

REPORT TO: Planning Committee

MEETING DATE: Tuesday 26 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 McMillan for the following reasons: this application is heavily conditioned, and given community concerns, I believe this should be considered by Committee. This is a unique site and I believe a visit by the Committee to see access, surroundings and assess the impact on local, neighbouring farms is necessary so that they can reach a decision on the viability of the proposal, and the possible effect of severe weather on a tourism business.

Application No. **16/00101/PP**

Proposal Planning permission in principle for the erection of 3 holiday lodges, a micro-hydro plant, solar panel array and associated works

Location **Stobshiel Mains
Humbie
East Lothian
EH36 5PD**

Applicant Stobshiel Reservoir Limited

Per Elaine MacDonald

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

This application relates to an area of land measuring some 7,651 square metres in area (some 0.76 of a hectare) located to the north of Stobshiel Reservoir. It comprises of the main irregular shaped area of land of the site, a length of access track to the northwest of that and includes the reservoir dam and outflow. The application site occupies an isolated location in the countryside some 2.5 miles to the east of Humbie.

The application drawings indicate that the reservoir and its immediate shoreline are also in the applicant's ownership/control.

The applicant indicates that the land of the main body of the application site was formerly a quarry on the north side of Stobshiel Reservoir. However, it has been un-used for many years and the site is now over-grown with grasses, gorse, scrub, and trees.

The land of the main body of the application site slopes steeply down towards the east and south, respectively towards the reservoir outflow/spillway, and the reservoir. An existing rough grass track meanders through the main body of the site from the access gate located towards its northwest corner down to the level of the reservoir. The reservoir dam and outflow/spillway are of concrete construction. There are metal railings along the top of the reservoir dam. The length of access track located to the northwest of the main body of the site is not formally surfaced and is of compacted stone and earth construction.

The main body of the site is enclosed on its north and west boundaries by timber post and wire stock-proof fencing. A metal field gate provides access into the site at its northwest corner. The south boundary of the site is partly enclosed by timber post and wire stock-proof fencing, otherwise there is no means of enclosure of the remainder of the south boundary of the site. There is no means of enclosure of the east boundary of the main body of the site. There are no means of enclosure of the length of access track located to the northwest of the main body of the site.

The site is bounded to the south by the body of water known as Stobshiel Reservoir, to the west by agricultural grazing land, to the north by a combination of grassland, rough grass and gorse, and woodland, and to the east beyond the reservoir outflow by an area of moorland.

The nearest neighbouring residential property of Wanside is located some 35 metres away to the north of the main body of the site.

High voltage power lines cross the far western parts of the main body of the application site.

The application site is identified as being part of a priority habitat area. The application site is outwith but immediately to the west of an Area of Great Landscape Value.

By being on the northern edge of the Stobshiel Reservoir, the southern and eastern parts of the application site are within an area identified as being at high risk from fluvial flooding as identified by the Scottish Environment Protection Agency's flood maps.

Planning permission in principle is sought for the use of the site for holiday accommodation and the associated erection on the site of three holiday lodges, a micro-hydro plant, a solar panel array and associated works. The associated works comprise the erection of retaining walls, the formation of an access track, parking and a pontoon, and the erection of a canoe store, battery house and bin storage.

Indicative drawings submitted with the application show how the proposed three holiday lodges could be positioned on the site. All of the proposed three holiday lodges are indicatively shown to be located on the western half of the site. One would be positioned at the northwest end of an existing hollow area, which has a roughly level bottom surface and is bounded by rising landform to three sides. A second proposed holiday lodge would be positioned close to the west boundary of the site. The third proposed holiday lodge is indicatively shown to be positioned halfway down the sloping land of the site, roughly centrally between its east and west boundaries.

Each of the proposed three holiday lodges is indicatively shown to have a footprint of some 8.5 metres in length by some 7.5 metres in width, and to have a dual pitched roof with the roof ridge height being some 4.1 metres above ground level. Each of the proposed three holiday lodges would be provided with an external deck area and would have two parking spaces positioned alongside it. Due to the sloping and undulating

nature of the land of the site, the application drawings indicatively show how retaining walls would be erected at two of the proposed holiday lodge locations to retain the landform at those locations.

