



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

**TUESDAY 1 SEPTEMBER 2015
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Committee Members Present:

Councillor N Hampshire (Convener)
Councillor D Berry
Provost L Broun-Lindsay
Councillor S Brown
Councillor J Caldwell
Councillor S Currie
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 J McNeil
Councillor J Williamson

Other Members Present:

Councillor M Libberton

Council Officials Present:

Ms M Ferguson, Service Manager – Legal and Procurement
Mr I McFarlane, Service Manager – Planning
Mr K Dingwall, Principal Planner
Ms S McQueen, Planner
Mr M Greenshields, Transportation Planning Officer
Ms P Bristow, Communications Officer

Clerk:

Ms A Smith

Visitors Present:

Item 2 – Mr N Sutherland, Mr G Neill
Item 3 – Mr G Gilbert, Ms J Souness, Mr B Hickman
Item 5 – Mr I Duff
Item 6 – Mr K Macdonald, Mr J Papworth
Item 7 – Mr C Thomson, Mrs Lockhart

Apologies:

Councillor T Trotter

Declarations of Interest:

Councillor McMillan declared an interest in item 3; he had been closely involved with the business growth and social enterprise at Cockenzie House, which may be seen to prejudice his decision; he would leave the Chamber for this item.

Councillor Goodfellow declared an interest in item 7; his view had been stated in his reasons for taking this application off the Scheme of Delegation list; he would leave the Chamber for this item.

1. MINUTES FOR APPROVAL

The minutes of the Planning Committee of 30 June 2015 were approved.

2. PLANNING APPLICATION NO. 15/00094/PPM: PLANNING PERMISSION IN PRINCIPLE FOR ERECTION OF 21 HOLIDAY LODGES AND 40 HOUSES AT WHITEKIRK GOLF CLUB

A report was submitted in relation to Planning Application No. 15/00094/PPM. Keith Dingwall, Principal Planner, presented the report, informing Members that he had two changes to the recommended heads of terms on page 29 of the report, regarding the recommended Section 75 Agreement:

Clause 1 – Education colleagues had advised that the amount stated (£781,632.40) was incorrect and recommended that a financial contribution of £660,779 should be secured.

Clause 2 – at the site visit Councillor Day had requested clearer definition of what was meant by the internal fitting out of the hotel. Legal colleagues had also suggested that the wording of this clause be altered slightly. It was therefore recommended that Clause 2 should state: “Secure a control on the phasing of the proposed development to ensure that there shall be no commencement of development of any part of the housing component of the proposed scheme of development until the hotel building (less the internal fitting out of it), greenkeeper’s shed and compound, and alterations to the existing golf course (all as approved by planning permission in principle 08/00078/OUT and approval of matters specified in conditions 13/00229/AMM) have been completed. For the purposes of the Section 75 Agreement “internal fitting out” shall be defined only as “installation of sanitary ware, light fittings, furniture, electrical equipment and commencement of internal decoration”

Mr Dingwall then summarised the report. He drew attention to the District Valuer’s assessment, which accepted that an enabling housing development, of 40 units, was necessary to make the entire development viable. The report recommendation was to grant consent.

In response to questions regarding enforcement, he advised that these controls were exactly the same as those put forward previously; if it came to the Council’s attention that conditions were being breached then appropriate action would be taken. He answered further questions about commencement works of the hotel development as

referred to in the report. He clarified that an update to the 2008 viability study had not been carried out. He confirmed that if these houses had been proposed without them being justified as enabling development then they would contravene Policy DC1.

Neil Sutherland of Wardell Armstrong LLP, agent for the applicant, indicated that the main elements of the proposal were as per the 2011 and 2013 applications. This application was before Members due to a technicality; the previous consent had lapsed. He stressed the commitment to delivering a high quality hotel. He referred to the District Valuer's assessment, stating that the hotel would be provided before any housing development. A hotel partner was now in a position; the hotel would open in the second quarter of 2017. Around 100 construction jobs would be provided and 60 full-time and 30 part-time jobs created once the hotel was operational. The Council had signposted the A198 as Scotland's Golf Coast route; having a new, high quality hotel would bring economic benefits to the county.

