

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

Application No. **12/00062/PCL**

Proposal Resurfacing of existing footpaths, formation of new footpaths, car parking areas, erection of fencing, gates, wall, installation of lighting and a change of use from domestic ground to public ground and public ground to domestic ground (part retrospective)

Location **Pencaitland Parish Church, The Cottage and Primary School
Pencaitland
East Lothian
EH34 5DL**

Applicant East Lothian Council

Ward 4

RECOMMENDATION Consent Granted

UPDATE POSITION

At their meeting on 4th September 2012 the Committee decided not to then determine this planning application in order that there be a process of further public consultation on the proposals and a referral of the proposals back to Cabinet for review.

The Council's Transportation service undertook further public consultation with the residents of Pencaitland on the proposals on 30th October 2012.

Following this, the proposals were referred back to Cabinet on 11th December 2012 with a recommendation "That in light of the support shown for the provision of an alternative path route from the west end of the village to the primary school, the proposed path route as shown on the attached layout drawing [no. 001 Ref F] is confirmed as a project but omitting the additional car parking spaces in the school grounds". Cabinet agreed this recommendation.

Consequently, the development proposals the subject of planning application 12/00062/PCL have been amended by the removal from them of the originally proposed extension to the car park of Pencaitland Primary School and to include a consequential repositioning, by some 1.0 metre further to the east, of the footpath proposed to be formed within the school grounds.

Additionally and to address matters raised by the Planning Committee at their meeting on 4th September 2012 some other amendments have also been made to the proposals. These are that:

(i) the north side of the length of footpath adjacent to the top of the retaining wall on the south side of the A6093 public road be enclosed by 1.1 metres high black painted metal railings instead of the originally proposed 1.3 metres high timber post and horizontal railed fencing; and

(ii) the existing opening of the pedestrian stepped access on the south side of the A6093 public road to the north of the Church Offertory House be enclosed by a 1.975 metres high fixed barrier with the appearance of a timber gate instead of an openable timber gate as originally proposed

A further amendment is the now proposed change to the style of the two street lighting columns proposed to be sited on the land to the west of the churchyard from the modern galvanised steel columns originally proposed to the heritage style lantern columns now proposed and which are the same as the lighting columns otherwise proposed to be sited within the churchyard.

All of these amendments are shown on submitted amended application drawings.

In its now proposed position some 1.0 metre further to the east, the length of new footpath to be formed within the school grounds would in part abut the western edge of the existing school car park. It would be surfaced in materials suitable to the locality and would be an appropriate feature within this part of the Conservation Area and within the settings of the listed buildings of Pencaitland Parish Church, The Manse and the stables building.

The now proposed 1.1 metres high black painted metal railings to be erected along the north side of the length of footpath adjacent to the top of the retaining wall on the south side of the A6093 public road would, due to their elevated position above the top of the wall, be visible in public views from the A6093 public road. However they would be of a traditional form in keeping with proposed new churchyard gates and with other existing styles of gates in the locality. By their form, character and appearance they would be an enhancement on the originally proposed 1.3 metres high timber post and horizontal railed fencing. They would be appropriate within this part of the Conservation Area and within the settings of the listed buildings of Pencaitland Parish Church, The Manse and the stables building. Unlike the originally proposed horizontal railed fencing, children would not be able to climb up them with the potential of falling from them onto the public road of the A6093 below.

The new 1.975 metres high fixed timber barrier to be erected across the existing opening of the pedestrian stepped access on the south side of the A6093 public road to the north of the Church Offertory House would have the appearance of vertical boarded timber gate. It would be stained in a colour to match the colouring of the stone work of the boundary wall it would be adjacent to. Although a fixed barrier it would be in keeping with existing styles of gates in the locality and would be appropriate within this part of the Conservation Area and within the settings of the listed buildings of Pencaitland Parish Church, The Manse and the stables building. As a fixed barrier it would prevent pedestrians from using the existing access which is directly onto the road of the A6093.

The use of heritage style lantern lighting columns for the two street lights to be positioned to the west of the churchyard would give a continuity of form and appearance with the same lighting columns otherwise proposed to be sited within the churchyard and would make them appropriate to this part of the Conservation Area. They would not be harmful to

the character and appearance of the Conservation Area or the setting of the listed buildings of Pencaitland Parish Church, The Manse and the stables building.

