

PLANNING COMMITTEE

7 MARCH 2017

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

TUESDAY 7 FEBRUARY 2017
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON

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Committee Members Present:

Councillor N Hampshire (Convener)
Councillor D Berry
Provost L Broun-Lindsay
Councillor S Brown
Councillor J Caldwell
Councillor T Day
Councillor A Forrest
Councillor J Gillies
Councillor J Goodfellow
Councillor W Innes
Councillor P MacKenzie
Councillor K McLeod
Councillor J McMillan
Councillor J McNeil
Councillor T Trotter
Councillor J Williamson

Other Councillors Present:

Councillor M Veitch (Item 2)

Council Officials Present:

Ms M Ferguson, Service Manager – Legal and Procurement
Mr I McFarlane, Service Manager – Planning
Ms E Wilson, Service Manager – Economic Development and Strategic Investment
Ms A Stewart, Housing Enabler
Ms S McQueen, Planner
Ms E Clelland, Planner
Mr G Talac, Transportation Planning Officer
Ms C McMonagle, Graduate Planner
Ms P Bristow, Communications Officer

Clerk:

Ms A Smith

Visitors Present:

Item 2 – Mr C Main, Mr C Lynes, Ms G Tait, Mr W Hume, Ms J Bell
Item 3 – Mr M Atton, Mr R Evans, Mr D Hill, Ms L Rae, Mr E Clark
Items 4 and 5 – Mr S Stewart

Apologies:

Councillor S Currie
Councillor D Grant

Declarations of Interest:

None

Valedictory

Councillor Day led Members' thanks to Morag Ferguson, who would shortly be leaving the Council, for her invaluable service to the Planning Committee over many years.

1. MINUTES FOR APPROVAL – PLANNING COMMITTEE 10 JANUARY 2017

The minutes of the meeting of the Planning Committee of 10 January 2017 were approved.

2. PLANNING APPLICATION NO. 16/00633/AMM: APPROVAL OF MATTERS SPECIFIED IN CONDITIONS OF PLANNING PERMISSION IN PRINCIPLE 12/00553/PPM – ERECTION OF 78 HOUSES, 12 FLATS AND ASSOCIATED WORKS AT LAND ADJACENT TO BEVERIDGE ROW, BELHAVEN, DUNBAR

A report was submitted in relation to Planning Application No. 16/00633/AMM. Iain McFarlane, Service Manager – Planning, presented the report, summarising the key points. The report recommendation was to grant consent.

In response to questions from Members Mr McFarlane clarified matters regarding the pumping station, advising that this was required in association with the SUDS system. Regarding questions about the additional affordable housing information he stated that the applicant had prepared this for the assistance of Members. In relation to queries about total acreage allocated for this purpose he indicated that the Council's required percentage of 25% of units did not necessarily relate to the same percentage of land.

Craig Main of EMA Architects, agent for the applicant, outlined the proposal, stating it would provide a new and more appropriate gateway to the village and protect against coalescence. SEPA had withdrawn their previous objection to the development subject to appropriate conditions. There would be 90 new homes, 23 of which would be affordable housing. A significant educational contribution would provide expanded school accommodation with safer routes to school and a new footpath connection. The open space would be 2,000 square metres in excess of the requirement. The application satisfied all the requirements of the planning permission in principle.

Mr Main and colleagues responded to questions from Members. Regarding the SUDS system Mr Main stated that the design of the SUDS basin was more than adequate; it met all the usual standards required. Further details regarding the drainage process were also provided. Details of the mix of housing units was provided as requested. Members were advised that CALA had assessed this site and its marketability and decided on this mix. The planning permission in principle had capped the number of units at 90. Regarding the footway and existing verge wall, Mr Main indicated that it was the intention to create a footpath at their side of the development and rebuild the stone wall. He indicated that if permission were to be granted work would commence imminently.

Jacque Bell, speaking against the application on behalf of Dunbar Community Council and West Barns Community Council, raised numerous concerns. She referred to the planning process regarding this development. This was a historic site of prime agricultural land separating Belhaven and West Barns. The Main Issues report stated that this land should

not be developed. She referred to the loss of wildlife habitats. She drew attention to flooding and drainage concerns. She highlighted traffic concerns. The development would add to pressures on the health service and other services. She urged rejection of this application.

Local Member Councillor Veitch stated that he could not recall a planning application that had generated such widespread opposition in the community. The Scottish Government's decision to grant the appeal against non-determination was a rebuke to local democracy. The two distinct communities of Belhaven and West Barns would be merged. He accepted that planning permission in principle had, regrettably, been granted but there were many unresolved issues. Flooding: SEPA's comments, far from being reassuring, outlined a troubling narrative. Traffic: the inability of local roads to cope. The number of conditions: there were 18 detailed conditions, this was of serious concern. In addition the wildlife habitat should be investigated; he made reference to the sighting of rare birds in the area. He urged the Committee to reject this application as there were still too many unresolved concerns.

The Convener, speaking as a Local Member, agreed this was a controversial application and had met with local opposition. The decision however to grant consent had been made by the Reporter, the principle of development had been accepted and the Committee could not object to this; the site was now in the Local Development Plan and would be delivered. He cautioned that unless Members had strong evidence to go against this application any decision against would be appealed. There were a large number of conditions attached to the grant of permission but this was to ensure that the application was delivered as it should be. There were traffic concerns, this development would create more traffic; he would like an extra condition added regarding the road at the extreme south end, the emergency road, to make this a through route and also for Beveridge Row to be restricted to a one-way street.

Grant Talac, Transportation Planning Officer, was asked to comment. He advised that Road Services had standards to adhere to when looking at a development; this development had a singular access point as 90 units did not merit the need for more than one access to the development. If there was an additional condition Road Services would not necessarily have issues but it was currently deemed an emergency route and would be safeguarded through the Roads Construction Consent process.

Mr McFarlane advised there were two issues to consider, practicality then process and principle. Regarding the first issue the key question was whether there would be further significant development in the area where traffic was congested at traffic lights. Secondly, as outlined in the report, the principles of access had been determined by the planning permission in principle application, accordingly in the detail of this application it was not appropriate or competent to use a condition to change the access to the development. Morag Ferguson, Service Manager – Legal and Procurement, agreed with Mr McFarlane; a change to the access was a fundamental change to the application from that approved at the earlier stage.

The Convener remarked that he was not proposing to change the current access but rather to insert an additional condition to reduce the traffic on Beveridge Row by changing an emergency access into a permanent route into the development.

Councillor Day asked for a comment from the agent; Mr Main stated that in principle this was accepted provided the 10 metre stipulation regarding parking areas was safeguarded.

Ms Ferguson advised that the second part of the Convener's proposal, to make Beveridge Row a one-way street, was not competent as part of a planning condition, it would require a Traffic Regulation Order. The Convener indicated he would set aside this aspect.

The Convener asked the Committee to accept this extra condition and requested a seconder for his amendment; Councillor Williamson seconded the amendment. Mr McFarlane added

that if the amendment was accepted by the Committee he would suggest replacing condition 18 with an appropriately reworded condition rather than inserting an extra condition:

Notwithstanding that which is shown in the drawings hereby approved, the emergency access as shown in the southeast corner of the site shall be formed as a full road access to the road running from that corner to the northwest corner of the site, all to details, including the trigger point for the completion and bringing into use of the road, to be submitted and approved in advance by the Planning Authority in consultation with the Roads Authority.

Thereafter the access so approved shall be completed and brought into use in accordance with the details so approved.

Reason:

In the interests of road safety and the good planning of the area.

The Convener stated that the vote on the amendment would be taken at the end of the debate.

Councillor MacKenzie made reference to the drainage aspect of the site but noted that following revision the assessment provided indicated no threat of flooding. He made comments regarding the Design Standards for New Housing Areas. He was sympathetic to Councillor Veitch's comments on wildlife habitats. With the conditions proposed however he was confident that the application could go forward.

Councillor Goodfellow expressed discomfort with this application. He referred to the gateway nature of the site into Belhaven and to the type of proposed properties at this point. The gateway aspect of all new developments in East Lothian needed to be looked at very carefully. He commented that the decision to grant consent for planning permission in principle had been taken away from the Committee, by the Reporter. He made reference to the percentage of land allocated for affordable housing as against the percentage unit allocation, stating that the Council's Affordable Housing Policy needed reviewed.

Councillor Innes appreciated Members' concern regarding this application and the strength of local feeling. The site had however been granted consent by the Scottish Government, against local opinion. It was clear that there were still many local concerns about this application. Looking at the number of conditions there were many issues to be resolved. He could however find no concrete reason to oppose the application. He supported the Convener's amendment and with this, he would be supporting this application.

The Convener moved to the vote on his amendment, seconded by Councillor Williamson.

For: 16

Against: 0

Abstentions: 0

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

For: 14

Against: 0

Abstentions: 2

Decision

The Committee agreed that approval of matters specified in conditions for the proposed housing development be granted subject to the following conditions:

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

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

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

The above mentioned details shall show the finished floor levels of the houses, flats and garages to be erected on the site to be set at a minimum of 4.74mAOD and such levels shall be maintained unless otherwise approved by the Planning Authority in consultation with the Scottish Environment Protection Agency.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the amenity of the area and in the interest of the prevention of flood risk.

- 2 No development shall take place on the site unless and until the following details have been submitted to and approved by the Planning Authority in consultation with the Scottish Environment Protection Agency:

- o Details of an investigation into the existing 300mm culvert located under the site to be included within an updated Flood Risk Assessment.
- o Details of replacement of the existing 300 mm drain, which shall include for it being replaced on a like for like basis and rerouted if required so that it is located to the west of the proposed housing and is outwith all house plots
- o Provision of a new drain to be installed to the south of the proposed built development which will link to a replacement drain along the western edge of the application site as indicated on drawing FIELD01 "Existing and proposed field drain layout" docketed to this approval of matters specified in conditions.

Development shall thereafter be carried out in full accordance with the details so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

In the interest of the prevention of flood risk.

- 3 No development shall take place on the site unless and until details of the play equipment, the surfacing and the enclosures of the play area to be provided on the site and a timetable for their implementation are submitted to and approved in advance by the Planning Authority and the play area shall be installed in accordance with the details so approved

Reason:

To ensure the provision of adequate play provision within the development.

- 4 The external finishes of the houses and flats shall be in accordance with a co-ordinated scheme of materials and colours that shall be submitted to and approved in advance by the Planning Authority. This co-ordinated scheme shall in detail promote render as the predominant finish to the walls of the houses and flats, with a use of more than one render colour and with a strongly contrasting difference in the colours such that they will not each be of a light colour. All such materials used in the construction of the houses and flats shall conform to the details so approved.

Reason:

To ensure the development is of a satisfactory appearance in the interest of the amenity of the locality.

- 5 Notwithstanding the drawings docketed to this approval, the first floor windows/glazed doors to be installed in the east side elevation and in the southernmost elevation of the house to be erected on plot 16 of the development hereby approved and the first floor windows/glazed doors to be installed in the west side elevation and in the southernmost elevation of the house to be erected on plot 12 of the development hereby approved shall all be obscurely glazed in accordance with a sample of the obscure glazing to be submitted to and approved by the Planning Authority in advance of its use on these

houses. The obscure glazing of those windows/glazed doors shall accord with the sample so approved and thereafter they shall remain obscurely glazed unless otherwise approved by the Planning Authority.

Reason:

In order to safeguard the privacy and amenity of adjoining residential properties.

- 6 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended by Part 1 of the Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011), or of any subsequent Order amending, revoking or re-enacting the 1992 Order, no windows or other glazed openings, other than those hereby approved which are to be obscurely glazed in accordance with the condition above shall be formed at first floor level within the east side elevation or the southernmost elevation of the house to be erected on plot 16 of the development hereby approved or at first floor level within the west side elevation or the southernmost elevation of the house to be erected on plot 12 of the development hereby approved unless otherwise approved by the Planning Authority.

Reason:

To safeguard the privacy and residential amenity of the adjoining residential properties.

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

Reason:

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

- 8 No development shall take place on the pumping station unless and until details of all structures, equipment and enclosures to be erected in and around it have been submitted to and approved by the Planning Authority. Development shall thereafter be carried out in strict accordance with the details so approved.

Reason:

To ensure the pumping station is a satisfactory appearance in the interest of the amenity of the locality.

- 9 Notwithstanding that shown on the drawings docketed to this approval, the boundary enclosures for the front garden areas of the houses and flats hereby approved and for the enclosure of communal area shall be as detailed on drawing no. 12-01d 'Landscape Proposals' and the rear gardens of the houses shall be enclosed by 1.8 metre high enclosures in accordance with details, including timescales for their provision, which shall be submitted to and approved in advance by the Planning Authority.

Development shall thereafter be carried out in full accordance with the details so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure the satisfactory provision of the boundary enclosures in the interest of safeguarding the visual amenity of the area and to safeguard the privacy and amenity of residential properties nearby.

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

Reason:

In the interests of road safety.

- 11 Prior to the commencement of development a construction method statement shall be submitted to and approved in writing by the planning authority. This shall recommend mitigation measures to control construction traffic and shall include hours of construction work.

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

Reason:

To ensure that the method of construction is designed to take account the interests of road safety.

- 12 Prior to the occupation of any residential unit a Green Travel Plan (GTP) shall be submitted to and approved by the Planning Authority in consultation with the Roads Authority. The GTP shall have

particular regard to provision for walking, cycling and public transport access to the site, and will identify the measures to be provided, the system of management, monitoring, review, reporting and duration of the plan.

The GTP shall thereafter be implemented in accordance with the details so approved.

Reason:

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

13 Prior to the commencement of development, details showing compliance with the following transportation requirements shall be submitted to and approved in writing in advance by the Planning Authority.

(i) The proposed accesses junction onto the A1087 shall be a priority junction designed in accordance with the Design Manual for Roads and Bridges, Volume 6. Details to be submitted for approval;

(ii) An independent road safety audit shall be undertaken for the proposed access junction onto the A1087. Details to be submitted for approval;

(iii) Raised tables shall be constructed at all road junctions within the site as Illustrated on Drawing No: 16104(PL)001D;

(iv) Vehicle access's to private parking areas (i.e. other than driveways) shall be via a reinforced footway crossing and have a minimum width of 5.5 metres over the first 10 metres to enable adequate two way movement of vehicles.

(v) Driveways shall have minimum dimensions of 6 metres by 3 metres. Double driveways shall have minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11 m length. Pedestrian ramps to houses may encroach by up to 300mm on the width (but not the length) provided they are no greater than 150mm in height above the adjacent driveway surface.

(vi) Within residential private parking areas the minimum dimensions of a single parking space shall be 2.5 metres by 5 metres. All visitor parking spaces within these areas shall be clearly marked for visitors with the remaining private parking spaces allocated to individual dwellings.

(vii) Cycle parking shall be included at a rate of 1 space per flat. The parking shall be in the form of 1 locker per flat or communal provisions in the form of a lockable room or shed;

The residential development shall thereafter be carried out in accordance with the details so approved.

Reasons:

In the interests of road and pedestrian safety.

14 Prior to the commencement of development, details, including a timetable for their implementation, showing compliance with the following transportation requirements shall be submitted to and approved in writing in advance by the Planning Authority.

(i) A continuous 2 metre wide footway shall be provided along the southern verge of the A1087 to connect into the existing footway network in West Barns.

(ii) A continuous 2 metre wide footway shall be provided along the southern verge of the A1087 to connect into the existing footway network in Dunbar. This shall include the site frontage and also along the Southern verge of the A1087 between Beveridge Row and Brewery Lane.

(iii) The emergency access / pedestrian cycle link should be extended to tie into the existing footway that leads under the East Coast Mainline on Beveridge Row.

(iv) Pedestrian safety barriers shall be installed at the Beveridge Row end of the footpath between the 2 existing houses as indicated on drawings docketed to this approval of matters specified in conditions to stop pedestrians walking or cycling directly onto a live carriageway.

(v) The Bus stop to the west of the new access road on the A1087 shall be relocated to allow the new footway to West Barns to be constructed. If a relocation is not possible then the bus stop shall be changed to a cantilever style stop with details to be submitted for approval;

(vi) A dropped kerb crossing shall be required over the A1087 so that pedestrians using buggies etc can cross the road to get access to bus stops and walking to beach. There is an existing hole in the wall on the North Side of the A1087 and it could be placed in close proximity to this.

Reason:

In the interests of road and pedestrian safety.

- 15 Notwithstanding the landscaping details hereby approved, no development shall take place until there has been submitted to and approved in writing by the Planning Authority a comprehensive scheme of landscaping which shall provide details of : the height and slopes of any mounding on or recontouring of, the site; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting shall be submitted. The scheme shall include indications of all existing trees and hedgerows on the land, details of any to be retained, and measures for their protection in the course of development, proposals for additional planting of native or naturalised species in informal clusters. It shall include for some large scale landscape trees planted at approximately 10 metre intervals along the western boundary of the site.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

Reason:

In order to ensure the implementation of a landscaping scheme to enhance the appearance of the development in the interests of the amenity of the area.

- 16 The maintenance of all communal landscape areas shall be adopted by a Factor or a Residents Association in accordance with details to be submitted to and approved by the Planning Authority prior to the occupation of any residential units hereby approved. The following details shall also be submitted to and approved by the Planning Authority prior to the occupation of any residential unit hereby approved:

A detailed landscape specification and a revised communal landscape plan clearly detailing all communal areas to be maintained by a Factor or Residents Association.

Thereafter, all landscaping approved for the communal areas shall be retained and shall not be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the previous written consent of the Planning Authority.

Reason:

To ensure the retention and maintenance of communal landscaping on the site in the interest of amenity.

- 17 No development shall take place on site until temporary protective fencing in accordance with Figure 2 of British Standard 5837_2012 "Trees in relation to design, demolition and construction" and as detailed in a revised Tree Protection Plan to be submitted to and approved in advance by the Planning Authority has been installed, approved and confirmed in writing by the Planning Authority. The fencing must be fixed in situ, erected prior to site start and retained on site and intact through to completion of development.

All weather notices shall be erected on said fencing with words such as "Construction exclusion zone - Keep out". Within the fenced off areas the existing ground level shall neither be raised nor lowered, no materials, temporary buildings, plant, machinery or surface soil shall be placed or stored and no herbicides shall be used. Planning of site operations should take sufficient account of wide loads, tall loads and plant with booms, jibs and counterweights (including drilling rigs), in order that they can operate without coming into contact with retained trees. Any materials whose accidental spillage would cause damage to a tree shall be stored and handled well away from the outer edge of its RPA. Fires on sites should be avoided if possible. Where they are unavoidable, they should not be lit in a position where heat could affect foliage or branches. The potential size of a fire and the wind direction should be taken into account when determining its location and it should be attended at all times until safe enough to leave.

Reason:

To ensure the retention of existing trees, in the interests of the visual amenity of the area.

- 18 Notwithstanding that which is shown in the drawings hereby approved, the emergency access as shown in the southeast corner of the site shall be formed as a full road access to the road running from that corner to the northwest corner of the site, all to details, including the trigger point for the completion and bringing into use of the road, to be submitted and approved in advance by the Planning Authority in consultation with the Roads Authority.

