

**PLANNING COMMITTEE**

**3 JUNE 2014**

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

**TUESDAY 6 MAY 2014**  
**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 Brown  
Councillor J Caldwell  
Councillor T Day  
Councillor A Forrest  
Councillor J Gillies  
Councillor J Goodfellow  
Councillor D Grant  
Councillor W Innes  
Councillor P MacKenzie  
Councillor K McLeod  
Councillor J McMillan  
Councillor T Trotter  
Councillor J Williamson

**Council Officials Present:**

Mr R Jennings, Head of Development  
Mr I McFarlane, Service Manager – Development Management  
Ms C Molloy, Senior Solicitor  
Mr K Dingwall, Principal Planner  
Ms S Greaves, Planner  
Ms K Slater, Planner  
Ms L Lauder, Environmental Protection Group Leader

**Clerk:**

Ms F Currie, Committees Assistant

**Visitors Present:**

Item 2 – Mr R Salter  
Item 3 – Ms L Russell  
Item 3 – Prof. D Ingram

**Apologies:**

Councillor S Currie  
Councillor J McNeil

**Declarations of Interest:**

None

**1. MINUTE OF THE MEETING OF THE PLANNING COMMITTEE OF 1 APRIL 2014**

The minute of the Planning Committee of 1 April 2014 was approved.

**2. PLANNING APPLICATION NO. 14/00064/PM: REMOVAL OF CONDITION 6 AND VARIATION OF CONDITION 7 OF PLANNING PERMISSION IN PRINCIPLE 08/00669/OUT TO REMOVE REQUIREMENT FOR ZERO AND LOW CARBON EQUIPMENT AND TO ALLOW SUBMISSION OF GREEN TRAVEL PLAN PRIOR TO OCCUPATION OF BUILDINGS ON LAND BOUNDED BY MUSSELBURGH GOLF COURSE, OLD CRAIGHALL SERVICES AND B6415**

A report was submitted in relation to Planning Application No. 14/00064/PM Keith Dingwall, Senior Planner, presented the report, summarising the key points. He advised Members that there was disagreement between the applicant and the Council regarding the status of planning permission 08/00669/OUT but that this would be addressed in more detail by Mr Salter in his presentation. The application before the Committee today was for removal and variation of conditions and the report recommendation was to grant consent for the application.

In response to questions from Members, Mr Dingwall advised that although the Travel Plan makes practical provision for bus services to the site, the Council cannot insist that bus companies provide services.

Mr Bob Salter of Geddes Consulting, agent for the applicant, addressed the Committee. He explained that the Lothian Park development would seek to secure 500 jobs for the local area. In the three years since planning permission was granted, agents had been trying to attract businesses to the site however the economic downturn had hindered progress. It was his view, and that of the applicant, that this application for removal and variation of conditions should be viewed in the light of an application to extend the original planning permission. He stated that this view was supported by current Scottish Government guidance. He concluded that, without this planning permission, Lothian Park could not respond to the interest of businesses looking to relocate to East Lothian.

In response to questions from Members, Mr Salter advised that discussions had taken place with Queen Margaret University and Persimmon Homes about a footpath from the railway station to the site. Provision had also been made for two bus stops and cycle access and storage. Further than that, it would be for individual businesses to consider the needs of their employees.

Ms Catherine Molloy, Senior Solicitor, advised Members that it should be recognised that there had been extensive correspondence between the Council and the applicant with a view to addressing this legal point. However, despite this engagement, the position of the Council differed from that of the applicant. Ms Molloy advised that planning permission in principle 08/00669/OUT had lapsed on 26 January 2014, three years after it was granted. The applicant took the view that this new application (submitted prior to 26 January 2014) and under Section 42 of the Planning Act would automatically ensure that the life of the planning permission was extended for a further 3 years. Ms Molloy advised that the Council did not agree with

this position. The position of the Council was that, due to changes in August 2009, a Section 42 application to deal with extending the life of a planning permission was not competent (regardless if a time limit condition had been referred to in error). An alternative process to deal with this had been introduced under Regulation 11 of the Development Management Procedures. Ms Molloy also noted that regardless of the Scottish Government guidance and Circulars referred to by the applicant, the strict legal interpretation was based on the legislation. Section 42 of the Planning Act permits the planning authority to consider only the question of developing land without compliance with conditions previously attached. As the ability to use time limits as conditions had been revoked in August 2009, Section 42 was no longer competent.

Following further questions from Councillor Berry, Mr McFarlane confirmed that the application was simply for the removal and variation of conditions. He advised Members that this interpretation of the planning legislation was supported by the majority of Scottish planning authorities. Mr McFarlane said he was happy to discuss the matter of renewal with the applicant, and there was no shortage of support for the development. However, an application to renew a planning permission needed to be made under Regulation 11 of the relevant legislation in the proper way, to allow proper consideration to be given to updated information on transport, education and environmental matters to allow a decision to be reached. This application made under Section 42 of the Planning Act did not allow consideration of matters other than the conditions for which changes had been applied. Therefore it could not be treated as a renewal.

Provost Broun-Lindsay agreed with the views of officers in relation to the original application – the three year deadline had expired. Whether or not to revive the application was a matter for another day. In the meantime, he would be supporting the report recommendation.

Councillor Goodfellow was persuaded by Mr McFarlane's arguments. He agreed that the correct procedure would be for a new application to be submitted. He would be supporting the report recommendation.

Councillor Innes also accepted the views of officers. He had supported the original application and considered it important to take a consistent view. The legal arguments were a matter for the applicant and could not be determined by this Committee. He would be supporting the report recommendation.

Councillor Caldwell expressed disappointment that the original application had not come to fruition with all of the attendant benefits that new businesses and a hotel would bring to Musselburgh. He accepted the views of officers on the legal position. He would be supporting the report recommendation.

Councillor Williamson echoed Councillor Caldwell's comments and indicated that he would be supporting the report recommendation.

The Convener brought the discussion to a close. He reminded Members that, should they approve the recommendation, the original planning application would not go ahead. A new application or a challenge to the legal position would be required to determine whether the development could progress. He would be supporting the recommendation to grant planning permission as set out in the report.

The Convener moved to the vote on the report recommendation:

For: 16  
Against: 0  
Abstentions: 0

### Decision

The Committee agreed to grant planning permission for the removal of condition 6 and the variation to condition 7 of planning permission in principle 08/00669/OUT as follows:

1 Condition 7

A Travel Plan to minimise private car trips and to encourage use of alternative modes of transport shall be submitted to and approved by the Planning Authority prior to the occupation of any component part of the business park development. The Plan shall include proposals for enabling persons to travel to and from the development by public transport. Additionally the Plan shall include: details of the measures to be provided; the timetable for introducing them; 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 use of the scheme of development.

**3. PLANNING APPLICATION NO. 13/01029/P: VARIATION OF CONDITION 2 OF PLANNING PERMISSION 12/00011/P TO ALLOW ADDITIONAL DINING PLACES AND VARIATION OF CONDITION 4 OF PLANNING PERMISSION 12/00011/P TO EXTEND THE OPENING HOURS OF THE CAFE/RESTAURANT TO ALLOW OPERATION BETWEEN 9AM – 11PM MONDAY TO SUNDAY INCLUSIVE (PART RETROSPECTIVE) AT 96 HIGH STREET, NORTH BERWICK**

A report was submitted in relation to Planning Application No. 13/01029/P Stephanie Greaves, Planner, presented the report, summarising the key points. The proposed decision set out in the report was to grant consent for the application.

In response to questions from Members, Ms Greaves advised that the amenity space to the rear of the premises was already overlooked and there would be no increase in overlooking in relation to the extension of opening hours.

Ms Lisa Russell of WYG, agent for the applicant, addressed the Committee. She confirmed that the deli was still the main business use for the premises. The extension to business hours for the cafe would provide the flexibility to run a “pop up” restaurant every other Saturday and to host occasional events such as birthday parties. The applicant had no plans to make regular use of the extended hours and the additional tables and chairs would be stored in the basement when not in use.

Prof. David Ingram spoke against the application. He and his wife live above the premises. While they have no objection to an occasional pop-up restaurant, they are concerned that the application seeks an extension to the cafe opening hours every night. He suggested that the extension be limited to certain nights or occasional use. Prof. Ingram also requested that the windows to the rear remain closed at all times to preserve the amenity of the shared garden area and limit overlooking.

In response to a question from Councillor Berry, the applicant, Mr McLaughlin, agreed that frosted glazing could be applied to the rear windows to limit overlooking.

Local Member Councillor Berry said that he had been approached by a number of residents with concerns about late opening of the cafe. He felt that while there was the possibility of disturbance to local residents there were already a number of other business open until 11pm and he was not aware of any significant problems. On balance, he was minded to support the application.

Local Member Councillor Day considered this to be a high quality business and did not anticipate any problems as a result of extended opening hours. However, should there be issues these would be better addressed through licensing rather than planning. He would be supporting the report recommendation.

Local Member Councillor Goodfellow agreed that licensing would control much of the use of the premises. His only concern related to overlooking of the amenity space to the rear of the building. He would support the application, subject to the rear windows being obscure glazed and being kept closed.

In response to a question from the Convenor, Ms Lillianne Lauder, Environmental Protection Group Leader, confirmed that adequate ventilation would be required to meet environmental health standards but that this could be done in a variety of ways.

Councillor Day accepted the idea of obscure glazing but requested that this be restricted to a panel at head height, rather than the full window.

