate scale and nature, is not visually intrusive, or visible from public spaces, has no significant adverse impact on nearby uses, will not result in the loss of prime agricultural land and has suitable access and infrastructure.

Local Plan Policy DP2 outlines 8 criteria relating to the design of new development. The Former Lime Kiln proposal complies with all criteria. As demonstrated below:

- 1) the proposed dwelling house and workshop are of an appropriate scale and design and use a materials palette which complements the rural surroundings;
- 2) the proposed materials palette compliments the local surroundings and other rural properties in East Lothian;

- 3) the proposal is positioned and orientated so as not to impact upon the privacy of or overlook surrounding properties;
- 4) the proposal utilises the existing access at the Former Lime Kiln;
- 5) the proposal utilises the existing access track and there is adequate provision for vehicle parking;
- 6) public/private space is clearly distinguished;
- 7) the proposal has suitable privacy and amenity; and
- 8) existing woodland will be retained to maintain the existing rural character of the area.

With regard to the proposed workshop, the purpose of the roller door is to enable delivery and internal storage of materials and for the dispatch of assembled kitchen units/bespoke products.

We would also draw the Review Body's attention to the Officer's Report for the recently granted planning in principle application for the erection of 1 house at Lawhead Farm (Ref: 07/01081/OUT) which was granted 9 November 2012 (Appendix 3). Although the aforementioned application differs from Mr Heron's proposal, there are a number of similarities and relevant points.

In the Officer's Report for a proposed new house at Lawhead Farm, the officer states in relation to housing design:

*The buildings of the former Lawhead Steading and Lawhead Farmhouse to the southwest have external walls finished with natural stone and their roofs are clad with red clay pantiles or natural slates. However, houses in East Lothian countryside also often have external walls finished with a painted render. Therefore, a new build house by having predominantly external finished of natural stone and/or painted rendered walls and a roof clad with natural red clay pantiles and/or natural slates would not appear harmfully intrusive or incongruous within its landscape setting.*

Similarly in the Officer's Report for Mr Heron's application and the detail relating to housing design; the Officers states '*the external walls of the proposed house would be finished with a combination of stone, a deep red coloured harling and vertical cedar cladding and its roof would be clad with natural slate*'.

The suggested (Lawhead Farm) and proposed (Former Lime Kiln) material palette's for both properties are extremely similar, yet the Lawhead proposal was approved, while the design and material palette are cited as part of reason for refusal in Mr Heron's application. On this basis the third reason for refusal for the Former Lime Kilns proposal is invalid. This view is supported by the fact that there is no specific, detailed design guidance available to developers in East Lothian.

We would also draw your attention to detail within the Officer's Reports for the previous two planning applications made by the Appellant (Ref 05/0106/FUL and 11/00306/P). When Mr Heron initially applied for planning permission in 2005, the proposed house had the following design features; white rendered walls, a red tiled roof, uPVC framed window and doors and metal garage doors. The planning officer made the following comment with regard to this design – '*with the proposed modern materials for its external finishes the proposed house would have the typical form and appearance of a suburban type bungalow.....the proposed house is essentially a standardised type intended for anywhere*'.

When Mr Heron reapplied for planning permission in 2011, the proposed house had the following design features; grey roof tiles, white harled walls and brown timber framed windows. The planning officer made the following comment with regard to the proposed finishes – *'its external finishes of grey coloured plain roof tiles and white render would have the typical form and appearance of a suburban type bungalow.... the proposed house is essentially designed as a standardised type intended for anywhere'*.

The Appellant took these comments with regard to the design of the house into consideration prior to submitting the most recent planning application (to which this Written Statement of Grounds of Appeal relates). Mr Heron took into account a number of examples of existing new and traditional properties in East Lothian before finalising the finishes for the most recent application. The proposed finishes are as follows:

- the external walls would be finished in a combination of stone,
- a deep red coloured harling and vertical cedar cladding and
- its roof would be clad with natural slates. The external windows and doors will be constructed from timber.

The planning officer made the following comment with regard to the proposed residential property – *'it would have the form and appearance of a suburban type bungalow.....the proposed house is essentially designed as a standardised type intended for anywhere'*.