Sewage from the proposed holiday lodge buildings would discharge to a septic tank with run-off to a soakaway.

A further area of parking and the proposed bin storage area are indicatively shown to be located on a level plateau of land immediately to the east of the gated access at the northwest corner of the main body of the site.

The proposed micro-hydro plant building is indicatively shown to be positioned towards the northern end of the eastern part of the site alongside the reservoir outflow/spillway and to have a footprint measuring some 3.0 metres in length by some 2.5 metres in width.

The proposed solar panel array is indicatively shown to be installed on the south facing side of the reservoir dam and the proposed battery store is indicatively shown to be positioned immediately alongside the west side of the reservoir outflow/spillway and to have a footprint measuring some 3.5 metres in length by some 2.5 metres in width.

The application drawings indicatively show the proposed canoe storage building to be positioned on the southern part of the site towards the western end of the reservoir dam and to have a footprint measuring some 7.0 metres in length by some 3.0 metres in width. The proposed pontoon is indicatively shown to be positioned extending out onto the reservoir water from the western end of the reservoir dam.

The application drawings further indicatively show how the existing grass track that meanders through the main body of the site would be improved and surfaced to provide access to the proposed three holiday lodges and associated works.

The application site is accessed from the ZC86 public road via a stone and earth farm track measuring a total of some 1.12 miles that passes across the northern and eastern edges of the operational farm at Stobshiel Mains and which then continues through agricultural fields of that farm to the application site.

An Outline Business Plan synopsis for the proposed holiday lodge development, a document showing financial projections, and a Planning and Design Statement have been submitted with the application.

The Outline Business Plan synopsis explains that the proposal is for an 'eco-tourism' development that would be positioned discreetly on land overlooking Stobshiel Reservoir. It is explained that the intention is for the proposed holiday lodges to be well insulated and ecologically powered so that they would require no energy input from off-site sources, and it is intended that they would be of Scottish timber construction and insulated with sheep's wool. It is stated that the proposed 'eco-tourism' development would meet the aims and objectives of the East Lothian Economic Development Strategy: Strategic Objective S02. It is further explained that the intended market for the proposed 'eco-tourism' development would be families, small groups and couples who have a desire for 'experiential travel' and sustainable tourism and are seeking a beautiful and peaceful location but with easy access to local towns and activities, a base for walking, mountain biking and water based activities and an 'off-grid' holiday. The document goes on to state that it is anticipated that it would take up to 2 years to build momentum for the business through on-line and off-line advertising, and word-of-mouth. The document goes on to explain that initially the proposed business would require two part-time staff with support from other local services for housekeeping tasks. The

document states that it is anticipated that a modest loss would be made in the first year but that from year 2 onwards a modest profit is anticipated.

The financial projections document covers a period of one year (April to March) and indicates predictions of between 30% and 70% occupancy levels across the year for the proposed holiday lodges, giving an average occupancy level of 53%.

In the Planning and Design Statement, it is stated that the proposed holiday lodge development would be established as a clean energy holiday destination within the scenic setting of Stobshiel Reservoir with easy access to fishing, mountain biking, walking, golf and bird watching activities. It is explained that the development would be powered by the proposed micro-hydro plant and solar panel array, which would be discreetly located. It is further explained that the proposed business would operate throughout the calendar year, employing local people. The statement goes on to explain that from 1940 Stobshiel Reservoir was a publicly owned facility that provided for fluctuating water demand however by 2000 the infrastructure had advanced and there was no longer a requirement for it.

The Planning and Design Statement goes on to set out relevant national and local planning policies and guidance, quoting policy principles of Scottish Planning Policy June 2014 (SPP) relating to sustainable development and the creation of high quality places through a design-led approach, the South East Scotland Strategic Development Plan (SESplan), East Lothian Council's Economic Development Strategy and the adopted East Lothian Local Plan 2008.

