

REPORT TO: Planning Committee

MEETING DATE: Tuesday 2 June 2015

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 Berry for the following reasons: It would appear that considerable overlooking will result from this development, as well as a possibility of overdevelopment for the size of site.

Application No. **15/00166/P**

Proposal Extension to house with 1st floor balcony, formation of decking and erection of fencing

Location **53 Old Abbey Road
North Berwick
East Lothian
EH39 4BP**

Applicant Mr and Mrs Middleton

Per Christopher Thomson Design

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

This application relates to two storey detached house and its garden ground that is located within North Berwick, in a predominantly residential area as defined by Policy ENV1 of the adopted East Lothian Local Plan 2008.

In September 2013, planning permission 13/00620/P was granted for a two storey flat roofed extension to be attached to the rear elevation of the house, as a replacement for an existing extension. That planning permission was also for the change of use of an area of land formerly used as a builders yard that abuts the north side of the garden ground of the house to domestic garden ground. Planning permission 13/00620/P has not been implemented and is extant until September 2016.

In October 2014 planning permission 14/00717/P was granted for the erection of a two storey detached house with a detached residential accommodation and associated works in the garden ground to the west side of the house. Planning permission 14/00717/P has been implemented and the house is under construction.

Planning permission is now sought for a two storey extension of a different architectural form and appearance to the two storey extension approved by the grant of planning permission 13/00620/P to be attached to the rear (north) elevation of the existing extension. Additionally planning permission is sought for the erection of fencing on the east and west boundaries of the rear garden.

The now proposed extension would be in 2 distinct components - a ground floor, flat roofed component that would be wider and with a larger footprint than the first floor, monopitch roofed component that would sit on top of it. There would be a 1st floor balcony formed at the northern end of the first floor component and additionally a split-level area of decking would be formed at ground floor level.

The proposed timber screen to be erected along the full length of the west boundary of the property would be some 1.6 metres in height from ground level, taken to 1.8 metres from internal floor level outside the large kitchen window on the side (west) elevation.

It is also proposed to heighten the existing brick wall enclosing the east boundary of the rear garden by installing a timber screen along part of it, taking the total height to 1.6 metres.

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 DP2 (Design) and DP6 (Extensions & Alterations to Existing Buildings) of the East Lothian Local Plan 2008 are relevant to the determination of the application.

Three letters of objection have been received in relation to the proposal. The main grounds of objection are:

- 1) Details omitted from plans, such as, floor level and window opacity/sill height
- 2) Harmful overlooking from windows, balcony and decking to be formed
- 3) Harmful views into the property on a night time due to internal illumination.
- 4) Intrusive light emitted from property.
- 5) Harmful overshadowing/ loss of light
- 6) Visual amenity/ loss of view
- 7) Design, appearance and materials
- 8) Layout and density

As the drawings are scaled there is no requirement to provide additional dimensions on the plans. Additionally, the drawings submitted contain all necessary information for determination of the application. The loss of a view from existing neighbouring residential properties is not a material consideration in the determination of the application. In terms of harmful views into the property at night time due to internal illumination, the privacy of lit rooms at night is a matter for the individual property owner. In respect of light emitted from the windows of the property this would not be considered material in respect of domestic lighting. Any consideration of light pollution over and above normal domestic lighting would be a matter for the Council's Environmental Protection team to consider under the relevant legislation.

The proposed extension would require the removal of the current pitched roof of the existing extension. Planning permission is not required for this so it is not the subject of the application. The current pitched roof would be replaced with a shallow mono pitched zinc roof containing solar panels. The roof height of existing extension component would

slope with a height difference of 800mm from east to west, and the roof being some 7 metres in height at its highest point. It is proposed there would be glazed openings formed on the east elevation of the existing extension. These would take the form of two high level hopper type windows, one on ground floor level and the other on first floor level.

The ground floor flat roofed component of the proposed extension would measure some 7.65m out from the rear (north) elevation of the existing two storey extension attached to the rear of the house and would be some 3.8 metres in height from ground level at its highest point, and some 10.8 metres wide at its widest point. An area of decking would protrude a further 4m out from the rear elevation of that ground floor component of the proposed extension, split into two areas with a height difference of some 0.5 metres. The higher area of decking would be surrounded by a 1600mm opaque glass screen. It is proposed there would be glazed openings formed on all elevations of the proposed ground floor component. The side (west) elevation would contain 3 high level hopper type windows, and a large full height window. The other side (east) elevation would contain 2 high level hopper type windows. The front elevation would contain 2 sets of large sliding glazed door openings with additional glazed surrounding windows. The vertical walls of the proposed ground floor component would be clad with 'Corten' steel mesh cladding.

