

17/00528/P

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

**LOCAL REVIEW BODY
NOTICE OF REVIEW**

REVIEW STATEMENT

**PLANNING APPLICATION FOR FULL PLANNING PERMISSION FOR CHANGE OF
USE OF AGRICULTURAL LAND TO DOMESTIC GARDEN GROUND, ERECTION OF
FENCING AND WALL (PART RETROSPECTIVE).**

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

JANUARY 2018

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1 Executive Summary

- 1.1 It is acknowledged that two previous applications for the change of use of agricultural land to domestic garden ground at 1 and 2 Rose Bank were refused. However, this new application takes on board comments made by the Council's landscape officer and local Councillors and minimises the area being applied for. It is important to note that the application is seeking to extend the garden curtilages to these approved dwellings, and not for any additional built form.
- 1.2 The change of use will allow the land to be returned to an active and beneficial use. The land within the red-line application boundary is currently owned by the applicant and is unmaintained grassland/paddock. Contrary to the planning officer's report, it must be stated that the site has not been actively managed or utilised for agriculture or horticulture for over 15 years. Public access to the site is restricted and it has no agricultural value.
- 1.3 The case officer accepts that there is no 'well-defined edge' to the settlement in this location, a key policy consideration. The Council Landscape Officer considered that extending the garden ground of the houses in the way proposed "*would be beneficial to the creation of an improved landscape setting*".
- 1.4 The applicant requests that the LRB considers this case in a reasonable and logical way and that it deliberates three key questions:

- **1) Will this small change of use have a detrimental impact on the integrity of the open agricultural landscape setting of Seton Mains, will it be detrimental and harmful, as is argued by the case officer?**
- **2) Will the proposal alter the settlement's appearance as a rural former farming settlement, particularly in views from the public road, as is argued by the case officer?**
- **3) Is the eastern end of the dividing stone wall (the western end is already consented) incongruous, dominant and inappropriate for its place and purpose, as argued by the case officer?**

- 1.5 The applicant is happy to enter into planning agreement to plant up the remaining landholding to provide an appropriate and defined landscape edge to this part of the settlement.
- 1.6 There is policy support for developments of this scale and nature. The proposals do not undermine or contravene Policy DC1 Part 2(f); Policy DC1 Part 5; or Policy DP2. It is respectfully requested that the application for 1 and 2 Rose Bank, Seton Mains, be approved.

2 Review Statement

Purpose of the Review Statement

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

Relevant Planning History

- 2.5 It is acknowledged that there is a lengthy application history at these two plots. Of relevance are similar applications for the change of use to domestic garden ground: ref 14/00494/P; and 16/00058/P. Reference can be made to the related Officer Reports in which the main Reasons for Refusal were cited as:
- that granting consent would '*establish a precedent*'; and
 - the change of use would be an '*intrusive and incongruous encroachment beyond the well-defined edge of the settlement and as such has a harmful affect on the character and visual amenity of the landscape to the east of Seton Mains*'.
- 2.6 This current application 17/00528/P has again addressed further any physical impact (in terms

of area and size of plot to be changed). Policy does allow for such changes where these are small, and where they comply with other policies within the Development Plan. The case officer accepts that there is no 'well-defined edge' to the settlement in this location and that structural planting, achievable by way of Condition, could provide a more defensible and robust boundary as part of this proposal.

The Policy Case

- 2.7 Pre-application discussions with ELC indicated that any similar application would likely be met with a similar opinion and response to that previously provided. It was therefore important to support the 17/00528/P application with a robust planning case, supported with factual evidence and appraisals demonstrating compliance with policy.
- 2.8 The supporting application documents present a clear and logical case as to why such previous reasons for refusal are unreasonable and unjustified. A balanced view should be made and it is the applicant's view that a balanced and reasonable decision has not been made when considering the case in question.

Development in the Countryside

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

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

2 - Change of Use/Restoration of a Building

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

- 2.10 The change of use from countryside to garden ground is therefore supported in principle by ELC, provided it meets certain tests.
- 2.11 At approximately 0.14 hectares in area the application site, in development terms, is small scale. The key test, therefore, is whether the change of use will undermine or prejudice any established and well-defined edge or boundary.
- 2.12 It is indeed the case that the settlement boundary has been established for Seton Mains and this is illustrated by a black line within the ELLP. It is also the case that proposals are located immediately outside/adjacent to the settlement boundary. However, there is no case that can be made to suggest the illustrative line within the ELLP is well-defined in landscape terms, or that it has been informed by strong defensible features in this location. Indeed, the case officer states this to be the case.

- 2.13 The proposals do not therefore prejudice a ‘well-defined settlement boundary or landscaped edge’ in this location, as there are none present, as accepted by the case officer. The proposals do not therefore undermine the spirit of this particular policy. They will in fact provide significant improvement by offering the chance to begin to define this edge of Seton Mains through robust boundary planting and treatments.
- 2.14 The Council Landscape Officer previously considered that extending the garden ground of the houses in the way proposed “*would be beneficial to the creation of an improved landscape setting*”.
- 2.15 This strong boundary will also help enforce the objectives of other countryside designations such as Countryside Around Towns, as proposed for this location within the emerging LDP, and help implement Policy 13 of the SDP.
- 2.16 Furthermore, the independent Landscape and Visual Appraisal, which is evidence and factually based, clearly demonstrates that the change of use will not result in an ‘encroachment’ into the countryside that will be in any way ‘intrusive’ or ‘incongruous’. The applicant requests that the LRB takes a reasonable and logical view as to whether these proposals are indeed ‘intrusive’ or ‘incongruous’.

Establishing a Precedent

- 2.17 There is no policy relevance to this Reason for Refusal and it is argued it is not legitimate in this case. Policy C5 – Change of Use of Public Open Space to Garden Ground, does indeed consider the relevance of precedent, but the proposals are not for the development of public open space, so this reason for refusal is not appropriate.
- 2.18 However, the wording of the reason for refusal suggests that East Lothian Council may find it difficult in future to refuse similar applications if the proposals were consented. Having such a reason for refusal therefore suggests that the application could indeed be considered unobjectionable in itself.
- 2.19 It is accepted by the applicant that the creation of an adverse precedent can be a material consideration in the determination of an application (as established by *Collis Radio Ltd v Secretary of State for the Environment (1975) 73 LGR* and *Poundstretcher Ltd v SoS for the Environment [1989] JPL 90*).
- 2.20 In such cases, whilst the proposed development might indeed be unobjectionable in itself, consenting such may make it difficult for the Planning Authority to refuse planning permission for similar development on other nearby sites. This, in theory, may then lead to a proliferation of such development.
- 2.21 Whether minor encroachment into the countryside for domestic garden use would give rise to an adverse precedent and an uncontrollable proliferation of such development is up for debate.

However, what is not up for debate is that the courts have made it very clear that "mere fear or generalised concern" regarding an adverse precedent is not enough to warrant a reason for refusal.

- 2.22 The courts explain in their ruling that 'there must be evidence in one form or another' before a planning authority can rely on adverse precedent as a reason for refusing planning permission.
- 2.23 The appellant is not aware of any locational or land-use evidence that ELC can rely on to justify the use of 'adverse precedent' as a reason for refusal of applications of this scale and nature.
- 2.24 On the contrary, should a proliferation of such proposals then come forward on the eastern edge of Seton Mains, this should surely be seen as an opportunity for East Lothian Council to develop a well-defined and robust settlement edge, which the case officer and Landscape Officer, accepts is not achieved at present.

Dividing Boundary Wall

- 2.25 An element of the application is for retrospective planning permission for a short section of boundary wall, between the two housing plots. This element is judged by the case officer to be "incongruous and dominant" and "inappropriate for its place" and contrary to Policy DC1 Part 5.

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

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

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

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

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

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

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

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

- 2.27 It should be noted that over half of this dividing wall, to its western end, has already been approved by East Lothian Council through consent 13/00918/F (Drawing P(2)-102). The

continuation and extension of this wall has been constructed in a traditional manner and is in keeping with other boundary wall examples within the settlement, including the contiguous and consented part of the wall to the west.

- 2.28 It is evident that there is a variety of boundary treatments used within the settlement and the applicant asks the LRB to make a reasonable assessment as to whether the eastern section of the wall in question is indeed incongruous, dominant and inappropriate for its place and purpose. This is particularly the case given the western section has already been accepted and consented by East Lothian Council.
- 2.29 The case officer argues that this wall extension is also contrary to Policy DC 2 – Design. As this is an extension to an existing consented wall it is debatable whether this policy is relevant. However, as discussed above the eastern section of the wall is indeed in keeping with its surroundings, given it is an extension of an already consented element within the landscape.

Conclusions

- 2.30 The proposal constitutes an extension into the countryside and the application requests a change of use to remove this small area from its countryside designation.
- 2.31 The proposals cannot be considered to be in line with an identified or evidenced adverse precedent. Nor can they be considered to be setting a new adverse precedent.
- 2.32 The independent Landscape and Visual Appraisal clearly demonstrates the proposal will not be an 'encroachment' that will be in any way 'intrusive' or 'incongruous'.
- 2.33 The settlement boundary in this area of Seton Mains is certainly not 'well-defined', as the case officer agrees. This is a key policy consideration. In this regard the proposals are definitely not contrary to policy.
- 2.34 The proposals must be seen as beneficial, in that they will bring a more secluded and attractive character to the eastern edge of Seton Mains and, in turn, help to form a more appropriate interface between 'town' and 'country'. The garden use and its associated tree and shrub planting (which can be agreed through Condition) will provide a far more defensible, defined and robust boundary between development and countryside in this location. This strong boundary will also help enforce the objectives of certain Countryside Designations (such as Countryside Around Towns) and help implement Policy 13 of the SDP.
- 2.35 Finally, the Landscape and Visual Appraisal has established that the change of use will not be 'harmful' to the landscape character and visual amenity of the area. The independent Appraisal, undertaken in line with recognised guidance concludes that the overall effects on the landscape character, landscape resource and visual amenity arising from the proposals to transform a small area of leftover grassland into garden grounds are **Negligible** and **Not Significant**.

