

PLANNING COMMITTEE
TUESDAY 3 DECEMBER 2013

PUBLIC DOCUMENT PACK



**MINUTES OF THE MEETING OF THE
PLANNING COMMITTEE**

TUESDAY 1 OCTOBER 2013
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON

1

Committee Members Present:

Councillor N Hampshire (Convener)
Provost L Broun-Lindsay
Councillor S Currie
Councillor T Day
Councillor A Forrest
Councillor J Gillies
Councillor J Goodfellow
Councillor W Innes
Councillor J McMillan
Councillor J McNeil
Councillor T Trotter
Councillor J Williamson
Councillor M Veitch

Council Officials Present:

Mr R Jennings, Head of Housing and Environment
Ms M Ferguson, Corporate Legal Adviser
Mr I McFarlane, Service Manager, Development Management
Mr K Dingwall, Principal Planner
Ms C Molloy, Senior Solicitor
Mr D Irving, Planner
Mr M Greenshields, Transportation Planning Officer

Clerk:

Ms A Smith

Visitors Present:

Item 2 – Mr Matthew, Mr White, Mr Holloway, Mr Drysdale, Mr Campbell
Item 4 – Mr Morris, Mr Hield
Item 5 – Mr Fraser, Mr Young

Apologies:

Councillor D Berry
Councillor D Grant
Councillor P MacKenzie

Declarations of Interest:

Item 3 – Councillor Goodfellow indicated he was the Council's appointed representative on the North Berwick Trust; he would make a statement then leave the Chamber in relation to this item

Item 4 – Councillor Veitch stated that his view in relation to this application was already on record; for this item he would make a statement then leave the Chamber

Item 4 – Provost Broun-Lindsay indicated he would leave the Chamber for this item due to a perceived conflict of interest

1. MINUTE OF THE MEETING OF THE PLANNING COMMITTEE OF 3 SEPTEMBER 2013

The minute of the Planning Committee of 3 September 2013 was approved.

2. PRE-DETERMINATION HEARING: PLANNING APPLICATION NO. 11/01109/PPM: PLANNING PERMISSION IN PRINCIPLE FOR EMPLOYMENT LAND, DRAINAGE WORKS AND ENABLING RESIDENTIAL DEVELOPMENT AT FENTON BARNES, NORTH BERWICK

The Service Manager, Development Management, Iain McFarlane, outlined the criteria and process for a Pre-determination hearing. This application was brought before the Planning Committee for a Pre-determination hearing prior to the consideration of the merits and determination of the application by Council on 22 October 2013. The report before Members today provided a description of the development proposal and summaries of the development plan policies and other material considerations, consultation responses and public representations. Registered speakers would address the Committee today. The full planning assessment report would be provided for the Council meeting on 22 October 2013. Mr McFarlane then presented the report, summarising the key points.

Mr Matthew of PPCA Ltd, agents for the applicant, informed Members that the enabling housing development was essential to cover primary costs of the drainage upgrade which could only be met by the sale of the land proposed for housing development. The new drainage works would protect the 500 jobs provided by local businesses. New employment land could be passed over to the Council if required in recognition of the shortfall of employment land in this area. This proposal was materially different to the earlier application; this application promoted new employment land as well as drainage works for the new and existing employment land. The development scale proposed was the minimum required to fund the new sewage treatment works. He highlighted a number of matters in relation to these works. The consequence of refusal of this application would have serious repercussions for the sewage treatment works and the existing businesses on the site. The application was not contrary to Policy DCI. This was a unique circumstance that would not set a precedent. This application had to be looked at as a solution for Fenton Barnes and on that basis planning permission in principle should be granted.

Members questioned Mr Matthew on a number of aspects of the application, primarily in relation to the current and proposed sewage system, but also with queries regarding affordable housing and new businesses at Fenton Barnes.

Mr White, resident of West Fenton, spoke against the application. He drew attention to the background to this application. In 2007 the applicant had signed a joint marketing agreement with Edinmore, property speculators. In 2008 URS, one of the

world's leading energy companies came on board, not to look at the sewage issue but to assist in enabling new development. In 2009 the first planning application was lodged. Businesses would have to pay full Scottish Water charges if the new sewage system was adopted. He indicated if URS had been given an open brief other options may have been available. This proposal was the wrong answer for the area and was at odds with planning policies. The area was rural and agricultural.

Mr Holloway, representing Dirleton Village Association (DVA), spoke against the application. DVA objected to this proposal on the grounds that it contravened the development plan and the development, if granted, had no local infrastructure to support it. He informed Members he had previously been employed by both SEPA and the Forth River Purification Board and would be focussing on the sewage proposal. He outlined a number of issues in relation to the Drainage Strategy report and other aspects of the sewage proposal. DVA felt this application was inappropriate; it was the wrong scale, wrong place, unnecessary, a significant change to development plan and a threat to employment.

Mr Drysdale spoke against the application on behalf of Gullane Area Community Council. This application represented inappropriate use of the planning system. The applicant had failed to invest appropriately in the drainage system, the consequence of which was its repeated failure. He raised a number of concerns in relation to employment land, the residential element of the application, transport and education issues. The main economic drivers in the coastal ward were agriculture, culture and tourism. This application could strike at the heart of this; to allow this application would be a serious mistake. The Council's Policy and Projects Manager recommended refusal of this application; the Community Council agreed.

Mr Campbell, on behalf of the Architectural Heritage Society of Scotland (AHSS), East Lothian Cases Panel, spoke against the application, with focus on the heritage aspect. The 3 conservation villages of Dirleton, Drem and Athelstaneford would be compromised by this proposal. It would change the character of this very sensitive area and would in effect create a new village. The AHSS sympathised with the pressure the Council was under from the Scottish Government and others to bring forward employment and housing land but the Council had policies in place regarding future development and should adhere to these. AHSS objected to this application and urged the Council to refuse it.

The Convener confirmed that the application would be determined by Council on 22 October and that prior to this a site visit would be arranged for Members. He Convener brought the Pre-determination Hearing to a close.

3. PLANNING APPLICATION NO. 13/00227/PPM: PLANNING PERMISSION IN PRINCIPLE FOR RESIDENTIAL DEVELOPMENT OF 420 HOUSES, COMMUNITY FACILITIES, OPEN SPACE, EMPLOYMENT USES AND ASSOCIATED INFRASTRUCTURE AT LAND AT MAINS FARM, NORTH BERWICK

A report was submitted in relation to Planning Application No. 13/00277/PPM. Mr McFarlane presented the report, summarising the key points. He informed Members that in relation to the Masterplan the school expansion land did not form part of the land of the application site. The report recommendation was to grant consent.

Local Member Councillor Goodfellow indicated he was pleased to see this application before the Planning Committee as it had been ongoing for 10 years. The site had

been chosen by the North Berwick community as the best site available. The community had reluctantly agreed to the allocation of 500 houses within the Local Plan. This application was for 420 houses; adding this number to other developments already approved was, in his view, significantly more than the town's infrastructure could sustain. He stressed that 500 houses as originally stipulated should mean 500, not 540.

Sederunt – Councillor Goodfellow left the Chamber

Local Member Councillor Day indicated this was a difficult application. It highlighted real issues for the infrastructure of North Berwick. Another 420 houses, in addition to the 100+ already approved, would result in more pressure on transport links, the town centre and also the health centre. As mentioned earlier building houses 25 miles away from where jobs were was not the right way to achieve cohesion and a sustainable community. This application site was however in the Local Plan; it was the best site and should therefore be progressed. He would strongly argue however that if this application was approved then North Berwick had done its fair share to meet the county's housing needs. The only serious issue was the buffer zone for future school expansion; this was a real issue for the community, but not material to this application. He hoped that North Berwick Trust, who administered the land in question, could come to an agreement with the Council. He would be supporting the application.

Councillor Currie agreed with Councillor Day that the community was in the hands of the North Berwick Trust regarding securing the land to the northeast of the application site for future educational provision and he hoped this would be addressed. He appreciated Councillor Goodfellow's point about the number of units in a development being adhered to. This specific development however would ensure a sizeable financial contribution towards extending the primary and secondary school provision in North Berwick. He would be supporting the application.

Councillor Innes stated that this land had been earmarked for housing in the Local Plan. If this application was approved it would give some protection against those applications on sites not allocated within the Local Plan. He shared Councillor Day's concern about the land for educational use and found it strange that this had not already been addressed by the North Berwick Trust. He would be supporting the application and urged other Members to do so.

The Convener supported the statements made by colleagues. This was a good application site. With regard to the education land this, as already stated, a matter for the North Berwick Trust. He would be supporting the recommendation to grant planning permission as set out in the report and moved that this be put to the vote.

Decision

The recommendation that planning permission should be granted was put to the vote and received **12 votes for** and **none against**; there were no abstentions. The Committee agreed to grant planning permission subject to:

1. The undernoted conditions.
2. The satisfactory conclusion of an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997, or some other legal agreement designed to:
 - (i) Secure from the applicant the transfer to the Council, at no cost, of ownership of the land indicatively shown for the town park, including the land indicatively shown in

the docketed Masterplan for the sports pitch, sports changing facility and parking, recycling facility and NEAP (Neighbourhood Area Equipped for Play).

(ii) Secure from the applicant a financial contribution to the Council of £631,098.80 to fund the delivery, adoption and maintenance of the town park and towards the provision of the new sports pitch and related changing facility and parking.

(iii) Secure from the applicant the transfer to the Council, at no cost, of ownership of the 0.46 hectares of land allocated as part of an expansion to the campus of North Berwick High School, which is shown hatched in green on docketed drawing no. AL(01)04.

(iv) Secure from the applicant a financial contribution to the Council of £5,600,002.00 (£13,333.00 per residential unit) towards the provision of additional capacity at Law Primary School and at North Berwick High School.

(v) Secure from the applicant the provision of 105 affordable housing units.

3. That in accordance with the Council's policy on time limits for completion of planning agreements it is recommended that the decision should also be that in the event of the Section 75 Agreement not having been executed by the applicant, the landowner and any other relevant party within six months of the decision taken on this application, the application shall then be refused for the reason that without the developer contributions to be secured by the Agreement the proposed development is unacceptable due to: an insufficient provision of a town park, community sports pitch and related changing facilities; a lack of sufficient school capacity at Law Primary School and North Berwick High School; and the lack of provision of affordable housing, contrary to the Council's Development Framework for the development that is titled Mains Farm and Gilsland, North Berwick and, as applicable Policies INF3 and H4 of the adopted East Lothian Local Plan 2008.

