

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

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Note: this application was called off the Scheme of Delegation List by Councillor McLennan for the following reason: Due to the strong public interest in this application and the number of submissions made I would like the opportunity to discuss in greater detail.

Application No. **12/00874/P**

Proposal Erection of 1 wind monitoring mast for a temporary period of 18 months, 1 wind turbine and associated works

Location **Blackcastle Hill
Dunbar**

Applicant Dunbar Community Energy Company

Per Locogen

RECOMMENDATION Application Refused

PLANNING ASSESSMENT

Planning permission is sought for the erection of one wind turbine on agricultural land on Blackcastle Hill that is in the countryside to the south of Innerwick and to the northwest of Oldhamstocks. The proposed wind turbine would be positioned high on Blackcastle Hill, some 273 metres to the southwest of the existing Blackcastle Hill transmitting station and tall telecommunication mast, and some 177 metres to the southwest of another tall telecommunication mast. The proposed wind turbine would be some 31 metres to the east of the access road which traverses Blackcastle Hill.

The proposed wind turbine would consist of a supporting column measuring 32.8 metres in height from the ground to the centre of the rotor hub. The triple blades of the rotor would each have a length of 23.5 metres. The wind turbine would therefore have a height of 56.3 metres from ground level to blade tip. The diameter of its rotating blades would be 47 metres.

In association with the proposed wind turbine planning permission is also sought for the erection of a small transformer building that would be positioned some 1.2 metres to the north of the proposed wind turbine. The proposed transformer building would be constructed of Glass Reinforced Plastic, would measure some 3 metres high, 4 metres long and 4 metres wide and would be coloured green or brown. To access the proposed wind turbine it is

proposed to form a 37 metres long gravel access track running southwards from the location of the proposed wind turbine to where it would join the existing Blackcastle Hill access road.

Planning permission is also sought for the erection of a 40 metres high wind monitoring mast some 20 metres to the east of the location of the proposed wind turbine. Planning permission for the proposed wind monitoring mast is sought for a temporary period of 18 months. It is stated in the application that the purpose of the proposed wind monitoring mast is to monitor and record wind speed and direction for the temporary period of 18 months in order for such data to be used to assess the conditions for the future erection of the proposed wind turbine.

The proposed wind monitoring mast would be in the form of a 40 metres high tubular steel pole held in place with steel wire ropes at 5 levels and joined to ten ground anchors. No permanent foundations would have to be formed. Anemometers, wind direction vanes and other instrumentation would be mounted on the proposed mast.

The application site is within the Lammermuir Hills Area of Great Landscape Value and is some 2.3 kilometres away from the northwest corner of Oldhamstocks Conservation Area.

Under the provisions of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011, as the applicant has submitted an Environmental Statement with the application the proposed development falls to be assessed as Environmental Impact Assessment (EIA) development.

The submitted Environmental Statement contains an introduction and chapters on: scheme design and description, planning policy, landscape and visual, hydrology, socio-economic, cultural heritage, ecology, shadow flicker, noise, telecommunications, aviation and public safety and miscellaneous issues. A design and access statement has also been submitted with the planning application.

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 ENV1D (Regional and Local Natural and Built Environment Interests), ENV3 (Development in the Countryside), ENV6 (Renewable Energy) and of the approved Edinburgh and the Lothians Structure Plan 2015 and Policies DC1 (Development in the Countryside and Undeveloped Coast), DP13 (Biodiversity and Development Sites), NRG3 (Wind Turbines), ENV7 (Scheduled Monuments and Archaeological Sites), NH4 (Areas of Great Landscape Value) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

Material to the determination of the application are:

1. The Scottish Government's policy on renewable energy given in Scottish Planning Policy: February 2010;
2. The Scottish Government web based renewables advice entitled "Onshore Wind Turbines", which has replaced Planning Advice Note 45: Renewable Energy Technologies;
3. The East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011);

4. The Council's Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010;

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

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

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

It is stated in paragraph 9.6 of the adopted East Lothian Local Plan 2008 that the Council is supportive of Government policy to secure greater energy generation from renewable sources. The benefits will be weighed against the impact on the local environment and features of interest. With regard to wind turbines it is stated in paragraph 9.7 that because of the need for turbines to catch the wind it is not possible to hide them. The visual and landscape impact, both of the turbines themselves and associated infrastructure, is usually the main concern. In paragraph 9.8 it is stated that the Council wishes to protect valued landscape features, including North Berwick Law.

Policy NRG3 of the adopted East Lothian Local Plan 2008 states that subject to consistency with other plan policies, proposals for individual turbines or wind farms and associated access tracks and transmission lines will be supported where (i) they would not change the existing landscape character in an unacceptable way; (ii) they would not have an unacceptable visual

impact on landscape or townscape including the impact on distinctive public views, landmark buildings or natural features, or routes; (iii) they would not have an unacceptable impact from noise at any noise sensitive property including the gardens of such properties however large; (iv) there would be no demonstrable nuisance from a shadow flicker effect; (v) they would have no unacceptable adverse impacts on hydrogeology or hydrology; (vi) alternative, better, sites are not available; and (vii) there are no unacceptable cumulative impacts. Policy NRG3 also requires that in assessing all proposals the Council will have regard to the findings and recommendations of the Landscape Capacity Study for Wind Turbine Development in East Lothian (May 2005).

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

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

The Landscape Capacity Study for Wind Turbine Development in East Lothian (May 2005) is not material to the determination of this application as its findings are not based on an assessment of the affect on the landscape of East Lothian of a single wind turbine lower than 120 metres high.

A total of 101 written representations have been received in respect of this planning application. Of these, 46 make objection to the proposed development and 54 expresses support for it. The other written representation is a comment on the proposed development and is neither an objection to nor a statement of support for the proposed development.

The main grounds of the objections to the application are:

- * the proposed wind turbine is of an inappropriate size and scale and would damage the landscape character and appearance of the area in an unacceptable way;
- * the proposed wind turbine would harmfully impact on key features and views including an Area of Great Landscape Value;
- * the proposed wind turbine would be in an elevated position and thus highly visible;
- * the proposed wind turbine would lead to an unacceptable cumulative impact

- * the proposed wind turbine would have a harmful impact through noise;
- * the proposed wind turbine is contrary to Policy NRG3 of the adopted East Lothian Local Plan 2008;
- * the proposed wind turbine is contrary to the findings of the Council's East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011);
- * there is already enough renewable energy infrastructure in the area;
- * transportation to the site could be a concern
- * it has not been demonstrated that alternative, better sites are not available for the proposed wind turbine;
- * property prices would be affected
- * concern over how funds generated by the operation of the proposed wind turbine would be allocated and regulated;
- * only a select few would benefit from employment and salaries;
- * the promotion of the proposed wind turbine as a "community turbine" should have no bearing on the how the application is determined as there should be no preference arising from and claimed community benefit;
- * community benefits do not justify ignoring development plan policy.

The main grounds of support for the proposed development are:

- * the proposed wind turbine would be a source of grant funding for local communities and would provide investment in local projects;
- * the proposed wind turbine would support the aims of the Council's environment strategy;
- * the visual impact of a community wind turbine is different to that of a commercial wind turbine;
- * promoting renewable energy is important to address climate change;
- * wind turbines are not unsightly.

Dunpender Community Council comment that they are unable to support the application unless the proposed development fully complies with the Council's East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011).

Dunbar Community Council, as a consultee on the application have divided views on the acceptability of the proposed wind turbine, being supportive of proposed economic benefits from it but concerned over its impact on the landscape in terms of the findings of the Council's East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011).

The application is within the area of East Lammermuir Community Council, who are therefore a statutory consultee on the application. They state that the proposed wind turbine would contravene the East Lothian Planning Guidelines on wind turbines and is too large for its

proposed location. They also state that the proposed wind turbine would be clearly visible from Oldhamstocks Conservation Area where it would have a harmful visual and landscape impact on that conservation area. Other concerns raised are ones of harmful cumulative impact of wind turbines in the wider area and harmful impacts on residential amenity, noise and psychological impacts. In all of the above East Lammermuir Community Council recommend planning permission for the proposed wind turbine be refused.

Scottish Borders Council state that they are satisfied that the proposed development would be sufficiently distant from their administrative area that there would be no landscape or other impacts of significance upon the Borders area and there is, therefore, no objection to the proposed development.

As a monitoring and recording device of wind speed and direction the proposed wind monitoring mast has an operational requirement for being in its countryside location.

Whilst it would be tall, the proposed wind monitoring mast would be thin in its physical form, with little bulk to it. In its open countryside location and in its elevated position on Blackcastle Hill it would be visible in views from public places, including from parts of the local road network. Nonetheless, even with its steel wire supporting ropes, anemometers, wind direction vanes and other instrumentation it would not appear unduly intrusive, and given the temporary period of time in which it would be sited on the land it would not cause significant or lasting harm to the landscape character and visual amenity of this part of the Lammermuir Hills Area of Great Landscape Value.

Due to its remoteness from existing residential properties the proposed wind monitoring mast would have no harmful impact on residential properties.

Due to its relatively small size and positioning within its wider landscape setting the proposed transformer building would not appear harmfully exposed, intrusive or incongruous in its setting and would not be harmful to the landscape character and appearance of this part of the Lammermuir Hills Area of Great Landscape Value.

Due to its positioning within the local landform and that it would be a ground surface feature, the proposed access track would not be harmful to the landscape character and appearance of this part of the Lammermuir Hills Area of Great Landscape Value.

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

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

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

The application site is in a countryside location where wind power can be harnessed to generate electricity and the proposed wind turbine, with its purpose to generate and supply electricity is an infrastructure type development. Thus the proposed wind turbine is, in principle, consistent with Policy DC1 of the adopted East Lothian Local Plan 2008 and Policy ENV3 of the approved Edinburgh and the Lothians Structure Plan 2015.

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

The applicant states that the proposed wind turbine would provide an additional sustainable source of income for the nearby Cocklaw Farm as a proportion of the revenue that would derive from the electricity generated by it. Yet what they also say is that such income would be in the form of a rent paid to the farm for the siting of the wind turbine on the piece of land owned by the farm on which the proposed wind turbine would be sited. This amounts to a contractual agreement between the operators of the wind turbine and the landowner. In this the proposed wind turbine is not being promoted as any direct requirement for the operation of the agricultural use of the farm.

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

Paragraph 5.20 of Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010 states that the proximity of noise sensitive receptors (e.g. residential properties) will be a significant factor in the requirement for an assessment of the affect of noise from the turbine on such noise sensitive receptors. Paragraph 5.22 states that for single turbines in low noise environments the day time level measured as LA(1), 10min should be 35 DB at nearest noise sensitive dwellings, up to wind speeds of 10m/s at 10 metres in height.

In this regard the Council's Senior Environmental & Consumer Services Manager advises that he has assessed the noise data submitted with the application and is satisfied that the external free-field noise levels associated with the operation of the proposed wind turbine would not exceed 35dBLA90 10min at any wind speed up to 10m/s at any nearby residential property. In which case the proposed wind turbine would not have a harmful noise impact on any residential property within the locality.

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

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

In the case of the proposed wind turbine 10 times the diameter of its rotor blades would be 470 metres. The nearest dwellings, being those of Thurston Mains Cottages to the north, are some 1.25 kilometres away from where the proposed wind turbine would be sited. Thus, the proposed wind turbine passes the Scottish Government's general rule of shadow flicker effect.

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

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

Scottish Water raises no objection to the application.

The Scottish Environment Protection Agency (SEPA) raise no objection to the application.

On this consideration the proposed wind turbine would not have an unacceptable adverse impact on the hydrogeology or hydrology of the area.

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

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

The proposed wind turbine would achieve such a set back distance in its relationship with the nearest public road; that being the one that is some distance to the northwest of the application site at Thurston.

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

The Council's Transportation service advises that a Transport Method Statement and Vehicle Track Assessment would have to be submitted to and approved by the Planning Authority prior to the erection of the proposed wind turbine in order to control the movement of construction and delivery vehicles during the erection of the proposed wind turbine.

Transport Scotland raise no objection to the application.

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

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

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

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

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

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

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

Notwithstanding these foregoing conclusions it now has to be established whether or not the proposed wind turbine would be acceptable in terms of its landscape and visual impact, including its impact on the Lammermuir Hills Area of Great Landscape Value within which it would be located and its impact on the setting of Oldhamstocks Conservation Area.