- 2.36 There is policy support for developments of this scale and nature. The proposals do not undermine or contravene Policy DC1 Part 2(f); Policy DC1 Part 5; or Policy DP2.
- 2.37 On the basis of the documentation submitted in support of this LRB review it is respectfully requested that the application for 1 and 2 Rose Bank, Seton Mains, be approved.

Landscape and Visual Appraisal

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

On behalf of

RFA

June 2017



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Figure 1 – Photographic Viewpoints 1 to 3

Figure 2 – Photographic Viewpoints 4 to 6

Figure 3 – Planning and Landscape Context

LANDSCAPE AND VISUAL APPRAISAL

1.0 Introduction

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

2.0 Site Location and Context

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

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

3.0 Landscape Designations

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

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

4.0 Landscape Impacts

Impacts on Landscape Resource

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

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

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

Impacts on Landscape Character

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

5.0 Visual Impacts

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

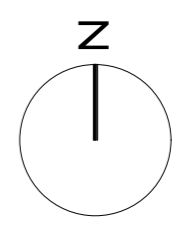
- 5.7 Travelling along the A198 approaching Seton Mains from the east, open and direct local views are available towards the application site. However, the site itself is screened from view by the wooden fence which wraps around the site's eastern and northern boundaries and the grassland comprising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

6.0 Conclusion

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

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

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



0 1 2 3 4 5 10m
Scale 1:200

AREA TO REMAIN IN COUNTRYSIDE DESIGNATION

EXTENSION OF GARDEN FOR 1 ROSEBANK

NEW POST AND WIRE FENCE

LINE OF EXISTING WOODEN FENCE

EXISTING STONE WALL SUBJECT OF RETROSPECTIVE PLANNING APPLICATION

EXISTING POST AND WIRE FENCE TO BE RELOCATED

NEW POST AND WIRE FENCE

EXTENSION OF GARDEN FOR 2 ROSEBANK

AREA TO REMAIN IN COUNTRYSIDE DESIGNATION

LINE OF EXISTING WOODEN FENCE

LINE OF EXISTING WOODEN FENCE

EXISTING DWELLING (1 ROSEBANK)

PROPOSED DWELLING (2 ROSEBANK)

EXISTING POST AND WIRE FENCE TO BE RELOCATED

EXISTING STONE WALL SEPARATES PLOTS

EXISTING GARDEN GROUND

EXISTING ACCESS

Overall Layout Plan

KEY

- Application boundary. Area of land to be changed from 'countryside' to domestic garden.
- Existing 2 metre high stone wall. Retrospective planning permission being sought for this.

REV	DATE	DRAWN	DESCRIPTION	CHECK	APP'D
C	16/08/17	NRC	Amended as per RFA comments.	CHECK	APP'D
B	19/07/17	NRC	Amended as per RFA comments.	CHECK	APP'D
A	07/07/17	NRC	Garden extension boundary amended.	CHECK	APP'D

REV	DATE	DRAWN	DESCRIPTION	CHECK	APP'D

CLIENT	Mr. Altaf Mohammed
JOB	1 & 2 Rosebank, Seton Mains. Application Ref: 16/00058/P
DRAWING	Layout Plan
STATUS	PLANNING
Drawn	GVW
Checked	...
Approved	...
SHEET	Mar '16
JOB NO	16/04284 DR NO SK-01
REV	C
SCALE	1:200
SHEET	SITE A1



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OFFICER REPORT

12th October 2017

App No. 17/00528/P

Application registered on 16th August 2017

Target Date 15th October 2017

Proposal	Change of use of agricultural land to domestic garden ground, erection of fencing and wall (Part Retrospective)	SDELL	N
		CDEL	N
Location	1 And 2 Rose Bank Seton Mains Longniddry EH32 0PG	Bad Neighbour Development	N

APPLICANT: Mr Altaf Mohammed

Is this application to be approved as a departure from structure/local plan? ~~N~~

**c/o Rick Finc Associates Ltd
Per Kieran Shafiq
Melford House
3 Walker Street
Edinburgh
EH3 7JY**

DECISION TYPE: **Application Refused**

PLANNING ASSESSMENT

Seton Mains is a small settlement located in the countryside to the west of Longniddry and to the north of the A198 classified public road.

On 5th May 2005 planning permission 05/00156/FUL was granted for the erection of two detached, two storey houses, two detached garages and associated works on a roughly rectangular shaped area of land that is on the southeast edge of Seton Mains. Planning permission 05/00156/FUL was not implemented and is now lapsed.

On 20th December 2007 planning permission 07/00332/FUL was subsequently granted for a different scheme of development for the erection on that area of land of two detached, two storey houses and associated works.

Planning permission 07/00332/FUL granted approval for one of the houses ('House 1') to be positioned on the southern part of the site and the other house ('House 2') to be positioned on the northern part of the site. As approved, the two houses are of a similar form, design and detailing, with pitched roofs clad in grey slate, painted wet dash rendered walls and chimneys,

timber framed and astragalled windows, natural stone bandings to the window and door openings and an integral garage. Each house is to have its own private garden ground.

It became apparent through the applicant's submission for approval of the site setting out details of the development, as required by Condition 2 of planning permission 07/00332/FUL, that the intention was for the two houses to be of a higher height than that approved for them by the grant of planning permission 07/00332/FUL. The applicant was advised that the intended increase in height would be a material change to that approved for each of the two houses and that planning permission would be required for it. Furthermore, at that time it was established that planning permission 07/00332/FUL was already being implemented to the extent that the external structure of the northern most house ('House 2') was largely completed, and to the higher height and that a lesser amount of the southern-most house ('House 1') was also under construction. The applicant was asked to stop any further construction works until the matter of the heights of the two houses had been addressed.

On 21st May planning permission 10/00034/P was part retrospectively granted for the increase in height of the two houses and for other alterations to the design of the two houses as material changes to the grant of planning permission 07/00332/FUL.

Through subsequent grants of planning permission 12/00610/P, 12/00762/P, 13/00027/P, 13/00044/P, 13/00918/P, 14/00231/P and 15/00744/P, as relevant to each of the two house plots, alterations and changes to the design of the two houses to be built on the two house plots have been approved. These permissions, as relevant, also grant planning permission for changes to the external finish of some of the boundary enclosures of each of the proposed 2 houses, for different gates and gate posts erected at the entrances to each of the proposed two houses and for the block paved surface finish of the driveways of each of the proposed two houses.

The northern most house ('House 2') approved by the grant of planning permission 07/00332/FUL and, as relevant, subsequent grants of planning permission, is now completed and occupied and is now known as 1 Rose Bank. The southern most house ('House 1') approved by the grant of planning permission 07/00332/FUL and, as relevant, subsequent grants of planning permission, is under construction and is now known as 2 Rose Bank.

On 5th December 2014 planning permission 14/00494/P was retrospectively refused for the change of use of an area of agricultural land measuring some 1,200 square metres in area to use as domestic garden ground for use in association with the northern most house ('House 2') of planning permission 07/00332/FUL, which is now known as 1 Rose Bank. Planning permission 14/00494/P also retrospectively refused the formation of a hardstanding area and a fountain. The reasons for refusal being that: (1) "The effect of the change of use of the agricultural land to residential garden ground is a prejudicial encroachment of the well-defined settlement boundary that is an intrusive and incongruous encroachment of the residential use of Seton Mains into the countryside that serves as the defined edge and setting of Seton Mains, in a manner harmful to the landscape character and visual amenity of the landscape to the east of Seton Mains. There are no special circumstances that would give justification for such expansion of Seton Mains onto land that is not identified for residential use and development. Accordingly, the proposal is not consistent with Policy DC1 of the adopted East Lothian Local Plan 2008."; and (2) "To grant retrospective planning permission for the change of use would establish a precedent whereby it would be difficult for the Council, as Planning Authority, to refuse to grant planning permission for other encroachment of the settlement of Seton Mains

into the countryside that conflicts with the Council's planning policies for the control of development in the countryside."

The refusal to grant planning permission 14/00494/P was subject to enforcement action to secure the cessation of the unauthorised use of the land as domestic garden ground and the removal of the unauthorised hardstanding area and fountain, and also to secure the erection of fencing along the east boundary of the plot in accordance with condition 5 of planning permission 07/00332/FUL. At that time the unauthorised use of the land as domestic garden ground had ceased and the hardstanding area and fountain have been removed.

On 8th March 2016 planning application 16/00058/P was registered for the change of use of an area of land, measuring some 0.25 of a hectare in area, that was last in agricultural use to use as additional domestic garden ground for the two houses approved by the grant of planning permission 07/00332/FUL (which are now known respectively as 1 and 2 Rose Bank).

The land of planning application 16/00058/P comprises the land of refused planning application 14/00494/P that is immediately to the east of the plot of 'House 2' of planning permission 07/00332/FUL, which is now known as 1 Rose Bank, and an additional area of land that is located to the east and south of the plot of 'House 1' of planning permission 07/00332/FUL, which is known as 2 Rose Bank.

In July 2016, through his agent, the applicant (Mr Altaf Mohammed), lodged a request for review to the Local Review Body against the failure of the Council to determine planning application 16/00058/P within the prescribed time period.