None of these amendments to the original proposals would change the impact of the proposed development on the trees that are on and adjacent to the site.

These amendments are all consistent with Policies ENV1C, ENV1D and ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015, Policies ENV3, ENV4, DP2 and DP14 of the adopted East Lothian Local Plan 2008 and the Scottish Government's policy on development affecting a listed building or its setting and on development within a conservation given in Scottish Planning Policy: February 2010.

With these amendments and as otherwise previously assessed in the original Report for this planning application the proposed development is consistent with the relevant development plan policies and other material considerations.

It is NOW RECOMMENDED that with these amendments the proposed scheme of development should be granted planning permission subject to the conditions listed at the end of the original Report but with the following changes to some of those conditions to account for the amendments made to the proposed development:

- (i) Condition 4 – replacement of the words timber gate with fixed timber barrier.
- (ii) Condition 5 – the stated number of street lighting columns being 9 and not 8.
- (iii) Condition 6 – the stated docketed drawing no. being 001/Rev I and not 001/Rev F.
- (iv) Condition 9 - the stated docketed drawing no. being 001/Rev I and not 001/Rev F.

THE FOLLOWING IS THE TEXT OF THE ORIGINAL REPORT PRESENTED TO THE PLANNING COMMITTEE AT THEIR MEETING ON TUESDAY 4th SEPTEMBER 2012.

PLANNING ASSESSMENT

Planning permission is sought by East Lothian Council for: (i) the resurfacing of existing footpaths; (ii) the formation of new footpaths and car parking areas; (iii) the erection of fencing, gates and wall; (iv) the installation of lighting; (v) the change of use from domestic ground to public ground; and (vi) the change of use from public ground to domestic ground.

It is stated with the application that the proposed development would provide an alternative lit pedestrian route from Easter Pencaitland to Wester Pencaitland. The foundations of the proposed new footpath to be provide on the western part of the application site between the A6093 public road and the Church Offertory House and of the new footpaths to be provided within the churchyard have already been laid, therefore, the application is in part retrospective.

This application relates to the land and buildings of Pencaitland Parish Church, the house of The Cottage and its associated garden ground, which is to the east of the church, and Pencaitland Primary School and grounds, which are to the southeast of the church and to the south of the property of The Cottage.

Pencaitland Primary School is accessed from the public road of The Glebe. Pencaitland Parish Church and The Cottage are located on the south side of the A6093 classified public road and are accessed from that road.

Pencaitland Parish Church, The Cottage and Pencaitland Primary School are all within Pencaitland Conservation Area. They are also all part of a larger area that is defined by Policy ENV1 of the adopted East Lothian Local Plan 2008 as being of predominantly residential character and amenity.

Pencaitland Parish Church, its churchyard and walls and the Church Offertory House are listed as being of special architectural or historic interest, Category A. The Manse house to the southeast of the church, its walls and gate piers, and the detached former stable court building to the northeast of it are together listed as being of special architectural or historic interest, Category B.

A small part of the far western part of the application site is within the Fluvial Flood Risk envelope of the Indicative River and Coastal Flood Map (Scotland) as defined by the Scottish Environment Protection Agency.

A small group of trees on the western part of the application site to the west of the churchyard and to the east of the driveway of The Manse are protected by Tree Preservation Order No. 10 and trees T53 and T54 of Tree Preservation Order No. 10 are located to the east of the churchyard, one on each side of the vehicular access to one of the proposed car parking areas.

The application site is bounded to the north by the classified A6093 public road, to the west by an area of scrubland and woodland beyond which is the Tyne Water, to the south in part by the residential properties of The Manse and The Courtyard Flat beyond which is the Tyne Water and in part by an area of scrubland and woodland beyond which is the Tyne Water, and to the east by residential properties of The Glebe.