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

According to the East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011) Blackcastle Hill and thus the application site is a part of the lowlands landscape of East Lothian.

The land of the application site is within the Eastern Lammermuir Fringe landscape character area of the Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011). The Study classifies this landscape character area as comprising of a complex rolling

landform of small hills and strongly contained narrow valleys. The Study further classifies this landscape character area as being of high sensitivity to Typology of wind turbine A and B, of medium-high sensitivity to Typology of wind turbine C and medium-low sensitivity for Typology of wind turbine D.

The Study states that within the Eastern Lammermuir Fringe landscape character area: (i) there are no opportunities to locate wind turbines of Typology A (between 65 metres and 120 metres high) or of Typology B (single wind turbines between more than 42 metres and less than 65 metres high); (ii) there are limited opportunities to accommodate wind turbines of Typology C, being wind turbines between 20 metres high and up to and including 42 metres high (subject to impact on key views); (iii) there are opportunities to locate wind turbines of Typology D, being wind turbines between 12 metres and less than 20 metres high, if visually associated with farms and buildings.

The proposed wind turbine, at a height of 56.3 metres from ground level to blade tip, is a Typology B wind turbine that the East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011) advises cannot be accommodated within the Eastern Lammermuir Fringe landscape character area.

Even more, whilst the Study advises that within the Eastern Lammermuir Fringe landscape character area there are some opportunities to accommodate Typology C and D wind turbines, it particularly states that the part of the Eastern Lammermuir Fringe landscape character area in which the site of the proposed wind turbine is located cannot accommodate any Typology of wind turbine.

On both of these counts the proposed wind turbine is contrary to the Council's East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011).

Notwithstanding, it is necessary to determine, though a specific landscape and visual impact appraisal of its likely impact whether or not the proposed wind turbine would be acceptable to its place. In this due regard has to be paid to the terms of Structure Plan Policies ENV1D and ENV3, Local Plan Policies DC1, NH4 and NRG3, Scottish Planning Policy: February 2010 and Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010.

It is stated in Scottish Planning Policy that development outwith a conservation area that will impact on its appearance, character or setting, should be appropriate to the character and setting of the conservation area.

Policy ENV1D of the approved Edinburgh and Lothians Structure Plan 2015 states that development affecting the setting of a conservation area will only be permitted where it can be demonstrated that the overall objectives and overall integrity of it will not be compromised. It also states that development affecting an area of great landscape value will only be permitted where it can be demonstrated that the overall objectives and overall integrity of it will not be compromised.

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

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

Policy NH4 stipulates that development that harms the landscape character and appearance of Areas of Great Landscape Value will not be permitted.

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

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

(i) wind turbine development will only be supported where the overall integrity and setting of key public views to and from landmark features, both natural and man-made, will not be compromised. Developments which would harm the character, appearance and setting of significant natural landscape features, landmark buildings and structures will be resisted;

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

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

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

(v) a wind turbine development that would be detrimental to the character and appearance of conservation areas will not be supported.

(vi) a wind turbine development that would harm the landscape character and appearance of an area of great landscape value will be resisted.

In relation to cumulative impact paragraph 4.34 of Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010 states that individual wind turbine proposals must not be looked at in isolation. Cumulative visual impact, viz. the impact of the proposed turbine/s when viewed in association with other turbines already erected or in the planning process needs to be taken into account. A balance must be retained, so that wind turbines are integrated into their landscape setting and do not merge with other turbines to change the character of the landscape into a predominantly wind farm landscape where other significant landscape characteristics of an area become visually subservient to wind turbines. On this matter Policy NRG3 of the local plan stipulates there should be no cumulative impacts from a proposed wind turbine(s).

The applicant has submitted with the application a Zone of Theoretical Visibility (ZVT) drawing which identifies 17 viewpoints (VPs) to inform the assessment of the potential landscape and visual impact of the proposed wind turbine.

The specific landscape appraisal of the impact of the proposed wind turbine from those 17 viewpoints (VPs) undertaken by Policy & Projects finds that:

VP 1 from Oldhamstocks:

As Oldhamstocks is in a hollow the proposed wind turbine would not be readily visible from within the village, but in the wider landscape it would be visible in its relationship with Oldhamstocks Conservation Area. The proposed wind turbine would be visible in views from the southern part of Oldhamstocks Conservation Area at Woollands. The land of the Conservation area between Woollands and the village of Oldhamstocks is part of the open setting of the village. This setting contributes, in part, to the sense of place of Oldhamstocks, an historic village within a rolling landscape. In that relationship the proposed wind turbine would be seen as a discordant and incongruous feature harmful to the setting of Oldhamstocks Conservation Area;

VP 2 from Oldhamstocks Local Road:

From this viewpoint the proposed wind turbine would be screened by intervening woodland but would become visible if the woodland were to be felled as a forestry crop.

VP 3 from Thurston Manor;

This is an open hillside view of the very focal Blackcastle Hill. To its height of 56.3 metres with blades rotating to a 47 metres diameter the proposed wind turbine, in its position close to the top of the hill would be very prominent and obtrusive on the skyline in the view from Thurston Manor and together with the existing telecommunication masts would be harmful visual clutter of large scale structures on Blackcastle Hill. This would harmfully detract from the landscape character and focus of Blackcastle Hill and from the landscape character of the Eastern Lammermuir Fringe landscape character area and the Lammermuir Hills Area of Great Landscape Value.

VP 4 from Ferneylea (south of Oldhamstocks):

The tips of the blades of the proposed wind turbine would be visible on the skyline in views from Ferneylea, introducing a new discordant and incongruous form of development in those views harmful to the landscape character of the Eastern Lammermuir Fringe landscape character area and the Lammermuir Hills Area of Great Landscape Value.

VP 5 from the A1 Thurston Manor Turnoff:

The proposed wind turbine in its position close to the top of the very focal Blackcastle Hill would be very prominent and obtrusive on the skyline in the view from Thurston Manor and together with the existing telecommunication masts would be harmful visual clutter of large scale structures on Blackcastle Hill, harmful to the landscape character of the Eastern Lammermuir Fringe landscape character area and the Lammermuir Hills Area of Great Landscape Value.

VP 6 from Monynut Edge:

In views northwards from the Monynut Edge towards the sea the proposed wind turbine would be a prominent obtrusive skyline feature on the very focal Blackcastle Hill and together with the existing telecommunication masts would be harmful visual clutter of large scale structures on Blackcastle Hill, harmful to the landscape character of the Eastern Lammermuir Fringe landscape character area and the Lammermuir Hills Area of Great Landscape Value.

VP 7 from the A1 at Torness:

From this viewpoint the proposed wind turbine would be visible on the skyline at Blackcastle Hill and by its scale and form would be seen as an intrusive feature in the landscape and together with the existing telecommunications masts would be harmful visual clutter of large scale structures on Blackcastle Hill, harmful to the landscape character of the Eastern Lammermuir Fringe landscape character area and the Lammermuir Hills Area of Great Landscape Value.

VP 8 from the A1 at the Oldhamstocks Turnoff:

The proposed wind turbine would be visible on the skyline at Blackcastle Hill and by its scale and form would be seen as an intrusive feature in the landscape and together with the existing telecommunication masts would be harmful visual clutter of large scale structures on Blackcastle Hill, harmful to the landscape character of the Eastern Lammermuir Fringe landscape character area and the Lammermuir Hills Area of Great Landscape Value.

VP 9 from Dunglass:

The tips of the blades of the proposed wind turbine would be visible on the skyline in views from Dunglass, introducing a new discordant and incongruous form of development in those views harmful to the landscape character of the Eastern Lammermuir Fringe landscape character area and the Lammermuir Hills Area of Great Landscape Value.

VP 10 from Cockburnspath:

The tips of the blades of the proposed wind turbine would be visible on the skyline in views from Cockburnspath, introducing a new discordant and incongruous form of development in those views harmful to the landscape character of the Eastern Lammermuir Fringe landscape character area and the Lammermuir Hills Area of Great Landscape Value.

VP 11 from Doon Hill:

From this viewpoint the proposed wind turbine would be visible on the skyline at Blackcastle Hill and by its scale and form would be seen as an intrusive feature in the landscape and together with the existing telecommunication masts would be harmful visual clutter of large scale structures on Blackcastle Hill, harmful to the landscape character of the Eastern Lammermuir Fringe landscape character area and the Lammermuir Hills Area of Great Landscape Value.

VP 12 from Halls:

From this viewpoint the proposed wind turbine would be visible on the skyline at Blackcastle Hill and by its scale and form would be seen as an intrusive feature in the landscape and together with the existing telecommunication masts would be harmful visual clutter of large scale structures on Blackcastle Hill, harmful to the landscape character of the Eastern Lammermuir Fringe landscape character area and the Lammermuir Hills Area of Great Landscape Value.

VP 13 from Ecclaw Hill:

From this viewpoint the proposed wind turbine would be visible on the skyline at Blackcastle Hill and by its scale and form would be seen as an intrusive feature in the landscape and together with the existing telecommunication masts would be harmful visual clutter of large scale structures on Blackcastle Hill, harmful to the landscape character of the Eastern Lammermuir Fringe landscape character area and the Lammermuir Hills Area of Great Landscape Value.

VP 14 from Dunbar by ASDA:

This represents views from the south east edge of Dunbar from where the proposed wind turbine would be seen to be prominent and obtrusive on the skyline at Blackcastle Hill and together with the existing telecommunication masts would be harmful visual clutter of large scale structures on the hill. It would be similarly seen from other parts of Dunbar and from parts of the coastline. In such views the proposed wind turbine would be harmful to the Eastern Lammermuir Fringe landscape character area and the landscape character of the Lammermuir Hills Area of Great Landscape Value.

VP 15 from the A1107 close to Old Cambus:

In this long distance view from the Berwickshire coastal/tourist road looking west towards East Lothian the proposed wind turbine would be visible but not to such a degree as to be unduly prominent in its landscape setting.

VP 16 from the A198 near Knowes Farm:

In this long distance view looking east towards over the East Lothian countryside the proposed wind turbine would be visible but not to such a degree as to be unduly prominent in its landscape setting.

VP 17 from Traprain Law:

In this long distance view looking east towards over the East Lothian countryside the proposed wind turbine would be visible but not to such a degree as to be unduly prominent in its landscape setting.

The overall findings of the VP appraisals is that the proposed wind turbine due to its positioning, form, height and scale would in many views of it appear as a highly exposed and obtrusive skyline feature and in its relationship with the existing two telecommunications masts would harmfully amount to visual clutter on Blackcastle Hill. Such effects would harmfully detract from the landscape character and focus of Blackcastle Hill and from the landscape character of the Eastern Lammermuir Fringe landscape character area and the Lammermuir Hills Area of Great Landscape Value. It would be visible from parts of the Oldhamstocks Conservation Area from where it would be prominent in its visual relationship with, and a discordant and incongruous feature harmful to the setting of that Conservation Area.

These findings demonstrate that the proposed wind turbine cannot successfully be accommodated in its proposed location within the East Lammermuir Fringe landscape character area.