The trapezoidal shaped first floor component would have a shallow monopitched roof finished in zinc. It would extend some 5.5 metres out from the rear elevation of the existing extension, with a first floor timber batten balcony of an additional 1.7m out from it, partially covered by the trapezoidal mono pitched roof. The building lines of the eaves of the east and west elevations of that first floor component would be set some 1.5 metres in from the east and west edges of the ground floor flat roofed component. The flat roofed area left by the setback would contain a live (grassed) roof covering. The roof height of the first floor component would slope with a height difference of 100mm from west to east, and the roof being some 6.2 metres at its highest point. The side (west) elevation would contain 2 high level hopper type windows. The other side (east) elevation would contain 1 high level hopper type window. The front elevation would contain a large expanse of glazed openings with a glazed door opening allowing access onto the proposed balcony. The rear elevation would contain 2 high level windows that would face onto the existing house. The side (east) elevation of the proposed first floor component would be finished with zinc cladding, whilst the other side (west) elevation would be clad with vertical timber battens.

The proposed extension would be architecturally different to the existing house. It would in part be two storey in height and with the decking would extend some 11m into the rear garden of the house. Thus it would have a substantial footprint. The ground and first floor components would however have a smaller combined footprint than the existing house and extension. Therefore and as the flat top of the first floor component extension would be some 4 metres lower in height than the existing house it would in terms of its size and scale be a subservient addition to the house. By virtue of this and of its modern architectural form and building materials with large modern style glazed openings it would be a contemporary, subservient addition to the rear of the house that would not compete with but would complement the character and appearance of the house.

Due to its positioning some 3.5m away from the east boundary of the property and by virtue of its architectural form, size and scale the proposed extension would not be of such a large massing, size and scale to have a harmfully dominating or overbearing affect on the neighbouring residential property to the east or on the house being built to the west. Therefore and as the extension would be visually contained to the rear of the house and only be seen in limited public views from Old Abbey Road it would not be seen

to harm the character and appearance of the house or the character and appearance of the streetscape of Old Abbey Road.

Although large in size the proposed extension would not be an overdevelopment of the large rear garden. A 3m length of the existing rear garden ground would remain beyond the proposed area of decking and the 3.5m wide driveway that exists on the east side of the property would also remain in place. Furthermore through the grant of planning permission 13/00620/P planning permission has been granted for the change of use of the area of land beyond what is presently the rear boundary of the garden, land which was formerly used as a builder's yard, to garden ground. This gives the house of 53 Old Abbey Road an additional 196 square metres of garden ground and a parking and turning area for the house. Therefore the proposed extension would not be an overdevelopment of the garden ground of the house.

Due to their containment within the rear garden of the house and of their architectural form, size and scale the proposed fencing and timber panels would each be appropriate to their setting and would not be harmfully out of keeping with their surroundings. They would not be harmful to the setting of the house or to the character and appearance of the area.

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 separating distance between the windows of a proposed new building and the garden boundaries of neighbouring residential properties and an 18 metres separating distance between directly facing windows of the proposed new building and the windows of existing neighbouring residential properties.

The glazed openings on the north elevations of both ground and first floor components of the proposed extension and the first floor balcony and area of decking would face directly over the rear garden of the applicant's house and onto the railway beyond. Thus they would not give rise to harmful overlooking of any neighbouring residential properties.

The glazed window openings proposed for the east and west side elevations of the first floor component of the proposed extension would face towards and be within 9m of the east and west boundaries of the property. However those openings would be of such a height above floor level that it would not be possible for occupants of the first floor to see out of them. Therefore they would not give rise to harmful overlooking of any neighbouring residential properties to the east and west. The high level hopper windows on the east and west elevations of the ground floor component of the proposed extension and the east side elevation of the existing extension would also be of sufficient height above floor level to prevent harmful overlooking from them.

The proposed timber screen that is to be erected on the west boundary of the property would be of sufficient height outside the large kitchen window on the side (west) elevation to ensure that there would not be overlooking. It can be made a condition of a grant of planning permission that the timber screen is in place prior to any use being made of the extension.

The proposed timber screen to be added on to the east boundary wall would ensure that there would not be overlooking of any neighbouring residential properties to the east from the proposed decking extending from the north elevation of the proposed extension. It can be made a condition of a grant of planning permission that the timber screen is in place prior to any use being made of the decking.

