

APPLICATION FOR PLANNING PERMISSION

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please refer to the accompanying Guidance Notes when completing this application
PLEASE NOTE IT IS FASTER AND SIMPLER TO SUBMIT PLANNING APPLICATIONS ELECTRONICALLY VIA <https://eplanning.scotland.gov.uk>

1. Applicant's Details		2. Agent's Details (if any)	
Title	Mr	Ref No.	
Forename	Altaf	Forename	Stuart
Surname	Mohammed	Surname	Szylak
Company Name		Company Name	Rick Finc Associates Ltd
Building No./Name	1 and 2	Building No./Name	Melford House
Address Line 1	Rosebank	Address Line 1	3 Walker Street
Address Line 2	Seton Mains	Address Line 2	
Town/City	Longniddry	Town/City	Edinburgh
Postcode	EH32 0PG	Postcode	EH3 7JY
Telephone		Telephone	
Mobile		Mobile	
Fax		Fax	
Email		Email	
3. Postal Address or Location of Proposed Development (please include postcode)			
EH32 0PG			
NB. If you do not have a full site address please identify the location of the site(s) in your accompanying documentation.			
4. Type of Application			
What is the application for? Please select one of the following:			
Planning Permission		<input checked="" type="checkbox"/>	
Planning Permission in Principle		<input type="checkbox"/>	
Further Application*		<input type="checkbox"/>	
Application for Approval of Matters Specified in Conditions*		<input type="checkbox"/>	
Application for Mineral Works**		<input type="checkbox"/>	
NB. A 'further application' may be e.g. development that has not yet commenced and where a time limit has been imposed a renewal of planning permission or a modification, variation or removal of a planning condition.			
*Please provide a reference number of the previous application and date when permission was granted:			
Reference No:		Date:	

**Please note that if you are applying for planning permission for mineral works your planning authority may have a separate form or require additional information.

5. Description of the Proposal

Please describe the proposal including any change of use:

Extension of the curtilage of two housing plots into land already owned by the applicant. This will require the change of use from a countryside designation to domestic garden ground and associated boundary planting. No further development work is proposed.

Is this a temporary permission? Yes No

If yes, please state how long permission is required for and why:

Have the works already been started or completed? Yes No

If yes, please state date of completion, or if not completed, the start date:

Date started: Date completed:

If yes, please explain why work has already taken place in advance of making this application

6. Pre-Application Discussion

Have you received any advice from the planning authority in relation to this proposal? Yes No

If yes, please provide details about the advice below:

In what format was the advice given? Meeting Telephone call Letter Email

Have you agreed or are you discussing a Processing Agreement with the planning authority? Yes No

Please provide a description of the advice you were given and who you received the advice from:

Name: Date: Ref No.:

Discussion with previous case officer for a similar application. Discussion confirmed that the applicant was submitting a new application that will be accompanied by a Planning Statement and independent Landscape and Visual Impact Assessment. The application now presents a strong and logical case for the development. Stephanie indicated that in her opinion the proposals would be contrary to the Development Plan.

7. Site Area

Please state the site area in either hectares or square metres:

Hectares (ha): Square Metre (sq.m.)

8. Existing Use

Please describe the current or most recent use:

Most recently used as construction laydown and working area for the development of two residential properties at Rosebank, Seton Mains. Previously unmaintained grassland/paddock. Although currently designated as 'Countryside' and identified for agricultural use the site has not been actively managed or utilised for agriculture or horticulture for over 15 years. The site is also within private ownership and public access is restricted.

9. Access and Parking

Are you proposing a new altered vehicle access to or from a public road? Yes No

If yes, please show in your drawings the position of any existing, altered or new access and explain the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any changes to public paths, public rights of way or affecting any public rights of access? Yes No

If yes, please show on your drawings the position of any affected areas and explain the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application site?

How many vehicle parking spaces (garaging and open parking) do you propose on the site? (i.e. the total number of existing spaces plus any new spaces)

Please show on your drawings the position of existing and proposed parking spaces and specify if these are to be allocated for particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, etc.)

10. Water Supply and Drainage Arrangements

Will your proposals require new or altered water supply or drainage arrangements? Yes No

Are you proposing to connect to the public drainage network (e.g. to an existing sewer?)

Yes, connecting to a public drainage network
No, proposing to make private drainage arrangements
Not applicable – only arrangement for water supply required

What private arrangements are you proposing for the new/altered septic tank?

Discharge to land via soakaway
Discharge to watercourse(s) (including partial soakaway)
Discharge to coastal waters

Please show more details on your plans and supporting information

What private arrangements are you proposing?
Treatment/Additional treatment (relates to package sewer treatment plants, or passive sewage treatment such as a reed bed)
Other private drainage arrangement (such as a chemical toilets or composting toilets)

Please show more details on your plans and supporting information.

Do your proposals make provision for sustainable drainage of surface water? Yes No

Note:- Please include details of SUDS arrangements on your plans

Are you proposing to connect to the public water supply network? Yes No

If no, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site)

11. Assessment of Flood Risk

Is the site within an area of known risk of flooding? Yes No

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your planning authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? Yes No Don't Know

If yes, briefly describe how the risk of flooding might be increased elsewhere.

12. Trees

Are there any trees on or adjacent to the application site? Yes No

If yes, please show on drawings any trees (including known protected trees) and their canopy spread as they relate to the proposed site and indicate if any are to be cut back or felled.

13. Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste? (including recycling) Yes No

If yes, please provide details and illustrate on plans.

If no, please provide details as to why no provision for refuse/recycling storage is being made:

14. Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? Yes No

If yes how many units do you propose in total?

Please provide full details of the number and types of units on the plan. Additional information may be provided in a supporting statement.

15. For all types of non housing development – new floorspace proposed

Does your proposal alter or create non-residential floorspace? Yes No

If yes, please provide details below:

Use type:

If you are extending a building, please provide details of existing gross floorspace (sq.m):

Proposed gross floorspace (sq.m.):

Please provide details of internal floorspace(sq.m)

Net trading space:

Non-trading space:

Total net floorspace:

16. Schedule 3 Development

Does the proposal involve a class of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008?

Yes No Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in your area. Your planning authority will do this on your behalf but may charge a fee. Please contact your planning authority for advice on planning fees.

17. Planning Service Employee/Elected Member Interest

Are you / the applicant / the applicant's spouse or partner, a member of staff within the planning service or an elected member of the planning authority? Yes No

Or, are you / the applicant / the applicant's spouse or partner a close relative of a member of staff in the planning service or elected member of the planning authority? Yes No

If you have answered yes please provide details:

DECLARATION

I, the applicant/agent certify that this is an application for planning permission The accompanying plans/drawings and additional information are provided as part of this application. I hereby confirm that the information given in this form is true and accurate to the best of my knowledge.

I, the applicant/agent hereby certify that the attached Land Ownership Certificate has been completed

I, the applicant/agent hereby certify that requisite notice has been given to other land owners and /or agricultural tenants Yes No N/A

Signature:  Name: Date:

Any personal data that you have been asked to provide on this form will be held and processed in accordance with the requirements of the 1998 Data Protection Act.

Location Plan

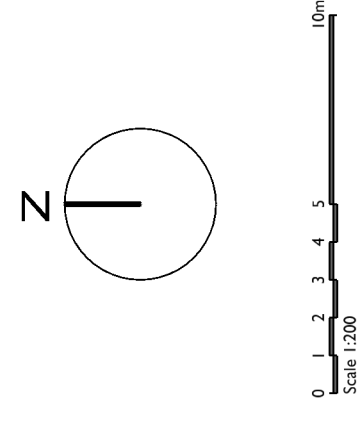


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0m 25m 50m 75m 100m 125m

Scale: 1:1250, paper size: A3

Change of use application at Seton Mains



Overall Layout Plan

REV	DATE	DRAWN	DESCRIPTION	CHECK	APP'D

0					
REVISIONS					
CLIENT	Mr. Ataf Mohammed				
JOB	1 & 2 Rosebank, Secon Mains, Application Ref: 6/00058/P				
DRAWING	Layout Plan				
STATUS	PLANNING				
DATE	08/01/16	JOB NO.	6/00058/P	SCALE	1:100
DRAWN BY		CHECKED BY		DATE	



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ROSE BANK, SETON MAINS, EAST LOTHIAN,

EH32 0PG

PLANNING STATEMENT

Rick Finc Associates. 