Mr Sutherland responded to questions from Members. He clarified that no housing development work would be commenced until the hotel was completed less the internal fit out. He confirmed that a hotel partner was on board and the necessary finance was now in place. He advised that his client was bound by the District Valuer's appraisal figure of 40 houses. Regarding staff accommodation in the hotel, some rooms would be allocated for staff; the exact number was yet to be determined.

George Neill, Chairman of the Whitekirk Community Company, spoke against the application. He referred to the report; disputing statements that, in his opinion, were misleading or incorrect, including comments about the pre-application consultation. He stated that Whitekirk Community Company, Dunsper Community Council and Whitekirk residents were all against this development. He made reference to the economic arguments and to the District Valuer's appraisal. He stressed that 40 executive homes could not possibly preserve the character of the Conservation Area, as stated in the report. This application contravened planning policy.

Local Member Councillor Day stated that this application needed very careful consideration. He questioned whether consent would be given to this number of houses in an open large area if there was no enabling development; there had to be a balance of benefits against disbenefits. He supported economic development but it had to be viable; the economic case for the hotel had not been substantiated. He drew attention to golf research statistics which showed a decline in numbers. This proposal was too big a risk; a hotel enabling housing was the wrong way round. He would not be supporting the officer's recommendation.

Local Member Councillor Berry remarked that Members had been considering this for over a decade. Local residents were very concerned about this development. The DTZ report was from 2008, before the recession. The golf statistics quoted by Councillor Day were a warning. Houses were wholly unsuitable for this location; a new settlement would be created outside the village. This proposal could have been implemented at any point during the last decade, that it had not been was pivotal. The argument for enhanced tourism was not sustainable. He agreed with his colleague, he would not be supporting the recommendation in the report.

Local Member Councillor Goodfellow agreed with his fellow local members. He stated that constituents had consistently lobbied local members against this development. There were good planning reasons for refusing this application; it was based on a 2008 economic assessment, which was out of date and made when the economic situation was quite different. He would not be supporting the report recommendation to grant consent.

Councillor Currie remarked that all the requirements for the enabling development had been satisfied. Members had to take account of the officer recommendation and the statements from the District Valuer, Economic Development and the range of stakeholders, all of which were supportive of the application. He cautioned against ignoring these consultation responses. He supported the report recommendation.

Councillor Innes stated that as Members were aware this application had been considered previously. All aspects and concerns had been considered very carefully, and the Committee had determined then that the application was in the wider interests of East Lothian and had granted consent. Members had heard from the agent that the necessary finance was in place. He supported the application.

Councillor McMillan agreed with Councillors Innes and Currie. Policy DC1 existed to protect the countryside but also allowed for business opportunity, where applicable. Responding to some earlier comments, he gave details of recent positive golf tourism figures across the county. The Section 75 Agreement would provide the necessary protection. He appreciated that the local community did not support this application. He would however be supporting the recommendation in the report.

Councillor Grant stated that he had supported the previous applications and had heard nothing today to change his opinion. He noted that the local community was against this proposal but he would be supporting the application.

The Convener understood the concerns of the community and local members. He acknowledged the long delay in bringing this application to fruition. He stressed that approval had previously been granted by the Committee so it would not be rational to go against the application now. He understood the concerns about delivery of the hotel but assurances had been provided from the agent that the finance was in place. The proposal would deliver a high quality facility to Whitekirk, which would be beneficial for East Lothian. He would be supporting the application.

