

REPORT TO: Planning Committee

MEETING DATE: Tuesday 1 December 2015

BY: Depute Chief Executive
(Partnerships and Community Services)

SUBJECT: Application for Planning Permission for Consideration

Note - this application was called off the Scheme of Delegation List by Councillor McMillan for the following reasons: This site on Gifford has a long planning history. I believe the Committee should have time to discuss this application in terms of the property having been vacant for a number of years. Also, the Committee should have time to consider whether this prominent site in the village ought to be deemed more compatible to residential use and its suitability for economic development in a predominantly residential area.

Application No. **15/00576/P**

Proposal Alterations, extension and heightening roof of joiners workshop to form 1 house, erection of garage, alterations to vehicular access and associated works

Location **Old Yester School
Duns Road
Gifford
East Lothian**

Applicant Mr Kenneth Power

Per Ironside Farrar

RECOMMENDATION Application Refused

PLANNING ASSESSMENT

This application relates to Old Yester School which is a former workshop building located on the south side of Dun Road, Gifford and on the east side of the junction of Duns Road with Walden Terrace.

The building and its associated front curtilage are within an established area of business use and as such an area defined by Policy BUS2 (Business Class Locations) of the adopted East Lothian Local Plan 2008. The rear curtilage of the building is within a predominantly residential area as defined by Policy ENV1 of the adopted East Lothian Local Plan 2008.

The application site is bounded to the north by the classified B6355 Duns Road, to the east and south by the residential property of Old School House, to the west by the access

road that serves it and both the residential properties of Old School House and The Wards, with the public road of Walden Terrace beyond.

The application site is within Gifford Conservation Area.

In December 2011 planning permission 11/00703/P was granted for the change of use of part of the rear yard of the former workshop building to domestic garden ground to be used in association with the residential property of Old School House, including the formation of an area of hardstanding and the erection of a wall and gate. Planning permission 11/00703/P has since been implemented.

In December 2011 conservation area consent 11/00703/CAC was granted for the demolition of an outbuilding forming part of the rear yard of the former workshop building. That outbuilding has since been demolished.

Planning permission is now sought for the alteration and extension to the former workshop building including the heightening of its roof, to form one house. It is also proposed to erect a garage within the rear curtilage of the proposed house, to alter the existing vehicular access in the southern part of the west boundary of the site and to erect a section of wall along part of the west boundary of the site. The remaining curtilage of the former workshop would be used as garden ground in association with the proposed house.

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) June 2013 and the adopted East Lothian Local Plan 2008.

Policies 1B (The Spatial Strategy: Development Principles) and 2 (Supply and Location of Employment Land) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies BUS 2 (Business Class Locations), ENV1 (Residential Character and Amenity), ENV4 (Development Within Conservation Areas), DP2 (Design), DP6 (Extension and Alterations to Existing Buildings), DP8 (Replacement Windows), DP22 (Private Parking) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

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

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

One written objection to the application has been received. It is from a local resident. The main grounds of objection raised are:

- (i) the change of use of part of the grounds of the workshop to garden ground is not justification for the workshop becoming a house;
- (ii) the property was advertised to be sold strictly on the basis of commercial use;
- (iii) had the property been advertised with the potential of a change of use the Council and the Council tax payer in turn would have had greater interest in the sale from the public and other developers and a greater return from the sale.

Four written representations to the application have been received. Those too, are from local residents. They broadly offer support to the proposed change of use. The main points raised are:

- (i) the site has been becoming more and more squalid since the workshop use was surrendered by the previous tenant and it would be a joy to see the building transformed;
- (ii) it is not agreed that the workshop or other business use of the site would be incompatible with the local area. However no business has taken the opportunity to lease the building for many years with the consequential deterioration and dereliction of it;
- (iii) a business use would not be desirable for local residents;
- (iv) the prominent position of the building requires sympathetic treatment of its frontage on both Duns Road and Walden Terrace, in relation to the raising of the roof line;
- (v) it is important that the proposed conversion is compatible with the character of houses on Duns Road and does not visually detract from the existing architectural setting;
- (vi) the cupola would look out of place on a building of that type and;
- (vii) the increased height of the roof of the building may reduce light to the windows and garden of a neighbouring residential property.