Planning and Development Consultants

**ROSE BANK, SETON MAINS, EAST LOTHIAN,
EH32 0PG**

**PLANNING APPLICATION FOR FULL PLANNING PERMISSION FOR CHANGE OF
USE FROM COUNTRYSIDE TO DOMESTIC GARDEN AND ASSOCIATED
BOUNDARY PLANTING.**

**RFA DEVELOPMENT CONSULTANTS
ON BEHALF OF ALTAF MOHAMMED**

DECEMBER 2015

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1 Introduction

Purpose of the Planning Statement

- 1.1 The purpose of this Planning Statement is to assist East Lothian Council (ELC) in its assessment and determination of the change of use application by Mr Altaf Mohammed (hereafter referred to as the applicant). The applicant (Mr Altaf Mohammed) is proposing plans for the extension of the curtilage of two housing plots located on the eastern fringe of Seton Mains, East Lothian.
- 1.2 It is acknowledged that a previous retrospective application for the change of use of agricultural land to domestic garden ground at 1 Rose Bank was refused (ref 14/00494/P). However, it is considered by the applicant and its advisors that the decision to refuse that application was not based on full knowledge and detailed evidence. This new application is supported by an independent Landscape and Visual Appraisal and Planning Statement, both of which clearly demonstrate how the proposals comply with policy and do not undermine the aims and objectives of the Development Plan.
- 1.3 This Planning Statement summarises the relationship between the proposals and policy, covering development planning issues as well as other key material considerations of relevance to the application. Evidence provided within this document presents a compelling case for the development.
- 1.4 This Planning Statement has been produced by RFA Development Planning with inputs from other specialist professionals:
 - Rick Finc Associates – Development and Planning; and
 - VLM Landscape Design – Landscape Appraisal.
- 1.5 This Planning Statement should be read in conjunction with other submitted documentation including the plans and the Landscape and Visual Appraisal.
- 1.6 The application before ELC meets the requirements for a 'local' application in terms of the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009, and constitutes a planning application for full planning permission.

1.7 Information and evidence provided in this Planning Statement covers the key policy and planning considerations relevant to this case, including the emerging Local Development Plan¹.

Structure of the Planning Statement

1.8 The Planning Statement is structured as follows.

- Section 2: The Site and Surrounding Area.
- Section 3: Proposed Development.
- Section 4: Planning Policy.
- Section 5: Planning Appraisal and Material Considerations.
- Section 6: Conclusions.

¹ On 17th November 2015 the East Lothian Council Committee agreed the Draft Proposed LDP. The Proposed LDP will now progress towards submission to the DPEA for Examination.

2 The Site and Surrounding Area

Site Location and Characteristics

- 2.1 The site is located on the eastern edge of Seton Mains, Longniddry, EH32 0PG. The application boundary sits within an area of land already owned by the applicant (area edged in blue on accompanying Location Plan). The site within the red-line (see Figure 2.1) measures approximately 0.25 hectares. To the immediate west of the application site is two consented house plots, one of which is fully developed.
- 2.2 The A198 lies 150 metres to the south of the application site.
- 2.3 The site within the red-line is currently unmaintained grassland/paddock and has most recently been used as construction laydown and working area for the development of two residential properties at Rose Bank, Seton Mains. The northernmost half of the application site has recently been cleared of unlawful garden features (block paving, gravel chips and an ornamental fountain).
- 2.4 The extant East Lothian Local Plan (2008) identifies these areas of grassland/paddock as lying within a 'Countryside' designation (Policy DC1). The land is therefore considered, in policy terms, as being designated for agricultural use.

Figure 2.1: Site Boundary



Site Context

- 2.5 A full description of the site context and its relationship with the surrounding landscape is presented in the stand-alone Landscape and Visual Appraisal.
- 2.6 In summary, the built form of Seton Mains lies to the immediate north west and west of the site. Areas of paddock are located to the north and south, some of these paddock areas outwith the settlement boundary, immediately to the north, are currently being used as garden land. Relatively flat, gently rolling, arable fields provide the context to the immediate east of the site and further to west of the village.
- 2.7 This area surrounding the application site is defined by lengths of hedgerow and frequent field boundary and hedgerow trees which form an effective transition to the surrounding arable fields, which are also well defined by mature vegetation.
- 2.8 The main arterial route of the A198 and the adjacent East Coast Main Line define the context to the south of Seton Mains.
- 2.9 The urban edge of Longniddry is located approximately 600 metres to the east of the Site and Seton Sands is approximately 500 metres to the north west.

Planning History

- 2.10 There are numerous planning applications associated with the land immediately to the west of the application site. An application for the change of use of agricultural land to domestic garden ground adjacent to the northermost plot was refused in November 2014. A review of East Lothian Council's Planning Portal identifies the following planning history.
- Erection of 2 houses and 2 double garages Ref. No: 05/00156/FUL | Status: Grant Permission
 - Erection of 2 houses with integral garages and associated works Ref. No: 07/00332/FUL | Status: Application Granted
 - Changes to the design of the house on plot 2 as changes to the scheme of development which is the subject of planning permission 07/00332/FUL Ref. No: 12/00610/P | Status: Grant Permission
 - Alterations and extension to the house on plot 2 as changes to the scheme of development the subject of planning permission 07/00332/FUL Ref. No: 13/00027/P | Status: Grant Permission
 - Design changes and additions to the house on plot 1 as changes to the scheme of development the subject of planning permission 07/00332/FUL Ref. No: 13/00044/P | Status: Grant Permission
 - Design changes and additions to the house on plot 2 as changes to the scheme of development the subject of planning permission 07/00332/FUL Ref. No: 13/00918/P

- Alterations to the house on plot 2 as changes to the scheme of development the subject of Planning Permission 07/00332/FUL Ref. No: 14/00231/P | Status: Grant Permission
- Design changes regarding height and other alterations of the two houses subject of planning permission 07/00332/FUL Ref. No: 10/00034/P | Status: Grant Permission
- Change of use of agricultural land to domestic garden ground, formation of hardstanding area and fountain (Retrospective) Ref. No: 14/00494/P | Status: Application Refused
- Design changes to the house on plot 1 and boundary changes to plot 1 and plot 2 as changes to the scheme of development subject of planning permission 07/00332/FUL Ref. No: 13/00918/P | Status: Grant Permission
- Erection of 1 house and associated works Ref. No: 15/00744/P | Status: Pending Consideration

3 Proposed Development

The Proposals

- 3.1 The application relates to the change of use of an area of land measuring approximately 0.25 hectares to additional domestic garden ground. This will be associated with two dwelling houses known as numbers 1 and 2 Rose Bank, Seton Mains. The extended garden ground will become the property and responsibility of respective home owners (1 and 2 Rose Bank) and will be incorporated into the Title Deeds of each.
- 3.2 It is important to note that the application is seeking to extend the garden curtilages to these approved dwellings, and not for any additional built form.
- 3.3 The change of use will allow the land to be returned to an active and beneficial use. Although currently designated as 'Countryside' and identified for agricultural use the site has not been actively managed or utilised for agriculture or horticulture for over 15 years. The site is also within private ownership and public access to it is restricted.
- 3.4 The proposals will incorporate an element of tree and shrub planting (to be agreed with East Lothian Council through a planning condition). This application therefore presents an opportunity to provide a long term defensible boundary in this location through the consolidation of the 'green' edge to the built up area of Seton Mains. Through the implementation of native species based tree and shrub planting, particularly along the eastern and southern boundaries on the application site, the proposals will, in time, be seen to strengthen and reinforce the urban-rural interface at this location, thereby forming a long term defensible boundary for Seton Mains.

