

# APPEAL STATEMENT

## 6 The Hawthorns, Gullane, EH31 2DZ

### Background

Planning permission in principle was refused on 2 June 2017 for the erection of a house in the garden ground at 6 The Hawthorns. One reason for refusal was given identifying a conflict with policies DP7, DP14 and NH5. In addition the proposal was said to conflict with Scottish Planning Policy (June 2014) but no detail was provided.

### Grounds of Appeal

There are three reasons why the refusal is unsound. These are:-

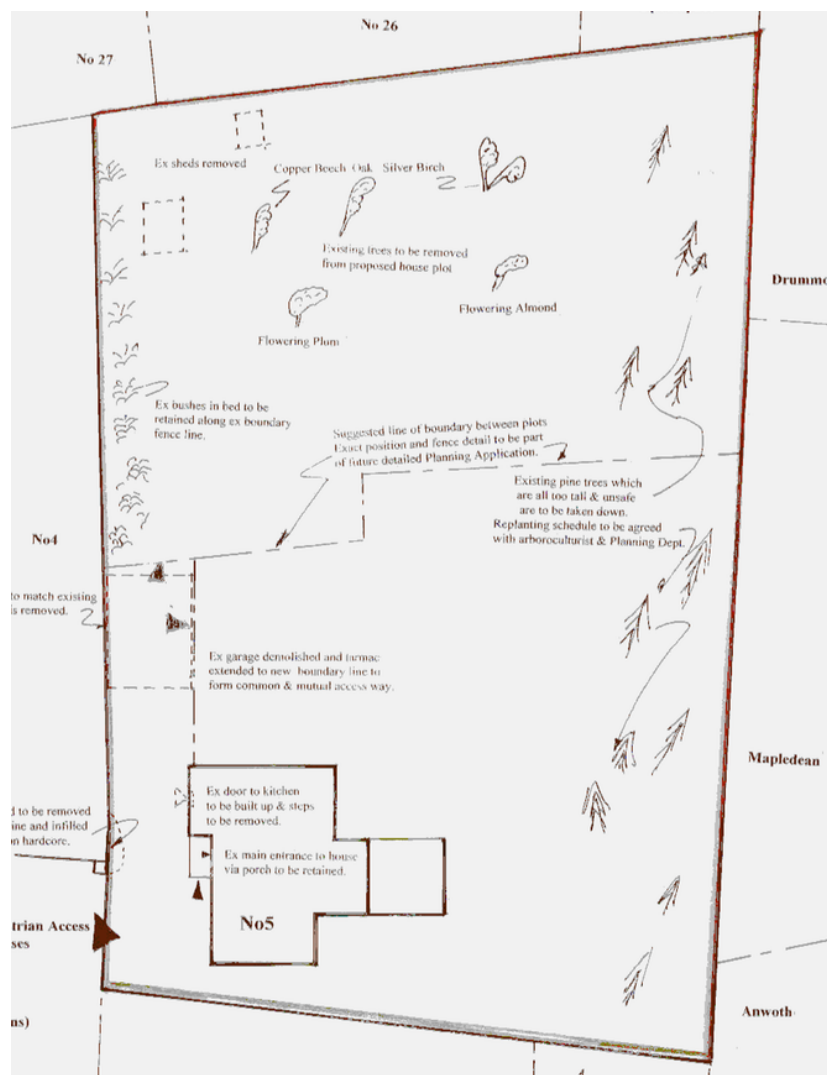
1. No justification has been provided for the TPO and its retention. No records have been located and it appears they had been destroyed by 1992 although they should have been retained. The TPO has never in the last 36 years been reviewed or reassessed. The justification for the use of a TPO in 1981 has never been provided or explained. That cannot be right.

Its important to note that no other trees or part of the original tree belt have been protected by statute or secured by planning condition.

The landscape officer (Sarah Cheyne) who has recommended that development be refused because of the need to save the unmanaged trees, has herself agreed - or turned a blind eye - to the removal of part of the **same** tree belt from the adjacent site in 2005/2006. On the following page the September 2005 plan (the approved plan) relating to an additional house at 5 The Hawthorns is provided. It clearly states *“Existing pine trees which are all too tall and unsafe are to be taken down. Replanting schedule to be agreed with Arboriculturalist and Planning Dept.”* Ms. Cheyne in the course

of various applications on that adjoining site said nothing about tree belt loss and required no replanting. One can only assume she agreed the trees in the **same** tree belt were then too tall and unsafe as the trees were removed and not replaced. Why does she now some years later say something wholly different?