On the matter of landscape and visual impact Scottish Natural Heritage state they have concerns relating to likely landscape and visual impacts of the proposed wind turbine, in particular the cumulative impact on landscape character and visual amenity. In this they advise that:

- The proposed wind turbine would likely contribute to adverse cumulative effects on landscape character and visual amenity by virtue of its combination with the larger and existing wind farm developments at Aikengall and Crystal Rig. It would potentially be seen as an outlier or a prominent foreground element, often in visual competition and potentially detracting from the setting of these larger and more extensive developments which are often seen to be more associated with the broad upland areas and set further back within the hills;

- The proposed wind turbine would add to the wider and emerging spatial pattern of wind energy development within this area of East Lothian and Northern Berwickshire. This area already has a defined baseline of wind turbine developments of varying scales and turbine numbers and this baseline will be added to by this now proposed wind turbine. By virtue of its general skyline prominence, its strategic location on the eastern fringe of the Lammermuir Hills and with regards its proximity to other developments, the proposed wind turbine could adversely add to this pattern of developments where it has the potential to exacerbate the growing mix of turbine scales and differing designs of wind energy developments in the area, thus blurring any current distinction and association that exists relating turbine scale and typology to landscape scale and character. The proposed wind turbine therefore has the potential to add to a sense of piecemeal or poorly planned wind turbine development across this sub-region;
- The proposed wind turbine would be visually prominent within the local and wider landscape context by virtue of its positioning in an open location near the highest area of Blackcastle Hill. The existing telecommunication masts provide a useful reference point towards establishing the potential visibility of the proposed wind turbine, including identifying the wide range of likely views from important areas of the coast and agricultural hinterland. Given the openness and the smooth profile of the Blackcastle Hill, which often appears as the “outer edge” of the Eastern Lammermuir Hills, there is a general affordability of views of the proposal from many eastern areas, especially from within 5km of the site. Clear views of the proposed wind turbine, on a prominent local skyline, will therefore be readily experienced from settlements, dispersed dwellings, recreational areas, locally and regionally important paths, roads and railway routes;
- It should be noted that the proposed wind turbine lies within the Lammermuir Hills Area of Great Landscape Value (AGLV). Whilst noting the scale and extent of existing wind farm development within the AGLV, the designation does nonetheless raise the need for an approach which delivers high standards of siting and design of any new development. In this regard, the overall landscape and visual impacts of the proposed wind turbine, including cumulative effects, would be greatly reduced if it was located away from the ridge and within areas of lower topography, further south and east.

On the considerations of landscape appraisal it can be concluded from all of the above that the proposed wind turbine is contrary to Policy ENV1D of the approved Edinburgh and Lothians Structure Plan 2015, Policies DC1 (Part 5), NH4 and NRG3 and of the adopted East Lothian Local Plan 2008, Scottish Planning Policy: February 2010, the Scottish Government web based renewables advice entitled “Onshore Wind Turbines” and the key considerations of landscape impact of Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010.

Finally, it is necessary to consider whether there are material considerations in this case that outweigh the above conclusions that the proposed wind turbine does not comply with relevant development plan policy, the Council’s Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010 and the Council’s East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011).

Scottish Planning Policy on renewable energy states that the commitment to increase the amount of electricity generated from renewable sources is a vital part of the response to climate change. However, Scottish Planning Policy advises that whilst planning authorities should support the development of a diverse range of renewable energy technologies, they should guide development to appropriate locations and that factors relevant to the consideration of applications for planning permission will depend on the scale of the development and its relationship with the surrounding area and include impact on the

landscape, historic environment, natural heritage and water environment, amenity and communities, and any cumulative impacts that are likely to arise.

Development plan policy for East Lothian is supportive of Government policy to secure greater energy generation from renewable sources, but does require that the benefits of that have to be weighed against the impact of any such developments on the local environment and features of interest.

In the case of the wind turbine proposed in this application any benefit of it as a renewable source of electricity generation would not in itself outweigh the harmful impact it would have on the landscape, on the landscape character and appearance of the Eastern Lammermuir Fringe landscape character area, the Lammermuir Hills Area of Great Landscape Value and on the setting of Oldhamstocks Conservation Area.

It is stated in the Environmental Statement submitted with this application that if planning permission were to be granted for the proposed wind turbine it would be wholly owned locally by Dunbar Community Energy Company and it would provide a direct and considerable financial return to local communities within the Dunbar and District area. Monies from the revenue generated by the operation of the wind turbine would be disbursed through a grants scheme open to applications from voluntary/non-profit making organisations and community initiatives primarily based in the Dunbar, West Barns and East Linton wards of East Lothian.

The Council's Legal Services confirms that how the applicant intends to use any profits generated by the operation of the proposed wind turbine cannot be taken to be a material consideration in the determination of this application for planning permission, as the distribution of any potential revenue to a third party or parties is a future matter for the applicant over which the Council cannot exercise any control.

In any event the matter of community benefit advocated by the applicant would not outweigh the harmful impacts the proposed wind turbine would have on the landscape of the Eastern Lammermuir Fringe landscape character area and the Lammermuir Hills Area of Great Landscape Value and on the setting of Oldhamstocks Conservation Area.

REASONS FOR REFUSAL:

- 1 The proposed wind turbine is contrary to the Council's East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011) which states that a Typology B wind turbine cannot be accommodated within the Eastern Lammermuir Fringe landscape character area and that the part of the Eastern Lammermuir Fringe landscape character area in which the proposed wind turbine would be located cannot accommodate any Typology of wind turbine.
- 2 The proposed wind turbine due to its positioning, form, height and scale would in many views of it appear as a highly exposed and obtrusive skyline feature and in its relationship with the existing two telecommunications masts would harmfully amount to visual clutter on Blackcastle Hill. Such effects would harmfully detract from the landscape character and focus of Blackcastle Hill and from the landscape character of the Eastern Lammermuir Fringe landscape character area and the Lammermuir Hills Area of Great Landscape Value. It would be visible from parts of the Oldhamstocks Conservation Area from where it would be prominent in its visual relationship with, and a discordant and incongruous feature harmful to the setting of that Conservation Area. Accordingly, the proposed wind turbine is contrary to Policy ENV1D of the approved Edinburgh and Lothians Structure Plan 2015, Policies DC1 (Part 5), NH4 and NRG3 and of the adopted East Lothian Local Plan 2008, Scottish Planning Policy: February 2010, the Scottish Government web based renewables advice entitled "Onshore Wind Turbines" and the key considerations of landscape impact of Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010.

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

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

2a

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 doughtings in matching random rubble coursing. The proposed gate piers, also to be built in stone from doughtings, 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 doughtings 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.

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

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

2b

Application No. **13/00092/LBC**

Proposal Formation of hardstanding area, erection of gate, piers and part demolition of wall

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

Applicant Gifford Community Council

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

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).

Listed building consent is sought for (i) the demolition of a 1.2m wide length of wall to facilitate a pedestrian access through the wall, (ii) the formation of gate piers on the south side of the wall on either side of the proposed pedestrian access, (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/P planning permission is sought for the proposed pedestrian access, gate piers, gate and hardsurfaced area. A report on application 13/00092/P is at this time on the Committee Expedited List.

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

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

Policy ENV1C (International and National Historic or Built Environment Designations) of the approved Edinburgh and the Lothians Structure Plan 2015 and Policy ENV3 (Listed Buildings)

of the adopted East Lothian Local Plan 2008 are relevant to the determination of this application.

Material to the determination of the application is Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Scottish Government's policy on development affecting a listed building given in the Scottish Historic Environment Policy: December 2011 and Scottish Planning Policy: February 2010.

The Scottish Historic Environment Policy and Scottish Planning Policy echo the statutory requirements of Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that in considering whether to grant listed building consent for any works to a listed building the planning authority shall have special regard to the desirability of preserving the building or any features of special architectural or historic interest which it possesses.

There are 6 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 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,
- (xiii) concerns regarding the structural integrity of the wall.

Through the determination of an application for listed building the Council as the determining authority is limited to assessing the impact the works proposed would have on the special architectural or historic interest of the listed building to which the application relates. Therefore none of the matters raised in the letters of objections are material considerations in the determination of this application for listed building consent.

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 be harmful to the special architectural or historic interest of the wall, a Category A listed building.

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.

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 special architectural or historic interest of the listed building.

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. It would not be harmful to the special architectural or historic interest of the listed building.

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.

The proposed demolition of part of the wall, the installation of the gate, the formation of the gate piers and the hardsurfacing are consistent with Policy ENV1C of the approved Edinburgh and the Lothians Structure Plan 2015, Policy ENV3 of the adopted East Lothian Local Plan 2008, The Scottish Historic Environment Policy: December 2011 and Scottish Planning Policy: February 2010.

RECOMMENDATION:

That listed building consent be granted subject to the following condition:

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

Reason:

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

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

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

3

***Note:** this application was called off the Scheme of Delegation List by Councillor Goodfellow for the following reason: This application relates to a building within the conservation area and has given rise to a number of objections which deserve a full hearing in public.*

Application No. **12/00842/P**

Proposal Alterations and extension to house, formation of balcony, new vehicular/pedestrian access, vehicular turning circle and infilling of existing pedestrian and vehicular access

Location **Beulah
Gullane Road
Aberlady
EH32 0QB**

Applicant Mr Alan Fiddes

Per Richard Murphy Architects

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

The property to which this application relates is the two storey irregular shaped house of Beulah and its garden ground, situated on the south side of the A198 public road, towards the north-eastern edge of the village of Aberlady.

By being within Aberlady the property is within a predominantly residential area as defined by Policy ENV1 of the adopted East Lothian Local Plan 2008. The property is also within Aberlady Conservation Area and the Luffness House Designed Landscape.

The property is bounded to the east, south and west by neighbouring residential properties. To the north is the A198 classified public road, beyond which is Aberlady Bay.

The house is positioned on the northeast part of its curtilage and abuts the south boundary wall of the property. It has a distinctive modern architectural style with mono-pitched and flat roofs and a large amount of glazing at first floor level on its north (front) and south (rear) elevations. The principal pitched roofed two storey component of it has deep box fascias

at eaves level. There is a flat roofed single storey component on the rear of the principal two storey component of the house. An external staircase gives access to the flat roof of the single storey component. The north (front) elevation of the house faces towards the A198 public road and beyond to Aberlady Bay. The external walls of the house are finished in a pale coloured render. Its pitched roof is clad with clay pantiles and its flat roof is clad with mineral felt. The frames of the existing windows and doors are of painted timber construction, and its external doors are of timber and glazed construction.

The curtilage of the house is enclosed along its north roadside boundary by a rubble stone wall that varies in height between some 1.0 and 1.5 metres and along its east and west boundaries by a 1.4 metres high rubble stone wall. Its south boundary is enclosed by a 3.5 metres high rubble stone wall that is listed as being of special architectural or historic interest (Category B).

Access to the property is taken from the A198 public road via existing vehicular and pedestrian access openings in the north roadside boundary wall.

Planning permission is sought for: (i) the addition of an extension on top of the western part of the rear flat roofed single storey component of the house; (ii) the formation of a roof terrace on top of the flat roof of the eastern part of the rear single storey component of the house and the erection of a screen wall along the east and south sides of that roof terrace; (iii) the addition of a first floor balcony with entrance porch below it onto part of the west side elevation of the house; (iv) alterations to the positions of door and window openings of the elevation walls of the house and the installation of new and replacement windows and doors; (v) the installation of roof windows on the front (north) and rear (south) elevation roof slopes of the house; (vi) alterations to the roof of the house; (vii) the blocking up of the existing vehicular and pedestrian accesses in the north roadside boundary wall of the property and the formation of a new vehicular access in that boundary wall, in a position some 5 metres further to the west of the existing vehicular access; (viii) in association with the proposed new vehicular access, the provision within the curtilage of the house of hardstanding in the form of a driveway; and (ix) in association with the proposed new vehicular access, the provision within the curtilage of the house of a mechanical turntable.

Since the application was registered it has been amended: (i) to show the existing degree of detachment of the house and what will be the degree of detachment of the proposed extension from the Category B listed wall that encloses the south boundary of the property; (ii) to correct inaccuracies on the application drawings with respect to the labelling of the elevations of the house and to show the positions of all of the existing window openings; (iii) to demonstrate the provision of a visibility splay for the proposed vehicular access, including the lowering of the roadside boundary wall to incorporate that visibility splay; (iv) to show that a window of the west elevation of the proposed first floor extension would be obscurely glazed; (v) to show the proposed screen wall that would enclose two sides of the proposed roof terrace; and (vi) to amend the size of the proposed area of hardstanding. These amendments are all shown on submitted amended application drawings.

The addition of the proposed screen wall that would enclose two sides of the proposed roof terrace and the obscure glazing of the window of the west elevation wall of the first floor extension are material changes to the proposed development and as such the application was re-notified to the neighbours.

The proposed extension would not attach to the Category B listed wall that encloses the south boundary of the property. Therefore, the proposed extension does not require listed building consent.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that this application for planning permission 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 Environmental 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), DP2 (Design), DP6 (Extensions and Alterations to Existing Buildings), DP8 (Replacement Windows), 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 are Sections 59 and 64 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 and on development within a conservation 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.

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.