It is the opinion of the author of the Statement that the proposed development adheres to SPP and SESplan advice as it would promote a carefully costed and researched business model that is based on the attraction and offer of a former industrial site set within a picturesque location and would bring back into use this former quarry site as a holiday destination that would contribute to the local economy whilst taking cognisance of the landscape setting. The Statement goes on to explain that the rural location of the application site is a key driver for the proposed business and its offer to visitors of accessibility to outdoor pursuits. Through the joining up of accommodation with activities, visitors will be encouraged to stay longer and spend more in East Lothian, which will have a positive impact on the local economy such as shops, cafes and restaurants. It is further stated that the proposed business would support 1.5 jobs initially with growth projections for this to increase to 2.5 jobs by years 3 - 5.

The Statement goes on to further explain that by limiting the size of the development the operational impact on neighbours will be minimal, and the design of the site and the lodges has been considered to ensure a good landscape fit.

It is the opinion of the author of the Statement that the proposed development supports East Lothian Council's Strategic Economic Development objectives and adheres to Local Plan Policies.

The Statement explains that there is limited provision of this type of ecologically sensitive holiday accommodation, which enhances the marketability of the proposed business as a unique visitor destination. It is explained that remote eco-lodges and other off-grid developments are enjoying growing success as a sustained customer base seeks to spend time in aspirational accommodation in a beautiful setting, and that the applicant is confident that their approach to pricing of the holiday lodges will be both competitive and attractive. The Statement goes on to explain that the proposed holiday lodges would in time be supplemented by the use of the reservoir for water activities (i.e. fishing, canoeing, etc). The Statement further states that the proposed holiday lodges would be single storey in height, of timber construction with a sedum roof, and that the 'green' roofs

would contribute to the rural setting and provide additional insulation as well as add to the bio-diversity of the site. It is further explained that the rugged landscape of the site would be maintained and that this along with the 'green' roofs of the proposed holiday lodges would help to minimise any visual impact of the buildings whilst maximising privacy and rural character for visitors.

Since the application was registered the proposed development has been amended to:

(i) reduce the number of proposed holiday lodges from 4 to 3 following concerns raised by the Scottish Environment Protection Agency (SEPA) and the Council's Flood Prevention Officers on flood risk grounds;

(ii) change the indicative positions and reduce the indicative footprint size of each of the remaining proposed three holiday lodges;

(iii) correct an error on the indicative photo-montage relating to the position of the proposed micro-hydro plant building;

(iv) provide a topographical survey of the site at the request of SEPA and the Council's Flood Prevention Officers;

(v) provide indicative drawings showing sections through the site;

(vi) provide indicative details of the positioning of proposed retaining walls;

(vii) move the proposed parking area on the northwest part of the main body of the site some 1 metre further to the west to avoid the need for a further retaining wall at the request of the Council's Landscape Officer; and

(viii) provide a photo-montage of the proposed holiday lodges in their landscape setting.

The proposed development does not constitute development of a type set out in Schedule 1 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 and nor does it meet the thresholds and criteria of development set out in Schedule 2 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011. Thus, there is no requirement for the proposed development to be screened as development that may require the submission of an Environmental Impact Assessment (EIA).

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

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

Relevant to the determination of the application are Policy 1B (The Spatial Strategy: Development Principles) of the South East Scotland Strategic Development Plan (SESplan) and Policies DC1 (Development in the Countryside and Undeveloped Coast), NH3 (Important Local Biodiversity Sites), DP14 (Trees on and Adjacent to Development Sites), DP16 (Flooding), DP22 (Private Parking) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008.

The proposed East Lothian Local Development Plan (PELLDP) was submitted to Scottish Ministers for Examination in 2017 and the Reporters' Examination Report was

issued on 14 March 2018. The East Lothian Local Development Plan (ELLDP) was thereafter modified following the Examination. At their meeting on 29 May 2018, the Council approved the ELLDP as the Local Development Plan the Council intends to adopt. The ELLDP reflects the most recent planning view of the Council and is a material consideration in the determination of applications. Relevant Policies DC1 (Rural Diversification), DC9 (Special Landscape Areas), NH3 (Protection of Local Site and Areas), NH8 (Trees and Development) and T2 (General Transport Impact) of the ELLDP do not represent any significant alteration to the current relevant policy.