Policy BUS1 states that within areas allocated for business and general industry, there is support in principle for uses within Use Classes 4, 5 and 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997.

The workshop building and its associated front curtilage are within an area defined by Policy BUS2 of the adopted East Lothian Local Plan 2008 as being allocated for business use, in which use within Use Class 4 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 will be acceptable in principle. Policy BUS2 also provides that where planning permission is required, Class 6 uses may be permitted where there would be no harm to amenity of the existing business area. Development that does not fall within these classes will not normally be permitted.

Although restrictive in the uses supported by it, Policy BUS2 is consistent with Policy 2 of the approved South East Scotland Strategic Development Plan (SESplan) June 2013, which supports the delivery of the quantity of the established strategic employment land supply for business uses. It is also consistent with Scottish Planning Policy: June 2014 which supports the allocation of sites that meet the diverse needs of the different sectors and sizes of business which are important to the plan area.

A supporting statement submitted as part of this application advises that the business use of part of the application site is no longer viable owing to the high costs and low return involved in refurbishing the building for a Class 4 Business purpose. Furthermore the absence of local demand for using the premises as a workshop and the significant impact on the potential to use the building following the Council sale of 250 square metres of land within the building's curtilage have all impacted on the scope to use the building for business and employment purposes.

The statement contends that the continued use of the workshop is unviable given the lack of demand for this use locally and this being demonstrated between 2008 and 2012 when the Council were unsuccessful in their attempt to lease the premises.

The Council's Community Housing & Property Management (Estates) Section advises that, on their tenant terminating their lease to use the building as a workshop in October 2008, they did not market the premises for lease.

They further advise that the premises were formally marketed for sale on 21 August 2012. From this date until the closing date for offers to purchase the property of 29 November 2012, 11 interested parties viewed it. Seven offers were received for the premises. Of those, 4 were to retain it in its existing use. One of those, the highest and accepted offer, was made by the applicant. One offer was made on the condition of a change of use to a children's nursery use, with two further offers being made conditional of a change of use to residential use.

In these circumstances, it has been satisfactorily demonstrated that the existing Class 4 business use of part of the site is still viable. Therefore there is no justification for change of use of the Class 4 business use of the site to a Class 9 residential use.

Furthermore if planning permission were to be granted for the proposed use it would conflict with the business use designated for part of the application site and would set an undesirable precedent whereby it would be difficult for the Council, as Planning Authority to refuse to grant planning permission for other non-Class 4 business uses with a consequential depletion of the Council's allocated supply of sites for such business uses.

Therefore, the proposed change of use of part of the application site and thus the former workshop building and its associated front curtilage to a Class 9 residential use is contrary to Policy 2 of the approved South East Scotland Strategic Development Plan (SESplan) June 2013, Policy BUS2 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy: June 2014.

The rear curtilage of the former workshop building and thus all land south of its rear elevation, is within a predominantly residential area as defined by Policy ENV1 of the adopted East Lothian Local Plan 2008.

Policy ENV1 of the adopted East Lothian Local Plan 2008 states that the predominantly residential character and amenity of existing or proposed housing areas will be safeguarded from the adverse impacts of uses other than housing. Development incompatible with the residential character and amenity of an area will not be permitted.

The use of the rear curtilage of the former workshop building as garden ground to be used in association with the proposed use of the building as a house would not have a harmful affect on the privacy or residential character and amenity of neighbouring residential properties or the area. Nor would the proposed change of use of the rear curtilage be harmful to the character and appearance of the Conservation Area. It is therefore consistent with Policies ENV1 and ENV4 of the adopted East Lothian Local Plan 2008.

The proposed alterations to the former workshop building to facilitate its use as a house comprise:

- (i) replacement of all of its existing windows with timber framed double glazed windows;
- (ii) enlargement of one of the existing window openings in its east elevation to form a door opening and the installation within that new door opening of a vertical panelled

timber door; and

(iii) enlargement of existing window and door openings in its south elevation to form two large window openings and the installation within those window openings of timber framed and glazed tripartite windows.