4 Planning Appraisal and Material Considerations

Introduction

- 4.1 The purpose of this section is to establish the planning and environmental policy framework within which East Lothian Council, as the Planning Authority, can consider the proposed development. To assist in its determination this section also appraises the application against relevant policies and guidance and presents a logical case for the proposals.
- 4.2 In addition to the Development Plan, documents reviewed in this section include national planning policy guidance contained in Scottish Planning Policy (SPP). There is no specific statutory or non-statutory planning guidance for East Lothian which is relevant to the application. There is no specific Planning Advice Notes that are relevant to the determination of the application.
- 4.3 As indicated in Section 1 above, it is considered by the applicant and its advisors that the decision to refuse a previous and similar application for part of this Site was not based on full knowledge and detailed evidence. This new application is supported by an independent Landscape and Visual Appraisal and Planning Statement. This section of the Planning Statement will clearly demonstrate how the proposals comply with policy and do not undermine the aims and objectives of the Development Plan.

The Development Plan

- 4.4 Section 25 of the Town and Country Planning Scotland Act 1997 (as amended), specifies that that determination of planning applications '*shall be made in accordance with the Development Plan unless material considerations indicate otherwise*'. It is supplemented by Section 37(2) which states that '*In dealing with an application the planning authority shall have regard to the provisions of the Development Plan as far as material to the application and any other material considerations*'.
- 4.5 The Development Plan covering the site comprises of South East Scotland Strategic Development Plan² (SDP), and the adopted East Lothian Local Plan³ (ELLP) 2008. The latter is in the process of being replaced by the East Lothian Local Development Plan but this can be given limited weight at this stage due to it still being subject to consultation and Examination.

² *Strategic Development Plan*, The Strategic Development Planning Authority for Edinburgh and South East Scotland (SESplan), June 2013

³ *The East Lothian Local Plan 2008 – Written Statement and Plan*, East Lothian Council, October 2008

SEsplan - Strategic Development Plan (SDP)

- 4.6 The SDP was approved by Scottish Ministers in June 2013 subject to the provision of Supplementary Planning Guidance on Housing Land which was published in 2014. It contains a Vision for the Capital City Region; a Spatial Strategy; and a Framework for Delivery.
- 4.7 One of its main aims, and the one which is most relevant to this application, relates to the conservation and enhancement of the natural and built environment. Policy 1B provides Spatial Strategy Development Principles and one of its five objectives is to *'improve the quality of life in local communities to create more healthy and attractive places to live'*.
- 4.8 Clearly, the proposals in question will benefit the residents of 1 and 2 Rose Bank and provide the properties with more useable outdoor space within which residents can more fully enjoy life in the village setting. The proposals will not be detrimental to the amenity or living conditions of any other nearby neighbour. The proposals therefore comply with and implement Policy 1B of the SDP.
- 4.9 Policy 13 of the SDP relates to 'Other Countryside Designations' which fulfil similar functions to Green Belts. The policy states:
- "Local Development Plans should review and justify additions or deletions to other countryside designations fulfilling a similar function to those of the Green Belt as appropriate."*
- 4.10 The ELLP (2008) does not designate the area to the east of Seton Mains as Green Belt, or as any other similarly functioning designation. However, the emerging LDP does propose that the land surrounding Seton Mains be designated as 'Countryside Around Towns'. This potential designation acknowledges that this area within East Lothian is under development pressure and that it should satisfy a function similar to that of a Green Belt. This is discussed further in Section 4.25 below.
- 4.11 In this regard the proposals should be seen as beneficial, in that they will bring a more secluded and attractive character to the eastern edge of Seton Mains and, in turn, help to form a more appropriate interface between 'town' and 'country'. The garden use and its associated tree and shrub planting will provide a far more defensible, defined and robust boundary between development and countryside in this pressured location. This strong boundary will help enforce the objectives of certain Countryside Designations (such as Countryside Around Towns) and help implement Policy 13 of the SDP.
- 4.12 Therefore, the proposals are neither contrary to policy or undermine any policy objectives of the SDP.

East Lothian Local Plan (2008)

- 4.13 The East Lothian Local Plan (ELLP) was adopted by the Council in 2008. It is now largely out of date and is in the process of being replaced by a new Local Development Plan, which is expected to be adopted by 2017. It still, however, remains the extant Plan upon which planning decisions are based.

Policy DC1 Development in the Countryside and Undeveloped Coast

- 4.14 The most relevant ELLP policy on which the application should be determined is Policy DC1. Policy DC1 Development in the Countryside and Undeveloped Coast states:

“Development, including changes of use, will be acceptable in principle within the countryside and undeveloped coast where it is directly related to agriculture, horticulture, forestry and countryside recreation. Other business use will also be acceptable where it is of an appropriate scale and character for its proposed location in the countryside, it can be suitably serviced and accessed, and there are no significant traffic or other environmental impacts”.

- 4.15 The policy text continues...

“Development will also be acceptable in principle in the following circumstances:

2 - Change of Use/Restoration of a Building

(f) In the case of a change of use to garden ground, any well-defined settlement boundary or landscaped edge must not be prejudiced, the area of the change of use must be small in scale and the terms of Policy DC1 Part 5 must be met.”

- 4.16 Policy DC1 Part 5 states that in all cases:

“(a) Having regard to its nature and scale, new development must be integrated into the landscape, reflect its character and quality of place, and be compatible with its surroundings;

(b) New development must be sited so as to minimise visual intrusion and landscape impact within the open countryside or undeveloped coast, for example, by locating as part of an existing group of buildings, woodland or other well-contained setting, and by respecting and making use of the setting provided by landform or existing landscape features;

(c) The proposal must have no significant adverse impact on nearby uses;

(d) The proposed development must minimise the loss of prime agricultural land;

(e) Account must be taken of the design policy framework contained in the local plan (refer to Chapter 13);

(f) Suitable access and infrastructure is or can be made available;

(g) Where an existing building is demolished, any proposals for a replacement building will be treated as new build and considered as such against Policy DC1.”

4.17 The key consideration in this case is therefore Part 2(f) and Part 5.

Policy DC1 Part 2(f) – Well defined settlement boundary

4.18 The change of use from Countryside to garden ground is therefore supported in principle by ELC, provided it meets certain tests. At approximately 0.25 hectares in area the application Site, in development terms, is small scale. The key test, therefore, is whether the change of use will undermine or prejudice any established and well-defined edge or boundary.

4.19 As reported within the Landscape and Visual Appraisal there are indeed a number of defining landscape features within the area, but the eastern edge of Seton Mains is not one of them. The settlement boundary (ie the line illustrated within the Local Plan) in this location is not defined by any strong landscape or visual features (as advocated by SPP). The eastern fringes of Seton Mains is devoid of any strong features such as '*rivers, tree belts, railways or main roads*,' and the eastern settlement limit in the vicinity of the application site is completely open with no defining landscape features what so ever.

4.20 It is the case that the proposals are located immediately outside/adjacent to the settlement boundary, as illustrated by a line within the ELLP, but this is not well-defined in landscape terms and therefore the proposals do not undermine the spirit of this particular policy. The proposals do not therefore prejudice a well-defined settlement boundary or landscaped edge in this location, as there are none present.

4.21 Any alteration to the settlement boundary, as illustrated within the ELLP, as a result of granting consent will be minimal.

4.22 The application presents East Lothian Council with the opportunity to provide a long term defensible, defined and strong boundary (as advocated by SPP) in this area with the proposals seeking to consolidate the 'green' edge to the built up area of Seton Mains. This is particularly the case should the proposed Countryside Around Towns designation be adopted in this location, which would need to meet similar attributes as Green Belts (as per policy and guidance in SPP).

Policy DC1 Part 5

4.23 The accompanying Landscape and Visual Appraisal clearly demonstrates how the proposals would comply with DC1 Part 5 and not have a detrimental impact on the landscape resource or character. Indeed, there is predicted to be a beneficial impact on the landscape resource in the medium to longer term as a result of the proposals.

