

REPORT TO: Planning Committee

MEETING DATE: Tuesday 6 October 2015

BY: Depute Chief Executive
(Partnerships and Community Services)

SUBJECT: Application for Planning Permission for Consideration

Note - this application was called off the List by Councillor Berry for the following reason: this controversial proposal to demolish a period building that fits well with the Conservation Area in which it lies seeks to replace it with a structure that is wholly disproportionate on its lot when compares to adjacent properties.

Application No. **15/00563/P**

Proposal Erection of 2 flats and associated works

Location **21 Westgate
North Berwick
East Lothian
EH39 4AE**

Applicant Melrose and Porteous

Per Somner Macdonald Architects

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

This application relates to the site of Melrose & Porteous Solicitors, which occupies a prominent corner location on the east side of the junction of Bank Street with St Andrew Street, and on the north side of Westgate, North Berwick. The application site comprises of a single storey detached office building on the southwestern part of the site and associated land on the north, east and south sides of the building, parking areas for the office building and a single storey garage building on the east side of the site which is the westernmost of a row of garages. The site is served by both a vehicular access taken from Bank Street, and a vehicular access taken from St Andrew Street. In its location the site is within North Berwick Town Centre and is therefore defined as a mixed use area by Policy ENV2 of the adopted East Lothian Local Plan 2008. The site is also within North Berwick Conservation Area.

The site is bounded to the north by a grassed and paved surfaced area in ownership of the applicant beyond which is the public road and footpath of Westgate, to the east by the substantial two-storey and attic flatted building of Marine Lodge with its associated garages, garden and car parking areas, to the south by St Andrew Street and to the west by Bank Street. A rubble stone wall encloses the majority of the west boundary of the

site and the entire south boundary of the site. The west elevation wall of the existing single storey detached office building also forms part of the west boundary of the site. Planning permission is sought for the erection on the site of a single storey and attic building containing 2 flats, the formation of 5 car parking spaces, the formation of an elevated pedestrian walkway, the formation of a new vehicular and pedestrian access into the site from Bank Street and the formation a new pedestrian access into the site from St Andrew Street.

To facilitate this proposed development the existing single storey detached office building on the site would be demolished. Through separate application 15/00563/CAC conservation area consent is sought for the demolition of the existing office building. A report on application 13/00627/CAC is at this time on the Committee Expedited List.

The proposed flatted building would be positioned on the majority of the larger southern part of the site at its western end and would be aligned with its principle elevation facing onto Bank Street. Its external walls would be finished in a mix of natural red sandstone and textured render. It would have a mansard roof comprised of central flat section clad in a single ply membrane which would be pitched down to eaves where it would be clad in natural slate. Within the roof slope would be formed a number of dormer windows which would have lead clad fascias and cheeks. Its windows and glazed openings would have grey coloured timber frames. A small external terraced area would be formed at ground floor level on its front (north) elevation.

The proposed flatted building would replicate the architectural form and materials of the existing building on the site which has a flat central and slated mansard roof, red sandstone walls, a large dormer window in its north elevation roof slope and a wallhead dormer in its east elevation roof slope.

It is proposed that the existing vehicular access into the site from Bank Street be built up in rubble stone to match the existing lengths of west boundary wall of the site. A new vehicular access would be formed further north along the west boundary of the site which would allow access to two car parking spaces within the site, which would be formed to the side (north) of the proposed flatted building. Three further car parking spaces would be formed to the rear (east) side of the proposed flatted building accessed from the existing vehicular access to the site from St Andrew Street. Also proposed is that a west boundary rubble stone wall would be formed from the west elevation wall of the existing single storey detached office building which would be demolished.

Two new pedestrian accesses would be formed into the site, one from Bank Street and one from St Andrew Street. An elevated pedestrian walkway would be formed at the new pedestrian access from St Andrew Street which would serve the flat to be formed at first floor level in the proposed flatted building. The proposed pedestrian walkway would be formed of steel with glass balustrades.

Since the application was registered, amended application drawings have been submitted detailing the following non-material changes:

* Amendments to the footprint of the proposed flatted building for the purposes of tree retention.

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.

Relevant to the determination of the application is Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies ENV2 (Town and Village Centres, Other Retail or Mixed Use Areas), ENV4 (Development within Conservation Areas), DP2 (Design), DP7 (Infill, Backland and Garden Ground Development), DP14 (Trees on or adjacent to Development Sites), DP22 (Private Parking) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008.