He moved to the vote on the report recommendation (to grant consent):

For: 13
Against: 3
Abstentions: 1

Decision

The Committee agreed to grant planning permission in principle subject to:

1. The undernoted conditions.
2. The satisfactory conclusion of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 to:
 - (i) Secure from the applicant a financial contribution to the Council of £660,779 (£16,519.48 per unit) towards the provision of additional educational capacity at Law Primary School and North Berwick High School.
 - (ii) Secure a control on the phasing of the proposed development to ensure that there shall be no commencement of development of any part of the housing component of the proposed scheme of development until the hotel building (less the internal fitting out of it), greenkeeper's shed and compound, and alterations to the existing golf course (all as approved by planning permission in principle 08/00078/OUT and approval of matters specified in conditions 13/00229/AMM) have been completed.

For the purposes of the Section 75 Agreement “internal fitting out” shall be defined only as “installation of sanitary ware, light fittings, furniture, electrical equipment and commencement of internal decoration.

(iii) Secure a restriction on the occupancy of the holiday lodges to short term letting, time sharing or some other form of limitation on duration of stay to defined short periods of time.

3. That in accordance with the Council's policy on time limits for completion of planning agreements it is recommended that the decision should also be that in the event of the Section 75 Agreement not having been executed by the applicant, the landowner and any other relevant party within six months of the decision taken on this application, the application shall then be refused for the reasons that without the developer contributions to be secured by the Agreement the proposed development is unacceptable due to a lack of sufficient school capacity at Law Primary School and North Berwick High School Knox Academy contrary to Policy INF3 of the adopted East Lothian Local Plan 2008, and that without the control of the Section 75 Agreement to phase the proposed development and control the occupancy of the 21 holiday lodges the proposed development would be contrary to Policy DC1 of the adopted East Lothian Local Plan 2008.

1 The submission for approval of matters specified in conditions of this grant of planning permission in principle shall include details of the siting, design and external appearance of the 21 holiday lodges and 40 houses, the means of access to them, the means of any enclosure of the boundaries of the site and the landscaping of the site and those details shall generally accord with the drawings docketed to this planning permission in principle, and those details shall accord with the following principles of development for the site:

- a. a toddlers play area shall be provided within the housing area. Details of the toddlers play area, including the equipment to be provided within it, shall be submitted to and approved in advance and the play area shall be installed in accordance with the details so approved;
- b. The houses shall be no higher than single storey with accommodation in the roof space;
- c. The holiday lodges shall each be no higher than single storey and with a footprint not significantly greater than is indicatively shown on the drawings docketed to this planning permission in principle and the holiday lodges shall be set within a well landscaped wooded setting, including a belt of trees that shall be positioned between the boundaries of Development Area 3 Lodges and the application site;
- d. The group of 40 houses shall be set within a comprehensive framework of trees; and
- e. The existing trees and hedgerows on field boundaries shall be retained and enhanced.

Reason:

To enable the Planning Authority to control the development in the interests of the amenity of the development and of the wider environment.

2 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.

- 3 No residential unit shall be occupied unless and until details of artwork to be provided on the site or at an alternative location away from the site have been submitted to and approved by the Planning Authority and the artwork as approved shall be provided prior to the occupation of the final residential unit approved for erection on the site.

Reason:

To ensure that artwork is provided in the interest of the visual amenity of the locality or the wider area.

- 4 No work shall be carried out on the site unless and until an effective vehicle wheel washing facility has been installed in accordance with details to be submitted to and approved by the Planning Authority prior to its installation. Such facility shall be retained in working order and used such that no vehicle shall leave the site carrying earth and mud in their wheels in such a quantity which causes a nuisance or hazard on the road system in the locality.

Reason:

In the interests of road safety.

- 5 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 commencement of development of any component part of the scheme of development hereby approved. The Travel Plan shall include an assessment of whether or not new bus stops should be provided and whether or not a courtesy bus service should be provided by the developer for the transporting of guests of the holiday lodges to and from major public transport interchanges such as the airport and train and bus stations. Additionally the Travel Plan shall include details of the measures to be provided, the system of management, monitoring, review, reporting and duration of the Plan.