- 4.24 Given the small scale of the development there will be no significant impact relating to the loss of prime agricultural land (DC1 Part 5d). As indicated in previous sections, the Site is in private ownership and has not been actively farmed for many years.

Emerging Local Development Plan

- 4.25 Although it has not yet reached the Examination stage the emerging LDP identifies the land around Seton Mains being designated as 'Countryside Around Towns'. The weight given to this policy implication in the determination of this application is therefore minimal. However, it is considered that the consenting of this application will have a positive impact in support of the CAT designation, should it be designated in the future.

Policy DC8: Countryside Around Towns

- 4.26 The proposed policy is drafted within the LDP as follows.

"Policy DC8: Countryside Around Towns -

Development that would harm Countryside Around Towns objectives as defined in supplementary planning guidance will not be permitted. New built development within areas designated as Countryside Around Towns will be supported in principle only where:

...Any new development must not harm the landscape setting of the countryside location and it is of a scale, size and form that would not harm the objectives for the countryside around towns designation."

- 4.27 The CAT designation is to ensure that development in these locations would not lead to the coalescence of settlements, undermine their character and setting, compromise cultural heritage assets, including battlefields, and / or lead to the loss of the best quality prime agricultural land.
- 4.28 It has been demonstrated above in Sections 4.23 and 4.24 that the proposals would not undermine the objectives of this proposed CAT designation.

Scottish Planning Policy

- 4.29 Scottish Planning Policy (SPP), June 2014 has at its core the two fundamental principles of Sustainability and Placemaking. Indeed SPP now provides a clear 'presumption in favour of development that contributes to sustainable development'.
- 4.30 Although primarily relating to green belt boundaries, paragraph 162 of the SPP should also apply to both CAT and Countryside boundaries, where the SPP states that '*inner boundaries should not be drawn too tightly around the urban edge, but where appropriate should create an area suitable for planned development between the existing settlement edge*' and the

countryside boundary.

- 4.31 The SPP advocates the use of strong visual physical landscape features to be used to provide long term boundaries to settlements. Whilst the eastern fringes of Seton Mains is devoid of any strong features such as *'rivers, tree belts, railways or main roads'*, currently the eastern settlement limit in the vicinity of the application site is completely open with no landscape features what so ever.
- 4.32 The application presents East Lothian Council with the opportunity to provide a long term defensible boundary as advocated by the SPP with the proposals seeking to consolidate the 'green' edge to the built up area of Seton Mains and with the implementation of native species based tree and shrub planting, particularly along the eastern and southern boundaries, the proposals will, in time, be seen to strengthen and reinforce the urban-rural interface at this location, thereby forming a long term defensible boundary for Seton Mains.

5 Conclusions

Introduction

- 5.1 This Planning Statement has considered the policy framework within which the proposal, to change the use of an area of land measuring approximately 0.25 hectares from countryside to additional domestic garden ground, should be determined.
- 5.2 It has also taken into account the independent Landscape and Visual Appraisal. That appraisal has been undertaken in line with guidance contained in Guidelines for Landscape and Visual Impact Assessment, published by the Institute of Environmental Management and Assessment in association with The Landscape Institute (3rd Edition). The Appraisal was undertaken by Victoria Mack of VLM Landscape Design Limited, a chartered landscape architect with over fifteen years professional experience.
- 5.3 Reference has also been made to the Officer Report (14/00494/P) in which Reasons for Refusal of a similar application were provided. In summary, the two reasons that were cited for refusal were:
- that granting consent would '*establish a precedent*'; and
 - the change of use would be an '*intrusive and incongruous encroachment beyond the well-defined edge of the settlement and as such has a harmful affect on the character and visual amenity of the landscape to the east of Seton Mains*'.

Rebuttal of Previous Reasons for Refusal

Establishing a Precedent

- 5.4 It is clear from planning case law, and indeed Planning Series Circular 3/2013: Development Management Procedures, that planning applications will be considered on their own merits and against the provisions within the development plan, and other material considerations. The granting of a planning application should not establish a precedent for the granting of other similar applications.
- 5.5 This previous reason for refusal is not considered a material planning reason. Furthermore, the wording of the reason for refusal suggests the Council may find it difficult in future to refuse similar applications which are contrary to policy. This statement does not make sense and is not a valid reason to refuse an application before the Council.
- 5.6 It has been demonstrated that this new application does indeed accord with the provisions of the Development Plan and should be consented on its own merits.

Encroachment and Impact on Countryside

- 5.7 The proposal does indeed constitute an extension into the countryside and the application requests a change of use to remove this small area from its countryside designation. The independent Landscape and Visual Appraisal clearly demonstrates that this shift will not be an 'encroachment' that will be in any way 'intrusive' or 'incongruous'. These previous reasons and opinions were therefore unfounded.
- 5.8 It has also been demonstrated within the documents supporting this application that the settlement boundary in this area of Seton Mains is certainly not 'well-defined'. In this regard the proposals should be seen as beneficial, in that they will bring a more secluded and attractive character to the eastern edge of Seton Mains and, in turn, help to form a more appropriate interface between 'town' and 'country'. The garden use and its associated tree and shrub planting will provide a far more defensible, defined and robust boundary between development and countryside in this pressured location. This strong boundary will also help enforce the objectives of certain Countryside Designations (such as Countryside Around Towns) and help implement Policy 13 of the SDP.
- 5.9 Finally, the Landscape and Visual Appraisal has established that the change of use will not be 'harmful' to the landscape character and visual amenity of the area. The independent Appraisal, undertaken in line with recognised guidance concludes that the overall effects on the landscape character, landscape resource and visual amenity arising from the proposals to transform a small area of leftover grassland into garden grounds are **Negligible** and **Not Significant**.

Compliance with ELLP Policy

- 5.10 Section 4.18 of this Statement presents the evidence to confirm that the proposals do not prejudice a well-defined settlement boundary or landscaped edge in this location, as there are none present, and therefore do not undermine or contravene Policy DC1 Part 2(f).
- 5.11 Section 4.23 above demonstrates the proposals comply with Policy DC1 Part 5.
- 5.12 On the basis of the above evidence it is respectfully requested that the submitted planning application for Rose Bank, Seton Mains, be given due consideration for approval by East Lothian Council.

Landscape and Visual Appraisal

**For Extension to the Curtilages of 2no. Dwellings,
Seton Mains**

On behalf of

RFA

December 2015



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LANDSCAPE AND VISUAL APPRAISAL

1.0 Introduction

- 1.1 This report describes the existing environment and provides an appraisal of the proposed extension of garden grounds to a single dwelling in Seton Mains, in terms of its effect on the physical structure and aesthetic character of the landscape and the impacts on the visual amenity of those experiencing views.
- 1.2 The methodology comprised an initial desk top study of Ordnance Survey (OS) maps and planning documents, a site survey in **November 2015**, followed by an assessment of potential landscape and visual impacts.
- 1.3 This appraisal has been undertaken in line with guidance contained in **Guidelines for Landscape and Visual Impact Assessment** published by the **Institute of Environmental Management and Assessment** in association with **The Landscape Institute (3rd Edition)**.
- 1.4 This appraisal has been undertaken by VLM Landscape Design Ltd. Victoria Mack, a chartered landscape architect with over fifteen years professional experience, was responsible for the undertaking the appraisal and production of this report.
- 1.5 The key objectives of the appraisal are to:
- identify significant landscape features that may be affected by the development;
 - identify key viewpoints and viewers likely to be affected by the development;
 - identify significant impacts on the landscape and visual amenity; and,
 - identify measures to mitigate these impacts.
- 1.6 Landscape and visual impacts may potentially result from the following:
- visibility of items associated with the development during the construction phase;
 - loss of existing landscape features or the introduction of new features; and,
 - the presence of permanent structures and lighting on completion of the development.
- 1.7 In preparing this Landscape Appraisal, reference has been made to the local planning policy included in the **East Lothian Local Plan (adopted 2008)**.

