

PLANNING COMMITTEE
TUESDAY 7 JANUARY 2014

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

TUESDAY 3 DECEMBER 2013
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON

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Committee Members Present:

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

Council Officials Present:

Ms M Ferguson, Service Manager-Legal Services
Mr I McFarlane, Service Manager-Development Management
Mr K Dingwall, Principal Planner
Ms F Currie, Committees Assistant
Ms C Molloy, Senior Solicitor
Mr D Irving, Planner

Clerk:

Ms A Smith

Visitors Present:

Item 2 – Mr T Pyemont, Mr A Matthew
Item 3 – Mr N Groves-Raines, Mr J Walker, Mr B Currie
Item 4 – Mr F Ogilvy

Apologies:

Councillor D Grant

Declarations of Interest:

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

1. MINUTE OF THE MEETING OF THE PLANNING COMMITTEE OF 1 OCTOBER 2013

The minute of the Planning Committee of 1 October 2013 was approved.

2A. PLANNING APPLICATION NO. 13/00726/P: ERECTION OF 1 HOUSE, GARAGE/STORAGE BUILDING AND ASSOCIATED WORKS AT LINKS LODGE, LINKS ROAD, NORTH BERWICK

A report was submitted in relation to Planning Application No. 13/00726/P. The Service Manager, Development Management, Iain McFarlane, presented the report, summarising the key points. The proposed decision set out in the report was to grant consent.

In response to a question from Councillor Goodfellow, Mr McFarlane clarified that the height of the small rectangular component at the western end of the proposed replacement house would be 2.4m higher than the existing roof height, at the highest point.

Mr Pyemont of Pyemont Design, agent for the applicant, outlined the planning history of this project. He informed Members that he had extensive experience of designing in conservation areas, including the North Berwick Conservation Area and therefore had approached this project with considerable forethought. The site could easily accommodate the proposed development. He advised that a sensitive approach had been taken with regard to the selection of materials. The house had been sympathetically designed, it was site specific and carefully proportioned; it would complement this part of North Berwick.

Mr Matthew spoke in support of the application. This was an exciting project; the proposed replacement building, of modern design, would blend in well. The immediate environment contained a mix of properties, old and contemporary. He added that something new would always cause some concern.

Local Member Councillor Berry outlined his reasons for calling this application off the Scheme of Delegation List. This was a prominent site, visible from the harbour area and beach. The proposed replacement building was very modern, he queried if this was appropriate in this location. He questioned what constituted acceptable character and appearance in a Conservation Area. He did not care for the modern design proposed or for the nearby contemporary properties. The key question however was whether there were reasons under planning legislation to refuse this application; he thought not. He would, reluctantly, be supporting the report recommendation but wished to register his disappointment that design trend seemed to be moving in this direction.

Local Member Councillor Goodfellow welcomed the modern and very well designed building and congratulated the architect. He felt the design would blend in with the other 2 contemporary buildings alongside and would enhance the area. He had no issue with the footprint of the replacement building. His only issue concerned the small area he had made reference to earlier, which would be 2.4m higher than the existing roof height – in his view this was a step too far and would obscure the area behind the property. He would not be supporting the report recommendation.

Local Member Councillor Day remarked that opinions tended to differ in relation to contemporary architecture, it was a subjective issue. Regardless of individual views the proposal was a high quality piece of design and would enhance the Conservation

Area. The proposed building would work well with the properties of a contemporary design nearby. He accepted Councillor Goodfellow's point but noted that the proposed ridge height would, for the most part, be only 1.2m higher than the existing house. He would be supporting the report recommendation.

Councillor Currie agreed that design was subjective. He also agreed with comments made by Mr Matthew regarding anything new in this area bringing controversy. The key question was whether the proposed replacement building fitted into the area and met material planning considerations. In his opinion the proposed design was stunning. There were no grounds for the Committee not to grant consent. He supported the recommendation in the report.

Councillor Innes remarked that the proposed replacement building was a considerable improvement on the existing house and would enhance the area. Architects had to be given the opportunity to express themselves. He did not have the same concerns as Councillor Goodfellow regarding the ridge height. He would be supporting the report recommendation to grant consent.

Councillor MacKenzie agreed with Councillor Innes. The design of the proposed building would sit well in Links Road. The roof cladding of light grey zinc would interface with the land/sea/sky and would interpret the environment entirely. He supported the report recommendation.

The Convener brought the discussion to a close. The proposed building would be an asset to North Berwick and to East Lothian. He stated that in order to attract good architecture to the county, applications like this had to be supported. He supported the report recommendation to grant consent 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 **14 votes for, 1 vote against, with 1 abstention**. The Committee agreed to grant planning permission subject to the following 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.

2B. PLANNING APPLICATION NO. 13/00726/CAC: DEMOLITION OF HOUSE AT LINKS LODGE, LINKS ROAD, NORTH BERWICK

A report was submitted in relation to Planning Application No. 13/00726/CAC. The proposed decision set out in the report was to grant consent.