Since the application was registered the annotation on the drawings has been amended with regard to the proposed change of use of the two areas of land, details of the proposed handrails have been provided, and at the request of the Council's Policy and Projects Manager replacement tree planting is shown to be provided on the western part of the site, changes have been made to the surface finishes that would be within the root protection areas of some of the trees on the eastern part of the site and alterations to the ground levels of the grass verge on the western side of the vehicular access road to one of the proposed car parking areas have been removed from the proposed development.

To facilitate part of the footpath route an existing 2.2 metres length of 1.75 metres high stone boundary wall located towards the southeast corner of the churchyard, an existing 35 metres length of 2.0 metres high mesh fencing located towards the northwest corner of the school grounds would be removed, and an existing 4.7 metres length of stone boundary wall also located towards the southeast corner of the churchyard would be reduced from 1.75 metres to 1.25 metres in height. The removal of the length of wall and the length of fencing and the reduction in the height of the wall do not require planning permission and therefore do not form part of the assessment of this application for planning permission. The removal of the length of wall and the reduction in height of the length of wall of the churchyard do however require listed building consent and form part of listed building consent application 12/00193/ELL.

Through application 12/00193/ELL the Council applied to Historic Scotland for listed building consent for the formation of the proposed new and replacement footpaths and for the part demolition of walls, all as associated with the development for which planning permission is sought. Historic Scotland has granted that listed building consent.

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

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

Policies ENV1C (International and National Historic or Built Environment Designations), ENV1D (Regional and Local Natural and Built Environment Interests) and ENV1G (Design of New Development) of the approved Edinburgh and the Lothians Structure Plan 2015 and Policies ENV3 (Listed Buildings), ENV4 (Development Within Conservation Areas), DP2 (Design) DP14 (Tree on or adjacent to Development Sites) and ED1 (Schools) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

Material to the determination of the application are 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 echoes the statutory requirements of Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that in considering whether to grant planning permission for development which affects a listed building or its setting a planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Also material to the determination of the application are Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Scottish Government's policy on development within a conservation given in Scottish Planning Policy: February 2010.

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

Nine representations to the application have been received. Six of the representations raise objections to the application. The grounds of objection as summarised are:

- i. part of the footpath on the western part of the application site is too close to the historic roadside boundary wall and damage has occurred to the wall, and in being so close to the historic wall with a drop down to the road on the other side of it, pedestrians using this length of footpath will be in danger of falling, or if a handrail were erected in this location it would destroy the historic setting;
- ii. there was no consultation with the residents of the houses of The Glebe or other properties affected by the proposals;
- iii. the proposals include additional car parking spaces at the Primary School and footpath links to the church, and such proposals will increase traffic along The Glebe which is

already congested during school hours and congestion will then extend for longer periods throughout the day;

iv. how much is this development costing the tax payer and what benefits are envisaged;

v. the proposals have come about due to a safety issue involving the main road (A6093) opposite the church and the safety concerns would not just be transferred to The Glebe;

vi. work has commenced on the proposed development;

vii. no pelican crossing is shown on the drawings and the absence of this will act as a disincentive to use the proposed footpath route;

viii. if the new gates that are proposed along the proposed footpath route are kept locked then pedestrians will be unable to use the route;

ix. the timber post and rail fence that is proposed as a guard rail on the northern side of the length of footpath that is to be on the western part of the application site is not in keeping with the character of the Conservation Area or the setting of this Category A listed building and is inadequate to prevent toddlers and children from falling through it or climbing on it;

x. what measures are proposed to ensure that no graves are disturbed by the proposed works?;

xi. the reduction in height of part of the historic boundary walls of the church will be harmful to the visual appearance of the listed building in the Conservation Area;

xii. the hot rolled asphalt surface of the footpaths in the churchyard would not be in keeping with the historic nature of the site;

xiii. the proposed parking spaces will increase traffic and have a negative effect on road safety, resulting in a loss of privacy for residents and increased activity to the detriment of the area;

xiv. the proposed lighting columns within the churchyard would be harmful to the visual appearance of the listed building in the Conservation Area;

xv. is the footpath route really necessary as there is already an alternative pedestrian route from Easter Pencaitland to Wester Pencaitland without having to use the narrow footpath on the north side of the A6093 opposite the church; and

xvi. is the additional parking really necessary?

One of the representations raises the question of when the application will be determined.