Material to the determination of the application are Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, Scottish Planning Policy: June 2014 on development within a conservation area, housing development and Scottish Government advice given in Planning Advice Note 67: Housing Quality.

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.

Further policy and advice on design is provided in Designing Places and Planning Advice Note 67: Housing Quality which 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.

A total of 42 written representations have been received to the application. Of these 41 raise objection to the proposed development 1 support it. The main grounds of objection can be summarised as follows:

- (i) the proposed flatted building would be too modern, have too many oversized windows, be bigger than the existing building and would be ugly and an abomination;
- (ii) the proposed flatted building would not preserve or enhance the character and appearance of the Conservation Area and would not be in keeping with the area, appearing as an eyesore;

- (iii) the proposed development would lead to the loss of a historic coach house that is part of the history, fabric and heritage of North Berwick and is architecturally distinctive;
- (iv) the proposed external ramp would not be in keeping with the Conservation Area;
- (v) the proposal is contrary to Policy ENV2 of the adopted East Lothian Local Plan 2008 as it involves a change of use and the building has not been marketed for all other acceptable town centre uses;
- (vi) there is no justification for the loss of the existing building;
- (vii) there is a lack of existing commercial properties in North Berwick;
- (viii) the proposed flatted building would lead to a loss of light, privacy and amenity to neighbouring residential properties;
- (ix) the proposed development would lead to traffic and parking problems; and
- (x) trees and shrubs on the site should be protected.

The representation in support of the application states that the proposals represent a balanced and proportionate revitalisation of a redundant building.

Policy ENV2, as it applied to town centres, states that changes of use to residential, other than from retail, will only be allowed where the Council is satisfied that that the premises have been suitably marketed for all other uses acceptable in principle within such an area and that no reasonable offers have been received.

Contrary to that which is stated by one of the objectors, the proposal does not involve the change of use of the existing building but a redevelopment of the site. Therefore there is no requirement in this case to market the existing building for all other uses acceptable in principle on a town centre area.

North Berwick Community Council, as a consultee on the application, advises that although this property is not listed it is viewed by many in the town to be a pleasantly different business property in charming red sandstone in an unusually open setting. It is commonly viewed as a surprising oasis glimpse on the entry and exit from the town. Although not marked with having any listing it forms part of a special Conservation townscape and highlights a part of the town history, unusual in that it has survived and is clearly visible. Prior to its sympathetic restoration in 1975 it was a disused coach house. The restoration architect received an award presented by the Queen for his design. The coach house tag is not unusual as there are others in the town that have been adapted into houses, but unlike this property are not visible or identifiable as such. The Community Council continue that while the proposed redevelopment would mean gaining an additional two town centre flats which would normally be welcomed, it would also mean losing a prime central business property, a loss that most certainly would not be welcomed and would not prove to be an improvement to this part of the Conservation area. The demolition of such a building of historic interest in a prime area which from the main street provides the opportunity of a glimpse to a quaint, conserved, historic, open area would be a sad loss to the street scene.

In relation to the proposed two flats the Community Council state that the revised design is a major improvement on the original block of flats put forward, however they do not see this current application as a good enough design to fill such a key position, which would also mean the loss of a key business opportunity for the town centre. In addition, the

proposed new flats would not meet the usual criteria for the ground level to be for business related use. The bridge to the upper flat would not be in keeping with the area and because of its setting and height may prove to be a barrier for some people with disabilities. The new property would not be so unusual that it would catch the eye of passers-by and a direct historic link with old North Berwick would be lost. Undoubtedly, the character of that part of the town's essence would be forever changed and as a small seaside holiday location North Berwick has to retain as much as possible of those elements that make it attractive and different.

In summary the Community Council could not see these proposals providing any enhancement to the town and are unable to support the application.

Policy ENV2 of the adopted East Lothian Local Plan 2008, as it applies to the mixed use area in which the site lies supports the principle of retailing, business and office use, restaurants and leisure and entertainment. It is stated in Policy ENV2 that housing may also be acceptable. Proposals that would have a significant environmental impact, particularly on existing housing will not be permitted.

The application site is currently in commercial use as a solicitor's office. The proposed use of the site for residential use with erection on it of the proposed flatted building is supported by Policy ENV2 of the adopted East Lothian Local Plan 2008. Whilst the existing office use is part of the service provision afforded to the Town Centre there is nothing in current planning policy that stipulates that this use of the site has to be retained.

Policy ENV2 states that new build development must reinforce the vertical mix of land uses typical of East Lothian's town and village centres. Where development of two or more storeys is appropriate, the Council will expect retail or commercial use on the ground floor and residential or other town centre use above.