Furthermore, it is stated in Scottish Planning Policy: February 2010 that planning authorities have a role in protecting, preserving and enhancing gardens and designed landscapes of national importance that are included in Historic Scotland's Inventory of Gardens and Designed Landscapes. The affect of a proposed development on a garden or designed landscape should be a consideration in decisions on planning applications. Change should be managed to ensure that the significant elements justifying designation are protected or enhanced.

Eight public representations to the application have been received. Seven of the representations raise objection to the proposed development and the grounds of objection are:

- i. the zinc roof of the proposed extension would not be appropriate to the Conservation Area where the properties have red pantile roofs;
- ii. the proposed extension would be overbearing and dominant when viewed from the neighbouring houses to the south;

iii. the proposed extension would abut the existing shared, rubble stone, listed boundary wall between the applicant's property and the neighbouring properties to the south and would be difficult to maintain;

iv. the erection of the proposed extension would be likely to require access to neighbouring properties to enable construction of it;

v. the windows of the west facing elevation of the proposed extension and the proposed balcony would overlook the neighbouring property to the south;

vi. the proposed roof terrace would overlook the neighbouring property to the south;

vii. the proposed extension would be unsympathetic and harmful to this little altered post-war modern house;

viii. the proposed development would be harmful to the setting of the nearby listed house; and

ix. the screen wall to be erected along two sides of the proposed roof terrace would not be high enough to prevent harmful overlooking of the neighbouring property to the south.

The other representation is in support of the proposed development commenting that it would be an enhancement to the existing house.

The matter raised by an objector of the requirement for access to another neighbouring property to enable construct of a proposed development is a property ownership matter between the respective parties of developer and neighbour(s). It is not therefore a material planning consideration in the determination of an application for planning permission.

The proposed extension would be built on top of the western part of the existing rear single storey flat roofed component of the house. It would have a predominantly mono-pitched roof that would be clad with a zinc standing seam roofing material. The small part of the extension that would be next to the listed wall on the south boundary of the property would have a flat roof that would be clad with a lead roofing material. The external walls of the proposed extension would be finished with a pale coloured render to match the pale coloured rendered finish of the external walls of the house.

The proposed first floor balcony, ground floor enclosed entrance vestibule and open sided entrance porch would as a composite structure be attached to the north side of the existing rear single storey flat roofed component of the house, the north side of the proposed first floor extension and the west side of the principal two storey component of the house. The balustrade and support columns of the balcony would be of galvanised steel construction painted a dark grey colour (RAL 7016). The enclosed entrance vestibule and the open sided entrance porch would both be below the balcony.

The proposed roof terrace would be formed on top of the eastern half of the existing rear single storey flat roofed component of the house. It would be enclosed on its east and south sides by a 1.5 metres high screen wall that would be finished with a pale coloured render to match the pale coloured rendered finish of the external walls of the house.

The alterations to the roof of the house comprise of the removal of the existing timber box fascias from the eaves level of the front (north) and rear (south) elevations of the house and the installation of a narrow strip of zinc standing seam roofing along the bottom edge (eaves) of the existing pantile roof of those elevations of the house, and also the

installation on the existing chimney of a new galvanised steel flat plate chimney cowl painted a dark grey colour (RAL 7016).

In their positions attached respectively to the south (rear) and west side elevations of the house the proposed extension, first floor balcony, entrance vestibule and porch and the screen walls of the proposed roof terrace would be visible to variable degrees in public views from the A198 public road. They would also be partially visible through the gaps between the houses at the northern end of the public road of The Gardens to the south of the property. However, in such public views all of them would be seen in the context of the architectural style and form of the house.

The proposed extension, first floor balcony and entrance vestibule and porch would project no further to the west than does the west elevation of the existing rear single storey flat roofed component of the house, and would be of a similar architectural form to the existing house. The pitch and height of the roof of the proposed extension would match the pitch and height of the existing roof of the house. The 1.5 metres high screen walls of the proposed roof terrace would be an upward extension of the existing walls of the existing single storey flat roofed rear component of the house. The use of zinc roofing material to clad the roof of the extension and in the alterations to the bottom edge (eaves) of the north and south elevation roof slopes of the house would be distinctively different from the existing pantile roof cladding of the house. However, the use of such different material would be appropriate relative to the distinctive modern architectural style of the house. The zinc roofing material would contrast harmoniously with the pantile roof cladding of the house and would be complementary to it. The use of such material would not appear as a harmfully incongruous addition to the house and thus would not be a harmful feature within this part of Aberlady Conservation Area.

By virtue of its size, form and colouring the new galvanised steel flat plate chimney cowl to be attached to the existing chimney would not appear as a dominant or incongruous feature on the roof of the house.

By virtue of their size, scale, form, height, position, architectural style and external finishes the proposed extension, first floor balcony, entrance vestibule and porch, the screen walls of the proposed roof terrace, the alterations to the roof edges (eaves) and the chimney cowl would be in keeping with the modern architectural style, form and finishes of the house so as not to appear as dominant or incongruous additions to the house. They would be subservient additions to the house and would be well integrated into their surroundings. As subservient and harmonious additions to the house they would not cause the house to appear intrusive or incongruous within its setting and would not be harmful to the character and appearance of the Conservation Area. Nor would they be harmful to the setting of the listed boundary wall along the south boundary of the property or the conservation objectives of the Luffness Designed Landscape.

The alterations to the existing window and door openings of the house comprise of changes to the sizes of some of the window and door openings and the installation of new windows and doors in those altered openings. The windows of the other window openings are to be replaced with different modern casement type windows. The frames of the new and replacement windows, the new sliding doors and the new external doors would be of timber construction painted a dark grey colour (RAL 7016). The new external doors would be of timber and glazed construction or timber construction. The cills of the new and altered window openings would be of either concrete or aluminium construction. All alterations to the external walls of the house to facilitate the changes to the sizes of the windows would be finished with a pale coloured render to match the rendered finish of the external walls of the house.

By virtue of their size, form and external appearance the proposed alterations to the existing window and door openings, including the use of concrete or aluminium cills would be appropriate to the modern architectural style, form and finishes of the house. The existing windows of the house are of a modern style with a casement opening method and their frames are of timber and painted a cream colour similar to the colour of the render of the external walls of the house. The proposed new and replacement windows would also be of a modern style with a casement opening method but with different proportions, glazing pattern and of a dark grey colour. However relative to the distinctive modern architectural style of the house the proposed new and replacement windows would be appropriate to the house. All of the new and replacement windows, the new sliding doors and the new external doors would be sympathetic alterations to the house. They would not cause the house to appear intrusive or incongruous within its setting and would not be harmful to the character and appearance of the Conservation Area. Nor would they be harmful to the setting of the listed wall along the south boundary of the property or the conservation objectives of the Luffness Designed Landscape.

In their positions on the north (front) and south (rear) elevation roof slopes of the house the proposed roof windows would, respectively, be visible in public views from the A198 classified public road to the north and from the south through the gaps between the houses at the northern end of the public road of The Gardens. However, they would be of a relatively small size in their relationship with the greater massing of the house. They would not be an overdevelopment of the roof slopes of the house and would not dominate those roof slopes. They would not appear as overly conspicuous or incongruous features on the roof of the house. Subject to the roof windows being installed as flush as possible with the surface of the roof into which they would be installed they would not be harmful to the character and appearance of the Conservation Area. Nor would they be harmful to the setting of the listed wall along the south boundary of the property or the conservation objectives of the Luffness Designed Landscape.

A new vehicular and pedestrian access to the site would be formed through the north roadside boundary wall, in a position some 5.0 metres to the southwest of the existing vehicular access. The existing vehicular and pedestrian accesses through the northwest roadside boundary wall would be blocked up with stone to match the existing rubble stone of the wall. Subject to the stone to be used to block up the existing vehicular and pedestrian accesses matching as close as possible the stonework of the existing wall the formation of the new vehicular and pedestrian access and the blocking up of the existing vehicular and pedestrian accesses would not be harmful to the character and appearance of the Conservation Area. Nor would they be harmful to the setting of the listed wall along the south boundary of the property or the conservation objectives of the Luffness Designed Landscape.

A hardstanding area in the form of a driveway is proposed to be formed to the west side of the house. The proposed new area of driveway would be surfaced with stone chips. A mechanical turntable would be positioned on that driveway to enable vehicles entering and exiting the property by way of the proposed new vehicular to do so in a forward gear. The turntable would be surfaced with natural stone sets which surface finish would harmonise with the stone chips surface finish of the proposed driveway. In their place within the enclosed curtilage of the house the driveway and mechanical turntable would not appear intrusive or incongruous within their setting and would not be harmful to the character and appearance of the Conservation Area. Nor would they be harmful to the setting of the listed wall along the south boundary of the site or the conservation objectives of the Luffness Designed Landscape.

Historic Scotland advises that they have no comment to make on the application.

On all of these design considerations the proposed development is consistent with Policies ENV1C, ENV1D and ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015, Policies ENV3, ENV4, ENV8, DP2, DP6 and DP8 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy: February 2010.

On the matter of the impact of the proposed extension on daylight and sunlight received by neighbouring properties, guidance is taken from "Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice" by P.J. Littlefair. By virtue of its height, positioning and distance away from the neighbouring residential properties, the proposed extension would not, in accordance with the Guide give rise to harmful loss of daylight or sunlight received by any of those neighbouring properties and thus would not have a harmful affect on the residential amenity of them. On this matter of residential amenity the proposed development is consistent with Policy DP6 of the adopted East Lothian Local Plan 2008.

On the matter of overlooking it is the practice of the Council, as Planning Authority to apply the general rule of a 9 metres separation distance between the windows of a proposed new building and the garden boundaries of neighbouring residential properties and a 18 metres separation distance between directly facing windows of the proposed new building and the windows of existing neighbouring residential buildings.

There are no neighbouring residential properties to the north of the applicant's property. Thus, the windows of the north elevation wall of the proposed extension and the windows of the altered window openings proposed for the north elevation wall of the existing house would not allow for any harmful overlooking of a neighbouring residential property.

At its closest the east elevation wall of the house is only some 1.5 metres away from the east boundary of the property with the garden of the neighbouring house of Slatehall. There are existing ground and first floor windows in that east elevation wall. The development proposals include for the reduction in size of two of the existing ground floor window openings and an increase in size of the one existing first floor window. Due to the nature of the proposed alterations to the existing window openings and as there would be no change to the number of windows in that east elevation wall of the house there would be no greater allowance for overlooking of the neighbouring garden of the residential property of Slatehall than already exists. Furthermore, the part of the garden of the house of Slatehall that those windows face towards is occupied by a driveway and a detached garage, which are already visible from the public road.

The south elevation wall of the proposed extension would be almost on part of the south boundary of the property with the gardens of the neighbouring residential properties of Nos. 6 and 7 The Gardens to the south. However, there would be no windows in the south elevation wall of the proposed extension.

The south elevation wall of the existing house and the first floor windows of that elevation are only some 2.3 metres away from the south boundary wall.

It is proposed that those existing first floor windows be replaced and that one of the window openings be enlarged to form a glazed door. Due to the nature of the alterations proposed to those windows and as there would be no change to the number of windows in that elevation wall, there would be no greater allowance for overlooking of the neighbouring residential properties of Nos. 6 and 7 The Gardens than already exists.

The roof windows proposed for the south facing roof slope of the existing house would face towards a part of the garden of the house of 6 The Gardens that is already visible and

overlooked from the public road of The Gardens, and thus those proposed roof windows would not allow for harmful overlooking of that garden.

A first floor window would be formed at the southern end of the west elevation wall of the proposed first floor extension and a new ground floor window would be formed below it in the west elevation wall of the existing rear single storey component of the house. Each of those two windows would be aligned near to perpendicular with the south boundary of the curtilage of the house and would, at their closest, be only some 650mm away from the boundary. Due to such closeness to that boundary and that it would be in a position higher than the top of the wall on the boundary the first floor window would allow for overlooking of the neighbouring garden of the residential property of 6 The Gardens to the south. In light of this it is proposed that the first floor window is to be obscurely glazed. Subject to this that window would not allow for any harmful overlooking of the garden of the neighbouring property of 6 The Gardens. The boundary wall is 3.5 metres high and because of this it would prevent overlooking of the garden of 6 The Gardens from the proposed ground floor window and thus that window would not allow for any harmful overlooking of the neighbouring residential property of 6 The Gardens.