Mr McFarlane confirmed that a condition could be added to the planning permission and proposed the following wording: “within one month of the date of this planning permission, the rear windows of the premises shall be obscure glazed to a detail to be approved in advance by the Planning Authority”.

The Convenor brought the discussion to a close. He noted that Members appeared to be in agreement over the application with the inclusion of an additional condition relating to obscure glazing. He would be supporting the recommendation to grant planning permission subject to the inclusion of the additional condition.

The Convenor moved to the vote on the report recommendation, as amended:

For: 16  
Against: 0  
Abstentions: 0

### **Decision**

The Committee agreed to grant planning permission subject to the following conditions:

1 Condition 2

The cafe use hereby approved shall be limited to the three areas coloured yellow for tables and seating and for the W.C. facilities as delineated on drawing no. 100.10/Rev A docketed to this planning permission.

Reason:

To ensure that the amount of cafe use remains as applied for and hereby approved.

2 The hours of operation of the café use hereby approved shall be restricted to 9.00am to 11.00pm on Mondays to Sundays inclusive.

Reason:

To restrict the hours of operation of the café use to that applied for and to safeguard the amenity of the area, including the amenity of neighbouring residential properties.

- 3 Within one month of this planning permission, the rear windows of the premises shall be obscure glazed to a detail to be approved in advance by the Planning Authority.

Reason:

To protect the amenity of the garden of the building.

#### **4. PLANNING APPLICATION NO. 14/00083/P: PART CHANGE OF USE FROM RETAIL (CLASS 1) TO CAFE USE (CLASS 3) AND REPAINTING OF SHOP FRONT (RETROSPECTIVE) AT 91 HIGH STREET, NORTH BERWICK**

A report was submitted in relation to Planning Application No. 14/00083/P Kirsty Slater, Planner, presented the report, summarising the key points. The proposed decision set out in the report was to grant consent for the application.

Local Member Councillor Berry said he had received representations from other cafe owners on the High Street expressing concerns about over provision and the potential impact on their trade.

Local Member Councillor Day commended the development of these premises as a market place for local businesses. He would be supporting the application.

Local Member Councillor Goodfellow agreed with Councillor Day: a previously derelict site had been transformed into a thriving business. He would be supporting the application.

Provost Broun-Lindsay was also in agreement. He would be supporting the application.

The Convener brought the discussion to a close. He would be supporting the recommendation to grant planning permission as set out in the report.

The Convener moved to the vote on the report recommendation:

For: 16

Against: 0

Abstentions: 0

#### **Decision**

The Committee agreed to grant planning permission subject to the following conditions:

- 1 The cafe use hereby approved shall be limited to the area outlined in red on drawing no. 11 docketed to this planning permission.

Reason:

To ensure that the cafe use hereby approved remains ancillary to the retail use of the premises, in accordance with Policy ENV2 of the adopted East Lothian Local Plan 2008.

- 2 The preparation, including cooking, and sale of hot food within the cafe hereby approved shall be restricted so that no shallow or deep fat frying of food shall take place on the premises, unless otherwise approved by the Planning Authority.



Reason:

To restrict the operational use of the cafe in accordance with the proposed means of ventilation of that use, in the interests of safeguarding the amenity of the area.

Signed .....

Councillor Norman Hampshire  
Convener of the Planning Committee

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**REPORT TO:** Planning Committee  
**MEETING DATE:** 3 June 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 Veitch for the following reasons: This application appears to have generated significant concern locally therefore Members would benefit from visiting the site.*

Application No. **14/00127/P**

Proposal Change of use of technical building for anaerobic digester to agricultural building and removal of condition 7 all as changes to the scheme of development the subject of planning permission 10/00660/P

Location **Ruchlaw Mains  
Stenton  
Dunbar  
East Lothian  
EH42 1TD**

Applicant Ruchlaw Produce Co. Ltd

**RECOMMENDATION** Consent Granted

#### **PLANNING ASSESSMENT**

The application site is comprised of an area of agricultural land in a countryside location to the northwest of the village of Stenton and some 70 metres to the east of the north-south running C132 public road. It is some 300 metres to the northwest of an area of woodland, to the south of which is the village of Stenton. The southern edge of the woodland forms the northern edge of Stenton Conservation Area. There are a number of listed buildings within the village of Stenton, the largest of which is the Category B listed Stenton Parish Church.

The nearest residential properties to the application site are two houses to the west of the C132 road and adjacent to the buildings of Ruchlaw Farm, 6 Ruchlaw Mains to the north of those farm buildings, Ruchlaw Mains Cottages to the west of those farm buildings, Mill Lane Cottages some 200 metres to the northwest of the site and the Category B listed Ruchlaw Mains, located some 400 metres to the south of the site.

The nearest residential property in the village of Stenton is some 260 metres to the southwest of the site.

The site is surrounded by undulating agricultural land, with buildings associated with Ruchlaw Farm located to the north and west of the site.

On 7 April 2011 planning permission was granted for construction on the site of an anaerobic digester to process pig slurry and other organic products to generate renewable electricity and create organic fertiliser. Associated works include alterations to the existing site access and landscaping of the site.

The approved development comprised of a technical building housing a combined heat and power plant (CHP) and with an exhaust flue, storage tanks, parking and loading bays and associated equipment rooms and a digester tank, two digestate storage tanks and three smaller storage tanks. The CHP plant is designed to provide for the energy needs of the anaerobic digester and for the wider farm operation, with excess output of electricity being fed into the national grid.

As approved the technical building has a rectangular footprint some 45 metres long by 32 metres wide, with a pitched roof with a ridge height of some 13 metres, the roof and sides with external finishes of green coloured plastic-coated metal sheeting. The flue as approved is a 0.16 metre diameter stainless steel stack with a height of some 19 metres. The approved digester tank is 31 metres in diameter with 6 metres high sides capped by a dome to a height of some 7.5 metres, the sides and dome being finished with aluminium sheeting in a moss green colour. The approved digestate storage tanks are some 36 metres in diameter with the same side and dome heights but with gray concrete sides with the domes finished a moss green colour. Two of the approved smaller storage tanks are 9 metres in diameter with 5 metres high sides and capped with 2.5 metres high domes. The other smaller storage tank is some 7 metres in diameter with 5 metres high sides and capped with a 2.5 metres high dome. All three of the smaller storage tanks have silver gray stainless steel sides and moss green coloured domes. The biofilter as approved is some 36 metres long, some 10 metres wide and some 2 metres high. The biogas flare, for emergency use to relieve pressure build-ups only, is approved at some 8 metres high with a diameter of 0.6 metres.

Other than the buildings, areas of hardstanding around the technical building and the storage tanks are also approved and a landscaper scheme which included 3 metres high bunds along the north, east and west boundaries of the site and trees planted along the north and part of the south boundary and with a 2 metres high chain link fence within the bunds.

Access to the site as approved is from the existing access off the C132 road, extended into the main part of the site, with alterations to allow access by HGVs.

Under the provisions of the Environmental Impact Assessment (Scotland) Regulations 1999 that type of development is within the category of being a Schedule 2 Development, being one that may require the submission of an Environmental Impact Assessment (EIA). Schedule 3 of The Environmental Impact Assessment (Scotland) Regulations 1999 sets out the selection criteria for screening whether a Schedule 2 development requires an EIA. With regard to Schedule 3 of the Regulations the Council concluded that the anaerobic digester is unlikely to have any significant effects on the environment of the area, nor is it to be sited in any designated environmentally important area and thus there was no requirement for the proposed development to be the subject of an EIA. The Scottish Environment Protection Agency (SEPA) advised as a consultee that the scheme of development was capable of being licensed under their

regulatory powers and therefore they had no objection to it.

Planning permission is now sought for the change of use of the technical building from the approved use as part of the anaerobic digester and removal of condition 7 of planning permission 10/00660/P as changes to the scheme of development the subject of that planning permission.

Condition 7 of planning permission 10/00660/P requires that:

In the event that the anaerobic digester and related combined heat and power plant installed on the application site fail to produce electricity and/or heat for a continuous period of 6 months, then, unless otherwise approved in writing by the Planning Authority, they shall be deemed to have ceased to be required. If they are deemed to have ceased to be required they and their ancillary infrastructure 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 anaerobic digester and combined heat and power plant remaining on the application site, in accordance with Scottish Planning Policy: February 2010 and in the interests of the landscape amenity of the area.

That condition is in accordance with Scottish Government advice on securing the removal of renewable energy projects where they have outlived their viable operational use.

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.

Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) and Policies DC1 (Development in the Countryside and Undeveloped Coast), ENV3 (Listed Buildings), DP13 (Biodiversity and Development Sites), 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 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and Scottish Planning Policy: February 2010.

Scottish Planning Policy on the historic environment 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.

Also material to the determination of the application are the 46 written representations received from members of the public.