At their meeting of 15th September 2016 the Local Review Body refused to grant planning permission 16/00058/P for the change of use of the area of agricultural land to use as additional domestic garden ground for the two houses approved by the grant of planning permission 07/00332/FUL (which are now known respectively as 1 and 2 Rose Bank), and the decision was issued on 22nd September 2017. The reasons for refusal being that: "The effect of the change of use of the agricultural land to residential garden ground would be a prejudicial encroachment of the current settlement boundary into the countryside that serves as the defined edge and setting of Seton Mains, in a manner harmful to the landscape character and visual amenity of the landscape to the east of Seton Mains. There are no special circumstances that would give justification for such expansion of Seton Mains into land that is not identified for residential use and development. Accordingly, the proposal is not consistent with Policy DC1 of the adopted East Lothian Local Plan 2008."

The land of the current application (Ref. 17/00528/P) roughly half of the land of refused planning application 14/00494/P being that part which is immediately to the east of the plot of 'House 2' of planning permission 07/00332/FUL, which is now known as 1 Rose Bank, and some two-thirds of the land of refused planning application 16/00058/P as it relates to the land immediately to the east and south of the plot of 'House 1' of planning permission 07/00332/FUL, which is known as 2 Rose Bank.

The application site is located in the countryside on the eastern edge of Seton Mains. It is an irregular shaped area of land, which measures some 0.14 of a hectare in area. It is located between the approved garden boundaries of the two houses approved by the grant of planning permission 07/00332/FUL and the agricultural land to the east and south of Seton Mains. The land of the application site predominantly comprises unmanaged grassland.

Planning permission is now sought for the change of use of the area of land, which was last in use as agricultural land, to use as additional domestic garden ground for the two houses approved by the grant of planning permission 07/00332/FUL (which are now known respectively as 1 and 2 Rose Bank). Planning permission is sought in part retrospectively as the land of the application site immediately to the east of the plot of 'House 2' of planning permission 07/00332/FUL, which is now known as 1 Rose Bank, is already in use as domestic garden ground for that house.

Through this application, planning permission is also sought for the erection of timber post and wire fencing that would be erected along the full length of the east boundary of the application site.

Planning permission is also sought retrospectively for a 2.0 metres high stone wall, some 24 metres in length, that has been erected along the dividing boundary between the gardens of the two houses approved by the grant of planning permission 07/00332/FUL (which are now known respectively as 1 and 2 Rose Bank) and which extends from the eastern approved edge of those gardens to the east boundary of the land in the ownership of the applicant.

The application site is bounded to the west by the two houses approved by the grant of planning permission 07/00332/FUL and their approved garden ground and shared access road, to the north by an unmanaged grass paddock, and to the east by further land in the ownership of the applicant, which was last in use as agricultural land and was the subject of refused planning applications 14/00494/P and 16/00058/P. Further to the east is more agricultural land that is in active use. To the south is an area of vacant unmanaged grassland that was last in use as agricultural land, and which is also in the ownership of the applicant, Mr Altaf Mohamed.

The north boundary of the application site is enclosed by 1.8 metres high close-boarded timber fencing. That fencing is not proposed as part of the development for which planning permission is sought, and therefore, does not form part of the assessment of this application for planning permission. There are no means of boundary enclosure along the east boundary of the site. Contrary to that which is shown on the application drawings there is no means of boundary enclosure along the south boundary of the application site. The unmanaged grassland extends beyond the un-demarcated south boundary of the site towards the A198 classified public road. Some 8 to 16 metres further to the east of the east boundary of the application site, 1.8 metres high close-boarded timber fencing encloses the eastern extent of the land owned by the applicant, Mr Altaf Mohamed. That fencing is also not proposed as part of the development for which planning permission is sought, and therefore, does not form part of the assessment of this application for planning permission.

The application site is within an area defined by The Coal Authority as being potentially at risk from past coal mining related activity.

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 Undeveloped Coast) and DP2 (Design) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

No public representation to the application has been received.

Whilst the two houses approved by the grant of planning permission 07/00332/FUL and their approved garden ground are within a predominantly residential area as defined by Policy ENV1 of the adopted East Lothian Local Plan 2008, the area of land the subject of this application for change of use to domestic garden ground is out-with the developed area of Seton Mains as defined by Policy ENV1 of the adopted East Lothian Local Plan 2008, and is within an area of countryside defined by Policy DC1 of the adopted East Lothian Local Plan 2008.

Local Plan Policy DC1 relates to the control of development in the countryside. Part 2(f) of Policy DC1 states that in the case of a change of use to garden ground, any well-defined settlement boundary or landscaped edge must not be prejudiced, the area of the change of use must be small in scale, and the terms of Policy DC1 Part 5 must be met.

Part 5(d) of Policy DC1 requires that in all cases the proposal must minimise the loss of prime agricultural land. Part 5(a) requires having regard to its nature and scale, new development must be integrated into the landscape, reflect its character and quality of place and be compatible with its surroundings.

The proposed change of use of the area of land last in agricultural use is to use as domestic garden ground. The total area of land that would be changed from agricultural land to domestic garden use is relatively small. At some 0.14 of a hectare it does not result in a significant loss of prime agricultural land, and thus on this consideration does not conflict with Part 5(d) of Policy DC1 of the adopted East Lothian Local Plan 2008.

The settlement boundary around the developed area of Seton Mains is defined closely around the outside edges of the properties, establishing a well-defined settlement boundary for Seton Mains. The boundary enclosures are predominantly low fencing and hedging.

A Landscape and Visual Appraisal and a Planning Statement for the site have been submitted by the applicant's agent.

In the Landscape and Visual Appraisal report it is explained that the application site is located on the eastern fringes of Seton Mains with the built form of the village lying to the immediate north-west and west, areas of rough grazing to the north and south and relatively flat (gently rolling) arable fields to the east. It is further explained that the small paddock to the north of the site and the rough grassland further to the north again create a 'green buffer' to the north-east fringes of the village, and that this area is further defined by lengths of hedgerow and frequent field boundary and hedgerow trees which form an effective transition to the surrounding arable fields which are also well defined by mature vegetation. The report further explains that a few small paddocks are located to the south of the village and the well wooded course of the Seton Dean frames the western edge of the village and extends further north to form a 'green finger' of woodland separating the golf course and the Seton Sands caravan park before draining into the sea.

The Landscape and Visual Appraisal report goes on to explain that the land of the application site lies adjacent to, but out-with, the settlement boundary of Seton Mains and beyond the developed area of the village as defined by Local Plan Policy ENV1, but that it, along with the area of rough grassland to the south and the paddock to the north of it, is identified as falling within an area of 'countryside' as defined by Local Plan Policy DC1. The report also states that the two houses immediately to the west of the site are also located on 'former countryside' land.

The Landscape and Visual Appraisal report purports that a measured expansion into a very small part of the 'countryside', as is applied for, would not in any way prejudice the overall purpose or integrity of the policy, primarily on account of the site's direct relationship with the eastern built up fringes of Seton Mains where built form frames the site to the north, west and southwest.

The report notes that the eastern fringe of Seton Mains is devoid of any strong features such as rivers, tree belts or roads, and that in the vicinity of the application site the eastern settlement limit is completely open with no landscape features whatsoever. The report goes on to suggest that the application presents the Council with the opportunity to provide a long term defensible boundary by the consolidation of the 'green edge' to the east of the built up area of Seton Mains with the implementation of native species based tree and shrub planting, particularly along the east and south boundaries of the site, which would in time be seen to strengthen and reinforce the urban-rural interface at this location thereby forming a long term defensible boundary for Seton Mains.

The report further explains that there is no existing vegetation on the application site other than unmaintained grass. Therefore, the proposed garden ground would not result in the loss of any landscape features, other than the small area of rough grassland, and the limited loss of such a small area of unmaintained grassland would have a very minor impact on the physical structure of the landscape where an abundance of grassland frames the immediate context to the north and south of the site with large arable fields forming the wider context to the east. The report further states that as the proposed use of the land is as garden ground and not for new built form, new planting forms an integral part of the development strategy for the site and that new garden trees would be planted along the boundaries of the individual garden plots, which would, once established, complement and augment the existing landscape resource. The report purports that this new planting, along with further ornamental planting, would maintain and enhance the quality of the wider landscape to the benefit of the setting of Seton Mains.

The report notes that the landscape of the site would change from unmanaged grassland to structured and enclosed well-defined garden grounds, but that due to extensive mature tree cover to the north of the village and the built form of Seton Mains, including existing garden ground to the west of the site, combined with the local surrounding landform, including existing hedgerows, the site would not be readily visible and the proposed extension to garden curtilages would reflect the existing character of Seton Mains, would have no impact on the character and quality of the Area of Great Landscape Value some 370 metres away to the north, and would create an attractive green edge to the eastern fringe of Seton Mains.

Thus, the Landscape and Visual Appraisal report concludes that the impact on the landscape resource is negligible and in the medium to long term beneficial and the effects on the landscape resource are assessed to be not significant.

In the Planning Statement it is stated that, together with the Landscape and Visual Appraisal report, the Statement seeks to demonstrate how the proposals comply with policy and do not undermine the aims and objection of the Development Plan. It is further stated that the current application (Ref. 17/00528/P) seeks to take on board comments made by the Council's Landscape Officer and Local Councillors to refused application 16/00058/P and as such has minimised the area of land the subject of the application.

The Statement explains that the land of the site is currently unmaintained grassland and has most recently been used as construction lay-down and working area for the development of the two residential properties at Rose Bank. The Statement acknowledges that the land of the site is identified as lying within the 'countryside' and thus is defined by Policy DC1 of the adopted East Lothian Local Plan 2008. The Statement goes on to explain that a full description of the site context and its relationship with the surrounding landscape is presented in the Landscape and Visual Appraisal report. The Statement goes on to set out the planning history for the two houses to the west of the application site and in association with which the proposed garden ground would be used.

The Statement explains that, following comments made by the Local Review Body to refused application 16/00058/P, the size of the area of land the subject of the proposed change of use has been significantly reduced.