2.0 Site Location and Context

- 2.1 The application site is located on the eastern fringes of Seton Mains, East Lothian. The application site itself comprises an area of unmanaged grassland and bare earth located to the immediate east of the curtilage to a newly built dwelling (known as 1 Rose Bank) and a plot of land that has permission for a 2 storey detached dwelling. The unmanaged grassland extends beyond the un-demarcated southern boundary of the site towards the A198 and the whole area is enclosed by a 1.8m high wooden close boarded fence.
- 2.2 The built form of the village lies to the immediate north-west and west, areas of rough grazing to the north and south, and relatively flat (gently rolling) arable fields providing the context to the east and west. The well-wooded corridor of Seton Dean dissects the western fringes of the village and follows a broadly north-south axis before draining into the sea to the north. The main arterial route of the A198 and the adjacent East Coast Main Line define the context to the south of Seton Mains.
- 2.3 To the immediate west of 1 Rose Bank and the consented dwelling, Seton Mains House, a large detached 2 storey house, is located within mature garden grounds, including a formal garden and an ornamental lawn which extends southwards towards a dense area of mature trees and understory planting. Further to the north-west and west is the built form of the small village of Seton Mains comprising a mix of single and two storey detached dwellings, semi-detached and terraced dwellings, as well as some 'cottage' and steading type houses, arranged around courtyards and shared surfaces and several large detached dwellings on the fringes. Gardens are well-vegetated and maintained.
- 2.4 A small paddock is located to the immediate north of the application site and rough grassland extends further north creating a 'green' buffer to the north-eastern fringes of the village. This area is further defined by lengths of hedgerow and frequent field boundary and hedgerow trees which form an effective transition to the surrounding arable fields which are also well defined by mature vegetation. A few small paddocks are located to the south of the village and the well-wooded course of the Seton Dean frames the western edge of the village and extends further north to form a 'green' finger of woodland separating the golf course and the caravan park before draining into the sea. Refer to Figure 3 Planning & Landscape Context.
- 2.5 A variety of land uses provide the wider context including the larger settlements of Longniddry, Cockenzie and Port Seton are located further to the east and west respectively. Seton Sands

caravan park and Longniddry Golf Course are located further to the north and all backclothed with the sandy coastline of Seton Sands, at the western end of Longniddry Bents. The John Muir Way coastal walk and the NCR 76 follow this part of the coastline. The Garden and Designed Landscape (GDL) of Seton House (palace) is also located within the wider context to the west with the settlements of Port Seton and Cockenzie further to the west and Longniddry forming the wider context to the east.

3.0 Landscape Designations

- 3.1 The application site lies adjacent to, but out-with, the settlement boundary of Seton Mains and beyond the developed area of the village, as defined by Policy ENV1 within the East Lothian Local Plan (2008). The site, along with the extended area of rough grassland to the south and the paddock to the north are identified as falling within an area of 'Countryside' as defined by Policy DC1. Indeed, the newly constructed dwelling and approved dwelling, which provide the immediate context to the west, are also located on former 'countryside' land. However, when assessed against the Local Plan at the time of the application for the 2 storey units, they were considered favourable and planning permission was subsequently granted.
- 3.2 It is important to note that the proposed application is seeking to extend the garden curtilages to these approved dwellings and not for any additional built form. Notwithstanding, the application is still seeking a change of use from 'countryside' to private garden areas.
- 3.3 It is considered that a measured expansion into a very small part of the 'countryside', as per the application, would not in any way prejudice the overall purpose or integrity of the policy, primarily on account of the site's direct relationship with the eastern built up fringes of Seton Mains where built form frames the site to the north, west and south-west.
- 3.4 Although primarily relating to green belt boundaries, paragraph 162 of the SPP could also apply to countryside boundaries, where the SPP states that *'inner boundaries should not be drawn too tightly around the urban edge, but where appropriate should create an area suitable for planned development between the existing settlement edge'* and the countryside boundary. The SPP advocates the use of strong visual physical landscape features to be used to provide long term boundaries to settlements. Whilst the eastern fringes of Seton Mains is devoid of any strong features such as *'rivers, tree belts, railways or main roads'*, currently the eastern settlement limit in the vicinity of the application site is completely open with no landscape features what so ever.

- 3.5 The application presents East Lothian Council with the opportunity to provide a long term defensible boundary as advocated by the SPP with the proposals seeking to consolidate the 'green' edge to the built up area of Seton Mains and with the implementation of native species based tree and shrub planting, particularly along the eastern and southern boundaries, the proposals will, in time, be seen to strengthen and reinforce the urban-rural interface at this location, thereby forming a long term defensible boundary for Seton Mains.
- 3.6 The landscape to the north of the village is designated as an Area of Great Landscape Value and is protected through Policy NH4 in the adopted East Lothian Local Plan. The designated landscape includes the Seton Sands coastline and Longniddry Golf Course and extends to the north-western edge of the village incorporating the wooded corridor of Seton Dean. Due to extensive mature tree cover and the built form of Seton Mains, combined with the local landform, the proposed site is not visible and the proposed extension to garden curtilages will have no impact on the character and quality of this designation.

4.0 Landscape Impacts

Impacts on Landscape Resource

- 4.1 As a result of the implementation of 2no. garden grounds across the application site, there will be a limited loss of unmaintained grassland. The loss of this very small area of left-over unmanaged grass will have a very minor impact on the physical structure of the landscape where an abundance of grassland frames the immediate context to the north and south of the site with large arable fields forming the wider context to the south, east and west.
- 4.2 There is no existing vegetation across the application site and as such, no other landscape features will be lost, other than the small area of rough grassland, which is not in agricultural use and is not a particularly valuable landscape resource. Given that the proposals are for garden areas, new planting forms an integral part of the development strategy for the application site. New specimen garden trees will be planted along the boundaries to the individual garden plots which will establish to complement and augment the existing landscape resource across the immediate context. A second layer of ornamental planting will also add colour and interest year round.
- 4.3 Through the introduction of new specimen tree and ornamental planting and the adoption of a proactive site-wide management plan, the objective will be to maintain and enhance the quality of the wider landscape resource to the benefit of the setting to Seton Mains. Whilst there will be a period

of adjustment and change, through careful plant selection and design, the proposals will have a very low impact on the landscape resource and in the longer term, the new garden grounds will be seen to not only complement and augment the existing features in the area but create a new positive element on the urban-rural interface and form a definitive eastern edge to the village. The planting strategy to the perimeter of the application site will also provide the opportunity for the creation of extended wildlife corridors.

- 4.4 It is judged that the impact on landscape resource is **Negligible** and in the medium to long term **Beneficial**. The effects on the landscape resource are assessed to be **Not Significant**.

Impacts on Landscape Character

- 4.5 Following construction of the garden extensions, there will be an impact to the local landscape character of the application site and its immediate context, changing from an open area of left-over unmanaged grassland and bare earth to a more enclosed and structured landscape comprising well-defined garden grounds. This will provide the setting to 1 Rose Bank and the approved detached dwelling.
- 4.6 The village of Seton Mains benefits from an attractive landscape setting containing areas of woodlands, understorey planting, mature tree groups and an extensive amount of ornamental features within the garden curtilages of the built form across the village. These features extend into the surrounding agricultural landscape which is also well-defined by a good network of hedgerows and mature hedgerow trees. The proposals present a real opportunity to remove a small area of unmanaged grassland and by drawing upon the positive characteristics and features of the wider setting and introducing such features across the site, they will establish to form an attractive green edge to the emerging eastern fringes of Seton Mains.
- 4.7 In time, these proposals will be seen as a beneficial change to the current 'left over' character of this part of the landscape to Seton Mains and the landscape will become more enclosed with filtered, framed and glimpsed views towards parts of 1 Rose Bank and the approved house. This reflects the existing character of Seton Mains and the surrounding settlements of this part of East Lothian.
- 4.8 It is judged that the impact on landscape character is **Negligible** and in the medium to long term **Beneficial**. The effects on the landscape character are assessed to be Not Significant.

