

REPORT TO: Planning Committee
MEETING DATE: Tuesday 7 May 2013
BY: Executive Director (Services for Communities)
SUBJECT: Application for Planning Permission for Consideration

Application No. **13/00092/P**

Proposal Formation of pedestrian access, hardstanding area, erection of gate and piers

Location **Boundary Wall between Yester Estate and Park Road Gifford**

Applicant Gifford Community Council

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

In this case the Council is not the applicant nor has an interest in the land of the application site, however, in that the proposed pedestrian access would contribute towards the objectives of the Council's Core Path Network it can be considered that the Council has an interest in the application.

This application relates to part of the boundary wall of the Yester Estate between the Estate and Park Road in Gifford. The wall by its historical association with Yester House, a Category A listed building, is also listed as being of special architectural or historic interest (Category A). The wall is within Gifford Conservation Area and both the wall and the wooded area beyond it are within the Designed Landscape of the Yester Estate.

Planning permission is sought for (i) the formation of a 1.2m wide opening in the wall for pedestrian access, (ii) associated gate piers to be erected on the south side of the proposed opening, (iii) the installation of a black painted wrought gate within the proposed opening and (iv) the formation of an associated hardsurfaced area through the opening.

Through separate application 13/00092/LBC listed building consent is sought for the proposed alterations to the wall to create the opening for the pedestrian access, gate piers, gate and hardsurfaced area. A report on application 13/00092/LBC is at this time on the Committee Expedited List.

The application drawings show that it is intended to form a whin-dust footpath between the proposed new pedestrian access and the existing footpath within the Yester Estate. The

formation of the whin-dust footpath is not development and does not require planning permission. Therefore it does not form part of this planning application.

In this the proposals would form a new pedestrian link as part of the Council's adopted Core Path Network.

A previous planning application (09/00705/PCL) and associated listed building consent application (09/00705/ELL) for a similar proposal was withdrawn.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that this planning 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), ENV8 (Gardens and Designed Landscapes), C7 (Core Paths), T2 (General Transport Impact), DP2 (Design) and DP14 (Trees On Or Adjacent To Development Sites) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

Material to the determination of the application are Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and 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.

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 conservation area should be appropriate to the character of the conservation area.

One letter of representation to the application has been received. It is from the head teacher of Yester Primary School and sought clarification on the positioning of the proposed new access.

There are 18 letters of objection to the application. The grounds of objection include;

(i) the pedestrian access would result in a hazard for schoolchildren walking to Yester Primary School and for children who play on Park Road,

(ii) the proposed gateway does not connect with the adopted core path which is parallel to the drive,

- (iii) the new access will attract undesirables and increase vandalism in the area,
- (iv) there would be an increase in car parking adjacent to the proposed gateway which would affect the ability of the refuse lorries and emergency vehicles to turn around,
- (v) there is no need to knock down a bit of wall when there is an existing access next to Walden Terrace,
- (vi) who will pay for the project,
- (vii) loss of privacy,
- (viii) excessive litter and dog fouling,
- (ix) the safety of walkers as many of the trees are diseased and likely to fall,
- (x) the loss of trees,
- (xi) the closure of the existing access to the Yester Estate,
- (xii) there is existing Access legislation which enables responsible public access to the woodland footpaths, and
- (xiii) concerns regarding the structural integrity of the wall.

The matters of the access attracting undesirables and vandals, the budgetary costs of the proposal, excessive litter and dog fouling, safety of walkers from falling trees, the closure of the existing access, there being existing Access legislation and the structural integrity of the wall are not material planning considerations in the determination of this planning application.

The formation of the opening for the proposed new access would be carried out by removing a section of wall to form a 1.2 metres wide gap and rebuilding the edges of the opening with existing stone from duntakings in matching random rubble coursing. The proposed gate piers, also to be built in stone from duntakings, would match the coursing of the existing wall. They would be erected on the south elevation of the wall, to each side of the proposed access. The proposed gate to be installed within the proposed access would be a black painted wrought iron gate that would be some 1.2m in width and at its highest point would be some 2m in height.

The formation of the pedestrian access would result in the loss of the 1.2 metres length of wall. However it would be only a very small proportion of the much longer length of the boundary wall enclosing the Yester Estate. It would not be an unusual or incongruous feature of an estate wall of this type. In this the formation of the opening for the opening for the pedestrian access would not harm the special architectural or historic interest of the listed wall or the character and appearance of the Conservation Area.