Of these representations, 15 register objection to the proposed change of use of the

technical building. The grounds of objection are in relation to:

- 1) the visual impact of the industrial style buildings in this countryside location which, without the mitigation of their use being for providing renewable energy, is unacceptable;
- 2) the buildings would have a harmful impact on the setting of the B listed Ruchlaw House;
- 3) the change of use would have a considerable effect on the community;
- 4) the smell of slurry from the tank constructed on the site is unbearable at times, including in Stenton;
- 5) the use of a tank for slurry storage is a bacterial hazard and is being operated without the relevant SEPA approvals;
- 6) property owners within the area have not been notified as neighbours;
- 7) the applicant has failed to fulfil the original terms of the application, little of the required landscaping has been carried out and conditions of the planning permission have not been discharged;
- 8) the applicant's attitude is of concern to neighbours;
- 9) whether or not the original application was intended to lead to this outcome;
- 10) management of the farm at Ruchlaw is attended by rising levels of noise (including from a wind turbine and from within the farm steading), smell, traffic and general filth and untidiness;
- 11) increased traffic resulting from the development has and will lead to damage to roads; and
- 12) slurry spreading is carried out carelessly.

Of the other representations, one simply states that they have no objection to the proposals. The other 30 support the proposals in general terms, though one notes that roof colour of the building should be appropriate to its surroundings.

The application was neighbour notified and advertised in accordance with the relevant statutory provisions.

Any breach of SEPA regulations on the storage of slurry are a matter for SEPA under the relevant legislation. There is no requirement to consult with SEPA in respect of this application.

The applicant's attitude towards neighbours is not a material consideration in the determination of this planning application.

Any amenity issues arising from the applicant's operation of Ruchlaw Farm should be addressed through the relevant legislation, including environmental health legislation and SEPA regulatory powers and not through the determination of this planning application.

The application stands to be determined on the merits or otherwise of the proposals and not in respect of any perceived intent of the applicant.

No written objections or other representations were received in respect of the previous application.

The applicant has formed the bunds and started tree planting as approved by planning permission 10/00660/P. Therefore development has commenced and the planning permission is secured. The applicant has also built a storage tank on the site. That tank is the eastmost of those approved by planning permission 10/00660/P and is of the size of the storage tanks approved by planning permission 10/00660/P. The tank is currently in use as a slurry storage tank without being used as part of the approved anaerobic digester use. In this the use of this tank itself is not functionally different from that which it would serve as part of the approved anaerobic digester use, which was to store pig slurry for the anaerobic digester.

The applicant advises that the existing site was planned for use as an Anaerobic Digester but that they were unable to take the £500K Govt grant awarded; they were told 1.5 years later that they could not take FIT and grant and this reduced the viability. They also did not get a contract for food waste from Edinburgh Council. The applicant further advises that the site was scraped, levelled and landscaped in good faith of the project going ahead and also as they had to erect a large slurry store to be used for digested slurry, to meet new regulation by Dec 31 2012 requiring farms to provide 6 months slurry storage. The site investment in levelling and slurry store to date has cost £200,000. The applicant also informs that in September 2013 the farm business purchased 100 acres of additional land adjacent to Ruchlaw Mains and winter wheat has been sown on that land. Because of this, by September 2014 they will need additional grain storage for 400 tonnes of wheat and to meet this requirement need to start construction of this [technical] building.

Thus it is now proposed that the as yet unbuilt technical building approved by planning permission 10/00660/P be used instead for purposes of agriculture rather than as part of the originally proposed anaerobic digester use. The principle of the use of the building for agricultural purposes on the land of the operational land of Ruchlaw Farm is consistent with Part 1(a) of Policy DC1 of the adopted East Lothian Local Plan 2008 and with Scottish Planning Policy: February 2010.

The primary material considerations in the determination of this application are whether or not the agricultural use of the building approved by planning permission 10/00660/P is appropriate and whether or not this would result in any significant impact over and above the use of the site as an anaerobic digester operation.

The design assessment of the proposal approved by planning permission 10/00660/P was that the functional design and finishes of the building and the related digestate tanks would not in themselves be inappropriate to their countryside location. The digestate tanks would be similar to agricultural slurry storage tanks. They would also be seen in relation to the nearby existing farm buildings to the north and west.

However, it was acknowledged that notwithstanding those appropriate design factors, the buildings and digestate tanks are large structures on a site in a relatively open landscape.

The landscape assessment of the proposal approved by planning permission 10/00660/P was that the site is located in a prominent position, equidistant from the two

areas of existing livestock sheds, one to the north, the second to the west. The location may have been selected to reduce any likelihood of contamination affecting the livestock and food production areas. A landscape preference was that the site to be located further north on the south side of the livestock sheds within the low lying valley as this would retain the open views over the higher levels where the proposed site is positioned. That site is also reasonable well screened from the road to the west and the core path to the south running from Ruchlaw Mains to Stenton.

However, the applicant's confirmation that this site was selected to maintain an appropriate distance away from livestock sheds and food production areas was acknowledged in the landscape assessment. Also acknowledged was that the cutting and filling of the existing ground and the creation of mounding within the sloping field would lower the levels of the buildings. On that basis the landscape conclusion was that the siting of the development as proposed would be acceptable if additional screen planting was introduced, bearing in mind that it will take a number of years before the screen planting becomes effective. This, combined with the proposed tree planting along the north boundary at a width of 12 metres as indicatively shown on the plans was seen to be adequate for screening views directly into the site from the north. As the large scale of the building and dome topped digester/storage tanks would be visible over the landform from all other views into the site, the landscape advice was further that additional tree planting to all four sides of the proposed development should be introduced, to a minimum width of 12 metres. To avoid such planting creating a treed enclosure unusual in an open setting, extension needed to be made to the treed strip along the north boundary of the site in a westerly direction to link with the roadside trees. This additional planting would change the visual perspective from an isolated enclosure to further help integrate the site into its surrounds by forming a link to Ruchlaw Mains farm buildings.

The grant of planning permission included conditions to secure the above measures and that all tree planting should comprise a woodland mix of species common to the area, protection measures for young trees, that the northern slope of the proposed bund along the northern site boundary should be continued until it meets with the existing ground levels and that trees should also be planted over this bund as it is positioned within the proposed treed strip.

The conclusion of this landscape assessment was that, subject to the relevant conditions the proposed development, by its form, proportion, height and scale would not be so dominant, prominent, intrusive or incongruous in its landscape setting as to have an unacceptable impact on the landscape character and appearance of the area.

Subsequent to the commencement of development and in response to a complaint from a member of the public, a Planning Enforcement officer visited the site. The conclusion of the site visit is that the landscaped bunds have been formed in accordance with the requirements of planning permission 10/00660/P and that some of the required tree planting has been carried out. There are ongoing discussions between the Enforcement Officer and the applicant to secure the further tree planting required by the terms of that permission. If planning permission is granted for the now proposed change of use of the technical building to agricultural use as an amendment to the existing permission, the relevant landscape requirements of planning permission 10/00660/P would still apply and be enforceable.

The tank as built is not of the approved colour, a matter that can be pursued through planning enforcement. Any other alleged breaches of condition should also be pursued through planning enforcement.



A further assessment of application 10/00660/P was that, due to its distance away from the village of Stenton and with the amount of screening afforded by the intervening area of woodland, the development would not have an adversely imposing or visual impact on that core element of Stenton Conservation Area. The area of woodland would serve as a buffer to mitigate any greater impact on the setting of the Conservation Area or of the village of Stenton itself. Furthermore that by virtue of its distance away from the village of Stenton and from the listed building of Ruchlaw Mains the proposed development would not have any direct visual relationship with any of the listed buildings within or close to the village of Stenton and thus would not have a harmful visual impact on their setting.

On these design, landscape and built heritage considerations the development was approved as being consistent as relevant with Policies ENV1C, ENV1D and ENV3 of the approved Edinburgh and the Lothians Structure Plan 2015, Policies DC1 (Part 5) and ENV3 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy: February 2010.

The landscape and built heritage assessment of application 10/00660/P considered the impact of the built development elements of that application. The use of the buildings and tanks was not a material consideration in that assessment. Therefore the conclusions in respect of the now proposed agricultural use of the technical building and the associated use of the tanks must be that their visual impact remains acceptable subject to the mitigation measures required and therefore consistent with the relevant parts of the development plan, now being Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policies DC1 (Part 5) and ENV3 of the adopted East Lothian Local Plan 2008 and also with Scottish Planning Policy: February 2010.

What is now proposed does not involve any additional or new buildings. The proposal is rather that the main technical building be built as approved within the site as partially landscaped and planted but be used for agricultural storage purposes rather than as part of an anaerobic digester use. As such this would also mean that the tank which has been built on the site would be used to store slurry in relation to the existing farm operation of Ruchlaw Mains and not in relation to an anaerobic digester use. The proposal is also that condition 7 of planning permission 10/00660/P be removed. This would have the effect of allowing the other parts of the development approved by that planning permission to be completed and used without them requiring to be used for the production of heat/electricity as required by the existing planning permission. If the tanks are used for the storage of slurry in relation to the farm use of Ruchlaw Mains rather than in relation to the anaerobic digester use as approved, this agricultural use would be consistent with their location.

As now proposed the development of the site would differ from that approved in that the use of the building and tanks approved by planning permission 10/00660/P would be related directly to the farm use of Ruchlaw Mains rather than for anaerobic digestion as a means of renewable energy production. In this the building and tanks would not affect the amenity in any significantly different way, although it would mean that the flue and flare would no longer be required. The building and tanks would not have any greater landscape or built heritage impact than that of the development as previously approved. Indeed, without the flue and gas flare, the erection of the buildings and tanks can be seen as having slightly less impact than if the development was built and used as previously approved.

In the assessment of application 10/00660/P the Council's Transportation service raised no objection to the proposed development. They confirmed that the proposed

access, parking and turning arrangements would be acceptable for the vehicles up to HGV size which would service the development, consistent with Policy T2 and DP22 of the adopted East Lothian Local Plan. In respect of this application, Transportation raise no objection providing the previously approved access requirements are met.

