



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

**TUESDAY 6 OCTOBER 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 T Day
Councillor J Goodfellow
Councillor D Grant
Councillor W Innes
Councillor P MacKenzie
Councillor J McMillan
Councillor J McNeil
Councillor T Trotter
Councillor J Williamson

Council Officials Present:

Ms M Ferguson, Service Manager – Legal and Procurement
Mr K Dingwall, Principal Planner
Mr D Irving, Acting Senior Planner
Mr M Greenshields, Transportation Planning Officer
Mr G Talac, Transportation Planning Officer

Clerk:

Ms A Smith

Visitors Present:

Item 2 – Mr R Henderson, Mr S Short
Item 3 – Mr K Macdonald, Mr T Hardie, Mr R Bell, Mrs L Rae, Ms H Smith
Item 4 – Ms S Karsgaard, Prof. J Pickard, Prof. G Kirk
Item 5 – Ms J McShane, Mr G Cochrane
Item 6 – Mr G Brown, Ms S Davidson
Item 7 – Mr J Todd, Mr D Barrett

Apologies:

Councillor S Currie
Councillor A Forrest
Councillor J Gillies
Councillor K McLeod

Declarations of Interest:

Councillor Berry declared an interest in item 3. His reasons for taking this application off the Scheme of Delegation list had indicated a bias; he would leave the Chamber for the debate and decision on this item but would like to make a statement before leaving, in accordance with the Councillors' Code of Conduct.

Prior to commencement of business the Provost, on behalf of all Members, expressed great sympathy to Councillor Currie on his recent bereavement.

1. MINUTES FOR APPROVAL

The minutes of the Planning Committee of 1 September 2015 were approved subject to the alteration specified by Councillor MacKenzie on page 8.

2. PLANNING APPLICATION NO. 15/00136/AMM: APPROVAL OF MATTERS SPECIFIED IN CONDITIONS OF PLANNING PERMISSION IN PRINCIPLE 14/00903/PPM – PROPOSED INFRASTRUCTURE, ACCESS, LANDSCAPING AND SITE DEVELOPMENT WORKS INCLUDING DISTRIBUTOR ROAD AND ACCESS JUNCTIONS ONTO THE A199 AND A6094, FOOTPATHS/CYCLEWAYS, SUDS BASINS, ACOUSTIC BUNDS AND DEVELOPMENT PLATFORMS AT LAND TO SOUTH, EAST AND WEST, WALLYFORD

A report was submitted in relation to Planning Application No. 15/00136/AMM. Keith Dingwall, Principal Planner, presented the report, summarising the key points. The report recommendation was to grant consent.

Russell Henderson of AECOM, transport and traffic consultants for the applicant focused on addressing Strawberry Corner Garden Centre's objections regarding their concerns about the impact of the proposal on a) the A199, b) the Garden Centre's delivery and service vehicles and c) its financial operation. The new roundabout would be to the southern side of the A199 and would introduce a new 30mph speed limit. Delivery vehicles would enter/exit the Garden Centre on a dedicated service access; there would be a separate customer access. The junction arrangements were in line with appropriate standards and had been independently audited. Regarding the impact on the operation of the Garden Centre, the vast majority of works would be to the south of the A199 which could be carried out without any disruption to their business. He stressed the public commitment from his clients regarding provision of the new primary school to Wallyford. He informed Members that work would commence on site at the beginning of November.

Mr Henderson responded to questions from Councillor Caldwell. He advised that the signal at Salters Road would be at the new link road access to the development, the pedestrian crossing location had still to be confirmed. The new roundabout would be created at the beginning of the works as it would be essential for access to the site.

Sam Shortt, representing Strawberry Corner Garden Centre, spoke against the application. The Garden Centre objected to the proposed access arrangements which would give rise to service vehicle and customer vehicle conflicts. This new proposal would compromise deliveries, may result in queuing on the roundabout which could have road safety implications. He outlined how HGVs currently accessed the Garden Centre and the differences under the proposed arrangement. He referred

to the 2012 designs/proposed layout, stating these had been acceptable. Several options had been put to the applicant but no consideration given to these. The Garden Centre only wished to keep its current delivery capacity. He requested a deferment on this application due to the implications on the business supply chain.