Thereafter the access so approved shall be completed and brought into use in accordance with the details so approved.

Reason:

In the interests of road safety and the good planning of the area.

Sederunt: Councillor Veitch left the Chamber

3A. PLANNING APPLICATION NO. 16/00832/P: ALTERATIONS, EXTENSIONS AND CHANGE OF USE FROM A HOTEL (CLASS 7) TO FORM 4 FLATS (SUI GENERIS) AND ERECTION OF GARAGES AND ASSOCIATED WORKS AT THE FORMER BLENHEIM HOUSE HOTEL, 14 WESTGATE, NORTH BERWICK

A report was submitted in relation to Planning Application No.16/00832/P. Esme Clelland, Planner, presented the report, summarising the key points. The proposed decision set out in the report was to grant consent.

Ms Clelland responded to questions from Members. Councillor Day referred to the narrow focus of the District Valuer's report on accommodation only and queried why other ancillary aspects had not been looked at. Ms Clelland replied that consent existed for a guest house; she clarified that the Council had not asked the District Valuer to explore any other areas.

In respect of a follow-on question from Councillor Berry Ms Clelland advised that the financial predictions in relation to the sale of food and drink were taken into account, not just the accommodation use. She clarified that 8 rooms was the number of rooms assumed in the assessment which was less than the existing number but considered reasonable for a hotel meeting current standards. In relation to the District Valuer study Ms Clelland indicated she was not aware of any such assessment carried out prior to the 2013 grant of consent. Mr McFarlane concurred; he added that it was not a change of use then so there had been no requirement for this to be done; now it was a change of use so this assessment had been required. With regard to questions about work done over the past 3 years since the hotel had closed Ms Clelland clarified that the main change was that the residential bungalow to the rear had been demolished and some internal work, removing fittings, had been done. Councillor Berry asked why a suggestion had not been made to add an extension to the west side of the building. Ms Clelland stated that officers had to consider the application put forward by the applicant. She added that the use of contrasting the old building with a modern design was supported by Historic Environment Scotland's national guidance and by conservation Design Standards.

Ms Clelland clarified Policy TOUR4 at the request of Councillor Goodfellow.

Matthew Atton, the applicant, outlined the history of the application stating that when he acquired the property in 2012 the sole aim was to refurbish it aimed at the golf market and also provide a family home. Post purchase however this intention could no longer be supported and options had been reviewed. He referred to the building condition report which had said that full refurbishment was required, stating that there had been a lack of investment over many decades. He made reference to the number of guest accommodation spaces available in North Berwick and the surrounding area. Viability as a hotel had been carefully considered, this was however not possible, as supported by the District Valuer.

Robert Evans of Muir Smith Evans, agent for the applicant, referred to Policy TOUR4 stating that this policy did not prohibit change of use but required evidence that the current use was not viable. The property had been marketed extensively and advertised widely. He drew attention to the cost of refurbishment and to the District Valuer's decision. With regards to viability a leading hotel market specialist had stated that it was not viable as a hotel.

Mr Atton responded to a number of questions from Members in relation to viability. He gave further details about the decision not to proceed with the proposal for a family home and guest accommodation, referring to advice from the Planning Service at pre-application discussion and application stages. Responding to more questions about the building condition reports and due diligence he replied that research had been carried out, experts had looked at the site, the key issue was the business model of house and guest beds, quite different to the previous use of the building.

Mr McFarlane advised that it was his understanding that there had been an issue with the extent of the property which would be a single house and the extent of the other guest accommodation. Ms Clelland gave details of the 2013 application stating that this had not involved any change of use so the house and hotel proposal had never been tested to the application stage. In response to Councillor Goodfellow's questions she clarified that in the District Valuer's opinion the cost to refurbish as a 4 star hotel was approximately £1.7 million.

Sederunt: Councillor Goodfellow left the Chamber

Lyn Rae, neighbouring resident, spoke against the application. She was supportive of the renovation of the building but unhappy with the design and scale of the 2 storey extension, stating it contravened the Council's Policies ENV 3 and 4. The proposed extension was too large; it would make Westgate more built up and was out of keeping with the character and appearance of the Conservation Area. The modern design would have an adverse effect on the area. She also commented on the materials proposed, stating these were not appropriate to the setting of a listed building. This building should be developed but not along the lines proposed.

Edward Clark spoke against the application as a local resident and representative of North Berwick Environmental Trust. Regarding the extensions to this listed building the proposal was out of character and alignment with the Conservation Area, much of Westgate's attractiveness was due to the type of architecture; this proposal would be detrimental to the area and consent should be withheld. In respect of change of use, given the town and county's attractions, he was surprised that a modest hotel was considered not viable. He also referred to the lack of supporting infrastructure for new residential developments. Consent for change of use from a hotel to flats should be withheld.

Local Member Councillor Berry stated this was a unique site but the application was also a symbol of what was happening in local communities. He drew parallels to the Templar Lodge, Gullane development. He expressed serious concerns about the initial intentions and viability checks. The listed building could have been extended on the west side, to make it more attractive and viable. The proposal put forward was wholly inappropriate. The key point was that this should have, and could have, been a hotel. This application should not be allowed; he would not be supporting it.

Local Member Councillor Day stated this was a difficult and contentious application. There were two separate issues, the change of use and the proposed changes to the building. Regarding the latter, relevant planning policies all sought to ensure the preservation and enhancement of the Conservation Area. He generally supported modern architectural extensions to listed buildings; in his opinion this proposal was of sufficiently high quality to be an enhancement. In relation to the change of use he felt that with some forethought the

building could have been viable as a hotel; this was a missed opportunity. On balance however, and reluctantly, he would be supporting the officer's recommendation.

Provost Broun-Lindsay commented, regarding the change of use, that legislation and building standards requirements had changed, as had guests' expectations. He did consider it a return to the original use rather than change of use and he supported this part of the application. With regard to the extensions he referred to Historic Scotland's comments, stating that it could be argued that the contrast between the existing building and the extensions did not contribute to, nor enhance, the Conservation Area but were actually detrimental to its character. He urged Members to refuse this part of the application.

Councillor McMillan remarked that he was convinced about the case put forward regarding viability and accepted that efforts had been made to market it as a hotel. Regarding the design plans he felt, on reflection, that the contrast argument held and the design was appropriate and would add interest and value to the area. He supported the application.

Councillor Innes also made reference to the original use of this site, stating there was a basis for reverting back to a residential property. Regarding the design, Historic Scotland supported the concept and design. He would be supporting both recommendations.

Councillor Trotter stated that the building was not viable as a hotel. He would be supporting both report recommendations.

The Convener brought the discussion to a close. He remarked that the policy of retaining hotel accommodation was complex as regards this type of application; the building was in a dilapidated state, there were viability issues. This proposal would meet the demand for new housing in the town centre. As Members had said the building was being returned to its original use. He felt the design proposal was acceptable. He would be supporting the recommendations to grant planning permission.

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

For: 13
Against: 2
Abstentions: 0

Decision

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

- 1 Prior to the commencement of development a scheme of landscaping shall be submitted to and approved in writing by the Planning Authority. The scheme shall provide details of: tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. The scheme shall include indications of all existing trees and hedgerows on the land, details of any to be felled, and measures for the protection during the course of development of the trees and hedgerows that are to be retained.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the first flat.

Any trees or plants which within a period of ten years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

Reason:

In order to ensure the implementation of a landscaping scheme to enhance the appearance of the development in the interests of the amenity of the area.

- 2 A Construction Method Statement (CMS) shall be submitted to and approved by the Planning Authority prior to the commencement of development. The Construction Method Statement shall recommend mitigation measures to control noise, dust, construction traffic (including routes to/from site) and shall include hours of construction work.

Thereafter, the approved CMS shall be complied with as approved, unless otherwise agreed in writing with the Planning Authority.

Reason:

To ensure controls are in place to minimise the impact of construction activity on the safety and amenity of the area.

- 3 Prior to the commencement of development, a schedule and samples of the materials to be used to externally clad the proposed extensions, bin store, bicycle store and garage shall be submitted to and approved in writing by the Planning Authority.

Thereafter, the materials shall be implemented as approved.

Reason:

To allow the consideration of details yet to be submitted and in the interest of visual amenity, the character of the conservation area and the listed building.

- 4 Prior to the occupation of any of the flats hereby approved the parking as shown on approved plan 16040(PL)200 Rev.B shall be constructed and made available for use by residents.

Reason:

To ensure that there is sufficient parking provided onsite for residents in the interests of the safety and amenity of the area.

- 5 When measured from a point 2 metres back from the footway on the centreline of the vehicular access from Westgate to a point 2 metres to the east and 2 metres to the west on the rear of the footway there shall be no obstruction to visibility greater than the height of the existing southern boundary wall. For the avoidance of doubt, hedging and soft landscaping above the height of the wall in this area is not permitted.

Reason:

To ensure that there is sufficient visibility for drivers of vehicles exiting the site onto Westgate and crossing the public footpath, in the interests of road safety.

- 6 Prior to the commencement of development full details of the materials to be used to form external hard surfacing, including the steps to the west of the proposed garage and the permeable paving, shall be submitted to and approved in writing by the Planning Authority.

Thereafter, the materials shall be implemented as approved.

Reason:

To allow the consideration of details yet to be submitted in the interest of the setting of the listed buildings and the North Berwick Conservation Area.

- 7 Prior to the commencement of development on site a written scheme of investigation shall be submitted to and approved in writing by the Planning Authority.

Thereafter, a programme of archaeological work (Historic Building Recording) shall be undertaken and reported upon in accordance the approved written scheme of investigation.

Reason:

To ensure that features of potential archaeological interest that may be disturbed by the development of a building of this age and regional importance are investigated and appropriately recorded.

3B. PLANNING APPLICATION NO. 16/00832/LBC: ALTERATIONS, EXTENSIONS TO BUILDING, ERECTION OF OUTBUILDINGS, RAILINGS, GATES, FORMATION OF STEPS, HARDSTANDING AREAS AND DEMOLITION OF OUTBUILDINGS AT THE FORMER BLENHEIM HOUSE HOTEL, 14 WESTGATE, NORTH BERWICK

A report was submitted in relation to Planning Application No. 16/00832/LBC. The proposed decision set out in the report was to grant consent.

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

For: 13
Against: 2
Abstentions: 0

Decision

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

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

Reason:

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

- 2 Prior to the commencement of development, full details shall be submitted to and approved in writing by the Planning Authority of all existing internal door openings which are to be blocked up as shown on approved plans 16040(PL)201A and 16040(PL)200A. This shall include sections and details of the material to be used.

Thereafter, the details shall be implemented as approved.

Reason:

To allow the consideration of details yet to be submitted in the interest of protecting the character of the listed building.

- 3 Prior to their use in the development, a schedule and samples of the materials to be used to externally clad the proposed extensions shall be submitted to and approved in writing by the Planning Authority. Thereafter, development shall be carried out in accordance with the details so approved.

Reason:

To allow the consideration of details yet to be submitted and in the interest of the architectural and historic interest of the listed building.

- 4 Prior to the commencement of development full details of the materials to be used to form external hard surfacing, including the steps to the west of the proposed garage and the permeable paving, shall be submitted to and approved in writing by the Planning Authority.

Thereafter, the materials shall be implemented as approved.

Reason:

To allow the consideration of details yet to be submitted in the interest of the setting of the listed buildings and the conservation area.

4A. PLANNING APPLICATION NO. 16/00962/P: ERECTION OF FREESTANDING REMOVABLE CANOPY AT THE HARBOUR, VICTORIA ROAD, NORTH BERWICK

A report was submitted in relation to Planning Application No. 19/00962/P. Stephanie McQueen, Planner, presented the report, summarising the key points. She informed Members that at the site visit the applicant had indicated that the plastic sheeting would not be rigid but would be capable of being rolled up at the sides of the structure. The proposed decision set out in the report was for refusal of the application.

In response to a question from Councillor Berry Ms McQueen clarified that the galvanised structure and plastic sheeting would be removed over the winter months.

Stirling Stewart, the applicant, stated that the Lobster Shack had been operating now for 6 years. It had gained an excellent, international, reputation. It served the tourism industry and was a direct link for local fishermen. He informed Members however that it had only traded for 61 days last year due to the vagaries of the weather. If the proposal was approved then the business would be able to open for many more days which would help the local

economy. Referring to the report, he remarked that the harbour was an historic landmark but it was also a working harbour. He asked the Committee to approve the application.

Mr Stewart responded to questions. He clarified that the safety barrier dividing the tables/chairs in the outdoor seating area from the footpath would remain in place during the winter months. He confirmed that if planning permission was granted he would be able recruit more people.

Local Member Councillor Day stated that this was a destination business; it attracted visitors from far beyond North Berwick and added to the vibrancy of the town and should be encouraged. He disagreed with the officer's comments in the report regarding the visual effect on the harbour, this was a working harbour. This proposal, which would benefit the business, should be endorsed. He would be supporting the application.

Local Member Councillor Berry remarked that this enterprise had added considerably to the footfall in the harbour area, it had character, it attracted many people; it was an enhancement to both the town and the harbour area. He agreed that anything that could be done to increase the number of operational days should be done. He would be supporting the application.

Councillor McMillan reiterated that the Lobster Shack was a huge attraction and contributed to East Lothian's aim of being Scotland's leading coastal destination as set out in the Council's Economic Development Strategy. He would be supporting this application.

Councillor MacKenzie expressed surprise that the business had only traded for 61 days last year; he also agreed that anything that could be done to make this business more viable should be done. He supported for the application.

The Convener noted that all comments were in favour of the application; he also praised the facility and expressed support for the application.

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

For: 0
Against: 15
Abstentions: 0

Decision

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

Post Meeting

The following conditions were determined:

- 1 Planning permission for the siting of the freestanding removable canopy and its supporting framework is granted for a temporary period until the 28th February 2022 after which time no parts of them shall be located within the application site.

Reason:
To enable the Planning Authority to review the use of the site in the interests of safeguarding the character and appearance of the Conservation Area and the setting of the listed building of North Berwick Harbour.
- 2 The freestanding removable canopy and its supporting framework shall be sited on the application site for the months of April to October, inclusive, each calendar year of the duration of the temporary period of the planning permission granted for them by the terms of Condition 1 of this planning permission.

During the months of November to March (inclusive) each calendar year of the duration of the temporary period of the planning permission granted for them no parts of the retractable canopy and its supporting posts shall be sited on the application site.

Reason:

In the interests of safeguarding the character and appearance of the Conservation Area and of the listed building of North Berwick Harbour.

- 3 Notwithstanding that which is shown on the drawings docketed to this grant of planning permission, details and a sample of the plastic material to be used to clad the external walls and roof of the canopy hereby approved and the means of attachment of that material to the framework of the canopy shall be submitted for the written approval of the Planning Authority prior to its use in the development and thereafter the plastic material used to clad the external walls and roof of the canopy and the means of attachment of it to the framework shall accord with the details and sample(s) so approved unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure that the external finishes are appropriate in the interests of protecting the amenity of the area, the character and appearance of the Conservation Area, and the setting of the Category B listed North Berwick Harbour.

- 4 Details and a sample of the final finish of the metal framework of the canopy hereby approved shall be submitted for the written approval of the Planning Authority prior to its use in the development and thereafter the finish of the framework of the canopy shall accord with the details and sample so approved unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure that the external finishes are appropriate in the interests of protecting the amenity of the area, the character and appearance of the Conservation Area, and the setting of the Category B listed North Berwick Harbour.

4B. PLANNING APPLICATION NO. 16/00963/LBC: ERECTION OF FREESTANDING REMOVABLE CANOPY AT THE HARBOUR, VICTORIA ROAD, NORTH BERWICK

A report was submitted in relation to Planning Application No. 16/00963/LBC. The proposed decision set out in the report was for refusal of the application.

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

For: 0

Against: 15

Abstentions: 0

Decision

The Committee agreed to grant listed building consent subject to conditions to be determined by the Convener, Local Members and officers.

Post Meeting

The following conditions were determined:

- 1 Listed building consent for the siting of the freestanding removable canopy and its supporting framework is granted for a temporary period until the 28th February 2022 after which time no parts of them shall be located within the application site.

Reason:

To enable the Planning Authority to review the siting of the retractable canopy and its posts in the interests of safeguarding the special architectural or historic interest of the listed harbour.

- 2 The freestanding removable canopy and its supporting framework shall be sited on the application site for the months of April to October, inclusive, each calendar year of the duration of the temporary period of the listed building consent granted for them by the terms of Condition 1 of this listed building consent.

During the months of November to March (inclusive) each calendar year of the duration of the temporary period of the planning permission granted for them no parts of the retractable canopy and its supporting posts shall be sited on the application site.

Reason:

In the interests of safeguarding the special architectural or historic interest of the listed harbour.

- 3 Notwithstanding that which is shown on the drawings docketed to this grant of listed building consent, details and a sample of the plastic material to be used to clad the external walls and roof of the canopy hereby approved and the means of attachment of that material to the framework of the canopy shall be submitted for the written approval of the Planning Authority prior to its use in the development and thereafter the plastic material used to clad the external walls and roof of the canopy and the means of attachment of it to the framework shall accord with the details and sample(s) so approved unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure that the external finishes are appropriate in the interests of safeguarding the special architectural or historic interest of the listed harbour.

- 4 Details and a sample of the final finish of the metal framework of the canopy hereby approved shall be submitted for the written approval of the Planning Authority prior to its use in the development and thereafter the finish of the framework of the canopy shall accord with the details and sample so approved unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure that the external finishes are appropriate in the interests of safeguarding the special architectural or historic interest of the listed harbour.

5. PLANNING APPLICATION NO. 16/00860/P: ERECTION OF ADDITIONAL CANOPIES AT 26 VICTORIA ROAD, NORTH BERWICK

A report was submitted in relation to Planning Application No. 16/00860/P. Stephanie McQueen presented the report, summarising the key points. The proposed decision set out in the report was for refusal of the application.

Councillor Day queried, if the Committee was inclined to grant permission, about the possibility of inserting a condition regarding removal of the fittings. Mr McFarlane clarified the position, explaining that if there was not such a condition attached to the previous permission then it would be difficult to justify doing so now. The new structures proposed were different; to change the consideration from permanent to temporary was complicated, it would depend on the views of the applicant and architect. The Convener sought the applicant's view. Mr Stirling Stewart confirmed that he would be willing to remove the canopies over the winter months. Councillor Berry remarked that he would be willing to second Councillor Day's suggestion; he felt this would also deal with concerns expressed by local residents. Mr McFarlane reiterated that such a condition would only apply to what was currently under consideration. He added that the concern of the Planning Service in respect of Mr Stewart's operations was not what he looked to do but the quality with which he and his architect implemented it.

Mr Stewart informed Members that The Rocketeer had been trading now for 5 years, it was popular with both tourists and locals and injected finance into the local economy. The suppliers and workforce were local. The shelter, approved last year, had made a huge difference to the number of customers using the facility. The additional canopies now proposed would provide extra shelter from the weather for customers.

Local Member Councillor Day stated that in considering the application he felt the benefits outweighed any potential issues; he would be supporting the proposal.

Local Member Councillor Berry concurred.

The Convener agreed with the local members.