Whether or not the north (roadside) boundary wall on the western part of the application site was damaged, a small part of this wall has been repaired. However such repair of the wall does not require planning permission and therefore not subject to planning control.

There is no requirement under planning legislation for this application for planning permission to have been the subject of public consultation other than through Pencaitland Community Council, who have not asked to be consulted and have not commented on the application.

The application was, however, the subject of statutory neighbour notification and public notice of it was given by advertisement in the local press under the categories of the development affecting the character and appearance of a conservation area and development affecting a listed building or its setting.

On the matter that development has already commenced, the applicant informs that the foundations of footpaths were already laid to coincide with drainage works carried out by Pencaitland Parish Church and thus to avoid further disturbance within the churchyard at a later date. The fact that the foundations of footpaths have been laid does not prejudice the determination of this application.

The provision of a pelican crossing across the A6093 public road is not part of this application for planning permission.

The matters of the cost, necessity or otherwise of the proposed development are not material considerations in the determination of this application for planning permission.

The remaining three representations are supportive of the proposed development and their comments as summarised are:

- i. the proposals to create a safer off-road footpath through the heart of Pencaitland is to be welcomed as a major improvement to the existing situation but none of the application drawings refer to a new pedestrian crossing at the stone bridge to the west of the application site which was understood to be part of the plan;
- ii. the proposed footpath route and the additional parking at the school are favourable proposals; and
- iii. the proposed footpath route will improve safety for some pedestrians but the existing footpath along the north side of the A6093 classified public road still requires attention as pedestrians will still use that route. The road is too narrow at this location and vehicles sometimes mount the pavement to negotiate around other traffic waiting at the traffic lights.

The proposed change of use of a small triangular shaped area of land of the south-western part of the rear garden of the house of The Cottage to public ground would facilitate the formation of the footpath connection between the Primary School and the church land to the west. The area of land is small in size and directly abuts the school grounds on its southeast side and the church land on its western side. There would be only limited long range views of it from the western end of The Glebe and from the A6093 public road and only short duration views of it from the existing vehicular access to the west of the property of The Cottage. The change of use of this area of garden ground to public land would not be harmful to the amenity of the occupiers of the house of The Cottage or the character and appearance of the area. It would not have a detrimental impact on the character and appearance of the Conservation Area or on the setting of the Category A listed building of Pencaitland Parish Church or the Category B listed building of the former stable building, both to the west.

In exchange for the change of use of the small area of garden ground of the house of The Cottage to public ground it is proposed to change the use of a small part of an existing grassed area within the school grounds to the north of the existing school car park from public use to private garden ground for the house of The Cottage.

By currently being part of the school grounds this area of land is covered by Policy ED1 of the adopted East Lothian Local Plan 2008, which requires that school buildings and their playgrounds/playing fields are retained for educational and community use.

The area of land the subject of the change of use to garden ground is small in size when compared to the overall size of the school grounds. It is part of a larger area of rough grassed land that is to the north of the existing school car park and to the west of the 'Janitors House'. It does not form part of the school playgrounds or playing fields. The change of use of this small area of the school grounds to garden ground would not have an appreciable impact on the use of the Primary School and its playgrounds and playing fields for educational and community use and does not conflict with Policy ED1.

It directly abuts the southern boundary of the rear garden of The Cottage. There would be only limited views of the area of land from the A6093 public road and from the vehicular access to the house of The Cottage. It would not have a detrimental impact on the character and appearance of the Conservation Area or on the setting of the Category A listed building of Pencaitland Parish Church or the Category B listed building of the former stable building, both further to the west.

One of the proposed car parking areas would form an extension to the northern end of the existing school car park that is on the west side of the school site. It would be surfaced with hot rolled asphalt. As does the existing school car park it would be accessed from The Glebe.

The other proposed car parking area would be formed to the east of the former stable building. This area of land is presently used as an informal car park. It would be surfaced with charcoal coloured permeable tegula block paving. It would be accessed from the existing vehicular access from the A6093 public road. The existing vehicular access would be re-surfaced with hot rolled asphalt for the first 20 metres of it and thereafter the remaining length of it leading to the proposed car parking area would be surfaced in permeable tegula block paving.