The Statement further explains that the proposed change of use of the land to use as domestic garden ground would allow the land to be returned to active and beneficial use. It explains that although the land is designated as 'countryside' land it has not been actively managed or utilised for agriculture or horticulture for over 15 years, is within private ownership and that due to its boundary fencing public access is restricted. It is further stated that the proposals could incorporate an element of landscape tree and shrub planting, providing a long term defensible boundary in this location through the consolidation of the 'green edge' to the built up area of Seton Mains.

The Statement sets out the planning policy framework within which the application should be determined.

As with the Landscape and Visual Appraisal report, the Statement suggests that, due to the tree and shrub planting incorporated in the proposals, the application presents the Council with the opportunity to provide a long term defensible boundary by the consolidation of the 'green edge' to the east of the built up area of Seton Mains, and that through the implementation of native species based tree and shrub planting, particularly along the east and south boundaries of the site the proposals would in time be seen to strengthen and reinforce the urban-rural interface at this location thereby forming a long term defensible boundary for Seton Mains. The Planning Statement also purports that the reduced area of land the subject of the proposed change of use takes on board comments made by one Councillor at the Local Review Body meeting of September 2016.

The Statement purports that the proposed change of use of the land to use as domestic garden ground would be small in scale and would not prejudice any well-defined settlement boundary or landscaped edge as none is present and that therefore it is not contrary to Local Plan Policy DC1. Furthermore, the proposals would not result in the loss of prime agricultural land and would be likely to result in a beneficial impact on the landscape of the area through the proposed planting. The Statement further states that Scottish Planning Policy (SPP) advocates

the use of strong visual landscape features to be used to provide long-term boundaries to settlements and the proposals would provide the opportunity to provide a long term defensible boundary as advocated by SPP.

The Planning Statement goes on to set out a relevant policy of the emerging proposed East Lothian Local Development Plan 2016, which is identified as being proposed Policy DC8 (Countryside Around Towns), and the Statement comments that if consented the proposals would have a positive impact in support of the 'Countryside Around Towns' designation should this be an outcome of the proposed East Lothian Local Development Plan 2016.

The Statement goes on to rebut the second reason for refusal of planning application 14/00494/P stating that each application for planning permission should be determined on its own merits against the provisions of the development plan and other material considerations, and that the granting of a planning permission should not establish a precedent for the granting of other similar applications.

The East Lothian Local Plan 2008 is the current adopted Local Plan for the East Lothian area. The emerging proposed Local Development Plan 2016 was published for consultation in 2016 and is presently at examination stage with the Scottish Government and thus carries limited weight. The adopted East Lothian Local Plan 2008 remains the primary local development plan at this time and therefore the policies of the adopted East Lothian Local Plan 2008 retain their primacy.

Contrary to that which is stated in the Landscape and Visual Appraisal report submitted with the application, the two houses the subject of planning permissions 05/00156/FUL and 07/00332/FUL, which are now known as 1 and 2 Rose Bank, are not built on former agricultural land but rather in the adopted East Lothian Local Plan 2008 and the previous East Lothian Local Plan 2000 the land on which these two houses are approved to be built forms part of the settlement envelope of Seton Mains as defined by Policy ENV1 of each respective Local Plan.

Also contrary to that which is stated in section 3.3 of the Landscape and Visual Appraisal report submitted with the application, the application site is not directly bounded to the north by the built up fringes of Seton Mains. Rather, directly to the north of the application site, and as stated earlier in the Landscape and Visual Appraisal report (in the first instance in section 2.4), there is a small, unmanaged grass paddock.

Contrary to that which is stated in section 2.1 of the Planning Statement submitted with the application, following a site visit carried out by the Planning Officer, it appears that the land of the northern half of the application site, immediately to the east of the northern most of the two houses ('House 2') of planning permission 07/00332/FUL, which is now known as 1 Rose Bank, is being used as domestic garden ground in association with that house, rather than currently being used as unmaintained grassland as is stated in the Planning Statement.

At the time of the grant of planning permission 05/00156/FUL and 07/00332/FUL for the erection of the two houses now known as 1 and 2 Rose Bank, the area of land the subject of the proposed change of use from agricultural land to domestic garden ground was shown to be out-with the application site for each of those planning permissions. For planning permission 05/00156/FUL the land was shown to be within the ownership of the applicant and the application drawings showed an intention to plant shrubs and bushes on the land.

The settlement of Seton Mains has characteristically a tightly constraining spatial relationship between the outward edges of the settlement layout and the agricultural land beyond to the north and east of it. It is a compact settlement and the countryside and landscape surrounding it are an important part of its character, with open agricultural land abutting it tightly on its east and northeast sides, the woodland of Seton Dean on its northwest side and what was agricultural land but is now golf course on its west side. In addition, its' set back from the classified A198 is also an important part of the character of the landscape surrounding the settlement. The boundaries of Local Plan Policy ENV1, which effectively designates the limits of the village envelope, are tightly drawn around the settlement to ensure that its visual appearance when viewed from public places remains that of a rural former farming settlement.

In 2007, a previous planning application (Ref. 07/00033/FUL) for the change of use of agricultural land to form domestic garden ground to the north of the residential property of Stepping Stones on the northwest side of Seton Mains and for the formation of a new access driveway across that new area of garden ground was submitted to the Council as Planning Authority. Amongst other material considerations, due to its size and positioning out-with the ENV1 settlement envelope, the change of use of the area of land to domestic garden ground was considered to be contrary to Policy DC1 of the then adopted East Lothian Local Plan 2000. The reasons for this being that the village envelope of Seton Mains is tightly drawn around the settlement to ensure that its visual appearance when viewed from public places remains that of a rural former farming settlement. It was also considered at that time that although there was no well-defined settlement boundary or landscaped edges to take into account at the location, the area of the change of use was not small in scale in terms of the house and its plot and that in relation to Part 5 of the Policy DC1, the proposed change of use would not integrate into its landscape by virtue of the fact that it would be seen from the public road and particularly if affected in future by garden paraphernalia would adversely affect the setting of Seton Mains. The applicant's agent was advised that the proposed change of use would be unlikely to be supported and subsequently the application was withdrawn by the applicant's agent.

Although the area of land now proposed for the change of use to domestic garden ground is of a reduced size compared to that which was the subject of refused planning application 16/00058/P, the proposed garden ground extension the subject of the current application would nonetheless still be an encroachment of the residential use beyond the confines of the approved gardens of the two houses known as 1 and 2 Rose Bank as approved by the grants of planning permission 05/00156/FUL and 07/00332/FUL. Such encroachment of domestic garden use is visible from public vantage points along the A198 classified public road to the south of Seton Mains. It is particularly evident when viewed in relation to the established hedge and fence that enclose the east boundaries of the curtilages of Nos. 1, 2, 3 and 4 The Paddock to the north of the application site, and the other established boundaries on the eastern edge of the village. These boundary enclosures along the eastern edge of Seton Mains to the north of the application site are intermittent and do not form a well-defined landscaped edge. Notwithstanding this the property boundaries along the eastern edge of Seton Mains do not constitute a well-defined landscaped edge, part of the character of the settlement of Seton Mains is that the village envelope is tightly drawn around the settlement to ensure that its visual appearance when viewed from public places remains that of a rural former farming settlement. In this, garden boundaries where they relate to the outside edges of the settlement are generally tightly drawn to the built form.

Thus, although there is no well-defined settlement boundary or landscaped edge to take into account along the eastern edge of Seton Mains in the vicinity of the application site, the area of land of the proposed change of use is still not small in scale in terms of the two houses and their plots, and the proposed use of the land as garden ground would have a detrimental impact on the integrity of the open agricultural landscape setting of the settlement and would form an incongruous extension of the layout of the settlement into that landscape setting on the eastern side of the village. Thus, in relation to Parts 2(f) and 5 of the Local Plan Policy DC1, the proposed change of use would not integrate into its landscape by virtue of the fact that it would be seen from the public road and particularly if affected in future by garden paraphernalia would adversely affect the setting of Seton Mains.

It is noted that both the Planning Statement refers to one of the Councillors on the Local Review Body of September 2016 having commented that the change of use of a smaller area of land to domestic garden ground may have been viewed more favourably. However, it should be noted that the majority opinion of the Local Review Body was that application 16/00058/P be refused for the reasons given that the effect of the change of use of the agricultural land to residential garden ground would be a prejudicial encroachment of the current settlement boundary into the countryside that serves as the defined edge and setting of Seton Mains, in a manner harmful to the landscape character and visual amenity of the landscape to the east of Seton Mains.

Furthermore, although the applicant has enclosed the larger area of land that he owns, of which the application site is a part, in a formal and urban manner with 1.8 metres high close boarded fencing that in itself is not sufficient reason to allow for the change of use of the land of the application site to use as domestic garden ground.

It is also noted that both the Planning Statement and the Landscape and Visual Appraisal report refer to proposals for landscape planting to be carried out on the land of the application site, including along the individual plot boundaries, however it is also noted that such landscape planting is not mentioned or detailed on the application drawings.

It is acknowledged that the proposed landscape planting of the area of land the subject of the application, if undertaken as dense, high quality landscaping to create an appropriate landscaped edge to the village rather than as garden ground, would be likely to be beneficial to the landscape setting of the houses of 1 and 2 Rose Bank and the east side of Seton Mains, and indeed the majority of the area of land was identified to be landscaped through planning permission 05/00156/FUL. Such a new landscaped edge would be anticipated to be similar in nature to the Seton Dean on the northwest side of Seton mains, rather than for use as garden ground.

If the applicant is genuinely seeking to create an appropriate landscaped edge to the eastern side of the village, such landscape planting could be carried out on the land of the application site, and the other land which he owns to the east of the application site, without the need for the land to be changed in use to domestic garden ground. Rather such landscape planting would not in itself require planning permission to be carried out on agricultural land.