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

For: 0
Against: 15
Abstentions: 0

Decision

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

Post Meeting

The following conditions were determined:

- 1 Notwithstanding that which is shown on the drawings docketed to this grant of planning permission, details and a sample of the plastic material to be used to clad the roof of the canopies hereby approved and the means of attachment of that material to the framework of the canopy shall be submitted for the written approval of the Planning Authority prior to its use in the development and thereafter the plastic material used to clad the roof of the canopies and the means of attachment of it to the framework shall accord with the details and sample(s) so approved unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure that the external finishes are appropriate in the interests of protecting the amenity of the area, the character and appearance of the Conservation Area, and the setting of the scheduled monument of St Andrews Church.

- 2 Details and a sample of the final finish of the metal framework of the canopies hereby approved shall be submitted for the written approval of the Planning Authority prior to its use in the development and thereafter the finish of the framework of the canopies shall accord with the details and sample so approved unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure that the external finishes are appropriate in the interests of protecting the amenity of the area, the character and appearance of the Conservation Area, and the setting of the scheduled monument of St Andrews Church.

- 3 The canopies and their supporting framework shall be sited on the application site for the months of April to October, inclusive, each calendar year.

During the months of November to March (inclusive) each calendar year no parts of the canopies and their supporting framework shall be sited on the application site.

Reason:

In the interests of protecting the amenity of the area, the character and appearance of the Conservation Area, and the setting of the scheduled monument of St Andrews Church.

Signed

Councillor Norman Hampshire
Convener of the Planning Committee

REPORT TO: Planning Committee

MEETING DATE: Tuesday 7 March 2017

BY: Depute Chief Executive (Partnerships and Community Services)

SUBJECT: Planning Application No. 15/00127/PP – Planning permission in principle for residential development, covered parking, formation of new vehicular access and extension to car park on land at The Glebe, St Margaret’s Road/St Andrew Street, North Berwick.

1 PURPOSE

- 1.1 At the meeting on 19 April 2016 the Planning Committee agreed to a request by the applicant’s agent that consideration of the application be deferred to a future meeting of the Planning Committee rather than determined on that day. The agent for the application having confirmed that, following the site visit on Friday 15 April 2016, further discussions on the application were taking place.
- 1.2 The applicant’s agent has now requested that the application be brought back to Planning Committee for a decision.

2 RECOMMENDATIONS

- 2.1 That planning permission in principle be refused for the following reasons:
 1. The principle of the car park development would result in the loss of the open and undeveloped character and appearance of this part of the Glebe Field and this would be to the detriment of the overall designated area of open space which makes a significant contribution to the amenity and landscape setting of this part of North Berwick. Accordingly the car park proposal is contrary to Policy C3 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy on development affecting green infrastructure.
 2. The principle of the residential development would result in the loss of the open and undeveloped character and appearance of this part of The Glebe Field and this would be to the detriment of the overall designated area of open space which makes a significant contribution

to the amenity and landscape setting of this part of North Berwick. Accordingly the residential development proposal is contrary to Policy 7(a) of the approved South East Scotland Strategic Development Plan, Policy C3 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy on development affecting green infrastructure.

3. The loss of this part of this overall prominent, distinctive and historic green space for the formation of a car park would not preserve or enhance the special character and appearance of the Conservation Area rather it would be harmful to the historic character and the appearance of this part of the Conservation Area. Accordingly the proposal is contrary to Policy 1B of the approved South East Scotland Strategic Development Plan, Policy ENV4 of the adopted East Lothian Local Plan 2008 Scottish Planning Policy on development within a conservation area.
4. By resulting in the loss of trees which have considerable amenity value to the Conservation Area, the principle of the proposed car park is contrary to Policy 1B of the approved South East Scotland Strategic Development Plan, Policies ENV4, NH5 and DP14 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy on development within a conservation area.
5. The loss of part of this prominent, distinctive and historic green space for the development of a residential development along with all of the associated parking, access and turning space which would be required in association would not preserve or enhance the special character and appearance of the Conservation Area rather it would be harmful to the historic character and the appearance of this part of the Conservation Area. Accordingly the proposal is contrary to Policy 1B of the approved South East Scotland Strategic Development Plan, Policy ENV4 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy on development within a conservation area.
6. By resulting in the loss of trees which have considerable amenity value to the Conservation Area, the principle of the proposed residential development is contrary to Policy 1B of the approved South East Scotland Strategic Development Plan, Policies ENV4, NH5 and DP14 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy on development within a conservation area.
7. The proposed car park use would, by its height above the residential properties to the north of it and its close proximity to them, result in significant harm to the privacy and amenity of those neighbouring properties to the north by virtue of overlooking. Accordingly the proposal is contrary to Policy ENV1 of the adopted East Lothian Local Plan 2008 which seeks to safeguard the residential amenity of those residential properties.

3 BACKGROUND

- 3.1 Members will recall that at their meeting on the 19 April 2016 they agreed to a request by the applicant's agent that the application be deferred rather than determined on that day by the Planning Committee. The applicant's agent has now requested that the application be brought back to the Planning Committee for a decision. The proposals for the site are unchanged and there have been no changes in the material circumstances of the application. Therefore the recommendation remains that planning permission in principle be refused for the reasons given above, which are the same reasons given in the report presented to the Planning Committee on 19 April 2016.
- 3.2 The applicant's agent has confirmed to the Planning Service that discussions have been held between the applicant's team and East Lothian Council's Road Services team. He advises that "this has led to an agreement being reached between the applicant and East Lothian Council in relation to the sale of the land required for the car park subject to the grant of planning permission for i) planning consent for the residential development land and ii) detailed consent for the arrangement of the car park". He considers that this approach, which has been conducted between the applicant's team and East Lothian Council's legal department, reflects the approach adopted by East Lothian Council in the delivery of identified public amenities for previous projects including the delivery of the cemetery site as part of Hallam Land Management residential development reference 15/00473/PPM.
- 3.3 In respect of the above, the applicant's agent refers to the provisions of Circular 3/2013 (Annex A): Development Management Procedures. He argues "the relevance of the agreement as a material consideration and the weight which the applicant contends should be attached to it, is through this mechanism, an identified public asset, (namely the extension of the Glebe car park) can be delivered and owned through this planning application". In his view, the agreement meets the main tests in deciding whether a condition is material and relevant in that it serves the purpose of planning and relates to a particular application. The applicant contends that the weight which should be attributed to this agreement is significant in that it provides a legal mechanism to secure the delivery of the land for the car park. As such he considers that "it provides a land use context to deliver East Lothian Council strategic priorities for car parking and traffic management within North Berwick".
- 3.4 The Planning Service is aware that negotiations have been taking place between the applicant and the Council's Road Services in respect of control of the land for which planning permission in principle is sought for car park use. At the time of writing of this report no agreement is in place. In any case, an agreement over control of the land is not a material consideration in the determination of this application for planning permission in principle.

4 POLICY IMPLICATIONS

4.1 None.

5 INTEGRATED IMPACT ASSESSMENT

5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

6 RESOURCE IMPLICATIONS

6.1 Financial - None

6.2 Personnel - None

6.3 Other - None

7 BACKGROUND PAPERS

7.1 Report by the Service Manager - Report on planning permission in principle application 15/00127/PP (Attached as Appendix 1).

AUTHOR'S NAME	Iain McFarlane/Linda Ritchie
DESIGNATION	Service Manager, Planning/Senior Planner (Planning Delivery)
CONTACT INFO	imcfarlane@eastlothian.gov.uk Tel: 01620 827292 l.ritchie@eastlothian.gov.uk Tel: 01620 827245
DATE	27 February 2017

REPORT TO: Planning Committee

MEETING DATE: Tuesday 19 April 2016

BY: Depute Chief Executive (Partnership and Services for Communities)

SUBJECT: Application for Planning Permission for Consideration

Note - this application was called off the Scheme of Delegation List by Councillor Berry for the following reason: This constitutes a highly visible town centre site that is the last unallocated green space in the area and details of parking here would benefit from public debate.

This application was also called off the Scheme of Delegation List by Councillor Day for the following reason: Given the significant level of public comment relating to this proposal, I feel that this application should be brought before the Planning Committee.

Application No. **15/00127/PP**

Proposal Planning permission in principle for residential development, covered parking, formation of new vehicular access and extension to car park

Location **Land At The Glebe
St Margaret's Road/St Andrew Street
North Berwick
East Lothian**

Applicant Mr J Scott

Per Ristol Consulting Ltd

RECOMMENDATION Application Refused

PLANNING ASSESSMENT

This application relates to two parts of the paddock ground known locally as the Glebe Field, located in North Berwick, west of Law Road and between St Margaret's Road and St Andrew Street.

The Glebe Field is an irregularly shaped area of ground, part of which wraps around the west and south sides of the garden of the Glebe House, a former church manse built in 1823. The Glebe Field is otherwise bounded to the east by Law Road, to the south and southwest by the public road and footpaths of St Margaret's Road with residential properties of St Margaret's Road beyond, otherwise to the west by the residential properties of 1 and 2 Marmion Road and to the north by the residential properties of 7-15

St Andrew Street and to the northeast by the public car park of St Andrew Street.

The Glebe House is Category B listed and the high stone wall which extends along the length of the east side of the Glebe Field and the curtilage of Glebe House is also listed Category B in association with the listed house. The site is within North Berwick Conservation Area. The land of the site is designated as a protected area of open space under Policy C3 of the adopted East Lothian Local Plan 2008. It is private land and is not open to the public.

All of the land around the Glebe Field, including the house and garden of Glebe House, is defined by Policy ENV1 of the adopted East Lothian Local Plan 2008 as being predominantly residential. The defined town centre of North Berwick is a short distance away to the north of the site.

The land of the Glebe Field, which is greenfield, undeveloped, coarse-grassed land with some established groups of trees growing on it, slopes steeply downhill from its south side to its north side. By its openness and topography it allows vistas over the town centre of North Berwick and beyond to the Firth of Forth.

The buildings on the south side of St Margaret's Road are at a higher level than the Glebe Field and the streets of St Margaret's Road and Law Road also slope steeply downhill towards St Andrew Street. The street level of Law Road is at a much lower level than the land along the east side of The Glebe Field.

The neighbouring properties on Marmion Road, St Margaret's Road and St Andrew Street are mainly Victorian, semi-detached and detached houses, varying in size and design with finished materials of stone, and to a lesser degree render, with timber framed windows and doors. They have pitched roofs, predominantly finished in slate.

Glebe House is an imposing, two storey detached, stone built, former church manse now occupied as a private house. The Glebe Field is enclosed by post and wire fences except along its east boundary where it is enclosed by the Category B listed stone wall associated with Glebe House and also along the boundaries of it with the adjoining residential properties of 7-15 St Andrew Street and 1 St Margaret's Road and 1 and 2 Marmion Road, where it is separated from these properties by stone walls.

Planning permission in principle is sought through this application for:

- (i) a residential development with covered parking, formation of a new vehicular access and associated works, all on the south-eastern part of The Glebe Field (an area of some 0.269 hectares); and
- (ii) the formation of a car park, as an extension to the existing St Andrew Street car park, on the north-western part of The Glebe Field (an area of some 0.113 hectares).

The application site does not cover all of the land of the Glebe Field but instead consists of the two parts of the field described above. A smaller area of land on the western and southwestern parts of the Glebe Field is outwith the application site boundary.

In accordance with the requirements of Policy ENV4 of the adopted East Lothian Local Plan 2008 the applicant has submitted drawings indicatively showing the proposed development in relation to its surroundings in the Conservation Area. These indicate how a single flatted building containing 9 flats, which could be of a traditional form and finishes and ranging in height from 2 to 3 storeys, might be accommodated on the south-eastern portion of the Glebe Field. Access is proposed via a new vehicular access which would be formed into the site from St Margaret's Road at the south of the site. A detached covered parking area for residents is proposed south of the flatted building,

with an access drive, turning area, visitor parking and bin storage. It is indicated that the boundaries of this part of the site which are not already enclosed would be enclosed by new post and wire fences.

The drawings also indicate how a 36 space car park could be laid out at the northern end of the north-western part of the Glebe Field where it abuts the southwest corner of the existing St Andrew Street public car park. The proposed car park would form an extension to the existing St Andrew Street car park, accessed solely by a new ramp formed between the northeast corner of the proposed car park and the southwest corner of the existing car park. New landscaped areas are indicated around some edges of the proposed new car park and a new post and wire fence would enclose its southern edge.

The application is also accompanied by a Planning Statement. In this it is stated that the applicant proposes to grant East Lothian Council a long term (99 year) lease over the land on which the car park extension is proposed. It is further stated that this could be delivered by imposition of a pre-commencement planning condition on a grant of planning permission in principle for the proposed development and the prior conclusion of a legal agreement binding the applicant as landowner to enter into a lease with East Lothian Council for the use of the land as a car park, prior to the commencement of the residential development proposed.

Subsequent to the registration of the application the applicant has also submitted a Counsel Opinion and examples of cases on the legality of mechanisms proposed for delivering the land for a car park and also a Conservation Area Statement produced for the applicant by Simpson and Brown Architects.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Plan 2008.

Relevant to the determination of the application are Policies 1B (The Spatial Strategy: Development Principles) and 7 (Maintaining a Five Year Housing Land Supply) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies ENV1 (Residential Character and Amenity), ENV3 (Listed Buildings), ENV4 (Development within Conservation Areas), ENV7 (Scheduled Monuments and Archaeological Sites), C3 (Protection of Open Space), DP13 (Biodiversity and Development Sites), DP14 (Trees on or adjacent to Development Sites), DP20 (Pedestrians and Cyclists), DP22 (Private Parking), NH5 (Protected Trees), T1 (Development Location and Accessibility), T2 (General Transport Impact), T5 (Public Parking), H4 (Affordable Housing) and INF3 (Infrastructure and Facilities Provision) of the adopted East Lothian Local Plan 2008.

Material to the determination of the application are Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Scottish Government's Scottish Planning Policy: June 2014 on development affecting a listed building or its setting, on development within a conservation area, on development affecting archaeological sites and on development affecting green infrastructure.

Scottish Planning Policy echoes the statutory requirements of Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that in considering whether to grant planning permission for development which affects a listed building or its setting a planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which

it possesses.

Scottish Planning Policy also 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.

Scottish Planning Policy states that planning authorities should protect archaeological sites and monuments as an important finite and non-renewable resource and preserve them in situ wherever possible. Where in situ preservation is not possible, planning authorities should, through the use of conditions or a legal obligation, ensure that developers undertake appropriate excavation, recording, analysis, publication and archiving before and/or during development.

Scottish Planning Policy states that planning should protect, enhance and promote green infrastructure, including open space and green networks, as an integral component of successful placemaking. It advises that the planning system should consider green infrastructure as an integral element of places from the outset of the planning process and facilitate the provision and long-term, integrated management of green infrastructure and prevent fragmentation. Scottish Planning Policy defines green infrastructure as including the 'green' and 'blue' features of the natural and built environments that can provide benefits without being connected and states that green features can include parks, woodlands, trees, hedges, verges etc.

Scottish Planning Policy includes that the Planning Authority should at all times provide an effective five year housing land supply.

Also material to the determination of this application is the North Berwick Conservation Area Character Statement of the adopted East Lothian Local Plan 2008, which makes specific reference to the Glebe Field. Paragraph 1.5 includes that "A further small but significant area of open space is at the Glebe Field which contributes to the amenity of the area by its openness and views across the roofscape of the conservation area to the sea. There is a historical relationship between the manse and the field and the presence of such a field in a built-up area is rare."

Also material to the determination of the application is the planning history of the site, the Council's Transportation Strategy and the representations received from the public.

The Glebe Field has a substantial planning history.

Through application 02/00549/FUL, planning permission was sought in June 2002 for the erection of six two storey detached houses on the entire grassed paddock ground of The Glebe Field. In respect of this the applicant was advised that the scheme of development as submitted would be an over development of the site and of an architectural form and character which would neither preserve nor enhance the character or appearance of the conservation area or the setting of the Category B listed building, contrary to national, strategic and local plan policies on control of development in conservation areas and within the setting of a listed building. The applicant was therefore advised that the recommendation on the application would be for refusal.

Planning application 02/00549/FUL was subsequently withdrawn by the applicant prior to a determination of it.

In 2003 planning permission was sought for the erection of four houses on the northern part of the Glebe Field (ref: 03/00141/FUL) and for the erection of three houses, garages and the formation of vehicular and pedestrian accesses and associated works (03/00142/FUL) on the south-eastern part of the field. Listed building consent for proposed part demolition of the east boundary wall of the site with Law Road and erection of gate piers, wall and a gate was separately sought (ref: 03/00142/LBC). The southwest part of the Glebe Field which had been proposed for development in application 02/00549/FUL did not form part of these proposals.

Planning application 03/00141/FUL for the erection of four houses on the northern part of The Glebe Field was refused planning permission on 16th December 2003 for the following reasons

1. The erection of the proposed houses on the application site would result in the loss of the open aspect and historic character of this part of "The Glebe Field" to the detriment of the character and appearance of this part of North Berwick Conservation Area contrary to national, strategic and local plan policies;
2. The erection of the proposed houses to the west of the existing Glebe House would remove part of the historic association of "The Glebe Field" with Glebe House. Moreover, in their position and by their scale the proposed houses would not subservient to but would impose themselves on the listed Glebe House. Consequently, the proposed four houses would not preserve or enhance; rather they would have a significant detrimental impact on the setting of the listed Glebe House contrary to national, strategic and local plan policies;
3. The erection of the four houses proposed on the application site would result in the loss of an area of open space important to the urban amenity of this part of North Berwick contrary to national and local plan policies;
4. The proposed houses would by their physical presence impose themselves on the residential properties to the north of the application site and would cause harm to the level of privacy and amenity that presently pertains to those neighbouring properties by virtue of loss of daylight and overlooking contrary to local plan policies;
5. The proposed scheme of development would require the removal of a mature tree which is an important feature which has considerable amenity value to this part of the North Berwick Conservation Area contrary to local plan policy;
6. The proposed scheme of development and site layout does not comply with the Council's Development of Roads Standards for vehicle turning.

Planning application 03/00142/FUL for the erection of three houses, garages and the formation of vehicular and pedestrian accesses and associated works on the south eastern portion of the Glebe Field was refused planning permission on 16th December 2003 for the following reasons:

1. The erection of the proposed houses on the application site would result in the loss of the open aspect and historic character of this part of "The Glebe Field" to the detriment of the character and appearance of this part of North Berwick Conservation Area contrary to national, strategic and local plan policies;

2. The erection of the proposed houses to the south of the existing Glebe House would remove part of the historic open setting of that Category B listed building and would remove part of the historic association of "The Glebe Field" with Glebe House. Moreover, in their position and by their scale the proposed houses would not be subservient to but would impose themselves on the listed Glebe House and would conceal views of Glebe House from St Margaret's Road. Consequently, the proposed three houses would not preserve or enhance; rather they would have a significant detrimental impact on the setting of the listed Glebe House, contrary to national, strategic and local plan policies;

3. The erection of the three houses proposed on the application site would result in the loss of an area of open space important to the urban amenity of this part of North Berwick contrary to national and local plan policies;

4. By their scale, form and materials the new gate piers and sections of wall to be formed at the proposed pedestrian access off Law Road would be a prominent and discordant feature in the wall that would compromise the historic form and integrity of the wall and the positive contribution the wall makes to the character and appearance of the conservation area. Those proposed new gate piers and sections of wall would neither preserve nor enhance the character of the wall or the architectural and historic character of the Conservation Area. Rather they would detract from the character of the wall and the architectural and historic character of the Conservation Area contrary to national, strategic and local plan policies;

5. By their scale, form and materials and in their position at the proposed site access off St Margaret's Road the proposed new gate piers and sections of wall would appear as a prominent and discordant feature that would neither preserve nor enhance the character and appearance of the Conservation Area. Rather they would detract from the character and appearance of the Conservation Area contrary to national, strategic and local plan policies.