The proposed new and resurfaced footpaths would be located: (i) to the west of the churchyard; (ii) to the north, northeast, east and southeast of the church within the churchyard; (iii) to the east side of the former Manse stable building; (iv) to the south of the east boundary wall of the churchyard across the vehicular access to the proposed car parking area; (v) across the land the subject of the change of use from garden ground to public ground; and (vi) within the school grounds.

All of the lengths of new and resurfaced footpaths would be surfaced with hot rolled asphalt with 6mm buff chips with the exception of the proposed length of footpath that would be to the south of the east boundary wall of the churchyard and which would cross the existing vehicular access to the proposed car parking area at the stables building. That proposed length of footpath would be surfaced with heather coloured permeable tegula block paving.

The length of footpath to the west of the churchyard and part of the length of the proposed new footpath that is to give access to the school car park would each have a handrail along one side of it. Each of the proposed handrails would be 1.1 metres high and would be of nylon coated rolled steel construction supported on timber posts with a timber kick plate close to ground level.

A 1.3 metres high retaining wall is proposed to be erected along part of the east side of the proposed car parking area at the stables building. The external face of that wall would be

finished with natural stone to match the existing walls of the churchyard and lime mortar would be used for the pointing of the stonework.

The proposed lengths of new fencing would be: (i) a 1.8 metres high metal post and chain mesh fencing that would be positioned along the new boundary between the school grounds and the residential property of The Cottage and along the northeast and southeast boundaries of the land the subject of the change of use to public ground; and (ii) a 1.3 metres high timber post and rail fencing that would be positioned: (a) to the west of the churchyard and immediately to the south of and parallel to the A6093 roadside retaining boundary wall and which would extend for some 22 metres in a westerly direction from a position immediately to the west of an existing set of pedestrian access steps; (b) on the northeast side of the existing driveway leading to The Manse; and (c) on the southwest side of the existing driveway leading to The Manse and there from some 22 metres in a south-westerly direction.

A pair of metal pedestrian gates is proposed to be erected across the footpaths at the northwest corner of the school grounds, at the southwest corner of the churchyard where the new opening is to be made in the boundary wall and at the existing western entrance into the churchyard. Those metal gates and their metal gate posts would be painted gloss black. The gates would be respectively, 1.6 metres high, 0.98 of a metre high and 1.575 metres high. The gate posts of the proposed gates to be erected at the southwest corner of the churchyard and at the existing western entrance into the churchyard would not be attached to the listed boundary walls of the church but would instead be freestanding.

A new timber gate is proposed to be erected at an existing pedestrian stepped access that is to the west of the churchyard wall and to the north of the Church Offertory House. The proposed timber gate would be 1.975 metres high. It would be of timber construction and would be stained in a colour to match the colouring of the stone work of the boundary wall it would be adjacent to. The stepped access leads directly to the public road at a point where there is no footpath on the south side of that road and therefore, this new timber gate is proposed to be kept locked.

A new steel tubular framed field gate and posts would be erected across the driveway to The Manse in a position set back some 10 metres from the southeast side of the A6093 public road, and an existing steel tubular framed field gate and posts would be relocated from a position at the western edge of the site to a new position adjacent to the southwest side of the driveway to The Manse.

It is proposed to erect 2 street lighting columns to the west of the churchyard, 6 within the churchyard, 1 to the east of the stables building, 1 on the east side of the vehicular access to the proposed new car parking area that would be to the south of the eastern part of the churchyard and 2 within the school grounds. The street lighting columns would illuminate the proposed footpaths. The 6 street lighting columns that are proposed to be within the churchyard would be 5 metres high and have a heritage style lantern fitting at the top of them. They would be painted black. The other street lighting columns would also be 5 metres high but would be of a more modern construction and would have a galvanised steel finish.