The approved Travel Plan shall be implemented prior to any component part of the scheme of development hereby approved being brought into use.

Reason:

In the interests of ensuring sustainable travel patterns in respect of the use of the scheme of development.

- 6 A Construction Method Statement to minimise the impact of construction activity on the amenity of the area shall be submitted to and approved by the Planning Authority prior to the commencement of development. The Construction Method Statement shall recommend mitigation measures to control noise, dust, construction traffic and shall include hours of construction work.

The recommendations of the Construction Method Statement shall be implemented prior to the commencement of development.

Reason:

To minimise the impact of construction activity in the interests of the amenity of the area.

- 7 A method statement for the routing and management of construction traffic shall be submitted to and approved by the Planning Authority prior to the commencement of development.

The recommendations of the method statement shall be implemented prior to the commencement of development.

Reason:

To minimise the impact of construction traffic in the interests of road safety and the amenity of the area.

- 8 The discharge of surface water to the water environment shall be in accordance with the principles of the SUDS (Sustainable Drainage Systems) Manual (C697) published by CIRIA.

Reason:

To ensure that the drainage scheme complies with best SUDS practice to protect nearby watercourses and groundwater.

3. PLANNING APPLICATION NO. 15/00357/P: ERECTION OF CARE HOME AND ASSOCIATED WORKS AT COCKENZIE HOUSE, EDINBURGH ROAD, COCKENZIE

A report was submitted in relation to Planning Application No. 15/00357/P. Mr Dingwall presented the report, summarising the key points. He referred to the application determined in October 2013 and to the reasons for refusal. He outlined the changes in this new application. The recommendation set out in the report was for refusal; he drew attention to the reasons for refusal.

Mr Dingwall added that if the Committee decided to go against the report recommendation and grant consent then under the provisions of the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 the Council must first notify Scottish Ministers of their intended decision. The reason for this was that the Council would be proposing to grant planning permission for a development that may affect a Category A listed building and where the Scottish Ministers (acting through Historic Scotland) had advised against the granting of planning permission.

He responded to several questions from Members regarding the planning history of the site, previous applications for a care home and criteria for location of care homes. He referred to the required consideration of development planning policies and the updating of policies since consideration of earlier applications. He stressed that each case had to be considered on its own merits. The Convener remarked that it was acceptable on occasions to have modern buildings next to a Category A listed building, citing the Scottish Parliament and Holyrood House. Iain McFarlane, Service Manager for Planning, stated that the key was the positioning of the new building, the scale and height and how it would affect the principal elevation of Cockenzie House; this was why Historic Scotland had objected to the application. He added that Historic Scotland very rarely objected to planning applications.

George Gilbert of Gilberts, agent for the applicant, referred to the earlier application and advised that since then considerable work had been done to address concerns. This application was for a building with some architectural merit and the proposal would sit well in relation to, and remain subservient to, its neighbour, Cockenzie House. The material improvements included reduction of the number of bedrooms to 60, all accommodation on two storeys, natural stone and render finishes. The proposed building would sit within a very large open space. The perimeter wall would create a veil around the building. A specialist tree person would be engaged. Up to a 100 full and part time jobs would be created. His client's long term aim was to create a care facility that integrated with the community; there was no problem with the presence of allotments. He commended this application to Members.

Joyce Souness, representing the allotment holders, spoke against the application. She informed Members there were now 18 allotments in use and a long waiting list. There were very few allotment areas in East Lothian; the continuing provision of allotments should be taken into consideration. The benefit to the local community was invaluable; healthy eating, physical activity and improved mental health. She stressed that there must be a more suitable location in the county for a care home.

