

REPORT TO: Planning Committee

MEETING DATE: Tuesday 5 June 2018

BY: Depute Chief Executive
(Partnerships and Community Services)

SUBJECT: Application for Planning Permission for Consideration

Note - this application was called off the Scheme of Delegation List by Councillor Goodfellow for the following reason: the applicant appears to have given reasonable locational and requirement justification for this application and I feel whether this application is justified should be decided by committee due to its potential economic importance.

Application No. **18/00396/P**

Proposal Erection of storage shed (Class 6)

Location **Land Adjacent To The Harbour
Victoria Road
North Berwick
East Lothian**

Applicant Mr Stirling Stewart

Per Somner Macdonald Architects

RECOMMENDATION Application Refused

PLANNING ASSESSMENT

The application site is situated in the western corner of the dinghy park, which is to the north east of North Berwick Harbour. The site is owned by the North Berwick Harbour Trust Association. The site is within a mixed use area as defined by Policy ENV2 (Town and Village Centres, Other Retail or Mixed Use Areas) of the adopted East Lothian Local Plan 2008. It is also within the North Berwick Conservation Area.

The application site is within an area of hardstanding in the western corner of the dinghy park, below the elevated walkway and to the north east of the harbour wall. Delineated boat parking bays are located next to the site, to the southeast. The shed would be parallel to these spaces. There is an area of open space under the walkway to the north, which was being used as boat storage at the time of the officer site visit. North Berwick harbour on the other side of the wall to the south is listed for its special architectural or historic interest (category B).

Planning permission is sought for the erection of a storage shed (class 6) on the application site. Amended plans have been submitted to show a reduced size of shed and to clarify its proposed position. The proposed shed would be 2.3 metres deep and 3

metres wide. It would have a mono-pitched roof with a highest point of 2.5 metres sloping down to just over 2 metres to the eaves on the rear elevation. It would be clad with vertical timber cladding which would be painted. No colour has been specified in the application. There would be a set of double doors on the front (southern) elevation that would be open out to approximately 1 metre from the shed elevation. The plans shows the shed positioned approximately 1.5 metres from the high-level walkway to the north and 0.5 metres from the harbour wall and elevated walkway to the west. The shed would be positioned approximately one metre from the delineated spaces of the dinghy park.

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 consists of the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Plan 2008.

Policy 1B (The Spatial Strategy: Development Principles) and Policies ENV2 (Town and Village Centres, other Retail or Mixed Use Areas), ENV4 (Development within Conservation Areas) and DP16 (Flooding) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

The Proposed East Lothian Local Development Plan (PELLDP) has been submitted to Scottish Ministers for examination and the Reporters' Examination Report was issued on 14 March 2018. The East Lothian Local Development Plan is to be considered for approval by The Council on 29th May 2018. The LDP reflects the most recent planning view of the Council and is a material consideration in the determination of applications. Policies EMP2 (Operational Harbours), CH1 (Conservation Areas) and NH11 (Flood Risk) are relevant to the determination of the application.

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

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

Scottish Planning Policy is also material in considering the application in relation to areas of flood risk.

1 public representations to the application has been received from East Lothian Yacht Club (ELYC). They object to the application. The main points of the objection are summarised below:

* The site identified is within an area which dinghies and kayaks are parked. Any use of this land for a shed uses space that could be used for a water based sports activity;

- * It is strongly felt that this area should be kept for leisure craft supporting a healthy outdoor lifestyle;
- * Concerns over the increased congestion whilst trying to access dinghies and kayaks;
- * Concerns around what may be stored in the shed; and
- * If the shed is to serve the Lobster Shack, it is a circuitous route from shed to Shack and around the very busy corner at the foot of the steps to Elcho Green.

The Council's Roads Services raise no objection to the proposal, being satisfied that it would not result in a risk to road safety.

There are a number of other small buildings within the harbour and a shed of this scale and form would not appear incongruous. The shed would be viewed against the northern wall of the boat park area and would be visually screened from the Category B listed harbour by the harbour wall. The use of painted timber for the walls of the shed would be in keeping with the coastal character of the area and other similar buildings in the vicinity. Were planning permission to be granted, a condition could be imposed requiring a sample of the colour to be submitted for final approval to ensure that the colour is appropriate for the Conservation Area and does not have a detrimental impact on its character or the visual amenity of the area. Notwithstanding that, by its temporary form and construction, the shed would not be appropriate as a permanent feature. Consequently, were planning permission to be granted, a condition could be imposed to restrict the planning permission to a temporary period of time. Subject to this planning control, the shed would not have a detrimental impact on the character and appearance of the Conservation Area, or on the setting of the nearby listed harbour. On this consideration the proposal is consistent with Policy ENV4 of the adopted East Lothian Local Plan 2008.

The site is within an area at medium to high risk of coastal flooding as shown on SEPA's indicative flood maps. SEPA raises no objection to the proposal. They note that there is evidence of significant flooding of the area in 2010 and 2012 and that such events resulted in container units being washed away and potentially causing damage.