The proposed car parking areas and new and resurfaced footpaths would be finished in materials suitable to the locality and would not be inappropriate within this part of the Conservation Area or within the settings of the listed buildings of Pencaitland Parish Church, The Manse and the stables building. The proposed metal and mesh fencing would be in keeping with the existing fencing of the school grounds. The proposed timber post and rail fencing would not be dissimilar to other styles of timber fencing that can be seen from the A6093 classified public road and thus would not be inappropriate within this

part of the Conservation Area or within the settings of the listed buildings. The proposed gates in their respective positions would be in keeping with existing styles of gates in the locality and would not be inappropriate within this part of the Conservation Area or within the settings of the listed buildings. The proposed street lighting columns that are proposed to be outwith the curtilage of the Church would be in keeping with the height and form of other street lighting columns in the locality. They would not be inappropriate within this part of the Conservation Area or within the setting of the Church. The proposed heritage style street lighting columns that would be within the curtilage of the Church would be of a more historic traditional form and design that would not be harmful to the setting of that listed building or the character and appearance of the Conservation Area.

Historic Scotland comments that the resurfacing of the gravel footpaths within the churchyard with hot rolled asphalt with buff chips would provide a DDA compliant surface that would replace a gravel surface finish that can sometimes be problematic for some users. They are satisfied that the proposed development would be in keeping with the overall character of the area and that the development within the curtilage of the Category A listed building of Pencaitland Parish Church and the Category B listed building of the former stables building would not be harmful to the settings of those listed buildings.

The proposed development would not result in any harmful loss of privacy or amenity to any neighbouring residential property.

On all of these considerations, as relevant, the proposed development is consistent with Policies ENV1C, ENV1D and ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015, Policies ENV3, ENV4 and DP2 of the adopted East Lothian Local Plan 2008 and the Scottish Government's policy on development affecting a listed building or its setting and on development within a conservation given in Scottish Planning Policy: February 2010.

The trees between the west side of the churchyard and the driveway of The Manse and The Courtyard Flat are protected by Tree Preservation Order No. 10 (Group G1). The landscape advice from the Council's Policy and Projects Manager is that the laying of the foundation of the footpath through this group of trees has severed some of the roots of some of the trees and that those trees have subsequently been removed on safety grounds. She recommends that 8 replacement trees be planted in this area to the west of the churchyard. The application drawings have been amended to show the 8 replacement trees requested by the Policy and Projects Manager.

There are also some trees to the east of the churchyard, between it and the school grounds. Two of these trees are also protected by Tree Preservation Order No. 10 (Trees T53 and T54). Tree T53 (sycamore) is positioned on the grass verge on the west side of the existing vehicular access that is to the east of the churchyard and is some 10 metres to the south of the A6093 public road. Tree T54 (beech) is positioned on a small embankment that is on the east side of the existing vehicular access some 27 metres to the south of the A6093 public road. Additionally, there is a lime tree positioned on the grass verge on the west side of the existing vehicular access and some 9 metres to the south of the sycamore tree. The lime tree is not protected by Tree Preservation Order No. 10 but is protected by virtue of being within Pencaitland Conservation Area.

No tree works are proposed to be carried out to any of these three trees. However, parts of the proposed footpaths and part of the proposed car parking area would be within the root protection area of the beech tree (T54) and the lime tree. The resurfacing of the existing vehicular access to the proposed car parking area at the stables building would be within the root protection area of tree T53 of Tree Preservation Order No. 10 and the lime tree.

The Council's Policy and Projects Manager advises that the resurfacing of the existing vehicular access to the proposed car parking area would not be harmful to the trees because the existing surface finish of the access has limited permeability.

However, parts of the proposed footpaths and part of the proposed car parking area would be within the root protection area of the beech tree (T54) and the lime tree. The surface finish of the part of the footpath that is proposed to cross the vehicular access has been amended to be permeable block paving and the construction of the edging for the footpath that is proposed to extend from the vehicular access to the extended car park within the school grounds has been amended to be formed with timber edging as oppose to concrete edging. The Policy and Projects Manager is satisfied that the use of such amended surface finishes and edging would safeguard against harm to the two trees.

The Policy and Projects Manager advises that any excavation for the length of footpath that is proposed to extend from the vehicular access to the extended car park within the school grounds should be carried out by hand and that an arboricultural watching brief should be undertaken during construction works within the root protection area of the beech tree (T54). These controls can be reasonably be made conditions of a grant of planning permission for the proposed development. Subject to such controls the Council's Policy and Projects Manager is satisfied that the proposed development would not be harmful to the beech tree (T54).