Notwithstanding that such landscape planting to form an appropriate landscaped edge to this part of the eastern edge of Seton Mains would be likely to be beneficial to the landscape setting of the houses of 1 and 2 Rose Bank and the east side of Seton Mains and could be secured through a condition attached to a grant of planning permission, this material consideration is

not sufficient to outweigh the principle consideration that the proposed extension of domestic garden ground into the countryside abutting the settlement of Seton Mains would erode the integrity of the historic relationship that has existed between the edge of the settlement and its setting. The compact nature of the built form of Seton Mains and its relationship with the surrounding rural landscape is an important characteristic of the setting of the village. Although smaller in size than that previously proposed the form and use of the strip of land as domestic garden ground would be an intrusive and incongruous encroachment beyond the well-defined edge of the settlement and as such would have a harmful effect on the character and visual amenity of the landscape to the east of Seton Mains. As an outward expansion of the village it is not supported by Policy DC1 of the adopted East Lothian Local Plan 2008. There are no special circumstances that would give justification for such expansion of Seton Mains onto land that is not identified for residential use and built development. Accordingly, the proposed change of use of the land conflicts with the provisions of Policy DC1 of the adopted East Lothian Local Plan 2008.

To grant planning permission for the change of use would establish a precedent whereby it would be difficult for the Council, as Planning Authority, to refuse to grant planning permission for other encroachment of Seton Mains into the countryside that conflicts with the Council's planning policies for the control of development in the countryside.

There are a variety of stone and rendered boundary walls within the core of the built form of the settlement of Seton Mains however, the existing boundary enclosures of the properties of the edges of the settlement are primarily low timber fencing, timber post and wire fencing, and hedgerows with trees.

In this context, the proposed timber post and wire fencing that would be erected along the east boundary of the site, by virtue of its low height, permeable form, finish and its positioning, would in itself not be harmful to the rural character of the area and would be similar to other such timber post and wire fencing of rural field boundaries in the locality. Accordingly, the proposed fencing does not conflict with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) and Policies DC1 (Part 5) and DP2 of the adopted East Lothian Local Plan 2008.

However, the 2.0 metres high rubble stone wall that has been erected along the dividing boundary between the gardens of the two houses of 1 and 2 Rose Bank and which extends from the eastern approved edge of those gardens to the east boundary of the land in the ownership of the applicant appears as an incongruous and dominant means of boundary enclosure that is inappropriate for its place and out of keeping with the character of the boundary enclosures of the properties of the edges of the settlement of Seton Mains. By virtue of its height, form and finish, the length of stone wall is an intrusive addition to the landscape of the eastern side of Seton Mains and is out of keeping with and harmful to the landscape character of the area. Accordingly, the stone wall as erected on the site is contrary to Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) and Policies DC1 (Part 5) and DP2 of the adopted East Lothian Local Plan 2008.

Notwithstanding that the proposed fencing is considered to not conflict with Policies DC1 (Part 5) and DP2 of the adopted East Lothian Local Plan 2008, this material consideration is not sufficient to outweigh the consideration that the wider change of use of the land to domestic garden ground is an intrusive and incongruous encroachment beyond the well-defined edge of the settlement and as such has a harmful affect on the character and visual amenity of the

landscape to the east of Seton Mains, contrary to Policy DC1 of the adopted East Lothian Local Plan 2008.

As unauthorised and unacceptable development, the change of use of the agricultural land to domestic garden ground at the house of 1 Rose Bank, and the stone wall that has been erected along the dividing boundary between the gardens of the two houses and which extends from the eastern approved edge of those gardens to the east boundary of the land in the ownership of the applicant are a breach of planning control. If the land is not restored to its former use and the stone wall is not removed from the application site and fencing erected along the east boundary of the two house plots in accordance with the grant of planning permission 07/00332/FUL within three months of the date of the decision notice for this application, enforcement action will be taken. This would be to secure the cessation of the unauthorised use and the removal of the unauthorised stone wall, and the erection of the fencing along the east boundary of the two house plots as approved by the grant of planning permission 07/00332/FUL, with the period for compliance with the enforcement notice being one month.

Although the application site is within an area defined by The Coal Authority as being potentially at risk from past coal mining related activity the proposed development for which planning permission is sought does not entail significant ground works and thus there is no requirement to consult The Coal Authority.

REASONS FOR REFUSAL:

- 1 The effect of the change of use of the agricultural land to residential garden ground would be a prejudicial encroachment of the well-defined settlement boundary that is an intrusive and incongruous encroachment of the residential use of Seton Mains into the countryside that serves as the defined edge and setting of Seton Mains, in a manner harmful to the landscape character and visual amenity of the landscape to the east of Seton Mains. There are no special circumstances that would give justification for such expansion of Seton Mains onto land that is not identified for residential use and development. Accordingly the proposal is not consistent with Policy DC1 of the adopted East Lothian Local Plan 2008.
- 2 To grant planning permission for the change of use would establish a precedent whereby it would be difficult for the Council, as Planning Authority, to refuse to grant planning permission for other encroachment of the settlement of Seton Mains into the countryside that conflicts with the Council's planning policies for the control of development in the countryside.
- 3 By virtue of its positioning, height, form and finish the 2.0 metres high rubble stone wall that has been erected along the dividing boundary between the gardens of the two houses of 1 and 2 Rose Bank and which extends from the eastern approved edge of those gardens to the east boundary of the land in the ownership of the applicant is an

intrusive addition to the landscape of the eastern edge of Seton Mains that is out of keeping with and harmful to the landscape character of the area, and contrary to Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) and Policies DC1 (Part 5) and DP2 of the adopted East Lothian Local Plan 2008.

LETTERS FROM

12th October 2017

Sheila
12/10/17

2017

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

PLANNING STATEMENT

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

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



**ON BEHALF OF
ALTAF MOHAMMED**

JUNE 2017

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1 Introduction

Purpose of the Planning Statement

- 1.1 The purpose of this Planning Statement is to assist East Lothian Council (ELC) in its assessment and determination of the change of use application by Mr Altaf Mohammed (hereafter referred to as “the applicant”). The applicant is proposing plans for the extension of the curtilage of 1 and 2 Rose Bank located on the eastern fringe of Seton Mains, East Lothian.
- 1.2 It is acknowledged that a previous application for the change of use of agricultural land to domestic garden ground at 1 and 2 Rose Bank (Ref 16/00058/P) was refused. However, this new application takes on board comments made by the Council's landscape officer and local Councillors and minimises the area being applied for.
- 1.3 This new application is supported by an independent Landscape and Visual Appraisal and Planning Statement, both of which clearly demonstrate how the proposals comply with policy and do not undermine the aims and objectives of the Development Plan.
- 1.4 This Planning Statement summarises the relationship between the proposals and policy, covering development planning issues as well as other key material considerations of relevance to the application. Evidence provided within this document presents a compelling case for the development.
- 1.5 This Planning Statement has been produced by RFA Development Planning with inputs from other specialist professionals:
 - Rick Finc Associates – Development and Planning; and
 - VLM Landscape Design – Landscape Appraisal.
- 1.6 This Planning Statement should be read in conjunction with other submitted documentation including the plans and the Landscape and Visual Appraisal.
- 1.7 The application before ELC meets the requirements for a ‘local’ application in terms of the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009, and constitutes a planning application for full planning permission.

1.8 Information and evidence provided in this Planning Statement covers the key policy and planning considerations relevant to this case, including the Proposed Local Development Plan 2016.

Structure of the Planning Statement

1.9 The Planning Statement is structured as follows.

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

2 The Site and Surrounding Area

Site Location and Characteristics

- 2.1 The site is located on the eastern edge of Seton Mains, Longniddry, EH32 0PG. The application boundary sits within an area of land already owned by the applicant (area edged in blue on accompanying Location Plan). The site within the red-line (see Figure 2.1) measures approximately 0.14 hectares.
- 2.2 The A198 lies 150 metres to the south of the application site.
- 2.3 The extant East Lothian Local Plan (2008) identifies these areas of grassland/paddock as lying within a 'Countryside' designation (Policy DC1). The land is therefore considered, in policy terms, as being designated for agricultural use.

Figure 2.1: Site Boundary



Site Context

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

Planning History

- 2.9 There are numerous planning applications associated with the application site and in the immediate context. A review of East Lothian Council's Planning Portal identifies the following planning history.
- Erection of 2 houses and 2 double garages Ref. No: 05/00156/FUL | Status: Grant Permission
 - Erection of 2 houses with integral garages and associated works Ref. No: 07/00332/FUL | Status: Application Granted
 - Changes to the design of the house on plot 2 as changes to the scheme of development which is the subject of planning permission 07/00332/FUL Ref. No: 12/00610/P | Status: Grant Permission
 - Alterations and extension to the house on plot 2 as changes to the scheme of development the subject of planning permission 07/00332/FUL Ref. No: 13/00027/P | Status: Grant Permission
 - Design changes and additions to the house on plot 2 as changes to the scheme of development the subject of planning permission 07/00332/FUL Ref. No: 13/00918/P
 - Alterations to the house on plot 2 as changes to the scheme of development the subject of Planning Permission 07/00332/FUL Ref. No: 14/00231/P | Status: Grant Permission
 - Design changes regarding height and other alterations of the two houses subject of planning permission 07/00332/FUL Ref. No: 10/00034/P | Status: Grant Permission

- Change of use of agricultural land to domestic garden ground, formation of hardstanding area and fountain (Retrospective) Ref. No: 14/00494/P | Status: Application Refused
- Design changes to the house on plot 1 and boundary changes to plot 1 and plot 2 as changes to the scheme of development subject of planning permission 07/00332/FUL Ref. No: 13/00918/P | Status: Grant Permission
- Change of use of agricultural land to domestic garden ground, formation of hardstanding area and fountain at Plot 2 Ref No: 14/00494/P | Status: Application Refused
- Change of use of agricultural land to domestic garden ground 1 And 2 Rose Bank Seton Mains Longniddry EH32 0PG Ref. No: 16/00058/P | Status: Application Refused