Decision

The Committee agreed to grant conservation area consent subject to the following 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.

3A. PLANNING APPLICATION NO. 13/00730/P: EXTENSION TO FLAT AT WHITTINGEHAME COURTYARD FLAT, STENTON, HADDINGTON

A report was submitted in relation to Planning Application No. 13/00730/P. Mr McFarlane presented the report, summarising the key points. The proposed decision set out in the report was to grant consent.

In response to questions from Councillor Berry, Mr McFarlane confirmed that the courtyard area was private so the Council's Transportation Service had no locus in relation to traffic movement. With regard to the opening of doors into the central courtyard, he advised that in these particular circumstances, it would not be competent to try and use planning conditions to control this.

Mr Groves-Raines of Groves-Raines Architects, agent for the applicant, informed Members that the purpose of the proposal was to enable his client to have better access to the garage space. The porch would be placed under the existing roof, which would alleviate the problem of the front door opening onto steps. The replacement new door would allow easy access to the garage. He informed Members that the idea for the garage doors came from a building at Newhailes, owned by the National Trust for Scotland. He stressed that the existing listed building would look very similar. He asked the Committee to support the application.

Mr Walker, a resident of Whittingehame Courtyard, spoke against the application. This courtyard development was an architectural pearl; there were concerns that the proposal would destroy this. He raised traffic concerns, indicating that parking/vehicle movement was difficult, 9 cars used this courtyard. He also raised issues in relation to the large glass doors. He was not against change, but a more sympathetic approach was needed. Shuttered windows, in place at the other end of the site, would be more suitable. This was a unique building and should be saved.

Mr Currie, also a resident, spoke against the application. He echoed Mr Walker's comments. He added that there was no issue in altering the garage to a kitchen; however the end result would resemble a shop front. With regard to the large wooden doors, with a complete glass panel, these would be fixed open, which would look entirely inappropriate in this historic setting.

Local Member Councillor Veitch remarked that this may appear a relatively modest application however it was a significant building in a small courtyard development. Any alteration to any building in this type of development would have a significant impact on other residents of the development. Members had heard the concerns of those residents. He noted that the report recommendation was to grant consent and he was aware that solid planning reasons were required for refusal. He added that it was disappointing that the proposal could not have been designed in a way to meet approval of all residents.

Provost Broun-Lindsay indicated that he could not see any planning reason for refusal in the report. In relation to the porch, there was no contention. The issues causing contention seemed to be the doors being bolted open/angle of opening and the effect/look on the courtyard. He remarked that it was however a matter for the applicant to choose whether they opened these doors or not. He would be supporting the recommendation in the report.

The Convener, speaking also as a local member, agreed with comments expressed by the Provost. The porch was acceptable to the objectors, it was only the glazed doors which were not acceptable but the Committee had no control over this matter. He supported the report recommendation 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 **13 votes for, none against, with 2 abstentions**. The Committee agreed to grant planning permission.

3B. PLANNING APPLICATION NO. 13/00730/LBC: ALTERATIONS AND EXTENSION TO BUILDING AT WHITTINGEHAME COURTYARD FLAT, STENTON, HADDINGTON

A report was submitted in relation to Planning Application No. 13/00730/LBC. The proposed decision set out in the report was to grant consent.

Decision

The Committee agreed to grant listed building consent 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

Sederunt – Provost Broun-Lindsay left the Chamber

4. PLANNING APPLICATION NO. 13/00712/P: ERECTION OF 1 WIND TURBINE AND ASSOCIATED WORKS AT NISBET FARM, PENCAITLAND

A report was submitted in relation to Planning Application No. 13/00712/P. Daryth Irving, Planner, presented the report, summarising the key points. The proposed decision set out in the report was for refusal of the application.

Mr Irving responded to a number of questions from Members in relation to the visual impact, clarifying the reasons for the report recommendation.

Mr Ogilvy, the applicant, referred to the case against this wind turbine, stating that the sole reason given for refusal was the impact of the view from the War Memorial; all other 5 viewpoints were deemed acceptable. He displayed a photomontage showing hedgerow planting which would, through time, totally obscure the wind turbine. He queried if it was right to concentrate on one viewpoint. He referred to the history of this rural estate. He outlined the investment, achievements, and the key role of the estate in the local economy. He gave details of annual running costs. This was about land management issues, jobs, tourism and heritage; it was about the continuation of the estate. He hoped Members would support the application.

Councillor McMillan referred to his reasons for calling this application off the Scheme of Delegation List. He drew attention to a number of other wind turbine applications considered by the Committee. He made reference to the report, highlighting those sections which stated the proposal was consistent with certain policies and would not have an adverse effect. With regard to the question of visual impact, the Planning Officers had given their position however he did not think this wind turbine would appear incongruous or dominate the local landscape. On balance, also weighing up the economic issues and the viewpoint from the Pencaitland War Memorial, he would be supporting the application.