However, he further recommends that temporary protective fencing should be erected to protect the beech tree (T54), the sycamore tree (T53) and the lime tree.

Subject to the recommended planting of 8 replacement trees on the area of land between the west side of the churchyard and the driveway to The Manse, the hand digging in respect of part of the proposed footpath, an arboricultural watching brief being undertaken and the erection of temporary protective fencing the Policy and Projects Manager is satisfied that the proposed development would not have a harmful impact on the trees on and adjacent to the application site. Subject to the aforementioned controls the proposed development does not conflict with Policy DP14 of the adopted East Lothian Local Plan 2008.

The Council's Transportation service raises no objection to the proposed development.

The Council's Archaeology Officer advises that he is satisfied that the works already carried out to form the foundations of the proposed new footpath to the west of the churchyard and those of the new and resurfaced footpaths within the churchyard have not been harmful to archaeology in the locality and that the remaining proposed works the subject of this application would not require any further archaeological work. Thus, he raises no objection to the proposed development.

A small part of the western part of the application site is within the Fluvial Flood Risk envelope of the Indicative River and Coastal Flood Map (Scotland) as defined by the Scottish Environment Protection Agency. However, the development of a part of a new footpath and the erection of timber post and rail fencing on that part of the application site would be unlikely to have a significant detrimental impact on local flooding.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1 The natural stone of the external face of the retaining wall hereby approved to be erected along part of the east side of the car parking area to be formed to the east side of the former Manse stable building

and to the south of the eastern part of the churchyard shall match as closely as possible the natural stone of the walls of the churchyard in its colouring, coursing and pointing.

The pointing of the stone retaining wall shall be carried out with lime mortar and shall match as closely as possible in colour and form of the pointing of the existing churchyard walls.

Reason:

In the interests of the character and appearance of the Conservation Area and of the setting of the listed buildings of Pencaitlland Parish Church, The Manse and The Manse former stable court building.

- 2 Samples of the tegula block paving, including their colour, to be used to surface the car parking area hereby approved to be formed to the south of the eastern part of the churchyard and the footpath that is approved to extend across the vehicular access to that car parking area shall be submitted to and approved in advance in writing by the Planning Authority prior to their use in the development. Thereafter the tegula block paving used shall accord with the samples so approved.

Reason:

In the interests of the character and appearance of the Conservation Area and of the setting of the listed buildings of Pencaitlland Parish Church, The Manse and The Manse former stable court building.

- 3 The three pairs of metal gates and their gate posts hereby approved as shown on docketed drawing nos. 005, 006 and 007 shall be painted gloss black unless otherwise approved by the Planning Authority.

Reason:

In the interests of the character and appearance of the Conservation Area and of the setting of the listed buildings of Pencaitlland Parish Church, and The Manse former stable court building.

- 4 Details of the paint, stain or timber preservative to be used to finish the external face of the timber gate hereby approved as shown on docketed drawing no. 008 shall be submitted to and approved by the Planning Authority prior to its use in the development, and thereafter the paint, stain or timber preservative used shall accord with the details approved.

Reason:

In the interests of the character and appearance of the Conservation Area and of the setting of the listed buildings of Pencaitlland Parish Church and The Manse former stable court building.

- 5 The 8 street lighting columns with heritage style lantern fittings hereby approved to be sited within the churchyard of Pencaitlland Parish Church and on the land to the west of the churchyard shall be painted black unless otherwise approved by the Planning Authority.

Reason:

In the interests of the character and appearance of the Conservation Area and of the setting of the listed building of Pencaitlland Parish Church.

- 6 In the first planting and seeding season (October - March) following the footpath to the west of the churchyard being brought into use or the completion of works for this part of the development, whichever is the sooner, eight replacement trees shall have been planted on the area of land to the west of the churchyard, all in accordance with the positions and details shown for them on docketed drawing no. 001/Rev F.

All of the replacement trees shall be planted as standard size 8-12cm girth, 2.75-3 metres high and shall be protected by a single stake and weldmesh guard as per the docketed drawing titled 'GR8 Tree pit system installation' unless otherwise approved by the Planning Authority.