Mr Shortt responded to questions from Members in relation to the number of HGV movements, the possibility of timetabling deliveries, vehicles accessing the Garden Centre, then the holding and service areas and also internal vehicle movements.

Grant Talac, Transportation Planning Officer, informed Members that discussions with the applicant had taken place over the last 6 months. In Road Services view the applicant's proposal was satisfactory. The proposed relocation of the roundabout further south would create stacking room for HGVs. The previous layout, referred to by Mr Shortt, had not separated delivery and customer access; this new proposal did, which was an improvement. In response to additional comments from Mr Shortt, Mr Talac provided further clarification. Road Services felt that the provision of separate designated accesses would reduce the potential conflict between service and customer vehicles and that the proposed access arrangements would not create a road safety hazard.

Local Member Councillor Caldwell stated that he was reassured by Mr Talac's comments in respect of the roundabout. Members had already approved planning permission in principle; this was an important development which would provide a much needed replacement primary school. This application needed to be approved today; there could be no delay to the programme of works.

Councillor Innes, on behalf of Local Member Councillor Forrest, welcomed progress on this development, which was very important for Wallyford. Councillor Forrest had expressed disappointment that there seemed to be issues for the Garden Centre in relation to the roundabout but nonetheless he did support the application.

Councillor MacKenzie welcomed this development which would include housing, retail, community buildings and a new primary school. Regarding the representation from Strawberry Corner Garden Centre he remarked that it was in a pivotal position to benefit from this new development.

Councillor Innes stated this development had been an ambition for the Council for some time; the new primary school was one of the key elements. The Garden Centre was an important local business and he did sympathise with the owners however, this development was very important to the local community and should be determined today. He added that this issue should have been dealt with beforehand.

The Convener brought the discussion to a close. He remarked that it was unfortunate that much of the debate had focused on the Garden Centre and roundabout. This was an extremely important application for Wallyford and East Lothian; the development would be a huge asset to the county and progress was welcomed.

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

For: 13
Against: 0
Abstentions: 1

Decision

The Committee agreed that approval of matters specified in conditions for the proposed infrastructure development be granted subject to the following 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 finished ground 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.

Reason:

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

- 2 The stone wall to be erected along the A199 frontage of the site shall be constructed in natural stone. A sample of the natural stone to be used shall be submitted to and approved in advance by the Planning Authority. The stone wall shall thereafter be erected in accordance with the sample so approved and prior to the occupation of any of the residential units approved by the grant of planning permission in principle 14/00903/PPM, unless otherwise approved in writing by the Planning Authority.

The stone wall once erected, will thereafter be retained unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure the northern stone boundary wall is erected in the interests of the visual amenity of the area.

- 3 Prior to the commencement of development, a timetable for the implementation of all of the proposed noise mitigation measures specified in the docketed RMP Technical Report No. R-6528E-RGM-CS shall be submitted to and approved by the Planning Authority.

Development shall thereafter be carried out in accordance with the timetable so approved.

Reason:

To ensure an appropriate level of acoustic screening in the interests of the amenity of the future occupants of the site.

- 4 Unless otherwise approved in advance by the Planning Authority, no development shall take place on site until the existing trees along Fa'side Avenue have been protected by a fence, to be approved in writing by the Planning Authority, erected around each tree or group of vegetation at a distance from each tree trunk commensurate with the tree crownspread or such distances as may be agreed in writing by the Planning Authority. Within the areas so fenced off the existing ground level shall neither be raised or lowered and no materials, temporary buildings, plant, machinery or surface soil shall be placed or stored and no fires shall be lit thereon without the prior written approval of the Planning Authority. Details of any trenches or services required in the fenced off areas shall be submitted to and approved by the Planning Authority prior to any such works being carried out and such trenches or services shall be excavated and backfilled by hand and any tree roots encountered with a diameter of 25mm or more shall be left unsevered.

Reason:

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

- 5 The woodland planting detailed in the docketed infrastructure landscape masterplan shall be provided along all of the boundary compartments of the site, including along southern and south eastern boundaries of the site. Along the southern boundary, the woodland planting shall be planted on either side of the proposed acoustic barrier and a minimum of 15% of the trees within that woodland planting shall be of a standard variety.

Reason:

To satisfactorily integrate the development into its surroundings, in the interests of the visual amenity of the area.