In their form, size, scale and positioning, in being built with stone from duntakings and in being coursed to match the existing wall, the proposed gate piers would be appropriately constructed. They would not be harmful to the special architectural or historic interest of the listed building. Being positioned on the south side of the wall they would not be visible from Park Road and thus would not have an appreciable effect on the character and appearance of the Conservation Area.

The proposed gate is designed to be in keeping with the design of other gates in the walls of the Yester Estate. In its design, its use of a traditional, black painted wrought iron construction

and its size and scale the appearance of the proposed gate would not be harmful to the special architectural or historic interest of the listed wall or harmful to the character and appearance of the Conservation Area.

The proposed hardsurfacing would be in the form of a tarmac surface that would be laid on the ground to the width and depth of the proposed pedestrian access. It would be small in size and scale. It would be a small extension to the existing tarmac hardsurfacing of Park Road. By virtue of this it would not be out of keeping with its surroundings. It would not harm the special architectural or historic interest of the listed wall or the character and appearance of the Conservation Area.

Historic Scotland raise no objection to the application and thus do not consider that it would be harmful to the special architectural or historic interest of the Category A listed wall or be harmful to the conservation objectives of the Yester Estate Designed Landscape.

On the above built heritage and design considerations the proposed pedestrian access, gate, gate piers and hardsurfacing are consistent with Policies ENV1C, ENV1D and ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015, Policies ENV3, ENV4, ENV8 and DP2 of the adopted East Lothian Local Plan 2008 and with Scottish Planning Policy: February 2010.

The Council's Access Officer supports the application as being the only solution to fulfil this part of the adopted Core Path Network. He advises that several solutions have been proposed to secure a core path access through the Yester Estate, to reflect the provisions of the Land Reform (Scotland) Act 2003 and the Council's adopted Core Path Network. He advises that this proposal, the result of discussions between the Council, Gifford Community Council and the Yester Estate would achieve this objective. In this it accords with the objectives of Policy C7 of the adopted East Lothian Local Plan 2008.

The Council's Transportation service raises no objection to the proposed pedestrian access. They raise no concerns in respect of it having potential to generate increased vehicular use of Park Road, increased demand for parking or of affecting the turning of refuse lorries or emergency vehicles. They recommend that the proposed gate should open into the Yester Estate and not out onto the public road. This can be made a condition of the grant of planning permission. In this the proposals are consistent with Policy T2 of the adopted East Lothian Local Plan 2008.

The proposed pedestrian access between the existing public road of Park Road and the Yester Estate would not radically change the character of this part of Gifford. It would not give rise to harmful loss of amenity to neighbouring properties and would be consistent with Policy DP2 of the adopted East Lothian Local plan 2008.

There is no intention to remove any existing trees to facilitate the formation of the pedestrian access. The Council's Policy and Projects Manager advises that he has no objection to the proposals providing that all demolition and construction work is carried out in accordance with BS5837:2012: "Trees in relation to design, demolition and construction – Recommendations". Furthermore he advises that the trees in close proximity to the proposed access should be protected by the erection of temporary protective fencing. These matters can be made conditional on the grant of planning permission, subject to which the proposals are consistent with Policy DP14 of the adopted East Lothian Local Plan 2008.

RECOMMENDATION:

That planning permission be granted subject to the following conditions:

- 1 No use shall be made of the pedestrian access hereby approved if the gate erected within it is installed so as to open outwards towards the adjacent public road.

Reason:
In the interests of road safety.

- 2 No trees or shrubs shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the previous written consent of the Planning Authority.

Reason:
To safeguard the landscape character of the Designed Landscape.

- 3 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 weldmesh wired to uprights and rails has been installed and approved in writing by the Planning Authority. 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_2012 "Trees in relation to design, demolition and construction". The temporary fencing should be located to the south side of the wall on both sides of the proposed pedestrian access. It should extend to the south to enclose the boundary trees and should be located no closer than 1m to the trunk of any tree all in accordance with docketed drawing "Protective fencing dated 20 March 2013.

All weather notices should be erected on said 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. 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.

Planning of site operations should take sufficient account of wide loads, tall loads and plant with booms, jibs and counterweights in order that they can operate without coming into contact with trees.

Material the accidental spillage of which would cause damage to a tree should be stored and handled well away from the outer edge of its RPA.

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

Reason:
To ensure the health and vitality of the trees in the interests of safeguarding the landscape character of the Designed Landscape.