We would strongly disagree with the comments of the planning officer and find it surprising and disappointing that the planning officer would have exactly the same comments for three differing proposals. Our concern is that the planning officer has chosen to recycle text from a previous report, rather than to consider the current proposal afresh and on its own merits. The Appellant has made considerable efforts to design a property using traditional finishes which are appropriate to the East Lothian countryside, an approach which the planning officer has chosen to ignore.

Finally we would draw your attention to PAN 72 Housing the Countryside which states; 'The greater the use of local materials, the more the house may reflect aspects of the local character. This will also help to contribute to sustainability.

In some parts of Scotland, stone is the traditional building material, with the diversity in colour and texture adding to local identity. It is expensive, however, and may only be required in some circumstances. One suitable alternative is a tinted harl which reflects local colour, such as red brown in East Lothian'.

### **6.3 Summary of Third Ground of Appeal**

The proposed development has been carefully designed to incorporate a materials palette which complements the rural surroundings of the site. We feel that the planning officer has failed to consider the current proposal on its own merits. In addition, there are obvious disparities between the officer's comments in relation to Mr Heron's proposal and the proposed residential property at Lawhead Farm.



## **7.0 SECTION 25 DETERMINATION**

### **7.1 Section 25 Determination**

In the Planning Officer's Report it is noted that 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.

Unfortunately, the planning officer has failed to follow this approach. The planning officer considers that the proposal is contrary to policy, reports the consultation responses, then states that there are no other material considerations that outweigh this determination against the provisions of the development plan. As a result, the planning officer makes no reference to the following issues as potential material considerations:

- the site's compliance with the definition of brownfield land
- the scope the proposal would generate to sustain and grow the appellant's business
- the scope to create additional woodcraft employment opportunities in the East Saltoun area
- the business synergy with existing rural wood based operations on the site

The Council's failure to give due consideration to these material considerations is contrary to the established planning principle that each application should be considered on its own merits within the context of the development plan.

## **8.0 CONCLUSION**

The proposed development will not constitute new sporadic development in the countryside. The submitted Supporting Statement demonstrates the operational requirements for a wood based workshop and dwelling house which will promote small scale rural diversification. The dwelling house will complement the two existing residential properties on the site, while the workshop will be compatible with existing wood based businesses on the site. The appeal proposal is compliant with the Council's Policy DC1 on the basis that it is of an appropriate scale and character for its proposed location on an existing well screened brownfield site in the countryside.

The proposed development will not set an undesirable precedent for sporadic development in the countryside. The proposed residential property and workshop are to be built on an existing infill brownfield site within a long-established cluster of business and residential properties. The proposal is of an appropriate scale for the area and will be well screened by existing woodland.

The proposed development has been carefully designed to incorporate a materials palette which complements the rural surroundings of the site. We feel that the planning officer has failed to consider the current proposal on its own merits. In addition, there are obvious disparities between the officer's comments in relation to Mr Heron's proposal and the proposed residential property at Lawhead Farm.

The fourth ground of appeal is that the Council has failed to give due consideration to four material considerations which would justify the setting aside of the provisions of the development plan.

For the foregoing reasons, it is requested that the Local Review Body sustain this planning appeal and grant planning consent for the proposed construction of a dwelling house and workshop on the appeal site at the former Lime Kiln near East Saltoun.

## **Appendix 1 – Business and Employment Case (Prepared by Mr John Heron)**

*My plan for building our new workshop is simple. This is to cut out the middle man and concentrate on manufacturing most of the products which we require on most of our extensions, attic conversions and new builds, which in the past I have had to outsource from other joinery workshops. This, in turn, takes a big chunk of my profits and also causes delays to my projects due to delayed waiting times from these manufacturers.*

*Over the past few years I have managed to produce some smaller bespoke work for my clients from a small workshop to the rear of my mother's ex-council house. However, as this is small, I am limited to what I can produce. Also, the fact that this is in a mainly residential area, I am limited to small machines. This has the knock on effect that I have had to turn down work that I simply cannot do in this small workshop.*

*The possibility of having a larger workshop and the ability to work with larger machines would give me more scope to manufacture the likes of windows, doors, stairs, kitchens and other bespoke items of furnishings.*