- 6 Prior to the commencement of development: a) a scheme of intrusive site investigations for the site; and b) a scheme of remedial works, shall be submitted to and approved by the Planning Authority, following consultation with the Coal Authority.

Prior to the commencement of development (excluding groundworks and site regrading) the scheme of intrusive site investigations shall be undertaken and the remedial works shall be implemented in accordance with the details so approved.

Reason:

To secure the necessary site investigations for the shallow coal workings and the mine entries, together with the implementation of the necessary remedial works, in order to ensure that development does not occur above or too close to these mining hazards.

- 7 Prior to the commencement of development a signage strategy to promote the alternative road layout and access arrangements for Strawberry Corner Garden Centre shall be submitted to and approved by the Planning Authority. The strategy shall include a timetable for the display of any necessary signage.

Development shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of road safety.

- 8 A bus shelter and Kassel kerbs shall be provided within the new bus stop layby to be formed to the west of the roundabout hereby approved. Unless otherwise approved in writing, the bus shelter, Kassel kerbs and bus stop layby shall be formed and made available for use prior to the occupation of any of the residential units approved by the grant of planning permission in principle 14/00903/PPM.

Reason:

To encourage sustainable forms of transport in the interests of road safety.

3a. PLANNING APPLICATION NO. 15/00563/P: ERECTION OF 2 FLATS AND ASSOCIATED WORKS AT 21 WESTGATE, NORTH BERWICK

A report was submitted in relation to Planning Application No. 15/00563/P. Daryth Irving, Acting Senior Planner, presented the report, summarising the key points. The proposed decision set out in the report was to grant consent.

Councillor Goodfellow queried the description; in the design proposal the description was for a 2 storey building comprising 2 single storey flats, 1 on each floor, but in the report the description was for a single storey and attic building containing 2 flats. Mr Irving advised that the description had changed when the application was registered.

Keith Macdonald, of Somner Macdonald Architects, agent for the applicant, addressed the Committee in relation to both this application and the conservation area consent application. He made reference to the public opposition. He outlined the history of the site. He stated that Historic Scotland had listed several buildings in Westgate but not number 21. The conservation area consent process existed to allow demolition of buildings and acceptable replacement. North Berwick had, like most towns, seen many changes to its buildings over the years, many sites had been redeveloped. This proposal was very modest; high quality materials would be used to echo the surroundings. The proposed building would preserve and enhance the area.

Tom Hardie spoke against these applications on behalf of 3 neighbours residing in Bank Street and St Andrew Street. This was not a single storey building with attic space; it was quite clearly a 2 storey building. He drew attention to Policy ENV2 and the requirements regarding development of 2 or more storeys. Every effort should be made to protect business use for the ground floor level; this would be a change of

use. The proposal was therefore contrary to Policy ENV2. Regarding the demolition of the building he disputed the statement in the report that as the building was not listed then the proposal was acceptable; it was not. This was a valued building, with a valid use and should be retained as such.

Richard Bell, local resident, spoke against these applications. He had consulted the Director of the Scottish Civic Trust who had visited the site and submitted an objection. He outlined the key areas of the Trust's objection. The existing building was important to the character of the Conservation Area; it was architecturally and historically significant. He drew attention to Scottish Historic Environmental Policy regarding conservation area consent criteria for demolishing a building. In the Trust's view this existing building made a positive contribution to the character of North Berwick's Conservation Area. He added that there was a growing need for office space in towns across East Lothian; mixed use created vibrant, thriving towns.

Lyn Rae, neighbouring resident, spoke against these applications. The building was the most prominent example of a Victorian house and former coach house in North Berwick; its architecture was distinctive in design. The historic nature of the town centre was very important; this proposal was not suitable for this area. There was no just reason for demolishing this building. It was in a prime location and had been used as an office for many years. It would be detrimental to the Conservation Area to remove an old coach house and replace it with modern flats.

Hilary Smith representing North Berwick Community Council spoke against these applications. The Community Council objected to these applications for two main reasons; the negative impact on the Conservation Area and the loss of business space. The property formed part of a special Conservation Area townscape; occupying high visibility in North Berwick. Prior to its sympathetic restoration in 1975 it was a disused coach house. The loss of this building could not be outweighed by the proposed flats. With regard to business space there was concern about losing this as it was difficult to see where this could be replaced in the town.