Councillor Berry understood the applicant's business dilemma. Winton House was very impressive; the whole operation there was an asset to the community and East Lothian, there were good economic reasons to support the application. The view from the War Memorial was a diversion; the turbine would be more prominent from the Pencaitland to Haddington road. He did have concerns; there were a few, very visible, wind turbines already in place across the county, which had set precedents. He had supported other turbines, Crystal Rig and Aikengall for example, which provided vast amounts of energy. This was not that kind of turbine. There was a financial reason for it however he felt the circumstances were not exceptional. The policy should be adhered to; he would be supporting the report recommendation.

Councillor Innes indicated that wind turbines were always a difficult issue that created division. He made reference to the relevant policy guidance, stating there were limited opportunities for this size of wind turbine in this area. He did not support the recommendation for refusal made by the Planning Officers. Members had to look at the need for this wind turbine in relation to the local economy. It would bring substantial economic benefits to the Winton Estate. He would be supporting the application and urged colleagues to do the same.

Councillor Currie stated that each application had to be dealt with on its own merits. Wind turbines were one of the most contentious issues. This Committee had an excellent record over the years in determining these kinds of applications. In relation to this application there was an issue regarding the visual impact of the wind turbine on the landscape. He agreed with the Planning Officers and would be supporting their recommendation to refuse the application, adding that if the Committee refused the application he hoped this would be the end of the matter.

Councillor Gillies indicated that he would be supporting the report recommendation to refuse this application.

The Convener brought the discussion to a close. He remarked that every wind turbine planning application brought controversy; the Committee had to consider each application carefully. In relation to this application, the Planning Officers, in line with the Council's policies, had stated that the only relevant viewpoint was from the Pencaitland War Memorial and the associated impact on the landscape feature of Traprain Law. He stressed that Members had to make a judgement. In his opinion, the wind turbine would not have the impact as stated by the Planning Officers. If this wind turbine was not acceptable then none were acceptable. He would be going against the report recommendation to refuse the application. The report recommendation was put to the vote.

Decision

The recommendation that planning permission should be refused was put to the vote and received **8 votes for** and **6 votes against**; there were no abstentions. The Committee agreed to refuse to grant planning permission for the following reason:

- 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.

Sederunt – Provost Broun-Lindsay returned to the Chamber

5. PLANNING APPLICATION NO. 13/00756/PM: EXTENSION TO THE EXISTING 400KV SUBSTATION AND ASSOCIATED WORKS AT CRYSTAL RIG SUBSTATION, DUNBAR

A report was submitted in relation to Planning Application No. 13/00756/PM. Keith Dingwall, Principal Planner, presented the report, informing Members that this application was defined as a major development and had therefore to be brought to the Planning Committee for determination. The report recommendation was to grant consent.

Decision

The recommendation that planning permission should be granted was put to the vote and received **15 votes for** and **none against**; there were no abstentions. The Committee agreed to grant planning permission 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 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 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.

Signed

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Councillor Norman Hampshire
Convener of the Planning Committee

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

2

Note - this application was called off the Scheme of Delegation List by (1) Councillor Goodfellow and (2) Councillor Berry for the following reasons: (1) This application requires car parking space to be given up for the building. In my view car parking in North Berwick is such a serious and growing problem that this application merits a full committee decision. (2) The application does not conform to ELC policy regarding provision of adequate parking for such a development in the town centre, especially as the location is such that it would remove existing parking provision.

Application No. **13/00546/P**

Proposal Erection of building for use as 2 units of holiday letting accommodation and the formation of hardstanding area

Location **12 Quality Street
North Berwick
East Lothian
EH39 4HP**

Applicant Mr Stirling Stewart

Per Somner Macdonald Architects

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

The application site comprises the building and rear yard of the property of 12 Quality Street that is in use as a hotel and which is known as "No. 12", formerly the "Harbour House Hotel".

The building is a late 18th century to early 19th century, two storey structure with attic accommodation. Its external walls have a painted rendered finish and its pitched roof is clad with natural slates. There are pitched roof dormers on both its front and rear elevations. It is listed along with the building of 10 Quality Street as being of special architectural or historic interest, Category C. The building and its rear yard are within North Berwick Town Centre and also the North Berwick Conservation Area.

The building has a frontage directly onto Quality Street. The yard to the rear (east) of the building is surfaced with gravel and forms a car park providing seven off-street parking spaces. Those spaces are accessed from the northwest corner of the public car park of

the Imperial Car Park to the east. There is a small outbuilding at the western end of the rear yard of the building of 12 Quality Street. The outbuilding has a mono-pitched roof and its external walls are finished with brick. There are two trees within the rear yard; one to the south of the brick outbuilding and the other to the north of the access from the public car park.