5.0 Visual Impacts

- 5.1 In assessing the visual impact of the proposed development on the landscape, full consideration has been given to all viewpoints, their location and distance from the site, the quality of each view and the impact that the small-scale extension of garden grounds will have on the setting. The visual assessment is based upon a desk top study and a site visit with a selection of photographic viewpoints illustrated in Figures 1 and 2. The locations of these viewpoints are presented in the inset on each figure.
- 5.2 The surrounding built context of Seton Mains with well-established garden boundary features and areas of woodland, tree belts, hedgerows and frequent field boundary trees surrounding the village combine with the prevailing landform to create a very tight visual envelope with only limited opportunities for local views towards the application site.
- 5.3 To the north-west, west and south-west, a combination of built form, mature garden boundary features and the extensive wooded grounds to Seton Mains House effectively restrict any potential views towards the application site. This is illustrated in Viewpoint 2 (Figure 1) which is taken from the western edge of the village.
- 5.4 From the wider landscape setting, views are also screened by numerous intervening landscape features combined with the prevailing landform. From the edge of the Seton House (Palace) GDL to the west, well-defined field boundaries and woodland and dense riparian planting associated with the course of Seton Dean combine with mature tree cover and garden boundary features across Seton Mains to contain any potential views. This is illustrated in Viewpoint 4 (Figure 2).
- 5.5 The wooded course of the Canty Burn defining the western edge of Longniddry restricts views out of Longniddry and from further east along the A198. Viewpoint 3 (Figure 1) illustrates a worse-case scenario from the A198 adjacent to the woodland feature on the edge of Longniddry where direct views towards the wooden fence defining the eastern boundary to the site and 1 Rose Bank are visible.
- 5.6 From the coastal road to the north, Links Road (B1348 and NCR 76), the John Muir Way and the beach, views are wholly restricted by a combination of structure planting associated with the Longniddry Golf Course, the setting to the caravan park, the wooded corridor of the Seton Dean, intervening vegetation defining the arable fields and the gently rising landform. This is illustrated in Viewpoints 5 and 6 (Figure 2).

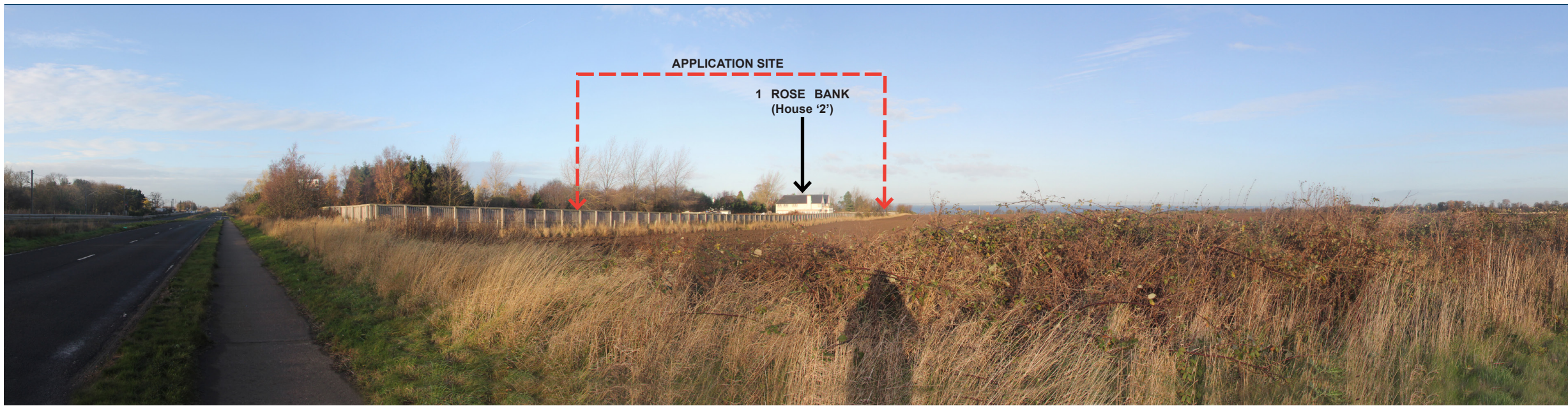
- 5.7 Travelling along the A198 approaching Seton Mains from the east, open and direct local views are available towards the application site. However, the site itself is screened from view by the wooden fence which wraps around the site's eastern and northern boundaries and the grassland comprising the site is not visible. This is illustrated in Viewpoint 1, Figure 1, which is taken from the footpath adjacent to the road corridor.
- 5.8 The representative viewpoints (Figures 1 and 2) have demonstrated that visibility towards the application site is extremely limited to very local views as the receptor approaches and passes the application site from the east. Once the proposals for the new gardens are implemented and the tree planting strategy along the southern and eastern boundaries has established, any potential local views towards the site from the A198 will become filtered. In turn, the planting proposals will aid in softening and framing views to the new and approved houses. In the medium to long term, as the gardens mature, the sense of structure within the area will be further enhanced and extended into the site creating a more secluded character to the eastern edge of Seton Mains.
- 5.9 It is judged that the impacts on visual amenity is considered to be **Negligible** and in the medium to long term **Beneficial**. The effects on visual amenity are **Not Significant**.

6.0 Conclusion

- 6.1 The application site and its context is well defined by built form, extensive areas of mature tree cover and garden boundary features on two sides. It offers a distinct sense of place and has some clearly defined boundaries which will be augmented by the proposals. The proposed ornamental trees and shrub planting across the site, and native species based specimen tree planting to the eastern and southern boundaries, will bring a more enclosed character to this part of Seton Mains. This will reflect the character across the rest of the village. Not only will the proposals benefit the context to the recently constructed house, 1 Rose Bank, and the approved dwelling but also significantly improve the eastern boundary to the village when viewed from the east, which in turn will enhance the 'gateway' into Seton Mains.
- 6.2 It is appreciated that there may be concerns about this application setting a precedent for permissible development on the eastern fringe of Seton Mains. However, every case should be assessed on its own merits. In relation to this application, the proposals are for an extension of garden grounds and not for built form.
- 6.3 Whilst the majority of the proposals for the garden extensions will be screened from local views by

the existing wooden panel fence, as illustrated in the Viewpoint Assessment, it is acknowledged that proposed tree planting along the periphery to the site will be visible above the fence line. This is considered to be a beneficial change as in the short term, tree planting will aid in filtering views towards the new and consented built forms, and in the longer term will establish to further reinforce the sense of structure experienced across the immediate site area by extending fingers of vegetation along the eastern fringes of the village.

- 6.4 This landscape and visual appraisal concludes that the overall effects on the landscape character, landscape resource and visual amenity arising from the proposals to transform a small area of left over grassland into garden grounds are **Negligible** and **Not Significant**.
- 6.5 In the longer term, the proposals will bring a more secluded and attractive character to the eastern edge of Seton Mains and in turn form an appropriate interface between 'town' and 'country'. It will also provide a more defensible and robust boundary between development and countryside.