Responding to questions Mrs Smith clarified that there were a couple of empty shop premises on the High Street, but she was not aware of any available office space.

Councillor Berry referred to the high level of concern locally about these applications. According to the report there was no requirement to market the existing building as the proposal did not involve a change of use. In his view this was a circular argument. He referred to the Scottish Historic Environmental Policy and requirements regarding conservation area consent. As highlighted by Councillor Goodfellow, this proposal was for a 2 storey building. He drew attention to the 2008 Local Plan in relation to the townscape of this area of North Berwick. He made reference to the Civic Trust award and the need to preserve the character of this building. This proposal would result in a loss of office space; it was essential to retain this as such.

Sederunt – Councillor Berry left the Chamber

Local Member Councillor Day supported his colleague's decision to bring this to Committee. He had strong reservations about these applications. Members were being asked to demolish a historic building which formed an integral part of North Berwick. The town was East Lothian's prime tourist destination, with its mix of architecture and streetscapes; caution was needed. The key test was Section 64 of Scottish Planning Policy. He also referred to Policy ENV4 of the Local Plan regarding preserving and enhancing historic areas. North Berwick was not short of new build

housing but was short of business accommodation; it would be pure folly to sacrifice business space for residential use. He would not be supporting the recommendation.

Local Member Councillor Goodfellow referred to the large number of objections from constituents who felt that the proposed new building would not preserve or enhance this Conservation Area and would lead to the loss of this historic coach house. He drew attention to the severe lack of business premises in North Berwick. The present building contributed to this use, the new flats would not. He drew attention to Policy ENV2; he stressed that this proposal was for 2 separate flats, with separate access, it was a 2 storey development. He would not be supporting the recommendation.

Councillor MacKenzie made reference to East Lothian's architectural heritage. He had been swayed by the objectors and felt this building should be kept and retained for business use. He would not be supporting the application.

Councillor Trotter remarked that the points put forward by local members and objectors had been convincing. He would also not be supporting the officer's recommendation.

Councillor Williamson agreed; the building and its setting should be preserved. He would not be supporting the application.

Councillor Innes indicated that he too had been persuaded by the objectors and would not be supporting the recommendation in the report.

Provost Broun-Lindsay shared the views of the local members and objectors. He did feel the report recommendation was based on a false premise, that the proposed building was 1 storey with attic rather than a 2 storey building. However he disagreed with the recommendation and supported the views expressed by the local members. He would not be supporting the officer's recommendation.

Councillor Grant agreed with the Provost's assessment; he would not be supporting the application.

Councillor McMillan stressed that the lack of commercial office use was a key argument, this building needed to be retained for such use. He referred to Policy ENV2, stating that to ensure the vitality and vibrancy of East Lothian's urban centres there needed to be a mix of different types of use. He would also not be supporting the report recommendation.

The Convener brought the discussion to a close. He noted from views expressed that Members were not inclined to support the officer's recommendation. Having listened carefully to all the arguments he was minded to agree with the local members; he would therefore not be supporting the application.

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

For: 0

Against: 13

Abstentions: 0

Decision

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

1. The demolition of the existing building and the erection in its place of the proposed flatted building would neither preserve nor enhance, but would be harmful to the character and appearance of the North Berwick Conservation Area, in conflict with Policy ENV4.
2. The proposed development would result in the loss of a commercial property, to the detriment of the vitality and vibrancy of North Berwick Town Centre, in conflict with Policy ENV2.

3b. PLANNING APPLICATION NO. 15/00563/CAC: DEMOLITION OF BUILDING AT 21 WESTGATE, NORTH BERWICK

A report was submitted in relation to Planning Application No. 15/00563/CAC. The proposed decision set out in the report was to grant consent.

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

For: 0

Against: 13

Abstentions: 0

Decision

The Committee agreed to refuse conservation area consent for the following reason:

1. The proposed demolition of the building would be harmful to the character and appearance of the North Berwick Conservation Area.