1 The submission for approval of matters specified in conditions of this grant of planning permission in principle shall include details of the siting, design and external appearance of the residential units, the means of access to them, the means of any enclosure of the boundaries of the site and the landscaping of the site and those details shall generally accord with the Indicative Master Plan and Masterplan Document docketed to this planning permission in principle, and shall address the following requirements:

a. The houses shall be predominantly two storeys in height, and shall in no case be higher than three storeys in height;

b. Other than in exceptional circumstances where the layout or particular building type does not permit, houses should be orientated to face the street;

c. Notwithstanding that shown in the Masterplan Document docketed to this planning permission in principle there shall be no integral garages, unless it can be justified as an exceptional design feature, or where the house and garage would not be on a primary street frontage, or where the careful use of boundary enclosures such as hedging or walling would serve to reduce the visual dominance of the car in the streetscape to an acceptable degree;

d. The external finishes of the residential units shall be in accordance with a co-ordinated scheme of materials and colours that shall respect the layout of the development and shall promote render as the predominant finish to the walls of the residential units;

e. Details of the two play areas, including the equipment to be provided within it and a timetable for installation, shall be submitted to and approved in advance by the Planning Authority and each play area shall be installed in accordance with the details so approved;

f. The buildings indicatively shown on the docketed Masterplan immediately to the north and south of the community hub shall be restricted in use to Class 1 (Shops), Class 2 (Financial,

Professional and Other Services) or Class 3 (Food and Drink) of the Town and Country Planning (Use Classes) (Scotland) Order 1997;

g. The buildings within the employment area indicatively shown on the docketed Masterplan shall be restricted in use to Class 4 (Business) of the Town and Country Planning (Use Classes) (Scotland) Order 1997;

h. Parking for the housing development hereby approved shall be provided at a rate as set out in the East Lothian Council Standards for Development Roads- Part 5 Parking Standards;

i. A detailed swept path assessment shall be undertaken for all of the access roads within each successive phase of the housing development hereby approved. The Design Vehicle to be used in the detailed swept path assessment shall be 2.5 metres wide, and shall have a 6.1 metre wheelbase within an overall vehicle length of 10 metres;

j. The provision of at least two pairs of bus stops (i.e. stop on either side of the road), including bus shelters within the site;

k. All footpath connections from a zone under construction to the existing settlement shall be constructed to an adoptable standard before the occupation of any units in that particular zone;

l. The proposed path through the Linear Park that is indicatively shown on the Indicative Site Layout Plan shall be a shared cycle pedestrian route with a minimum width of 2.5 metres and shall be built to adoptable standards, including lighting. It shall be constructed and made available for use prior to the completion of Phase 3 of the development;

m. A shared footway and cycleway shall be formed along the southern edge of Grange Road to provide a continuous link from the application site up to the existing zebra crossing on Grange Road, to the east of the site. It shall be constructed and made available for use prior to the occupation of any houses;

n. The proposed spine road within Phase 1 of the development shall be completed in its entirety to Binder Course level prior to occupation of the 44th house;

o. A shared footway and cycleway shall be formed parallel to the proposed spine road to provide a continuous 3 metres wide link link from the application site up to the new entrance to the School from the realigned Haddington Road. It shall be constructed and made available for use prior to Phase 2 of the development; and

p. The site shall be accessed from the southeast by the realigned Haddington Road, approved by planning permission 13/00505/P. Haddington Road shall be realigned and the new junction to Mains Farm (also approved by planning permission 13/00505/P) shall be completed in accordance with planning permission 13/00505/P, and made available for use prior to occupancy of the 44th house.

Reason:

To enable the Planning Authority to control the development in the interests of the amenity of the development and of the wider environment and in the interests of road safety.

- 2 The phasing of the development of the site shall be carried out in strict accordance with the phasing plans that are in the Masterplan Document docketed to this planning permission in principle, unless otherwise approved in writing in advance by the Planning Authority.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the good planning of the site.

- 3 No more than 420 residential units are approved by this grant of planning permission in principle.

Reason:

To ensure that the number of houses erected on the site accords with the strategic housing land supply for the North Berwick area and to ensure that there is sufficient education capacity.

- 4 Housing completions on the application site in any one year (with a year being defined as being from 1st April to 31st March the following year) shall not exceed the following completion rates:

Year 1- 44 houses
Year 2- 62 houses
Year 3- 48 houses
Year 4- 50 houses
Year 5- 72 houses
Year 6- 73 houses
Year 7- 61 houses
Year 8- 10 houses

If less than the specified number of residential units are completed in any one year then those shall be completed instead at Year 9 or beyond and not added to the subsequent Year.

Reason:

To ensure that the completion rate of residential development within the application site accords with the provision of education capacity.

- 5 No development shall take place until there has been submitted to and approved in writing by the Planning Authority a scheme of landscaping. The scheme shall provide details of : the height and slopes of any mounding on or recontouring of, the site; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. The scheme shall include indications of all existing trees and hedgerows on the land, details of any to be retained, and measures for their protection in the course of development. It shall also show species trees to the south of the residential properties proposed to the north of the countryside park illustratively shown on the Masterplan docketed to this planning permission in principle. It shall further show forest trees within the blocks of tree planting on the south and southeast boundaries of the countryside park.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of ten years from the completion of the development die, are removed or become seriously damaged or diseased 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 amenity of the area.

- 6 Prior to the commencement of development, details of the traffic calming to be carried out to Grange Road, including a timetable for implementation, shall be submitted to and approved by the Planning Authority. The details shall include the provision of speed table junctions at the proposed cross road at Green Apron Park, at the existing junction of Marly Rise with Grange Road, and at the eastern site access road junction with Grange Road The traffic calming works shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of road safety.

- 7 Prior to the commencement of development, details of the road improvement works to be carried out to the road leading south-westwards to Kingston from the application site, including a timetable for implementation, shall be submitted to and approved by the Planning Authority. The road improvement works shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of road safety.

- 8 A Travel Plan shall be submitted to and approved by the Planning Authority prior to the occupation of any of the residential units hereby approved. The Travel Plan shall have particular regard to provision for walking, cycling and public transport access to and within the site, and will include a timetable for its implementation, details of the measures to be provided, the system of management, monitoring, review, reporting and duration of the Plan.

The Travel Plan shall thereafter be implemented in accordance with the details so approved.

Reason:

In the interests of ensuring sustainable travel patterns in respect of the residential development.

- 9 A Construction Method Statement to minimise the impact of construction activity on the amenity of the area shall be submitted to and approved by the Planning Authority prior to the commencement of development. The Construction Method Statement shall recommend mitigation measures to control noise, dust, construction traffic and shall include hours of construction work. It shall confirm that construction access to the site shall be solely taken from Haddington Road.

The recommendations of the Construction Method Statement shall be implemented prior to the commencement of development. Development shall thereafter be undertaken in accordance with the details so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

To minimise the impact of construction activity in the interests of the amenity of the area.

- 10 No residential unit shall be occupied unless and until details of artwork to be provided on the site or at an alternative location away from the site have been submitted to and approved by the Planning Authority and the artwork as approved shall be provided prior to the occupation of the final residential unit approved for erection on the site.

Reason:

To ensure that artwork is provided in the interest of the visual amenity of the locality or the wider area.

- 11 Prior to the commencement of development, full details of the finalised SUDS scheme shall be submitted to and approved in writing by the Planning Authority, following consultation with SEPA. Development shall thereafter be carried out in accordance with the details so approved.

Reason:

To ensure adequate protection of the water environment from surface water run-off.

- 12 A noise consultants report to include (i) an assessment of noise from the use of the recycling facility and the use of the employment area, both to be formed within the site, and of any impact of such noise on the housing development of the site; and (ii) any mitigation measures considered necessary to achieve satisfactory internal and external noise levels for the occupiers of a residential development of the site shall be submitted to and approved by the Planning Authority prior to the commencement of development. Any identified mitigation measures shall be fully undertaken prior to the occupation of any residential unit built on the site.

Reason:

To ensure that the future occupants of any of the residential units benefit from a satisfactory level of amenity.

- 13 The development hereby approved shall be carried out in strict accordance with the Sustainability Statement docketed to this planning permission in principle.

Reason:

To ensure this development complies with the on-site carbon emissions targets of the Climate Change (Scotland) Act 2009.

Sederunt – The Provost left the Chamber, Councillor Goodfellow returned

4. PLANNING APPLICATION NO. 13/00568/P: ERECTION OF 2 WIND TURBINES AND ASSOCIATED WORKS AT LIMEKILNS, PHANTASSIE FARM, TRAPRAIN, EAST LINTON

A report was submitted in relation to Planning Application No. 13/00568/P. Mr McFarlane presented the report, summarising the key points. The proposed decision set out in the report was to grant consent.

Mr Morris, of Life Long Energy, agents for the applicant, addressed the Committee. He informed Members that following advice from the Council's Planning Officers the proposed location of the wind turbines had been altered. The turbines would now be positioned at the foot of a hill and in relatively close proximity to the existing large agricultural buildings of Phantassie Farm. It was proposed to excavate the land of the site of each wind turbine by 1.5 metres so that they would both sit on a lower ground level than the farmland around them, giving each of them a perceived height of 20 metres to blade tip. This would reduce the visual impact. There were mature trees on all sides of the proposed location which would also provide screening.

Mr Hield, representing Sustain a Beautiful East Lothian (SABEL) spoke against the application. SABEL was in favour of wind turbines but only in the right location and in sympathy with the location. He made reference to the Council's East Lothian Supplementary Landscape Capacity Study (SLCS), which was an excellent document. Members had 3 options: to refuse the application as it did not comply with the SLCS; to clarify their views to the officials; or to grant the application, which would encourage applicants to bring forward proposals that did not conform to the SLCS. He gave details of the outcome of wind turbine applications in 2012 and 2013; stating this year, of 9 applications, only 1 had complied with the SLCS. He stressed that the integrity and usefulness of the SLCS was being seriously eroded. SABEL urged Members to refuse this application as it did not comply with the SLCS.

