

REPORT TO: Planning Committee

MEETING DATE: Tuesday 2 September 2014

BY: Depute Chief Executive
(Partnerships and Community Services)

SUBJECT: Application for Planning Permission for Consideration

Note - this application was called off the Scheme of Delegation List by Councillor Goodfellow for the following reason: this application if granted will severely limit access to neighbours as demonstrated by the number of objections.

Application No. **14/00440/P**

Proposal Change of use from open space to car parking area and erection of bollards

Location **13 Hopetoun Terrace
Gullane
East Lothian
EH31 2DD**

Applicant Mrs D Sinclair

Per Colin Sinclair

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

The site that is the subject of this planning application consists of the residential property of 13 Hopetoun Terrace and an area of land that is immediately to the (rear) west of it. To the west of the rear boundary wall of the property of 13 Hopetoun Terrace is a small shrub bed, a grassed area of land, part of a mutual access that serves the residential properties of 13-23 Hopetoun Terrace and beyond that by a planted area containing trees and bushes. The site is located within a predominantly residential area as defined by Policy ENV1 of the adopted East Lothian Local Plan 2008. It is also within Gullane Conservation Area.

Planning permission is sought for (i) the change of use of the part of the application site to the rear of the residential property of 13 Hopetoun Terrace from open space to a car parking area and (ii) the erection of six bollards that would enclose that area of land the subject of the proposed change of use.

This is a substitute application submitted in favour of planning application 14/00348/P that has been withdrawn. This substitute application has been made in order to include the proposed change of use. It should also be noted that, unlike the withdrawn application, the area of land the subject of the proposed change of use is to remain in its present condition and is not to be hard surfaced, as was originally applied for.

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 ENV4 (Development Within Conservation Areas), DP2 (Design) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

Material to the determination of the application are Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Scottish Government's policy on development within a conservation area given in Scottish Planning Policy: June 2014.

Scottish Planning Policy echoes the statutory requirements of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that a planning authority must have regard to the desirability of preserving or enhancing the character or appearance of a conservation area in exercising its responsibilities in the determination of any application for planning permission for development affecting a conservation area. It is stated in Scottish Planning Policy that proposed development within conservation areas and proposals outwith which will impact on its appearance, character or setting, should preserve or enhance the character and appearance of the conservation area. Proposals that do not harm the character and appearance of the conservation area should be treated as preserving its character and appearance.

Eight written objections and one representation to the application have been received.

The main grounds of objection are that:

- (i) the installation of bollards will detrimentally effect, and impact on, the visual appearance of the area and the aspect of this public alley within the conservation area;
- (ii) it will disrupt and negatively change the nature of the open space by erecting restrictions to the historic open area;
- (iii) it will restrict peaceful rights of enjoyment of adjoining properties;
- (iv) it will breach the conservation burden that no building should be built on this land;
- (v) the application totally ignores existing access routes and rights of access to multiple properties (some of which have garages) which would only be possible if the well established amenity belt of trees and shrubs were removed;
- (vi) the applicant could park his car closer to the wall enclosing the rear garden of his

house to allow other residents to continue to use the back access lane;

(vii) the erection of bollards would be unsightly and would prevent vehicular access for other properties within a very congested residential area;

(viii) Delivery, maintenance and emergency vehicles would encounter severely restricted access as would families with push chairs and children walking through between Hopetoun Terrace and Goose Green. Reversing vehicles would be a serious hazard with drivers visibility severely restricted;

(ix) the occupier of the house of 17 Hopetoun Terrace has velux roof lights with fire escape provision and access to these will not be possible in an emergency;

(x) the applicant was apparently party to an informal agreement made some 40 years ago to allow planting (comprising of trees and shrubs) on the mutual access to the rear of the row of terrace houses of Hopetoun Terrace (numbers 13-23). As a result the present mutual access is across the applicant's land on the area which they intend to block off;

(xi) the applicant has made no provision with any of the adjoining owners to reinstate the planted amenity area to its former use as a mutual access which would allow continued vehicular access for all of the properties; and

(xii) the application forms state that no changes are being proposed to public paths, public rights of way or affecting any public rights of access as a result of the proposal which is not the case.

The representation to the application is made by the occupier of 11A Hopetoun Terrace, to the south of the applicant's property. It is stated that he has no objection in principle to the proposal providing that the strip of landscaping to the west of the site is retained as this is a valuable visual amenity in the Conservation Area.