Listed building consent application 03/00142/LBC for the proposed part demolition of the east boundary wall of the site with Law Road and for the erection at the new opening of gate piers, new sections of wall and a gate was refused on 16th December 2003 for the reason that by their scale, form and materials the new gate piers and sections of wall to be formed at the proposed pedestrian access off Law Road would be a prominent and discordant feature in the wall that would compromise the historic form and integrity of the wall. Those proposed new gate piers and sections of wall would neither preserve nor enhance the character of the wall. Rather they would harm the character and appearance of the wall contrary to national, strategic and local plan policies regarding development affecting a listed building.

The applicant appealed to the Scottish Ministers against the Council's decisions to refuse planning permission for the erection of three houses, formation of vehicular and pedestrian access and associated boundary treatment on the south-eastern part of the Glebe Field (ref: 03/00142/FUL) and the associated application for listed building consent (ref: 03/00142/LBC).

Following a public inquiry, the Scottish Ministers' Deputy Chief Reporter's decision was to dismiss both appeals. Planning permission for the erection of three houses, formation of vehicular and pedestrian access and associated boundary treatment was refused for the reasons that housing development of the site would be contrary to then Structure Plan Policy which presumed against new housing development on greenfield sites other than to meet housing requirements set out in other structure plan policies, the detailed development proposed would result in the loss of amenity for local residents and the loss

of trees and loss of openness (as a result of the proposed development) would detract from the appearance of the Conservation Area contrary to relevant Policies of the then local plan. Listed building consent for the part demolition of a wall, the erection of gate piers, new sections of wall and a gate was refused for the reason that it would fail to preserve the character of the listed building and would be contrary to the listed building policy of the then Local Plan.

The applicant did not appeal the Council's decision to refuse to grant planning permission (application 03/00141/FUL), for the erection of four houses on the northern part of The Glebe Field.

Subsequent to those planning and appeal decisions being taken the then relevant Structure and Local Plans have since been replaced. The current development plan policies relating to listed buildings, conservation areas and infill development are similar in their terms to the policies which were relevant at the time of the previous planning and appeal decisions relating to the site, however, a significant material policy change has been the defining of the land of the Glebe Field in the adopted East Lothian Local Plan 2008 as open space land covered by Policy C3 (Protection of Open Space). The North Berwick Conservation Area Character Statement has amendments from that of the 2000 Local Plan, including the assessment of the contribution of the Glebe Field to the character and appearance of the Conservation Area.

A Public Local Inquiry into unresolved objections to what is now the adopted East Lothian Local Plan 2008 (at the time The Finalised East Lothian Local Plan 2005) was held in 2006. One objection considered was from the current and previous applicant. His objection was to the intention in the then finalised local plan to extend the area covered by Policy C3 (Protection of Open Space) to include the Glebe Field, and particularly the south eastern corner of the field.

The objector suggested that instead the site should continue to be covered by Policy ENV1 (Residential Character and Amenity) as it was in the previous local plan and that the eastern part of the site should be specifically identified as a local housing proposal.

The Inquiry Reporter, having considered the objection raised, concluded that the Glebe Field constitutes an important and distinctive feature in the local area which makes a valuable contribution to the overall amenity of the area. He noted that the objector sought to draw a distinction between the differing values of the western and the eastern parts of the site to the appearance and amenity of the area, but concluded that it is the contribution which the entire Glebe Field makes to the quality of the surrounding residential area and to the conservation area that is important.

The Reporter concluded that Policy C3 is the appropriate policy to apply to the site and that there is a wider public interest in protecting amenity and preserving the appearance and character of the conservation area, than there is for the objector to exercise his right to develop his land and realise its value. The Reporter therefore recommended that the Council's approach to applying Policy C3 to the Glebe Field should be accepted and as such Policy C3 applies to the Glebe Field in the adopted East Lothian Local Plan 2008.

The south-eastern part of the application site, where residential development is again now proposed, was the subject of a submission following a call for sites by the Council as part of the research towards the new Local Development Plan. The site was not proposed as a preferred site or an alternative site for housing in the Council's Main Issues Report (the consultation document which considers such submissions and other sites prior to the formation of a proposed Plan). Nor, following the consultation process, is the site proposed to be allocated for housing in the Draft Proposed Local Development

Plan approved with amendments at a meeting of the Council on 17 November 2015. Whilst the Draft Proposed Local Development Plan is not a statutory stage of the development plan process and can be accorded only limited weight at this stage, the decision of the Council on 17 November 2015 to approve the draft plan with amendments reflects the settled view of the Council on the strategies and sites for housing and other land allocations.

There are a total of 149 written representations to this application, 105 of which are objecting to the proposals and 44 of which are supportive.

The majority of the 105 objections are from individuals. The amenity groups North Berwick Environment Trust and Conservation N.B. have also submitted objections.

North Berwick Environment Trust states that it finds the implied connection between the creation of a car-park extension and the building of a residential development 'puzzling'. It states that no adequate explanation of, or justification for, the 'enabling' aspect of this application has been given, but since the proposed car-park extension appears to be offered in respect of East Lothian Council's aspirations with regard to local traffic management, there is potentially a conflict of interest that might even prevent East Lothian Council from considering the application. It objects to the proposals on the grounds that the site is outwith the East Lothian Strategic Development Area as identified within SESplan and would not align with strategic policy objectives. It considers the parking proposal a 'sticking-plaster' approach which would not solve a more complex car parking problem, that the proposed residential development would dominate the site and the listed Glebe House, and would lead to the loss of a green space. Both the residential development and the proposed car park would lead to further traffic congestion in the area and would set a precedent for the future development of the remainder of the Glebe Field.

Conservation N.B have raised similar objections and they have also conducted an independent survey on parking within North Berwick the findings of which they have appended to their letter of objection.

The other main grounds of objection are summarised below:

Impact on Conservation Area/Listed Building/Open Space

*The proposal is contrary to Policies C3, ENV3 and ENV4 and the North Berwick Conservation Area Character Statement of the adopted East Lothian Local Plan 2008;

*It would set a precedent for the development of the remainder of the Glebe Field;

*Would have a very significant adverse effect upon the setting of the conservation area, the conservation area and the setting of the listed Glebe House, all especially detrimental when viewed from the south, from higher ground.

*Glebe Field is a protected green space area of historic relevance in a conservation area thus the presumption must be against development;

*The Glebe Field is a precious part of North Berwick and to build on it at all feels deeply wrong. A natural green space in a town is so rare and should be protected;

*This is an important green space for the people of North Berwick. It should not be built on and it is not scheduled for development in the Local Plan;

*Object to development of any nature, car park or housing, on Glebe Field due to the rare nature of an uncultivated green field in the centre of a town and role it plays in the green infrastructure, nature conservation, biodiversity and amenity of North Berwick;

*The proposal fails to preserve or enhance the character or appearance of the area and so should be refused;

*Historic Scotland has previously indicated concern over development of the Glebe Field;

*East Lothian Council earlier this year carried out a review of its landscapes, with a view to designating Special Landscape Areas – this land has been nominated as a designated Special Landscape;

*Mature trees would potentially be felled;

*The proposal would result in a compromising at both ends of a precious green space;

*The Glebe Field is, in essence, in trust for the present and future residents of and visitors to North Berwick. Without the green open space in the centre of the town just above the High Street the town itself would be diminished and lose part of its character and charm. It should not be wantonly thrown away for short term gain and a few car parking spaces;

Proposed car park and car parking in North Berwick

*North Berwick does not need more car parking within its town centre;

*Creating more parking spaces in the town centre will encourage more traffic in an already congested area;

*Opportunities for future use of the Community Centre and the Rugby Club for parking should be encouraged and investigated;

*The surrounding infrastructure will not support further traffic;

*The proposal would increase the volume of traffic and noise pollution and could be harmful to pedestrian safety;

*There is underutilised parking provision elsewhere in the town

*Although the proposed car park might provide a useful modest boost to the town's car parking capacity, it won't be enough to resolve the chronic issue of traffic in the town centre, and will of course add to congestion in the immediate area;

*More should be done to promote travel by bike and train instead of promoting the car;

*Improved parking could be achieved in the town centre without using the Glebe land;

*The proposed car park is on a steep gradient and this would lead to drainage problems and could be dangerous in icy or snowy conditions;

*Concerns that plans do not clearly represent the steep gradient of the land the proposed car park would be built on;

*The layout and other details shown on the indicative drawings are unpractical for parking;

*The proposed use of the car park and the access between it and the existing car park would result in a harmful impact to the privacy, amenity and security of residential properties to the north of it and to the west and south west of it through overlooking from car park users, security issues due to the low boundary wall between the proposed car park and residential properties to the north; noise and light disturbance from car engines and headlight beams;

*There is a clear lack of any sort of research, assessment, care or attention to environmental implications such as surface water drainage and potential flooding which could result from the engineering required to address the severe gradient and build a car park extension;

*If trees were planted along the north side of the proposed car park as indicated this could result in a harmful loss of light to neighbouring residential properties and would have a negative impact on the views across the roof-scape of the conservation area as mentioned in the conservation statement;

*The excavation required to alter the gradient of the proposed car park land would leave a massive ledge in the middle of the field, destroying 'The Glebe Field' overall;

*St Andrew Street and Law Road are already congested and dangerous with narrow pavements and to consider adding more vehicles to this area is dangerous;

*The proposed car park would have a detrimental impact on existing mature trees which are important features and which have considerable amenity value to this part of the Conservation Area;

*The case has not been made for more car parking on green field sites in North Berwick and in particular, the case has not been made or support found for a car park extension

at the Glebe Field;

*Building of a car park would be contrary to other Council Policy and in particular The Council's Single Outcome Agreement published in 2013 which seeks to encourage people to leave their car at home and which seeks to maintain a high-quality natural environment;

*The proposed car park is unlikely to make a material difference to the town's parking issue. It runs counter to the professional advice that the Council has received;

*The Council should be encouraging more sustainable modes of transport such as walking, cycling and taking the train or bus instead or consider out of town parking/a park and ride facility as an alternative to more parking provision within the town centre;

*It would be better to build underground and one storey car park on the existing car park and protect this space;

Proposed residential development

*The proposed new vehicular access on St Margaret's Road would be harmful to road and pedestrian safety;

*The proposed new access, and the sight lines required for it, would result in the loss of trees and other foliage resulting in a negative impact on the diversity of wildlife and flora and fauna in the field;

*The proposed residential development and its associated parking areas and access would result in a loss of privacy and amenity to neighbouring residential properties;

*Proposed flatted development not in keeping with the design or size of any surrounding properties;

*The indicative details submitted are vague, inconsistent and confusing;

*A bid for development on part of the Glebe Field was submitted as part of the LDP process but did not find support. Additional housing here was not identified in the recently published Main Issues Report;

*Existing infrastructure including schools cannot support further housing development;

*Given the massive amount of new housing on the outskirts of town, 9 new apartments in the centre of town are not required;

*There is no case for building housing on the Glebe Field;

*The site is not allocated for residential development in the local plan;

*The Interim Guidance on developments does not apply to this site because it only applies to housing applications that form an appropriate extension to an existing settlement;

*There is enough housing developments currently taking place in North Berwick, the local infrastructure is under severe strain and the Glebe Field is not an East Lothian Council preferred area for development;

Proposal/procedural matters

*Completely out of character with the area;

*There is no evidence of any social, economic or community benefits that would outweigh the planning policies protecting this precious and rare conservation area greenspace amenity nor that would overcome the presumption against development that must be defended;

*This application should be dismissed on grounds of lack of compliance with the Development Plan, it is premature, and would set an undesirable precedent;

*This application is completely at odds with the planning history, the previous appeal decision, the Council's existing Local Plan and the North Berwick Conservation Area Character Statement

*There is a lack of detail and a wholesale absence of a proper assessment within the application;

*Overall impact on road and pedestrian safety on surrounding streets;

*The development of the Glebe Field and the additional traffic this would create would lead visitors to the town to seriously consider whether they would continue to visit the

town;

*This is the wrong place in the town for additional parking or residential development;

*The application is deficient as it lacks a proper SUDS scheme and Drainage Impact Assessments, Transport Assessments or a travel plan;

*The timing of this application and the inclusion of the car park seems a blatant attempt to circumvent the LDP process and the application should therefore be rejected as being premature pending the finalisation of the LDP process;

*Should the Council and/or landowner wish to pursue this development, then it should be done through seeking designation with the Local Development Plan rather than through an 'in principle' planning application. That would enable the matter to be discussed and considered with an independent assessment made by a Reporter and so ensuring a fully open and transparent process. Without conclusion of such process this proposal is premature and should be dismissed;

*Planning permission in principle should be denied until clear changes of Council policy have been explained, clarified and justified;

*The applicant has indicated that they intend to lease the proposed car park to the Council and the car park would be accessed from the existing Council car park. This would suggest that there has been some prior discussion with Council officers regarding a proposed lease. To that extent the Council has a clear interest in the development requiring its Notification to the Scottish Government in the event of a proposed granting of permission;

*A survey carried out by the Council titled North Berwick Parking Consultation which ran from March – May 2014 should be discounted as it did not ask the required open questions to enable an informed unbiased survey response;

*Concerns that North Berwick Community Council have not represented the views of the town by supporting the proposals;

*The applicant's agent suggests that the housing element of the proposal is an enabling development for the car park provision. Enabling development, in the context of planning policy and practice refers to those few instances where otherwise unacceptable development is permitted to secure the conservation of historic or listed buildings and that is clearly not the case here;

*Provision of car parking does not make an otherwise unacceptable housing development somehow acceptable. There is no direct relationship between these two very disparate elements. Each should fall to be measured against the Local Plan and other material considerations. Offering the Council land for car parking cannot be a material consideration in the assessment of the housing element and would be inappropriate;

*The car park and residential development proposals have no link between them whatsoever and could be pursued independently of each other so the residential development should not be considered to be enabling development;

*There is a conflict of interest with East Lothian Council having authority over the planning application, since it has expressed in the result of its car parking consultation its intention to put a car park on The Glebe Field;

*The Conservation Area Statement provided by the applicant should not be considered as it is biased towards the applicants;

*Procedurally, concerns have been raised that the application was allowed to be validated and that those who made representations have not been formally notified of documents submitted by the applicant subsequent to the registration of the application;

*To ask the Council to approve proposals to which they are inextricably linked is unethical;

*It is unclear how parking at the Glebe became one of the Council's preferred options given the approach set out in the recent MVA Study and the proposals detailed therein;

*Should the Council grant consent to this application it will contradict its previous decision and the findings of the 2004 Planning Inquiry. There are no credible planning policy reasons to do so;

*It is inappropriate for a planning permission in principle application rather than a detailed application to be submitted for such a sensitive location;

The majority of the 44 representations of support for the application support the principle of both the car parking proposal and the residential development proposal. The main reasons for support of the proposals are summarised below.

*The proposed car park would be a suitable and quick solution to help overcome the current chronic car parking shortage in the town and would help town centre businesses survive;

* this is the Council's preferred location for new parking;

*the proposed flats could provide more town centre apartments which opens up a wider choice for the increasingly elderly population;

*there is currently excess demand for accommodation in the town and this application would help to meet this;

* smaller housing units and parking spaces are desperately needed;

*the proposed flats would provide high density additional accommodation close to the centre which is helpful in terms of limiting car journeys and thereby congestion and pollution;

*this proposal will reduce, substantially, the cost to the Council of providing new parking and thus reduce the cost to local taxpayers;

*it has the Community Council's support;

*the owner has the same right as any other resident to develop on his land within the current planning guidelines as it would appear he is following;

*the field is overgrown and unsightly and the addition of houses might actually smarten up the area;

*the proposed flats would be set well back from the road and would be screened by mature trees;

*the proposal accords with East Lothian Council's planning policies as contained in the Interim Planning Guidance;

*the proposal is a sensible compromise/solution for those in favour of/opposition to it;

* the proposals seem to be sensitive, and cause minimal impact while delivering much needed community benefit;

*some amenity ground will remain;

With reference to the representations of support and for the avoidance of doubt it should be clarified that the application site is close to, but not within the defined town centre of North Berwick.

In respect of wider transportation matters, the adopted East Lothian Local Plan 2008 is one aspect of the Council's approach to transportation, which includes other policy documents such as the Local Transport Strategy (LTS) and Local Air Quality Strategy. The Council's first LTS was published in 2001 and sets out its transport and travel vision to the year 2020. The prime objective of the strategy is to reduce the overall dependence on the private car and to promote the availability and use of alternative, more sustainable modes of transport where practical to do so. The adopted East Lothian Local Plan 2008 does not contain any transportation policies relating to the Glebe Field or any proposals to allocate any land at the Glebe Field for car parking. Nor does the approved Draft Proposed Local Development Plan, as amended.

The applicant's Planning Statement advises "the proposal finds its origins in East Lothian Council's car parking study of 2012". (This is an appraisal carried out by MVA Consultancy, commissioned by East Lothian Council in 2011 to undertake an appraisal of a number of potential sites for the provision of new car parking capacity in North Berwick). Amongst 10 potential sites for car park provision within North Berwick

identified by the Consultants was the option of extending the existing St Andrew Street car park into the area now being proposed as a car park through this current planning permission in principle application, to form 26 new car parking spaces. The current application suggests 36 spaces could be accommodated as the site identified in this application is larger than that identified in the MVA parking study. The applicant's Planning Statement refers to "dialogue and meetings between the applicant team and East Lothian Council transport officials during 2013 and 2014 [which] established that the Council considered extending the Glebe car park to have significant merits as part of a wider and integrated car parking strategy for the town".

The applicant considers that the option of extending the St Andrew Street car park into the Glebe Field would impact on the amenity and value of Glebe House and that the process of considering car parking itself creates uncertainty, contributing to diminution in value of the house and surrounding properties. The applicant advises that he has sought to work with East Lothian Council in developing a strategy that facilitates increased car parking provision whilst minimising the impact on amenity and value of Glebe House and neighbouring properties. The Planning Statement refers to the Council's Interim Planning Guidance relating to housing land supply issues. The applicant considers this Guidance to be of relevance to the proposed residential development element of the application and notes criteria 5 (ii) of the Interim Guidance which provides for the residential development on sites outwith East Lothian's Strategic Development Area if the site is (a) well served by public transport, (b) existing facilities and services are both available and accessible and (c) the extent to which the additional housing would help make a demonstrable and necessary contribution to sustaining or improving educational, social or community facility provision within the area may also be a material consideration.