Local Member Councillor Veitch referred to the 20 objections to this application; many objectors referred to the proposal being contrary to the Council's own guidance. The Council's SLCS stated that the land on which the turbines were to be located could not accommodate any turbines of this height. He understood that the applicant had sought to mitigate this by putting the turbines in holes, and therefore, as the report stated, reduced the "perceived" height. However, the turbines were still, according to his reading, outside the scope of the study. At a time when there was significant pressure from the Scottish Government to substantially increase the number of wind turbines, it could be argued that it was deeply unwise for a local authority to be arguing against itself when it came to its own policy on wind turbines. He referred to the AHSS objection, which stated that the proposed wind turbines would harm the setting of the Category B listed Phantassie limekiln. He remarked that the historical character of the East Lothian landscape was one of our greatest assets. He urged Members to reject the report recommendation.

Sederunt – Councillor Veitch left the Chamber

Councillor Innes understood the concerns expressed by the local member however he did not agree and could not support his position to refuse this application. The guidance had been introduced to provide clarity. 20 metres was the accepted public visibility height and in relation to this application that would be the height seen. This application would be supporting farming jobs in East Lothian; it was important to support existing local businesses. The applicant had worked with officers to comply with the policy by reducing the visible height of the turbines. He would be supporting the recommendation and urged other Members to also support.

Councillor Currie stated that any application had the right to be determined on its merits and not to be seen as a measure to test policies. The purpose of this application was to mitigate energy costs for this local business. Regarding arguments about the height/perceived height he remarked that officers would have recommended refusal if the application was not appropriate. He would be supporting the officer's recommendation.

Councillor Goodfellow indicated that burying the wind turbines by 1.5 metres effectively reclassified them from Typology C to Typology D, thereby adhering to the Council's guidelines. He commended the applicant for working with the Council and finding an alternative solution. He agreed with SABEL that the Council was in a difficult position but for a different reason – if Members refused the application the Scottish Government would probably approve it at appeal.

The Convener, and local member, understood the concerns expressed by Councillor Veitch about going against policy. He stressed that each application had to be looked at on its own merits. In this case there had been considerable negotiation between the applicant and officers and a compromise had been reached. The perceived height of these turbines would be 20 metres, which was within the policy. The applicant was trying to reduce energy costs. He would be supporting the report recommendation to grant planning permission and recommended this to all Members; he moved that the report recommendation be put to the vote.

Decision

The recommendation that planning permission should be granted was put to the vote and received **11 votes for** and **none against**; there were no abstentions. The Committee agreed to grant planning permission subject to the following conditions:

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

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

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

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

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

Sederunt – The Provost and Councillor Veitch returned to the Chamber

5. PLANNING APPLICATION NO. 11/00363/P: ERECTION OF NURSING HOME AND ASSOCIATED WORKS AT COCKENZIE HOUSE, COCKENZIE

A report was submitted in relation to Planning Application No. 11/00363/P. Mr McFarlane presented the report, summarising the key points. He outlined the planning history. He informed Members that Historic Scotland objected to the application, advising that the proposed nursing home would have a major negative impact on the integrity of the Cockenzie House Designed Landscape. Historic Scotland had also stated that if the application was approved they may have to revise their listing designation. The proposed decision set out in the report was for refusal.

Mr Fraser of Gilberts Ltd., agents for the applicant, addressed the Committee. He outlined the community benefits of the development, in social, economic and cultural terms. The proposed 66 bed nursing home would be fully compliant with the Care Inspectorate's regulations. Up to 70 permanent jobs would be directly linked to the nursing home. Funding for the development would also help to restore and repair the existing walled east garden and future management of the grounds. He refuted statements in the report regarding the "fallback" position and the lack of intent to build the sheltered housing development. If the Committee refused this application, and any subsequent appeal was also rejected, then the only option remaining was sheltered housing. This application would provide significant benefits for the community as outlined; he asked Members to support the proposal.

Mr Young representing AHSS, East Lothian Cases Panel, spoke against the application. He stated that the AHSS agreed with the planning assessment in the report before Members and with the reasons outlined for refusal. The AHSS urged the Committee to refuse this application.

Local Member Councillor Innes accepted the importance of Cockenzie House; it was greatly valued by the community. It was important that fine buildings were accessible to the public and he was delighted that local organisations were using it for a range of activities. In relation to the site he could not envisage a finer environment for a home for elderly people. This proposal was acceptable; it would serve a community need, it would allow the community to have access to a wonderful setting. His view differed from the officers; he did not see the difference between the previous application for this site which had been approved and this application. With regard to the design this was subjective, but he did not think it would detract from the current building. He would be supporting the application and urged other Members to also support.

Councillor McNeil outlined examples of new buildings in proximity to historical buildings/areas in other towns in East Lothian. He could see no reason why this new building within the grounds of Cockenzie House would not be appropriate. He agreed with Councillor Innes and would be supporting the application.

In response to a request from Councillor Williamson, Mr McFarlane displayed the plans. He clarified that the setting of the listed building and the integrity of the designed landscape were key considerations. He advised that the design of the proposed building itself was secondary; the key was where it was and he referred again to the advice from Historic Scotland.

Councillor Currie referred to the report, stating that the material considerations had been defined. The major issue was the effect of the proposal on the Category A listed building. He referred to the objection by Historic Scotland, remarking that it was quite unusual for this consultee to lodge an objection and also to state that they may have to revise their categorisation if the application was approved. The new building would

undoubtedly dominate. Officers had considered the proposal and recommended refusal; he agreed with the reasons for refusal given in the report. He would be supporting the officer's recommendation.

Provost Broun-Lindsay made reference to the planning history of this site. In relation to this application the size, juxtaposition and design were of such dis-benefit to the setting of Cockenzie House that he could not support the proposal. This did not mean that a modern interpretation could not sit alongside a listed building; it sometimes could, but not in this case. He supported refusal and urged other Members to do so.

Councillor Veitch indicated this was a difficult decision. This was a very beautiful area of the county. He had considerable sympathy with the view expressed by Councillor Innes but he also respected the officer's view. He would, on balance, be supporting the report recommendation to refuse this application.

The Convener stated that Cockenzie House was an important, Category A listed, building. However, it was in need of investment. Members had already given permission for building on this site previously; of the 2 options the second, before Committee today, was superior. Regarding the recommendation for refusal and the impact on the listed building these issues were always difficult but throughout Scotland there were many high quality new buildings beside listed buildings. He did not feel this proposed building would have a huge impact, he felt it would be acceptable and he would be supporting the application. He recommended that Members went against the officer's recommendation to refuse and voted to support this application. He asked that the report recommendation be put to the vote.

Decision

The recommendation that planning permission should be refused was put to the vote and received **7 votes for** and **6 votes against**; there were no abstentions. The Committee agreed to refuse to grant planning permission for the following reasons:

- 1 The proposed nursing home by virtue of its size, scale and positioning would dominate and compete with the listed building within the site such that the listed building of Cockenzie House would no longer be the focus of its setting. Moreover, the open setting of the listed building would be significantly harmed by the presence of the nursing home buildings and its associated infrastructure. As it would harm the setting of the listed Cockenzie House, the proposed development is contrary to Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policy ENV3 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy: February 2010 on development affecting a listed building or its setting.
- 2 The proposed development would significantly harm the conservation objectives of the Cockenzie House Designed Landscape, contrary to Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policy ENV8 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy: February 2010 on development affecting a designed landscape.
- 3 The visual impact of the proposed nursing home would result in the loss of the open character of part of the tripartite gardens of Cockenzie House, to the detriment of the character, appearance and amenity of the Conservation Area. On this consideration the proposed development is contrary to Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policy ENV4 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy: February 2010 on development affecting a conservation area.

Signed
Councillor Norman Hampshire
Convener of the Planning Committee

REPORT TO: Planning Committee

MEETING DATE: Tuesday 3 December 2013

BY: Depute Chief Executive
(Partnerships and Community Services)

SUBJECT: Application for Planning Permission for Consideration

2a

Note - this application was called off the Scheme of Delegation List by Councillor Berry for the following reason: The complete removal of and replacement of a detached dwelling on such a prominent site, visible from the golf course, West Beach and harbour, in a Conservation Area and adjacent to an iconic building like Links House should be considered by full committee.

Application No. **13/00726/P**

Proposal **Erection of 1 house, garage/storage building and associated works**

Location **Links Lodge
Links Road
North Berwick
East Lothian
EH39 4AP**

Applicant **Mr & Mrs G Matthew**

Per **Pyemont Design Greenarchitecture**

RECOMMENDATION **Consent Granted**

PLANNING ASSESSMENT

This application relates to a single storey, detached house that is located in a predominantly residential area as defined by Policy ENV1 of the adopted East Lothian Local Plan 2008. The property is in North Berwick Conservation Area.

The existing house is a detached, single storey house with an L shaped footprint. It has a slated pitched roof and white harled walls. The house has a footprint of some 281 square metres and sits within a large rectangular shaped plot with garden ground on all sides of the house. The property is served by a vehicular access positioned at the southern end of the east roadside boundary of the property.

The property is bounded to the east by the public road of Links Road with a two storey flatted building containing the neighbouring residential properties of 1 Pointgarry Road and 22 West Bay Road beyond, to the south and west by the garden ground of neighbouring residential properties and to the north by part of North Berwick Golf Club. A 2m high wall encloses the north and east boundaries of the property.

In March 2012 planning permission 12/00113/P was granted for extensions and alterations to the existing house and for the erection of a garage in the southeast corner of the property. The alterations and extensions approved through planning permission 12/00113/P would have created accommodation in the roof space of the house. To facilitate the creation of this first floor accommodation a large, modern style, glazed dormer was approved to be formed on almost the whole of the northeast facing roof slope of the house.

In April 2013 planning permission 12/00975/P was again granted for alterations and extensions to the house including the erection of a garage in the southeast corner of the property, which did not include the creation of the large, modern style, glazed dormer.

The applicant's agent has indicated in a planning statement submitted with the current planning application that those extensions and alterations have proven uneconomic. Therefore neither planning permission 12/00113/P nor 12/00975/P has been implemented.

Planning permission is now sought for the erection of a two storey detached house as a replacement for the existing house. In association with the erection of the replacement house, planning permission is also sought for the erection of a double garage and store in the southeast corner of the plot and for the formation of hardstanding areas in the form of a driveway and patio within the garden of the proposed house.