Sederunt – Councillor Berry returned to the Chamber, Councillor McNeil left

4. PLANNING APPLICATION NO. 15/00492/P: ALTERATIONS AND CHANGE OF USE FROM DOMESTIC GARAGE AND PART DOMESTIC GARDEN TO ARTIST'S STUDIO AND GALLERY (CLASS 10) USE AT THE COACH HOUSE, BROADGAIT, GULLANE

A report was submitted in relation to Planning Application No. 15/00492/P. Mr Dingwall presented the report, summarising the key points. He clarified matters raised at the site visit regarding an application in 2004 at Erskine Road for conversion to an artist's studio, providing details of that application and decision; he informed Members that this previous application had not set a precedent. The proposed decision set out in the report was to grant consent.

Responding to questions from Members Mr Dingwall advised that any planning application had to clearly state what was being applied for. Regarding Class 10 use, as defined in the report, he provided further details of the Use Classes Order and how this was applied. In relation to monitoring, he indicated that applications had to be taken in good faith; it was not possible to monitor every development. In response to further questions about classifications he stated that in the view of the Planning Authority the proposal was correctly defined as Class 10 use.

Stacey Karsgaard, the applicant, informed Members she was a relief print maker and needed space to work, to produce wood and lithograph hand prints. The application was for a change of use to a studio and gallery, not for a shop. Her primary routes to sale were the internet and craft fairs. During opening hours people could come and view her work but the sale of items was not the purpose of this application. She was involved with the Poldrate Arts Centre and also hoped to be able to show selected pieces of work by other local artists. If someone was interested in purchasing one of

those pieces she would provide contact details only. This was a modest venture, with limited anticipated footfall.

John Pickard, neighbouring resident, spoke against the application. He welcomed the creation of an artist's studio but had concerns about a commercial venture at this location. This was an isolated development. There were vacant commercial opportunities in Gullane. The architectural plans were a contradiction; the proposed front looked like a shop with a full height window. The proposal for a gallery shop was contrary to Class 10 use, contrary to the residential nature of the area, and should be refused.

Gordon Kirk, immediate neighbour, spoke against the application. He wished to focus on Class 10 use, which permitted the display of works of art, otherwise than for sale or hire. The distinction made in the report stated that sales were permissible as long as this was ancillary or incidental and not the main function. The proposal contravened Class 10 use; the primary purpose was to sell works of art. He objected strongly to this application, for a commercial development in a residential area.

Local Member Councillor Goodfellow expressed concerns about the potential for business use in a predominately residential area. He drew attention to the definition of Class 10 use as detailed in the report – the display of works of art was acceptable, anything else was not. However, the next paragraph in the report referred to a statement from the applicant regarding the sale of items, therefore other than Class 10 use. For that reason he would not be supporting the report recommendation.

Local Member Councillor Day appreciated the applicant's motivation but had concerns that this was in de facto a retail unit; it would have a shop front, it would sell goods. This was a residential area; the application was wholly unacceptable. He also had concerns about creating a precedent; if approved, this would be a difficult position to sustain if another similar proposal came forward. He would not be supporting the officer's recommendation.

Local Member Councillor Berry welcomed that East Lothian had become a haven for artists and appreciated the applicant's desire for a studio but agreed with other local members. This looked like a shop, selling works of art; the retail element was not controllable. If the application had been for a studio only, that would be a different situation. The proposal was not appropriate for this area of Gullane. He did not support the report recommendation. He noted that the hours of operation referred to in Condition 2 were not the same as those stipulated in the body of the report.

Councillor MacKenzie stated that he had been persuaded by the applicant. As she had alluded to, opportunities existed in other outlets across East Lothian to sell works of art. This would be a working studio; its function would be educative and to display works of art, it would not be a shop. He supported the report recommendation

Councillor McMillan welcomed the applicant's commitment to quality craftsmanship but felt however that the retail aspect could become a consequence, even if unintended, and could lead to expansion requirements. On balance he was persuaded by the objectors; this was not a good location for this proposal. He would not be supporting the recommendation.

Councillor Williamson made reference to the small building and space restrictions; the studio would probably only hold 3/4 people at any one time. He would be supporting the recommendation in the report.

Councillor Innes questioned whether the proposal was Class 10 use or Class 1 use. He agreed with Councillor McMillan. Promoting arts in East Lothian was important but this was not the best location for this venture, it was a residential area. He referred to the Local Plan process, stating that there may be a need to look at uses allowed in residential areas. He would not be supporting the report recommendation.

Councillor Grant remarked that he had been impressed by the applicant's presentation; she was trying to advance a new enterprise. He would be supporting the recommendation.