3 Proposed Development

The Proposals

- 3.1 The application relates to the change of use of an area of land measuring approximately 0.14 hectares to additional domestic garden ground at 1 and 2 Rose Bank, Seton Mains. The extended garden ground will become the property and responsibility of respective home owners (1 and 2 Rose Bank) and will be incorporated into the Title Deeds.
- 3.2 It is important to note that the application is seeking to extend the garden curtilages to these approved dwellings, and not for any additional built form.
- 3.3 It is also important to note that this current application is materially different to a previously refused application 16/00058/P. The red-line area is significantly smaller and has been reduced in size following comments made by Councillors who considered the previous application at Local Review Board (See Section 3.6 below).
- 3.4 The change of use will allow the land to be returned to an active and beneficial use. Although currently designated as 'Countryside' and identified for agricultural use the site has not been actively managed or utilised for agriculture or horticulture for over 15 years. The site is also within private ownership and public access to it is restricted.
- 3.5 The proposals could incorporate an element of tree and shrub planting, providing a long term defensible boundary in this location through the consolidation of the 'green' edge to the built up area of Seton Mains. Through the implementation of native species based tree and shrub planting, particularly along the eastern and southern boundaries on the application site, the proposals could, in time, be seen to strengthen and reinforce the urban-rural interface at this location, thereby forming a long term defensible boundary for Seton Mains.

Councillor and Officer Comments on Previous Application

- 3.6 The previously refused application was for the grounds of 1 and 2 Rosebank, with the change of use of countryside to domestic garden and covered an area of 0.25 hectares. Although similar in purpose, the extent of this new application is materially different and covers an area of only 0.14 ha.
- 3.7 The Council Landscape Officer considered that extending the garden ground of the houses in the way proposed "*would be beneficial to the creation of an improved landscape setting*". There were no other consultation responses provided and there were no public objections or representations to the application.

- 3.8 Councillor Goodfellow stated that the previous application would have been more favourable had the change of use to domestic garden been for a smaller 3 to 5 meter strip, rather than the entire plot within the homeowner's ownership.
- 3.9 Councillor Barry considered the case to be usual in that the current settlement boundary was not particularly clear in this location.
- 3.10 Councillor Hampshire held the view, similar to that of the Landscape Officer, that the previous application offered an opportunity to strengthen the settlement boundary in this location.
- 3.11 The applicant has taken these comments and views on board and this new application reflects these opinions.

4 Planning Appraisal and Material Considerations

Introduction

- 4.1 The purpose of this section is to establish the planning and environmental policy framework within which East Lothian Council, as the Planning Authority, can consider the proposed development. To assist in its determination this section also appraises the application against relevant policies and guidance and presents a logical case for the proposals.
- 4.2 In addition to the Development Plan, documents reviewed in this section include national planning policy guidance contained in Scottish Planning Policy (SPP). There is no specific statutory or non-statutory planning guidance for East Lothian which is relevant to the application. There is no specific Planning Advice Notes that are relevant to the determination of the application.

The Development Plan

- 4.3 Section 25 of the Town and Country Planning Scotland Act 1997 (as amended), specifies that that determination of planning applications *'shall be made in accordance with the Development Plan unless material considerations indicate otherwise'*. It is supplemented by Section 37(2) which states that *'In dealing with an application the planning authority shall have regard to the provisions of the Development Plan as far as material to the application and any other material considerations'*.
- 4.4 The Development Plan covering the site comprises of South East Scotland Strategic Development Plan¹ (SDP), and the adopted East Lothian Local Plan² (ELLP) 2008. The latter is in the process of being replaced by the Proposed East Lothian Local Development Plan 2016, but this can be given limited weight at this stage due to it still being subject to consultation and Examination.

SESplan - Strategic Development Plan (SDP)

- 4.5 The SDP was approved by Scottish Ministers in June 2013 subject to the provision of Supplementary Planning Guidance on Housing Land which was published in 2014. It contains a Vision for the Capital City Region; a Spatial Strategy; and a Framework for Delivery.
- 4.6 One of its main aims, and the one which is most relevant to this application, relates to the conservation and enhancement of the natural and built environment. Policy 1B provides Spatial

¹ *Strategic Development Plan*, The Strategic Development Planning Authority for Edinburgh and South East Scotland (SESplan), June 2013, awaiting to be quashed by the Proposed SESPlan 2016,

² *The East Lothian Local Plan 2008 – Written Statement and Plan*, East Lothian Council, October 2008

Strategy Development Principles and one of its five objectives is to *'improve the quality of life in local communities to create more healthy and attractive places to live'*.

4.7 Clearly, the proposals in question will benefit the residents of 1 and 2 Rose Bank and provide the properties with more useable outdoor space within which residents can more fully enjoy life in the village setting. The proposals will not be detrimental to the amenity or living conditions of any other nearby neighbour. The proposals therefore comply with and implement Policy 1B of the SDP.

4.8 Policy 13 of the SDP relates to 'Other Countryside Designations' which fulfil similar functions to Green Belts. The policy states:

"Local Development Plans should review and justify additions or deletions to other countryside designations fulfilling a similar function to those of the Green Belt as appropriate."

4.9 The ELLP (2008) does not designate the area to the east of Seton Mains as Green Belt, or as any other similarly functioning designation. However, the emerging LDP does propose that the land surrounding Seton Mains be designated as 'Countryside Around Towns'. This potential designation acknowledges that this area within East Lothian is under development pressure and that it should satisfy a function similar to that of a Green Belt. This is discussed further in Section 4.25 below.

4.10 In this regard the proposals should be seen as beneficial, in that they will bring a more secluded and attractive character to the eastern edge of Seton Mains and, in turn, help to form a more appropriate interface between 'town' and 'country'. The garden use and its associated tree and shrub planting will provide a far more defensible, defined and robust boundary between development and countryside in this pressured location. This strong boundary will help enforce the objectives of certain Countryside Designations (such as Countryside Around Towns) and help implement Policy 13 of the SDP.

4.11 Therefore, the proposals are neither contrary to policy or undermine any policy objectives of the SDP.

East Lothian Local Plan (2008)

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

Policy DC1 Development in the Countryside and Undeveloped Coast

4.13 The most relevant ELLP policy on which the application should be determined is Policy DC1.

Policy DC1 Development in the Countryside and Undeveloped Coast states:

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

4.14 The policy text continues...

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

2 - Change of Use/Restoration of a Building

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

4.15 Policy DC1 Part 5 states that in all cases:

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

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

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

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

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

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

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

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

[Policy DC1 Part 2\(f\) – Well defined settlement boundary](#)

4.17 The change of use from Countryside to garden ground is therefore supported in principle by ELC, provided it meets certain tests. At approximately 0.25 hectares in area the application

Site, in development terms, is small scale. The key test, therefore, is whether the change of use will undermine or prejudice any established and well-defined edge or boundary.

- 4.18 As reported within the Landscape and Visual Appraisal there are indeed a number of defining landscape features within the area, but the eastern edge of Seton Mains is not one of them. The settlement boundary (ie the line illustrated within the Local Plan) in this location is not defined by any strong landscape or visual features (as advocated by SPP). The eastern fringes of Seton Mains is devoid of any strong features such as '*rivers, tree belts, railways or main roads*'; and the eastern settlement limit in the vicinity of the application site is completely open with no defining landscape features what so ever.
- 4.19 It is the case that the proposals are located immediately outside/adjacent to the settlement boundary, as illustrated by a line within the ELLP, but this is not well-defined in landscape terms and therefore the proposals do not undermine the spirit of this particular policy. The proposals do not therefore prejudice a well-defined settlement boundary or landscaped edge in this location, as there are none present.
- 4.20 Any alteration to the settlement boundary, as illustrated within the ELLP, as a result of granting consent will be minimal.
- 4.21 The application presents East Lothian Council with the opportunity to provide a long term defensible, defined and strong boundary (as advocated by SPP) in this area with the proposals seeking to consolidate the 'green' edge to the built up area of Seton Mains. This is particularly the case should the proposed Countryside Around Towns designation be adopted in this location, which would need to meet similar attributes as Green Belts (as per policy and guidance in SPP).

[Policy DC1 Part 5](#)

- 4.22 The accompanying Landscape and Visual Appraisal clearly demonstrates how the proposals would comply with DC1 Part 5 and not have a detrimental impact on the landscape resource or character. Indeed, there is predicted to be a beneficial impact on the landscape resource in the medium to longer term as a result of the proposals.
- 4.23 Given the small scale of the development there will be no significant impact relating to the loss of prime agricultural land (DC1 Part 5d). As indicated in previous sections, the Site is in private ownership and has not been actively farmed for many years.

Emerging Local Development Plan

- 4.24 Although the Proposed LDP identifies the land around Seton Mains being designated as 'Countryside Around Towns'. The weight given to this policy implication in the determination of this application is therefore minimal. However, it is considered that the consenting of this

application will have a positive impact in support of the CAT designation, should it be designated in the future.

Policy DC8: Countryside Around Towns

4.25 The proposed policy is drafted within the LDP as follows.

“Policy DC8: Countryside Around Towns -

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

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

4.26 The CAT designation is to ensure that development in these locations would not lead to the coalescence of settlements, undermine their character and setting, compromise cultural heritage assets, including battlefields, and / or lead to the loss of the best quality prime agricultural land.

4.27 It has been demonstrated above in Sections 4.23 and 4.24 that the proposals would not undermine the objectives of this proposed CAT designation.

Scottish Planning Policy

4.28 Scottish Planning Policy (SPP), June 2014 has at its core the two fundamental principles of Sustainability and Placemaking. Indeed SPP now provides a clear ‘presumption in favour of development that contributes to sustainable development’.