With regards the first floor balcony, it would be fully enclosed at both ends, preventing anyone using the first floor balcony from looking directly onto the rear gardens of the neighbouring houses to the east and west. Similarly, the raised timber deck on ground floor level would have the west edge enclosed with a 1.6m high obscurely glazed screen. Those screens would be of sufficient height to prevent anyone using the raised decking from looking directly onto the rear garden of the neighbouring house to the west. Provided the screen is installed prior to any use being made of the raised timber deck, which can be made a condition of a grant of planning permission then that timber deck would not allow for harmful overlooking of the rear garden of the neighbouring residential property to the west.

Other openings could be formed in the east and west elevations of the extension under permitted development rights. Therefore to safeguard the privacy and amenity of the occupiers of the neighbouring houses to the east and west it should be made a condition of a grant of planning permission that the permitted development rights to form new openings in the first floor of the east and west elevations of the proposed extension be removed. Subject to this planning control the proposed extension would not allow for harmful overlooking of any neighbouring residential properties.

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

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

The Guide states that no more than a quarter of a main back garden of a neighbouring residential property should be prevented from receiving any sunlight on the 21st of March due to overshadowing from new development.

The neighbouring garden to the east - the garden of 47 Old Abbey Road - is a north facing garden. Consequently that garden is already heavily overshadowed for most of the day by the shadow cast by the combined built form of the pair of semi detached houses comprising 47 Old Abbey Road and 45 Old Abbey Road. At present that neighbouring rear garden begins to move out of shadow at 2pm on the 21st of March.

Application of the sunlight test on the proposed extension demonstrates that it would cast a significant shadow onto the rear garden of 47 Old Abbey Road between the hours of 2pm and 4pm on the 21st of March. Although the shadow cast by the proposed extension is significant in size, because it is only cast for a period of two hours it is not considered to have a detrimental effect on the amount of sunlight received by the rear garden of 47 Old Abbey Road. The test demonstrates that the proposed extension would cast a shadow onto the rear garden of the new house at 53 Old Abbey Road between the hours of 8am and 9am on the 21st of March. Because it is only cast for a period of one hour it is not considered to have a detrimental effect on the amount of sunlight received by the rear garden of the new 53 Old Abbey Road. Consequently, the proposed extension would not, due to its height, size, and positioning, result in a harmful loss of sunlight to the adjoining houses of 47 and the new 53 Old Abbey Road. Nor would it result in a harmful loss of sunlight to any other neighbouring residential property.

With regard to daylight the Guide gives a two-part test, one part measured horizontally and the other vertically. The Guide advises that there will not be a harmful loss of daylight if a proposed extension passes at least one part of the test when applied to a window of a neighbouring house. This two-part test is applied to the proposed extension relative to the existing windows on the rear (north) elevations of adjoining houses of 47

and the new 53 Old Abbey Road. Application of the horizontal and vertical daylight tests to the proposed extension relative to those windows demonstrates that the proposed extension fails the horizontal daylight test but passes the vertical daylight test. Consequently, the proposed extension would not, due to its height, size, and positioning, result in a harmful loss of daylight to the adjoining houses of 47 and the new 53 Old Abbey Road. Nor would it result in a harmful loss of daylight to any other neighbouring residential property.

On those considerations of design the proposed extension and fencing would be consistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) and Policies DP2 and DP6 of the adopted East Lothian Local Plan.

CONDITIONS:

- 1 Prior to any use being made of the extension hereby approved the raised deck to be formed on the ground floor north elevation wall shall be fitted with a 1.6 metre high obscurely glazed screen along its western edge as specified on the docketed drawings.

Reason:

In order to safeguard the privacy and amenity of the neighbouring residential property to the west.

- 2 The extension hereby approved shall not be used until the 1.6 metres high timber fence, with a 1.8 metre high section from finished floor level at the proposed large kitchen window on the west side elevation is in place along the length of the west boundary of the rear garden of the house of 53 Old Abbey Road, as specified on the docketed drawings.

Reason:

In order to protect the privacy and residential amenity of the adjoining house to the west.

- 3 The extension hereby approved shall not be used until the timber screen to be added onto the existing brick wall, taking the height of the wall to 1.6 metres is in place along the length of the east boundary of the rear garden of the house of 53 Old Abbey Road, as specified on the docketed drawings.

Reason:

In order to protect the privacy and residential amenity of the adjoining house to the east.

- 4 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended by Part 1 of the Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011), or of any subsequent Order amending, revoking or re-enacting the 1992 Order, no windows or other glazed openings shall be formed within the first floor east and west elevation walls of the extension hereby approved, unless otherwise approved in writing by the Planning Authority.

Reason:

To safeguard the privacy and residential amenity of the neighbouring residential properties to the east and west.