As the proposed building is only single storey with accommodation within its roof space there is no requirement in this instance to have any retail or commercial use on the ground floor. The proposal is not contrary to Policy ENV2 of the adopted East Lothian Local Plan 2008.

The proposed development would be redevelopment of a brownfield site since it would replace an existing building to be cleared from the site. As the site is within the urban area of North Berwick the proposed redevelopment would be urban infill housing development.

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 be an overdevelopment of the site.

Policy DP2 of the adopted East Lothian Local Plan 2008, amongst other things requires that all new development must be well designed and integrated into its surroundings.

In this case regard must also be paid to the desirability of preserving or enhancing the character or appearance of the North Berwick Conservation Area as required by Scottish Planning Policy: June 2014 and Policy ENV4 of the adopted East Lothian Local Plan 2008.

Thereafter the main determining factor in this case is whether, with regard to national, strategic and local planning policy and guidance and other material considerations, the

fitting of the flatted building and associated works into the application site is acceptable with due regard to their potential impact on the character and appearance of the Conservation Area, including their impact on the character and residential amenity of the area, including their impact on neighbouring residential properties.

Whilst it is not essential to replicate existing building styles to build successfully in a conservation area and indeed in other locations, both national planning and development plan policy nevertheless state that in designing proposed new buildings developers should think about the qualities and the characteristics of place. The development should reflect its setting and local forms of building and materials. The aim should be to have buildings looking different without detracting from any sense of unity and coherence for the development or the wider neighbourhood.

The urban form of Westgate in the locality of the application site changes from east to west.

The eastern part comprises mostly of tightly packed traditionally designed stone buildings of varying heights fronting directly onto the public footpath of Westgate, many having commercial frontages at ground floor level.

The western part (including the application site) comprises substantial, detached and semi-detached two and two and a half storey traditional stone buildings with slated pitched roofs, the majority of which have smaller subservient buildings within their grounds. These buildings set back from the road with a lower density of development with open space to the front and rear of them giving a more generous pattern and density of development. This gives a defined density and character of layout and built form to this part of North Berwick Conservation Area.

In its position on the southwest side of Marine Lodge the proposed single storey and attic building would be in a roadside location in a prominent corner position readily visible in the streetscape. It would be a relatively modestly sized building positioned fronting Bank Street. It would not be significantly larger in height, scale and massing than is the existing single storey office building. The proposed flatted building, with its red sandstone and rendered walls and slate roof would be in keeping with the materials finish of the buildings in the vicinity of the application site. It would by its size and positioning appear as a subservient building to that of Marine Lodge maintaining the relationship of large buildings with smaller subservient buildings within their grounds that is a character of this part of North Berwick. It would, in its position to the south of its plot adjacent to the southwest corner of Marine Lodge and by its height, size and massing be a sympathetic and complimentary addition in its relationship with the building of Marine Lodge. By virtue of its size, height, massing and positioning the proposed flatted building would be appropriate to its place within the streetscape. It would be a sympathetic addition to this part of the streetscape of not only Westgate but Bank Street and St Andrew Street also and thus would be in keeping with its surroundings.

The proposed flatted building, by virtue of its single storey detached form, subservient proportionality and its positioning on the site of the existing building would be in keeping with the density of built form that characterises the distinctive streetscapes of Westgate, Bank Street and St Andrew Street and thus the character and appearance of this part of North Berwick Conservation Area. The proposed flatted building would respect the density and well defined streetscape of this part of Westgate, Bank Street and St Andrew Street. It would preserve and would not be to the detriment of the character and appearance of the Conservation Area.

In their well contained positions on and within the site adjacent to the proposed flatted building the proposed car parking spaces, vehicular and pedestrian accesses and pedestrian walkway would not be an intrusive, incongruous or exposed form of development in association with the proposed flatted building. They would not have a harmful affect on the streetscape or the character and appearance of the Conservation Area.

The site is capable of accommodating all of the proposed development including satisfactory vehicular and pedestrian access and amenity space without being an overdevelopment of it. The proposed development would not be of a density incompatible with existing densities of development in the locality. Development of the site would not result in any loss of open space important to recreation or amenity requirements.

Consequently the proposed development is 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, Planning Advice Note 67 and with Scottish Planning Policy: June 2014, with respect to the affect of it on the North Berwick Conservation Area.

"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.