As amendments to the application (i) the sawn slate that was to be used to clad part of the external walls of the proposed replacement house has been replaced with natural stone, (ii) the L shaped raised terrace that was to be attached to the northwest (side) and part of the southwest (rear) elevations of the house has been reduced in size, (iii) an area of decking is to be formed at ground level in the garden to the southwest side of the house.

To facilitate development of the proposed new house, the existing house would be demolished and cleared from the site.

Through separate application 13/00726/CAC conservation area consent is sought for the demolition of the existing house. A report on application 13/00726/CAC is at this time on the Committee Expedited List.

The proposed replacement detached house would be positioned in roughly the same position as the existing house, though it would have a larger footprint to that of the existing house. In such a position it would retain garden ground to all sides of it in a similar relationship of existing garden ground to the existing house. It would be accessed from the existing driveway.

The proposed replacement detached house would be of a contemporary design with large areas of glazing to all of its elevations and with a gently sloping mono-pitch roof. It would be mainly two storeys in height with single storey elements on its southeast and northwest sides. Its external walls would be finished in part with natural stone and in part with white painted smooth render. Its mono-pitch roof would be clad with light grey zinc standing seam roofing. The frames of the windows, external doors and patio doors, and the external doors would be of alu-clad timber construction. An access platt and steps would be formed centrally on the southwest side of the proposed replacement house to provide access to its front entrance door. Hardstanding areas in the form of an extension to the existing driveway to the southwest side of the proposed house and a raised decked area would be attached to the northwest side of the proposed house.

A new double garage and store building would be erected in the southeast corner of the plot. It would also be of a modern design with a gently sloping mono-pitch roof. Its northeast and northwest elevations would be finished with natural stone. Its southeast and southwest elevation walls would mostly comprise the high stone boundary wall to which it would be attached, with the upper parts of those walls and its roof being clad with vertical zinc cladding. A long narrow roof window would be installed towards the southern end of its roof slope. The vehicular access door which would be of timber construction would be formed in its northeast elevation.

A design statement has been submitted with the application. The design statement emphasises that the alterations and extensions approved by the grants of planning permission 12/00113/P and 12/00975/P have proved uneconomical and the opportunity has arisen to demolish the existing house and replace it with one that has been sustainably and imaginatively designed to appreciate the commanding views over the golf course to the Firth of Forth. The statement advocates that the proposed design of the replacement house is of a modern contemporary form reflecting the recently replaced house of St James (planning ref: 10/00493/P) and that of the listed building of Minaki, both to the west of the application site.

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 South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Plan 2008.

Policy 1B (The Spatial Strategy: Development Principles) and Policies ENV1 (Residential Character and Amenity), ENV4 (Development within Conservation Areas), DP2 (Design), DP7 (Infill, Backland and Garden Ground Development), 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 Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Scottish Government's policy on development within a conservation given in Scottish Planning Policy: February 2010.

Scottish Planning Policy 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 conservation area should be appropriate to the character of the conservation area.

In paragraph 82 of Scottish Planning Policy it is stated 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.

There are 8 objections to the application, though 2 of the objections are from the same person. The grounds of objection are:

- (i) the size and scale of the house, which would be out of proportion with the site and with the surrounding buildings;
- (ii) the replacement of the modest bungalow with a large ultra modern house would spoil the aesthetically and traditionally pleasing aspect of the whole area and would be in conflict with the traditional Scottish stone houses of North Berwick, with the exception of Minaki and Turnstone, and would be out of keeping with the whole stretch of buildings along the golf course;
- (iii) there are no photos of how the house will appear from the rear, which is a view that neighbours and their visitors would see on a daily basis;
- (iv) the window and terrace of the proposed house would overlook neighbouring gardens and impact on the privacy and amenity of those neighbouring properties; and
- (vi) the height of the cinema room component would be 2m above the existing ridge height and would adversely affect the outlook from a principal window of a neighbouring property.

There are also 10 representations made in respect of the application which are in support of the proposed replacement house.

The application site is already in established residential use as the property of Links Lodge. It is part of a larger area covered by Policy ENV1 of the adopted East Lothian Local Plan 2008. To the northwest, southwest and southeast of the application site are residential properties. The re-development of the site would amount to the erection of a replacement house within the urban area of North Berwick and would not change the use of the site from residential use. Accordingly, the site can be defined as being an urban infill site. On this matter there are no policies of the approved South East Scotland Strategic Development Plan (SESplan) relevant to the determination of this application. Policy ENV1 does not actively promote the development of land for new build residential development. Policy ENV1 does however state that infill and backland development will be assessed against Policy DP7 of the Local Plan.

Policy DP7 of the adopted East Lothian Local Plan 2008 states that, amongst other principles of development, infill, backland and garden ground development must by its scale, design and density be sympathetic to its surroundings and should not 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 enhances the character and amenity of the community.

The principal determining factor in this case is whether, with regard to national, strategic and local planning policy and guidance and other material considerations, the erection on the site of a replacement house would have an adverse impact on the character and amenity of the area, and on the character and appearance of the Conservation Area, and whether or not it would have a detrimental impact on the amenity of neighbouring residential properties.

The application site is in an extension to the original North Berwick Conservation Area. The houses in the vicinity of the application site are of a variety of different architectural styles and designs varying from detached Victorian/Edwardian town houses to the modern designed houses known as Minaki and Turnstone. The houses and buildings vary in height from single storey to two storey with attic accommodation and are all set in different sized gardens. Consequently the area has a diverse form of architecture and pattern and density of development. The predominant building materials of the older buildings are dressed stone and natural slate. However, there are also a number of buildings in the area with rendered finishes.

The proposed replacement house would be a detached house of a contemporary design. It would be sited on the plot in a similar position to the existing house, with its front elevation facing towards the golf course. It would be two storeys in height with a gently sloping monopitch roof. The first floor of the house would have a smaller internal floor area than the lower storey, to incorporate roof terraces on its northeast (front) and southwest (rear) elevations. The walls of the house would be in part of natural stone and in part white render. Large glazed screens would be installed on the northeast and northwest elevations of the house and to a lesser extent on the southwest and southeast elevations of the house.

The existing house has an L shaped footprint that sits roughly centrally on the plot. It is a single storey house that is some 18.6m in length, at its widest some 19.2m in width, and some 5.8m in height.

The proposed replacement house would occupy roughly the same position as the existing house on the site. It would be some 29m in length and predominantly some 12.5m in width. Thus it would be some 10.4m longer than the existing house, an increase of some 56%. However the plot is some 43.5m in length and the replacement house would occupy only 66% of the length of that plot. Furthermore the plot is some 1393 square metres in area. The proposed replacement house would have a footprint of some 300 square metres. Therefore although the proposed house would have a larger footprint than the house it would replace, it would, due to the large size of the plot, sit comfortably on the plot and would not be an overdevelopment of it.

The top of the main monopitch roof of the proposed replacement house would be 7m in height, with a small rectangular component at its western end being some 8.2m in height. By being for the most part only some 1.2m higher than existing house the main part of the proposed replacement house would not be significantly higher than the house it would replace and would be significantly lower in height than the substantial two storey and attic buildings of Inchgarry House and Inchgarry Court to the rear, the terrace of two storey and attic houses and buildings of West Bay Road. Thus the proposed replacement house would not in its relationship with the built form of those nearby houses and flatted building appear as an overly large or dominating feature and would not be of a size or scale that would be out of keeping with those nearby houses and flatted buildings.

The proposed replacement house, by its contemporary design and mixed palette of external materials of stone, render, glass and zinc would be architecturally distinctive from the other buildings in the surrounding area. However, the large glazed dormer extension that was granted planning permission 12/00113/P previously to be formed on the northeast facing roof of the house would have radically altered the architectural character and appearance of the existing house from one of very modest character to one of a very modern, distinctive character. It was accepted through the grant of planning permission 12/00113/P that such a radical alteration and extension of the house would be acceptable and would fit comfortably into its setting within the Conservation Area.

Likewise the replacement of the existing modest bungalow with the building of such architectural quality and character would fit comfortably into the mix of different architectural styles and periods of the houses of the area and into the mixed pattern and density of the existing built form of the area. The use of natural stone, render and zinc would be appropriate to the contemporary style and design of it. Whilst the alu-clad timber to be used for the frames of the windows, doors, patio doors and external doors is a material that would not be appropriate for use on historic buildings within a conservation area, the use of it would be an integral and appropriate element of this contemporary design.

On these design considerations the proposed house would be appropriate to its setting, as a contemporary addition to the historic juxtaposition of architectural periods and styles of this part of North Berwick. As a replacement for the existing modern bungalow it would contribute to and not be harmful to the character and appearance of this part of the Conservation Area.

The proposed double garage with store would occupy the same position in the southeast corner of the plot as the garage granted planning permission 12/00113/and 12/00975/P previously. Its southeast and southwest elevations would again mostly comprise the existing 2m high stone wall that encloses the property, with the upper part of those walls and its gently sloping mono-pitched roof being clad with zinc. Owing to its architectural form, size, scale, position and materials the proposed garage with store would be appropriate to its setting and would not be harmfully out of keeping with its surroundings. It would not be harmful to the character and appearance of the Conservation Area.

By virtue of their form size, scale, positioning and materials the proposed areas of hardsurfacing would each be appropriate to their setting and in keeping with their surroundings. They would not be harmful to the character and appearance of the Conservation Area.

The plot is some 1393 square metres in area. The proposed replacement house would have a footprint of some 300 square metres. The proposed double garage and store would have a footprint of some 83.75 square metres. Therefore as the replacement house and garage would occupy less than 30% of that plot, the plot is large enough to comfortably accommodate the proposed replacement house, garage, parking and turning area and garden ground without there being an overdevelopment of it.

On these matters of siting, design and layout the proposed development is consistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policies ENV4 and DP7 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy: February 2010.

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.