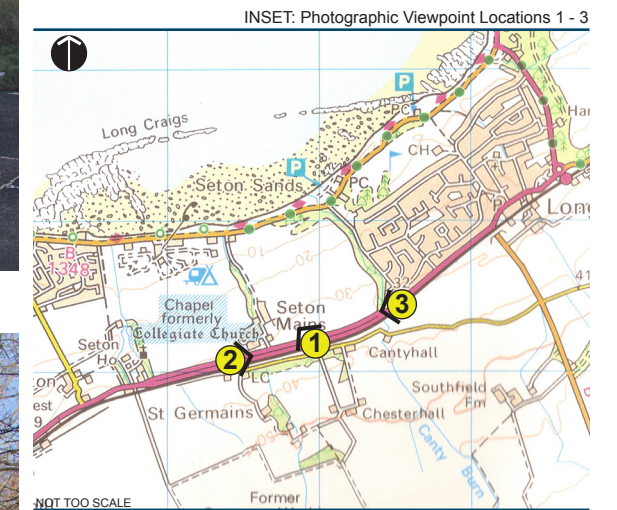
VIEWPOINT 1: Local view looking north-west towards the application site from the footpath adjacent to the A198. The recently constructed dwelling, 1 Rose Bank, is partly visible over the wooden fence which defines the eastern boundary to the application site. The wooded grounds to Seton Mains House provide an effective backdrop to the new dwelling. This viewpoint clearly illustrates how proposed tree planting to the eastern and southern boundaries will aid in filtering and framing the new and emerging built forms and bring a more secluded and wooded character to the eastern edge of Seton Mains.



VIEWPOINT 2: View looking east towards the application site from the western edge of Seton Mains, adjacent to the A198. Well-vegetated garden grounds including the wooded grounds to Seton Mains House effectively contain potential views.



VIEWPOINT 3: View from the edge of Longniddry looking west to north-west across the large arable field that provides the immediate context to the application site. The wooded course of the Canty Burn will effectively screen potential views out from Longniddry.

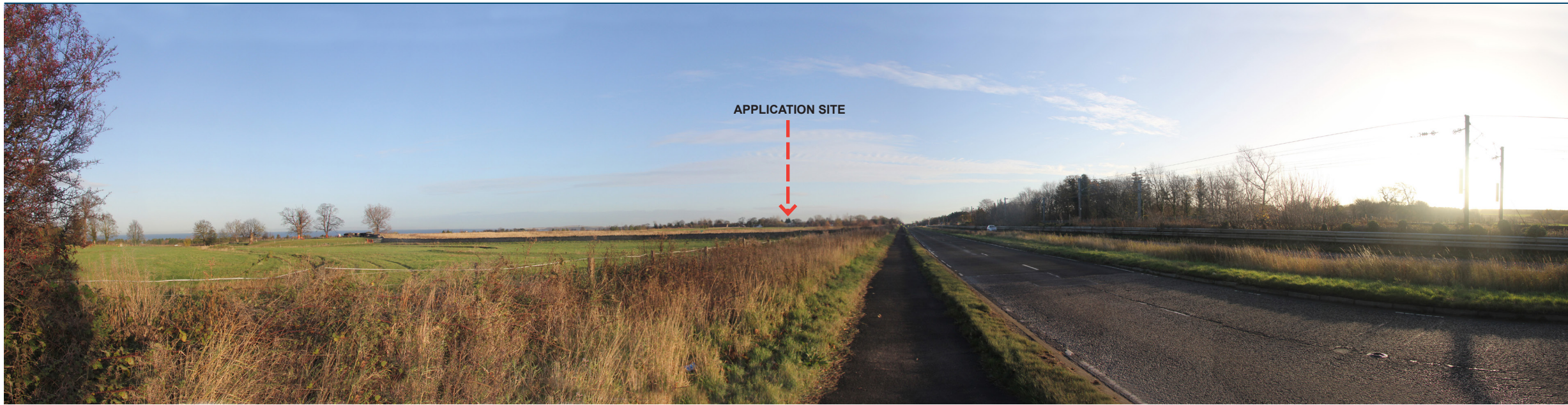


Proposed Extension to the Curtilages of 2no. Dwellings, Seton Mains

figure 1

photographic viewpoints 1-3

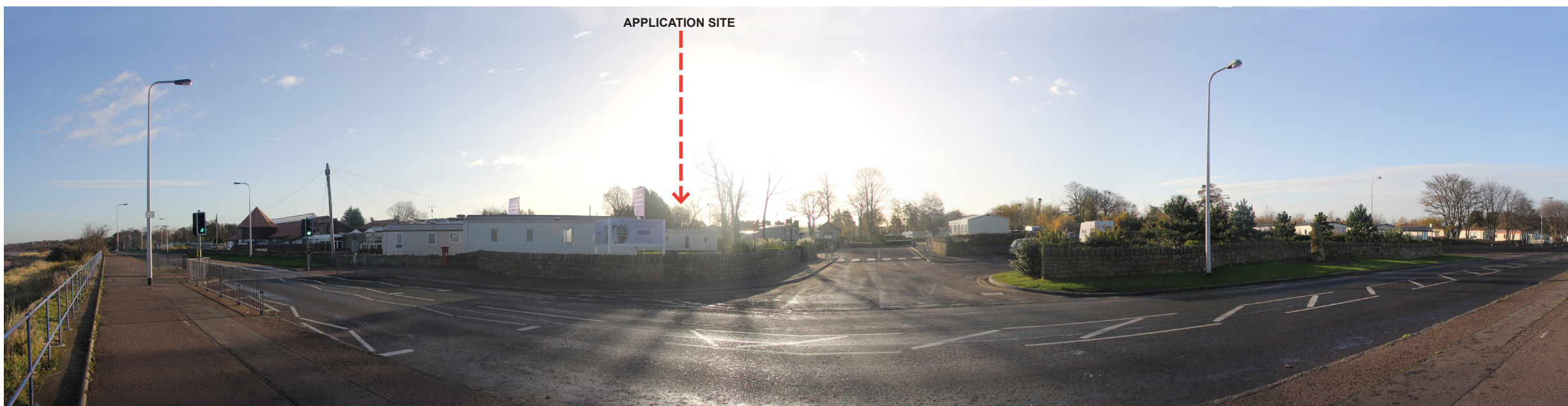
date: december 2015



VIEWPOINT 4: Middle distant view looking east towards the application site from the footpath adjacent to the A198, on the fringes of the Seton House (Palace) Garden and Designed Landscape (GDL). This illustrates the woodland setting to the small village of Seton Mains which wholly screens views of the eastern fringes of the village and the proposed site.

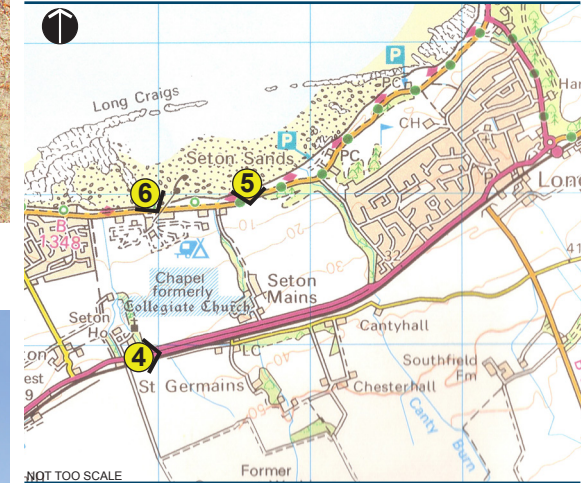


VIEWPOINT 5: Middle distant view looking south across Longniddry Golf Course towards the application site from the coastal Links Road (B1348). This section of the road forms part of the NCR 76 and the John Muir Way coastal path. Structure planting associated with the golf course screens any potential views of the site.



VIEWPOINT 6: Middle distant view looking south towards the application site from the entrance into the caravan park on Links Road. A combination of built form, intervening vegetation and local landform screen views towards the site.