Her response is clearly inconsistent and adopts without explanation a wholly different position. She says the trees are part of a wider tree belt that extends to the heart of Gullane including Broadgait. That is **not** true. The trees recently protected by TPO in Broadgait are garden trees quite unlike these plantation trees. Her facts are wrong and her position inconsistent.



In addition, a discontinuous part of the tree belt is located within the golf course. Those trees are **not** protected and many have been removed as may be seen in Google photos. Another discontinuous part of the former plantation exists to the north beyond 5 The Hawthorns. These trees have been removed over the years, each tree sits in relative isolation. The Council's approach was and remains inconsistent and is founded on an unknown reason for the use of the TPO in 1981.

In 1992 a landscape officer looked at the trees and commented that there had been no thinning and that replanting was therefore not necessary. Now, some 25 years later another Council landscape officer states that trees should not be removed and that if they are that planting is essential. These positions are contradictory.

The current landscape officer has singularly failed to be consistent, failed to demonstrate why these trees are of value **now** and failed to explain why they should be retained despite their poor condition and very limited lifespan.

2. The landscape officer is not a qualified tree specialist. She is a landscape architect. The specialist report provided with the planning application was from the foremost tree specialist in the Lothians. It is the appellant's contention that Donald Rodger has lengthy relevant experience and very considerable professional expertise. His expertise is about trees and his specialist knowledge is by definition more appropriate than that of the Council's landscape specialist. Donald Rodger has looked very carefully at the health and longevity of the trees in the context of the relevant British Standard (BS 5837: Trees in relation to Design, Demolition and Construction). BS 5837 is a tool for arboriculturists. His conclusions are set out carefully and methodically. He considers the trees to have a limited future life span. As their future lifespan is less than 40 years they **cannot** be categorized as Category A trees. It is not relevant what the lifespan can be

generically of a Scots pine, the only issue here is the lifespan of these particular trees.

Ms. Cheyne's expertise is somewhat different and relates to landscape matters. In spite of Donald Rodger's far greater relevant tree knowledge Ms. Cheyne disagrees with his judgement and interpretation of BS 5837 and by doing so challenges his reputation and integrity. She says the landscape value outweighs the lifespan and health assessment of the trees. That is a fundamentally incorrect approach.

Ms. Cheyne has misread and misinterpreted the British Standard guidance. The primary starting point is the age and life expectancy of the trees that should be considered as a group. It is accepted that trees may have landscape value but that cannot be unreasonably protected if the trees are not healthy and/or have a limited future life as is the case here.

Furthermore, the landscape photos that Ms. Cheyne has used to illustrate her internal comments to the planning officer misrepresent the value and impact of the protected trees and she indicates more trees than those that are protected. She also fails to consider properly a central part of the proposal that is the offer of future management of the trees on the site. The existence of the TPO has given rise to no management of the trees since 1981, apart in the last two years or so and limited removal of dead and dying trees in 1992. TPOs do not keep trees alive for longer or secure replanting and active management. However a planning condition can secure active management, protect the sycamores and provide for appropriate replanting.

Without management the outcome here will inevitably be the loss of the plantation trees (maybe gradually but increasingly frequent in time due to windblow). A plantation will not be replanted and should not be replanted in the circumstances of the location in a domestic garden and there will inevitably be change in the landscape just as there has been when Muirfield

removed many belts and groups of plantation trees during the last twenty years.

3. In the reason for refusal it is stated that the proposal conflicts with policy NH5. That policy does not require the retention of trees regardless of condition or lifespan. It allows for the removal of trees “in the interests of good tree management” and where removal would contribute more to the good planning of the area. In this case it is in the interests of good tree management to remove the trees **and** would provide a house in a sustainable location and the removal and replacement of plantation trees from an unsuitable domestic garden. The proposal accords with policy NH5.

The proposal is said to conflict with policy DP7 which actually supports infill and development in garden ground. The starting point must again be the health and lifespan of the trees as well as their lack of management. While the trees may appear to be an important feature that ignores the context and the facts about their very limited life. They are unmanaged trees with a very limited lifespan and in the wrong place. Policy DP14 considers trees and development. The policy allows for retention of trees and for replanting where removal is proposed. It is noted that where there is a grouping of trees of importance they should be in public space rather than private garden ground. This underscores that the plantation trees are in the wrong place as well as being of limited life. Looked at in the round and weighing all matters into consideration the proposal does not conflict with either policies DP7 or DP14.

### **Summary**

The Local Review Body is urged for the reasons set out above to come to a different conclusion from officers and to support a modest development and allow this appeal.