Councillor Caldwell indicated that, on balance, he was inclined to support the report recommendation.

The Convener brought the discussion to a close. He noted the disagreement amongst Members. He stated that East Lothian had been successful in attracting many artists; it could be difficult for them to find suitable locations to display their works of art. This applicant's proposal was for a venue to work and display her artworks. If the Council was serious about supporting artists then this type of proposal should be endorsed. He would be supporting the application.

He moved to the vote on the report recommendation (to grant consent) subject to the correction of Condition 2 regarding the hours of operation as outlined:

For: 7

Against 6:

Abstentions: 0

Decision

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

- 1 The artist studio and gallery hereby approved shall be operated only by the resident of the house of The Coach House and shall not be used as an independent commercial enterprise by any party not resident in that house.

Reason:

In the interests of protecting the residential amenity of the occupants of The Coach House.

- 2 The hours of operation of: (i) the artist studio shall be restricted to 1100 to 1600 hours Tuesday to Sunday (inclusive) and (ii) the gallery use shall be restricted to 1100 to 1600 Thursday to Sunday (inclusive).

Reason:

To restrict the hours of operation of the artist studio and gallery to those applied for.

- 3 The artist studio and gallery use is the only use of Class 10 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 that is hereby approved.

Reason:

In the interests of safeguarding the amenity of the area.

- 4 The existing parking area formed to the southwest of the garage building hereby approved to be put to use as an artist's studio and gallery shall be retained for the provision of off-street parking associated with the approved use unless otherwise approved by the Planning Authority.

Reason:

To ensure an adequate standard of parking provision for the approved use.

5. PLANNING APPLICATION NO. 15/00558/P: ALTERATIONS TO HOUSE, ERECTION OF WALLS, GATE, HANDRAILS, FORMATION OF HARDSTANDING AREAS, STEPS AND PEDESTRIAN ACCESS AT WOODBURN, GARVALD

A report was submitted in relation to Planning Application No. 15/00558/P. Mr Dingwall presented the report, summarising the key points. The proposed decision set out in the report was to grant consent.

Joan McShane, neighbouring resident, spoke against the application. She informed Members that her main concern was the demolition of part of the boundary wall and formation of a door. This would lead into her garden and would have a major impact on her privacy. She also had concerns about the footpath between the rear garden of the applicant's property which provided rear access to nos. 2 and 4 Kirkbrae.

Councillor Berry, referring to the report, noted that the applicant no longer proposed to form a gate within the north boundary wall. Mr Dingwall confirmed this; revised drawings had been submitted by the agent.

George Cochrane, also a neighbouring resident, spoke against the application. The proposal would result in loss of privacy as the roof windows would look directly into his property. The erection of the fence would spoil the outlook from his patio. He also raised safety concerns regarding the fence. He would experience significant daylight reduction due to the extension of the wall and introduction of planters. He did not object to the proposal as such but rather to its location within the site.

Local Member Provost Broun-Lindsay remarked that the site visit had been useful in highlighting to Members the hinterland and the different garden heights. Having viewed this, he accepted Mr Cochrane's concerns regarding overlooking, but stated this situation had existed previously. He was satisfied that there was no material change to the amount of overlooking; it was accepted, normal use as regards a neighbouring property. He would be supporting the report recommendation.

Local Member Councillor McMillan agreed with his colleague. He referred to discussions at the Community Council regarding this application. He supported the report recommendation.

Local Member Councillor Trotter agreed with his fellow local members and would be supporting the report recommendation.

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

For: 13
Against: 0
Abstentions: 0

Decision

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

- 1 A sample of the stone that would be used to infill a small section of the existing wall on the east end of the north boundary of the rear garden of the house hereby approved shall be provided for the inspection and approval of the Planning Authority. The stone used shall accord with that so approved.

Reason:

To safeguard the character and appearance of the Conservation Area.

6a. PLANNING APPLICATION NO. 15/00556/P: ERECTION OF BUILDINGS FOR BIOMASS BOILER SYSTEM WITH ASSOCIATED PIPEWORK AND FLUE (PART RETROSPECTIVE) AT 19 LINKFIELD ROAD, MUSSELBURGH

A report was submitted in relation to Planning Application No. 15/00556/P. Mr Dingwall presented the report, summarising the key points. Clarifying an issue raised at the site visit, he stated that the height of the existing flue was 5.2 metres above ground level, the height of the proposed flue would be 6 metres above ground level. The proposed decision set out in the report was to grant consent.