INSET: Photographic Viewpoint Locations 4 - 6



VLM

Proposed Extension to the Curtilages of 2no. Dwellings, Seton Mains

figure 2

photographic viewpoints 4-6

date: december 2015



LEGEND

-  SITE BOUNDARY
-  SETTLEMENT BOUNDARY
-  AREA OF GREAT LANDSCAPE VALUE
-  GARDEN & DESIGNED LANDSCAPE (GDL)
-  EXISTING WOODLAND / MATURE TREES / VEGETATION
-  EXISTING HEDGEROWS / HEDGEROW TREES
-  AGRICULTURAL FIELDS
-  PASTORAL FIELDS
-  OPEN SPACE / RECREATION
-  ROUGH GRASSLAND / SCRUB



Proposed Extension to the Curtilages of 2no. Dwellings, Seton Mains

figure 3

planning policy & landscape context

scale 1-5,000 @ A3 date: december 2015

IMAGE TAKEN FROM GOOGLE EARTH FOR REFERENCE PURPOSES ONLY

16/00058/P

**1 and 2 ROSE BANK, SETON MAINS, EAST
LOTHIAN, EH32 0PG**

APPEAL STATEMENT

APPEAL STATEMENT

**PLANNING APPLICATION FOR FULL PLANNING PERMISSION FOR CHANGE OF
USE FROM COUNTRYSIDE TO DOMESTIC GARDEN AND ASSOCIATED
BOUNDARY PLANTING.**

**RFA DEVELOPMENT CONSULTANTS
ON BEHALF OF ALTAF MOHAMMED**

JUNE 2015

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1 Appeal Statement

Purpose of the Appeal Statement

- 1.1 The purpose of this Appeal Statement is to assist the Reporter in the understanding, assessment and determination of the change of use application by Mr Altaf Mohammed (hereafter referred to as the appellant). The appellant is proposing plans for the extension of the curtilage of two housing plots located on the eastern fringe of Seton Mains, East Lothian.
- 1.2 The application was supported by an independent Landscape and Visual Appraisal and Planning Statement, both of which clearly demonstrate how the proposals comply with policy and do not undermine the aims and objectives of the Development Plan. This Appeal Statement is a clear and transparent summary of the application submission. It is not, however, a substitute for the important supporting documents and all supporting documents should be read in their entirety.
- 1.3 The extant East Lothian Local Plan 2008 (ELLP) identifies the application site as lying within a 'Countryside' designation (Policy DC1). The land is therefore considered, in policy terms, as being designated for agricultural use.
- 1.4 The land within the red-line application boundary is currently owned by the appellant and is unmaintained grassland/paddock. It does not form part of the adjacent and active agricultural landholding. It has most recently been used as a construction laydown and working area for the development of two residential properties at Rose Bank, Seton Mains. The site, however, has not been actively managed or utilised for agriculture or horticulture for over 15 years. Public access to the site is restricted.

Relevant Planning History

- 1.5 It is acknowledged that a previous application for the change of use to domestic garden ground at 1 Rose Bank was refused (ref 14/00494/P). Reference can be made to the related Officer Report in which the two Reasons for Refusal were cited as thus:
- that granting consent would '*establish a precedent*'; and
 - the change of use would be an '*intrusive and incongruous encroachment beyond the well-defined edge of the settlement and as such has a harmful affect on the character and visual amenity of the landscape to the east of Seton Mains*'.

The Policy Case

- 1.6 Pre-application discussions with ELC indicated that any similar application would likely be met

with a similar opinion and response to that indicated above. It was therefore important to support the 16/00058/P application with a robust planning case, supported with factual evidence and appraisals demonstrating compliance with policy.

- 1.7 The appeal documents (as submitted with the application) present a clear and logical case as to why such previous reasons for refusal are unacceptable and unjustified.

Establishing a Precedent

- 1.8 The wording of the previous reason for refusal suggests that East Lothian Council may find it difficult in future to refuse similar applications if the proposals were consented. Having such a reason for refusal therefore suggests that the application could indeed be considered unobjectionable in itself.
- 1.9 It is accepted by the appellant that the creation of an adverse precedent can be a material consideration in the determination of an application (as established by *Collis Radio Ltd v Secretary of State for the Environment* (1975) 73 LGR and *Poundstretcher Ltd v SoS for the Environment* [1989] JPL 90).
- 1.10 In such cases, whilst the proposed development might indeed be unobjectionable in itself, consenting such may make it difficult for the planning authority to refuse planning permission for similar development on other sites. This, in theory, may then lead to a proliferation of such development.
- 1.11 Whether minor encroachment into the countryside for domestic garden use would give rise to an adverse precedent and an uncontrollable proliferation of such development is up for debate. However, what is not up for debate is that the courts have made it very clear that "mere fear or generalised concern" regarding an adverse precedent is not enough to warrant a reason for refusal.
- 1.12 The courts explain in their ruling that 'there must be evidence in one form or another' before a planning authority can rely on adverse precedent as a reason for refusing planning permission.
- 1.13 The appellant is not aware of any locational or land-use evidence that ELC can rely on to justify the use of 'adverse precedent' as a reason for refusal of applications of this scale and nature.

Development in the Countryside

- 1.14 There is clear policy support within the extant Local Plan (Policy DC1 Part 2(f)) for developments of the scale and nature proposed. The Policy states:

"Development will also be acceptable in principle in the following circumstances:

2 - Change of Use/Restoration of a Building

(f) In the case of a change of use to garden ground, any well-defined settlement boundary or landscaped edge must not be prejudiced, the area of the change of use must be small in scale and the terms of Policy DC1 Part 5 must be met.”

- 1.15 The change of use from countryside to garden ground is therefore supported in principle by ELC, provided it meets certain tests.
- 1.16 At approximately 0.25 hectares in area the application site, in development terms, is small scale. The key test, therefore, is whether the change of use will undermine or prejudice any established and well-defined edge or boundary.
- 1.17 It is indeed the case that the settlement boundary has been established for Seton Mains and this is illustrated by a black line within the ELLP. It is also the case that proposals are located immediately outside/adjacent to the settlement boundary. However, there is no case that can be made to suggest the illustrative line within the ELLP is well-defined in landscape terms, or that it has been informed by strong defensible features in this location.
- 1.18 The proposals do not therefore prejudice a ‘well-defined settlement boundary or landscaped edge’ in this location, as there are none present. The proposals do not therefore undermine the spirit of this particular policy. They will in fact provide significant improvement by offering the chance to begin to define this edge of Seton Mains through robust boundary planting and treatments.
- 1.19 This strong boundary will also help enforce the objectives of other countryside designations such as Countryside Around Towns, as proposed for this location within the emerging LDP, and help implement Policy 13 of the SDP.
- 1.20 Furthermore, the independent Landscape and Visual Appraisal, which is evidence and factually based, clearly demonstrates that the change of use will not result in an ‘encroachment’ into the countryside that will be in any way ‘intrusive’ or ‘incongruous’.

Conclusions

- 1.21 The proposal constitutes an extension into the countryside and the application requests a change of use to remove this small area from its countryside designation.
- 1.22 The proposals cannot be considered to be in line with an identified or evidenced adverse precedent. Nor can they be considered to be setting a new adverse precedent.
- 1.23 The independent Landscape and Visual Appraisal clearly demonstrates the proposal will not be an ‘encroachment’ that will be in any way ‘intrusive’ or ‘incongruous’. These previous reasons and opinions presented by ELC were unfounded and not centred on evidence based analysis and assessment.

- 1.24 The settlement boundary in this area of Seton Mains is certainly not 'well-defined'. In this regard the proposals should be seen as beneficial, in that they will bring a more secluded and attractive character to the eastern edge of Seton Mains and, in turn, help to form a more appropriate interface between 'town' and 'country'. The garden use and its associated tree and shrub planting will provide a far more defensible, defined and robust boundary between development and countryside in this pressured location. This strong boundary will also help enforce the objectives of certain Countryside Designations (such as Countryside Around Towns) and help implement Policy 13 of the SDP.
- 1.25 Finally, the Landscape and Visual Appraisal has established that the change of use will not be 'harmful' to the landscape character and visual amenity of the area. The independent Appraisal, undertaken in line with recognised guidance concludes that the overall effects on the landscape character, landscape resource and visual amenity arising from the proposals to transform a small area of leftover grassland into garden grounds are **Negligible** and **Not Significant**.
- 1.26 There is policy support for developments of this scale and nature. The proposals do not undermine or contravene Policy DC1 Part 2(f) or Policy DC1 Part 5.
- 1.27 On the basis of the documentation submitted in support of this appeal it is respectfully requested that the application for Rose Bank, Seton Mains, be approved.