As there are no neighbouring residential properties to the northeast of the property there would not be harmful overlooking in that direction. The windows on the northwest (side), southeast (side) and southwest (rear) elevations of the proposed replacement house would be at least 9m away from the boundaries of neighbouring residential properties and would not be within 18m and directly face any windows of those neighbouring houses and flatted buildings. Thus the windows of the proposed replacement house would accord with the Council's standards and would not give rise to harmful overlooking. Furthermore, as the first floor terraces that are to be created on single storey, flat roofed parts of the proposed house would be more than 9m away from the boundaries of neighbouring residential properties and more than 18m away from any windows of the neighbouring houses and flatted building they would also accord with the Council's standards on overlooking and would not give rise to a harmful loss of amenity through overlooking of any neighbouring residential properties.

The replacement house would have a raised ground floor balcony component attached to its northwest (side) elevation that would be within 9m of the northwest mutual boundary of the property. However the 1.5m high obscurely glazed screen that is to enclose the northwest edge of that raised balcony would be of sufficient height to prevent anyone sitting on it from overlooking the garden ground of the neighbouring property to the northwest. A such and as it can be made a condition of a grant of planning permission that no use should be made of that raised balcony unless and until that 1.5m high obscurely glazed screen is in place, the raised balcony would not give rise to harmful overlooking of the neighbouring property to the northwest.

On the matter of the impact of the proposed replacement house and outbuilding on daylight and sunlight to 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 size, height, positioning and orientation, the proposed house would not, in accordance with such guidance, give rise to a harmful loss of daylight or sunlight to the neighbouring 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 and the garden a sufficient amount of sunlight.

On the foregoing considerations of overlooking and overshadowing the proposed house is consistent with Policies DP2 and DP7 of the adopted East Lothian Local Plan 2008.

The Council's Environmental Protection Manager raises no objection to the application.

The Council's Head of Transportation raises no objection to the application. Accordingly, in respect of its access, parking and turning arrangements the layout of the proposed development is consistent with Policies T2 and DP22 of the adopted East Lothian Local Plan 2008.

CONDITIONS:

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

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

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

Reason:

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

- 2 Notwithstanding that shown on docketed drawings parts of the walls of the house and of the garage hereby approved shall not be clad with sawn slate but shall instead be clad with natural stone. Prior to their use on the replacement house hereby approved, a schedule and samples of external materials and finishes shall be submitted to and approved in writing by the Planning Authority for the house and thereafter the materials and finishes used shall be in accordance with those 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 and the character and appearance of the Conservation Area.

- 3 Prior to the occupation of the replacement house hereby approved the access, parking and turning arrangements shall be laid out as shown in docketed drawing no. 724.02 revision F, and thereafter the access, parking and turning arrangements shall be retained for such uses.

Reason:

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

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 3 December 2013
BY: Depute Chief Executive
(Partnerships and Community Services)
SUBJECT: Application for Planning Permission for Consideration

2b

Application No. **13/00726/CAC**
Proposal Demolition of house
Location **Links Lodge
Links Road
North Berwick
East Lothian
EH39 4AP**
Applicant Mr & Mrs G Matthew
Per Pyemont Design Greenarchitecture
RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

This application relates to a single storey, detached house that is located in a predominantly residential area as defined by Policy ENV1 of the adopted East Lothian Local Plan 2008. It is in North Berwick Conservation Area.

The existing house is a detached, single storey house with an L shaped footprint. It has a slated pitched roof and white rendered walls.

Conservation area consent is sought for the demolition of the existing house on the site.

The demolition is proposed in association with proposals for the erection of a replacement house on the site and for the erection of a detached garage/store and for which planning permission is sought through application 1300726/P. A report on that application is currently on the Scheme of Delegation List.

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

The development plan is the approved Edinburgh and the South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Plan 2008.

Policy 1B (The Spatial Strategy: Development Principles) of the South East Scotland Strategic Development Plan (SESplan) and Policies ENV4 (Development Within Conservation Areas) of the adopted East Lothian Local Plan 2008 addresses the need to control development within conservation areas, including the demolition of buildings and thus is relevant to the determination of this application.

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

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

There is no public objection to this application for conservation area consent.

There are 6 representations to this application all written in support of the demolition of the existing house.

The demolition of the existing house is proposed to facilitate the erection of a replacement detached two storey house of contemporary design.

The existing house is readily visible in public views of the site from the north, northeast and northwest from the West Links Golf Course and in vies from the southeast from Links Road and Pointgarry Road. However, it is not in itself of special architectural or historic interest and thus, it does not contribute positively to the character and appearance of the Conservation Area.

The planning assessment given in associate planning application 13/00726/P concludes that the erection of a replacement house and a detached garage on the site would be a form of development that would not harm the character and appearance of the Conservation Area. To facilitate such acceptable development on the site the proposed demolition of the existing house is justified. Thus in the circumstances of an approved scheme of development on the application site that would justify the demolition of the existing house its removal would not harm the established character and appearance of the Conservation Area.

The demolition of the existing house is consistent with Policy ENV4 of the adopted East Lothian Local Plan 2008, the Scottish Historic Environment Policy: December 2011 and with Scottish Planning Policy: February 2010 with respect to the affect of it on the Conservation Area.

CONDITIONS:

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

Reason:

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

- 2 No works for the demolition of the existing house shall be carried out unless written evidence that a contract has been entered into for the carrying out of the works authorised by planning permission 13/00726/P or by some other detailed planning permission for the development of the site granted by the Planning Authority, has been submitted to and agreed by the Planning Authority.

Reason:

In order to preserve the character and appearance of the Conservation Area.

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

REPORT TO: Planning Committee

MEETING DATE: Tuesday 3 December 2013

BY: Depute Chief Executive
(Partnerships and Community Services)

SUBJECT: Application for Planning Permission for Consideration

3a

Note - this application was called off the Scheme of Delegation List by Councillor Veitch for the following reason: Residents in the immediate vicinity of the site have expressed their concern. Members should have the opportunity to see the site in question.

Application No. **13/00730/P**

Proposal Extension to flat

Location **Whittingehame Courtyard Flat
Stenton
Haddington
East Lothian
EH41 4QA**

Applicant Mr Richard Cain

Per Groves-Raines Architects Ltd.

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

The property the subject of this application is a flat which has been formed in the U-plan Whittingehame House Stables, a former stables building now converted to houses and flats and which is listed as being of special architectural or historic interest (Category B). It is within the Whittingehame Designed Landscape and within an area designated in the adopted East Lothian Local Plan 2008 as being an Area of Great Landscape Value.

The applicant's flat is in the first floor of the east range of the former stables building, above what would have been the carriage shed of the stables. A part of the ground floor of the former carriage shed also belongs to the applicant and is in use as a garage. The flat is accessed via a door and internal stairway within a part of the lower, recessed component of the former stables building, adjacent to the former carriage shed.

Planning permission is sought for a porch to be added to part of the front (west) elevation of the lower, recessed component of the former stables building.

Through separate application 13/00730/LBC listed building consent is sought for the proposed porch. Additionally listed building consent is sought for; (i) the installation of glazed doors within the existing vehicular access on the west elevation of the former carriage shed component of the building, (ii) the formation of a doorway on the ground floor of the north (side) elevation of the former carriage shed component of the building, (iii) the removal of the existing front door from the lower, recessed component of the former stables building and (iv) internal alterations to the building. A report on application 13/00730/LBC 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 South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Plan 2008.

Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies ENV3 (Listed Buildings), ENV8 (Gardens And Designed Landscapes), NH4 (Areas Of Great Landscape Value) and DP6 (Extensions and Alterations to Existing Buildings) 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 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.

There are two written objections to the application. They are from the occupants of neighbouring residential properties. The grounds of objection are; (i) the new glass porch will destroy the effect/look of the courtyard, (ii) the deeds of the property restrict the use of the garage to that of accommodating cars and for minor or routine maintenance of cars, (iii) kitchen doors opening onto the courtyard would completely change the look of the courtyard, (iv) the working pit in the floor of the carriage shed and the brackets used to store wheels, poles and shafts of carriages all of which are original features of the courtyard would be lost, (v) loss of privacy from the proposed porch, (vi) loss of daylight as the porch will block light from a bedroom window, (v) light pollution from the porch/kitchen, (vi) there will be an increase in noise as there will be a much greater amount of use made of the stairs which will link the main part of the flat to the new kitchen, (vii) the timber doors are to be bolted open when the kitchen is in use. This will severely impede safe parking both from a space and manoeuvrability within the courtyard.

The objection to the application on the grounds that the deeds of the property restrict the use of the garage to that of accommodating cars and for minor or routine maintenance of cars is a legal matter between the occupiers of the residential properties of the former stable buildings and is not a material planning consideration in the determination of this planning application.

The internal alterations to the flatted property do not require planning permission. Therefore the objection on the grounds that the internal alterations would result in an increase in noise from the applicant's flat is not a material consideration in the determination of this application.

The proposed porch would be located at the southern end of the lower, recessed component of the former steading building. Its south wall would comprise the existing, north elevation of the former steading building. Its west elevation would comprise one glazed and astragalled timber door and its north elevation would comprise a pair of full height glazed and astragalled, timber panels. As the proposed porch would be wholly contained beneath the existing canopy that protrudes out from the recessed, lower component of the building, that canopy would form the roof of the porch.

The proposed porch would be small in size and scale. By virtue of this, its positioning alongside the further protruding former carriage shed component of the building, and as it would be neatly contained beneath the existing canopy of the building it would be a subservient and sympathetic addition to the former stable building. Therefore and as its door and timber panels would not be dissimilar to other doors that exist within the courtyard the proposed porch would not appear harmfully out of keeping in its courtyard setting. It would not be prominent or obtrusive and would not harm the special architectural or historic interest of the listed building.

Due to its contained positioning and its architectural form, size and scale the proposed porch would not be prominent, obtrusive or exposed. It would not be harmful to the conservation objectives of the Whittingehame House Designed Landscape or to the Area of Great Landscape Value.

On those considerations of design the proposed porch would not conflict with Policy 1B Policy of the approved South East Scotland Strategic Development Plan (SESplan) and Policies ENV3, ENV8, NH4 and DP6 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy: February 2010.

"Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice" by P.J. Littlefair gives guidance on the impact of a proposed extension on the daylight and sunlight received by neighbouring properties.

In the Guide it is stated that in designing an extension to a building it is important to safeguard daylight and sunlight to nearby buildings.

Application of the daylight test given in the Guide demonstrates that the proposed porch would not be of such a height or position to result in a harmful loss of daylight or sunlight to any windows of the neighbouring house to the north. Neither would it cause a significant difference to the amount of sunlight/daylight received within the adjacent open-sided porch of the adjoining house.