*The plan is also to supply other builders with this service once I am more established thus hopefully giving me the opportunity to then offer another apprenticeship for workshop and site joiners.*

*I have on occasion been given help and the use of workshop space by my brother-in-law, Neil Scott, who lives and works from Oak Cottage adjacent to the site I am putting forward in this application. This working relationship I would like to keep ongoing as he has been in business for some years now and I am sure it would be advantageous to myself to have him help in getting our workshop up and running.*

*I have also had some help from Colin Miller in the Old Sawmill and again would hope we could do more work together in the future if my business was to be located in this application site.*

*The other major factor in relocating my business to this site is the fact that it has the area available to store all my tools and also storage for timber.*

*These items are currently stored in different areas in East Lothian and would definitely be better for me to have these in one common area as the rising fuel costs travelling to each area when needed is also hitting any profit margins I have. Also not being able to keep everything as secure as I would like has meant I have been a victim of theft on various occasions. This I hope would not be the case if I had one storage/work and living area.*

*I hope by living and working in the same area will help my profits and in turn, if I am working in my workshop, it would mean I would then be looking for another joiner to replace me on sites to carry out the work that I normally carry out.*

*There can be an argument as to why I don't simply buy an area suited to this purpose. The answer to this is simple - I cannot afford to do this.*

*The background of my business is whilst working for Scottish Homes housing in the early 90s, I would also work most nights and weekends on private jobs for myself. I soon got to the stage through word of mouth that I had more private work that I took the plunge and went self-employed, something I have always wanted to do. I slowly built this business up to larger work. I then managed to secure a major contract with MFI Furniture stores and the fact I was still building extensions and converting attics meant I had to then start to employ people to help with my now large workload i.e. labourer, joiners and also apprentice joiners and also secure subcontractors to carry out my plumbing works and electrical work.*

*All my employees and subcontractors are all East Lothian based, most of whom still work with me to this day. I managed to keep this going until 2008 when the recession hit and MFI went out of business, owing myself and others large sums of money. Another blow was the fact that being a sole trader and needing my workforce to carry out other works I was carrying out at the time meant I had to pay out for MFI work to them knowing full well this was capital I was losing along with non payment from MFI this took all my working capital I had worked for from the beginning and put me back to square one. Along with this major setback the whole country was now in a recession and the building trade took a bad downturn. I also suffered a period of unemployment for a few months during this and have seen a lot of other building companies unable to survive this.*

*I have been a sole trader and traded under the same name since starting my business and I am proud to say that most of the work I carry out is from client referrals. My business is now improving again, but with the state of our economy, it is a lot more difficult than when I first started. This is why I find that I now have to take this direction to try and boost profits and cut back on costs.*

*The idea of this application is not to make profit from development but to sustain and hopefully build on my existing business. Without this, I think my business will suffer and will probably find it difficult to survive with materials prices going up and clients expecting more competitive pricing due to the shortage of work going around.*

*This whole plan could fail and I am well aware of the risk I am taking and could lose everything I own, but I think this is the right time to do this for my business to move forward.*

*The application from the beginning on this site was always meant for a house and workshop. Unfortunately, in the beginning I was given some wrong advice as to how to obtain this. All surrounding residential and commercial properties are in favour of this application.*

## **Appendix 2 – Materials Palette**



# MATERIALS PALETTE

Slate



Cedar Cladding



Natural Stone



Brown Red Harl



Housing Design in East Lothian – Old & Modern



Figure 3.3a Residential & Business Development, Old Limekilns, East Saltoun





**FIGURE 3.3b DESIGN EXAMPLES – TRADITIONAL & MODERN PROPERTIES IN EAST LoTHIAN**



**Slate roof / natural stone**



**Modern build with traditional harl finish**



**Natural stone / traditional pantiles**



**Modern & traditional styles combined**



**Traditional stone gable**



**Modern build with traditional harl finish**



## **Appendix 3 – Lawhead Farm Officer's Report**



# OFFICER REPORT

24/04/12

App No. 07/01081/OUT

Application registered on 22nd October 2007

Target Date 21st December 2007

|          |  |                              |                                    |
|----------|--|------------------------------|------------------------------------|
| Proposal | Planning permission in principle for the erection of 1 house | SDELL                        | <input checked="" type="radio"/> N |
|          |  | CDEL                         | <input checked="" type="radio"/> N |
| Location | Lawhead Farm<br>Tynninghame<br>East Lothian                  | Bad Neighbour<br>Development | <input checked="" type="radio"/> N |