Bryan Hickman, representing Cockenzie House and Gardens, spoke against the application. Cockenzie House was now a community facility comprising small to medium business enterprises and a hub for tourism. It also had spaces for hire, hosted exhibitions and concerts. There was a tearoom and a community art room; studios were rented out to artists. The 2 holiday cottages available for rent had been fully booked throughout the summer. Around 500 people per week were now visiting

Cockenzie House; it was becoming a tourist destination. The economic value created over its short period of existence had been a remarkable achievement. All of this was now in jeopardy. The heritage of Cockenzie and Port Seton would be eroded. He did not deny the need for a care home but this was not the right location.

In response to questions, Mr Hickman stated that he did not think Cockenzie House, in its current form, would be able to survive the building phase if this application was granted.

Local Member Councillor Innes noted that Cockenzie House was much improved and had made a significant contribution to the local community and economy. He was not convinced however that introducing elderly people would jeopardise the business or atmosphere. Elderly people in this area currently had to be cared for outwith their community. There was a lack of residential sector capacity. He did not feel that the impact on the listed building would be as detrimental as stated in the report. The proposal would bring jobs to the area, would fulfil a need and would provide an excellent environment for elderly people. The residents, their families and staff could contribute positively to Cockenzie House. He would be supporting the application.

Local Member Councillor MacKenzie drew attention to the history of the area, the splendid setting of Cockenzie House itself, its distinctive wall and other features of note. He was very conscious of comments made by both objectors. The social enterprise currently taking place at Cockenzie House was exciting and welcomed, he congratulated all involved. This was jeopardised by the application; he drew attention to the many points detailed on pages 42/43 of the report. Historic Scotland objected to the application. He would be supporting the officer's recommendation for refusal.

Local Member Councillor Brown agreed with Councillor MacKenzie. The previous application for a nursing home had been refused; he saw no reason to go against the report recommendation. He had concerns about the significant number of trees that would need to be felled; this was against Policy DP14. He agreed with the officer recommendation to refuse this application.

Local Member Councillor Libberton stated that Cockenzie House had come alive over the past few years, due to the work of the local community; it was now a thriving community facility. This proposal for a care home was a concern, on several levels; the impact on its current usage, parking facilities and potential overspill onto the High Street and also the allotments. She was not a member of the Planning Committee so could not vote, but if she could it would not be in support of this application.

Councillor Berry made reference to comments made by Councillors Innes and Hampshire, remarking on previous care home provision in the county. The Committee had to consider the longer view; there was a need for care homes, suitable sites had to be identified; this was not such a site. He supported Councillor MacKenzie's comments. Mr Dingwall had reported that it was unusual for Historic Scotland to submit an objection; Members had to take account of this. This late 17th century house would be jeopardised if this proposal went ahead. He agreed with the report recommendation to refuse the application.

Councillor Currie stated that Historic Scotland's objection was key; if the Committee did decide to approve this application then Scottish Ministers had to be provided with the reasons for approval as this was a building of national importance. Councillor Libberton's points about the building coming to life were powerful and important; there was a risk this community facility could be jeopardised. The proposed building would be dominant. The number of trees to be felled would have a huge visual

impact on the area. He agreed with Mr Hickman that Cockenzie House, in its current usage, could not survive the construction phase. He supported the officer's recommendation, and Historic Scotland's recommendation, for refusal.

Councillor Grant understood the reasons for the previous refusal but remarked that the proposal had altered since the last application; capacity and height of the proposed building had been reduced. He agreed that the recent community usage of Cockenzie House had been a positive change. However health and social care provision had also altered significantly and formed a major part of required use in the area. He supported Councillor Innes; there were advantages to allowing this development to go ahead.

Councillor Goodfellow referred to Councillor Innes' point about the lack of a care home in this ward. He drew attention to the planning history of this application and site, referring to the application approved in 1994. This new application had modified plans, reduced mass and footprint; a compromise had been made to the proposal. He would be supporting the application.

Councillor Caldwell remarked that the proposed development could enhance Cockenzie House. He would be supporting the application.