Paragraph 75 of Scottish Planning Policy: June 2014 states that the planning system should promote a pattern of development that is appropriate to the character of the particular rural area and the challenges it faces, encourage rural development that supports prosperous and sustainable communities and businesses whilst protecting and enhancing environmental quality and support an integrated approach to coastal planning.

Paragraph 202 of Scottish Planning Policy: June 2014 states that the siting and design of development should take account of local landscape character.

Fourteen public representations to the application have been received. All of those representations raise objection to the proposed development and the main grounds of objection as summarised are:

1. concern about the safety of prospective customers of the proposed holiday lodge business due to the proximity to the reservoir and the steep sides of that body of water and its outflow/spillway;
2. concern about the security of the reservoir and prevention of any interference by visitors as uncontrolled releases of water from the reservoir could impact harmfully on the residential properties downstream;
3. is the reservoir properly maintained? It has been heard that there was a problem with one of the valves on the last inspection but it has not been possible to verify this. Maintenance should be up-to-date before any further investment should be allowed;
4. the public road from which the site would be accessed is narrow and has a low volume of traffic, any increased usage by visitors unfamiliar with the road could present a road safety hazard;
5. the access track between the public road and the proposed site is only suitable for 4 x 4 vehicles and can be impassable in winter months/bad weather. What would happen if visitors get stuck or are unable to traverse the track?;
6. the micro-hydro plant would require an increase in the flow of water from the reservoir, which has the potential to increase the chance of flooding to properties downstream and detrimentally impact on those properties;
7. part of the proposed development (micro-hydro plant) is shown on the photo-montage to be positioned outwith the site on neighbouring land;
8. the proposed development would be an inappropriate intensification of the site in this rural location that would inevitably introduce new liabilities on the local authority and the emergency services in the event of illness or accident at the site;
9. the reservoir site was sold by the Water Board because the medium term maintenance

costs of the dam are prohibitive and raises liability issues for the local authority which carries ultimate responsibility for the safety of the dam and the properties downstream from it;

10. the access to the application site is via a working farm track that is heavily used on a daily basis and serves all of the farm and its fields, which are used for grazing of livestock, and the proposed development would interfere with existing normal working farm operations, resulting in disruption to the farm business and potentially risks and hazards to both the farm and the visitors to the proposed development;

11. the applicant only has a right of access to the site along the existing farm track and there is no consent for use of the track by the applicant for a commercial use;

12. health and safety concerns relating to visitors and livestock (calving cows can be extremely protective and dangerous);

13. there is no statement on how the applicant would manage conflict between the visitors to the proposed development and the existing farm (i.e. gates being left open, conflict between visitors and moving livestock and machinery, etc.) and visitors may not respect the farming operation;

14. the proposed business is highly speculative and there are no guarantees that it would succeed, and if it does not succeed the proposed holiday lodges could become permanent houses which would be contrary to ELC's long held strategy to prevent new housing in the countryside;

15. how would the council prevent the holiday lodges from being occupied for longer periods of time and thus becoming effectively a family home;

16. soil works at the time of the construction of the dam do not constitute an industrial use of the site and the claim by the applicant that as a result of this the site is a brownfield site is misleading and to accept that case and to allow this form of development in this rural location would be likely to set an unwelcome precedent for similar development throughout East Lothian;

17. the proposals are inappropriate for this rural site which is not only remote but is inadequately served by a single track access lane and visitor traffic will result in significantly increased activity that will detrimentally impact on and materially change the character and location of what is a highly secluded rural site within the Lammermuir Hills;

18. any economic advantage of this development to the local economy is likely to be of negligible benefit and is entirely outweighed by the disproportionate impact it will have on the immediate vicinity and neighbouring properties;