The applicant's agent advises it is within this context, i.e. the identification of the land at the northern end of the Glebe Field as a potential site for additional car parking combined with the Interim Planning Guidance in support of planning applications that are deliverable and enable community gain (in this case the provision of land for a car park) that set the context for this planning application. The applicant's case is that the car parking study of 2012 and the follow on survey continue to create significant uncertainty over future land uses at the Glebe which impacts on the amenity and value of the applicant and owner of the Glebe Field and Glebe House as well as properties neighbouring the Glebe. He is therefore of the view that allowing the residential development proposed would enable the advancement of the extended car park creating land use certainty on the issue of car parking provision within North Berwick.

The applicant therefore considers the residential development to be an enabling development to allow the provision of the proposed car parking which he intends would be leased to the Council on a long term (99 year) lease over the land. The applicant suggests all of this could be secured through appropriate pre-commencement conditions on a grant of planning permission in principle and a planning obligation binding the applicant as landowner to enter into a lease with the Council on the proposed car park site and use of it as a car park prior to the commencement of the residential development proposed.

With respect of the applicant's views on this matter, what is under consideration in determining this application for planning permission in principle is an application made by a private individual for development on land which he owns. The applicant's indication that he would be willing to lease the proposed car park to the Council is not a material consideration in the determination of this planning application. What is material is the assessment of the appropriateness or otherwise of the parking and residential uses as set out in the application. Were planning permission in principle to be granted for the development as proposed, any arrangements in respect to rights to use of the land

would require to be outwith the planning decision and be secured by mechanisms other than those competently allowed by planning legislation in relation either to planning conditions or planning obligations through legal agreements.

The Council's Road Services confirm that there have been a number of parking, traffic and environmental studies undertaken in North Berwick since 2000 all of which to some degree have highlighted the need to increase parking provision by various methods such as maximising the efficiency and the operation of parking, improving control and turn-over, increasing supply and demand management techniques. The Council commissioned MVA Consultancy in 2011 to undertake an appraisal of a number of potential sites for the provision of new car parking capacity in North Berwick. In addition they were asked to assess the current status of parking and identify problems and conflict. A report presented to Cabinet on 9th April 2013 recommended new parking provision at a number of locations including Recreation Park Rugby Club – long stay car park (107 spaces – now completed); extending Glebe car park – short stay (26 spaces); Law Road/St Margaret's Road – medium stay car park (99 spaces); Tantallon Terrace – seasonal car park available (114 spaces) subject to a further consultation period. A questionnaire was then placed on the Council's Consultation Hub between 24th March – 5th May 2014, seeking a consensus of opinion on various parking and traffic related issues.

One of the findings of the questionnaire was that there was support for the provision of additional parking provision at the Upper Glebe. The questionnaire included a site plan showing a similar area for this as now proposed.

Following on from this consultation exercise the Council's Depute Chief Executive, Partnerships and Community Services recommended in his report to Cabinet of 10 March 2015 on the 'North Berwick Parking Strategy Update' that Cabinet approve a 3 year strategy to amend or make the necessary Traffic Orders to purchase the requisite land, to obtain the necessary consents and to construct new car park provision as detailed in Appendix 1 of his Report. This includes constructing a new car park of 1400 sq. metres with the potential for 58 spaces at Upper Glebe subject to acquiring the land and gaining all necessary consents including making an application to the Council as Planning Authority for planning permission. These recommendations were approved by Cabinet on 10th March 2015.

The Council's Road Services, as consultee, has set out the background to North Berwick's parking issues and studies, and decisions of the Council on pursuing various different solutions to these issues. Solutions include, amongst many other options, exploring the potential to extend the existing St Andrew Street car park into the Glebe Field.

Road Services confirm that off street parking provision in North Berwick is generally at capacity and advises that additional spaces are required to address ever increasing demand.

Policy T5 of the adopted East Lothian Local Plan 2008 supports the provision of publicly available, short stay car parking where it will contribute to the vitality and viability of town centres. Road Services welcomes the potential opportunity to extend the existing St Andrew Street car park into the northern part of The Glebe Field and advises the addition of 36 car parking spaces close to the town centre is significant, particularly if this is developed as a wider strategy for parking in the area.

Road Services further advise that there would be some engineering difficulties in the provision of a car park on this site. Site constraints, particularly the steep gradient of the land, would not enable full, barrier free accessibility for all users, however, Road

Services consider the development of the additional car parking spaces on this site could allow the potential improvement of provision of disabled parking in more accessible areas on nearby town centre on street/off street locations, by re-designation of some existing parking within the town centre. Road Services therefore support the parking proposal of the application subject to a Parking Management Strategy being agreed. This would require the proposed car park to be taken over by the Council as part of the existing car park at St Andrew Street and to enable the legal re-designation of some existing on street/off street parking elsewhere in North Berwick as disabled only bays, with the costs associated with this being borne by the applicant.

Any legal arrangements in respect of the use of the proposed parking area by the Council as Roads Authority, or other associated parking changes elsewhere would require to be made separately. The proposed car park is not required as a result of the residential development otherwise proposed in this application. Therefore it would not be competent to try and secure control of it by conditions or legal agreements relating to the planning permission in principle.

However, notwithstanding the consideration of the Council's accepted position that there is a lack of off street parking provision in North Berwick and Cabinet's decision to pursue additional parking improvements including, potentially, the provision of additional parking as an extension to St Andrew Street car park, the primary material consideration in the determination of this application is whether or not the principle of the proposed developments accord with development plan policy and other supplementary planning guidance and if not, whether the above or any other material considerations outweigh any conflict with the development plan and other supplementary planning guidance.

None of the land within the application site boundary is garden ground as suggested in the applicant's Planning Statement but is instead, undeveloped greenfield land. The adopted Local Plan does not allocate any of the Glebe Field for residential development or car park development or any other form of development. Instead, all of the land of the Glebe Field is defined by Policy C3 of the adopted East Lothian Local Plan 2008 as being open space. It is not, therefore, an infill site.

The principle of new build residential development on the application site and the principle of the development of a car park on the application site must therefore be assessed against national, strategic and local planning policy relating to development on greenfield, defined and protected open space land within the settlement boundary of the town of North Berwick. The principle must also be assessed against national, strategic and local planning policy as it relates to the architectural and historic character and visual amenity of this part of the North Berwick Conservation Area including any trees which make a significant positive contribution to the Conservation Area, the setting of the listed Glebe House, whether or not such proposed development could be acceptably accessed and any impact such proposed development would have on the privacy and amenity of the surrounding residential area .

If planning permission in principle were to be granted, the details of the siting, design and external appearance of the proposed residential development and associated works, the landscaping of the site and the means of access to it and the details of the design, external appearance and associated works of the proposed car park, the landscaping of the site and the means of access to it would require the subsequent approval of the Planning Authority. Through the subsequent determination of such details, planning control could be exercised to ensure that the built form of the development would be fully acceptable, with due regard to the need to safeguard the character and appearance of this area of protected open space, that of the conservation area, the setting of the listed building and the amenity of the surrounding residents.

In relation to greenfield housing development proposals, SESplan Policy 7 states that sites for greenfield housing development proposals either within or outwith the identified Strategic Development Areas may be allocated in Local Development Plans or granted planning permission to maintain an effective five years housing land supply subject to satisfying each of the following criteria:

- (a) The development will be in keeping with the character of the settlement and the local area;
- (b) The development will not undermine green belt objectives; and
- (c) Any additional infrastructure required as a result of the development is either committed or to be funded by the developer.

East Lothian Council has agreed that there is a shortfall in its effective housing land supply. In respect of this the Council approved its Housing Land Supply: Interim Planning Guidance (IPG) against which planning applications for housing on land not allocated for that purpose will be assessed.

The revised IPG was approved by the Council on 23rd February 2016, with reference to the approval of the Draft Proposed Local Development Plan, as amended, and its spatial strategy and sites. Those sites would allow for an effective five year housing land supply. The IPG makes clear that as a general principle the Council's Guidance only applies to housing applications that form an appropriate extension to an existing settlement defined in the Local Plan. Notwithstanding the provisions of SPP, SESplan and the IPG in respect of the five year housing land supply it has to be considered whether or not the proposal's potential contribution to that supply would be significant when weighed against the other material considerations.

The site the subject of this application by being located well within the settlement boundary of the town of North Berwick as defined in the Local Plan does not form an 'extension' to the town of North Berwick and as such the approved IPG does not apply to this site. It is not a material consideration in the determination of this planning application. Therefore the applicant's contention that the residential development proposed would constitute an "enabling" type of development by delivering a community facility provision relevant to the IPG, in the form of the proposed car park extension is not material to the determination of this application.

Policy C3 of the adopted East Lothian Local Plan 2008 protects areas of open space, whether public or private, which contribute positively to the built environment. The Policy C3 designation is applied to protect amenity open space which makes a significant contribution to the amenity or landscape setting of an area and to retain them as such.

Policy C3 states that alternative uses will only be considered where there is no significant loss of amenity or impact on the landscape setting and:

- (i) the loss of a part of the land would not affect its recreational, amenity or landscape potential, or
- (ii) alternative provision of equal community benefit and accessibility would be made available, or
- (iii) provision is clearly in excess of existing and predicted requirements.

As Policy C3 applies to the Glebe Field, an area recognised to be of significant amenity and landscape value rather than as recreational value, parts (ii) and (iii) of Policy C3 are not of particular relevance. However, the impact the proposals would have on the amenity or landscape setting of the Glebe Field and the impact the loss of parts of that land would have on the area's overall amenity and landscape potential is relevant. That

the Glebe Field was so designated through the Local Plan process, including Public Inquiry, and that in this process objection to that designation was dismissed, underlines its importance to the amenity and landscape quality of the area.

The two areas of land the subject of this application, as part of the designated open space land of the Glebe Field, make a significant contribution to the amenity and landscape setting of this part of North Berwick. The Glebe Field does not have a uniform appearance over the entire field - there are areas of significant tree cover, particularly at the eastern end of it where the residential development is proposed, and areas without tree cover which afford the significant public views over the land to the roofscape of the town centre to the Firth of Forth beyond.

Additionally, it is the contribution which the entire Glebe Field makes to the quality of the surrounding residential area which is important. The presence of trees on the land does not somehow change it from being 'open space' and the open, undeveloped nature of the land of the Glebe Field contributes significantly to the general amenity and character of the area. These areas on which development is proposed, as forming part of the whole designated the Glebe Field have a longstanding presence as undeveloped green space within the historic core of North Berwick and have historical links to Glebe House as Glebe land for the former manse. In all of this the open space land that is subject to the car park proposal and to the residential development proposal contributes significantly to the amenity of the area and the quality of the urban environment of the town of North Berwick and, importantly, its Conservation Area.

In relation to the proposal for the car park extension, the Council's Policy and Projects team advises that in general principle, the development of a car park on this site, given its likely form, would be acceptable in terms of Policy C3 as it could maintain the openness of that part of the field. It is the case that the formation of a car park on this land would not have the same significant impact on vistas over the Glebe Field and would not conceal the roofscape of the historic core of the town and the sea beyond to the same extent as the previous proposal back in 2003 for 4 houses, but nevertheless the forming of a hard surfaced car park along with any necessary regrading works and associated retaining structures which would be required on such a steeply sloping site and the presence on this land of up to 36 cars or other vehicles would still result in the loss of the open and undeveloped character and appearance of this part of The Glebe Field. This would be to the detriment of the overall designated area of open space which makes a significant contribution to the amenity and landscape setting of this part of North Berwick. Accordingly the car park proposal is contrary to Policy C3 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy on development affecting green infrastructure.

The land the subject of the proposal in principle for a residential development has changed in appearance over the past 10-15 years as trees which were present on the land at the time of the previous application for residential development on this site back in 2003 have, from being fairly small trees back in 2003, grown significantly over this time, now filling much of the site. It is within a space between the treed areas of this part of The Glebe Field that it is indicated that a single building, containing 9 flats, could be accommodated.

The increased tree cover on this part of the Glebe Field could, depending on the detailed form and positioning of a residential development on the site and subject to the retention of these trees, provide some screening of such a development, thereby lessening the visibility it may have in the area. However, any residential development on this site and particularly the formation of a new vehicular access to it would still be visible from views outwith the site. Notwithstanding the visibility or otherwise of any proposed residential

development, the principle of carrying out a residential development on this site would result in the loss of the open and undeveloped character and appearance of this part of The Glebe Field and this would be to the detriment of the overall designated area of open space which makes a significant contribution to the amenity and landscape setting of this part of North Berwick. Accordingly the residential development proposal is contrary to Policy 7 (a) of the approved South East Scotland Strategic Development Plan, Policy C3 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy on development affecting green infrastructure.

The Conservation Area Statement prepared on behalf of the applicant seeks to draw a distinction between different areas of the Glebe Field and concludes that in the time since the Council's Conservation Area Statement was produced the part of the Glebe Field on which the principle of a residential development is proposed has changed with tree growth on the south and west boundaries, which has resulted in it no longer making a significant contribution to the character of the Conservation Area. The view of the applicant's conservation consultants is that there will be only a minor adverse impact on the conservation area and setting of the listed building from certain views around the site but that overall the proposals would not detract from the established character of the conservation area, and with careful design later in the planning process, would enhance that character.

The North Berwick Conservation Area Character Statement of the adopted East Lothian Local Plan 2008, which makes specific reference to The Glebe Field does not just refer to the views across the roofscape of the conservation area to the sea, which it is reasonable to conclude relates mostly to the 'middle' part of the Glebe Field not subject to these development proposals, but also to the open nature of the space which contributes to the amenity of the area and to the historical relationship between the manse and the field and the fact that the presence of such a field in a built-up area is rare.

The land to which the car park proposal relates has not changed significantly in character since the Council's Conservation Area statement was produced. This area, by its longstanding presence as an undeveloped green space within the historic core of North Berwick and its historical links to Glebe House as Glebe land for the former manse, its openness within an otherwise urban environment and by its topography and its location within the Conservation Area which allows important vistas over the Conservation Area to the Firth of Forth, constitutes, as part of the overall Glebe Field, a prominent and distinctive feature which contributes positively to the character and appearance of the Conservation Area. The loss of this part of this overall prominent, distinctive and historic green space for the formation of a car park would not preserve or enhance the special character and appearance of the Conservation Area rather it would be harmful to the historic character and the appearance of this part of the Conservation Area. Accordingly the proposal is contrary to Policy 1B of the approved South East Scotland Strategic Development Plan, Policy ENV4 of the adopted East Lothian Local Plan 2008 Scottish Planning Policy on development within a conservation area.

The Council's Landscape Projects Officer (Policy & Projects) advises that the formation of a car park on this site is likely to require significant earthworks to level and surface it. She advises that the site of the proposed car park encroaches within the root protection area of two mature sycamore trees situated along the west boundary of the Glebe House garden and which make a significant contribution to the character and appearance of the Conservation Area. She advises that she would not support development within their root protection areas that could lead to their loss.

Notwithstanding that this application is for planning permission in principle, to exclude the land within the root protection areas of these trees from development would be lead

to a significant reduction in the number of car parking spaces which could be accommodated on the site and therefore it is reasonable to conclude that for a car park to be formed on the site, including the excavation necessary to form it and any associated retaining structures required, this would be, in part, within the root protection areas of these trees. Such development would have a detrimental impact on these significant trees which are important features in the Conservation Area and should be retained. These trees have considerable amenity value to the Conservation Area and the proposed car park development would not contribute more to the good planning of the area than retaining the trees would. Accordingly, by resulting in the loss of trees which have considerable amenity value to the Conservation Area, the car park proposal is contrary to Policy 1B of the approved South East Scotland Strategic Development Plan, Policies NH5 and DP14 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy on development within a conservation area.

The forming of a car park on the northern part of the Glebe Field to the west of the existing Glebe House would remove part of the historic open setting of that Category B listed building and would remove part of the historic association of the Glebe Field with Glebe House. However, the proposed car park, although in close proximity to Glebe House, by its position to the west of a side, non-principle elevation of the listed building and subject to the detailed layout and development of the land of the proposed car park being subservient to the listed Glebe House (a matter which would have to be considered at a detailed application stage), the forming of a car park in this proposed position would not necessarily be harmful to the setting of that listed building. Consequently the principle of a car park development on this part of The Glebe Field is not contrary to Policy 1B of the approved South East Scotland Strategic Development Plan as it relates to the setting of listed buildings, Policy ENV3 of the adopted East Lothian Local Plan 2008 or with Scottish Planning Policy on development affecting the setting of a listed building.

The land to which the residential development proposal relates does have a different appearance to other land within the Glebe Field mainly by virtue of the tree cover over this eastern end of The Glebe Field. These trees were present at the time of the previous planning applications for residential development on this land and at the time of adoption of the Local Plan but have grown significantly since then now filling much of the site. However, it is not reasonable to conclude that this has resulted in it this part of The Glebe Field no longer making a significant contribution to the character of the Conservation Area. The fact it has trees on it does not lessen the contribution this part of the field makes to the Conservation Area. On the contrary, the trees have themselves become important within the Conservation Area, providing a parkland setting for Glebe House and linking visually with the trees around Glebe House and within the Lodge Grounds to the east of Law Road.

By its longstanding presence as an undeveloped green space within the historic core of North Berwick and its historical links to Glebe House as Glebe land for the former manse, its openness within an otherwise urban environment and by its topography and its location within the Conservation Area which allows important vistas over the Conservation Area to the Firth of Forth, the Glebe Field as a whole constitutes a prominent and distinctive feature which contributes positively to the character and appearance of the Conservation Area. The loss of part of this prominent, distinctive and historic green space for the development of a residential development along with all of the associated parking, access and turning space which would be required in associated with such residential development would not preserve or enhance the special character and appearance of the Conservation Area rather it would be harmful to the historic character and the appearance of this part of the Conservation Area. Accordingly the proposal is contrary to Policy 1B of the approved South East Scotland Strategic

Development Plan, Policy ENV4 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy on development within a conservation area.

In relation to the proposed residential development the Council's Landscape Projects Officer (Policy & Projects) confirms that there is space with no tree coverage in the northeast corner of the part of the site where the indicative details show the proposed building as being located. However, her assessment is that there appears no way to provide access to this part of the site without encroaching within the Root Protection Area (RPA) as defined by British Standard BS5837:2012 'Trees in relation of design, demolition and construction' of the trees, both along the southern and western areas of this part of the application site and also just to the north of the application site boundary, between the site and Glebe House. She adds that the covered car parking and access road as indicated on the application drawings, and the sight lines required to make that access safe, all appear to significantly encroach within the RPA of the trees within the south of the site.

The Landscape Projects Officer confirms that the removal of these trees within and to the north of the site would have a detrimental impact on significant trees which are important features in the Conservation Area and should be retained and would open views of any development adversely affecting the Conservation Area. The advice of the Landscape Projects Officer is that the trees within the site are important within the Conservation Area. The proposed residential development of the site, therefore, would not contribute more to the good planning of the area than retaining the trees would. Accordingly, by resulting in the loss of trees which have considerable amenity value to the Conservation Area, the residential development proposal is contrary to Policy 1B of the approved South East Scotland Strategic Development Plan, Policies NH5 and DP14 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy on development within a conservation area.