Councillor Williamson asked, on behalf of Councillor Currie, if a condition could be inserted to restrict delivery times as residents had raised concerns about noise during deliveries. Mr Dingwall indicated this would be possible, informing Members that Road Services had suggested that there should be no fuel deliveries to the application site at the following times where the fuel delivery vehicle would be parked on Linkfield Road:

- a) between the hours of 08:00 and 10:00 and between the hours of 16:00 and 18:00 Monday to Thursday inclusive; and
- b) during Musselburgh Racecourse race meetings.

This was in response to discussions at the site visit and also concerned the classification of Linkfield Road, an important route entering/leaving Musselburgh.

Councillor Berry referred to the colour of the existing and proposed flues and suggested that matt grey would be more appropriate and would provide better camouflage. Mr Dingwall advised that the colour stipulated in the condition could be altered if Members desired.

Shona Davidson, a neighbouring resident, spoke against this application. The applicant had completely disregarded due planning process and had erected this biomass boiler system without approval. It had been in use now for over a year. The noxious fumes impacted on the residential facility, neighbouring properties and gardens and affected the entire area. This new proposal was for two buildings on site. She urged Members to reject this application.

Responding to further questions from Members Mr Dingwall clarified that there would be one chimney. With regard to air quality issues he advised that there was not a requirement to consult SEPA for a proposal of this nature; Environmental Protection had been involved and had no concerns. In relation to the unauthorised erection and operation this was acknowledged. He added that irrespective of the decision taken today the Council would consider taking enforcement action.

Gordon Brown, local resident, spoke against the application. He referred to the assessment carried out by an environmental consultancy company on behalf of the applicant. He stated that emissions were far in excess of European standards. This proposal, situated next to one of their residential care homes, showed the applicant's total disregard for the health of people in this locality. He queried how permission could be given retrospectively and why, in a residential area, the erection and operation of this system for a year, without permission, had been allowed.

Local Member Councillor Caldwell remarked that the current structure was unsightly and it was unfortunate that this application had taken so long to come forward. He welcomed the proposed traffic restrictions. He agreed with Councillor Berry that the colour of the existing and proposed flues should be altered as suggested to provide better camouflage.

Local Member Councillor Williamson indicated that the addition of a condition restricting deliveries as outlined was welcomed.

Councillor Day appreciated the concerns expressed by the objectors but felt that this substitute proposal was an improvement. He also agreed that matt grey would be a better colour for the existing and proposed flues. He supported the report recommendation.

Councillor Grant echoed those comments. He would support the application; the necessary safeguards were in place.

The Convener appreciated that residents were disappointed with the way the applicant had dealt with matters. The necessary controls were however in place. He noted the points put forward regarding delivery restrictions and flue colour.

The Convener moved to the vote on the report recommendation (to grant consent) subject to the proposed variations to conditions concerning fuel deliveries and flue colour:

For: 13

Against: 0

Abstentions: 0

Decision

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

- 1 Within two months from the date of this planning permission the exposed 1.2 metres length of stainless steel flue attached to the east end of the front (north) elevation of the building hereby approved shall have a grey coloured matt finish. A sample of the grey coloured matt finish shall be provided for the inspection and approval of the Planning Authority. The grey coloured matt finish used shall accord with that so approved.

Reason:

To better integrate the flue into its surroundings in the interests of safeguarding the setting of the listed building and the character and appearance of the Conservation Area.

- 2 Within three months from the date of this planning permission the existing large unauthorised biomass boiler building and its associated flue, in its position some 4 metres away from the building line of the rear elevation of the applicant's property, shall be removed from its rear garden setting.

Reason:

To secure the removal of the unauthorised biomass boiler system building and its associated flue.

- 3 There shall be no fuel deliveries to the application site at the following times where the fuel delivery vehicle is parked on Linkfield Road:
 - a) between the hours of 08:00 and 10:00 and between the hours of 16:00 and 18:00 Monday to Thursday inclusive; and
 - b) during Musselburgh Racecourse race meetings.

Reason:
In the interests of road safety.