19. the proposals amount to commercial use of the reservoir and there is a restriction on the commercial use of the reservoir;

20. if an emergency arose the lodge users would come to the nearest properties which would be the neighbouring house and the nearby farm for help causing disruption to those properties;

21. due to the condition of the access track and the isolated location of the site it would be difficult to access by emergency services if an emergency arose (i.e. a person falls into the reservoir) and furthermore the mobile phone coverage is poor to non-existent;

22. the site is isolated and dependent on private car usage as the nearest bus route is some 5 miles away;
23. the reservoir is a very deep and isolated body of water with steep banks and poses a huge risk to the safety of potential visitors;
24. given the wide variety of flora and fauna in the area the development should have an impact assessment (EIA);
25. there are no services to the site and even if the development generates its own electricity, providing other services to the site would be problematic;
26. the plan does not detail how disabled access to the development would be achieved;
27. the economic impact has been vastly overstated;
28. the proposed solar array will detract from the beauty and vista created by the reservoir dam, which is believed to be one of the first concrete dams built;
29. the dam overflowed in 1948 and SEPA should report on the suitability and safety issues of modifying the dam;
30. the proposals could impact negatively on nearby uses (i.e. Stobshiel Shoot);
31. the intensification of use of the area could result in harmful pollution and environmental impacts through over-populating the area, sewage treatment, and damage caused by visitors;
32. waste collection vehicles do not access the neighbouring house of Wanside, rather that property has to present refuse at a collection point adjacent to the public road more than one mile away so how will waste be collected from four holiday lodges; and
33. the development would result in disturbance and loss of privacy to the neighbouring property of Wanside.

One of the representations also comments that all neighbouring properties to the application site have not been notified of the planning application. Regulation 18 of The Town and Country Planning Development Management Scotland Regulations 2013 (as amended) requires that the Council as Planning Authority notify all properties within 20 metres of the boundary of an application site of the application for planning permission. Where there is no building on such neighbouring land, Regulation 18(2)(b) requires that the Planning Authority place an advertisement in accordance with Regulation 20(2)(a) in a local newspaper for the application. All neighbouring properties where there are buildings on the land within 20 metres of the application site have been notified as required by Regulation 18(2)(b). Furthermore, the application has been advertised under Regulation 20(2)(c) of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 (as amended) as a form of development that would bring crowds to a generally quiet area. Thus, there is no separate requirement to also advertise the application under Regulation 20(2)(a) of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 (as amended). Accordingly, the neighbour notification and the advertisement of the application has been undertaken in accordance with Regulations 18 and 20 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 (as amended).

One of the representations raises matters of land ownership relating to the application site, claiming that not all owners of the land of the application site have been formally notified as required under Section 35 of the Town and Country Planning (Scotland) Act 1997 (as amended). However, on checking the documentation submitted it was found that the representor did not own any of the land of the application site but rather had a servitude right of access across part of it. The representor confirmed acceptance of this position.

The matters raised by representations relating to the safety aspects of the proposed development are not material considerations in the determination of the application for planning permission in principle. It is not for the Planning Authority to consider whether the reservoir or rural location of the proposed holiday accommodation development would pose safety risks to visitors of the proposed development. Rather it is a matter for the operators of the proposed business to consider their responsibilities as operators of the site.

The applicant is not promoting the development of a commercial water sports business use at the reservoir through this application. Thus, whether or not the site is suitable for such use is not a material consideration in the determination of this application for planning permission in principle.

Humbie, East and West Saltoun and Bolton Community Council, as a consultee to the application, raise objection to the proposed development and their grounds of objection as summarised are:

1. Lack of appropriate site access - the rough farm track along which access would be taken is not suitable for cars, and whilst it is a right of way for walkers it is not a public road for vehicles. It is understood that while the owners of the site do have a right of access to their land it does not extend to access for commercial purposes. Does this mean that visitors to the proposed holiday lodges would have to access the site by foot and that delivery/service vehicles could also not access the site? Furthermore, the isolated location means the site is subject to extreme weather making the area potentially unsuitable for casual visitors and increasing demand on emergency services.