The property is bounded to the north by residential properties, to the east by the Imperial Car Park, to the south by ground floor commercial properties with residential accommodation above and to the west by the public road of Quality Street with commercial and residential properties beyond. Brick boundary walls enclose the rear yard on its north and partly on its east sides.

In July 2008 planning permission was sought through application 08/00686/FUL for the erection of a building for use as either 2 units of self-contained self-catering accommodation or as additional bedrooms to be used in association with the hotel use of the then "Harbour House Hotel" at 12 Quality Street, North Berwick.

Through separate application 08/00686/CAC conservation area consent was sought for the proposed demolition of the existing outbuilding.

The officer recommendation for application 08/00686/FUL was that it be refused as 'due to the failure of the proposed development to meet the Council's required standard of off street car parking provision it is contrary to Policy DP22 of the adopted East Lothian Local Plan 2008. Furthermore, such inadequacy of off street car parking provision coupled with the failure of the proposed development to safeguard the provision of the existing 7 off street car parking spaces that serve the existing Harbour House Hotel use cannot be satisfactorily compensated for elsewhere in North Berwick, either on street or in existing car parks.'

It was also recommended to Planning Committee that conservation area consent application 08/00686/CAC be refused for the reason that "in the absence of an acceptable development proposal for the Harbour House Hotel site a grant of conservation area consent for the works proposed in this application cannot be justified."

Members of the Planning Committee discussed the provision of car parking in the area and it was pointed out that visitors to East Lothian should be encouraged to utilise public transport. It was added that the provision of additional car parking for the proposed development would not solve the overall parking problem in North Berwick town centre where parking spaces are at a premium and that the hotel was in close proximity to another local car park.

Members further considered that whilst there would be an impact on parking provision within North Berwick town centre, the economic benefits to the town, the provision of hotel beds in East Lothian and further employment/ tourism opportunities that would be offered as a result of the proposed development would outweigh the negative aspects of the proposal. On this consideration therefore Planning Committee granted planning permission subject to the prior conclusion of a planning obligation in the form of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997.

The terms of that planning obligation were to tie the ownership of the building and the accommodation contained therein to that of the "No. 12" hotel, 12 Quality Street, North Berwick and to restrict the operational use of the building and the accommodation to be contained therein to either self-contained self-catering accommodation and/or additional letting bedrooms to be wholly and solely used in relation to and in association with the business use of the hotel at 12 Quality Street, North Berwick such that at no time the

building and the accommodation to be contained therein could be used as separate independent residential accommodation.

Following the conclusion of that legal agreement planning permission 08/00686/FUL was conditionally granted on 1 July 2010.

Planning Committee also resolved to grant conservation area consent 08/00686/CAC for the demolition of the existing outbuilding.

In June 2012 the applicant sought a modification to Clause 2 of the obligation of the Section 75 Agreement such that the building and the accommodation contained therein would not be tied in ownership and operational use to the hotel at 12 Quality Street, North Berwick. Application 12/00006/OBL was approved on 16 October 2013.

Planning permission 08/00686/FUL has not implemented and has since expired.

Planning permission is now again sought for the erection of a detached one and a half storey building on the northern half of the rear yard. The proposed building would be used as two units of holiday letting accommodation to be operated either separately or in association with the "No.12" hotel at 12 Quality Street. Also proposed is the formation of an area of hardstanding.

The proposed building would be one and a half storey in height and would have a generally rectangular footprint measuring some 22 metres long by some 7 metres wide. Its external walls would have a rendered finish and its pitched roof would be clad with slates. There would be five wallhead dormers on its south elevation and two rooflights on its north elevation. It would have reconstituted stone quoins, and window and door surrounds. The frames of the windows, doors and patio doors, and the external doors would be of timber construction. It would have grey upvc downpipes and guttering.

A carport providing two off-street car parking spaces would be positioned centrally in the south elevation of the building, and one further off-street car parking space would be provided to the south of the proposed building. Vehicular and pedestrian access to the building and what would remain of the rear yard would be from the existing access from the Imperial car park. There would also be pedestrian access from the rear of the existing hotel building.

The applicant's agent has submitted a supporting statement with the application, which states that the proposed development is identical in all respects to the development approved by the grant of planning permission 08/00686/FUL and is on the matters of design, overlooking and overshadowing and operational use, consistent with the relevant policies of the development plan.

In that there is no change to the scheme of development proposed, the supporting statement acknowledges that there will be a short fall in parking provision. On this matter it states that:

- * The number of guests that arrive at the Harbour House Hotel by car is considerably less than 1 per room. Analysis of guest registration cards for the last 6 months shows that 47% of rooms arrived by car and 53% by other means;
- * The majority of guests who stay are out all day, more often than not playing golf;
- * The Gardener's Car Park has recently been extended to add 60+ spaces to the provision of car parking in North Berwick;
- * The hotel operates 12 months of the year whilst parking is a problem for only 2 or 3 months of the year;

- * The hotel operates a courtesy coach for residents and diners. The applicant is prepared to consider extending this service to a "pick up and drop off" service allowing guest to park at the public Recreation Car Park;
- * Most residents arriving by car share with at least one other resident;
- * A good percentage of guests come from abroad and usually arrive by chauffeured coaches which do not require parking;
- * The majority of parking required for the hotel is overnight and not through the day which is the busy period; and
- * A number of guests arrive by public transport.