The Guide states that no more than two-fifths and preferably no more than a quarter of a back garden should be prevented by buildings from receiving any sunlight at all on 21 March due to overshadowing from new development. The test for assessing the loss of sunlight is conducted using sun-to-ground indicators that are placed over the application drawings and which are based on the sun's path on the 21st of March of any calendar year.

Application of the sunlight test to the proposed flatted building relative to the positional relationship it would have with the garden of the neighbouring flatted property of 21A Westgate demonstrates that the proposed flatted building would cause a loss of sunlight to that rear garden. The loss of sunlight would, to a variable extent, only be between the hours of 1300 and 1600 each day, when slightly more than a quarter of the rear garden of 21A Westgate would be in shadow. Overall the impact of the loss of sunlight to the rear garden of 21A Westgate would not be to such an extent and for so long that it would be detrimental to the amenity of that neighbouring residential property.

Given its height, positioning, orientation the proposed flatted building would not give rise to a harmful loss of daylight to any neighbouring residence or garden.

It is the practice of the Council to consider a distance of 18 metres between directly facing windows and 9 metres between a window and a garden boundary as a sufficient separation distance to prevent harmful overlooking of neighbouring residential properties from proposed new buildings.

By virtue of their positioning and distance away from any neighbouring property, the windows and other glazed openings to be formed in the elevations of the proposed flatted building meet those required separation distances and would not lead to harmful overlooking of any neighbouring residential building or private garden. The occupiers of the proposed flats would also benefit from a sufficient level of privacy and residential amenity. The proposed outdoor terrace would also meet these criteria.

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

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

The Council's Road Services raise no objection to the proposed development, advising that the proposed arrangements for vehicular and pedestrian access and parking are of an acceptable standard. They do recommend that, (i) the proposed new access onto Bank Street be hard formed over the first 2 metres to prevent loose materials entering the public road, and (ii) that the proposed new access onto Bank Street should have a minimum visibility splay of at least 2 metres by 20 metres in both directions so that no obstruction lies within it above a height of 1.05 metres measured from the adjacent carrieway surface. Road Services confirm this is possible.

The existing road network is of an adequate standard to cope with the traffic levels likely to arise from the proposed development. Subject to the controls alluded to above the proposed development is consistent with Policies DP22 and T2 of the adopted East Lothian Local Plan 2008.

A tree survey has been submitted with the application.

The Council's Policy & Projects service has been consulted on landscape matters. In this regard the advice is that there are two significant trees that are recommended be retained for their high level of visual amenity value, a sycamore tree on the northern part of the site and a lime tree on the south-eastern part of the site. The applicant's agent has submitted a Sycamore and Lime Tree Arboricultural Implication Assessment which has been appraised by Policy & Projects and they are satisfied that subject to the recommendations of the Sycamore and Lime Tree Arboricultural Implication Assessment being made a condition on the grant of planning permission then the both the sycamore and the lime tree can be retained. On this consideration the proposed development does not conflict with Policy DP14 of the adopted East Lothian Local Plan 2008.

CONDITIONS:

- 1 No development shall take place on site unless and until final site setting out details have been submitted to and approved by the Planning Authority.

The above mentioned details shall include a final site setting-out drawing to a scale of not less than 1:200, giving:

- a. the position within the application site of all elements of the proposed development and position of adjoining land and buildings;
- b. finished ground and floor levels of the development relative to existing ground levels of the site and of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and
- c. the ridge height of the proposed shown in relation to the finished ground and floor levels on the site.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the amenity of the area.

- 2 Samples of the materials to be used as external finishes of the flatted building 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 flatted building.

Reason:

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

- 3 Prior to the occupation of any of the flats hereby approved the vehicular and pedestrian accesses into the site and the car parking spaces all as delineated on docketed drawing no. 1354-07-A shall have been formed and made available for use and thereafter shall remain available for use unless otherwise approved in writing by the Planning Authority.

A visibility splay of 2.0m by 20m shall be provided and maintained on each side of the new vehicular access junction with Bank Street and no obstruction within the visibility splay shall be above a height of 1.05m measured from the level of the adjacent carriageway of the public road.

The new vehicular access onto Bank Street shall be hard formed over the first 2 metres of it to prevent loose materials entering the public road.

Reason:

In the interests of road safety.

- 4 The development hereby approved shall be carried out in strict accordance with Part 4 of the 'Report on a Sycamore and Lime Tree and Arboricultural Implication Assessment in Relation to Proposed Development' report docketed to this planning permission.

Reason:

To ensure the retention and maintenance of trees which are an important feature of the Conservation Area.