2. Inappropriate and unsafe development site - the reservoir with its steep sides is not a safe location for casual visitors and as such to promote the site as suitable for water-sports is highly inappropriate and will carry significant risk to users and potentially increase demand on emergency services. Furthermore, it is essential that residents downstream are protected from visitors tampering with the reservoir structures and outflow.

3. Potential negative impact on neighbouring business - visitors unfamiliar with farming operations and bio-security issues could put the surrounding farm businesses at risk and significantly disrupt the day to day operation of those businesses.

4. The proposal does not comply with Planning Policy DC1 - whilst it may be appropriate to attract tourism business to the East Lothian countryside, proposed development should also be integrated into its landscape setting, have no adverse impact on neighbouring uses, be suitably accessed and served by infrastructure. As noted earlier, the proposed development would not comply with these policy principles and would be incompatible with existing neighbouring uses.

5. Concerns about the viability of the venture and if the Council is minded to grant permission it should seek to control the occupancy of the proposed lodges and should seek to secure a bond of sufficient value to finance the cost of returning the site to its

existing rural state in the event that the business fails.

The adopted East Lothian Local Plan 2008 recognises that East Lothian is an important tourism destination. The Local Plan's policies and proposals seek to ensure that a balance is found between the encouragement of tourism and the economic benefits it provides, and the protection of, for example, important landscape and nature conservation interests.

By being in the countryside the application site is covered by Policy DC1 of the adopted East Lothian Local Plan 2008.

Policy DC1 supports the principle of tourism and leisure development within the countryside of East Lothian provided it has a clear operational requirement for a countryside location which cannot reasonably be accommodated within an existing urban or allocated area.

The proposed development is for the erection of three holiday lodges as an ecologically sensitive holiday accommodation development with target customers being those that are interested in outdoor activities and 'off-grid' destinations. The supporting statements submitted with the application note that East Lothian is a very desirable holiday destination whilst being in close proximity to Edinburgh City Centre. It is explained that the applicant's research has shown that there is a lack of self-catering accommodation of this type of 'green' off-grid accommodation in the locality.

It is further stated that the proposed holiday lodge development would utilise locally sourced and 'green' materials, would employ local people and as such would contribute to the local economy, and that the development has been sensitively designed so as to have the best fit into the surrounding landscape which would be an important element in attracting visitors.

The indicative details submitted with the application indicate that the proposed holiday lodges would have a simple rectangular footprint and would provide 1, 2, or 3 bedroom accommodation with associated lounge/kitchen and bathroom spaces. Each of the indicatively shown proposed three holiday lodges are shown to have a floor area of some 37.5 square metres. At such size, and at a maximum roof ridge height of some 4.1 metres above ground level, they would be of a modest scale.

The use of the proposed three indicatively shown holiday lodge buildings as holiday letting accommodation is a tourism and leisure use. They would serve to provide accommodation for tourists wishing to benefit from a stay in the East Lothian countryside. They would be within easy reach of many of the tourism and leisure attractions of East Lothian. In principle, based on the nature of the proposed tourism accommodation as 'eco' and 'off-grid' accommodation seeking to provide holiday letting accommodation close to outdoor activities, there is justification for the holiday letting accommodation use in this rural location and the particular type of holiday accommodation proposed could not reasonably be accommodated within an existing urban or allocated area. Furthermore, by its small scale of operation the holiday accommodation use of the site and thus of the proposed three indicatively shown holiday lodge buildings is of a scale and character appropriate to its countryside location. It is not unreasonable to assume that such development would be likely, in turn, to positively contribute towards the tourist industry of East Lothian.

The Council's Economic Development Service advises that the indicatively shown proposed holiday accommodation development would support objective 2 of the East Lothian Economic Development Strategy 2012 – 2022, which is for East Lothian to be

Scotland's leading tourism destination. The Economic Development Service also advise that there is an identified demand for good quality accommodation in East Lothian and that findings from the annual visitor survey (2015) indicate that visitors are looking for short breaks to enjoy the outdoors/countryside. Thus, in principle, the proposed 'eco-lodge' holiday accommodation development at the application site would contribute to meeting this identified demand.