APPLICANT: Mr And Mrs Q Gray

Is this application to be approved as a departure from structure/local plan?  N

c/o Lorn Macneal Architects  
3 St Vincent Street  
Edinburgh  
EH3 6SW

DECISION TYPE: **Consent Granted**

## PLANNING ASSESSMENT

The application site is in the countryside some 340 metres to the northeast of Lawhead Steading and Farmhouse and some 600 metres to the northwest of the village of Tynninghame. It is within the North Berwick – Dunbar Coastline Area of Great Landscape Value.

The application site is part of a field of Lawhead Farm and measures some 0.5 of a hectare in area. It comprises of a roughly rectangular shaped area of land which forms the main northern part of the site and a long narrow strip of land attached to the southeast corner of the larger area of land and which extends in a southerly direction. The application site is bounded to the north by an escarpment of agricultural land, at the bottom of which is further agricultural land. To the east is an area of woodland. To the west and south is agricultural land. On the agricultural land to the south are one large and one smaller agricultural building. To the south of them is a public road.

The south and west boundaries of the main, northern part of the application site are enclosed by post and wire fencing. The east boundary is enclosed by a combination of post and wire fencing and low stone wall. There is no boundary enclosure along the north boundary. The south and west boundaries of the narrow southern part of the application site are not enclosed.

The east boundary of that part of the application site is enclosed by a combination of post and wire fencing and low stone wall.

The land of the main, northern part of the application site is undulating. Towards the western end of it the land slopes downwards in a west/southwesterly direction. The land of the southern part of the application site is generally level.

Planning permission in principle (formerly known as outline planning permission) is sought for the erection on the site of one house for use as living accommodation in association with the operation of Lawhead Farm.

Since the application was registered additional drawings have been submitted to show an indicative footprint, floor plans and elevations for a house that might be built on the site. Furthermore, two photo-montages of such a house in its setting have been submitted. In addition, further information has been submitted explaining how much of the land of Lawhead Farm is rented to third parties.

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

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

Policies ENV3 (Development in the Countryside) and ENV1D (Regional and Local Natural and Built Environment Interests) of the approved Edinburgh and the Lothians Structure Plan 2015 and Policies DC1 (Development in the Countryside and Undeveloped Coast), NH4 (Areas of Great Landscape Value), DP22 (Private Parking) 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 is Scottish Ministers' policy given in Scottish Planning Policy: February 2010.

One representation to the application has been received. It neither objects to nor supports this proposal for a new build house at Lawhead but comments that the policies of the Structure Plan and the Local Plan, which presume against the development of new houses in the countryside could be bypassed to the detriment of the character of East Lothian as it appears that the former steading buildings and Lawhead Farmhouse were sold separately to the farm land and that now a proposal is before the Council for the erection of a new house for the farm business that is operated from the agricultural buildings of Lawhead Farm. It is also commented that the proposed house would be sited some distance away from those existing agricultural buildings and would thus not overlook the operation of the farm. The representation enquires whether the accommodation needs of the applicant could be met by the purchase of an existing property in the local area.

The application site is in a countryside location within East Lothian and is part of a much larger area characterised by a low density dispersed built form within an agricultural landscape.

By being in a countryside location within East Lothian the principle of the proposed building of a new house on part of the application site must be assessed against national, strategic and local planning policy relating to the control of new build housing development in the countryside.

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

As relevant to this case, 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, and is compatible with the rural character of the area. Acceptable countryside development will include agriculture, horticulture, forestry and countryside recreation.

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

Part 1(b) of Policy DC1 of the adopted East Lothian Local Plan 2008 only allows for new build housing development in the countryside of East Lothian where the Council is satisfied that a new house is a direct operational requirement of an agricultural, horticultural, forestry or other employment use provided that there is no suitable existing building for the required residential use.