4.29 Although primarily relating to green belt boundaries, paragraph 162 of the SPP should also apply to both CAT and Countryside boundaries, where the SPP states that *‘inner boundaries should not be drawn too tightly around the urban edge, but where appropriate should create an area suitable for planned development between the existing settlement edge’* and the countryside boundary.

4.30 The SPP advocates the use of strong visual physical landscape features to be used to provide long term boundaries to settlements. Whilst the eastern fringes of Seton Mains is devoid of any strong features such as *‘rivers, tree belts, railways or main roads’*, currently the eastern settlement limit in the vicinity of the application site is completely open with no landscape features what so ever.

4.31 The application presents East Lothian Council with the opportunity to provide a long term

defensible boundary as advocated by the SPP with the proposals seeking to consolidate the 'green' edge to the built up area of Seton Mains and with the implementation of native species based tree and shrub planting, particularly along the eastern and southern boundaries, the proposals will, in time, be seen to strengthen and reinforce the urban-rural interface at this location, thereby forming a long term defensible boundary for Seton Mains.

5 Conclusions

Introduction

- 5.1 This Planning Statement has considered the policy framework within which the proposal, to change the use of an area of land measuring approximately 0.14 hectares from countryside to domestic garden ground, should be determined.
- 5.2 It has also taken into account the independent Landscape and Visual Appraisal. That appraisal has been undertaken in line with guidance contained in Guidelines for Landscape and Visual Impact Assessment, published by the Institute of Environmental Management and Assessment in association with The Landscape Institute (3rd Edition). The Appraisal was undertaken by Victoria Mack of VLM Landscape Design Limited, a chartered landscape architect with over 15-years professional experience.
- 5.3 Reference has also been made to the Officer Report (14/00494/P) in which Reasons for Refusal of a similar application were provided. In summary, the two reasons that were cited for refusal were:
- that granting consent would '*establish a precedent*'; and
 - the change of use would be an '*intrusive and incongruous encroachment beyond the well-defined edge of the settlement and as such has a harmful affect on the character and visual amenity of the landscape to the east of Seton Mains*'.
- 5.4 Consideration has also been given to the Landscape Officer's comments and local Councillor's comments on the merits of the previous proposal. This application also addresses Councillor concerns regarding the scale and size of the previous change of use plot.

Rebuttal of Previous Reasons for Refusal

Establishing a Precedent

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

- 5.7 It has been demonstrated that this new application does indeed accord with the provisions of the Development Plan and should be consented on its own merits.

Encroachment and Impact on Countryside

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

Compliance with ELLP Policy

- 5.11 Section 4.17 of this Statement presents the evidence to confirm that the proposals do not prejudice a well-defined settlement boundary or landscaped edge in this location, as there are none present, and therefore do not undermine or contravene Policy DC1 Part 2(f).
- 5.12 Section 4.22 above demonstrates the proposals comply with Policy DC1 Part 5.
- 5.13 On the basis of the above evidence it is respectfully requested that the submitted planning application for 1 and Rose Bank, Seton Mains, be given due consideration for approval by East Lothian Council.

App No. 17/00528/P

**EAST LoTHIAN COUNCIL
DECISION NOTICE**

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
TOWN AND COUNTRY PLANNING
(DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATIONS 2008**

**Mr Altaf Mohammed
c/o Rick Finc Associates Ltd
Per Kieran Shafiq
Melford House
3 Walker Street
Edinburgh
EH3 7JY**

APPLICANT: Mr Altaf Mohammed

With reference to your application registered on 16th August 2017 for planning permission under the above mentioned Acts and Regulations for the following development, viz:-

**Change of use of agricultural land to domestic garden ground, erection of fencing and wall
(Part Retrospective)**

at

**1 And 2 Rose Bank
Seton Mains
Longniddry
EH32 0PG**

East Lothian Council as the Planning Authority in exercise of their powers under the above-mentioned Acts and Regulations hereby **REFUSE PLANNING PERMISSION** for the said development.

The reasons for the Council's refusal of planning permission are:-

- 1 The effect of the change of use of the agricultural land to residential garden ground would be a prejudicial encroachment of the well-defined settlement boundary that is an intrusive and incongruous encroachment of the residential use of Seton Mains into the countryside that serves as the defined edge and setting of Seton Mains, in a manner harmful to the landscape character and visual amenity of the landscape to the east of Seton Mains. There

are no special circumstances that would give justification for such expansion of Seton Mains onto land that is not identified for residential use and development. Accordingly the proposal is not consistent with Policy DC1 of the adopted East Lothian Local Plan 2008.

- 2 To grant planning permission for the change of use would establish a precedent whereby it would be difficult for the Council, as Planning Authority, to refuse to grant planning permission for other encroachment of the settlement of Seton Mains into the countryside that conflicts with the Council's planning policies for the control of development in the countryside.
- 3 By virtue of its positioning, height, form and finish the 2.0 metres high rubble stone wall that has been erected along the dividing boundary between the gardens of the two houses of 1 and 2 Rose Bank and which extends from the eastern approved edge of those gardens to the east boundary of the land in the ownership of the applicant is an intrusive addition to the landscape of the eastern edge of Seton Mains that is out of keeping with and harmful to the landscape character of the area, and contrary to Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) and Policies DC1 (Part 5) and DP2 of the adopted East Lothian Local Plan 2008.

The report on this application is attached to this Decision Notice and its terms shall be deemed to be incorporated in full in this Decision Notice.

Details of the following are given in the application report:

- the terms on which the Planning Authority based this decision;
- details of any variations made to the application in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997.

The plans to which this decision relate are as follows:

<u>Drawing No.</u>	<u>Revision No.</u>	<u>Date Received</u>
DWG1	-	14.06.2017
SK-01	C	16.08.2017
DWG2	-	16.08.2017
DWG3	-	16.08.2017
DWG4	-	16.08.2017

13th October 2017



Iain McFarlane
Service Manager - Planning

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NOTES

If the applicant is aggrieved by the decision to refuse permission for the proposed development, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to the Clerk to the Local Review Body, Committee Team, Communications and Democratic Services, John Muir House, Haddington, East Lothian EH41 3HA.

If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the Planning Authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.



LEGEND

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



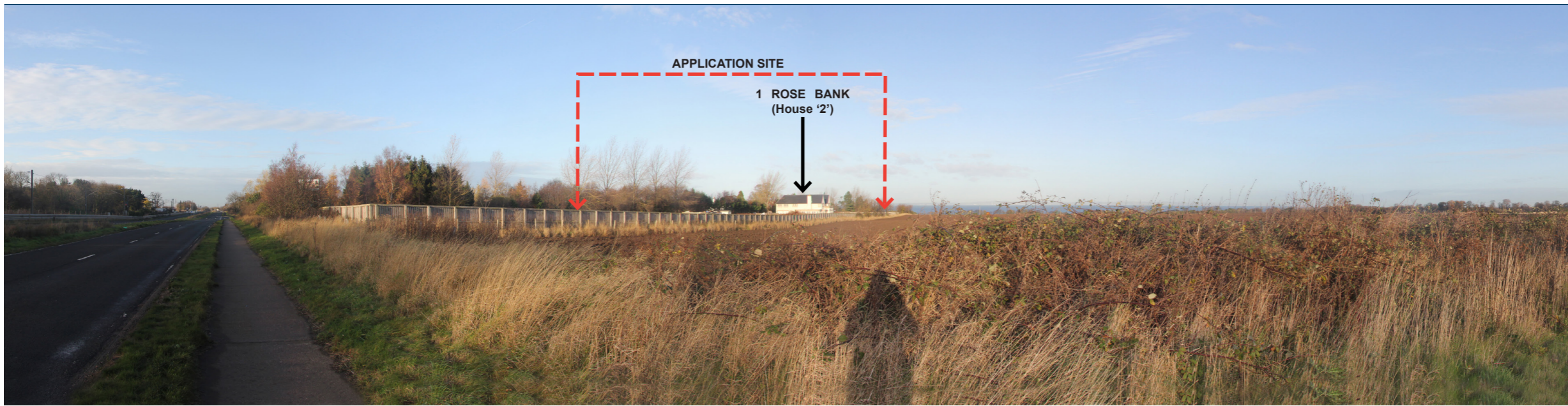
Proposed Extension to the Curtilages of 2no. Dwellings, Seton Mains

figure 3

planning policy & landscape context

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

IMAGE TAKEN FROM GOOGLE EARTH FOR REFERENCE PURPOSES ONLY



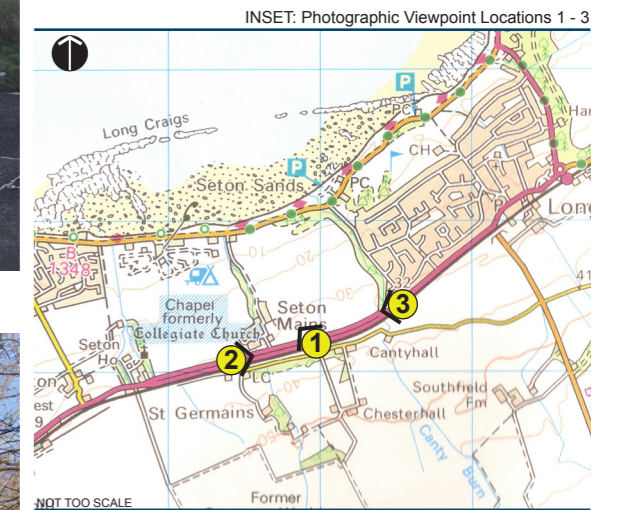
VIEWPOINT 1: Local view looking north-west towards the application site from the footpath adjacent to the A198. The recently constructed dwelling, 1 Rose Bank, is partly visible over the wooden fence which defines the eastern boundary to the application site. The wooded grounds to Seton Mains House provide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