The proposed porch would be adjacent to a window of a neighbouring house. However as it would simply enclose an existing open-sided canopy that is part of the applicant's property, it would not result in overlooking that would be any different to that already possible from the existing open-sided porch. Thus the proposed porch would not harm the privacy of that neighbouring residential property.

The addition of a proposed porch to the flat is not an unusual or unreasonable development proposal. It would not generate an unacceptable level of light pollution and would not be detrimental to the amenity of the neighbouring residential properties within the courtyard.

On those considerations of amenity the proposed porch does not conflict with Policy DP6 of the adopted East Lothian Local Plan 2008.

The porch would not encroach onto the courtyard and therefore would not affect the parking and turning area of the courtyard. Furthermore there are no proposals to alter the opening method or opening mechanisms of the existing timber vehicular access doors of the garage. As those timber doors can already be bolted open at any time in their use in association with the garage there would be no change to the parking and turning area within the courtyard.

CONDITIONS:

- 1 None

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 3 December 2013
BY: Depute Chief Executive
(Partnerships and Community Services)
SUBJECT: Application for Planning Permission for Consideration

3b

Application No. **13/00730/LBC**
Proposal Alterations and extension to building
Location **Whittingehame Courtyard Flat
Stenton
Haddington
East Lothian
EH41 4QA**
Applicant Mr Richard Cain
Per Groves-Raines Architects Ltd.
RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

The property the subject of this application is a flat which has been formed in the U-plan Whittingehame House Stables, a former stables building now converted to houses and flats and which is listed as being of special architectural or historic interest (Category B).

The applicant's flat is in the first floor of the east range of the former stables building, above what would have been the carriage shed of the stables. A part of the ground floor of the former carriage shed also belongs to the applicant and is in use as a garage. The flat is accessed via a door and internal stairway within a part of the lower, recessed component of the former stables building, adjacent to the former carriage shed.

Listed building consent is sought for; (i) a porch to be added to part of the front (west) elevation of the lower, recessed component of the former stables building, (ii) the installation of glazed doors within the existing vehicular access on the west elevation of the former carriage shed component of the building, (iii) the formation of a doorway on the ground floor of the north (side) elevation of the former carriage shed component of the building, (iv) the removal of the existing front door from the lower, recessed component of the former stables building and (vi) internal alterations to the building.

Through separate application 13/00730/P planning permission is sought for the proposed porch. A report on application 13/00730/P is at this time on the Scheme of Delegation List.

As an amendment to the application the (north) elevation of the proposed porch which comprise a pair of timber framed and astragalged fixed panels instead of a pair of timber framed and astragalged glazed doors. Therefore the front door of the proposed porch would be in its west (front) elevation.

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 South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Plan 2008.

Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan) 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 is one letter of objection to the application. It is from a solicitor acting on behalf of the occupier of a neighbouring residential property. The letter of objection raises concerns about the proposed porch extending onto property outwith the control of the applicant and that the porch may have to be accessed from the neighbouring property.

The applicant's agent has declared on application forms and on behalf of the applicant that all the works will take place wholly within the applicant's property.

The proposed porch would be located at the southern end of the lower, recessed component of the former steading building. Its south wall would comprise the existing, north elevation of the former steading building. Its west elevation would comprise one glazed and astragalged timber door and its north elevation would comprise a pair of full height glazed and astragalged, timber panels. As the proposed porch which would be wholly contained beneath the existing canopy that protrudes out from the recessed, lower component of the building, that canopy would form the roof of the porch.

The proposed porch would be small in size and scale. By virtue of this, its positioning alongside the further protruding former carriage shed component of the building and as it would be neatly contained beneath the existing canopy of the building it would be a subservient and sympathetic addition to the former stable building. Therefore and as its door and timber panels would not be dissimilar to other doors that exist within the courtyard the proposed porch would not appear harmfully out of keeping in its courtyard

setting. It would not be prominent or obtrusive and would not harm the special architectural or historic interest of the listed building.

The glazed doors that would be installed within the vehicular access of the building would be of a simple frameless form. Therefore and as the outer timber doors of the garage would be retained the installation of the glazed doors would not be so discernible to be seen to be harmful to the special architectural or historic interest of the listed building.

The proposed doorway that would be formed in the north elevation of the building would be wholly enclosed within the proposed porch. Therefore and as the remainder of that north elevation wall would remain unaltered this would be an alteration to the building that would not harm its special architectural or historic interest.

The existing front door of the flat is to be removed once the proposed porch is erected. The door will not be replaced. The removal of the door would not be visible from outwith the building. The loss of the door would not be harmful to the special architectural or historic interest of the listed building.

The ground floor of the carriage shed component of the building is in use as a garage. Although there is evidence of a pit within the floor of the garage, that pit has been covered and is not a feature of such special architectural or historic interest that its retention is warranted. Therefore the internal alterations to install a kitchen within that part of the building would not be harmful to the special architectural or historic interest of the listed building.

The proposals are consistent with Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan), 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 conditions:

- 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 3 December 2013
BY: Depute Chief Executive
(Partnerships and Community Services)
SUBJECT: Application for Planning Permission for Consideration

4

Note - this application was called off the Scheme of Delegation List by Councillor McMillan for the following reason: To allow the Committee to explore the wider issues for the rural economy, and the opportunities within the local area.

Application No. **13/00712/P**
Proposal Erection of 1 wind turbine and associated works
Location **Nisbet Farm
Pencaitland
Tranent
East Lothian
EH34 5BH**
Applicant Fredoch Ltd
Per Realise Renewables
RECOMMENDATION Application Refused

PLANNING ASSESSMENT

Planning permission is sought for the erection of one wind turbine on agricultural land at Nisbet Farm, in the countryside to the northeast of Pencaitland. The proposed wind turbine would be sited in a field some 285 metres northeast of the farm buildings of Nisbet Farm. In its position it would be some 535 metres to the southeast of the A6093 public road.

The proposed wind turbine would consist of a supporting column measuring 22.6 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 11.8 metres. The wind turbine would therefore have a height of 34.4 metres from ground level to blade tip. The diameter of its rotating blades would be 23.6 metres.

Under the provisions of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 the proposed development falls within the category of a Schedule 2 Development, being one that may require the submission of an Environmental Impact Assessment (EIA). Schedule 3 of The Town and Country

Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 sets out the selection criteria for screening whether a Schedule 2 development requires an EIA. On 13 July 2012 the Council gave a formal screening opinion. The screening opinion concludes that the proposed development is unlikely to have significant effects on the environment to the extent that expert and detailed study through EIA would be necessary to properly assess any effect. Therefore, there is no requirement for the proposed wind turbine to be the subject of an EIA.

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

The development plan is the approved South East Scotland Strategic Development Plan (SESPlan) and the adopted East Lothian Local Plan 2008.

Policies 1B (The Spatial Strategy: Development Principles) and 10 (Sustainable Energy Technologies) of the approved South East Scotland Strategic Development Plan (SESPlan) and Policies DC1 (Development in the Countryside and Undeveloped Coast), DP13 (Biodiversity and Development Sites), NRG3 (Wind Turbines) 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 Lowland Wind Turbines: June 2013.

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 10 of the approved South East Scotland Strategic Development Plan (SESPlan) seeks to promote sustainable energy sources.

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 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 Council's Planning Guidance for Lowland Wind Turbines: June 2013 is relevant to the determination of this application. In setting out the policy framework, key considerations and capacity assessments 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, (ii) to indicate the matters which will be considered by the Council when assessing these applications, (iii) to set out the recommendations of the Council's East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011). 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 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 effect on the landscape of East Lothian of a wind turbine(s) lower than 42 metres high.

One written representation has been received in respect of this planning application. The written representation makes objection to the proposed wind turbine on the grounds that it is too large for the proposed site and is not associated with any farm building.

The National Air Traffic Services (NATS), the Ministry of Defence (MOD) and the Civil Aviation Authority (CAA) have been consulted on the application and neither of these bodies raise objection to the proposed wind turbine on grounds of aircraft safety.

It is stated in Part 1(a) of Policy DC1 of the adopted East Lothian Local Plan 2008 that infrastructure type development will be acceptable in principle in the countryside of East Lothian provided it has a clear operational requirement for a countryside location that cannot reasonably be accommodated within an existing urban or allocated area.

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 thus by its siting and operation in relation to the business use of Nisbet Farm the proposed wind turbine can, as a form of new build infrastructure development in the countryside of East Lothian, be justified. The proposed wind turbine is capable of providing the farm with a renewable energy source. On this consideration the proposed wind turbine is consistent with Policy DC1 of the adopted East Lothian Local Plan 2008.

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 also the principle of the proposed development is consistent with Policy DC1 of the Local Plan.

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

Paragraph 5.20 of Planning Guidance for Lowland Wind Turbines: June 2013 states that the proximity of noise sensitive receptors (e.g. residential properties) will be a significant factor in the requirement for an assessment of the affect of noise from the turbine on such noise sensitive receptors. Paragraph 5.22 states that for single turbines in low noise environments the day time level measured as LA(10min) should be 35 DB at nearest noise sensitive dwellings, up to wind speeds of 10m/s at 10 metres in height.

In this regard the Council's Environmental Protection Manager 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. Subject to such control the proposed wind turbine would not have a harmful noise impact on the nearest residential properties.

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

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

In the case of the proposed wind turbine 10 times the diameter of its rotor blades would be 236 metres. The nearest dwelling, being Nisbet Farmhouse to the southwest, is some 350 metres 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.

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

On these tests of noise and shadow flicker effect and considerations of dominance, outlook and impact on hydrology the proposed wind turbine is consistent with Policies NRG3 and DC1 (Part 5) of the adopted East Lothian Local Plan 2008, Policy 10 of the approved South East Scotland Strategic Development Plan (SESPlan), The Scottish Government web based renewables advice entitled "Onshore Wind Turbines" and Planning Guidance for Lowland Wind Turbines: June 2013.

On the matter of safety, paragraph 5.15 of Planning Guidance for Lowland Wind Turbines: June 2013 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 to the west. The Council's Transportation service has been consulted on the application and raises no objection to the proposed wind turbine, being satisfied that due to its distance away from the public road it would have no significant adverse consequences for road safety.