Part 4 of Policy DC1 states that where satisfied that a new house is justified by an operational requirement, it will be required that the applicant enter into a Section 75 legal agreement with the Planning Authority (i) to tie the proposed house to the business for which it is justified and (ii) to restrict the occupancy of the house to a person solely or mainly employed, or last employed, in that specific business, and their dependents. It further states that where an agricultural use that is not yet established seeks to justify an operational requirement for an associated house, the Council will either grant temporary planning permission for temporary accommodation, or condition any consent such that permanent accommodation will only be permitted once the Council is satisfied that the agricultural use is established and that permanent accommodation is justified. In such situations the requirement for the above Section 75 legal agreement will then apply.

The adopted East Lothian Local Plan 2008 does not allocate the land of the application site for residential development. Neither does the Local Plan define any part of it as being a settlement.

The main material consideration in the determination of this application is therefore whether or not there is a direct operational requirement for the house that derives from an agricultural, horticultural, forestry or other employment use within the countryside.

A supporting statement has been submitted by the applicants. It explains that Lawhead Farm comprises of 285 hectares of land; some 221 hectares of arable and grazing land and some 64 hectares of woodland, and that prior to the applicants purchase of the land of Lawhead Farm the houses and original steading buildings that historically were associated with the land were sold off separate to that land. No houses were made available to the applicant with the purchase of the land of Lawhead Farm.

The existing farm buildings of Lawhead Farm are the two that are to the south of the application site and which are, a large purpose built storage building for cereals and potatoes, which includes a grain dryer, and a smaller machinery storage building.

It is stated that the applicants' also presently operate a farming business at Gortonlee in Midlothian, which they have operated for the last 25 years. It is explained that due to the lack of buildings and a dwellinghouse at Lawhead Farm, the land at Lawhead Farm has since it purchase been managed remotely from Gortonlee and as a result 66 hectares of the land have been rented out for the growing of potatoes and other vegetables (37 hectares and 29 hectares respectively). Additionally, some of the grazing land at Lawhead Farm has also been rented out. It is further explained that although such renting out of these areas of land has simplified the overall management of the business at Lawhead Farm, this business practice has had a negative effect on overall farm profitability compared to if the land was farmed by the applicants.

The agricultural business of Lawhead Farm and that at Gortonlee in Midlothian are presently operated by the applicant, Quentin Gray, with one full time employee. Mr Gray's son is due to return to the business after completing an agricultural degree. It is envisaged that Mr Gray would manage the business at Lawhead Farm and that his son would manage the business at Gortonlee in Midlothian and would also assist with seasonal peaks of work at Lawhead Farm.

The agricultural business at Lawhead Farm is presently an arable farm with some woodland management required due to the woodland areas that form part of the farm. It is explained that some of the arable and grazing land at Lawhead Farm would continue to be rented out (e.g. up to some 40%) to third parties but that Mr Gray would provide a ploughing and irrigation management service for the rented out arable land. It is also explained that a herd of suckler cows would be developed at Lawhead Farm in order to utilise the areas of permanent grassland of the farm. The quality of the land and the presence of shelter belts would allow the herd to be 'out-wintered' on the land, which requires high levels of management. The proposed house would enable the efficient management of the farm, including the proposed suckler cow herd, would provide supervision of the proposed livestock, and would provide security for the farm buildings and machinery at Lawhead Farm.

The development of the application site for the erection of a house would be related to the existing agricultural use of Lawhead Farm.

The Council's Agricultural and Rural Development Consultant has carried out a rural business appraisal of the proposed development based on a visit to the site at Lawhead Farm, and a visit to the associated farm site at Gortonlee in Midlothian, an interview with the applicants, and an



assessment of their supporting statement and full financial accounts for all parts of the business and related interests since 2003.

The Council's Agricultural and Rural Development Consultant confirms that the land at Lawhead Farm extends to 285 hectares and that the applicant purchased the land at Lawhead in 2003 without housing or adequate buildings on it. She further confirms that there is now in place on the farm the large purpose built storage building and the smaller machinery storage building. The other element of the farm business at Gortonlee has been farmed for 25 years in conjunction with a further 40 hectares at Windyett, Falkirk, which is temporarily under coal extraction but will in time be restored for agricultural production. Lawhead Farm is to undergo intensive development to reach its full highly productive potential.