The existing building has mostly a rectangular footprint with a north projecting component. It has a dual pitched roof. It is proposed to replace the existing roof of the building with a hipped roof with a flat roofed top. In so doing it is proposed to raise the overall height of the roof such that its flat top would be some 1.6 metres higher than the ridge of the highest part of the existing roof of the building. In this, the eaves height of the building would be raised by some 0.5 of a metre and a recessed lead up-stand introduced between them and the wallhead of the building. The roof would also extend beyond the re-entrant north elevation of the building, forming a canopy beneath it. The canopy of the roof would be supported by a natural stone pier at its northeast corner. A number of roof windows would be formed in each roof slope of the new roof with a cupola being formed on top of its flat roofed top. Chimneys and salvaged roof cowls would also punctuate the new roof.

The proposed alterations to the building, by their architectural form, positioning and materials would be sympathetic alterations to the building that would be subservient and in keeping with it. They would not be harmful to the character and appearance of the building or the character and appearance of the Conservation Area.

The existing workshop building occupies a prominent roadside location. By being single storey in height and of a modest architectural style, it sits comfortably within its streetscape setting. The proposed new roof to be formed over it to facilitate the provision of habitable accommodation within its roof space would not radically alter its relationship with the built form that surrounds it or cause the house to appear overly dominant within its streetscape setting. The resultant change would be sympathetic to the architectural form of the building and would not cause it to have a significantly greater impact on its setting or the Conservation Area.

Subject to the roof windows of the new roof being flush fitted into the roof slope they would occupy, a matter that could be controlled by a condition of the grant of planning permission, the proposed new roof and the canopy that would be formed beneath a part of it would be in keeping with the existing building and would be well integrated into their surroundings. They would not be harmful to the character and appearance of the house or the character and appearance of the Conservation Area.

On these considerations the proposals do not conflict with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) June 2013, Policies ENV4, DP6 or DP8 of the adopted East Lothian Local Plan 2008 or Scottish Planning Policy: June 2014.

Policy DP6 also requires that a proposed extension to a building should not adversely affect the existing residential amenity of neighbouring properties. Accordingly it should not result in any significant loss of daylight, sunlight or privacy to adjoining properties as a result of overshadowing or overlooking.

In assessing whether or not a proposed new development would result in harmful overlooking and therefore loss of privacy to existing neighbouring residential properties it is the practice of the Council, as Planning Authority to apply the general rule of a 9 metres separation distance between the windows of a proposed new development and the garden boundaries of neighbouring residential properties and an 18 metres separation distance between directly facing windows of the proposed new development

and the windows of existing neighbouring residential properties.

The new window openings to be formed in the south elevation of the proposed house and the roof windows to be formed in its north, west and south elevation roof slopes would be positioned and orientated such that they would face towards the garden ground of the proposed house and where applicable, beyond to the public road and footpath of Duns Road and Walden Terrace. In such circumstance they would not allow for harmful overlooking of any neighbouring residential property.

The new door opening to be formed in the east elevation of the proposed house would face towards a wall and fence that encloses the mutual east boundary of the site with the neighbouring residential property of Old School house to the east. In such circumstance it would not allow for harmful overlooking of the neighbouring residential property of Old School House or any other neighbouring residential property.

The two roof windows that would be at such a height above the finished first floor level of the proposed house that they would not allow for harmful overlooking of two ground floor windows that exist in the west gable wall of the neighbouring house of Old School House to the east.

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

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

In this regard and in the case of windows of an existing building that are directly facing towards the position of a proposed extension or other form of new build development the Guide gives a test to find out whether those windows would still receive enough daylight. This test is applied to the windows using drawings that show the sectional relationship between the proposed extension and the directly facing windows of the existing building. If a proposed extension or other form of new build development is below a line that is drawn rising at a 25 degree angle from a line drawn perpendicular to a centre point on the outer face of the affected window(s) then the proposed extension would not cause a harmful loss of daylight to the window(s).

Existing windows in the west gable of the neighbouring house of Old School House face directly towards the existing building and thus the proposed new roof that is to be added to it. When the 25 degree angle test is applied to the new roof of the building relative to the existing west elevation windows of The Old Scholl House it is found that the new roof would be above the 25 degree test line. It can therefore be concluded that the proposed new roof would give rise to a loss of daylight to the existing west elevation windows of the neighbouring house of The Old School House.