The Economic Development Service further comment that current data available would point to the proposed holiday accommodation development finding a market for its proposed product offering however levels of occupancy would take time to develop and establish, and in this context marketing of the site and identifying the visitor segment would be fundamental to establishing the proposed business.

In conclusion, the Economic Development Service advise that, based on the contribution to meeting the strategic aims and objectives of the Economic Development Strategy 2012 - 2022 of local job creation and East Lothian being a leading coastal destination, the principle of the proposed holiday accommodation development would not be contrary to East Lothian Council's Economic Development Strategy 2012 - 2022.

Although the indicatively shown proposed holiday lodge accommodation is promoted as holiday letting accommodation, each of the proposed holiday lodges would nevertheless be capable of being used as a house. It would not be appropriate for such development to be occupied as a separate permanent independent residential accommodation (i.e. a house). As units of holiday letting accommodation, the principle of the use of the indicatively shown proposed three holiday lodges as holiday accommodation would be consistent with development plan policy. However, if they were each to be used as a house without a clear operational requirement for a countryside location that cannot be reasonably accommodated within an existing urban or allocated area the proposed three holiday lodges would be unacceptable and contrary to Policy DC1 of the adopted East Lothian Local Plan 2008. However, the proposed three holiday lodges are not promoted for use as house(s). Rather they are promoted for use as holiday letting accommodation. In their use as holiday letting accommodation the people occupying them would only be staying for relatively short periods of time.

Therefore, if planning permission in principle is to be granted for the principle of use of the proposed holiday lodges then to prevent the indicatively shown proposed three holiday lodges from being used as separate permanent independent residential accommodation, the occupation of them should be restricted solely to short term lets of not more than 28 days and the holiday letting accommodation in the form of the proposed holiday lodges should not be re-let to the party who last occupied it anytime within a period of two months after that previous time of occupancy. This control could be imposed as a condition attached to a grant of planning permission in principle. This would have the effect of safeguarding the purpose and integrity of the Council's policies for the control of new build housing development in the countryside.

Thus, subject to an appropriate occupancy control, for the reasons set out above there is an operational requirement for the proposed holiday accommodation in its proposed countryside location and the principle of the use of the application site for the proposed holiday accommodation use and the erection of the indicatively shown proposed three holiday lodge buildings on the site in this countryside location does not conflict with Policy DC1 of the adopted East Lothian Local Plan 2008.

Part 5 of Policy DC1 of the East Lothian Local Plan 2008 requires that 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. New

development must be sited so as to minimise visual intrusion and landscape impact and should not have a significant adverse impact on nearby uses.

If the proposed holiday accommodation is marketed as being within its rural isolated location and in the direct setting of agricultural operations, and if it is managed appropriately by the applicant/developer, there is nothing to suggest that the proposed holiday accommodation use could not co-exist alongside the existing agricultural farming uses without significant conflict. Thus, the principle of the proposed holiday accommodation use would not have a significant adverse impact on nearby existing farm uses.

The application site benefits from an established landscape of trees and self-seeded scrub and gorse. The application site is outwith but adjacent to an Area of Great Landscape Value.

The indicatively proposed site layout shows how three holiday lodge buildings could be accommodated on the site. Due to the sloping and undulating nature of the application site, the land at the location of two of the indicatively shown proposed holiday lodge buildings would require to be excavated to create a level plateau in order to allow those proposed two holiday lodge buildings to be set down into the site. The third indicatively shown proposed holiday lodge building would be positioned on an existing level plateau of land in an existing hollowed area of the site. Other than for this excavation and the improvement of the existing access track of the main body of the site, the supporting statements submitted with the application indicate that the vegetation of the site would be retained and maintained in order to retain the rugged landscape character of the site.