CONDITIONS:

- 1 no conditions

*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:** 3 June 2014  
**BY:** Depute Chief Executive (Partnerships and Community Services)  
**SUBJECT:** Application for Planning Permission for Consideration

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3

Application No. **13/01020/PPM**  
Proposal Planning permission in principle for erection of 52 residential units and associated works  
Location **Land At Old Craighall Road  
Old Craighall  
East Lothian**  
Applicant W.A Traquair and Son  
Per Clarendon Planning and Development Limited

RECOMMENDATION Application Refused

#### PLANNING ASSESSMENT

As the principle of development proposed in this application is for more than 50 houses, under the provisions of The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 it is defined as a major development and cannot be decided through the Council's Scheme of Delegation. The application is therefore brought before the Planning Committee for a decision.

In accordance with statutory requirements for major developments this proposal was the subject of a Proposal of Application Notice (Ref: 13/00004/PAN) and of community consultation prior to this application for planning permission in principle being made to the Council.

As a further statutory requirement for major development applications, a pre-application consultation report is submitted. The report informs that some 16 people attended the pre-application public exhibition, held at Danderhall Community Centre on 24 October 2013. Those attendees made a number of queries and suggestions regarding the proposals. The development for which planning permission in principle 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 on the proposal.

This application relates to an L shaped area of some 1.63 hectares of agricultural land which lies on the east side of the B6415 Old Craighall Road, just outwith the small settlement of Old Craighall. As such it is within the Edinburgh Green Belt and the East Lothian countryside.

The site is bounded to the northwest by the B6415 Old Craighall Road with residential, four in a block flatted properties beyond, to the northeast by an elevated minor road which leads to the residential property of Monkton Lodge, to the southeast by further agricultural land and to the southwest partly by the relatively modern 11 house residential development of Queen Margaret University Way and partly by agricultural land beyond which are the listed buildings and walls of Monkton Gardens and Monkton House.

The application site is enclosed by natural stone walls and post and wire fences.

Planning permission in principle is sought for a residential development consisting of 52 residential units on the application site. The application as first registered sought planning permission in principle for a residential development of 54 residential units, however, the proposal has since been amended to 52 residential units.

An indicative site layout plan has been submitted with the application indicating how some 52 residential units could be accommodated on the application site. It also indicates that SUDS ponds would be accommodated on the northeast part of the site, informal open space would be provided in the northeast corner of the site and that landscape buffers would be planted along the north-eastern and south-eastern boundaries of the site. It is also indicated that a vehicular and pedestrian access to the site would be taken from a new access from the B6415 Old Craighall Road which would lead through the development and then link into the existing cul-de-sac road of the adjacent Queen Margaret University Way to create a through road back onto the B6415 Old Craighall Road.

The application is also supported by a planning supporting statement, a housing land supply overview, a transport statement, a landscape and visual impact assessment, a stage 1 ground/services desktop study, a phase 1 habitat survey and a design statement.

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 19 February 2014 the Council issued a formal screening opinion to the applicants. The screening opinion concludes that it is East Lothian Council's view that the proposed development is not likely to have a significant effect on the environment such that consideration of environmental information is required before any grant of planning permission in principle. It is therefore the opinion of East Lothian Council as Planning Authority that there is no requirement for the proposed residential development 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), 5 (Housing Land), 7 (Maintaining a Five Year Housing Land Supply) and 12 (Green Belts) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies DC1 (parts 4 and 5) (Development in the Countryside and Undeveloped Coast), DC2 (Development in the Edinburgh Green Belt), DP1 (Landscape and Streetscape Character), DP12 (Trees on or Adjacent to Development Sites), DP17 (Art Works-Percent for Art), DP 18 (Transport Assessments and Travel Plans), DP20 (Pedestrians and Cyclists), DP21 (Public Transport), DP22 (Private Parking), INF3 (Infrastructure and Facilities Provision), H4 (Affordable Housing), ENV3 (Listed Buildings), ENV7 (Scheduled Monuments and Archaeological Sites), C1 (Minimum Open Space Standard for New General Needs Housing Development), C2 (Play Space Provision in new General Needs Housing Development), T1 (Development Location and Accessibility) 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 is Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and Scottish Planning Policy: February 2010 on development affecting a listed building or its setting. Scottish Planning Policy: February 2010 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.

Also material to the determination of the application is Scottish Planning Policy: February 2010.

Paragraph 75 of Scottish Planning Policy states that a supply of effective land for at least 5 years should be maintained at all times to ensure a continuing generous supply of land for house building.

On the subject of green belts Scottish Planning Policy: February 2010 states that the purpose of their designation in the development plan as part of the settlement strategy for an area is to:

- (i) direct planned growth to the most appropriate locations and support regeneration;
- (ii) protect and enhance the quality, character, landscape setting and identity of towns and cities; and
- (iii) protect and give access to open space within and around towns and cities.

It is also stated in Scottish Planning Policy that certain types and scales of development may be appropriate within a green belt, particularly where it will support diversification of the rural economy. These may include:

- development associated with agriculture, including the re-use of historic agricultural buildings,
- woodland and forestry, including community woodlands,
- horticulture, including market gardening and directly connected retailing,
- recreational uses that are compatible with an agricultural or natural setting, and
- essential infrastructure such as electronic communications infrastructure and electricity

grid connections.

Where a proposal would not normally be consistent with green belt policy, it may still be considered appropriate either as a national priority or to meet an established need if no other suitable site is available. Green belt boundaries should be clearly identifiable on the ground, using strong visual or physical landscape features such as rivers, tree belts, railways or main roads. Hedges and field enclosures will rarely provide a sufficiently robust boundary.

At its Cabinet meeting of 10 December 2013, the Council agreed that East Lothian has a shortfall in its effective housing land supply. At that meeting the Council also approved Interim Planning Guidance against which planning applications for housing on land not allocated for housing development will be assessed. The application site is not allocated for residential development. Therefore the approved Interim Planning Guidance is a material consideration in the determination of this planning application.

A total of 32 written representations have been received in respect of this application, all of which make objection to the proposed development. The majority of the objections submitted are from residents of Old Craighall, including an objection submitted by Old Craighall Residents and Tenants Association.

The main grounds of objection are:

- there is no validation for eroding the Green Belt and there are no defensible boundaries to prevent future development within the surrounding Green Belt towards the City Bypass;
- the proposal does not fulfil SESplan criteria as there is inadequate access to public transport. There is currently no bus service serving Old Craighall and no prospect of getting any given current financial constraints;
- an increase in traffic as a result of the proposed development would be a road safety hazard;
- there are insufficient school places in the area to support the influx of school age children that the development would bring;
- there is lack of provision in the proposal for cycle paths and ways to connect the village to existing cycle paths and ways at Monktonhall;
- the applicant is giving more consideration to views of the development from the A1 than to views of the development from the existing residencies of Old Craighall;
- the criteria cited in SESplan Policy 7 are not met by this proposal;
- Old Craighall is not in the Edinburgh City Region, it is in East Lothian;
- the land at Old Craighall is neither an appropriate or an effective site and land is available at other sites closer to already built up areas;
- it is not acceptable to approve Planning Applications before a suitable Local Development Plan is in place;
- there are no community amenities at Old Craighall to sustain and as such there would be no regeneration benefits to be gained from an expansion of the hamlet;



- there would be no village focus;
- the land is agricultural land; this has been its use for many years despite the applicants' statement to the contrary;
- when considered alongside the development at Shawfair and the proposed development by Persimmon to build from Old Craighall to Newcraighall, Old Craighall would become a suburb of Edinburgh rather than the rural community that it is and is at risk of settlement coalescence;
- the open views for Old Craighall residents are the main amenity and should not be marred by housing that is unnecessary;
- the development is not sensitive in design or scale to the local area;
- the proposed number of houses is approximately a 200% increase in the size of Old Craighall. This is unacceptable to residents;
- this development is not necessary to address a shortfall of housing in East Lothian where there are plans already underway to build a new settlement at Blindwells;
- the infrastructure necessary for the build is not available and requires considerable upgrade;
- the site is on ground that has been mined for at least a hundred years;
- the proposed development would be of no benefit to existing residents of Old Craighall and the building work alone will cause a disruption to the residents and tenants for 2 years;
- the proposed development will result in a loss of privacy and amenity to existing residents;
- the proposal to convert Queen Margaret University Way from a cul-de-sac to a through road to the proposed development would have a harmful impact on residents of Queen Margaret University Way and would lead to considerable extra traffic;
- the pre-application consultation report submitted with the application does not accurately reflect the views of residents of Queen Margaret University Way who attended the public consultation and expressed concerns about the development linking into Queen Margaret University Way;
- the application site lies within an area dense with known prehistoric archaeological remains and also within the confines of an historic feature.

Musselburgh and Inveresk Community Council have been consulted on the application but have not provided a consultation response.

Due to the location of the application site within the Edinburgh Green Belt, Midlothian Council and the City of Edinburgh Council have been consulted. Neither has provided any comments on the proposal.

If planning permission in principle were to be granted, the details of the siting, design and external appearance of the proposed residential units, the landscaping of the site and the

means of access to the proposed development would require the subsequent approval of the Planning Authority. Through the subsequent determination of such details, planning control would be exercised to ensure that the built form of the development would be fully acceptable, with due regard to the need to safeguard the character and appearance of this site on the outskirts of Old Craighall.