- 4 No use shall be made of the biomass boiler system hereby approved unless and until the flue, also hereby approved, has been installed and has been finished externally in a matt grey colour. A sample of the grey coloured matt finish shall be provided for the inspection and approval of the Planning Authority. The grey coloured matt finish used shall accord with that so approved.

Reason:
To safeguard the amenity of the area.

6b. PLANNING APPLICATION NO. 15/00556/LBC: ERECTION OF BUILDINGS FOR BIOMASS BOILER SYSTEM WITH ASSOCIATED PIPEWORK AND FLUE (PART RETROSPECTIVE) AT 19 LINKFIELD ROAD, MUSSELBURGH

A report was submitted in relation to Planning Application No. 15/00556/LBC. The proposed decision set out in the report was to grant consent.

The Convener moved to the vote on the report recommendation (to grant consent) subject to alteration of Condition 2 regarding the coloured finish of the flue from black to grey:

For: 13
Against: 0
Abstentions: 0

Decision

The Committee agreed to grant listed building consent subject to the following conditions:

- 1 The works to implement this listed building consent shall begin before the expiration of 3 years from the date of this grant of listed building consent.

Reason:
Pursuant to Section 16 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

- 2 Within two months of the grant of listed building consent, the exposed 1.2 metres length of stainless steel flue attached to the east end of the front (north) elevation of the building hereby approved shall have a grey coloured matt finish. A sample of the grey coloured matt finish shall be provided for the inspection and approval of the Planning Authority. The grey coloured matt finish used shall accord with that so approved.

Reason:
To safeguard the special architectural or historic interest of the listed building.

Sederunt – Councillors MacKenzie and Grant left the Chamber

7. PLANNING APPLICATION NO. 15/00421/P: ALTERATIONS AND CHANGE OF USE OF SHOP (CLASS 1) USE TO HOT FOOD TAKEAWAY (RETROSPECTIVE) AT 81 HIGH STREET, HADDINGTON

A report was submitted in relation to Planning Application No. 15/00421/P. Mr Irving presented the report. The proposed decision set out in the report was to grant consent.

John Todd, representing Sheila Todd, a resident of the building, spoke against the application. His mother was strongly opposed to the continued operation of this business in its current form. The use as a takeaway had significantly impacted on her wellbeing. He raised a number of issues; noise, cooking smells and litter. There were other concerns including deliveries using the communal door, use of residential waste bins and people congregating on the outside steps. The cooking smells were particularly bad and any suggestions regarding ventilation had been ignored by the applicant. This was a bad neighbour application that should not be approved retrospectively.

David Barrett, representing Ann Kinloch, also a resident of the building, spoke against the application. It was totally inappropriate to have a retrospective application for this, one of the worst developments in a Conservation Area. The impact of this had deeply affected Ms Kinloch. He outlined his involvement in the original 2009 application, providing details of the original concept, which had not been implemented. This was a bad neighbour development; retrospective approval should not be granted.

Local Member Councillor McMillan referred to the number of adverse comments received from constituents regarding this business. He made reference to the original application for use as a restaurant and takeaway, noting that this use had been completely disregarded. He gave details of the number of restaurants and takeaways in the town centre. He drew attention to Policies ENV2 and R3. Paragraph b of Policy R3 stated that the provision of a hot food takeaway should only be permitted if it met all the criteria of that policy – i.e. the proposal would not cause harm to the local amenity and the cumulative effect of additional premises in locations already containing one or more hot food takeaways in close proximity would not be harmful to the town centre amenity. Residents had complained about deliveries, cooking smells and many other issues. There was enough evidence to question the original decision and to not support this retrospective application for use solely as a takeaway.

Local Member Councillor Trotter also referred to the numerous problems encountered by residents. He agreed with his colleague; he would not be supporting this application.

Local Member Provost Broun-Lindsay agreed; he would not be supporting this application for the reasons outlined by Councillor McMillan.

Councillor Goodfellow also made reference to the original application. He did not support this retrospective application.

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

For: 0
Against: 11
Abstentions: 0

Decision

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

1. Due to the location of the premises in Haddington town centre and of the existing number of hot food takeaways, the additional hot food takeaway results in a cumulative effect of hot food takeaway use harmful to town centre amenity.

The Committee also requested that the necessary enforcement action be taken.

Signed

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Councillor Norman Hampshire
Convener of the Planning Committee