The applicant recognises that the proposed car parking provision falls short of the Council's adopted parking standards but considers that this would be balanced with the economic benefits to the town centre, the provision of hotel beds in East Lothian and further employment opportunities.

As with the previously approved scheme of development, it is again indicated on the planning application drawings that the existing outbuilding at the western end of the rear yard of the building of 12 Quality Street would be demolished to facilitate the construction of the proposed building. However as is stated in paragraph 3.55 of the Scottish Historic Environment Policy: December 2011, the Scottish Ministers have directed that the need for conservation area consent for the demolition of an unlisted building in a conservation area shall not apply to the specific exemptions given in Annex IV of Circular 17/1987 (New Provisions and Revised Guidance Relating to Listed Buildings and Conservation Areas). One of the exemptions applies to a building with a total cubic content not exceeding 115 cubic metres. The existing outbuilding has a cubic content less than 115 cubic metres and therefore its demolition is exempted from the need for conservation area consent.

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

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) June 2013 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) June 2013, and Policies ENV2 (Town and Village Centres, Other Retail or Mixed Use Areas), ENV3 (Listed Buildings), ENV4 (Development Within Conservation Areas), DP2 (Design), DP14 (Trees on or Adjacent to Development Sites) and DP22 (Private Parking) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the applications.

Material to the determination of the application are Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Scottish Government's policy on development affecting a listed building or its setting and development within a conservation area given in Scottish Planning Policy: February 2010.

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

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

One written objection to the application has been received. It is from the occupiers of a neighbouring residential property. It is made on the grounds that:

- (i) Van and lorry deliveries to the hotel and the neighbouring Zitto restaurant illegally park on double yellow lines outside the objector's bedroom window – this problem would escalate if the proposed development is approved;
- (ii) There is no land available for a site compound;
- (iii) An apple tree would be remove to facilitate the development;
- (iv) There is no guarantee that the flats will only be used for holiday letting;
- (v) There would be a reduction in available parking spaces if the hotel car park is built upon; and
- (vi) The Council's Transportation Service objected to the previous application due to congestion.

Matters concerning parked delivery vehicles and the availability of land for a site compound that may be associated with the proposed development are not material considerations in the determination of this application.

By being in North Berwick Town Centre the application site is within a mixed use area defined by Policy ENV2 of the adopted East Lothian Local Plan 2008.

Policy ENV2 states that uses appropriate to a town centre will be acceptable in principle. These uses include retail, business and office use, restaurants, leisure and entertainment. Policy ENV2 does not favour any one of these uses over another. Proposals that would have a significant environmental impact, particularly on existing housing, will not be permitted.

The proposed building would be used as holiday letting accommodation operated either separately from or in association with the existing hotel use of the "No. 12" hotel. Such proposed uses would be compatible with the existing hotel use of "No. 12" and with the mixed use area of North Berwick Town Centre. They would be uses appropriate to the town centre. They would contribute to the vitality and viability of the town centre. In principle they are consistent with Policy ENV2 of the adopted East Lothian Local Plan 2008.

The application site is part of the older core of North Berwick Conservation Area (i.e. High Street, Quality Street and the area around the harbour) which, according to the character statement for the Conservation Area given in the adopted East Lothian Local Plan 2008 is characterised by tightly packed buildings and narrow streets of a type

common to many Scottish burghs. Buildings are generally compact and small scale fronting directly on to streets and most buildings date from the 18th and 19th century. 20th century infill development is also commonplace. Use of colour and architectural detailing, differences in roof height, shop fronts that adhere to original plot widths and retention of many original features and shopfronts make for a busy centre of variety and interest.

The buildings in the immediate vicinity of the application site are generally two storey in height or two storey with attic accommodation. They have a variety of finishes on their external walls, with natural stone and painted stone and rendered finishes both being prevalent. The roofs of the surrounding buildings are mainly clad with natural slate, although in some instances there are pantiled roofs.