The primary material consideration in the determination of this application is whether or not the principle of the proposed housing development accords with development plan policy and other supplementary planning guidance and if not, whether there are material considerations of significant weight in considering the housing development of the application site.

The land of the application site is defined by Policy DC2 of the adopted East Lothian Local Plan 2008 as being part of the Edinburgh Green Belt. Within East Lothian, the Green Belt surrounds Musselburgh and Wallyford and extends towards Prestonpans and Tranent. The adopted Local Plan states it plays an important role in protecting the landscape setting of Musselburgh and the western edges of Prestonpans and Tranent as well as the landscape setting of the eastern edge of Edinburgh.

The adopted Local Plan does not allocate the land of the application site for residential development.

The principle of new build housing development on the application site must therefore be assessed against national, strategic and local planning policy relating to the control of new build housing development in the green belt and in the countryside.

Local Plan Policy DC1 (Development in the Countryside and Undeveloped Coast) provides the detailed context for the consideration of development proposals in East Lothian's countryside and coast. The Edinburgh Green Belt also includes countryside and coast, its specific purpose being to maintain the identity and landscape setting of the city and neighbouring towns and to prevent their coalescence. Thus, the Local Plan's Green Belt policy, Policy DC2, must take these additional considerations into account. It is explained in the Local Plan that most parts of Policy DC1 remain relevant to a consideration of development with the Edinburgh Green Belt, but new build development must be restricted further than in the wider East Lothian countryside. The local plan's Green Belt policy therefore excludes Parts 1 and 3 of Policy DC1.

In accordance with paragraph 84 of Scottish Planning Policy: February 2010, Policy DC2 of the adopted East Lothian Local Plan 2008 sets out the circumstances in which new housing within the Green Belt may be appropriate. Policy DC2 only allows for new build housing development in the Green Belt where it is necessary for agricultural, horticultural or forestry operations, for countryside recreation, or where by its scale and nature it will not harm the rural character of the area; and where it meets the requirements of Local Plan Policy DC1 Part 5; and in all cases, where it does not detract from the landscape setting of Edinburgh and its neighbouring towns, or lead to their coalescence.

The new build housing development proposed in this application is not necessary for agriculture, horticulture, forestry operations or countryside recreation. The proposed 52 houses with their associated development would be of a scale which would be a major extension to the existing small settlement of Old Craighall. This significant extension of that small settlement of less than 50 residential properties would more than double the size of it.

That extension of Old Craighall would be highly visible from views outwith the site, particularly in views from parts of the A720 City Bypass to the south of the site, in views

from parts of the A1 to the north and east of the site and from the settlement of Old Craighall and its immediate surroundings.

Such proposed development within the green belt would be at odds with and harmful to the rural character of the area, affecting and detracting from the landscape setting of Edinburgh and its neighbouring towns. The release of green belt land for such use is properly considered through the development plan process and should not be dealt with through the application process.

On these considerations it is contrary to Policy DC2 of the adopted East Lothian Local Plan 2008. By virtue of being of an inappropriate nature and scale of development for the Green Belt and by virtue of the harmful visual impact it would have on the Green Belt, the proposed development is also contrary to Policy DC1, part 5 of the adopted East Lothian Local Plan 2008.

Notwithstanding that the proposal is contrary to Policies DC1 and DC2 for the reasons given above, the South East Scotland Strategic Development Plan (SESplan) requires that Policies DC1 and DC2 be considered in the context of the current housing land supply.

Policy 5 of SESplan identifies the housing requirement across the SESplan area but not by each Council area. Instead it requires the production of Supplementary Planning Guidance to set out how much of that overall requirement will be met in each Council area through the relevant Local Development Plan. Ministers have indicated that this Supplementary Planning Guidance must be prepared within a year of approval of SESplan (i.e. by June 2014).

Policy 7 of SESplan requires planning authorities in the SESplan area to maintain a five years effective housing land supply at all times. It also requires developments to be in keeping with the character of the settlement and local area; to not undermine green belt objectives and requires that any additional infrastructure required as a result of the development is either committed or to be funded by the developer. Given that the scale of this supply for each Council area is dependent on the housing requirements to be identified through Supplementary Planning Guidance and that the Scottish Ministers have not yet approved that Supplementary Planning Guidance, there is not as yet a definitive figure against which the Council can calculate the effective housing land supply in relation to SESplan.

The Council has agreed that East Lothian has a shortfall in its effective housing land supply. However, until such time as the SESplan Supplementary Planning Guidance is approved the Council does not have definitive housing requirement against which to measure the effectiveness of its five year housing land supply. On this basis the Council approved its Housing Land Supply: Interim Planning Guidance against which planning applications for housing on land not allocated for that purpose will be assessed.

The approved Interim Planning Guidance states that the weight the Council affords its terms, and the terms of other Development Plan policies, to individual planning applications will depend on the extent to which the proposed development is able to satisfy the following criteria:

1 Effectiveness;

2 Scale;

3 Timing;

4 Development Plan Strategy; and

5 Locational Considerations.

In respect of criteria 1; effectiveness, the applicants' agent has confirmed that there are no physical constraints to the development of the site and has enclosed with the application a letter from a national house builder (Barratt Homes), confirming their wish to pursue acquisition of the site should planning permission in principle be granted. The applicant's agent advises that it would be the landowner's (the applicant) intention to retain control over the master planning stage of the proposal and thereafter the intention would be to finalise a legal agreement for the sale of the site on the basis of planning approval having been granted, leaving the house builder to address the details of the development through application for approval of matters specified in conditions. On these considerations the site can be considered to be effective.

In respect of criteria 2; scale, the guidance states that the actual number of houses permissible on any one site or within any one settlement will be assessed against the scale and character of the specific settlement. The small settlement of Old Craighall contains approximately 43 residential units, a play park and no other community facilities. The application site occupies an area approximately half the size of the defined settlement of Old Craighall and it is proposed that 52 residential units would be built on it. Given the small number of dwellings in Old Craighall and the small size of the settlement, an additional 52 residential units on a site which is approximately half the size of the existing settlement would represent a significant expansion of the settlement in a very short space of time. This is a scale of growth that would be inappropriate for such a small settlement and would not readily permit the new residents to be absorbed into the community. Thus the proposed development, by being of a scale inappropriate with the scale and character of Old Craighall fails to meet the terms of criteria 2 of the Interim Planning Guidance.

In respect of criteria 3; timing, the applicant's agent again refers to the interest in the site from a national house builder. They state that the applicant's would accept any condition that restricts the standard time period for validity of planning permissions and advise the national housebuilder who has expressed interest in the site is currently active on a range of housing sites throughout the Edinburgh and the Lothians area and is actively seeking further opportunities and would intend to develop this site at the earliest opportunity.

In respect of criteria 4; development plan strategy, it is considered that the proposed housing would not prejudice the delivery of the existing Development Plan strategy because it would not compromise the ability to provide infrastructure to existing housing land allocations that do not yet have planning permission or are committed but have not yet started, and is not dependent on the prior provision of infrastructure required by existing housing land allocations that do not yet have planning permission or are committed but have not yet started.

In respect of criteria 5; locational considerations, the application site adjoins the eastern edges of Old Craighall and therefore in this respect partially satisfies part of criteria 5 in that it would form an extension of an existing settlement as defined in the adopted East Lothian Local Plan 2008.

As Old Craighall lies outwith the East Lothian Strategic Development Area identified in SESplan, the proposed development has to be assessed against the provisos as set out in part (ii) of criteria 5 as well as the provisos set out in part (i) of criteria 5. In regard to

this the proposed development meets proviso 5(i) (b) in that there is no evidence to suggest that infrastructure is not available or cannot be made available within a timescale that allows for early house completions, but fails to meet proviso 5(i)(a) in that the scale of the proposed development is not in keeping with the scale and character of the existing small settlement of Old Craighall and also fails to meet proviso 5(i)(c) in that the site's development for housing is not, for the reasons set out above, consistent with all other relevant Development Plan policies.

Criteria 5(ii) sets out the further provisos where development may be acceptable, specifically,

(a) where the settlement is well served by public transport,

(b) existing facilities and services are both available and accessible such that the need to travel is minimised, and

(c) the extent to which the additional housing would help make a demonstrable and necessary contribution to sustaining or improving educational, social or community facility provision within the local area may.

In terms of part 5(ii)(a) the site is within close proximity of the nearest bus stops, however, Old Craighall is currently not served by any public transport, with the one service which did operate through Old Craighall recently having been withdrawn. There is therefore no public transport service for any new residents to travel to employment or access local services in the wider area.

Furthermore Old Craighall, being such a small settlement, has no existing facilities or services available or accessible within the settlement, other than a play park, and therefore the need to travel would be essential and cannot be taken to be minimised. Given that there are no existing facilities or services within Old Craighall other than a play park, the extent to which the additional housing would help make a demonstrable and necessary contribution to sustaining or improving educational, social or community facility provision within the local area would be negligible.

On these points the proposed development fails to meet all of the terms of part 5(ii) of the Interim Planning Guidance.

In respect of part (iii) of criteria 5 the proposed development would not be on land allocated for another specific use.

In respect of part (iv) of criteria 5 the proposed development, given it would form a residential extension of the existing settlement of Old Craighall, would be compatible with adjoining or nearby existing uses.

