

**REPORT TO:** Planning Committee

**MEETING DATE:** Tuesday 7 January 2014

**BY:** Depute Chief Executive  
(Partnerships and Community Services)

**SUBJECT:** Application for Planning Permission for Consideration

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*Note - this application was called off the Scheme of Delegation List by Councillor Currie for the following reason: I have received a number of representations from constituents and therefore I feel the Committee would benefit from a full discussion.*

Application No. **13/00718/P**

Proposal                      Erection of marquee for a temporary period of 10 years, replace existing whin dust access road with a tarmac overlay and associated ground works (Part Retrospective)

Location                      **Musselburgh Racecourse  
Linkfield Road  
Musselburgh  
East Lothian  
EH21 7RG**

Applicant                      Musselburgh Joint Race Committee

Per                                East Lothian Council

RECOMMENDATION              Consent Granted

#### PLANNING ASSESSMENT

Through this application Musselburgh Joint Racing Committee seeks planning permission for the erection of a marquee for a temporary period of 10 years, for replacement of an existing whin dust internal access road with a tarmac overlay and for associated ground works, all on land at Musselburgh Racecourse. Planning permission is sought part retrospectively as a small part of the whin dust access road has already been replaced with the tarmac overlay.

It is proposed to erect the marquee on an area of land at the south-western part of the racecourse. It would be positioned to the north of the rear garden ground of the residential property of 11 Linkfield Road, which along with 9 Linkfield Road are both category C listed buildings. It would be rectangular in shape and measure 10 metres long and 5 metres wide. Its walls would be constructed of glazed panels in an aluminium frame and plastic panels. It would have a plastic roof that would take the form of a double tented pitched roof. Its doors would be glazed with aluminium frames.

The existing whin dust internal access road is mostly contained centrally within the racecourse track, but it also crosses the track to connect with the racecourse stables at the northwest side of the site. The whin dust of the access road would be replaced with a tarmac overlay.

It is proposed to raise the ground levels of two existing grassed lawn areas at the south-western part of the racecourse. One area is on the north side of the racecourse grandstands and the other is on the north side of the residential property of 1 Millhill (a category B listed building). It is proposed to raise the grass lawns of each of these areas by 300mm.

A small timber retaining wall would be erected around parts of the grassed lawn area on the north side of the racecourse grandstands as raised in the manner proposed.

A 1.8m high close boarded timber fence would be erected around the southern side, and 1.15m high weldmesh 'crowd barrier' fencing, an access ramp and steps would be erected and formed along the north side of the grassed lawn area to the north of the residential property of 1 Millhill, as raised in the manner proposed.

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

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

Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies ENV3 (Listed Buildings), ENV4 (Development within Conservation Areas), DP2 (Design) and C3 (Protection of Open Space) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

Material to the determination of the application are Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and Scottish Planning Policy: February 2010.

Scottish Planning Policy echoes the statutory requirements of Section 59 of the Act requires that in considering whether to grant planning permission for development which affects a listed building or its setting a planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

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

One written objection to the application has been received, from the occupier of the residential property of 1 Millhill. The grounds of objection are that the proposed raising of

the ground level on the north side of the residential property of 1 Millhill and the enclosure of that raised area of ground with a 1.8m high fence would affect daylight received to that neighbouring property and would infringe on the occupier's privacy.

The applicant's agent states in writing that the marquee is to serve as a temporary facility for owners and trainers during race days whilst considerations are given for a future permanent building.

The land of the application site is part of Musselburgh Racecourse, a leisure and recreational use. Together with the other land of the racecourse it is covered by Policy C3 of the adopted East Lothian Local Plan 2008, which stipulates that leisure and amenity open space and facilities which make a significant contribution to the recreational needs of the community or the amenity or landscape setting of an area will be retained in use as such.

The proposed marquee, the resurfacing of the internal access road and the ground level changes and associated fencing are to retain and enhance the operational leisure and recreational use of Musselburgh Racecourse and thus they would not result in any loss of racecourse land, and the use of them would not change the racecourse use of the land. Accordingly the proposed development is not contrary to Policy C3 of the adopted East Lothian Local Plan 2008.