As the property is within Aberlady Conservation Area the formation of any additional new window or other glazed openings on the house and extension to the house would require planning permission and thus would be within the control of the Planning Authority.

None of the windows of the proposed extension or any of the altered windows of the house or the proposed balcony would be within 18 metres of any directly facing windows of any neighbouring residential property.

The proposed roof terrace would be only some 1.5 metres away from the east boundary of the curtilage of the house with the garden of the house of Slatehall and would be almost on the south boundary with the gardens of the houses of Nos. 6 and 7 The Gardens. However, the 1.5 metres high screen wall of the roof terrace would be high enough above the surface of the terrace and of such a solid form so as to prevent overlooking of those neighbouring gardens by persons seated on the roof terrace.

In its positioning on the front of the house with the proposed first floor extension behind it and by its orientation the proposed balcony would not allow for any harmful overlooking of the garden of the residential property of 6 The Gardens.

On these matters of overlooking the proposed development is consistent with Policy DP6 of the adopted East Lothian Local Plan 2008.

The existing vehicular and pedestrian accesses of the property from the A198 public road are to be infilled and a new vehicular access is proposed from that classified road. In instances where a new vehicular access from a classified road is proposed it is a requirement of the Council, as Planning Authority that it be served by the on-site provision of a vehicle turning area. In the case of this application the shape of the curtilage of the house prevents the on-site provision of the required standard of turning area. It is because of this that the mechanical turntable is proposed. Also proposed is a new on-site driveway and two on-site parking spaces.

The Council's Transportation service advises that these proposed arrangements for site access, turning and parking are of an acceptable standard, subject: (i) the first 2 metres of the driveway, measured from the back edge of the footway of the public road and for the full width of the proposed new vehicular access, shall be hard formed to prevent loose materials entering the public road; (ii) the proposed mechanical turntable being installed and made operational prior to the proposed new vehicular access being brought into use;

and (iii) the proposed vehicle turntable being retained and maintained in full working order and available for use at all times to enable vehicles to access and egress the proposed new vehicular access in a forward gear. Transportation also advise that the visibility splay for the proposed new vehicular access, as shown on the application drawings, would be of a sufficient standard to allow safe use of the access. Subject to conditions being imposed on the grant of planning permission to address these matters the proposed arrangements for access and parking are consistent with Policies T2 and DP22 of the adopted East Lothian Local Plan 2008.

CONDITIONS:

- 1 Prior to the new vehicular access being brought into use the existing vehicular and pedestrian accesses in the north roadside boundary wall of the property shall be completely infilled and the new on-site driveway, parking spaces and turning arrangements and the visibility splay of the new vehicular access shall all be laid out as shown in docketed drawing nos. AL/01/02/Rev B and AL0102/Rev C, and thereafter each shall be retained for such uses.

Prior to the new vehicular access being brought into use the proposed vehicle turntable shall have been installed and made operational. Thereafter it shall be retained in the form and place approved for it and maintained in full working order and available for use at all times to enable vehicles to access/egress the new vehicular access in a forward gear.

Prior to the new vehicular access being brought into use the first 2 metres of the driveway behind it and back from the back edge of the footpath of the adjacent public road and across the full width of the access shall be hard formed and thereafter shall be retained as such.

Any gates erected across the new vehicular access shall open into the application site and not outwards towards the A198 public road.

Reason:

In the interests of road safety.

- 2 Samples of the zinc roofing material and the lead roofing material shall be submitted to and approved in writing by the Planning Authority prior to their use in the development hereby approved, and thereafter the zinc roofing material and the lead roofing material used shall accord with the samples so approved.

Reason:

To ensure the satisfactory appearance of the development in the interest of safeguarding the character and appearance of the area, the character and appearance of the Conservation Area, the conservation objectives of the Luffness Designed Landscape and the setting of the Category B listed southeast boundary wall.

- 3 The render to be applied to the external walls of the extension, the screen walls of the roof terrace and as an external finish to the infilling of the alterations to the existing window and door openings of the existing house shall match in type, texture and colour the render on the walls of the house.

Reason:

To ensure the satisfactory appearance of the development in the interest of safeguarding the character and appearance of the area, the character and appearance of the Conservation Area, the conservation objectives of the Luffness Designed Landscape and the setting of the Category B listed southeast boundary wall.

- 4 The natural rubble stone to be used to infill the existing vehicular and pedestrian accesses through the north roadside boundary wall shall match as close as possible in texture, colour and coursing the natural rubble stone of the existing north roadside boundary wall.

Reason:

To ensure the satisfactory appearance of the development in the interest of safeguarding the character and appearance of the area, the character and appearance of the Conservation Area, the conservation objectives of the Luffness Designed Landscape and the setting of the Category B listed southeast boundary wall.

- 5 The roof windows hereby approved shall be installed in a manner which ensures that their upper surface is as near flush as possible with the upper surface of the roof into which they are to be installed.

Reason:

To reduce the visual impact of the roof windows in the interests of protecting the character and appearance of the area, the character and appearance of the Conservation Area, the conservation objectives of the Luffness Designed Landscape and the setting of the Category B listed southeast boundary wall.

- 6 The extension hereby approved shall not be occupied until the first floor level window of its west elevation that is marked on the docketed drawings to be obscure glazed is obscure glazed and thereafter that window shall remain obscure glazed unless otherwise approved by the Planning Authority.

Reason:

To safeguard the privacy and amenity of the occupiers of the neighbouring residential property of 6 The Gardens to the south.

- 7 No use shall be made of the roof terrace hereby approved unless the 1.5m high screen wall is in place in its entirety on the east and south sides of it, as specified on the docketed drawings and thereafter that screen wall shall be retained.

Reason:

To prevent harmful overlooking of the neighbouring residential properties to the south and east in the interests of safeguarding the privacy and amenity of that property.

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

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

4

***Note:** this application was called off the Scheme of Delegation List by Councillor Goodfellow for the following reason: This application relates to erection of a new dwelling within a sensitive conservation area and has given rise to a number of objections which deserve a full hearing in public.*

Application No. **12/00925/P**
Proposal Erection of 1 house and associated works
Location **Glenconner
28 Dirleton Avenue
North Berwick
EH39 4BQ**
Applicant Mr David Selkirk
Per EMA Architecture + Design Limited
RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

The application site forms the majority of the southern part of the garden of the two-storey detached building of Glenconner, 28 Dirleton Avenue, North Berwick. It is located between the north side of Dirleton Avenue and the south side of Fidra Road.

The site is in a predominantly residential area as defined by Policy ENV1 of the adopted East Lothian Local Plan 2008. It is also within North Berwick Conservation Area.

Glenconner is listed as being of special architectural or historic interest (Category B). It was originally built (circa 1900) as a single house and is now sub-divided into 5 flats.

The land of the site is some 1100 square metres in area and is more than half of the southern area of garden ground of Glenconner. It is predominantly laid to grass with an existing paved area at its northern end and a gravel driveway along its western side. There are a number of trees on the southern, northern and western sides of it. There are also a number of mature trees on the western part of the neighbouring garden of the flatted building of 26 Dirleton Avenue that are adjacent to the east boundary of the application

site. Three of the mature trees that are along the south and east boundaries of the site are the subject of Tree Preservation Order No. 17.

The site is accessed from the public road of Dirleton Avenue by an existing gated vehicular access that is positioned towards the western end of the south (roadside) boundary. A gravel driveway leads from that access across the west part of the application site. The driveway continues northwards past the west elevation of Glenconnor to another vehicular access onto Fidra Road to the north.

The site is enclosed along its south (roadside) boundary to Dirleton Avenue by a low stone wall with timber fencing above it to a height of some 1.8 metres, and by shrubs and trees. Its east boundary is enclosed by a stone wall and hedge, and there are also shrubs and trees along the boundary both within the site and outwith the site in the neighbouring garden ground. Most of its north boundary is enclosed by a hedge, bamboo fencing and trees. The remainder of the north boundary is not enclosed. There is no boundary enclosure along the west boundary of the application site. However, along the west side of the existing driveway there is shrub and hedge planting and trees, and furthermore there is also a stone wall along the west boundary of the garden of Glenconnor.

The site is bounded to the west by the flatted residential properties of 30 Dirleton Avenue and 4 Hamilton Road and their respective garden ground, to the east by the flatted residential property of 26 Dirleton Avenue and its garden ground, to the north by the flatted residential property of Glenconnor and what would be its retained garden ground and to the south by the classified public road of Dirleton Avenue with residential properties beyond.

On 25th March 2011 planning permission in principle 10/00851/P was refused for the principle of the erection of one house on the same application site in the Garden of Glenconnor, 28 Dirleton Avenue. The reasons for refusal were that:

(i) A house erected on the garden ground of the application site would be an intrusive and incongruous form of infill development out of keeping with the low density character of the existing built form on the north side of Dirleton Avenue and which would not preserve or enhance but would be harmful to the character of the North Berwick Conservation Area, contrary in principle to Policy ENV1D of the approved Edinburgh and the Lothians Structure Plan 2015, Policies DP7 and ENV4 of the adopted East Lothian Local Plan 2008, and contrary in principle to the Scottish Government's policy on development within a conservation given in Scottish Planning Policy: February 2010; and

(ii) A house erected on the garden ground of the application site, due to its positional relationship with the listed building of 28 Dirleton Avenue would be a disruptive feature that would not preserve or enhance but would be harmful to the setting of the listed building, contrary in principle to Policy ENV1C of the approved Edinburgh and the Lothians Structure Plan 2015 and Policy ENV3 of the adopted East Lothian Local Plan 2008.

Through this current application, planning permission is sought for the erection of 1 house on site formed by the majority of the southern part of the garden of Glenconnor, 28 Dirleton Avenue and for the formation of hardstanding to form a driveway.

The proposed house would have a roughly rectangular shaped footprint and would be one and a half storeys in height with a dual pitched roof. It would be positioned on the northern half of the site with its south elevation wall positioned some 21 metres away from the south boundary of the site with Dirleton Avenue. Its external walls would be finished with a white painted render with a natural stone base course. It would have wall-head dormers. It would have natural stone banding around its windows and doors and natural stone

crow-step architectural detailing to its gables. Its roof would be clad with rosemary clay roof tiles and would have a raised cupola roof light on its roof. The frames of its windows and external doors would be of white painted timber construction.

A gravel driveway providing parking for two cars would be formed to the west side of the proposed house, in a position between it and the existing gravel driveway that accesses onto Dirleton Avenue. Access to the proposed house would be taken via the existing vehicular access from Dirleton Avenue along the existing gravel driveway.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that this 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.

The proposed development would be infill housing development of land that was formerly part of the garden of an existing residential building within the urban area of North Berwick. On this matter there are no policies of the approved Edinburgh and the Lothians Structure Plan 2015 relevant to the determination of the application.

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), DP4 (Design Statements), DP7 (Infill, Backland and Garden Ground Development), DP14 (Trees on or Adjacent to Development Sites), 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 are Sections 59 and 64 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 and development within a conservation 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.

Scottish Planning Policy also 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. Planning permission should normally be refused for development within a conservation area that fails to preserve or enhance the character or appearance of the area.

Scottish Ministers' policy on infill housing development given in Scottish Planning Policy: February 2010 and Planning Advice Note 67: Housing Quality are also material to the determination of the application.

Scottish Planning Policy on housing states in paragraph 82 that infill sites within existing settlements can often make a useful contribution to the supply of housing land. Proposals for infill sites should respect the scale, form and density of the surroundings and enhance the character and amenity of the community. The individual and cumulative effects of infill development should be sustainable in relation to social, economic, transport and other relevant physical infrastructure and should not lead to over development.

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

Four public representations to the application have been received. Three of the four representations raise objections to the proposed development and as summarised the grounds for objection are:

- i. the driveway and vehicular entrance gate onto Fidra Road are owned and maintained by the residents of all of the flats and should not be shared with any other property as increased traffic could create problems;
- ii. the proposed development would be in direct contrast to the low density nature of the surrounding properties and would be harmful to the conservation area;
- iii. the proposed development would have a detrimental effect on the Category B listed building of Glenconner, its occupants and Dirleton Avenue;
- iv. outline planning permission was previously refused for a house in the garden of Glenconner;
- v. the proposed development would have a detrimental effect on the setting of the listed building;
- vi. Glenconner is one of few remaining properties which retains its whole plot between Dirleton Avenue and Fidra Road;
- vii. the design of the proposed house is a poor pastiche of Scots Baronial features; and
- viii. the proposed house is deficient in accommodation and is an uneconomic use of that would be a very valuable site if planning permission could be secured.