Part (v) of criteria 5 states that a proposed housing use must be contained within robust, defensible boundaries and must not set a precedent for subsequent future expansion, the principle of which would be more appropriately considered through a development plan review.

The application site is bounded on its northwest sides by Old Craighall Road and by the existing housing development of Queen Margaret University Way, on its northeast side by the minor road which leads to the residential property of Monkton Lodge and on its southwest side by a high stone wall and the settings of the A listed building of Monkton House and of the B listed Monkton Gardens. These are robust and defensible boundaries which would serve to contain the proposed development along these aforementioned boundaries. However to the southeast the application site is bounded

by further agricultural ground with no robust and defensible boundary in place between the application site and this further agricultural ground. Although the indicative site layout plan submitted with the application indicates how landscaping features could be planted along the majority of the southeast boundary of the site, this would take many years to establish and thus cannot be taken to provide a robust boundary enclosure in the short to medium term.

On consideration of the above, the south-eastern part of the application site is clearly not contained within a robust, defensible boundary. Accordingly, a grant of planning permission in principle would set a real precedent for subsequent future expansion to the southeast. Such scale of development, which would be development that could potentially further undermine green belt objectives, would be more appropriately considered through the local development plan process. Approval of the residential development proposed for the site could prejudice that process.

With the lack of a defensible boundary to the southeast and the setting of a precedent for future eastern expansion, the proposed housing development would prejudice the Council's subsequent flexibility to consider and determine the amount and location of housing land release through the Local Development Plan process.

Thus on these forgoing considerations the principle of a housing development of the application site is contrary to the Council's Housing Land Supply: Interim Planning Guidance.

Subject to the details of the siting, design and external appearance of the proposed residential units, the landscaping of the site and the means of access to the proposed development, the principle of residential development on the application site would not, by virtue of it being sited adjacent to other residential development, including the adjacent Queen Margaret University Way which partially separates the site from the listed buildings and walls of Monkton Gardens and Monkton House, be development which would harmfully draw attention away from those listed buildings nor would it be harmful to any significant views of those listed buildings. Rather, the listed buildings would remain the focus of their settings. On this count the proposed development is consistent with 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 all as they relate to the setting of listed buildings.

Policy INF3 of the adopted East Lothian Local Plan 2008 stipulates that new housing will only be permitted where appropriate provision for infrastructure required as a consequence of the development is made. This includes funding necessary school capacity.

The Deputy Chief Executive (Resources and People Services) informs that part of the application site is located within the primary school catchment area of Campie Primary School, the other part is located within the primary school catchment area of Whitecraig Primary School and the whole of the site is located within the catchment area of Musselburgh Grammar. He confirms that Campie Primary School has capacity to accommodate pupils that might arise from occupation of 26 of the proposed 52 residential units. However, there would be insufficient capacity at Whitecraig Primary School to accommodate pupils that might arise from occupation of the other 26 of the proposed residential units and insufficient capacity at Musselburgh Grammar to accommodate pupils that might arise from occupation of the proposed 52 residential units. Thus he objects to the application on the grounds of lack of permanent capacity at those schools. However, he would withdraw that objection provided the applicant makes a financial contribution to the Council of £187,980 towards the provision of additional

school accommodation at Whitecraig Primary School and £42,068 towards the provision of additional school accommodation at Musselburgh Grammar.

This can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the payment of the required contribution towards educational accommodation the proposal is consistent with Policy INF3 of the adopted East Lothian Local Plan 2008, which stipulates that new housing will only be permitted where appropriate provision for infrastructure required as a consequence of the development is made. This will include funding necessary school capacity.

The Council's Economic Development & Strategic Investment Manager advises that a grant of planning permission in principle would require to be subject to provision of 25% of all housing units to be developed as affordable housing, through mechanisms to be agreed with the developer. The terms for the provision of this affordable housing requirement could be the subject of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the Council securing the affordable housing requirement the proposal is consistent with Policy H4 of the adopted East Lothian Local Plan 2008.

In respect of open space and play provision, the Council's Principal Amenity Officer advises that open space provision within the development should be in accordance with Policy C1 of the adopted East Lothian Local Plan 2008 which requires on site provision of 60 square metres of open space per dwelling. The indicative site layout submitted indicates a provision of some 3000 square metres of open space provision which is broadly in line with the requirements of Policy C1. Provision of adequate open space within the development is a matter which could be made conditional on a grant of planning permission in principle and subject to the imposition of such a condition the proposal is consistent with Policy C1 of the adopted East Lothian Local Plan 2008.

As no formal play provision is proposed within the site of the proposed development, the Council's Principal Amenity Officer advises he would instead accept a developer contribution of £30,000 for enhancements to the play park which is within the settlement of Old Craighall in lieu of providing a play park within the development, being content that it is within close enough proximity to the application site to provide a suitable play area for the development, and subject to pedestrian improvements being made to the public road between the site of the proposed development and the play area, a matter which he suggests should be agreed with the Council's Transportation Service. This contribution can be secured by a legal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other legal Agreement. The basis of this is consistent with the test of reasonableness of a planning agreement set in Planning Circular 3/2012. Subject to the Council securing this appropriate developer contribution the proposal is consistent with Policy C2 of the adopted East Lothian Local Plan 2008.

Transport Scotland raises no objection to the principle of the proposed development.

The Council's Transportation service has considered the revised Transport Statement submitted by the applicant and is satisfied that traffic likely to be generated by the proposed development could be satisfactorily accommodated on the local road network. The Transportation service advises that proposals contained in the Transport Statement for works immediately in the vicinity of the site along the existing B6415 public road, and

detailed on drawing number MTS 1013/SK01 contained within the Transport Statement (including the provision of a new pedestrian footway along the frontage of the development site to link into the existing traffic island at the eastern end of Old Craighall; improvement works to that existing traffic island; a new section of footway between the existing junction of Queen Margaret University Way, west towards the existing play area; and the narrowing of the carriageway on the approach to the village from the west and the provision of a new pedestrian crossing point at that point) are satisfactory in principle subject to the submission of detailed drawings to be submitted as part of an application for approval of reserved matters consent. This is a matter that could be dealt with by a condition on a grant of planning permission in principle for the proposed development.

The Council's Transportation service further advises that the applicant has, in principle, demonstrated that the internal access road is capable of taking service vehicles as well as a bus service which could use the site as a loop terminus. The detailed design of the internal access road is a matter of detail which would also be subject to the submission of detailed drawings to be submitted as part of an application for approval of reserved matters consent.

The Transportation service also recommend the imposition of conditions relating to the standard of access roads for new housing areas, parking ratios, driveway and parking space dimensions, cycle parking, construction activities and wheel washing. With the imposition of conditions to cover the issues raised by the Transportation service the principles of the proposed development of the site for residential use does not conflict with Policies DP20, T1 or T2 of the adopted East Lothian Local Plan 2008.

In respect of landscape matters the Council's Policy and Projects service has expressed concern regarding the impact the proposed development could have on the wider landscape including loss of greenbelt land, views of the development from the surrounding roads and from designed landscapes and the impact on the character and setting of the Old Craighall. In order to mitigate the landscape impact they have made a number of recommendations in relation to detailed landscape planting which could be made conditions of a grant of planning permission in principle. These include forming landscape buffers along the north-eastern and south-eastern boundaries of the site, repair and retention where possible of natural stone walls within or bounding the site and provision of open space. The landscape section of the Council's Policy and Projects service also express concern that it has not been demonstrated how the proposed development would tie in with existing green networks.

The Council's Environmental Protection Manager raises no objection to the principle of housing development of the application site. She does however advise that there is the possibility of contamination of the soils on the site. Consequently she recommends that prior to the commencement of development on the site a comprehensive contaminated land investigation be carried out and a report submitted to and approved in advance by the Planning Authority with a subsequent remedial strategy submitted if required. This could be made a condition of a grant of planning permission in principle.

The Council's Waste Services Manager raises no objection to the principle of housing development of the application site.

It is stated in Scottish Planning Policy that archaeological sites and monuments are an important finite and non-renewable resource and should be protected and preserved in situ wherever feasible. The presence and potential presence of archaeological assets should be considered by planning authorities when making decisions on planning applications. Where preservation in situ is not possible planning authorities should through the use of conditions or a legal agreement ensure that developers undertake



appropriate excavation, recording, analysis, publication and archiving before and/or during development. If archaeological discoveries are made during any development, a professional archaeologist should be given access to inspect and record them. Planning Advice Note 2/2011: Planning and Archaeology similarly advises. As stipulated in Policy ENV7 of the adopted East Lothian Local Plan 2008, new development that would harm a site of archaeological interest or its setting will not be permitted.

The Council's Archaeology Officer advises that the application site would be situated in an area of known archaeological remains. Because of this the Archaeology Officer recommends that a programme of archaeological works be carried out prior to the commencement of development. This could be secured through a condition attached to a grant of planning permission in principle. This approach is consistent with Scottish Planning Policy: February 2010 and Planning Advice Note 2/2011: Planning and Archaeology.

The Council's Biodiversity Officer was consulted on the planning application but did not comment on it.

The Scottish Environment Protection Agency initially objected to the proposals on the basis of a lack of information on Sustainable Urban Drainage Systems, however, following subsequent submissions by the applicant they have withdrawn that objection and now raise no objection to the principle of the proposed development subject to the provisions of the applicants submissions being developed and agreed at the stage of approval of matters specified in conditions, should planning permission in principle be granted.