The proposed building would be of a detached form, would be positioned on the northern part of the rear yard of the "No. 12" hotel and would be some 2.7 metres away from the rear elevation of that existing building. It would, at a height of one and a half storey, be some 2.0 metres lower than the height of the two storey and attic building of the "No. 12" hotel and the building of 10 Quality Street that adjoins the "No. 12" hotel to the south. The neighbouring building of 10 Quality Street has on the rear (east) of it a two storey, mansard roofed extension and a single storey hipped roofed extension, which together projects some 22.5 metres out from the rear elevation of that building. In its proposed position the detached building would be only some 2.5 metres further east than the east end of the two storey and single storey extensions of the building of 10 Quality Street. It would have a similar perpendicular alignment to the rear elevation of the "No. 12" hotel as does the two storey and single storey extensions on the rear of the building of 10 Quality Street. It would not by its positioning and size harmfully increase the already dense development of the older core of the Conservation Area, of which the "No. 12" hotel is a part.

In its position to the rear of the existing buildings of the "No. 12" hotel and 10 Quality Street the proposed detached, one and a half storey building would not be visible from the main public thoroughfare of Quality Street to the west. It would be visible from the Imperial Car Park to the east. However, as viewed from within the car park, it would be seen in the context of the rear elevation of the "No. 12" hotel and of the adjoining building of 10 Quality Street and of the high buildings to the north and south of them. As seen against the backdrop of those higher buildings the proposed detached, one and a half storey building would appear subservient to them and not as a dominant feature within its backland location within this part of the Conservation Area. The proposed building is designed to have some traditional form and detailing with a pitched slated roof, pitched roofed wallhead dormers and timber framed windows and doors. Its painted rendered external walls would be seen in relation to the painted rear elevation walls of the "No. 12" hotel and the building of 10 Quality Street and of the painted wet dash rendered rear elevation walls of the adjoining buildings to the north and south of them and of the rear extension of the building of 10 Quality Street.

In its position and by virtue of its one and a half storey height, its size, form, architectural detailing and external finishes the proposed building would be appropriate and acceptable to its place and would not be harmful to the character and appearance of the Conservation Area. Neither would it be harmful to the backland setting of the Category C listed building of 10-12 Quality Street as visible from the Imperial car park.

On these matters of positioning and design the proposed building is consistent with Policy 1B of the South East Scotland Strategic Development Plan (SESplan) June 2013, Policies ENV3, ENV4 and DP2 of the approved East Lothian Local Plan 2008 and Scottish Planning Policy: February 2010.

The accommodation to be provided within the proposed building would not have any private amenity open space, as the building would be bounded immediately to the south by a hardstanding area providing vehicular access and a car parking space, would abut the boundary wall of the site on its north and east sides and would be only some 2.7 metres from the rear of the existing hotel building. However the building would be used as holiday letting accommodation either separate from or in association with the hotel use of the "No. 12" hotel and not as houses or flats, in which case the provision of private outdoor amenity space is not essential.

The size and form of the proposed building and the internal space to be provided within it would be sufficient to enable use of the building as houses/flats. Due to its confined location, in being so close to the rear of the commercial premises of 10 and 12 Quality Street and in having no private outdoor amenity space and no private access or parking provision the building could not reasonably be used as houses/flats, as the residents of them would not benefit from sufficient privacy and residential amenity. To prevent the proposed building of holiday letting accommodation from being used as separate houses/flats, the occupation of it should be restricted to short term lets of no more than six consecutive weeks, with no re-let to the party/ parties who last occupied them anytime within a period of two months following the date on which the previous occupancy ends. Furthermore that the proposed building of holiday letting accommodation should not be used as a house as defined by Class 9 (Houses) of the Town and Country Planning (Use Classes)(Scotland) Order 1997 or as residential accommodation in the forms of flats for sale or for renting. These matters can reasonably and competently be controlled by a condition imposed on a grant of planning permission for the proposed holiday letting accommodation building. Such a control would be consistent with the objectives of the grant of planning permission 08/00686/FUL and its associated planning obligation as subsequently modified. They would not compromise the use of the building as holiday letting accommodation operated separately from or in association with the "No. 12" hotel.

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.

All of the elevations of the proposed building would be within 9 metres of the boundaries of the site. Nonetheless, there would be no windows or other glazed openings in the north, east and west elevation walls of the proposed building. By virtue of their height above the internal first floor level of the proposed building, the two rooflights proposed on the north elevation roof slope would not allow for harmful overlooking of the garden ground of the residential properties to the north. The insertion of windows or other glazed openings in the north elevation would result in harmful overlooking of the neighbouring garden ground to the north. However, the proposed building, would not benefit from permitted development rights as it would be a building in business use and in a conservation area. Therefore, any future proposals to form windows or other glazed openings in its north elevation would require planning permission and would be within the control of the Planning Authority.

The north elevation of the proposed building would be more than 18 metres from the residential flatted buildings and houses to the north.

The south elevation, with windows and glazed openings, would be within 18 metres of the north elevation of the two storey and single storey extensions at the rear of the building of 10 Quality Street.

The first floor of that extension is part of the flat of 12A Quality Street. The ground floor of the two storey extension and the single storey extension form part of the business use of the premises of 10 Quality Street and any overlooking of the windows and glazing in the north elevation of them from the proposed building, in its business use, would not be a case where overlooking is a privacy and amenity consideration.