The significant growth of the trees on this eastern part The Glebe Field has somewhat changed the setting of the listed building of Glebe House. The indicative drawings accompanying the application indicate that the considerable tree coverage between the site of the proposed residential development and Glebe House would remain and if this was indeed the case a residential development on the site and the proposed accessing of it, depending on details relating to scale, height, positioning and other details would not necessarily be harmful to the setting of that listed building.

As detailed above the advice of the Council's Landscape Projects Officer is that a number of trees are likely to be affected by a residential development of the site but there is clearly a belt of trees within the ground to the north of the site and to the south of Glebe House which would not be affected by the development of the site. It is these trees which could prevent a residential development from harmfully impacting on the setting of Glebe House.

However, the indicative details submitted with this planning permission in principle application indicate a three storey building with a pitched roof being erected on the site. Notwithstanding the sloping nature of the site which gives it a ground level lower than that of the buildings on St.Margaret's Road (although higher than Glebe House) and the distances between the site and the existing buildings of St. Margaret's Road and Glebe House, a three storey building with a pitched roof (which appears more steeply sloping in the 'exterior visualisation' sketch submitted than it does in the site section drawing submitted), would be out of character with the surrounding area, which largely consists of two storey buildings, and would not appear subservient to the listed building of Glebe House.

Although the principle of a residential development on the site may not, for the reasons given above, harm the setting of the listed building of Glebe House and its associated boundary wall, a building of such a size, height and design as shown on the indicative drawings accompanying the application would. If planning permission in principle were to be granted, development principles would be set as conditions for the details of the siting, design and external appearance of the proposed residential development. Through such development principles restrictions could be set on the height and other details of the residential development. However, notwithstanding this control which could be set to protect the setting of the listed building, the principle of the residential development remains contrary to development plan policies for the reasons set out above.

The Council's Road Services raises no objection to the principle of a residential development on this part of The Glebe Field with access to it being formed from St Margaret's Road as indicated. Road Services confirms that subject to conditions being imposed on a grant of planning permission for this proposed development, to control cycle parking, the hard forming of the first 10 metres of the access road, controls on barrier free access for pedestrians and pedestrian priority over the access, it is content with the indicative details shown for access, pedestrian access, parking and turning. In this respect the principle of the residential development proposed is consistent with Policies DP20 (Pedestrians and Cyclists), DP22 (Private Parking), T1 (Development Location and Accessibility), and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008

In respect of the impact the proposals would have on the amenity of the surrounding residential area it is necessary to consider Policy ENV1: Residential Character and Amenity of the adopted East Lothian Local Plan which, although not covering the area of the application site, does cover the immediate residential areas around it. Policy ENV1 seeks to safeguard the predominantly residential character and amenity of existing or proposed housing areas from the adverse impacts of uses other than housing.

The site of the proposed car park is located on significantly higher ground than the residential properties located immediately to the north of the site. The applicant's agent recognises the impact forming a car park in such a position could have on the privacy and amenity of these properties. The applicant's Planning Statement and indicative drawings indicate a design approach has been to set the closest car parking spaces to those properties back from the boundary of the site with them by 3 metres and to introduce tree planting in this 3 metres wide space. Trees planted within this space would take time to establish and the growing of them would not necessarily be successful, particularly considering they would be between a hard surfaced car park and a stone wall. They would therefore not provide immediate, or possibly any, screening between the residential properties and the car park which would, even with any required regarding of the land, remain at a significantly higher level than the garden ground of the existing residential properties.

Given this, the proposed use of this site as a car park would, by its height above the residential properties to the north of it and its close proximity to them, result in use of it causing significant harm to the level of privacy and amenity that presently pertains to those neighbouring properties to the north by virtue of overlooking. Accordingly the proposal is contrary to Policy ENV1 of the adopted East Lothian Local Plan 2008 which seeks to safeguard the residential amenity of those residential properties.

The proposed car park by virtue of its positioning to the east of the side garden of 2 Marmion Road and to the north of the front garden of 1 Marmion Road would not have the same harmful impact on the privacy and amenity of these residential properties as it

would to the rear gardens of the properties to the north of it.

The Council's Environmental Health Service confirms they have no comment to make regarding the application and they therefore raise no concerns regarding the proposed use of this northern area of the Glebe Field as a car park on the impact of neighbouring residential properties in terms of noise from cars engines or light disturbance from cars headlight beams.

Although this is an application for planning permission in principle, given the distances between the land of the application site for a residential development and that of the neighbouring residential properties of the Glebe House and the residential properties of St. Margaret's Road to the south of the site, it should be possible to accommodate a residential development on this site which would not result in a significant loss of privacy and amenity for any other occupants of neighbouring houses. The site is sufficiently large and at a distance away from existing properties to ensure that future occupants of a residential development on this site should be capable of benefiting from a sufficient amount of privacy and amenity. The principle of a residential development on this site is therefore not contrary to relevant development plan policies relating to privacy and amenity.

Historic Environment Scotland has not been consulted on the application as, unlike previous applications submitted for this site, the proposals do not require listed building consent nor do they affect the setting of a Category A listed building and they are not otherwise subject to statutory consultation with Historic Environment Scotland.

The Planning Liaison Officer of North Berwick Community Council advises that the Community Council supports the proposals in principle, being of the view that the residential development, as indicatively proposed, would be small enough, far enough away from the B listed Glebe House and the St Margaret's Road properties, at a lower level than St Margaret's Road and screened by trees that it would not unduly harm the setting. The Community Council considers it would also meet a need for such accommodation near the town centre. It considers that although the site proportions would change there would remain a mid-area of grass which would retain a sense of openness. In relation to the car park proposal it considers that this would take some immediate pressure off parking at key times and help to allow time for an overall traffic management scheme to be developed. The Planning Liaison Officer also advises that the applicant, who is also a member of the Community Council, was present for the public representations which were discussed at their meeting, but he was excluded from the Community Council discussions and vote on whether or not to support the proposals.

The Council's Waste Services Manager raises no objection to the principle of the proposals.

The Council's Biodiversity Officer has confirmed that he has no comment to make on the application and is therefore satisfied that the proposed residential and car parking developments would not have any adverse biodiversity impacts, consistent with Policy DP13 of the adopted East Lothian Local Plan 2008.

The Council's Archaeology Officer advises that the application site lies within a wider area of known archaeological potential. As there is no recorded disturbance of the site there is the potential for remains to be impacted upon by the proposals. Because of this the Archaeology Officer recommends that if planning permission in principle is to be granted for this proposal, a programme of archaeological works (Archaeological Evaluation) should be carried out prior to the commencement of development. This requirement could be secured through a condition attached to a grant of planning

permission in principle for the proposed development. This approach is consistent with Scottish Planning Policy: June 2014, Planning Advice Note 2/2011: Planning and Archaeology and with Policy ENV7 of the adopted East Lothian Local Plan 2008.

Policy INF3 of the adopted East Lothian Local Plan 2008 stipulates that new housing will only be permitted where appropriate provision for infrastructure required as a consequence of the development is made. This includes funding necessary school capacity.

The Depute Chief Executive, Resources and People Services informs that the application site is located within the catchment area of Law Primary School, North Berwick Nursery and North Berwick High School. He confirms that there would be insufficient capacity at Law Primary School and North Berwick High School to accommodate pupils that might arise from a development of the site for 9 residential units as is indicated through this planning permission in principle application. Thus he objects to the application on the grounds of lack of permanent capacity at those schools. However, he would withdraw that objection provided the applicant makes a financial contribution to the Council of £94,204.17 towards the provision of additional school accommodation at Law Primary School and £30,244.86 towards the provision of additional school accommodation at North Berwick High School.

This education provision requirement can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the payment of the required contribution towards educational accommodation the proposal is consistent with Policy INF3 of the adopted East Lothian Local Plan 2008, which stipulates that new housing will only be permitted where appropriate provision for infrastructure required as a consequence of the development is made. This will include funding necessary school capacity.

The Council's Economic Development & Strategic Investment Manager advises that a grant of planning permission in principle would require to be subject to provision of 25% of all the residential units to be developed as affordable housing, through mechanisms to be agreed with the developer. The terms for the provision of this affordable housing requirement could be the subject of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the Council securing the affordable housing requirement the proposal is consistent with Policy H4 of the adopted East Lothian Local Plan 2008.

Notwithstanding the above matters which could be controlled by conditions or planning agreements, none of the aforementioned material considerations, including housing land supply, outweigh the primary material considerations that the principle of developing parts of the Glebe Field for a residential development and for a car park would, by having a detrimental impact on this significant area of open space, on the character and appearance of the Conservation Area, on significantly important trees within the Conservation Area and, in respect of the car park proposal, on the privacy and amenity of neighbouring residential properties, conflict with the provisions of the development plan.

REASONS FOR REFUSAL

- 1 The principle of the car park development would result in the loss of the open and

undeveloped character and appearance of this part of the Glebe Field and this would be to the detriment of the overall designated area of open space which makes a significant contribution to the amenity and landscape setting of this part of North Berwick. Accordingly the car park proposal is contrary to Policy C3 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy on development affecting green infrastructure.

- 2 The principle of the residential development would result in the loss of the open and undeveloped character and appearance of this part of The Glebe Field and this would be to the detriment of the overall designated area of open space which makes a significant contribution to the amenity and landscape setting of this part of North Berwick. Accordingly the residential development proposal is contrary to Policy 7(a) of the approved South East Scotland Strategic Development Plan, Policy C3 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy on development affecting green infrastructure.
- 3 The loss of this part of this overall prominent, distinctive and historic green space for the formation of a car park would not preserve or enhance the special character and appearance of the Conservation Area rather it would be harmful to the historic character and the appearance of this part of the Conservation Area. Accordingly the proposal is contrary to Policy 1B of the approved South East Scotland Strategic Development Plan, Policy ENV4 of the adopted East Lothian Local Plan 2008 Scottish Planning Policy on development within a conservation area.
- 4 By resulting in the loss of trees which have considerable amenity value to the Conservation Area, the principle of the proposed car park is contrary to Policy 1B of the approved South East Scotland Strategic Development Plan, Policies ENV4, NH5 and DP14 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy on development within a conservation area.
- 5 The loss of part of this prominent, distinctive and historic green space for the development of a residential development along with all of the associated parking, access and turning space which would be required in association would not preserve or enhance the special character and appearance of the Conservation Area rather it would be harmful to the historic character and the appearance of this part of the Conservation Area. Accordingly the proposal is contrary to Policy 1B of the approved South East Scotland Strategic Development Plan, Policy ENV4 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy on development within a conservation area.
- 6 By resulting in the loss of trees which have considerable amenity value to the Conservation Area, the principle of the proposed residential development is contrary to Policy 1B of the approved South East Scotland Strategic Development Plan, Policies ENV4, NH5 and DP14 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy on development within a conservation area.
- 7 The proposed car park use would, by its height above the residential properties to the north of it and its close proximity to them, result in significant harm to the privacy and amenity of those neighbouring properties to the north by virtue of overlooking. Accordingly the proposal is contrary to Policy ENV1 of the adopted East Lothian Local Plan 2008 which seeks to safeguard the residential amenity of those residential properties.

Please note that the remainder of the pages relating to this item (pages 47 - 54) have been removed as they contain personal information – for example, names and addresses of people that have made representations

REPORT TO: Planning Committee
MEETING DATE: Tuesday 7 March 2017
BY: Depute Chief Executive (Partnership and Services for Communities)
SUBJECT: Application for Planning Permission for Consideration

3

Application No. **16/00751/AMM**

Proposal Approval of matters specified in conditions of planning permission in principle 10/00341/PPM - Erection of 94 houses with construction of relocated parking for Victoria Lane Stadium and associated engineering and landscape works

Location **Barbachlaw Farm
Wallyford
Musselburgh
East Lothian
EH21 8QH**

Applicant Mr Howard Wallace and Sirius Sport & Leisure Limited

Per Geddes Consulting

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

Although this application is for the approval of matters specified in conditions of planning permission in principle 10/00341/PPM it has to be determined as a major development type application because the area of the application site is greater than 2 hectares and the number of dwellings detailed is greater than 50. Accordingly the application cannot be decided through the Council's Scheme of Delegation. It is therefore brought before the Planning Committee for a decision.

This application relates to some 6.45 hectares of land, which mainly consists of farmland, located at Barbachlaw, to the southwest of Wallyford. It is bounded to the northeast by residential properties and the former agricultural buildings of Barbachlaw Steading, to the southeast by a length of Salters Road and beyond by the southern part of the strategic housing and mixed use development site of Proposal H7 of the adopted East Lothian Local Plan 2008 on which land planning permission in principle has been

granted for a mixed use development (to include residential development, community buildings including a new school and community facilities, office units, a restaurant, business units, general industrial units, storage and distribution units, trade counter units, a residential institution, a non-residential institution, hot food takeaways, playing fields, open space, allotments, landscaping and associated infrastructure provision) and to the southwest by farmland. To the northwest of the site is farmland and a partially completed greyhound stadium. Beyond the partially completed greyhound stadium is a disused waste transfer station and a waste water pumping station serving Wallyford and beyond these installations is a public path to Pinkie Mains, Musselburgh and the east coast main rail line. A single track road (known as Victory Lane), which runs on a northwest to southeast axis and which provides access from Salters Road to the partially completed greyhound stadium, the disused waste transfer station and the pumping station, bisects the site into two parts, a northeast part and a southwest part. Victory Lane forms part of a right of way between Salters Road and Pinkie Mains, Musselburgh. The southwest part of the application site is within the Edinburgh Green Belt. All of the site is within the wider designated area of Pinkie Battlefield.

The application site and the land around it have a complex planning history. The Council granted planning permission (ref: 01/00892/FUL) for the erection of the greyhound stadium as part of a new development area also intended to provide land for business and industry (which is the land the subject of the residential development detailed in this application), and new housing (the now developed land to the northeast of the site of this application), with a landscaped strip along the interface with the green belt. That permission was subject to a Section 75 Agreement, concluded in November 2004, which required the steel structure for the stadium to be erected and the business land serviced before any housing could be constructed. The steel structure was erected, but house construction commenced without the required servicing of the business land. During discussion between the Council and the developer on this matter, it emerged that the developer had encountered difficulties in financing the completion of the stadium. The Council agreed in late 2005 to amend the Section 75 Agreement to allow house construction to continue without the prior servicing of the business land, which was deferred until April 2006, in order to achieve the completion of the stadium. Notwithstanding this concession by the Council, there has been no further progress on the construction of the stadium, nor servicing of the business land.

In April 2010 planning permission in principle 10/00341/PPM was sought for the residential development of the land which was intended to provide land for business and industry and for the formation of a car park, to serve the greyhound stadium, on land to the southwest of that land (which was land outwith the site of the previous application). The principle of the housing was promoted by the applicant as a necessary provision of enabling development to secure the balance of funding necessary to complete the greyhound stadium. The car park was proposed as a relocation of the stadium car parking which had been intended to be located on the northeast part of the business land but which land was, through planning permission in principle application 10/00341/PPM, now being promoted for residential development instead. In February 2011 the Council refused planning permission in principle for the following reasons:

1 The proposed housing development would result in the loss of business land that is part of the business land supply of Wallyford to the detriment of East Lothian's economy and the greater Lothian economy, contrary to Policy ECON1 of the approved Edinburgh and the Lothians Structure Plan 2015, Policy BUS2 of the adopted East Lothian Local Plan 2008, and Government policy guidance given in Scottish Planning Policy: February 2010.

2 If approved the proposed housing development would set an undesirable precedent for the development of new housing and other uses not within Class 4 and 6 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 on land elsewhere in East Lothian that is allocated for such business and industrial uses, the cumulative effect of which would be the depletion of Council's supply of allocated land for business and industrial use to the detriment of the economy of East Lothian and the greater Lothian economy.

3 The proposed car park would result in a harmful encroachment of development into the Edinburgh Green Belt, and is therefore contrary to Policy ENV2 of the approved Edinburgh and the Lothians Structure Plan 2015 and Policy DC2 of the adopted East Lothian Local Plan 2008.

4 If approved the proposed car park would set an undesirable precedent for development to further encroach beyond the western settlement boundary of Wallyford, the cumulative effect of which would further undermine the objectives of the Edinburgh Green Belt.

In May 2011 the applicants appealed to the Scottish Government's Directorate for Planning and Environmental Appeals against the refusal of East Lothian Council to grant planning permission in principle for the proposed development. On 30th September 2013 following the conclusion of a Section 75 Agreement to secure financial contributions towards additional accommodation at Wallyford Primary School and Musselburgh Grammar School; towards a Heritage Implementation Plan for the Battle of Pinkie site; to secure the provision of 24 affordable houses within the application site and to secure the provisions to put in place a binding contract to complete the stadium prior to the start of house building, the appeal was allowed and planning permission in principle was granted.

Approval of matters specified in conditions of planning permission in principle 10/00341/PPM is now sought for the erection of 94 houses and the construction of the relocated parking for Victoria Lane Stadium and associated engineering and landscape works on the application site.

Of the 94 houses, 64 would be detached and 30 would be semi-detached. In terms of size, 43 of the proposed houses would contain 3 bedrooms, 19 would contain 4 bedrooms and 32 would contain 5 bedrooms. All of the houses would be two storey in height. The submitted details also include for the internal access roads, garages, visitors parking, boundary treatments, landscaped open space, play areas and associated works.

The proposed relocated car park for Victoria Lane Stadium would be located on the southern side of Victory Lane. It would have 2 principle vehicular access and exit openings onto Victory Lane and would contain 293 un-demarcated car parking spaces (of which 15 would be disabled spaces) as well as Coach Bays. The parking and circulation space within it would be surfaced in type 1 consolidated well compacted hardcore with the exception of the 2 principle vehicular entrance and exit points which would be hard surfaced 15 metres back into the car park site using bitmac or similar hard surface to prevent the spread of loose material onto Victory Lane. The northeast, southeast and southwest sides of the proposed car park would be enclosed by a landscaped edge extending up to 10 metres in width which would be planted as a wildflower meadow with a 1 metre wide mown verge along its edges with the car parking spaces and beyond that all of the site of the car park would be enclosed by simple post and wire fencing with utilitarian, agricultural style metal gates installed at the entrances and exits to the car park. A recycling point would be located in the

northwest corner of the car park.

Vehicular, pedestrian and cycle access to the 94 houses and to the stadium car park would be taken from Victory Lane, which is accessed from Salters Road. A separate pedestrian access into the residential development from Salters Road would also be formed midway along the northeastern side of the site.

The northeast boundary of the site of the proposed residential development would be landscaped with a new 17 metre wide tree belt which would be enclosed by hedging. A linear area of open space would run through the centre of the site from east to west and further areas of open space, including two areas designed to accommodate ball games, an equipped play area and a grassed and tree planted strip of ground running along the full northwest side of the site would be provided. The proposals include for the erection of a 140 metres long acoustic wall (clad in fencing panels) along the northwest side of the site, i.e. along its boundary with the site of the stadium which, due to the change in ground levels between these two sites, would be some 3 metres high on the residential development side and a minimum of 5 metres high on the stadium side. It would include a retaining wall structure and, on the side facing the residential development, would be clad with an acoustic, solid timber fence.