Provost Broun-Lindsay expressed some sympathy with Councillor Innes' view, but remarked that once this new building was in place it would be a permanent structure. This proposal would damage this Category A listed building and curtilage. The 1994 application referred to had been granted in a very different historical context and was not germane to this application. There had been a radical change recently, a venture of some significance to the community now took place in Cockenzie House; to put a 60 bed care home in this location would not be at all beneficial. He supported the officer's recommendation for refusal of the application.

The Convener made reference to the emphasis being placed on Historic Scotland's view. This Committee had previously allowed modern buildings in historic sites in East Lothian. The proposal was for a building in garden ground, to the east of Cockenzie House. Car parking should not be an issue, as family members would only be visiting for short periods of time. The economic development currently taking place was excellent and was supported by this Council. The proposed care home would however provide employment. Regarding the allotments, the applicant had indicated that some would be kept in the grounds; the Council would also look at where it could create more allotments. There was a need for a care home in East Lothian, especially in this ward. He would be supporting this application.

He moved to the vote on the report recommendation (for refusal):

For: 8

Against: 8

Abstentions: 0

Due to the equal number of votes, and in accordance with the Council's Standing Orders, the Convener used his casting vote – for approval of the application.

Mr McFarlane reiterated that Scottish Ministers had to be notified of the Committee's decision, including the recommended conditions, and suggested that the Committee delegate authority for these to be decided between the Convener, local members and officers; this was agreed.

Decision

The Committee agreed to grant planning permission subject to conditions to be determined by the Convener, local members and officers.

Sederunt – Councillor McMillan returned to the Chamber, Councillor Libberton left

4. PLANNING APPLICATION NO. 15/00322/P: CHANGE OF USE OF OPEN SPACE TO CAR PARKING AREA AT 13 HOPETOUN TERRACE, GULLANE

A report was submitted in relation to Planning Application No. 15/00322/P. Mr McFarlane, presented the report, summarising the key points, including the site history and refusal of the previous application due to the impact of proposed bollards on the character and appearance of the Conservation Area, but not on grounds of the proposed use of the site for parking. The proposed decision set out in the report was to grant consent.

Local Member Councillor Berry referred to the number of objections listed in the report stating these were still valid; properties at 15 to 21 Hopetoun Terrace would still be affected. This was a neighbour dispute being escalated through the planning system. He disagreed with, and would not be supporting, the officer's recommendation; the proposal would block access.

Mr McFarlane clarified that a legal right of access was not a material planning consideration.

Local Member Councillor Day expressed disappointment that this application had again come forward, given its history. He agreed with his colleague, the planning system should not be used as a tool for settling neighbour disputes. The proposal was unacceptable; the change of use would be detrimental to the amenity of the area. He could not support the officer's recommendation to grant consent.

Local Member Councillor Goodfellow concurred with his fellow local members; he would not be supporting the application.

Provost Broun-Lindsay stressed that the applicant owned the land in question. He supported the officer's recommendation.

Councillor Currie agreed with the Provost; there was no material planning reason for refusal so he would be supporting the report recommendation.

The Convener expressed agreement with the local members; he would be going against the officer recommendation for the reasons outlined by Councillor Day.

He moved to the vote on the report recommendation (to grant consent):

For: 8

Against: 9

Abstentions: 0

Decision

The Committee agreed to refuse planning permission for the following reason:

1. The change of use from open space to a car parking area would result in loss of amenity to the area.

5. PLANNING APPLICATION NO. 15/00290/P: CHANGE OF USE OF PUBLIC OPEN SPACE TO DOMESTIC GARDEN GROUND AND ERECTION OF FENCING AT 7 GREEN APRON PARK, NORTH BERWICK

A report was submitted in relation to Planning Application No. 15/00290/P. Mr MacFarlane presented the report, summarising the key points. The proposed decision set out in the report was to grant consent.

Ian Duff, agent for the applicant, informed Members that the Council had already agreed to sell the land in question, which would increase the size of the rear garden and create a new side garden. He outlined the reasons for the application, providing background details and other information in support of the proposal.