However, the rooms that are served by the windows in the west gable wall of that neighbouring house are also served by other window openings, formed in the north and south elevations of the house. As those rooms, being a sitting room and dining room, would still receive daylight, the proposed development would not give rise to a degree of overshadowing that would be harmful to the neighbouring residential property of The Old School House.

Owing to its position and orientation the existing building as its is proposed to be extended with the addition of a new roof, would not give rise to harmful overshadowing of any neighbouring residential property.

On the considerations of overlooking and overshadowing the proposed development does not conflict with Policy DP6 of the adopted East Lothian Local Plan 2008.

The Council's Environmental Protection Service has no comment to make on the application.

The proposed garage would be erected within the southeast corner of the rear garden of the proposed house. It would have a flat roof. Its walls would be finished in natural stone. A timber garage door would be installed in its west elevation.

The proposed length of wall to be erected along the west boundary of the rear garden of the proposed house would at its greatest extent, be some 1 metre in height. It would be constructed of natural stone and extend southwards from the southwest corner of the proposed house.

Part of the existing length of wall that encloses the southern part of the west boundary of the site would be demolished to allow existing vehicular access to the site to be repositioned.

By their size, scale, form, positioning and materials, the proposed garage, wall and the altered vehicular access would all be appropriate for their location and well integrated with their surroundings. They would not be harmful to the setting of the proposed house or the character and appearance of the area.

On these considerations the proposed garage, wall and altered vehicular access are consistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) June 2013, Policies ENV4 and DP2 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy: June 2014.

Use of the proposed garage would not allow for a harmful loss of privacy or amenity of any neighbouring residential property.

By its size, form and positioning the proposed garage would not allow for harmful overshadowing of any neighbouring residential property.

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

Vehicular access to the site is taken from the private access road to the west of the site which in turn takes access from the classified public road of Duns Road to the north.

The Council's Road Services recommend that the proposed house be served by three off street parking spaces. The proposed site plan submitted as part of the application indicates only one off-street car parking space would be formed in the rear curtilage of the proposed house. The Council's Road Services do however confirm that there is adequate space within the rear curtilage of the proposed house to accommodate 3 off-street parking spaces and recommend that their layout be shown on the site plan.

The Council's Road Services advise that a site line visibility of 2.4 metres by 70 metres to the east and west of the vehicular access from Duns Road is required. To achieve this visibility to the east of the access the north roadside boundary wall of the property is required to be re-aligned.

Owing to a difference in ground level between the private access road that serves the site and Walden Terrace to the west of it, the Council's Road Services recommend that a

bollard or other form of enclosure be erected opposite the vehicular access to be altered in the west boundary of the site. The reason for this is indicate the edge of the private road in the interests of road safety.

Matters concerning the layout of off-street parking, the provision of site line visibility from the access from Duns Road to the private access road and the provision of a bollard or other similar enclosure could reasonably be controlled by conditions of the grant of planning permission.

Subject to these controls, on transportation matters the proposals would be consistent with Policies DP22 and T2 of the adopted East Lothian Local Plan 2008.

However, it should be noted that the agent for the application does not agree with the requirement to improve site line visibility from the access to the private access road from Duns Road. He is of the view that the proposed change of use would have a net positive effect on road safety at this location.

Such policy compliances do not however outweigh the primary material consideration in the determination of this application that the proposed change from a viable employment land use is not appropriate or justified. Nor is the provision of a single house a consideration of sufficient material weight to outweigh the provisions of the development plan. The proposed change of use is contrary to Policy 2 of the approved South East Scotland Strategic Development Plan (SESplan) June 2013 and Policy BUS2 of the adopted East Lothian Local Plan 2008.

REASON FOR REFUSAL:

- 1 The proposed Class 9 residential use would result in the depletion of the Council's allocated, established supply of sites for business uses and would set an undesirable precedent for other non Class 4 business uses on land allocated for business use. It is therefore contrary to and undermines the objectives of Policy 2 of the approved South East Scotland Strategic Development Plan (SESplan) June 2013 and Policy BUS2 of the adopted East Lothian Local Plan 2008.