The application is supported by a report on noise predictions associated with the future use of the greyhound stadium, a statement on drainage details for the proposed development, a statement on suggested equipment for the equipped play area and a schedule of the planning conditions imposed on the planning permission in principle which also details how each one is responded to by the applicant in this approval of matters application.

Subsequent to the registration of this application, further drawings have been submitted showing i) revised driveway lengths and widths to accord with the requirements of the planning permission in principle; (ii) an increase in the length of parallel parking bays from 5 metres to 6 metres in length; (iii) confirmation of the location and mix of the affordable housing units; iv) revisions to a turning head within the site to better accommodate bin lorries; v) revised open space and landscaping details, and vi) revisions to the design details of the northeast facing gable elevations of the houses to be erected on plots 1 and 62 of the development. Additionally further drainage information has been submitted.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Plan 2008.

Relevant to the determination of the application are Policies 1B (The Spatial Strategy: Development Principles) and Policy 12 (Green Belts) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies DC2 (Development in the Edinburgh Green Belt), ENV7 (Scheduled Monuments and Archaeological Sites), H1 (Housing Quality and Design), C1 (Minimum Open Space Standards for new General Needs Housing Development), C2 (Play Space Provision in New General Needs Housing Development), C6 (Rights of Way), T2 (General Transport Impact), DP1 (Landscape and Streetscape Character), DP2 (Design), DP17 (Art Works – Percent for Art), DP15 (Sustainable Urban Drainage Systems), DP20 (Pedestrians and Cyclists), DP22 (Private Parking) and DP24 (Home Zones) of the adopted East Lothian Local Plan 2008.

A material consideration is the supplementary planning guidance of "Design Standards for New Housing Areas" approved by the Council on 10th March 2008. This guidance requires that a more flexible approach be taken in road layout and design for proposed housing developments and sets core design requirements for the creation of new urban structures that will support Home Zone development as well as establishing design requirements for the layout of and space between buildings. Developers must provide adequate information to the satisfaction of the Council to demonstrate the merits of their design.

Also material to the determination of this application is the Scottish Government Policy Statement entitled "Designing Streets". It provides an overview of creating places, with street design as a key consideration. It advises on the detail of how to approach the creation of well-designed streets and describes the processes which should be followed in order to achieve the best outcomes.

Six written representations have been received in respect of this application, all of which raise objection to the proposed development.

A copy of the written representations is contained in a shared electronic folder to which all Members of the Committee have had access.

The main grounds of objection are summarised as follows:

- * The stadium car park should be considered in conjunction with the detailed plans for the stadium rather than the housing. If it is inadequate in size parking restrictions will need to be controlled/managed on the surrounding residential areas and there is no mention of who will bear these costs or what this will look like;
- * The inclusion of the car park in this application would seem to be linked to the developer's wish to commence development of this car park in order to undermine the value of this area of greenbelt as un-developed land in order to support the release of the wider area of land at Howe Mire for housing through the proposed LDP;
- * Lack of detail on the proposed access into the site and the junction onto Salters Road particularly considering the changes taking place on the other side of Salters Road;
- * Wallyford doesn't need or want another 94 houses, a greyhound stadium and a car park for 293 cars in addition to other house building taking place in Wallyford. Yet more housing on a greenfield site is not necessary;
- * This proposed development will finance the dog track which the vast majority of Wallyford residents do not want and which will lead to traffic congestion and dog fouling in the area and will have a harmful impact on local houses;
- * This and other residential developments in and around Wallyford and the traffic from the greyhound stadium will make Wallyford grind to a halt with traffic congestion and will cause further tension on rail and local buses;
- * The proposed acoustic barrier will only protect the proposed new houses and not the existing neighbouring properties from noise from the greyhound stadium;
- * The proposed acoustic barrier and proposed landscaping will have a harmful impact on natural light received by a neighbouring residential property;

* Noise from use of open space/play areas will have a harmful impact on the residents of a neighbouring residential property;

A concern is also raised that a red arrow drawn on the proposed site plan seems to suggest that there would be pedestrian access from the site through to Wallace Crescent to the north. The applicant's agent has since confirmed that this is not the case and the red arrow has since been removed from the site plan.

Wallyford Community Council has been consulted on this application but has not provided a response.

Notwithstanding the concerns raised in representations relating to the provision of the greyhound stadium, the relocation of the stadium car park to the south side of Victory Lane and the provision of residential development on the land allocated for business and industry and other matters relating to decisions previously taken by the Council or by the Scottish Government's Reporter, by the grants of planning permission 01/00892/FUL and planning permission in principle 10/00341/PPM, approval has been given for the erection of the greyhound stadium and for the principle of the residential development of the northeast part of the site and the principle of the construction of relocated parking for Victoria Lane Stadium on the southwest part of the site and for associated engineering and landscape works. There can therefore be no objection to the principle of the development now proposed.

Therefore, in the determination of this application the Council, as Planning Authority, can only concern itself with the siting, design and external appearance of the development, the landscaping of and means of access to the site and the means of any enclosure of the boundaries of the site. In this regard the detailed proposals have to be considered against relevant development plan policy and the indicative masterplan and conditions attached to planning permission in principle 10/00341/PPM.

The proposed car park to serve the greyhound stadium would be located and laid out as indicated in the Indicative Masterplan submitted with planning permission in principle application 10/00341/PPM.

The Council's Landscape Project Officer in his consultation response to this approval of matters application raises a concern that the low level landscaping proposed around the car park would be insufficient to give any visual containment to the car park. His view is that the perimeter of the car park should be hedge planted and punctuated along the hedgerows with individual trees as well as incorporating individual trees within the car park areas.

The landscaping around the car park was a matter that was considered by the Reporter in his decision on the planning permission in principle application. In particular the Reporter considered whether it would be preferable to provide a landscaped buffer around the car park in order to screen the views of the car park from the southwestern approach to Wallyford on Salters Road and as such to lessen its impact on the green belt or to omit this in favour of a simple open fence boundary, as was recommended by the Council's Heritage Officer, in order to obtain a more comprehensive impression of the battlefield area and thus preserve the integrity of the battlefield site. Having assessed the different merits of these two different approaches to enclosing the car park the Reporter took the view that the boundaries of the car park should be enclosed by a simple post and wire fence and secured this requirement by way of Condition 2(e) of the planning permission in principle. It would therefore not be appropriate, nor would it accord with the planning permission in principle, to require a different type of landscaped boundary in the consideration of this approval of matters application.

The proposed car park as detailed in this approval of matters application with its simple finishing of compacted hardcore surfacing and un-demarcated spaces, post and wire fenced boundaries and low level, wildflower meadow planting would be in accordance with the requirements imposed on the grant of planning permission in principle 10/00341/PPM and as such would not have a detrimental impact on the visual perception of the battlefield area.

Historic Environment Scotland have been consulted on this application and they have raised no objection to the details of the proposed car park nor do they have any comments to make in terms of impact of the proposals on the Battle of Pinkie Battlefield Site.

The Council's Heritage Officer has no comment to make on the detailed design of the proposed car park.

On these foregoing design considerations the details of the proposed car park are not inconsistent with Policies 1B (The Spatial Strategy: Development Principles) and Policy 12 (Green Belts) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies DC2 (Development in the Edinburgh Green Belt), ENV7 (Scheduled Monuments and Archaeological Sites) and DP2 (Design) of the adopted East Lothian Local Plan 2008.

The proposed residential development would form an extension to the southwestern edge of Wallyford and would not be out of keeping with the character of the settlement and local area.

Paragraph 2.6 of the "Design Standards for New Housing Areas", approved by the Council on 10th March 2008, states that new housing development must create a hierarchical, permeable and interconnected street layout that complements and should extend the surrounding street pattern. Such layouts spread vehicle traffic evenly through a site and to the surroundings, help prevent localised traffic congestion, and encourage walking and cycling. Proposed street layouts must maximise connections within the site and to surrounding streets, and ensure the movement requirements of the development strategy are met. By the design and arrangement of street types, street layouts must influence vehicle drivers preferred route choice to ensure the tertiary streets between residential blocks are less busy. In paragraph 2.9 it is stated that Home Zones must be introduced to new development as part of a hierarchical, permeable and interconnected street layout.

The houses and associated areas of ground, in their proposed groupings, orientations, and layout would be consistent with the principles of 'Home Zones' as set out in the Council's Design Standards for New Housing Areas and with the Scottish Government Policy Statement entitled "Designing Streets". The proposed layout of roads, pathways and parking spaces would also generally be consistent with those principles.

The details now submitted for approval are for a scheme of development comprising a mix of detached and semi-detached houses (7 house types) with all of the houses being two storeys in height. Notwithstanding that there is a limited mix of house types proposed, with all houses being either detached or semi-detached, the mix is generally consistent with the proposed mix of house types indicatively shown on the Indicative Masterplan docketed to planning permission in principle 10/00341/PPM. The proposed houses, due to their positioning on the site and by virtue of their height, size and scale, and architectural design would satisfactorily integrate into their surroundings and would not appear as prominent or intrusive features. In this respect, the architectural detailing

of the gable elevations of the houses to be erected on plots 1 and 62 which would face towards Salters Road, have been amended in light of comments raised by planning officers, to introduce more architectural interest into these publicly visible gable elevations.

The houses would be finished predominantly with rendered walls and smaller areas of reconstituted stone and timber type cladding and their pitched roofs would be clad with plain grey or dark red tiles. A condition can be imposed to require the submission of a scheme of final finishes with a palette of colours for the houses, which has due regard to the finishes of other residential properties in the locality. Subject to the imposition of this condition, the proposed houses would not cause any incongruous change to the architectural harmony, integrity and character of this part of Wallyford.

The proposed housing development would provide an attractive residential environment for future residents of the proposed houses. The houses are shown to be laid out in such a way that adheres to the normally accepted privacy and amenity criteria on overlooking and overshadowing, thereby affording the future occupants of the houses as well as the occupants of existing neighbouring houses an appropriate level of privacy and residential amenity.

The application site is capable of accommodating all of the houses without being an overdevelopment of the site and without being incompatible with the density of existing housing development in the area.

The matter of potential noise from use of the greyhound stadium and associated road traffic affecting residents of the proposed residential development was considered in the determination of the planning permission in principle application 10/00341/PPM. Condition 4 of that planning permission in principle requires that an acoustic barrier be provided along the northwest boundary of the site, that the private garden areas should be orientated to shelter them from noise from the adjacent greyhound stadium and that windows of habitable rooms closest to and facing towards either the greyhound stadium or Victory Lane shall be fitted with acoustic glazing.

The details submitted with this approval of matters application include a proposal to erect an acoustic wall 140 metres in length along the boundary between the residential development and the stadium development which would be a minimum of 5 metres in height (when measured from the lower ground level of the stadium site) and proposals for the windows of habitable rooms closest to and facing towards either the stadium or Victory Lane to be fitted with glazing which would give a sound reduction index equivalent to 30Db Rwa. The private garden areas of the houses of the development are either orientated to shelter them from noise from the adjacent greyhound stadium or are located a sufficient distance away from the stadium to ensure these garden areas would not be harmfully affected by noise associated with use of the stadium. The Council's Environmental Health Manager having assessed the details submitted raises no objection to the proposed development, being satisfied that the occupants of the proposed residential units would benefit from a satisfactory level of privacy and residential amenity.

The acoustic wall required by planning permission in principle 10/00341/PPM is required to protect the residents of the residential development the subject of that application and was not required to offer any additional protection to existing neighbouring housing developments. By virtue of its positioning perpendicular to the residential development to the northeast of it and by its overall height the proposed acoustic wall would not have a significantly harmful impact on the privacy and amenity enjoyed by the neighbouring residential properties to the north of it.

The proposed development has been amended in light of some of the comments received from the Council's Landscape Project Officer. The revised proposals have incorporated smaller trees between the large trees proposed to be planted adjacent to the acoustic wall along the northwest boundary of the site and shrub under planting with climbers along the wall to soften the visual impact of this acoustic boundary to the application site: The Council's Landscape Project Officer advises that although he would have preferred to see more landscaping around the southeastern and southwestern sides of the residential development he is nevertheless satisfied that the landscaping details for the proposed residential development as proposed in the 'Landscape General Arrangement Drawing' submitted are adequate to meet the Council's landscape requirements for this site.

The indicative details submitted with planning permission in principle application 10/00341/PPM illustrated wide strips of landscaped open space along the northwest and southeast sides of the site of the residential development and a smaller linear area of open space in the centre of the site. The landscaped open spaces and play areas detailed in this approval of matters application generally accord with the illustrative details of the planning permission although the width of the landscaped and open space belts along the northwestern and southeastern sides have been reduced and instead a larger T shaped area of open space is proposed to be provided in the centre of the site which would incorporate a landscaped pedestrian and cycle way running in an east to west axis through the site and a further linear area of open space at the western end of it (running in a north to south axis to create the T shape), which would incorporate an equipped play area as well as an informal ball games area. A further ball games area would be formed in the northernmost northeast corner of the site.

The Council's Principle Amenity Officer is satisfied with the layout and quantity of open space throughout the site and the locations identified for ball games. He is also satisfied with the location proposed for equipped play however he advises that the range of equipment proposed through this application and the level of challenge particularly for older children is insufficient. He therefore recommends that a condition be imposed on the approval of matters specified in conditions for the proposed housing development to ensure that revised details of the equipment to be installed in the play area are to be agreed by the planning authority in advance of any development of the site.

The layout, positioning and future use of the areas of open space within the site would be associated with the residential use of the site and such use would not have a harmful impact on the privacy and amenity of the occupants of neighbouring residential developments.

On all of these foregoing findings on matters of design, layout, open space, landscaping and amenity, and subject to the imposition of conditions, the proposed development is consistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policies H1, C1, C2, DP1, DP2 and DP24 of the adopted East Lothian Local Plan 2008, the Council's Design Standards for New Housing Areas and the Scottish Government Policy Statement entitled "Designing Streets".

Condition 8 of planning permission in principle 10/00341/PPM requires that no residential unit shall be occupied unless and until details of artwork to be provided on the site or at an alternative location away from the site have been submitted to and approved by the Planning Authority. The applicant has indicated in the submitted 'Landscape General Arrangement' plan that feature wall/fences will be erected along

the northern and southern boundaries of the linear open space running through the centre of the site and has advised in the submitted schedule of conditions document that these would constitute the proposed artwork. However no further details or elevation drawings of these boundary features have been submitted with this application for approval of matters and therefore there is insufficient detail submitted to establish whether or not these would be acceptable as artwork required by the planning permission in principle. It would therefore be prudent to impose a condition on this approval requiring further details on artwork.

The Indicative Master Plan docketed to planning permission in principle 10/00341/PPM indicates the provision of a SUDS pond in the far north corner of the site. Condition 9 of the planning permission in principle requires that the SUDS shall comply with the principles of the SUDS manual (C697), which was published by CIRIA in March 2007 to ensure that the drainage scheme complies with best SUDS practice to protect nearby watercourses and groundwater. A SUDS scheme within the site is not proposed through this approval of matters application. Instead it is proposed that foul water run-off will be taken to Scottish Water's existing sewer network to the west at the far extent of Victory Lane that ultimately connects to the existing Wallyford foul water pumping station and that surface water run-off from the development is to be taken to the existing cellular storage attenuation system facility that was constructed as part of the completed David Wilson Homes Development to the North West. The applicant's drainage consultant confirms that the existing cellular storage attenuation system has been sized to cater for direct run-off from both the 94 house development site and the adjacent Wallyford Greyhound Stadium and a legal agreement for the connection is in place. He further advises that the existing cellular storage attenuation system discharges to the existing combined overflow outfall sewer from Scottish Water's Wallyford Pumping Station that runs beneath the adjacent East Coast Main Line railway before discharging to the Firth of Forth to the East of Musselburgh. This consented outfall is in regular use and operates when the pumps serving Wallyford Pumping Station are running at full capacity.

SEPA have confirmed that they have reviewed all of the information submitted by the applicant's agent and the applicant's drainage consultant and they are satisfied that the details meet the requirements of Condition 9 of planning permission in principle application 10/00341/PPM and they are satisfied that the applicant has confirmed that they have legal Right of Servitude to connect the proposed development into the existing sewer system. SEPA therefore raise no objections to this application nor do they request any conditions be imposed on this application.

Scottish Water have been consulted on this application but have not commented on it.

On the foregoing drainage considerations the proposed details are consistent with DP15 of the adopted East Lothian Local Plan 2008.

The principles of the means of accessing of the proposed residential development and relocated stadium parking are already decided by the grant of planning permission in principle 10/00341/PPM. These include that vehicular and pedestrian access to the site should be taken from Salters Road via Victory Lane and that the existing footpath along the site frontage with Salter's Road shall be relayed and widened to 2 metres and a signalised pedestrian crossing shall be introduced at the Dould D island on Salter's Road adjacent to 12 Fa'side Buildings.

The submitted details for accessing the proposed 94 residential units and the relocated stadium parking are in accordance with the principles established by the grant of planning permission in principle 10/00341/PPM. The Council's Road Services in their

assessment of planning permission in principle application 10/00341/PPM confirmed that they were satisfied that the proposed car park together with the other car park that is already approved for the greyhound stadium would provide sufficient car parking for users of the greyhound stadium.

The Council's Road Services raise no objection to the submitted details, being satisfied that the proposed development would not result in unacceptable traffic congestion, including on Salters Road. They advise that the proposed means of access and amount and location of parking within the site are all acceptable, both for the residential development and for the stadium parking although they do make recommendations on the standards of provision.

They recommend that:

1. The proposed right turn ghost island junction at the junction between Salter's Road and Victory Lane shall be set out as agreed in RCC E/06/07. The RCC may however require to be amended if the junction into the housing area has moved. The access road should be constructed before occupation of the first dwelling;
2. Victory Lane shall be constructed with a 3m wide pedestrian / cycle track on the northern side and a 2.5m wide footpath on the southern side as detailed in RCC E/06/07.
3. The existing footpath along the site frontage on Salter's Road shall be relayed and widened to 2m. Street lighting shall also be extended along this section of road;
4. A signalised pedestrian crossing facility shall be introduced at the Double D Island on Salter's Road adjacent to 12 Fa'Side Buildings. To provide a safe pedestrian crossing point between the proposed development and the route to school and bus stop facilities shall be laid out in accordance with Drawing No: 14597-102 Rev A. Controller Specification details to be agreed at Road Permit stage;
5. The pedestrian footway linking the proposed residential development with Salter's Road shall have staggered guard rail at the junction with Salters Road. In the interests of pedestrian safety;
6. Cycle parking shall be included at a rate of 1 space per dwelling. The parking shall be in the form of 1 locker per dwelling or communal provisions in the form of a lockable room or shed;
7. The on street parallel parking spaces shall have a minimum length of 6metres per space.
8. Dropped kerb crossing points shall be provided at all junctions within the development and at the junction between Salters Rd and Victory Lane. In the interests of accessibility;
9. Driveways shall have a minimum length of 5metres.
10. Raised tables shall be constructed on the carriageway at the central footway road crossings;
11. The gates to the proposed Greyhound Stadium car park shall open inwards
12. The first 20metres of the Greyhound Stadium car park shall be hard formed to

stop loose materials entering the public road

Additionally the Council's Road Services recommend that:

1. The Greyhound Stadium shall not operate unless and until the car par hereby proposed on the southern side of Victory Lane has been constructed as illustrated in the drawings docketed to this approval of matters application;
2. No part of the development shall be occupied until a Travel Plan (TP) has been submitted and approved by the planning authority in consultation with Road Services. The TP shall have particular regard to provision for walking, cycling and public transport access to and within the site, and will identify the measures to be provided, the system of management, monitoring, review, reporting and duration of the plan.
3. A Construction Method Statement to minimise the impact of construction activity on the amenity of the area shall be submitted to and approved by the Planning Authority prior to the commencement of development. The Construction Method Statement shall recommend mitigation measures to control noise, dust, construction traffic and shall include hours of construction work.
4. Wheel washing facilities must be provided and maintained in working order during the period of construction of the site. All vehicles must use the wheel washing facilities to prevent deleterious materials being carried onto the public road on vehicle tyres.