The proposed marquee would be visible from outwith the racecourse in some limited views from Linkfield Road and Millhill to the south and southwest. However it would be given a degree of visual containment in those views by the existing buildings of 11 and 9 Linkfield Road and by existing trees along the south roadside boundary of the racecourse. Moreover, it would be viewed in the context of the greater setting of the racecourse with all its buildings and other physical features. By its design it would be in keeping with the character and appearance of the racecourse, which derives from the functionality of racecourse use. Thus it would be in keeping with the character of this part of the Conservation Area. By virtue of its size, scale, architectural form and materials the proposed marquee would not be harmful to the character and appearance of the Conservation Area.

However, due to its unsubstantial and temporary form the proposed marquee could not be permanently sited in its proposed location without, in the longer term, depreciating in its appearance, with resultant harm to the character and appearance of the Conservation Area. There is justification in granting planning permission for the marquee only for the temporary period of 10 years. This would afford the applicant the opportunity to give their considerations to the promotion of a future proposal for a permanent building.

The limited amount of re-grading of the two areas of land within the confines of the racecourse, even with the addition of the proposed fencing, access ramp and steps, would little change their relationship with the neighbouring land of the racecourse. The resurfacing of the internal access road would not be obvious from outwith the confines of the racecourse. These proposed works would be functionally understood to be physical components of the operation of the racecourse and because of this they would be sympathetic to the character and appearance of the racecourse land and appropriate to their place.

On these considerations of design, positioning, character and appearance the proposals are consistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policies ENV4 and DP2 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy: February 2010.

Although there would be a degree of inter-visibility between the proposed marquee and the listed buildings of 11 and 9 Linkfield Road it would be mostly seen in its relationship with those buildings against the functionality of form and use of the racecourse. As a result of this and by virtue of its size and form the proposed marquee would not have a harmfully prominent or imposing visual relationship with those listed buildings and thus would not harmfully impose itself on the settings of them.

On this consideration the proposed marquee is not contrary to Policy ENV3 of the adopted East Lothian Local Plan 2008 or Scottish Planning Policy: February 2010.

The properties of 1 Millhill and 11 Linkfield Road both have high boundary enclosures on their northern boundaries, being the boundaries they share with the racecourse. As a result of this neither the limited amount of re-grading of the two areas of land or the proposed marquee would allow for any harmful overlooking of those neighbouring properties.

Due to the distance away from the house of 1 Millhill and given the existing high wall which encloses the north boundary of the garden of that property, the proposed 1.8 metres high timber fence to be erected around the southern side of the grassed lawn area to the north of that garden would not lead to any harmful loss of daylight received by it.

The Council's Environmental Protection Manager advises that in order to minimise the possibility of any loss of amenity to occupiers of the neighbouring residential properties of 9 and 11 Linkfield Road from noise emanating from use of the proposed marquee there should be no amplified music and/or speech permitted within it. Such control can be imposed as a condition on the grant of planning permission.

On these considerations of amenity the proposals are consistent with Policy DP2 of the adopted East Lothian Local Plan 2008.

As the application site is within a Coal Mining Development Referral Area the Coal Authority has been consulted on it. The Coal Authority advises that there will be no significant operational development resulting from this proposal that intersects the ground and could therefore present risks to any coal mining features and thus they do not object to the application.

As the application site lies within the 1 in 200 year flood envelope of the Indicative River & Coastal Flood Map (Scotland), Scottish Environment Protection Agency (SEPA) has been consulted on the application. SEPA advise that the proposed development would not be at risk of flooding and that it would not result in any off-site flooding. Consequently SEPA raise no objection to the application.

#### CONDITIONS:

- 1 Use of the marquee hereby approved shall cease and it shall be removed in its entirety from the application site and the area of land occupied by it returned to its former condition no later than 10 years from the date of the decision notice of this grant of planning permission.

Reason:

To limit the period of existence of the marquee to that for which planning permission is applied for and in the interests of safeguarding the character and appearance of the Conservation Area.

2 There shall be no amplified music or amplified vocals played in the marquee hereby approved.

Reason:

To ensure that the use of the marquee does not cause nuisance to neighbouring residential properties.