On this consideration 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 Lowland Wind Turbines: June 2013.

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 Lowland Wind Turbines: June 2013.

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.

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

The land of the application site is within the 'Agricultural Plain – Sub Area 3, South' 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 gently undulating landscape of long broad ridges and shallow valleys which can have a medium to large scale where more open. The Study further classifies this landscape character area as being of medium-high sensitivity to Typology of wind turbine A and B, of medium sensitivity to Typology of wind turbine C and low sensitivity for Typology of wind turbine D.

The Study states that within the 'Agricultural Plain – Sub Area 3, South' 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 34.4 metres from ground level to blade tip, is a Typology C wind turbine that the East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011) advises might be capable of being successfully accommodated within the 'Agricultural Plain – Sub Area 3, South' landscape character area.

In further regard to this it is necessary to determine, through 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 Local Plan Policies DC1 and NRG3, Scottish Planning Policy: February 2010 and Planning Guidance for Lowland Wind Turbines: June 2013.

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

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

On the key considerations of landscape impact and impact on public views to and from landmark features Planning Guidance for Lowland Wind Turbines: June 2013 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;

In relation to cumulative impact paragraph 4.34 of Planning Guidance for Lowland Wind Turbines: June 2013 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).

On the matter of landscape impact the Council's Policy & Projects Manager advises that in longer distance views from the northeast the proposed wind turbine would be visible but would be positioned such that it would be absorbed into the landscape and thus there would be no harmful visual impacts in such views. Although there may be some intervisibility with a proposed wind turbine granted at East Mains Farm to the northeast the cumulative impact is low and thus would not harm any key views or have any harmful landscape impact. In closer views from the east and northeast the proposed wind turbine would either be obscured by the rising foreground terrain, or where it would be visible it would benefit from having higher ground behind it which would absorb its visual impact such that it would not appear visually intrusive. In views from the south the whole of the proposed wind turbine would be visible, but it would again benefit from having higher ground behind it which would absorb its visual impact such that it would not appear visually intrusive.

In views from the A6093 to the north the proposed wind turbine would be highly visible and the Policy & Projects Manager raises concern that the extent of countryside behind it does not have sufficient capacity to absorb the visual impact of the proposed wind turbine in this view. However only the very ends of the blade tips of the proposed wind turbine would break the skyline in this view, otherwise it would benefit from having expansive higher ground behind it which is capable of absorbing its visual impact to the extent that it would not appear harmfully intrusive or exposed.

On request the applicant's agent submitted a photomontage and wireframe of the proposed wind turbine as it would be seen in views from the crossroads at Pencaitland, to the southwest of the application site. The Policy & Projects Manager advises that in this view towards Traprain Law the proposed wind turbine would be visible above the surrounding landscape. It is likely the whole blade diameter of the proposed wind turbine would be visible against the sky, and thus it would appear as a very prominent and obtrusive skyline feature.

Moreover from this location there are fine panoramic views northeastwards that take in Traprain Law. The Law is a focal point in the panoramic views northeastwards. The landscape in which the proposed wind turbine is to be located is part of the visible wider setting of the Law. In the views from the Pencaitland crossroads the proposed wind turbine would be clearly visible. At a height of 34.4 metres from ground level to blade tip it would become the dominant landscape feature of its location. Visually, the proposed wind turbine would compete with what can be seen in the panoramic views and would draw from the focus of The Law, harmfully compromising the integrity of it as highly valued landmark natural feature within the countryside of East Lothian. This would harmfully detract from the landscape character of the 'Agricultural Plain – Sub Area 3, South' landscape character area.

The overall findings of the specific landscape appraisal is that the proposed wind turbine due to its positioning, form, height and scale would appear as a highly exposed and obtrusive feature in views of it from the southwest. It would also have a harmful visual impact on the appearance in the wider landscape of the highly valued landmark natural feature of Traprain Law. Such effects would harmfully detract from the landscape character of the 'Agricultural Plain – Sub Area 3, South' landscape character area.

The findings demonstrate that the proposed wind turbine cannot successfully be accommodated in its proposed location within the 'Agricultural Plain – Sub Area 3, South' landscape character area.

On the considerations of landscape appraisal it can be concluded from all of the above that the proposed wind turbine is contrary to Policy 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 Lowland Wind Turbines: June 2013.

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 and the Council's Planning Guidance for Lowland Wind Turbines: June 2013.

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 character and appearance of the 'Agricultural Plain – Sub Area 3, South' landscape character area and on the highly valued landmark natural feature of Traprain Law.

REASON FOR REFUSAL:

- 1 The proposed wind turbine due to its positioning, form, height and scale would in views of it from the southwest appear as a highly exposed and obtrusive skyline feature. It would also have a harmful visual impact on the appearance in the wider landscape of the highly valued landmark natural feature of Traprain Law. Such effects would harmfully detract from the landscape character of the 'Agricultural Plain - Sub Area 3, South' landscape character area. Accordingly, the proposed wind turbine is contrary to Policy 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 Lowland Wind Turbines: June 2013.

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 3 December 2013
BY: Depute Chief Executive
(Partnerships and Community Services)
SUBJECT: Application for Planning Permission for Consideration

5

Application No. **13/00756/PM**
Proposal Extension to the existing 400kV Substation and associated works
Location **Crystal Rig Substation
Dunbar
East Lothian**
Applicant Scottish Power Transmission Ltd
RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

As the area of the application site is greater than 2 hectares, the development proposed in this application is, under the provisions of The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, defined as a major development and thus it cannot be decided through the Council's Scheme of Delegation. The application is therefore brought before the Planning Committee for a decision.

As a statutory requirement of major development type proposals this development proposal was the subject of a Proposal of Application Notice (Ref: 13/00002/PAN) and thus of community consultation prior to this application for planning permission being made to the Council.

As an outcome of that and as a statutory requirement for dealing with major development type applications a pre-application consultation report is submitted with this application. The report informs that a total of 6 people attended the two day pre-application public exhibition held at Spott village hall, and that those attendees raised no specific comments or queries regarding the proposals. The development for which planning permission is now sought is of the same character as that which was the subject of the community engagement undertaken through the statutory pre-application consultation of the proposal.

This application relates to land to the north, south and west of the exiting electricity substation that serves the Crystal Rig wind farm, and which substation was granted planning permission (07/00660/FUL) in September 2007. The electrical substation is located on the lower north-eastern slopes of Friardykes Dod, adjacent to an existing line

of pylons that passes through the Crystal Rig site. The substation has a rectangular footprint and contains an access road, two buildings and electricity transformation equipment.

The application site is within the Lammermuir Hills Area of Great Landscape Value, as defined by Policy NH4 of the adopted East Lothian Local Plan 2008.

A section of a right of way, which runs on a north to south alignment, is located some 15 metres to the west of the application site.

In June 2012 planning permission (Ref: 12/00347/P) was granted for a southern extension to the existing electricity substation. The extension to the electricity substation was promoted to enable the proposed Aikengall II wind farm to connect into the national electricity grid. Development of the proposed extension has not yet commenced.

In June 2013 planning permission (Ref: 12/00922/PM) was granted for the formation of onshore electrical transmission infrastructure between Thorntonloch beach and the existing electrical sub-station located within the Crystal Rig wind farm, over a distance of some 12.3km. The approved development includes a new electricity substation that would be located some 10 metres to the north of the existing sub-station located within the Crystal Rig wind farm. Development of the onshore electrical transmission infrastructure has not yet commenced.

The onshore electrical transmission infrastructure approved by planning permission 12/00922/PM are an important component to enable the proposed Neart Na Goithe off-shore wind farm to connect into the national electricity grid.

An application has been separately submitted by Mainstream Renewable Power Limited under Section 36 of the Electricity Act 1989 to the Scottish Ministers for the erection of the Neart Na Goithe off- shore wind farm. It would be located some 28km northeast of Dunbar and some 32km northeast of North Berwick. The application for the proposed Neart Na Goithe wind farm is currently pending consideration.

Planning permission is now sought through this application for an extension to the existing electricity substation approved through the grant of planning permission 07/00660/FUL and for associated works including the formation of an earth bund.

The proposed extension to the existing electricity substation is promoted in order to connect the proposed Neart Na Goithe off-shore wind farm and its substation to the National Grid.

The application site has an area of some 9.0 hectares and consists of open rough grassland. Of this, some 1.3 hectares of the site would comprise the extended substation compound. The site slopes down from southwest to northeast.

The proposed extension to the substation would be on land to the west of the existing substation. The proposed substation extension would have a rectangular footprint, measuring some 95 metres long by 65 metres wide and would be enclosed by a 2.7 metres high fence. The finished level of the substation would be some 5 metres higher than the level of the existing substation. It would contain general switchgear equipment, the maximum height of which would be 12.5 metres. A 3.0 metres wide road would be formed around the inside of the perimeter of the compound. A 3.0 metres wide walkway would also be formed around the exterior of the perimeter of the compound.

Substantial cut and fill works would be required to achieve the finished ground level for the proposed sub-station extension. Some of the excavated material would be used to form an earth bund, with a maximum height of 20 metres, to the north, south and west of the proposed substation extension. The earth bund would be graded into the existing ground surrounding the site.

The application site straddles the East Lothian/Scottish Borders Councils border. The southern part of the proposed extension to the existing electricity substation is located within the authority area of Scottish Borders Council.

Through separate planning application, which was submitted to Scottish Borders Council in September 2013, planning permission (Ref: 13/01084/FUL) is sought for the part of the proposed substation extension located within the authority area of Scottish Borders Council. No decision has yet been taken on that planning application.

An Environmental Report has been submitted with the planning application. It contains chapters on legislative and policy context, landscape and visual, ecology, archaeology and cultural heritage, catchment hydrology, flood risk, site drainage, and traffic and transport.

A Design and Access Statement has been submitted with the planning application. The Statement provides information on the principles and approach that have guided the design process.

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 South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Plan 2008.

Relevant to the determination of the application are Policies 1B (The Spatial Strategy: Development Principles) and 10 (Sustainable Energy Technologies) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies DC1 (Development in the Countryside and Undeveloped Coast), NH4 (Areas of Great Landscape Value), C6 (Rights of Way), T2 (General Transport Impact), DP1 (Landscape and Streetscape Character) and DP2 (Design) of the adopted East Lothian Local Plan 2008.