In the event that any such replacement tree(s) die, are removed, or become seriously damaged or diseased within a period of 5 years following planting they shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

Reason:

To ensure the implementation of landscaping in the interests of the character, appearance and amenity of the area and of the Conservation Area.

- 7 No trees or shrubs, which are to be retained on the site, shall be damaged or uprooted, felled, topped,

lopped or interfered with in any manner without the prior written consent of the Planning Authority.

Reason:

To ensure the retention of vegetation important to the appearance and environment of the development.

- 8 A qualified and experienced arboriculturist shall be employed to carry out an arboricultural watching brief during the construction works.

Reason:

To ensure the retention of and the health of trees within the application site, which are important to the landscape character and amenity of the area and of the Conservation Area.

- 9 All excavation for the section of footpath extending from the east side of the existing vehicular access in an easterly direction for some 15 metres into the school grounds, which is within the root protection area of the beech tree (T54) shall be dug and backfilled by hand and any tree roots encountered with a diameter of 25mm or more shall be left unsevered.

This length of footpath shall be constructed with timber edge boards and timber peg supports in accordance with the detail shown for it on docketed drawing no. 001/Rev F.

Reason:

To ensure the retention of and the health of trees within the application site, which are important to the landscape character and amenity of the area and of the Conservation Area.

- 10 The only construction access to the application site shall be taken along the line of the existing driveway to The manse and of the existing access to the east side of the churchyard.

Reason:

To ensure the retention of and the health of trees within the application site, which are important to the landscape character and amenity of the area and of the Conservation Area.

- 11 No development shall take place on site until temporary protective fencing comprising standard scaffold poles as uprights driven into the ground avoiding tree roots, with 3 standard scaffold poles as horizontal rails (top, middle and bottom), all with weld mesh wired to uprights and rails. This temporary protective fencing should be 2.3 metres in height, erected prior to works commencing and kept in good condition throughout the works, all in accordance with Figure 2 of British Standard 5837: 2005 'Trees in Relation to Construction'.

The temporary protective fencing shall protect the lime tree, sycamore tree (T53) and the beech tree (T54) and shall be positioned as follows:

i. For a length of some 20 metres along the western edge of the vehicular access road leading to the proposed car parking area that is to be formed to the south of the eastern part of the churchyard, and returning in a westerly direction at each end of the grass verge on the western side of the access road to tie into the east boundary wall of the churchyard; and

ii. Along the southern edge of the footpath hereby approved to extend from the existing school car park to the east side of the vehicular access and then turning in a southwest direction along the northern edge of the embankment on which the beech tree is positioned and then following the eastern edge of the car parking area hereby approved and then turning in an easterly direction to tie into the existing west boundary fencing of the school.

A drawing showing the positioning of the temporary protective fencing shall be submitted to and approved in advance in writing by the Planning Authority.

All weather notices should be erected on said temporary protective fencing with words such as "Construction exclusion zone - Keep out" and the fencing shall remain on site and intact through to completion of the development.

Once erected the temporary protective fencing shall be retained in place until works on the application site have been completed and all plant and machinery associated with those works have been removed from the site.

Within the fenced off areas the existing ground level shall neither be raised nor lowered, no materials, temporary buildings, plant, machinery or surface soil shall be placed or stored and no herbicides shall be used.

Care should be taken when planning site operations to ensure that wide or tall loads, or plant with booms, jib and counterweights can operate without coming into contact with any retained trees.

Any materials whose accidental spillage would cause damage to a tree should be stored and handled well away from the outer edge of a trees root protection area.

Fires should not be lit in a position where their flames can extend to within 5 metres of tree foliage, branches or trunk, and due cognisance must be taken of wind speed and direction prior to and during operations.

Details of any trenches or services in the fenced off areas shall be submitted to and approved in advance in writing by the Planning Authority, and all trenches shall be dug and backfilled by hand and any tree roots encountered with a diameter of 25mm or more shall be left unsevered.

Reason:

In order to ensure protection of the trees within the application site in the interests of safeguarding the landscape character of the area.