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



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

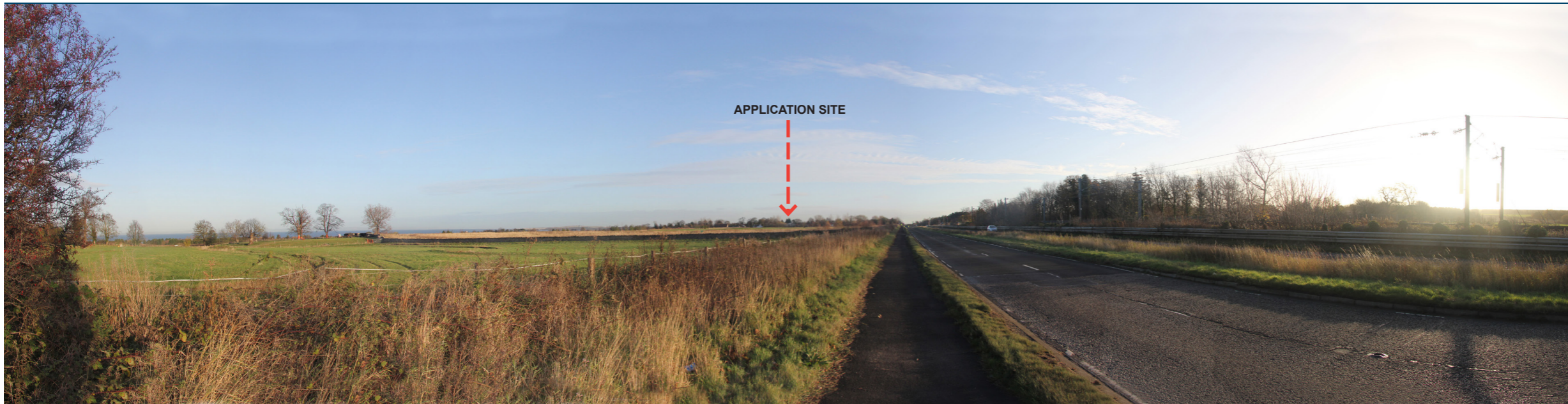


Proposed Extension to the Curtilages of 2no. Dwellings, Seton Mains

figure 1

photographic viewpoints 1-3

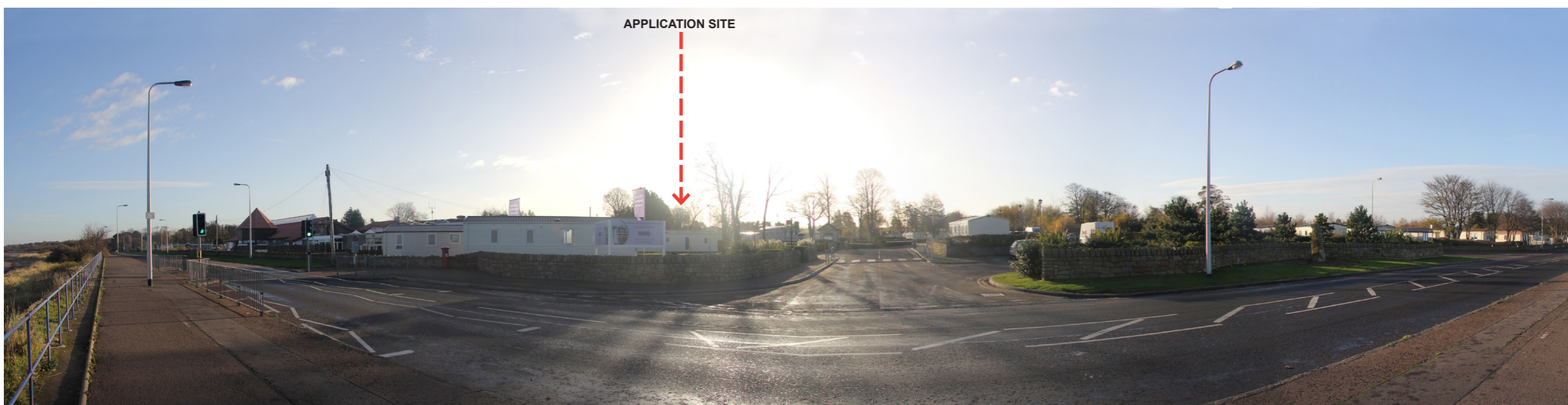
date: december 2015



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

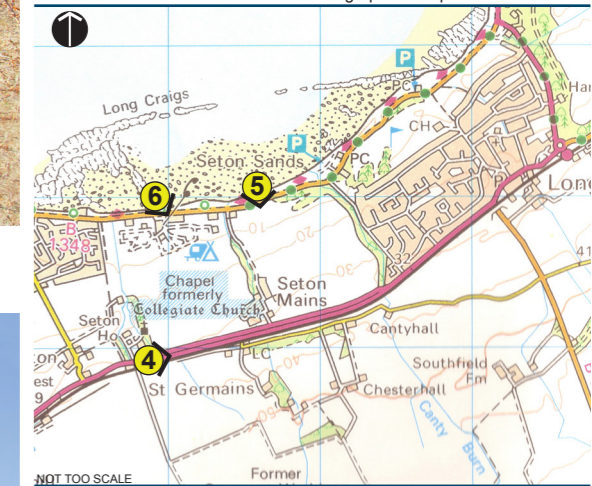


VIEWPOINT 5: Middle distant view looking south across Longniddry Golf Course towards the application site from the coastal Links Road (B1348). This section of the road forms part of the NCR 76 and the John Muir Way coastal path. Structure planting associated with the golf course screens any potential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



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

INSET: Photographic Viewpoint Locations 4 - 6



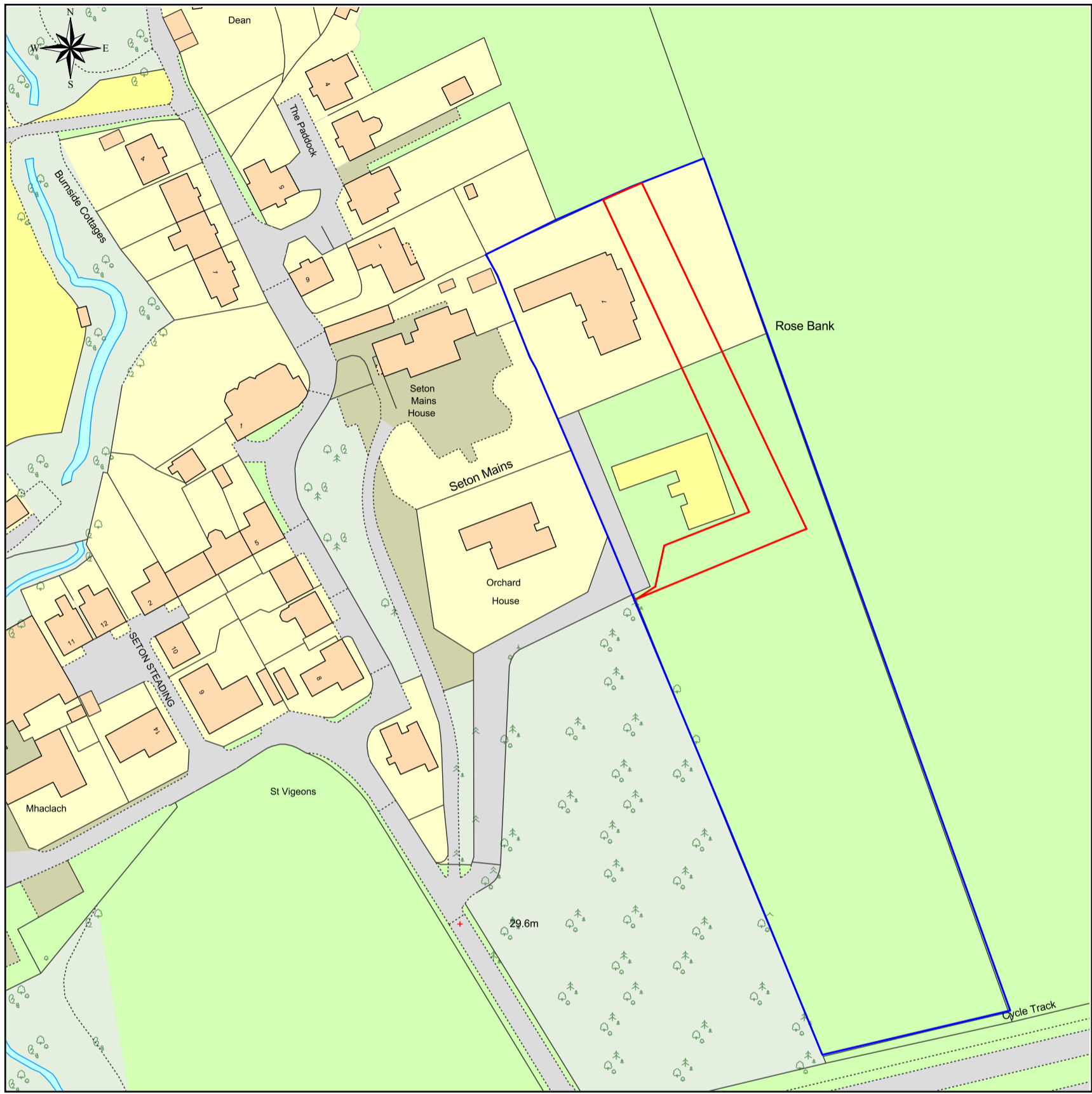
Proposed Extension to the Curtilages of 2no. Dwellings, Seton Mains

figure 2

photographic viewpoints 4-6

date: december 2015

Location Plan



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

Scale: 1:1250, paper size: A3

Change of use application at Seton Mains