The one remaining representation neither supports nor objects to the proposed development but questions which trees are proposed to be felled as part of the development.

The application drawings and the Tree Survey and Arboricultural Constraints report submitted with the application identify the trees that are proposed to be felled and removed.

North Berwick Community Council, as a consultee, object to the application for the same reasons that previous outline planning application 10/00851/PP was refused.

Since the application was registered it has been amended to have included within the application site the vehicular access from Dirleton Avenue and part of the existing gravel driveway leading from that access into the site, and to show the position of a vehicular bollard on the existing gravel driveway. These changes are shown on revised application drawings submitted by the applicant's agent.

The inclusion of the existing gravel driveway and vehicular access within the application site is a significant change to the application and because of this the application has been re-registered and accordingly neighbours have again been notified. Moreover, as the gravel driveway and vehicular access onto Dirleton Avenue is not solely owned by the applicant but is shared in ownership between the owners of the flats of Glenconner, the land ownership certification of the re-registered application has been served by the applicant on the other owners of the land of the gravel driveway and vehicular access.

As is required by Local Plan Policy DP4 the applicant's agent has submitted a Design Statement. The Design Statement explains that the proposal now under consideration addresses the reasons for refusal of application 10/00851/PP such that the proposed house would be sensitively located in the grounds of the existing flatted building of Glenconner and has been designed so as not to have a detrimental effect on the setting of the listed building or on the character and appearance of the conservation area.

In the Statement it is observed that many of the large villas along this part of Dirleton Avenue have been sub-divided and their gardens developed.

In respect of the site it is also observed that the well-defined hedge and tree lined boundaries of the application site mean that views into and out of the site are restricted and, more particularly, that the existing hedge and trees along the north boundary of the site with the retained garden ground of Glenconner mean that development of a house on the application site could be achieved with limited visual impact on that listed building and on the character and appearance of the conservation area.

The Statement informs that the proposed house would:

- (i) be positioned to maintain the existing building line of the north side of Dirleton Avenue;
- (ii) maintain existing views between the existing access gates onto Dirleton Avenue and the building of Glenconner;
- (iii) be of an appropriate scale and not compete with the dominant building mass of Glenconner; and
- (iv) appear as a 'garden house' in relation to Glenconner.

It is further stated that the architectural style of the proposed house is borrowed from that of Glenconner, with its proportions, eaves line set at one and a half storeys, wall-head dormers, crow-step gables and external finishes considered to reflect the style and quality of that listed building.

The application site is not allocated for residential development in the adopted East Lothian Local Plan 2008. All of it is part of a larger area covered by Local Plan Policy ENV1. Policy ENV1 does not actively promote the development of land for new build residential development. The principal purpose of Policy ENV1 is to ensure that the predominantly residential character and amenity of its area of coverage is safeguarded against the impacts of land uses other than housing. However Policy ENV1 does state that infill, backland and garden ground development will be assessed against Policy DP7 of the adopted East Lothian Local Plan 2008.

The proposed new house would be set in part of the large garden of the existing flatted building of Glenconner. It is within a predominantly residential area with residential properties adjacent to it. The erection of a house on the site would amount to urban infill housing development, the principle of which is supported by current Government planning policy guidance on urban infill housing development given in SPP and by Policy DP7 of the adopted East Lothian Local Plan 2008.

With respect to infill, backland and garden ground development Policy DP7 of the adopted East Lothian Local Plan 2008 states that, amongst other principles of development, it must, by its scale, design and density be sympathetic to its surroundings and not be an overdevelopment of the site. This is in line with the requirements of Scottish Planning Policy: February 2010 that planning authorities should ensure that where infill sites are assessed as suitable for development, proposals respect the scale, form and density of the surroundings and enhance the character and amenity of the community.

In this case regard must also be paid to the desirability of preserving or enhancing the character or appearance of the North Berwick Conservation Area as required by Scottish Planning Policy: February 2010 and Policy ENV1D of the approved Edinburgh and the Lothians Structure Plan 2015 and Policy ENV4 of the adopted East Lothian Local Plan 2008.

Due regard must also be given to desirability of preserving the setting of the listed building of Glenconner as required by Policy ENV1C of the approved Edinburgh and the Lothians Structure Plan 2015 and Policy ENV3 of the adopted East Lothian Local Plan 2008.

The application site is within the western part of North Berwick Conservation Area, characterised by a mix of architect designed Victorian, Edwardian and Georgian housing in a variety of styles set within large private grounds. The houses in this part of the Conservation Area vary in height between single storey and two and a half storey. Some of these large houses have been subdivided to form more than one residential unit, as is the case with Glenconner. The original low density development of the area is supplemented by some infill development, which generally appears subservient to the older buildings. The predominant building materials are red sandstone with natural slated roofs and there are noticeable design features, such as turrets, crow stepped gables, and elaborate bargeboards. However, there are also a number of rendered, painted buildings within the area and which form part of its character and appearance. Many large mature trees, important to the visual amenity of the area, provide greenery throughout and partially screen buildings from the street elevations.

The Category B listed building of Glenconner is a large two storey building dating from circa 1900, subsequently enlarged in 1902 and 1911. It is set within a large area of

undeveloped garden ground, with its principle elevation facing west. Its south (side) elevation wall is set back some 50 metres from Dirleton Avenue to the south and its north (side) elevation wall some 15 metres from Fidra Road to the north.

The previous proposal for the site (10/00851/PP) in its indicative layout and elevations was for a house set on the south part of the application site, close to Dirleton Avenue and with an elongated east-west rectangular footprint stretching across the site as a one storey bungalow.

The house now proposed would be located some 20 metres to the south of Glenconnor, south of the existing hedge, fence and tree boundary between the application site and the retained garden ground of Glenconnor. Its principal elevation would face westwards as does that of the listed building.

The west (entrance) elevation of the proposed house would be positioned set back from the west (front) elevation building line of Glenconnor by some 2.5 metres. The east elevation of the proposed house would be set back some 4 metres from the east elevation building line of Glenconnor.

The south elevation wall of the proposed house would be positioned set back some 21 metres from Dirleton Avenue to the south and some 4 metres from the south building line of the buildings of 30 Dirleton Avenue and 4 Hamilton Road to the west. It would be some 4.5 metres forward of the building line of the south elevation wall of the building of 26 Dirleton Avenue to the east.

So positioned the proposed house would be set off from Glenconnor whilst remaining well set back from Dirleton Avenue on a building line relating positively to that of adjacent buildings. It would be contained within the east and west building lines of Glenconnor and so would be subservient to the footprint of the listed building.

By its one and a half storey height the proposed house would be some 2.5 to 3 metres lower than the roof ridges of Glenconnor. By virtue of its proposed position, height and massing it would appear subservient to Glenconnor and thus would not compete with the dominant massing of that listed building.

Furthermore, with the existing hedge, fence and trees along the most part of the north boundary of the site, lying between the proposed house and Glenconnor, the house so positioned would not radically alter the views or perception of that listed building from Dirleton Avenue. Only limited views of Glenconnor are visible through the existing vehicular access gateway from Dirleton Avenue. The hedge, fence and trees along the most part of the north boundary of the application site already effectively sub-divide the site from Glenconnor and thus sub-divide the setting of that listed building. The trees along that north boundary of the application site will continue to grow and create a denser screen between the listed building and its southern area of garden ground.

So positioned and designed, in its form the proposed house would not draw attention away from the listed building of Glenconnor, would not be a disruptive or incongruous feature within the setting of that listed building or be harmful to its setting.

At its one and a half storey height the proposed house would be in keeping with the varied heights of the buildings in this part of the North Berwick Conservation Area. It would be partially screened by existing trees along the boundary of the site with Dirleton Avenue as are existing houses and flatted buildings along that road.

So contained within the existing planting of the site and within the building lines of adjacent buildings, including Glenconnor, the proposed house would be positioned so as to be respectful of the varied positioning of existing buildings on the north side of Dirleton Avenue. Accordingly, the proposed house would not appear prominent or intrusive within the streetscape.

By virtue of its position, size, scale and form the proposed house would not be out of keeping with the pattern of the built form of the area and would not appear intrusive and incongruous within its setting. It would not detract from the character and appearance of this part of the North Berwick Conservation Area.

The proposed house would be finished externally in materials to match those of Glenconnor and other buildings in the locality. The proposed design features of natural stone window surrounds, crow-step gables and wall-head dormers are architectural details that are reflective of the architectural features of Glenconnor. By virtue of its architectural design and finishes the proposed house would not be out of keeping with the variety of architecture that is characteristic of this part of the Conservation Area and would not compete architecturally with the existing buildings of the surrounding area.

There is sufficient land within the site to accommodate the proposed house with a sufficient sized garden and adequate parking provision and vehicular and pedestrian access, without there being an overdevelopment of it. Development of the site would not result in any loss of open space important to recreation or amenity requirements.

In all of these design considerations the proposed house, by its positioning, size, height, proportions and external finishes, and by its relationship with its surroundings, including the built forms and layouts of the neighbouring buildings, would not appear dominant or intrusive. It would not be an incongruous addition to the pattern and density of the built form of this part of North Berwick and would not be harmful to the character and appearance of the Conservation Area or to the setting of the listed building of Glenconnor.

The proposed hardstanding area in the form of the driveway to be positioned to the west side of the proposed house would provide off-street parking spaces for at least two cars. The driveway would be surfaced with gravel. This hardstanding area, in its relationship with the proposed house, would not be an untypical feature for the garden of the house. Other than from the point of private access to the plot it would not be seen in public views. It would not be harmful to the character and appearance of the Conservation Area or the setting of the listed building.

On all of these considerations the proposed development is consistent with Policies ENV1C, ENV1D and ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015, Policies DP2, DP7, ENV3 and ENV4 of the adopted East Lothian Local Plan 2008, with Scottish Planning Policy: February 2010 and with Planning Advice Note 67: Housing Quality.

Policies DP2 and DP7 require, amongst other considerations, that new development should not result in any significant loss of daylight, sunlight or privacy to adjoining properties as a result of overshadowing or overlooking.

On the matter of the impact of the proposed house on daylight and sunlight on neighbouring properties, guidance is taken from "Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice" by P.J. Littlefair.

In its position and due to its orientation, height, size and scale the proposed house would not have a harmful impact on the daylight received by Glenconnor to the north.

On the matter of sunlight, the proposed house, by virtue of its position, orientation, height, size and scale would result in some overshadowing of the area of garden of Glenconnor to the north. However, that overshadowing would not be such that it would result in more than two-fifths of that area of garden being overshadowed for the whole of the day. Thus, it would not result in a harmful loss of sunlight to that neighbouring garden.

By virtue of its height, positioning, orientation and distance away from the neighbouring properties, the proposed house would not, in accordance with the guidance given in "Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice" by P.J. Littlefair, cause harmful loss of daylight or sunlight to the neighbouring residential properties and therefore would not have a harmful affect on the residential amenity of those properties. The proposed house should also receive a sufficient amount of daylight (skylight) and its garden a sufficient amount of sunlight to give sufficient amenity to the property.

In assessing whether or not a proposed new development would result in harmful overlooking and therefore loss of privacy to existing neighbouring residential properties it is the practice of the Council, as Planning Authority to apply the general rule of a 9 metres separation distance between the windows of a proposed new building and the garden boundaries of neighbouring residential properties and an 18 metres separation distance between directly facing windows of the proposed new building and the windows of existing neighbouring residential properties.

The south and west elevation walls of the proposed house would be more than 9 metres away from the south and west boundaries of the site and would not be within 18 metres of any directly facing windows of any neighbouring properties to the south and west. Thus, the windows of those elevation walls of the proposed house would not allow for harmful overlooking of any neighbouring residential properties.