The Council's Agricultural and Rural Development Consultant advises that the land at Lawhead Farm comprises cereal, vegetable and potato production with these last two operations being mostly rented out as they cannot be managed effectively from a distance. The land producing vegetables will be taken back in hand when there is an adequate on-site presence. However, some of the land of Lawhead Farm would continue to be rented out to third parties on annual cropping leases. The amount of land rented out each year varies but can be up to some 40% of the land of the farm. On this matter the applicant advises that there are no formal lease documents. Livestock are proposed to be brought to Lawhead Farm as the farm has some 29 hectares of permanent grassland. This is subject to an adequate on-site presence (i.e. someone living on the farm). The business is structured as a partnership trading under the name 'Quentin Gray & Partners' with the principal partners being Mr and Mrs Gray and a token partnership being held by the Gortonlee Trust, which is comprised of the applicants' three sons. Mr Gray is responsible for the management of the farm with Mrs Gray carrying out all administration of the farm. The systems of production for the farm business are modern. The full time labour requirement of the farm business is currently met by Mr Gray and one full time employee with help from the eldest son. It is proposed that Mr and Mrs Gray and two sons would move to Lawhead Farm and would operate that part of the business along with one further new employee. The eldest son would take over the day to day management of Gortonlee. Presently there is no on-site presence to attend to the business at Lawhead and to the welfare and security of the livestock to be brought there. Farm operational efficiency would be significantly improved by a farm employee living on-site at Lawhead Farm. There are no houses currently available to the applicant at Lawhead.

From all of this assessment, the Council's Agricultural and Rural Development Consultant concludes that, even with up to some 40% of the land at Lawhead Farm continuing to be rented out to third parties: (i) the whole farm business of Lawhead and Gortonlee is physically and financially robust and is capable of supporting a proposed house; (ii) for the lands at Lawhead Farm to be developed to their full potential to accommodate a substantial beef herd and intensive vegetable production there is a justified operational need for Mr and Mrs Gray to live at Lawhead Farm; and (iii) there is no available house to meet this requirement.

With this operational justification of need for it, the principle of the building of a new house at Lawhead Farm is consistent with Part 1(b) of Policy DC1 of the adopted East Lothian Local Plan 2008, Policy ENV3 of the approved Edinburgh and the Lothians Structure Plan 2015 and national planning policy guidance given in Scottish Planning Policy: February 2010.

As required by Part 4 of Policy DC1 of the adopted East Lothian Local Plan 2008 a grant of planning permission for the building of a new house in the countryside based on the Council's

acceptance of an operational justification of need for it should be subject to the satisfactory conclusion of an agreement under the provisions of Section 75 of the Town and Country Planning (Scotland) Act 1997.

Thus in this instance a grant of planning permission for the proposed house has to be subject to the prior conclusion of a Section 75 Agreement designed to tie the house in ownership to the farm business operating at Lawhead Farm and to restrict occupancy of the house to a person(s) solely or mainly employed in that farm business, and to their dependants. Such an agreement would safeguard against the future independent sale of a new house.

Up to some 40% of the land of Lawhead Farm is rented out by the applicants to third parties on a yearly basis. Notwithstanding this the Council's Agricultural and Rural Development Consultant concludes that the agricultural business operating on the basis of the remaining 60% of the land of Lawhead Farm is sufficient to justify an operational requirement for someone to live on the farm and thus to justify the principle of the building of the proposed new house on the farm. To ensure such justification the grant of planning permission in principle for the proposed house should be subject to the overall amount of agricultural land that could be rented out to third parties being restricted to no more than 40% of the land of Lawhead Farm. This control should be secured through the prior conclusion of the Section 75 Agreement otherwise required to tie the house in ownership to Lawhead Farm and to restrict the occupation of it to a person(s) solely or mainly employed in that farm business, and to their dependants.

Furthermore, owing to its size the area of agricultural land to be changed in use to residential garden ground for the proposed new house would be capable of accommodating a further house or houses. The principle of such other new build housing development without an operational justification of need for it would be contrary to Policy DC1 of the adopted East Lothian Local Plan 2008 and Policy ENV3 of the approved Edinburgh and the Lothians Structure Plan 2015. Therefore the Section 75 Agreement should also be designed to prevent any future erection of another house or houses on it. This would have the effect of safeguarding the purpose and integrity of the Council's policies for the control of new housing development in the countryside.