Given the scale of the proposed development and its prominent public location, if planning permission in principle were to be granted it would be appropriate for artwork to be incorporated either as an integral part of the overall design of it or as a related commission to be located on the site or in an approved alternative location. This could be achieved by means of a condition on a grant of planning permission, subject to which the proposal would be consistent with the requirements of Policy DP17 of the adopted East Lothian Local Plan 2008.

Scottish Water raise no objection to the principle of the proposed development.

As parts of the application site are within a Coal Mining Development Referral Area the Coal Authority has been consulted on the application. The applicant's agent has submitted a Coal Mining Risk Assessment Report which is contained within the Stage 1 Desk Study (Job no. 11/083, 24 January 2012) which has been submitted as part of this planning application. The Coal Authority advise that the submitted report correctly identifies an on-site mine entry and other coal mining activity, recorded to have taken place beneath the application site and thus the report recommends intrusive site investigation works be undertaken to confirm coal mining conditions and to enable the implementation of any necessary mitigation measures prior to commencement of the development.

The Coal Authority recommends that should planning permission in principle be granted that the intrusive investigation works recommended within the Stage 1 Desk Study (Job no. 11/083, 24 January 2012) be undertaken prior to the commencement of development and that in the event that the site investigations confirm the need for remedial works to treat any areas of shallow mine workings, development shall not begin until a scheme of remedial works on the site has been submitted to and approved in writing by the Planning Authority. This can be required by a condition of a grant of planning permission in principle.

Notwithstanding the above matters which can be controlled by conditions, there are no material considerations that outweigh the primary material consideration that the new build housing development proposed in principle in this application is contrary to the Council's Housing Land Supply: Interim Planning Guidance on five counts. Furthermore there are no material considerations which outweigh the consideration that the type and scale of the proposed development would be inappropriate, highly visible development within the green belt which would undermine green belt objectives and as such is contrary to Scottish Planning Policy: February 2010, Policy 7 (Maintaining a Five Year Housing Land Supply) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies DC1 (Part 5) and DC2 of the adopted East Lothian Local Plan 2008.

#### RECOMMENDATION:

That the application be refused for the following reasons:

- 1 On the following considerations the new build residential development proposed in principle in this application is contrary to the Council's Housing Land Supply: Interim Planning Guidance:
  - (i) The proposed development is of a scale inappropriate to this small settlement;
  - (ii) By virtue of its nature and scale is inappropriate development in the Green Belt and conflicts with Development Plan policies relating to development within the Green Belt;
  - (iii) It would not be served by public transport or any other facilities and services, therefore the need to travel would not be minimised;
  - (iv) Given the lack of existing facilities or services within Old Craighall the proposed housing would not make a demonstrable and necessary contribution to sustaining or improving educational, social or community facility provision within the local area;
  - (v) The south-eastern boundary of the application site is not contained within a robust, defensible boundary and the residential development of the application site would set a real precedent for subsequent future expansion to the southeast, the principle of which should be considered through the Local Development Plan process.
- 2 The type and scale of the proposed development would be inappropriate, highly visible development within the green belt which would undermine green belt objectives and as such is contrary to Scottish Planning Policy: February 2010, Policy 7 (Maintaining a Five Year Housing Land Supply) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies DC1 (parts 5) (Development in the Countryside and Undeveloped Coast), and DC2 (Development in the Edinburgh Green Belt).

*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:** 3 June 2014  
**BY:** Depute Chief Executive (Partnerships and Community Services)  
**SUBJECT:** Application for Planning Permission for Consideration

**4**

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*Note - this application was called off the Scheme of Delegation List by Councillor Veitch for the following reasons: This application appears to have generated significant concern locally therefore Members would benefit from a site visit.*

Application No. **13/00650/P**  
Proposal Erection of 2 houses and associated works  
Location **Land Adjacent To The Steading  
High Road  
Spott  
East Lothian  
EH42 1RJ**  
Applicant Mr and Mrs Gilmour and Tessa Lawrie  
Per Architecturejfltd

RECOMMENDATION Consent Granted

#### PLANNING ASSESSMENT

This application relates to a mostly rectangular area of scrubland and a small linear stretch of agricultural land which are located to the south of High Road, Spott. The main part of the site is bounded to the east by the house and garden of 1 High Road, to the south by an access road, to the west by a small tree belt and to the north by the house and garden of Turner's House, which itself fronts onto High Road. The site is in an elevated position from that of High Road and the property of Turner's House.

The part of the site comprising the rectangular area of scrubland is within a predominantly residential area as defined by Policy ENV1 of the adopted East Lothian Local Plan 2008. It is also within Spott Conservation Area. Turner's House is listed as being of special architectural or historic interest (Category C).

The part of the site comprising the small linear stretch of agricultural land is within the

countryside as defined by Policy DC1 of the adopted East Lothian Local Plan 2008. It is not within Spott Conservation Area.

Planning permission is sought for the erection on the application site of two detached houses together with hardstanding areas.

The proposed two houses would be of a similar design with 2 floors of accommodation. It is proposed that they be positioned opposite and facing one another some 18.2m apart. Their roof ridges would run in a north-south alignment such that their gable ends would face north and south. The roof of each house is designed to be of a pitched form and of a maximum ridge height of some 7m. Pitched roofed wallhead dormers and a single roof window would be installed in the roof slopes of each house. The roof slopes and roofs of the wallhead dormers of each house would be clad with natural slate. The walls of each house would be clad in a white painted wet dash render with buff coloured sandstone cills, skewes and chimney copes. The windows to be installed in each of the houses would be of a timber framed traditional sliding timber sash and case style. White painted timber framed doors would be installed at ground floor level in each house.

Vehicular access into the site would be taken from the access road on the south site of the site. This would take the form of a shared access for the proposed two houses which would lead to a driveway parking and turning area for each house. Each house would have garden ground around it, with their principal area of garden being to the north of them.

On the small linear stretch of agricultural land it is proposed to form a new pedestrian path at the western part of the site for future occupiers of the proposed two houses, which would provide direct access from the access road on the south side of the site to High Road. A small post and wire fence would be erected at either side of the proposed path.

Revised drawings have been submitted showing a revised window detail more in keeping with the window detailing of the neighbouring houses in the Conservation Area.

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.

Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan), and Policies DC1 (Development in the Countryside and Undeveloped Coast), ENV3 (Listed Buildings), ENV4 (Development within Conservation Areas), DP7 (Infill, Backland and Garden Ground Development), DP2 (Design) DP14 (Trees on or Adjacent to Development Sites), DP22 (Private Parking) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

Material to the determination of the application are Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, Scottish Planning Policy: February 2010 and Planning Advice Note 67: Housing Quality.

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

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

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

Five written objections to this application have been received. The main grounds of objection are that the proposed development would;

- \* harm the setting of the Category C listed Turner's House;
- \* detract from the historic character and appearance of the Conservation Area;
- \* harmfully overlook and lead to a loss of daylight to neighbouring residential properties;

- \* lead to the loss of trees;
- \* cause surface water flooding;
- \* have poor access; and
- \* put pressure on the local sewage system.

The impact of the proposed development on the local sewage system is a matter to be dealt with under separate Building Regulations and thus is not a material consideration in the determination of this planning application.

Due to its limited size and positioning the proposed use of the small linear stretch of agricultural land as a new pedestrian path would not appear incongruous or exposed within its landscape setting and would not harm the landscape character of the area. Due to its relatively simple form and that it would be finished with crushed stone and whin dust it would be appropriate to its setting and would not be out of keeping with its surroundings. It would not be prominent, obtrusive or exposed within its countryside setting. Neither due to its small height and open simple construction would the proposed post and wire fence. They would be consistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) and Policies DC1 and DP2 of the adopted East Lothian Local Plan 2008.

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

This part of the site is within a predominantly residential area with residential properties to the north and east of it. In such circumstance the erection of two houses on it would amount to urban infill housing development within the village of Spott.

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

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

Whilst it is not essential to replicate existing building styles to build successfully in a conservation area and indeed in other locations, the advice given in PAN 67 and the requirement of relevant development plan policy is that in designing proposed new buildings developers should think about the qualities and the characteristics of places. The development should reflect its setting and 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. They should not detract from the character and appearance of the Conservation Area.

The application site is on the southwestern edge of Spott Conservation Area. The Conservation Area that is generally characterised by single storey and one and a half storey houses, with pitched roofs clad in either slate, red pantiles or concrete tiles and walls finished in either red sandstone or white, cream or sandy coloured render. Some have pitched roof dormers in their roof slopes and others have roof windows. Most houses are aligned to face High Road however there are some that present their gable end to High Road. The garden plot sizes are all relatively modest. There are a number of mature trees on the western part of the site that contribute positively to the character and appearance of this part of the Conservation Area.

The proposed two houses, by their scale, design and finishes would in the most part have traditional architectural elements found within the Conservation Area and which are components of the special architectural character and historic interest of the Conservation Area, including their wet dash rendered walls with sandstone articulated architectural features, slated pitched roofs, wallhead dormers and the glazing pattern of their windows. By their detached one and a half storey architectural style and in their proposed positions and with their respective north-south alignments the proposed two houses would be in keeping with the form, pattern and density of the layout of the houses in Spott. The proposed two houses would sit comfortably in relation to one another and in their relationship with the houses to the east and the properties fronting High Road.