The windows of the north elevation wall of the proposed house would be more than 18 metres away from the windows of the south elevation of Glenconnor. However, they would be some 5 metres away from the north boundary of the site with part of the retained garden of that flatted building. That area of garden ground is allocated for use by one of the ground floor flats. As such, it is already overlooked by the first floor flat above. Between the proposed house and that area of garden ground are the existing hedge, fence and trees which give a physical and visual separation between the retained garden ground of Glenconnor and the application site. In that the area of garden ground is already overlooked and that there is a degree of screening provided by the existing hedge, fence and trees, there would not be a harmful loss of privacy and amenity to that area of garden ground by overlooking from the windows of the north elevation of the proposed house. Thus, there would be no harmful overlooking or loss of privacy to the neighbouring residential properties to the north.

The east elevation of the proposed house would be less than 9 metres away from the east boundary of the site with the garden of the flatted building of 26 Dirleton Avenue to the east. However, there would be no windows in that east elevation and no new window openings could be formed without planning permission. Thus, there would be no harmful overlooking or loss of privacy to the neighbouring residential properties to the east.

The occupiers of the proposed house would also benefit from sufficient privacy and amenity.

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

The Council's Environmental Protection service raises no objection to the erection of a house on the site.

Access to the proposed house would be taken via the existing vehicular access on to Dirleton Avenue along the existing gravel driveway. A new length of gravel driveway to serve the proposed house would be formed on the eastern side of the existing driveway. Parking for at least two vehicles would be provided on the new length of driveway.

The Council's Transportation service advise that at present vehicles can exit or enter the curtilage of Glenconnor from two existing vehicular accesses; one onto Dirleton Avenue and the other onto Fidra Road. Transportation further advise that as existing vehicular accesses for use by vehicles associated with the five existing flats within the building of Glenconnor, those vehicular accesses provide safe means of access to the flatted building. However, the additional use of either of those existing vehicular accesses by vehicles associated with the proposed house would result in an intensification of use of the access such as would be unacceptable in road safety terms.

Thus, Transportation advise that if the flatted building continues to be accessed from Fidra Road and if only the proposed house is accessed from Dirleton Avenue then they would be satisfied that the flatted building would continue to be provided with a safe means of access and that the proposed house would also be provided with a safe means of access.

The applicant's agent has agreed to these proposed access arrangements and has shown on the application drawings a vehicular bollard positioned centrally across the width of the existing gravel driveway in a position on the northern boundary of the application site, which would prevent vehicular traffic from the flatted building entering and exiting the site from Dirleton Avenue. Subject to the erection of that vehicular bollard Transportation are satisfied that the proposed house could be provided with a safe means of vehicular access. This matter could be controlled by a condition attached to a grant of planning permission.

Transportation also advises that the new length of gravel driveway would be of a sufficient size to provide adequate on-site parking for the proposed house and that there would be sufficient manoeuvring space within the application site to allow vehicles to enter and exit the site in a forward gear.

Accordingly, the proposed development is consistent with Policies T2 and DP22 of the adopted East Lothian Local Plan 2008.

The application drawings propose the removal of three trees from the east boundary of the application site.

The landscape advice from the Council's Policy and Projects Manager is that the trees on the east, west and southern parts of the application site and those outwith the site to the east and west make a contribution to the character of the street scene and the landscape character of this part of the Conservation Area.

The Council's Policy and Projects Manager agrees with the findings of the Tree Survey and Arboricultural Constraints report submitted with the application that the three trees that are proposed to be felled and removed are in declining health and raises no objection to their removal subject to replacement trees being planted elsewhere on the site. Such matter can be made conditional of the grant of planning permission.

The Policy and Projects Manager further advises that the application drawings and the Tree Survey and Arboricultural Constraints report submitted with the application show that the site is capable of accommodating the proposed house without having a harmful impact on the trees to be retained. Subject to temporary protective fencing being erected the proposed development would not be harmful to the trees that are to be retained on and adjacent to the site. This matter can be controlled by a condition attached to a grant of planning permission.

Subject to the aforementioned controls the proposed development would not have a harmful impact on the trees on and adjacent to the site and is consistent with Policy DP14 of the adopted East Lothian Local Plan 2008.

Scottish Water raises no objection to the proposed development.

CONDITIONS:

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

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

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

Reason:

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

- 2 Prior to the occupation of the house hereby approved the access, turning and parking areas shall be laid out as shown in docketed drawing nos.11016(11)001 Rev B and 11016(11)002 Rev B, and thereafter the access, turning and parking areas shall be retained for such uses.

'In-curtilage' parking for at least 2 vehicles shall be provided.

Prior to the occupation of the house and the use of the driveway, all as hereby approved, a permanent vehicle bollard shall be erected in the position shown for it on docketed drawing nos. 11016(11)001 Rev B and 11016(11)002 Rev B and shall thereafter be retained in such position. Details of the vehicle bollard shall be submitted to and approved in writing by the Planning Authority prior to its erection on the site.

Reason:

To ensure provision of a safe access and adequate parking and turning in the interests of road safety.

- 3 No development shall be carried out unless and until a schedule of materials and finishes and samples of such finishes has been submitted to and approved in advance by the Planning Authority for the: -

- i. render and natural stone of the external walls, including the colour of the render;
- ii. rosemary clay tiles of the roof; and
- iii. natural stone to be used for the base course, crow-steps, window and door surrounds

Thereafter, the materials used shall accord with the samples, including any colouring, so approved.

Reason:

To enable the Planning Authority to control the materials, finishes and colour to be used to achieve a development of good quality and appearance in the interest of the visual amenity of the area, the character and appearance of the Conservation Area and the setting of the listed building of 28 Dirleton Avenue.

- 4 A sample of the gravel to be used to surface the hardstanding area to be used as a driveway shall be provided for the inspection and approval of the Planning Authority prior to the use of such ground surfacing within the development, and thereafter the gravel used shall accord with the sample so approved.

Reason:

To enable the Planning Authority to control the materials, finishes and colour to be used to achieve a development of good quality and appearance in the interest of the visual amenity of the area , the character and appearance of the Conservation Area and the setting of the listed building of 28 Dirleton Avenue.

- 5 The frames of the windows and where relevant their astragals and the frames of the external doors and patio doors shall be of timber construction. The external doors shall be of timber or timber and glazed construction.

The timber frames of the windows and where relevant the timber astragals shall be painted white, unless otherwise approved by the Planning Authority.

Reason:

In the interest of the visual amenity of the area , the character and appearance of the Conservation Area and the setting of the listed building of 28 Dirleton Avenue.

- 6 Other than the three trees to be removed from the eastern part of the application site as denoted on docketed drawing no. 11016(11)001 Rev B and 11016(11)002 Rev B and in the Tree Survey and Arboricultural Constraints Report no trees or bushes which are to be retained on the site shall be damaged or uprooted, felled, lopped, or topped 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 and the character and appearance of the Conservation Area.

- 7 In the first planting and seeding season (October - March) following the felling of the three trees hereby approved to be removed from the eastern part of the site, or the completion of works, whichever is the sooner, three replacement trees shall have been planted on the application site, in positions to be approved in advance in writing by the Planning Authority. Details of the proposed replacement planting, including the species and size of the replacement trees, shall be submitted for the prior approval of the Planning Authority and thereafter the replacement tree planting shall be carried out in accordance with the approved details unless otherwise approved by the Planning Authority.

In the event that any such replacement tree(s) dies, is removed, or becomes 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:

In order to ensure the implementation of a landscaping scheme to enhance the appearance of the development in the interests of the landscape amenity of the area and of the Conservation Area.

- 8 No development shall take place on site until temporary protective fencing to protect the trees along the north, east and south boundaries of the site has been installed and approved in writing by the Planning Authority.

The temporary protective fencing shall comprise of 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, should be 2.3 metres in height, unless otherwise approved by the Planning Authority, and shall be 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 be tied into the hedge along the north boundary of the site and into the south (roadside) boundary fence.

Details of the temporary protective fencing and its position shall be submitted for the prior approval of the Planning Authority and thereafter the temporary protective fencing erected shall accord with the details so approved.

All weather notices should be erected on said fencing with words such as "Construction exclusion

zone - KEEP OUT". 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, jibs and counterweights can operate without coming into contact with any retained trees.

Material that will contaminate the soil, e.g. concrete/mortar mixing, diesel oil, paints, solvents and vehicular washings, should not be discharged within 10m of any retained tree stem. It is essential that allowance be made for the slope of the ground so that such damaging materials cannot run towards retained trees.

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.

Details of any trenches or services in the fenced off areas shall require the prior consent of the Planning Authority and all trenches shall be dug and backfilled by hand. 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 and outwith the application site in the interests of safeguarding the landscape character of the area and of the Conservation Area.

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

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

5

Note: this application was called off the Scheme of Delegation List by Councillor MacKenzie for the following reason: Concern regarding impact upon the amenity of the local area.

Application No. **11/00699/P**

Proposal Change of use from butcher processing unit to hot food take away
and installation of flue

Location **McKirdy Brothers
29 Links Road
Longniddry
EH32 0NH**

Applicant Mr Colin McKirdy

Per D M Hall LLP

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

This application relates to the premises of 29 Links Road which occupy a single storey flat roofed building located on the south side of Links Road, Longniddry. The building is one of a row of commercial business units on the south side of Links Road. It is centrally positioned within the row. There is a vehicle access and parking area in front of the row of commercial business units and a car park to the rear of them. The commercial business units are within a mixed use area as defined by Policy ENV2 of the adopted East Lothian Local Plan 2008. There are nearby residential properties to the north and south of them.

The premises of 29 Links Road are currently vacant. They were last used as a butcher processing unit. Before that they had been used as a butchers shop. Planning permission 01/01269/FUL was granted in May 2002 for the change of use of the premises from the butchers shop to the butcher processing unit.

Planning permission is now sought for the change of use of the premises from a butcher processing unit to a hot food takeaway and for the installation of a flue on the flat roof of the building.

No other alterations to the building are proposed.

As a non-material amendment to the application a revised drawing has been received showing a proposed slight repositioning of the flue and for the flue to be of a vertical form.

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.

Policy ENV1G (Design of New Development) of the approved Edinburgh and the Lothians Structure Plan 2015 and Policies ENV2 (Town and Village Centres, Other Retail or Mixed Use Areas), R3 (Hot Food Outlets), DP6 (Extensions and Alterations to Existing Buildings), DP22 (Private Parking), and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

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

- (i) the proposed hot food takeaway would cause noise, disturbance and anti-social behaviour and would generate rubbish in the area;
- (ii) the ventilation of the proposed hot food takeaway would 'pass over' an objector's property;
- (iii) the proposed hot food takeaway would lead to increased road traffic, and;
- (iv) there is no public value in having a hot food takeaway.

Longniddry Community Council, as a consultee on the application object to the proposed hot food takeaway use of the premises on the grounds that: (i) the ventilation on the roof of the premises is not fit for purpose and if used to serve the hot food takeaway use would lead to an odour nuisance to a nearby residential property; (ii) the proposed hot food takeaway use would generate litter and so would detract greatly from the ambience of the centre of the village; (iii) the proposed hot food takeaway use would lead to increased traffic and anti-social behaviour; and (iv) there are not adequate storage facilities for waste.

The premises are within an area of Longniddry that is defined by Policy ENV2 of the adopted East Lothian Local Plan 2008 as being of mixed use, in which uses appropriate to a town and village centre will be acceptable in principle. These uses include retail, business and office use, restaurants, leisure and entertainment. Policy ENV2 does not favour any one of these uses over another.

The proposed hot food takeaway use would be a change of use from the existing butcher processing use of the premises and not from any retail use. It is a use that would not be incompatible with the uses of the row of other commercial business units at Links Road. It would therefore be appropriate to its location. It would provide a conveniently located service to the local community. It would contribute to the vitality and viability of the mixed use area. In principle the proposed hot food takeaway use is not contrary to Local Plan Policy ENV2.

Otherwise it is a requirement of Policy ENV2 that the proposed hot food takeaway use would not have a significant environmental impact, particularly on existing housing.

Policy R3 of the adopted East Lothian Local Plan 2008 supports the provision of hot food takeaways in local shopping and commercial areas subject to the criteria of the Policy being met.

One of the criterion of Policy R3 is for it to be demonstrated that the operation of a proposed hot food takeaway use would not cause harm to local amenity and that in this consideration the cumulative effect of additional premises in locations already containing one or more hot food takeaways in close proximity will be relevant.