Gullane Area Community Council object to this application on the same grounds as those outlined in their objection letter made to withdrawn planning application 14/00348/P. They state that nearly forty years ago the proprietors of all six houses in the terrace agreed a landscaping scheme whereby the solum of the original back lane, giving vehicular access to the rear of the six houses of the terrace, was landscaped as an area of amenity ground which now contains mature trees and shrubs and that a new access lane was formed on ground belonging to the individual proprietors. They state that the removal of mature trees and shrubs to facilitate the proposal would be detrimental to the character of the conservation area. They also state that if this application is granted, vehicular access to the remaining five houses (and to other houses which gain access from this lane) would be blocked. They consider this to be detrimental to the character of the conservation area. Moreover they state that blocking off the vehicular access would exacerbate the existing car parking congestion on Hopetoun Terrace which would also inhibit access for public service vehicles and emergency vehicles.

The application forms submitted with this planning application have been completed correctly. The existing narrow access lane to the rear of the applicant's house and garden is a private road and thus no changes are being proposed to public paths, public rights of way nor would it affect any public rights of access as a result of the proposal.

Matters raised by the objectors concerning rights of access, title deeds, and mutual agreements made with other parties are not material planning considerations in the determination of this planning application.

There is no proposal to change the surface of the land the subject of the proposed change of use. The proposed change of use would not be harmful to the character, appearance and residential amenity of the locality or to the character and appearance of this part of the Gullane Conservation Area. Use of the land for car parking to serve the applicant's house would not be harmful to the amenity of neighbouring residential properties.

It is proposed to erect six bollards on the area of land the subject of the proposed change of use. Those bollards would all be erected in pairs. Two sets of bollards, some 1.8 metres apart, would be positioned along the southeast and northwest sides of the land. The other pair of bollards would be located some 2.7 metres apart and positioned along the southwest end of the land the subject of the proposed change of use. The bollards would be lockable and collapsible (i.e. capable of being folding down). They would be some 750mm high above ground level when fully erected. They would all be cylindrical in shape and of a stainless steel finish.

Although the proposed bollards would be somewhat visible from the public road to the south of the application site they would be confined to the rear of the applicant's property and thus they would only be visible in limited, short duration views, from that public place. By virtue of their relatively low height and in their proposed positions, the proposed bollards would not be harmful to the character and appearance of the Conservation Area.

As they are proposed, the two south westernmost bollards would be positioned on part of the mutual access that serves the residential properties of 13-23 Hopetoun Terrace. If they were so positioned, they would leave only a short width of some 1.5 metres of the existing mutual access to be used by the residents of the other properties of Hopetoun Terrace.

The Council's Road Services confirm that the proposed south westernmost bollards would prevent access being taken along the mutual access road for the other residents of 13-23 Hopetoun Residents. However, if the two south westernmost bollards were not erected, then there would remain sufficient space to enable those residents to use the existing mutual access to the rear of their properties without any obstruction.

Based on the advice of the Council's Road Services and providing that the two westernmost bollards are not approved through the grant of this planning permission it can be reasonably concluded that the other four bollards, due to their form and in their proposed positions, would not be harmful to public safety or cause a road safety hazard.

It should therefore be made a condition of the grant of planning permission for the other components of this application that planning permission is not granted for the two south westernmost bollards.

The Council's landscape project officer confirms that there is a Birch tree located on the southeast corner of the neighbouring residential property named 'Sylvan Cottage' to the southwest. However, he confirms that the proposed bollards and any works within the grassed area to be used as car parking for the applicant's house would not have any deleterious impact on the existing Birch tree. Based on the advice of the Council's landscape project officer, it can reasonably be concluded that they do not raise any objections to this planning application.

With the exception of the two south westernmost bollards the other components of this application for planning permission are consistent with Policy 1B (The Spatial Strategy:

Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan), Policies ENV4, DP2 and T2 of the adopted East Lothian Local Plan 2008 and with Scottish Planning Policy: June 2014.

CONDITION:

- 1 Planning permission is not hereby granted for the two southwestern most bollards.

Reason:

The two southwestern most bollards would obstruct the use of the existing vehicular access for the other residents of 15-23 Hopetoun Terrace and thus they would constitute a road safety hazard.

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)