The residential flat of 12A Quality Street has a solid timber entrance door and two windows on its north elevation. The two windows would face northwards to the windows and glazed openings of the south elevation of the proposed building only 6.7 metres away from them. However, the two windows of the north elevation of the existing extension serve a circulation space/hallway and do not serve any habitable room of the flat of 12A Quality Street. Thus, although those two windows would be overlooked from the proposed building, such overlooking in being only of a circulation space/hallway would not be harmful to the privacy and residential amenity of the flat of 12A Quality Street.

On the matter of overlooking the proposed building is not contrary to Policy DP2 of the adopted East Lothian Local Plan 2008.

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

The proposed building would have an impact on the daylight to the windows on the rear (east) elevation of the building of 12 Quality Street. However, those windows serve the "No. 12" hotel use of that building and not a residential use. Moreover the proposed building is being promoted for use in association with the hotel use of the "No. 12" hotel and in such circumstance harmful loss of daylight is not a privacy and amenity consideration. There is no relevant daylight test in the Guide with regard to the impact of the proposed building on the garden ground to the north of the application site.

Application of the sunlight test given in "Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice" demonstrates that the proposed building would not cause significantly greater overshadowing of the garden ground to the north of the application site than is already caused by the existing building of 12 Quality Street.

On the matter of overshadowing the proposed building is not contrary to Policy DP2 of the adopted East Lothian Local Plan 2008.

The proposed area of hardstanding would take the form of a tarmac surfaced driveway and parking area and would be formed under the canopy of the car port of the building and to south side of the proposed building. By its form, extent, materials and positioning the proposed area of hardstanding would be appropriate to its location and in keeping with its surroundings. It would not be harmful to the character and appearance of the Conservation Area. Neither would it be harmful to the backland setting of the Category C listed building of 10-12 Quality Street.

On these considerations the proposed area of hardstanding is consistent with Policy 1B of the South East Scotland Strategic Development Plan (SESplan) June 2013, Policies ENV3, ENV4, DP1 and DP2 of the approved East Lothian Local Plan 2008 and Scottish Planning Policy: February 2010.

The two trees on the application site are an under-mature sycamore tree and an apple tree. Both of these trees would have to be removed to make way for the proposed building. The advice from the Council's Landscape Officer (Policy and Projects) is that neither of the two trees makes a significant contribution to the visual amenity of this part of the Conservation Area and so there is no objection on landscape grounds to their removal and no requirement for replacement planting. Accordingly the proposed development is consistent with Policy DP14 of the adopted East Lothian Local Plan 2008.

The Council's Environmental Protection Manager has no comments to make on the proposed development.

The Council's Economic Development Manager welcomes the additional visitor accommodation proposed by this planning application and comments that this project would provide facilities of the quality expected by today's visitors, complementing and enhancing the "No. 12" hotel.

Scottish Water made no comment on the application.

In that the proposed building would be erected on the rear yard of the "No. 12" hotel, it and the 3 car parking spaces proposed to serve it would replace the currently available space for the provision of 7 off-street car parking spaces.

The Council's Transportation Service note that the proposals are the same as those for which planning permission 08/0686/FUL was approved by Planning Committee in July 2010. They advise, as they did for that application, that under the Council's car parking standards for new developments a use such as the existing hotel use of the "No. 12" hotel, including its ground floor café/restaurant/bistro would require a provision of 18 off street car parking spaces (11 for the letting bedrooms use of the Hotel and 7 for the café/restaurant/ bistro use).

Under the Council's car parking standards, the parking requirement for the self contained self catering or letting bedrooms use of the proposed new building is 7 off street car parking spaces.

The Council's car parking standard of a total of 18 spaces cannot be retrospectively applied to the existing use of the "No. 12" hotel, currently served by the 7 off street car parking spaces available within the rear yard of the "No. 12" hotel. They would be lost to the proposed new development and, furthermore the proposed provision of only 3 off street car parking spaces to serve the new building would be 4 spaces short of the 7 spaces required for it by the Council's car parking standards. The existing hotel use of the "No. 12" hotel combined with the use of the new building would be served by only 3 off street car parking spaces, a shortfall of 11 off street car parking spaces.

The Council's Transportation service advise that such shortfall in off street car parking provision cannot be compensated for by parking within the adjacent Imperial Car Park as parking there is already at a premium.

On these parking considerations the proposed development does not comply with Policy DP22 of the adopted East Lothian Local Plan 2008. The Council's Transportation Service recommend refusal of the application.

Notwithstanding this non-compliance with Policy DP22, it is necessary to consider whether or not there are material planning considerations which in this case outweigh this particular development plan policy.