There are no existing hot food takeaways in Longniddry and thus the proposed hot food takeaway would not result in any cumulative impact on local amenity.

To facilitate the use of the proposed hot food takeaway it is proposed that a new flue be installed in a position close to the southern edge of the flat roof of the principal single storey component of the building. The proposed new flue would be made of galvanised steel. It would function as an extract duct for the mechanical ventilation and odour abatement system to be operated within the kitchen of the proposed hot food takeaway. In the odour assessment report submitted with the application it is concluded that in its position the proposed new flue would enable sufficient odour dispersion to ensure there would be no harm to the amenity of nearby residential properties. To achieve this, the mechanical ventilation and odour abatement system to be operated within the kitchen would be provided with a primary abatement treatment of cooking odours including grease traps and fine filtration, secondary fine filtration and tertiary treatment such as carbon filtration, all prior to venting through the flue.

The Council's Environmental Protection Manager has appraised the odour assessment report and is satisfied that with the form of mechanical ventilation, odour abatement system and flue proposed and with the additional control that any plant or equipment associated with the operation of the proposed hot food takeaway use be designed and constructed so that no noise emanating there from shall exceed noise rating curve NR20, the proposed hot food takeaway use of the premises would not result in harmful loss of amenity to the nearby residential properties due to odours or noise emanating from the premises. These controls can be made conditional of the grant of planning permission for the proposed hot food takeaway use of the premises.

The applicant has not indicated intended opening hours for the hot food takeaway. In light of this and if planning permission is to be granted it would be prudent, in accordance with Policy R3 of the adopted East Lothian Local Plan 2008 to restrict the operation of the proposed hot food takeaway to the opening hours of between 7:30am and 12 midnight only. Such control on hours of opening can also be conditional of the grant of planning permission.

Subject to these planning controls over odour, noise and hours of opening the proposed hot food takeaway use of the premises is consistent with the requirements of Policies ENV2 and R3 of the adopted East Lothian Local Plan 2008 that uses within mixed use areas should not have a significant environmental impact, particularly on existing housing.

Lothian and Borders Police have been consulted on the application but have given no response.

Antisocial behaviour, litter and waste storage are all controllable under other legislation.

Another determining criterion of Local Plan Policy R3 is that a proposed hot food takeaway use does not present a threat to road safety. It must therefore provide, or be close to, safe on or off street parking such that it will not encourage parking in locations which could present a hazard to pedestrians or other road users.

The Council's Transportation service raise no objection to the proposed hot food takeaway use. They advise that there is existing satisfactory vehicular and pedestrian access to the premises in the form of the existing access road in front of the row of commercial business units at Links Road and that there is adequate existing customer car parking provision in the form of the car parking spaces in front of the units and the car park to the rear of the units. Accordingly, the proposed hot food takeaway is consistent with Policy R3 and with Policies T2 and DP22 of the adopted East Lothian Local Plan 2008.

The proposed new flue would be small in size and would project only some 0.65 of a metre above the top of the upstand parapet wall on the edges of the flat roof of the building. Moreover, it would be positioned close to the rear edge of the flat roof of the principal single storey component of the building. In all of this the proposed new flue would be a subservient addition to the building that would not be harmfully prominent, intrusive or incongruous in its appearance and which would not be harmful to the character and appearance of the building, of the row of commercial business units or of the area. The proposed new flue is consistent with Policy ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015 and with Policy DP6 of the adopted East Lothian Local Plan 2008.

CONDITIONS:

- 1 Prior to the commencement of use of the premises as a hot food takeaway as hereby approved the extract ventilation system used to vent the premises, including the flue approved by this grant of planning permission shall be designed and installed in accordance with what is stated in the 'Proposed Odour Abatement System' section of The Airshed Odour Impact Assessment docketed to this planning permission and the extract ventilation system shall be maintained to ensure its continued satisfactory operation and any cooking processes reliant on the extract system shall cease to operate if, at any time, the extract equipment ceases to function effectively in accordance with these requirements.

Reason:

To ensure the use of the premises as a hot food takeaway does not because of cooking odours harm the amenity of nearby residential properties.

- 2 The design and installation of the extract ventilation system and any other plant and equipment used in association with the operation of the hot food takeaway hereby approved shall be such that any associated noise emanating there from does not exceed noise rating curve NR20 at any octave band frequency when measured within any nearby residential building. Noise measurements shall be taken with the windows of the nearby residential buildings open at least 50mm.

Reason:

To ensure the use of the premises as a hot food takeaway does not because of noise impact harm the amenity of nearby residential properties.

- 3 The hours of operation of the use of the hot food takeaway hereby approved (including the operation of plant and machinery) shall only be between 7.30 am and 12 midnight on Mondays to Sundays inclusive.

Reason:

To safeguard the amenity of the area, including the amenity of nearby residential properties.

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

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

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Note: this application was called off the Scheme of Delegation List by Councillor Innes for the following reasons: The applicant feels that the reasons for the decision contradict the advice from Lothian and Borders Police. He further believes that his application should have been judged on its merits and the fact that the Council have not previously accepted the provision of security as a justification for a new build house should not have prejudiced his application. In light of this I feel he should have the opportunity to put his case before Members.

Application No. **12/00862/PP**

Proposal Planning Permission in Principle for the erection of 1 house and installation of CCTV link

Location **East Lothian Golf Range
Meadowmill
Tranent
EH33 1LZ**

Applicant Mr Derek Aytoun

RECOMMENDATION Application Refused

PLANNING ASSESSMENT

The application site is a rectangular shaped area of land and an overgrown track, located in the countryside at Meadowmill to the southeast of Prestonpans and north of Tranent. The site has an area of some 0.04 hectares. The rectangular shaped area of land is in the south-eastern corner of the East Lothian Golf Range and the overgrown track runs from it eastwards to the eastern end of the row of houses of St Joseph's Cottages.

The rectangular shaped part of the site is grassed. It is bounded to the north, south and west by other land of the golf range. To the east it is bounded by rough ground at the edge of the golf range.

The golf range is a large grassed area of land. There is a golf range and reception/shop building on the south-western part of it. The golf range operates in spring, summer and autumn but not the winter.

The strip of rough ground that contains the overgrown track is bounded to the north in part by the grounds of the former St Joseph's School and otherwise by St Joseph's Cottages. To the east it abuts the south end of the unclassified public road which serves the former St Joseph's

School and St Joseph's Cottages. To the south it is bounded by the tree-planted verges of the Bankton Roundabout of the A1 trunk road.

Only one of St Joseph's Cottages is occupied (the house of 1 St Joseph's Cottages).

Planning permission in principle is sought for the erection of one house on the rectangular shaped part of the application site. The existing overgrown track that otherwise comprises the site would be upgraded to provide access to the house from the unclassified road that serves the former St Joseph's School and St Joseph's Cottages.

As the application is for planning permission in principle, no details of the proposed house and no detailed design of the proposed access have been submitted.

A Planning Application Statement and a Crime Prevention Report from Lothian and Borders Police have been submitted with the application.

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.

Relevant to the determination of the application are Policy ENV3 (Development in the Countryside) of the approved Edinburgh and the Lothians Structure Plan 2015 and Policies DC1 (Development in the Countryside and the Undeveloped Coast) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008.

Material to the determination of the application is Scottish Planning Policy: February 2010 on the matter of the location of new development.

One letter of public representation has been received. It is an objection to the application on the grounds of loss of privacy to the residential property of 1 St Joseph's Cottages due to the proposed access road and traffic generation, road safety and noise issues.

The land of the application site is defined by Policy DC1 of the adopted East Lothian Local Plan 2008 as being part of the countryside of East Lothian. The Local Plan does not allocate the land of the application site or any of the other land of the golf range for residential development. Neither does the Local Plan define any part of the land as being a settlement.

The principle of the erection of a new build house on the application site must therefore 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.

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.

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.

The submitted Planning Application Statement informs that the reason for the proposed house is to address ongoing security issues concerning the applicant's East Lothian Golf Range business. On this it is stated that:

- 1) because the location is isolated and part of the business is a retail business, it has been targeted on numerous occasions by criminals, as detailed in the Crime Prevention Report ;
- 2) it is a small business and the applicant or his wife often work at the golf range alone, with occasions when visitors have left his wife feeling uncomfortable and vulnerable;
- 3) there is a fear of potential arson attacks when the golf range is closed during the winter; and
- 4) the applicant is certain that a house on the site, with a CCTV link to the reception/shop of the golf range would be a deterrent against future break-ins and safety fears.

The Crime Prevention Report from Lothian and Borders Police includes records of occurrence of 6 incidents at the property between October 1999 and April 2010. There have been no reported incidents since April 2010. The report gives advice on several security measure that could be put in place to make the 'club house' (shop and reception building) of the golf range more secure. The Report further states that a house within the grounds of the golf range would give the applicant, as the occupier of it, a greater sense of security and hopefully would deter intruders. The advice, however, is that any intruders should not be confronted and that any alert should be notified to the Police for their action.

The Council has not previously accepted the provision of security for an existing business as being an operational justification of need for a new build house in the countryside of East Lothian. The applicant was informed of this prior to making the application.

The Crime Prevention Report does offer some qualified support for the provision of a new house within the grounds of the golf range in that it would offer the operator of the golf range business a greater sense of security and that hopefully it would deter intruders. However, the substance of the Report is that criminal incidences could be deterred by the provision of security measures at the golf range buildings. A recommendation on these is given in the Report. Whilst a new house on-site might provide a deterrent it would be relatively isolated and careful consideration would have to be given to the security of it.

Furthermore, the advice of the report is that any alert of intrusion to the golf range buildings should be a matter to be dealt with by the Police and not by the applicant. Therefore the critical factor in the deterrence of potential criminal activity at the golf range is the employment of security measures there, of the kind set out in the Report, to deter intrusion and to detect intrusion in order to elicit a Police response.

The advice of Lothian and Borders Police is that the linkages of alarms and CCTV is a technological matter and not one dependent on the proximity of the applicant's residence to the golf range. In this a Police response to an incident alert would not necessarily be improved by someone being resident at the golf range.

In which case there is not an operational justification of need on security grounds for the erection of a new build house at the golf range.

There are no other grounds on which the applicant seeks to demonstrate an operational justification of need for the erection of a new build house at the golf range.

Giving due consideration in this case to the advice of Lothian and Borders Police, the conclusion is that there is no direct operational requirement for the provision of a new build house in the countryside location of the East Lothian Golf Range and that in principle, therefore, the proposed house is contrary to Part 1(b) of Policy DC1 of the adopted East Lothian Local Plan 2008 and Policy ENV3 of the approved Edinburgh and the Lothians Structure Plan 2015.

The proposed access road would be close to the houses of St Joseph's Cottages, only one of which, no.1 is currently occupied. It is understood that the cottages are likely to be demolished in the future, however, they could be renovated and reoccupied. To protect the privacy and amenity of those houses boundary fencing and screen planting could be made a required provision of the proposed house being accessed in the manner indicated in this application.

The Council's Transportation service raise no objection in principle to the proposed access arrangements, subject to sufficient in-curtilage parking to the Council's standards (150% parking) being provided to serve the proposed house. On this consideration the proposed development of a new house on the application site does not conflict with Policy T2 of the adopted East Lothian Local Plan 2008.

These considerations of access do not, however, outweigh the conclusion that the principle of the proposed new build house is contrary to the development plan by being contrary to Part 1(b) of Policy DC1 of the adopted East Lothian Local Plan 2008 and Policy ENV3 of the approved Edinburgh and the Lothians Structure Plan 2015.

REASONS FOR REFUSAL:

- 1 It is not demonstrated that the building of a new house on the application site is a direct operational requirement of an agriculture, horticulture, forestry or other employment use in the countryside of East Lothian and neither is it demonstrated that there is a justifiable operational security need at the East Lothian Golf Range for the proposed new build house. Consequently, and because the proposed new build house would constitute isolated, sporadic development in the countryside of East Lothian it is contrary to Part 1(b) of Policy DC1 of the adopted East Lothian Local Plan 2008 and Policy ENV3 of the approved Edinburgh and the Lothians Structure Plan 2015.
- 2 If approved the proposed development would set an undesirable precedent for the development of new houses in the countryside of East Lothian, the cumulative effect of which would be the suburbanisation of the countryside to the detriment of its character and amenity.

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