Paragraph 263 of Scottish Planning Policy states that within low to medium flood risk areas some development, such as some recreation and sport facilities, essential infrastructure and development in built up areas where there is flood protection measures in place may be suitable. It is stated that such areas are generally not suitable for 'additional development in undeveloped and sparsely developed areas, unless a location is essential for operational reasons, e.g. for navigation and water-based recreation, agriculture, transport or utilities infrastructure...and an alternative, lower risk location is not available'. This is reiterated in Advice box 8 of the Proposed East Lothian Local Plan.

SEPA stresses that if the proposed location is deemed essential for the storage shed, they believe it would then fall within the exceptions for development which would be acceptable in such a flood risk area. They also note that the shed is a low vulnerability use. However, SEPA also notes that there is a clear flood risk to the harbour area and hence recommend an alternative location is found should the storage shed not be required to be located on the harbour for operational reasons.

Notwithstanding this advice, the Council's Structures, Flooding and Street Lighting Service raise no objection to the proposal. They note that after recent engineering works in the area it is hoped that the effects of wave overtopping and risk of flooding will be

reduced. Therefore, they have no objection to the positioning of the proposed shed. On the basis of this advice, it can be concluded that the proposed development would not be unacceptable on the grounds of flood risk.

The site is within a mixed used area defined by Policy ENV2 of the adopted East Lothian Local Plan 2008, in which uses appropriate to that area, including retail, leisure and entertainment, will be acceptable in principle. Proposals that would have a significant environmental impact will not be permitted.

The site is within the area defined as an operational harbour by Policy EMP2 of the Proposed East Lothian Local Plan. The Proposed Plan notes the mix of commercial and leisure uses within harbours and the positive contribution harbours make to the character of towns in which they are located. Policy EMP2 states that within harbours areas the Council will give preference to uses that relate to fishing or other industry connected with the harbour. The Council will consider other uses provided they do not prejudice these uses.

The use which is proposed by this application is a class 6 storage use which would not normally be suitable for a mixed use area unless there is an overriding operational justification for it.

The applicant has stated that the proposed shed is to store a walk-in fridge which would be used to store fresh produce. This would be used to serve the applicant's existing businesses, the Lobster Shack and The Rocketeer restaurant. They have stated that having the fridge at this location would reduce the number of trips needed to service their businesses. They have not demonstrated that other possible storage options have been considered. Both businesses currently operate without the proposed fridge and it has not been adequately demonstrated that it is required to be sited at the proposed location, rather than a more suitable site elsewhere. Without an operational requirement for it to be located within the dinghy park, the proposed development is contrary to Policy ENV2 of the adopted East Lothian Local Plan 2008.

The shed would be close to the existing dingy parking area and open storage within the elevated walkway wall. Although the applicant has stated that the shed would be outwith the delineated dinghy parking spaces, it would be very close to the northernmost space. When the doors were opened on the south elevation of the proposed shed they would meet the line of the delineated space. There would be little to no room between the open doors and any boat parked in this space and no room to manoeuvre around the space if the doors were open. This would result in potential conflicts between the parked boats and those accessing the proposed shed. The unsecured area under the elevated walkway to the north would also be partially obstructed by the proposed shed. Therefore, the proposed development would further restrict the amount of space available for dinghy users to manoeuvre in this area and access space for temporary storage. The granting of the proposed application would set a precedent for future storage units and buildings within the harbour and dinghy park area which do not have a clear, locational justification. This would then further restrict the operation of recreational and other uses directly related to the harbour.

It is noted that there are other class 6 storage sheds within the dinghy park area that have been granted planning permission in recent years. In May 2015 planning permission (Ref: 15/00246/P) was granted for a storage hut on a site to the south east of the harbour for beech wheelchair storage. It was not erected in the position it had permission for and following enforcement action, planning permission (Ref: 17/00287/P) was granted for the storage hut just outside the southeast boundary of the dinghy park. In June 2016 temporary planning permission until June 2019 (Ref: 16/00241/P) was

granted for a storage shed for a paddleboard company within the dinghy park area. This has been implemented to the side of the steps leading to the pier. Both these uses are directly related to the leisure use of the harbour area and are to accommodate equipment, which is for use on the beach and in the sea. In both of those cases, the Council as Planning Authority accepted that there was an operational justification of need for those sheds to be located within the harbour area.

In summary, the applicant has not demonstrated a locational justification for the proposed storage shed. The positioning of the shed would have a detrimental impact on the operations of existing harbour users by restricting access and reducing space within the parking area.

REASONS FOR REFUSAL:

- 1 Without an operational requirement for the shed to be located within the dinghy park, the proposed development is contrary to Policy ENV2 of the adopted East Lothian Local Plan 2008.
- 2 Due to its size and in its position the proposed shed would restrict the amount of space available for dinghy users to manoeuvre in this area and access space for storage. The granting of the proposed application would set a precedent for future storage units and buildings within the harbour and dinghy park area which do not have a clear, locational justification. This would then further restrict the operation of recreational and other uses directly related to the harbour.