The applicants' agent has confirmed the applicants' willingness to enter into a Section 75 Agreement designed to secure all three of these planning controls.

The application site is partially visible in long range views from the public road to the south, beyond the existing agricultural buildings of the farm. In addition, due to its position close to the escarpment that forms its northern edge, the application site is also visible in long range views from the public roads some distance to the north. In such views the northern gable of the existing large agricultural building of the farm is clearly visible.

The buildings of the existing farm that are located to the south of the application site have a utilitarian form and are of blockwork and profile metal construction with pitched roofs. Some 340 metres to the southwest are the buildings of the former Lawhead Steading that are now converted into houses and the former Farmhouse. The former Farmhouse is two storey and the former steading buildings are single and two storey in height. Their external walls are predominantly clad in natural stone and their pitched roofs are clad in either natural red clay pantiles or natural slates, although there is some use of lead or profile metal sheeting on small areas of roofing at the former steading.

An indicative layout drawing and indicative elevations are submitted to illustrate how a house, part two storey and part single storey, and with a roughly cruciform shaped footprint could be accommodated on the application site as the new build house for Lawhead Farm. Such a house would be positioned centrally on the application site, with the two storey part of it aligned on a north-south axis so that its narrow two storey gables would face north and south respectively. Its east and west wings would be single storey in height. It is also shown on the indicative drawings how a parking area could be provided within the site to the southeast of the proposed house and how a driveway could extend across the southern half of the main part of the application site and down the length of the long narrow southern part of the application site to connect with the existing farm yard area.

In addition, two photo-montages showing how such a new build house would sit in its setting and be seen in the long distance public views from the northeast and northwest of the application site have been provided.

They and the submitted indicative layout and elevation drawings demonstrate that the site is physically capable of accommodating such a house and vehicular and pedestrian access, car parking and vehicle turning space and a sufficient sized garden without there being an overdevelopment of it.

They also demonstrate that such a house by its plan form and alignments, variable two storey and single storey heights and positioning on the site would be well integrated in its setting. It would not appear harmfully intrusive or incongruous within the landscape of the area and would not be harmful to the landscape character and appearance of the Area of Great Landscape Value within which the application site lies. These principles of development of a new build house on the application site can be controlled by a condition on the grant of planning permission in principle.

No details of the external finishes of the walls and roof of the proposed house have been provided. The buildings of the former Lawhead Steading and Lawhead Farmhouse to the southwest have external walls finished with natural stone and their roofs are clad with natural red clay pantiles or natural slates. However, houses in the East Lothian countryside also often have external walls that are finished with a painted render. Therefore, a new build house by having predominantly external finishes of natural stone and/or painted rendered walls and a roof clad with natural red clay pantiles and/or natural slates would not also appear harmfully intrusive or incongruous within its landscape setting. This principle of development can also be controlled by a condition on the grant of planning permission in principle.

On these considerations of design and layout the principle of the building of a house on the application site is consistent with Policies DC1 and NH4 of the adopted East Lothian Local Plan 2008.

There are no nearby neighbouring residential properties to be affected by overlooking or overshadowing from a new build house erected on the application site.

The occupants of the new build house would be afforded an acceptable standard of privacy and amenity.

On these considerations of sunlight, daylight, privacy and amenity the principle of the building of a house on the application site is consistent with Policy DC1 (Part 5) of the adopted East Lothian Local Plan 2008.

The Council's Transportation service raises not objection to the principle of the erection of a house on the application site, subject to: (i) the access onto the public road having a minimum visibility splay of 2 metres by 70 metres to each side of the access so that no obstruction lies within the splay above a height of 1.05 metres measured from the adjacent carriageway surface; (ii) the first 5 metres of the access with the public road being hard formed to prevent loose materials entering the public road on vehicle tyres; and (iii) a minimum of 2 parking spaces being provided within the site and each of those parking spaces having minimum dimensions of 5 metres long by 2.5 metres wide. He is satisfied that the visibility splay can be achieved and that there is sufficient space within the site to provide adequate on-site parking. Subject to the recommendations of Transportation a new build house on the application site can be safely accessed and adequate parking provided. Thus, the principle of the erection of one house on the site is consistent with Policies T2 and DP22 of the adopted East Lothian Local Plan 2008.