Local Member Councillor Goodfellow indicated that he had no major problems with most of the application but the open aspect at the front of these properties was the norm for this estate. If the proposed fence had finished further back then he would have had no concerns.

Local Member Councillor Day made reference to the first objection as detailed in the report, disagreeing with the “tunnel” comments. He supported the report recommendation.

Local Member Councillor Berry accepted Councillor Goodfellow’s concerns but did not think this application could be regarded as inappropriate. He would be supporting the recommendation in the report.

The Convener moved to the vote on the report recommendation (to grant consent):

For: 16
Against: 1
Abstentions: 0

Decision

The Committee agreed to grant planning permission. There were no conditions.

6. PLANNING APPLICATION NO. 15/00287/P: CHANGE OF USE OF DOMESTIC GARDEN GROUND FOR THE ERECTION OF BUILDING FOR OFFICE (CLASS 2) USE AND ASSOCIATED WORKS AT SITE AT 2 FORTH STREET LANE, NORTH BERWICK

A report was submitted in relation to Planning Application No. 15/00287/P. Stephanie McQueen, Planner, presented the report, summarising the key points. The proposed decision set out in the report was for refusal of the application.

In response to questions Ms McQueen clarified issues about the pre-application discussions, planning history and details in the report regarding use of the building for office space. She confirmed that it was the building itself, its proportionality on this small constrained site, that informed the recommendation for refusal.

Keith Macdonald of Somner Macdonald Architects, agent for the applicant, referred to previous applications and outlined the differences in this proposal. He made reference to the planning history of the area. He disputed the reasons for refusal detailed in the report. The proposal was very modest; the design was inoffensive and not harmful to the Conservation Area. The Council’s Road Services had raised no

objection. The Community Council was supportive of the proposal. He hoped the Committee would see the merits of the proposal.

John Papworth, neighbouring resident, spoke against the application. He was also representing two other neighbours, Mr/Mrs McMinn and Mr/Mrs Cucchi. He raised several points regarding access, informing Members there was no public road adjacent to this site. The access land was owned by Mr Cucchi, therefore the developer had no right of access so no opportunity to build or service the site. He also raised concerns about the removal of the cherry tree.

Mr Papworth, in response to questions, clarified the layout, positioning and garden area of the flats at 2 Forth Street Lane.

In response to further questions, Mr McFarlane clarified that the removal of any significant tree in a Conservation Area required the appropriate consent. Ms McQueen confirmed that the tree would have to be removed to facilitate the proposed building. Regarding ownership of the land, Mr McFarlane advised that this was not a material planning consideration. He explained that an applicant was required by legislation to state that they either owned the land of the site in question or to provide details of the owner. This site was in the ownership of the applicant; the access lane was in the ownership of Mr Cucchi.

Local Member Councillor Berry remarked that this was a controversial and sensitive site. He alluded to the planning history of this area and to the numerous dense, infill developments. He did not agree with the officer's position. He acknowledged that the legal issues regarding access, referred to by the objector, were not material considerations. Office space was urgently needed in the town centre; he would be supporting the application.

Local Member Councillor Day stated the proposal was an acceptable form of development. The legal issues were not matters for this Committee. This was an imaginative scheme; the business use was welcomed. He supported the application.

Local Member Councillor Goodfellow expressed concern about the loss of the cherry tree but felt that having a building on this site would be advantageous. He would be supporting the application.

Councillor Currie referred to approval granted in June for an application on this street; there was no reason not to support this application. This was an acceptable proposal, which he supported.

Provost Broun-Lindsay felt the proposal was quite ingenious use of this piece of ground. He was supportive of the application.

Councillor McMillan echoed those comments; the proposal for office use within the town centre would be beneficial. On balance, he would be supporting the application.

Councillor McLeod felt the proposal would enhance the area; he supported the application.