The approved minute of the Planning Committee meeting of 5 May 2010 at which application 08/00686/FUL was approved records the Members discussions:

- (i) of the provision of car parking within the town centre of North Berwick;
- (ii) of the consideration that visitors to East Lothian should be encouraged to utilise public transport;
- (iii) that the provision of additional car parking for the proposed development would not solve the overall parking problem in North Berwick town centre where parking spaces are at a premium; and
- (iv) that the hotel is in close proximity to another local car park.

Conversely, it is also recorded that one Member noted that the deficit of 11 car parking spaces in North Berwick, where there was already a problem, was a significant loss.

On the above considerations and for the reason that the economic benefits to the town, the provision of hotel beds in East Lothian and further employment/ tourism opportunities that would be offered as a result of the proposed development would outweigh the negative aspects of the proposal, application 08/00686/FUL was approved by 13 votes to 1, subject to the aforementioned planning controls.

The reasons for the grant of planning permission 08/00686/FUL are a material consideration in the determination of this application for planning permission.

For consistency with the previous recommendations of the Planning Committee in deciding planning application 08/00686/FUL, it would in the interests of road safety be prudent to impose a condition on a grant of planning permission that a Green Travel Plan be provided in respect of the proposed building of holiday letting accommodation to minimise private car trips and to encourage the use of alternative modes of transport such as buses, cycling and car sharing and that such a Green Travel Plan should include details of the measures to be provided (e.g. car sharing scheme, offer pick up/drop off for staff and children etc) and the methods of management, monitoring, review, reporting and duration of the Plan.

Subject to this control and on the considerations of amenity benefits to North Berwick and East Lothian as a whole, the proposed development would not conflict harmfully with Policy 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 Samples of: (i) the natural slate to be used to clad the roof of the building, (ii) the reconstituted stone to be used on the external walls of the building and, (iii) the paint colour for the timber components of the timber doors of the building shall be provided for the prior inspection and approval of the Planning Authority prior to their use on the building and the natural slate, reconstituted stone and paint finish used on the applicable parts of the building shall accord with the samples so approved.

Reason:

To safeguard the character and appearance of the building, the character and appearance of the Conservation Area and the backland setting of the Category C listed building 10-12 Quality Street.

- 3 The render to be applied to the walls of the building of holiday letting accommodation hereby approved shall be a painted wet dash render. A sample of the paint colour of the wet dash render shall be provided for the prior inspection and approval of the Planning Authority prior to its use on the wet dash rendered walls of the building and the paint colour used shall accord with the sample so approved.

Reason:

To safeguard the character and appearance of the Conservation Area and the backland setting of the Category C listed building 10-12 Quality Street.

- 4 All of the roof windows of the building hereby approved shall be installed in a manner that ensures that their upper surface is as near flush as possible with the upper surface of the roof into which it will be installed and with minimum flashing.

Reason:

To reduce the visual impact of the roof windows in the interest of safeguarding the character and appearance of the Conservation Area and the backland setting of the Category C listed building 10-12 Quality Street.

- 5 The window frames of the windows of the building of holiday letting accommodation shall, within 1 month of their installation be externally painted white.

Reason:

To safeguard the character and appearance of the Conservation Area and the backland setting of the Category C listed building 10-12 Quality Street.

- 6 The building of holiday letting accommodation hereby approved shall not be occupied unless the three car parking spaces shown on docketed drawing no. PL01A are laid out and available for use. Thereafter the car parking spaces shall be retained in place unless otherwise approved by the Planning Authority.

Reason:

In the interests of road safety.

- 7 The existing vehicular access from the Imperial Car Park to the east shall be retained in place.

Reason:

In the interests of allowing vehicular access to the site.

- 8 A Green Travel Plan to minimise private car trips and to encourage use of alternative modes of transport such as buses, cycling and car sharing shall be submitted to and approved by the Planning Authority prior to any use being made of the building of holiday letting accommodation as hereby approved. The Green Travel Plan shall include details of the measures to be provided, the methods of management, monitoring, review, reporting and duration of the Plan for customers, and a timescale for implementation. Measures could include car sharing schemes or to offer a pick up/drop off service for customers.

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

Reason:

In the interests of ensuring sustainable travel patterns and in the interest of road safety.

- 9 The operational use of the building of holiday letting accommodation and the accommodation therein, all hereby approved shall in all time to come be restricted to short term lets of no more than six consecutive weeks, with no re-let to the party/ parties who last occupied them anytime within a period of two months following the date on which the previous occupancy ends. The building of holiday letting accommodation shall not ever be used as a house(s) as defined by Class 9 (Houses) of the Town and Country Planning (Use Classes)(Scotland) Order 1997 or as residential accommodation in the forms of flats for sale or for renting.

Reason:

To ensure that the holiday letting accommodation use applied for is restricted to that use.

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

REPORT TO: Planning Committee
MEETING DATE: Tuesday 7 January 2014
BY: Depute Chief Executive
(Partnerships and Community Services)
SUBJECT: Application for Planning Permission for Consideration

3

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.

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)