The Council's Environmental Protection Manager raises no objection to the principle of the erection of a new build house on the application site.

Scottish Water raises no objection to the principle of the erection of a new build house on the application site.

The grant of planning permission is subject to the prior conclusion of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 designed to: (i) tie a house erected on the application site in ownership to the farm business operating at Lawhead Farm and to restrict occupancy of such a house to a person(s) solely or mainly employed in that business, and to their dependants; (ii) to restrict the overall amount of agricultural land at Lawhead Farm that could be rented out to third parties to no more than 40% of the land of Lawhead Farm; and (iii) to prevent the erection of any other house(s) on the land of the application site.

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. The reason for refusal being that without an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997, restricting the proposed house being tied in ownership and occupancy to the farm business operating at Lawhead Farm, limiting no more than 40% of the land of the farm being rented out to third parties, and preventing the erection on the land of the application site of any more than the one proposed new build house, development of the site would be contrary to Policy DC1 of the adopted East Lothian Local Plan 2008, Policy ENV3 of the approved Edinburgh and the Lothians Structure Plan 2015 and national planning policy guidance given in Scottish Planning Policy: February 2010.

CONDITIONS:

1 Before development commences application for approval of matters specified in a condition(s) of this planning permission in principle

(a) must be made before whichever is the latest of the following:

(i) the expiration of 3 years from the date of the grant of the permission

(ii) the expiration of 6 months from the date on which an earlier application for the requisite approval was refused, and

(iii) the expiration of 6 months from the date on which an appeal against such refusal was dismissed, and

(b) may be made for: (i) different matters, and (ii) different parts of the development, at different times.

In relation to any matter, only one application may be made by virtue of sub-paragraphs (ii) and (iii) above after the expiration of the 3 years period of sub-paragraph (i) above.

This planning permission in principle lapses on the expiration of 2 years from the date of approval of the last of the matters specified in a condition(s) of this permission unless the development to which the permission relates is begun before that expiration.

Reason:

Pursuant to Section 59 of the Town and Country Planning (Scotland) Act 1997

2 The submission for approval of matters specified in this condition of this grant of planning permission in principle shall include details of the siting, design and external appearance of the development, the means of access to it and the means of any enclosure of the boundaries of the site and, as applicable, those details shall accord with the following principles of development for the site:

a. No part of the house shall be more than two storey in height and any two storey component of it shall be aligned within the site so that only a narrow two storey elevation(s) of the house faces northwards;

b. The house shall be positioned on the site such that its north elevation wall(s) would be no further north and its west elevation wall(s) would be no further west than the positions shown for the most northerly and westerly house elevations indicatively shown on docketed drawing no. 11.17/PL01;

c. If the house is designed to have a dual pitched roof(s), such roof(s) shall be clad with natural red clay pantiles and/or natural slate;

d. The site access shall be from the public road to the south of the application site and the junction of any such access with that public road shall have on each side of it a

visibility splay of 2 metres by 70 metres so that no obstruction lies within the splay above a height of 1.05 metres measured from the adjacent carriageway surface;

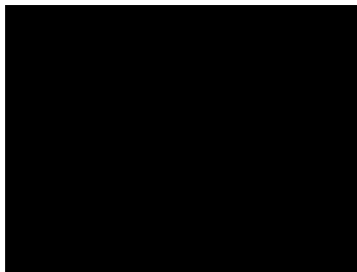
e. The first 5 metres of the site access back from its junction with the public road shall be hard formed to prevent loose materials entering the public road on vehicle tyres; and

f. The house shall be provided with a minimum of two parking spaces within the curtilage of the house, and those parking spaces shall each have minimum dimensions of 2.5 metres by 5 metres.

Reason:

To enable the Planning Authority to control the development in the interests of safeguarding the character and appearance of the area and amenity of neighbouring residential properties and uses and in the interests of road safety.

LETTERS FROM



24/04/12

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24/4/12