The Convener moved to the vote on the report recommendation (for refusal):

For: 2

Against: 15

Abstentions: 0

Decision

The Committee agreed to grant planning permission, subject to conditions to be determined by the Convener, local members and officers.

Sederunt – Councillors Goodfellow, Currie and Broun-Lindsay left the Chamber

7. PLANNING APPLICATION NO. 15/00511/P: EXTENSION TO HOUSE WITH 1ST FLOOR BALCONY, FORMATION OF DECKED AREA AND ERECTION OF SCREEN AT 53 OLD ABBEY ROAD, NORTH BERWICK

A report was submitted in relation to Planning Application No. 15/00511/P. Mr McFarlane presented the report, summarising the key points. He tabled drawings showing the overshadowing, as requested by Members, together with details of the design of the previously approved extension and the now proposed design. The proposed decision set out in the report was to grant consent.

Mr McFarlane responded to questions from Councillor Berry, providing clarification on the criteria of the applicable daylight/sunlight tests.

Christopher Thomson of Christopher Thomson Design, agent for the applicant, informed Members that planning permission had previously been granted for a 2 storey extension; for his clients this had been a key driver in purchasing this property. The proposal had met all the relevant planning criteria; there was nothing from a technical viewpoint to negate granting planning permission.

Mrs Lockhart, neighbouring resident, spoke against the application. She objected to the scale and size of the proposed extension; it was very large and technically 3 storeys high taking account of the basement. It would be an unsightly, permanent structure, not in keeping with the character of the house. There was no other extension of this height on this street. The proposal would have a major impact; their garden would be completely overshadowed and their garden amenity lost.

Local Member Councillor Day remarked that this was a difficult application. He had two areas of concern. The design was inappropriate, as were the materials proposed. There was a significant degree of overshadowing and the cumulative effect would have a considerable impact. He did not support the report recommendation.

Local Member Councillor Berry sympathised with his colleague's view; however Members were confined by planning rationale. He was inclined to support the application as there were not sufficient planning reasons for refusal.

Councillor McLeod supported the officer's recommendation.

The Convener moved to the vote on the report recommendation (to grant consent):

For: 13

Against: 1

Abstentions: 0

Decision

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

- 1 No use shall be made of the raised decking at the ground floor north elevation of the extension hereby approved unless and until its north and west boundaries are enclosed by an obscurely

glazed screen, of a height at least 1.6 metres above the height of that area of decking, along its western edge as specified on the drawings docketed to this planning permission.

Thereafter the screening so approved shall remain in place unless otherwise approved by the Planning Authority.

Reason:

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

- 2 No use shall be made of the north facing, first floor balcony of the extension hereby approved unless and until the full height screen to be formed by the denoted 1 metre long extension of the timber clad west wall, at the northwest corner of the first floor component of the extension, is completed as specified on the approved drawings docketed to this planning permission.

Thereafter the screening so approved shall remain in place unless otherwise approved by the Planning Authority.

Reason:

In the interests of the privacy and residential amenity of the adjoining house and ancillary accommodation to the west.

- 3 The lower decking hereby approved as part of the extension shall not be used either: unless and until a timber screen fence is erected along the 8.5 metres partial length shown for it on the drawings docketed to this planning permission, either on top of or alongside the existing brick wall of the east boundary enclosure of 53 Old Abbey Road, to an effective height of 1.6 metres above the finished floor level of that area of decking; or, some other appropriate screening achieving a height of at least 1.6 metres above finished floor level of that area of decking is installed in accordance with details to be submitted to and approved by the Planning Authority in advance.

Thereafter the screening so approved shall remain in place unless otherwise approved by the Planning Authority.

Reason:

In the interests of the privacy and residential amenity of the neighbouring 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 ground and first floor east and west elevation walls of the extension hereby approved, unless otherwise approved by the Planning Authority.

Reason:

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

Signed

Councillor Norman Hampshire
Convener of the Planning Committee