A Travel Plan and a Construction Method Statement for this proposed development have already been submitted to and approved by the Council in response to the same conditions which were imposed on the grant of planning permission in principle 10/00341/PPM. There is therefore no requirement to impose those same conditions again on this approval of matters application. All the other Road Services requirements can reasonably be made conditions of the approval of matters specified in conditions for the proposed housing development.

The Council's Waste Services Manager raises no objection to the details of the 94 residential units now proposed, being satisfied that a revision made to the details of a turning head at the western end of the proposed residential development will allow refuse vehicles to be able to satisfactorily manoeuvre throughout the site. A copy of his consultation response has been forwarded onto the applicant's agent along with the Council's Planning Guidance on Waste.

The Council's Outdoor Access Officer welcomes the provision of a path running from Salters Road and continuing through the linear open space within the site. She suggests that the path should be continued to the western edge of the site for future connection to any potential path to the west of the site. However, as the site bounds the site of the greyhound stadium to the west this should not be supported. Instead it is proposed that the path would continue through the development and then on to Victory Lane and this is a more useable solution.

The Council's Outdoor Access Officer also recommends, as she did in her consideration of the planning permission in principle application 10/00341/PPM, that the section of the existing Salters Road to Pinkie Mains right of way between the site for the greyhound stadium and the waste transfer station should be upgraded by the applicant. This issue was considered in the assessment of the planning permission in principle application as well as through the Barbachlaw master planning process and through the determination of previous planning application 01/00892/FUL. The section

of the right of way between the site of the approved greyhound stadium and the waste transfer station falls outwith the site the subject of the planning permission in principle application. The existing right of way accords with the details of it shown on the approved masterplan for Barbachlaw. Moreover, planning permission 01/00892/FUL does not require any upgrade of the existing Salters Road to Pinkie Mains right of way. Accordingly the Report in his decision on planning permission in principle application 10/00341/PPM agreed with the planning officer's conclusion that the request to upgrade that section of the right of way is unreasonable.

On these foregoing transportation and other access considerations the proposed residential development and relocated stadium parking are consistent with Policies T2, DP20 and DP22 of the adopted East Lothian Local Plan 2008.

Condition 7 of planning permission in principle 10/00341/PPM requires that no development shall take place on the site until a scheme of archaeological evaluation has been submitted to and approved in writing by the planning authority and that the approved scheme shall be implemented unless otherwise agreed in writing by the planning authority. The applicant has since had approved by the Council a written scheme of archaeological investigation for the site and therefore this detail has now been dealt with. The Council's Heritage Officer has made no further comment in consultation on this application.

The Council's Biodiversity Officer has made no comments on this application for the approval of matters specified in the conditions of planning permission in principle 10/00341/PPM.

The mechanism of a financial contribution towards additional educational provision at Wallyford Primary School and Musselburgh Grammar School for a housing development of 94 residential units has already been secured through the grant of planning permission in principle 10/00341/PPM.

The mechanism of the provision within the residential development of 25% affordable housing units (i.e. 24 units of the proposed 94 units) is already secured through the grant of planning permission in principle 10/00341/PPM.

The Council's Economic Development and Strategic Investment service raise no objection to the details of the 24 affordable housing units now proposed.

The mechanism to have in place a binding contract to complete the stadium prior to the start of house building is already secured through the grant of planning permission in principle 10/00341/PPM.

RECOMMENDATION

That approval of matters specified in conditions for the proposed housing development and the construction of relocated parking for Victoria Lane Stadium and associated engineering and landscape works be granted subject to the following conditions:

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

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

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

Reason:

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

- 2 Notwithstanding the play equipment details provided, no development shall take place on the site unless and until further details of the play equipment, the surfacing and the enclosures of the equipped play area to be provided on the site and the enclosures of the ball games areas and a timetable for their implementation are submitted to and approved in advance by the Planning Authority and the play area and ball games areas shall be installed and enclosed in accordance with the details so approved

Reason:

To ensure the provision of adequate play provision within the development.

- 3 The external finishes of the houses shall be in accordance with a co-ordinated scheme of materials and colours that shall be submitted to and approved in advance by the Planning Authority. This co-ordinated scheme shall in detail promote render as the predominant finish to the walls of the houses, with a use of more than one render colour and with a strongly contrasting difference in the colours such that they will not each be of a light colour. All such materials used in the construction of the houses shall conform to the details so approved.

Reason:

To ensure the development is of a satisfactory appearance in the interest of the amenity of the locality.

- 4 Notwithstanding the details provided with this application, the details of artwork to be provided are not hereby approved.

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

Reason:

To ensure that artwork is provided in the interest of the visual amenity of the locality or the wider area, as the details submitted with this application are not sufficient to enable the discharge of this condition.

- 5 Prior to the commencement of development, details of all boundary enclosures to be erected on the site of the residential development, and the timescales for their provision, shall be submitted to and approved in advance by the Planning Authority. Those details shall show 1.8 metre high enclosures around rear gardens of the houses hereby approved.

Development shall thereafter be carried out in full accordance with the details so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure the satisfactory provision of the boundary enclosures in the interest of safeguarding the visual amenity of the area and to safeguard the privacy and amenity of residential properties nearby.

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

Reason:

In the interests of road safety.

- 7 The greyhound stadium approved by the grant of planning permission 01/00892/FUL shall not operate unless and until the car park hereby approved has been formed and made available for use. The car park shall thereafter be kept available for parking use in association with the

operation of the greyhound stadium, unless otherwise approved in writing by the Planning Authority.

Reason:

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

- 8 Prior to the occupation of any of the residential units hereby approved the acoustic barrier hereby approved shall be erected in its entirety along the northwest boundary of the site and in accordance with the details docketed to this approval. The acoustic barrier shall thereafter remain in place unless otherwise approved by the Planning Authority.

Reason:

In the interests of protecting the residential amenity of the occupiers of the houses hereby approved from noise from the greyhound stadium.

- 9 Prior to their occupation, the windows and other glazed openings of noise sensitive rooms (bedrooms and living rooms) of the houses to be erected on plots 1-30, plots 35-38 and plots 39 and 40 which face towards Victory Lane or towards the site of the greyhound stadium, (which elevations are highlighted by way of a green line on the 'Masterplan As Proposed' docketed to this approval) shall be fitted with glazing designed to have a glazing specification such as to provide a Sound Reduction Index equivalent to 30Db Rwa. Such glazing shall thereafter be retained or replaced to an equivalent standard unless otherwise approved by the Planning Authority.

Reason:

In the interests of protecting the residential amenity of the occupiers of the houses from noise from Victory Lane and the greyhound stadium.

- 10 Prior to the commencement of development, details, including a timetable for their implementation, showing compliance with the following transportation requirements shall be submitted to and approved in writing in advance by the Planning Authority.

(i) A right turn ghost island junction shall be formed at the junction between Salter's Road and Victory Lane;

(ii) Victory Lane shall be constructed with a 3m wide pedestrian / cycle track on the northern side and a 2.5m wide footpath on the southern side;

(iii) The existing footpath along the site frontage on Salter's Road shall be relayed and widened to 2m. Street lighting shall also be extended along this section of road;

(iv) A signalised pedestrian crossing facility shall be introduced at the Double D Island on Salter's Road adjacent to 12 Fa'Side Buildings;

(v) The pedestrian footway linking the proposed residential development with Salter's Road shall have staggered guard rail at the junction with Salters Road.;

(vi) The on street parallel parking spaces shall have a minimum length of 6 metres per space.

(vii) Dropped kerb crossing points shall be provided at all junctions within the development and at the junction between Salters Rd and Victory Lane;

(viii) Driveways shall have a minimum length of 5 metres and a minimum width of 2.5 metres;

(ix) Raised tables shall be constructed on the carriageway at the central footway road crossings;

(x) The gates to the proposed Greyhound Stadium car park shall open inwards

(xi) The first 20metres of the Greyhound Stadium car park shall be hard formed to stop loose materials entering the public road

Development shall thereafter be carried out in accordance with the details so approved unless otherwise approved by the Planning Authority in consultation with the Roads Authority

Reason:

In the interests of road and pedestrian safety.

Please note that the remainder of pages relating to this item have been removed as they contain personal information (for example - names and addresses of people that have made representation)

REPORT TO: Planning Committee
MEETING DATE: Tuesday 7 March 2017
BY: Depute Chief Executive (Partnership and Services for Communities)
SUBJECT: Application for Planning Permission for Consideration

4

Note - this application was called off the Scheme of Delegation List by Councillor Goodfellow for the following reason: the hours of operation for this area have become a controversial issue in the vicinity and therefore I feel this application should be heard by a full planning committee.

Application No. **16/00784/P**
Proposal Erection of building and associated works
Location **Halflandbarns
North Berwick
East Lothian**

Applicant NB Distillery Limited
Per Urban Animation

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

The application site is part of the former Halfland Mushroom Farm, located in the countryside at Halfland Barns to the southeast of North Berwick.

On 9 November 2012 planning permission (ref: 12/00429/P) was granted for the change of use of the land of the former mushroom farm to business use (class 4). The grant of planning permission is subject to conditions controlling visibility splays of the existing access, working hours, noise emanating from the site and external storage.

The site is some 0.08 hectares of the 1.23 hectares area of the former mushroom farm. It is bounded to the north and north west by existing poly tunnel buildings on the site, to the east by a private access track with agricultural land beyond, and to the south by agricultural land.

The nearest neighbouring residential property is Halfland House some 65 metres to the

northeast of the site. Further to the northeast are the residential properties of Smiddy Cottage, Smiddy Halfland Barns and Halfland Barns Schoolhouse.

Planning permission is sought for the erection of a steel portal frame building for Class 4 business use. The building would be located centrally within the site on a southwest northeast axis. It would measure some 18 metres in length by some 13 metres in width. It would have a pitched roof with a ridge some 7.4 metres high with the interior space partially split between a ground and upper floor levels. The northeast, northwest and southeast elevation walls of the building would be clad with grey coloured composite metal vertical cladding, whilst its southwest elevation wall would be clad with horizontal larch timber boards. The pitched roof would also be formed of composite cladding, combined with a number of translucent polycarbonate roof lights. In addition, 33 flush mounted black solar photo-voltaic panels and a 1.1 metre high stainless steel flue would be located on its pitched roof. A roller shutter door and extract fan would be formed within its northwest elevation whilst a pedestrian access door and small window would be formed within its southwest elevation. Its southeast elevation would contain a large window and door at ground floor level, along with a small window and set of bi-folding glazed doors with Juliet balcony at first floor level. Its north east elevation would not contain any openings.

An area of concrete hard standing would be formed adjacent to the roller shutter door on the northwest elevation of the building in addition to a precast concrete slab path that would extend along the full length of the southwest elevation and the partial length of the southeast elevation of the building. Two bollards lights would also be located forward of the southwest elevation of the building.

The application drawings show parking spaces set out within gravel surfaced area adjacent to the southeast elevation of the building. The site would be accessed via the existing vehicular access to the former mushroom farm site from the C139 public road to the north and the existing internal access road through the centre of the former mushroom farm site.

The application is accompanied by a statement of the activities of NB Distillery Ltd, on whose behalf the application is made.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Plan 2008.

Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies DC1 (Development in the Countryside and the Undeveloped Coast), DP2 (Design), DP22 (Private Parking) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

Five written objections have been received. The main grounds of objection can be summarised as follows:

- (i) the proposals would result in greater use of the local road network which is not suitable for additional car and van journeys and heavy vehicles to serve an industrial site;
- (i) 24/7 operation of the proposed business would set a precedent for other business

within the Halfland Barns site;

(iii) the proposed building would have a negative impact upon the landscape character of the area;

(iv) the proposals would result in the loss of prime agricultural land;

(v) the proposals are contrary to the East Lothian Local Plan 2008;

(vi) businesses currently located within the business site do not comply with hours of working and outside storage condition; and

(vii) no details have been submitted with regards to the number of vehicles making deliveries.

The drawings and other documentation submitted with the application are an accurate and sufficient basis to enable a full planning assessment to be made of the development proposal.

Were planning permission to be granted for the proposals, any subsequent application for the erection or extension of buildings on the business site, together with variation of conditions attached to existing business uses would require to be the subject of an application for planning permission and thus subject to the control of the Council as Planning Authority.

Breaches of planning conditions relating to hours of operation and outside storage for existing businesses can be investigated as a separate matter by the Council's Planning Enforcement service but such a matter is not a material consideration in the determination of this application.

In the statement accompanying the application it is explained that NB Distillery Ltd was incorporated in March 2013 in North Berwick. The company currently manufactures and exports a variety of gin and vodka. They anticipate that by the end of 2017, the business will employ another full time member of staff, and that spend with local business will increase on a conservative estimate by 30%. The current premises offer no potential to expand and are unsuitable for tours, limiting future expansion of the business.

The use of the proposed building would be for distillation of grain spirit, blending, bottling, packing and distribution, with production requiring 24/7 operation. In addition, up to 8 pre-booked public tours would be operated during the week.

The proposed operations within the proposed building are of a light industrial nature. They do not involve the use of heavy machinery. They would be contained within the proposed building.

On the basis of the above, the proposals accord with the approved Class 4 use of the site and would be an extension of the existing Class 4 business uses operating at the site. In this it has an operational requirement to be sited in this countryside location consistent with the provisions of Policy DC1 of the adopted East Lothian Local Plan 2008.

In respect of landscape considerations, the Council's Landscape Project Officer states that due to its positioning, massing and height, the proposed building would not fit sensitively into the site, would be highly exposed, and would be out of place with the landscape character of the area. He goes on to recommend that in order for any potential building to fit in with the landscape character of the area, continuous perimeter hedge planting in combination with tree planting along the southern and south easterly boundaries is required to achieve a suitable landscape barrier treatment.

The proposed building would be a new build element in the landscape of the area. Although the proposed building would be somewhat higher than the existing poly tunnel buildings directly to the north of the application site, the proposed building at some 7.4 metres in height would be seen in relation to other buildings of a similar height (6.8 metres) within the wider business site.

In long distance views from the south the proposed building would be viewed in conjunction with the existing business use buildings of a similar size, form and scale. From the north and west, views of the building would be screened by existing mature trees and hedging. Due to the high hedgerows along the public roads in the locality such longer views would often be glimpsed views only.

The proposed building would benefit from additional screening provided by planting in the form of a number of Field Maple trees and hedging along its southeast and northeast boundaries respectively, which would help to establish a defined landscaped edge to the application site. In turn, this means that the proposed building would be contained within the site in the same way as the existing buildings to the north of it. In such a setting, the proposed building would be so contained such that it would not appear as a prominent or harmfully intrusive presence in the landscape and would not visually impose itself on its surroundings, including residential uses.

In the determination of previous planning applications for business uses within the Halfland Barns site, the Council's then Environmental Protection Manager recommended that controls should be imposed in respect of the noise emanating the site. These controls were imposed as conditions. The Council's now Principal Environmental Protection Officer recommends that similar conditions relating to noise, light and outside storage be applied to the proposals that are the subject of this application. This control can be secured by conditions on the grant of planning permission for the proposed development.

In respect of hours of operation, the Council's Principal Environmental Protection Officer recognises that the Halfland Barns site, through a condition of a previous grant of planning permission, has a restriction placed on hours of operation such that, unless otherwise approved in writing by the Planning Authority, no working shall take place within the Halfland Barns site as a whole outwith the hours of 0800 to 2000 Monday to Friday inclusive and 0800 to 1500 on Saturdays.

Notwithstanding this previously imposed restriction, the proposed use of the building is one which in principle is a use which can be carried out without detriment to residential amenity by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit. The Principal Environmental Protection Officer now advises that, subject to the requirement that that noise emanating from the site not exceed the NR20 noise curve at any octave band frequency at any nearby residential property as alluded to above, he is satisfied that the use of the proposed building could be operational at all times without harm to the amenity of any nearby residential property and therefore there is no requirement to restrict the hours of operation.

However the Principal Environmental Protection Officer does advise that unrestricted delivery vehicle movement to and from the site could be harmful to the amenity of nearby residential properties. In this regard in respect of deliveries to and from the site he recommends that no vehicle movements should take place on site between the hours of 2300 to 0700 on any day. This control can be secured by a condition imposed on the grant of planning permission for the proposed development and subject to this the use of the proposed building would not harm the amenity of any nearby residential property.

The Council's Road Services raises no objection to the proposals. They advise that the proposed workshop building would likely result in an increase in vehicle trips to and from the site, however, they state this would not result any road safety hazard and are content there would be no harmful impact from increased vehicle trips on the local road network. They confirm that the existing 6 car parking spaces on the site are sufficient to provide for on-site parking.

The Council's Biodiversity Officer advises that he sees no biodiversity issues arising from the proposals and has no objection.

On the above considerations the proposals are consistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) and with Policies DP2, DP22, T2 and DC1 of the adopted East Lothian Local Plan 2008.

CONDITIONS:

- 1 Working shall be permitted to take place within the application site 24 hours a day 7 days a week. No delivery vehicle shall either access or egress the site nor be loaded or unloaded within the site outwith the hours of 0700 to 2300 on Mondays to Sundays inclusive.

Reason

To ensure that the amenity of the occupiers of nearby residential properties is safeguarded.

- 2 Noise emanating from the site shall not exceed Noise Rating Curve NR20 in any octave band frequency at any nearby residential property assuming windows open at least 50mm.

Reason:

To ensure the use of the proposed building does not harm the amenity of nearby residential properties.

- 3 No outside storage shall take place within the site without the prior written consent of the Planning Authority.

Reason:

In the interests of the visual amenity of the area.

- 4 Details of any external lighting, including any movement sensitive lighting, proposed to be used within the site shall be submitted to and approved in writing by the Planning Authority prior to its erection or installation. The lighting shall be designed, positioned, oriented and shrouded to ensure that no light from within the site spills beyond the boundaries of the site area.

Reason:

In the interests the amenity of nearby properties and of this part of the East Lothian countryside.

- 5 All planting shown to be carried out on drawing no. 16-1202-02 D docketed to this planning permission shall be carried out in the first planting and seeding season following the completion of the development hereby approved, and any trees or plants which within a period of five years from the completion of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

Reason:

In order to ensure the implementation of a landscaping scheme to enhance the appearance of the development in the interests of the landscape character of the area.

Please note that the remainder of pages relating to this item have been removed as they contain personal information (for example - names and addresses of people that have made representation)