By virtue of their size, scale, proportions, architectural form, finishes and positioning the proposed two houses would not be an intrusive, incongruous or exposed form of development. They would not harm the character and appearance of the Conservation Area. They would respect the pattern and density of development of the built form of the locality. They would be an acceptable form of infill development. Conditions can be imposed on the grant of planning permission to control the external finishes of the proposed houses.

The proposed two houses have been positioned such that in views from High Road they would site at either side of the Category C listed Turner's House to the north of them. Due to their orientation it would only be the limited massing of the gable ends of each house that would be seen in views northwards from High Road towards Turner's House. This would allow Turner's House to remain the focus of its setting in views from High Road. In such circumstance the proposed two houses would not have a harmfully prominent or imposing visual relationship with and would not harmfully impose themselves on the setting of the listed Turner's House.

The proposed two houses are appropriately and acceptably designed for their place and are consistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policies ENV3, ENV4, DP2 and DP7 of the adopted East Lothian Local Plan 2008, Scottish Planning Policy: February 2010 and Planning Advice Note 67: Housing Quality.

The proposed new access driveway and hardstanding areas in the form of slabbed patio areas and pedestrian paths by their size, scale, proportions, architectural form, finishes and positioning in relation to the proposed two houses would not have a harmful impact on the character and appearance of the Conservation Area. These components of the proposed development are consistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policies ENV4, DP2 and DP7 of the adopted East Lothian Local Plan 2008 and Scottish Planning

Policy.

There is sufficient land within the site not only to accommodate the proposed houses and associated works but also to provide them with sufficient sized gardens, vehicular and pedestrian access and off-street parking.

Policy DP7 of the adopted East Lothian Local Plan 2008 requires, amongst other things, that in the case of infill, backland and garden ground development the occupants of existing neighbouring houses experience no significant loss of privacy and amenity. New development should not result in any significant loss of daylight, sunlight or privacy to adjoining properties because of overshadowing or overlooking.

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.

There would be no houses with directly facing windows within 18 metres of the windows and other glazed openings of the proposed two houses.

Each of the proposed two houses would be 9 metres or more away from the boundary of the garden of Turner's House to the north.

The house to be positioned on the eastern part of the site would be within 9 metres of the neighbouring property to the east. It would have a roof window installed within its east elevation roof slope. Provided that roof is obscure glazed then there would be no harmful overlooking from it to the neighbouring property to the east. The requirement for such obscure glazing can be made a condition of a grant of planning permission.

To prevent harmful overlooking from the garden of each of the proposed houses to the neighbouring garden ground of Turner's House to the north it is proposed to plant a beech hedge along the entire length of the north boundary of the site. Subject to that beech hedging being planted and allowed to grow to a height of at least 1.8 metres the property of Turner's House would not be harmfully overlooked from the garden of each the proposed houses.

It is proposed that the garden ground to be provided for the house to be positioned on the eastern part of the site be separated from the garden ground of the neighbouring property to the east by a beech hedge. Subject to that beech hedging being planted and allowed to grow to a height of at least 1.8 metres the neighbouring property to the east would not be harmfully overlooked from the ground floor windows of the east elevation of that proposed house or from the garden of that proposed house.

The proposed houses would be within Spott Conservation Area. Thus any further glazed openings could not be formed in the east elevation roof slope of the easternmost of the two houses without the need for planning permission, thus providing the Council, as Planning Authority with control against which to protect the residential privacy and amenity of the neighbouring property to the east.

Subject to the aforementioned controls the proposed development would not give rise to harmful overlooking of any neighbouring residential property. The occupiers of the proposed house would also have sufficient privacy and residential amenity.

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.

Given their height, positioning and orientation the proposed houses would not give rise to harmful loss of sunlight or daylight to any neighbouring house or garden, nor to each other.

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

A tree survey report and a tree protection, management and planting proposals report have been submitted with the application. The tree protection, management and planting proposals report informs that 6 trees on the eastern and southern parts of the site would have to be removed to facilitate the proposed development. However it is proposed to plant 12 new trees on the southern and northern parts of the site to compensate for this loss the result of which would be to improve the landscape setting of the site.

The Council's Policy and Projects service raises no objections to the proposed development on landscaping grounds subject to it being carried out in accordance with the tree protection, management and planting proposals report submitted with the application. Such a matter can be controlled through a condition on a grant of planning permission. Accordingly the proposals are consistent with Policy DP14 of the adopted East Lothian Local Plan 2008.

The Council's Transportation service is satisfied that the proposed arrangements for site access, parking and turning for the proposed two houses are all of an acceptable standard. Transportation advise that the proposed new pedestrian path leading to High Road shall form a continuous pedestrian link to the public road for both dwellings and should be formed and made available for use for future occupiers of the proposed houses, and that at the northern end of the path, a hard standing area should be provided on the verge adjacent to the carriageway to enable pedestrians entering or exiting the site to cross the road from/to the existing footway on the opposite side. Transportation also recommends that a dropped kerb pedestrian crossing shall be provided over High Road by the provision of lowered kerbs on either side of High Road to enable level access for pedestrians crossing the road.

Subject to the controls recommended by Transportation the proposed development is consistent with Policies T2 and DP22 of the adopted East Lothian Local Plan 2008.

On request from the Council's Senior Structures Officer the applicant submitted a Flood Risk Assessment. The Council's Senior Structures Officer concurs with the findings of the submitted assessment that the proposed development would not lead to any on site or off site flooding.

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

#### 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 the materials to be used as external finishes of the houses hereby approved shall be submitted to and approved by the Planning Authority prior to their use in the development. Only those materials approved by the Planning Authority shall be used as the external finishes of the houses.

Reason:

To ensure that the external finishes are appropriate in the interest of safeguarding the character and appearance of the Conservation Area.

- 3 The house to be erected on the eastern part of the site (marked 'House 2' on the application drawings) as hereby approved shall not be occupied until the roof window to be installed in its east elevation roof slope is obscure glazed in accordance with a sample of such obscure glazing to be submitted to and approved in advance by the Planning Authority. Thereafter that roof window shall remain obscure glazed in accordance with the sample so approved unless otherwise approved by the Planning Authority.

Reason:

To safeguard the privacy and amenity of the occupiers of the neighbouring residential property to the east.

- 4 The house to be erected on the western part of the site (marked 'House 1' on the application drawings) as hereby approved shall not be occupied unless the beech hedging has been planted along the length of the north, east and south boundaries of its plot as shown on docketed drawing no.AL(0)101 Revision F. This beech hedging shall be planted as 90-150cm whips at 300mm centres in two rows and shall be protected by staked 'tubex' or similar until established. This beech hedging shall be allowed to grow to and thereafter be maintained at a minimum height of 1.8 metres above ground level where it is to be planted.

Reason:

To safeguard the privacy and amenity of the neighbouring residential properties and in the interest of the landscape character and appearance of the area.

- 5 The house to be erected on the eastern part of the site (marked 'House 2' on the application drawings) as hereby approved shall not be occupied unless the beech hedging has been planted along the length of the west, north, east and south boundaries of its plot as shown on docketed drawing no.AL(0)101 Revision F. This beech hedging shall be planted as 90-150cm whips at 300mm centres in two rows and shall be protected by staked 'tubex' or similar until established. This beech hedging shall be allowed to grow to and thereafter be maintained at a minimum height of 1.8 metres above ground level where it is to be planted.

Reason:

To safeguard the privacy and amenity of the neighbouring residential properties and in the interest of the landscape character and appearance of the area.

- 6 The occupation of each one of the two houses hereby approved shall not commence unless and until the proposed vehicle access, turning and parking arrangements for it has been laid out on site as shown on docketed drawing no.AL(0)101 Revision F and thereafter the vehicle access, turning and parking arrangements designated for each house respectively shall be retained for such uses for each house.

Reason:

- In the interests of road safety.
- 7 Neither of the two houses hereby approved shall be occupied until the new pedestrian path on the western part of the application site connecting to High Road has been formed and been made available for use and thereafter the pedestrian path shall be retained for such use.

At the northern end of the pedestrian path a hard standing area shall be provided on the verge adjacent to the carriageway to enable pedestrians to cross the road from/to the existing footway on the opposite side of High Road and a dropped kerb pedestrian crossing shall be provided over High Road by the provision of lowered kerbs on either side of High Road to enable level access for pedestrians crossing the road, all in accordance with details to be submitted to and approved in advance by the Planning Authority.

Reason:

- In the interests of road and pedestrian safety.
- 8 The development hereby approved, the tree protection measures and the new tree planting shall all be carried out in strict accordance with Section 2 - TREES AND DEVELOPMENT, parts 3.1 and 3.2 of Section 3 - TREE AND HEDGE PLANTING and the Tree Proposals drawing no. 1347/1 of the Tree Protection, Management and Planting Proposals report by Donald Rodger Associates docketed to this planning permission, and also with the application drawings docketed to this planning permission.

In the first planting and seeding season following the last occupation of the two houses hereby approved or the completion of the development, whichever is the sooner the new tree planting indicated in the Tree Protection, Management and Planting Proposals report and shown on the Tree Proposals drawing no. 1347/1 of that report shall have been completed. If any of the new trees within a period of five years from the occupation of the last of the two new houses or the completion of the development, whichever is the sooner, die, are removed or become seriously damaged or diseased they shall be replaced in the next planting season with others of the same species and of a similar size, unless the Planning Authority gives written consent to any variation.

Reason:

To ensure the retention and maintenance of trees which are an important feature of the 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)*