Material to the determination of the application is the Scottish Government's policy on renewable energy given in Scottish Planning Policy: February 2010.

Scottish Planning Policy on renewable energy states that the commitment to increase the amount of electricity generated from renewable sources is a vital part of the response to climate change. Renewable energy generation will contribute to more secure and diverse energy supplies and support sustainable economic growth. Planning authorities should support the development of a diverse range of renewable energy technologies. Off-shore renewable energy generation presents significant opportunities to contribute to the achievement of Government targets. Although the planning system does not regulate off-shore development, it is essential that development plans take into account the infrastructure and grid connection needs of the off-shore renewable energy generation industry. Development plans should identify appropriate locations for facilities linked to the manufacture, installation, operation and maintenance of off-shore wind farms and wave and tidal devices.

No letters of representation have been received in respect of this planning application.

East Lammermuir Community Council were consulted on this application but have not provided any comments on it.

The proposed extension to the existing substation is an essential component to enable the proposed Neart Na Goithe wind farm to connect into the national electricity grid. Therefore if approval were to be given by the Scottish Ministers for the proposed Neart Na Goithe wind farm there would be an operational justification for the onshore electrical transmission infrastructure having to be formed in this particular countryside location, consistent with the provisions of Policy DC1 of the adopted East Lothian Local Plan 2008. In order to ensure there is an operational requirement for the proposed onshore electrical transmission infrastructure, i.e. that planning permission has been approved for the proposed Neart Na Goithe wind farm, there should be imposed a condition on the grant of planning permission that no development is carried out until it can be demonstrated to the Planning Authority that planning permission has been granted for the proposed Neart Na Goithe wind farm. Such a condition was also imposed on the onshore electrical transmission infrastructure approved by planning permission 12/00922/PM.

Subject to the imposition of this condition, the principle of the proposed extension to the existing electricity substation is consistent with Policy 10 of the approved South East Scotland Strategic Development Plan (SESplan) and Policy DC1 of the adopted East Lothian Local Plan 2008.

The site proposed for the substation extension is set on the lower part of the hilly slopes on which the Crystal Rig Phase II wind farm is located. The proposed substation extension would be seen in relation to the existing electrical substation and turbines, pylons and overhead power lines that form part of the Crystal Rig Phase II wind farm. When seen in this context, the proposed substation extension would not appear as an incongruous or alien feature. Whilst the finished level of the substation compound would be some 5 metres higher than the level of the existing substation, it, together with the general switchgear equipment to be installed in it, would be lower than the existing sloping ground to the west of the application site. This, together with the earth bund that would be formed to the north, south and west of the proposed substation extension, would further help to integrate it into its landscape setting. The proposed substation extension would not harm the landscape character and visual amenity of the Lammermuir Hills Area of Great Landscape Value.

In his consultation response, the Council's Policy and Projects Manager raised some concern over the profile of the proposed earth bund and how it would relate to the other components of development at Crystal Rig, including the new electricity substation and associated works approved by planning permission 12/00199/PM. The applicant has provided a detailed response to this and argues that the proposed earth bund would marry into the existing made/ natural contours to the west of the existing substation. It also avoids significant vehicle movements on the local road network that would be required to transport material to landfill. Whilst the earth bund would change the profile of the land to the west of the substation, such change would not be so significant as to cause harm to the landscape character and visual amenity of the Lammermuir Hills Area of Great Landscape Value. The impact of the proposed earth bund and other components of development would be further reduced if appropriate planting was undertaken. On this matter, the Policy and Projects Manager recommends that a scheme of landscaping should be submitted to and approved in advance by the Planning Authority. This can be secured by a condition imposed on the grant of planning permission for the proposed substation extension.

On the consideration of landscape and visual impact, the proposed development is consistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) and Policies NH4, DP1, DP2 and Part 5 of Policy DC1 of the adopted East Lothian Local Plan 2008.

The Council's Biodiversity Officer is satisfied that the proposed extension to the substation would not have any adverse biodiversity impacts. He does however state that he would prefer that the earth bund was not seeded, as the applicant proposes. In this respect, he advises that leaving the soil exposed would offer a great opportunity for natural colonisation, which he considers would be more appropriate than seeding.

Whilst this may be preferable to the Council's Biodiversity Officer, leaving the earth bund unseeded would result in it appearing as a prominent and incongruous feature until such time as it has colonised naturally. This could be a not inconsiderable period of time. Therefore in the circumstances, the earth bund should be seeded, as is proposed by the applicant.

The Council's Policy and Projects Manager advises that lighting of the substation extension for safety or security purposes may be unavoidable and may give rise to significant adverse visual effects. It would therefore be prudent to require that details of any external lighting of the substation extension be submitted to and approved by the Planning Authority prior to its installation. This can be secured through a condition attached to a grant of planning permission for the proposed development.

The onshore substation extension is promoted to specifically serve the proposed Neart Na Goithe wind farm. It would be prudent to require that the extension and other associated works be decommissioned if the wind farm were to be approved, constructed, and thereafter decommissioned. This can be secured through a condition attached to a grant of planning permission for the proposed development. In this regard, and to ensure that the land is restored back to its present form, the condition should also require the applicant to submit to the Planning Authority an accurate topographical survey of the existing application site.

Scottish Borders Council were consulted on this planning application, as the application site is in close proximity to their authority area. They do not object to the proposed substation extension.

The proposed substation extension would be located at a considerable distance away from residential properties in the area. It would not give rise to a harmful loss of privacy or amenity to any residential property. The Council's Senior Environmental and Consumer Services Manager raises no objection to the proposed development.

Whilst the proposed substation extension would be located at a considerable distance away from residential properties in the area, the Council's Transportation service is concerned that construction traffic could have an adverse impact on the amenity of the area. Consequently they recommend that a construction method statement should be submitted for the prior approval of the Planning Authority in order to minimise the impact of construction activity in the interests of the amenity of the area. This can be secured through a conditional grant of planning permission for the proposed development.

The Transportation service raise no objection to the proposed substation extension, being satisfied that it would have no significant adverse risk for road safety.

A condition survey of the access route proposed for construction vehicles has been undertaken by the applicant. Whilst the Transportation service raise no objection to its findings, they note that it may be some time before development of the substation commences. They therefore recommend that it would be prudent that a further detailed condition survey of the access route be undertaken not more than one month before development commences. A further detailed condition survey of the access route should be undertaken once the development has been completed. Any damage identified during the joint inspections and agreed by the joint inspectors to be attributable to quarry vehicles using the access route shall be repaired and/or resurfaced by the quarry operator in compliance with the Council's given specifications and requirements at no cost to the Council as Roads Authority. It would be reasonable to secure this recommended transportation requirement by a condition imposed on the grant of planning permission for the proposed substation extension.

Subject to the imposition of the recommended conditions the proposed development is consistent with Policy T2 of the adopted East Lothian Local Plan 2008.

Scottish Water were consulted on this application but have not provided any comments on it.

The Scottish Environment Protection Agency (SEPA) raise no objection to the proposed substation extension, being satisfied with the proposals for site drainage.

RECOMMENDATION

That planning permission for the proposed extension to the existing substation be granted subject to the following conditions:

- 1 There shall be no commencement of the development until it can be demonstrated to the Planning Authority that consent under Section 36 of the Electricity Act 1989 has been granted by the Scottish Ministers for the Neart Na Gaoithe offshore wind farm.

Reason:

To ensure there is an operational requirement for the extension to the existing substation.

- 2 No development shall take place until there has been submitted to and approved in writing by the Planning Authority a scheme of landscaping. The scheme shall provide details of : the height and slopes of any mounding on or recontouring of, the site; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. The scheme shall include indications of all existing trees and hedgerows on the land, details of any to be retained, and measures for their protection in the course of development.

All planting, seeding or turving comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased 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 amenity of the area.

- 3 There shall be no lighting installed within the application site unless prior written approval is given for it by the Planning Authority.

Reason:

To safeguard the character and appearance of the area.

- 4 A Construction Method Statement to minimise the impact of construction activity on the amenity of the area shall be submitted to and approved by the Planning Authority prior to the commencement of development. The Construction Method Statement shall recommend mitigation measures to control noise, dust, construction traffic and shall include hours of construction work.

The recommendations of the Construction Method Statement shall be implemented prior to the commencement of development.

Reason:

To minimise the impact of construction activity in the interests of the amenity of the area.

- 5 A detailed dilapidation/ condition survey of the access route, as shown in the docketed drawing entitled 'Figure 1- Construction Access/ Egress Route', from the Thurston Mains junction of the A1 trunk road to the private access road of the Crystal Rig wind farm, and a full/ non destructive assessment of its existing pavement (including a deflectograph analysis) shall be jointly undertaken by the applicant and East Lothian Council's Transportation Division; (i) no more than one month prior to the date of commencement of the development hereby approved, and (ii) no more than one month after the completion of the development hereby approved. Any damage identified during the joint inspections and agreed by the joint inspectors to be attributable to vehicles which are associated with the construction of the development hereby approved, shall be repaired and/or resurfaced by the applicant in compliance with specifications and requirements for that approved by the Council as Roads Authority and at no cost to the Council as Roads Authority. In each case any such repair and/or resurfacing shall be completed within 3 months from the date of the Council's approval of the specifications and requirements.

Reason:

In the interests of road safety.

- 6 Prior to the commencement of development hereby approved, a topographical survey of the existing application site, showing 1 metre contours with 5 metre contour intervals highlighted, shall be submitted to and approved in advance by the Planning Authority.

Within 24 months of the permanent cessation of generation at the offshore Neart Na Gaoithe offshore wind farm, a decommissioning and site restoration plan (the 'Demolition and Restoration Scheme') shall be submitted to and approved in writing by the Planning Authority. The Demolition and Restoration Scheme shall include details of:

- (i) Details of site restoration;
- (ii) Management and timing of works;
- (iii) Environmental management provisions; and
- (iv) A traffic management plan to address any traffic impact issues during the decommissioning period.

It shall also show the topography of the restored land being generally similar to the topography of the existing application site, as shown in the the approved topographical survey of the existing application site.

The Demolition and Restoration Scheme shall be implemented in its entirety, unless otherwise agreed with the Planning Authority in writing.

Reason:

To ensure that the application site is satisfactorily restored in the interests of the amenity of the area.