By their single storey height and their other physical dimensions, the indicatively shown proposed three holiday lodge buildings are relatively modest in size and massing. Furthermore, the indicatively shown finishes of timber walls and 'green' sedum roofs for the indicatively shown proposed three holiday lodge buildings would be appropriate to their landscape setting.

Although in a remote isolated countryside location, the indicatively shown proposed three holiday lodge buildings would be visible in views from surrounding land. The predominant views of the indicatively shown proposed three holiday lodge buildings would be from the private access road to the site and from longer views within the surrounding countryside. However, by being set down into the sloping land of the site and by their low single storey height, physical dimensions and external finishes, and by virtue of the limited removal of the vegetation on the site, the indicatively shown proposed three holiday lodge buildings would be well integrated into the landscape of the site and would be separated by existing tree and scrub planting. These design details can be made a principle of development of a grant of planning permission in principle. If so and if appropriately designed and not significantly larger or higher than indicatively shown, the proposed holiday lodges would have a minimal visual impact and would not appear as harmfully intrusive, incongruous or exposed features within their landscape setting, would not be harmful to the landscape character and visual amenity of the area or the character and appearance of the adjacent Area of Great Landscape Value.

The indicatively shown associated buildings of the canoe storage, battery house and micro-hydro plant buildings would be small in size and scale. If restricted to being single storey in height and being finished with materials and colours appropriate to their rural location, although they would be visible in public views of the site, with the rising land-form of the site as their backdrop, they would not appear visually dominant within their setting. These design details can be made a principle of development of a grant of planning permission in principle. If so and if appropriately designed and if those

buildings were not significantly larger or higher than indicatively shown, the proposed canoe storage, battery house and micro-hydro plant buildings would have a minimal visual impact and would not appear as harmfully intrusive, incongruous or exposed features within their landscape setting, would not be harmful to the landscape character and visual amenity of the area or the character and appearance of the adjacent Area of Great Landscape Value.

It should be possible to design the indicatively shown pontoon, bin storage area, parking area and access track in a manner that would be appropriate to the countryside location of the site such that those elements of the indicatively shown proposed holiday lodge development would not appear harmfully dominant, intrusive or incongruous within their landscape setting and would not be harmful to the landscape character of the area or the character and appearance of the adjacent Area of Great Landscape Value.

Moreover, other than for the excavations at the positions of each of the indicatively shown proposed three holiday lodge buildings, and at the locations of each of the three indicatively shown associated buildings of the canoe storage, battery house and micro-hydro plant building, the location of the bin storage area and parking, and the alterations to the track on the main body of the site, the supporting statements indicate that there would be limited vegetation removed from the site and supplementary planting would be carried out. Once that supplementary planting becomes established, it would further help to integrate the proposed development into its landscape setting. The requirement for limited vegetation removal and for additional landscape planting of the site could be made a design criteria of a grant of planning permission in principle.

Subject to the proposed holiday lodge development being limited to the three indicatively proposed holiday lodge buildings and associated works, which would limit the areas of the site that would be clear of vegetation, and there being appropriate landscaping of the site, it should be possible to develop the site for holiday lodge accommodation whilst retaining its rugged landscape character.

The Council's Landscape Officer (Policy and Projects) notes that the site is well contained in a remote area of East Lothian but is visible from the hills to the south where walkers would have a view down onto the site. The Landscape Officer advises that, given the scale of the landscape, if developed in the manner shown on the indicative drawings submitted with the application, and if the proposed holiday accommodation buildings were to be well-designed timber clad buildings, no more than single storey in height with shallow or single pitched roofs clad with either a dark coloured or 'green' surface finish (sedum or turf), this would significantly reduce any visual impact and retain a more natural landscape setting alongside the reservoir. Thus, subject to controls on their height, size and external finish, details that could be controlled as design principles of a grant of planning permission in principle, the indicatively shown holiday lodge buildings would have minimal impact on the landscape character of the area. The Landscape Officer further recommends that the indicatively shown micro-hydro plant building should be coloured a 'moss green' or 'grey' colour rather than 'green' so as to blend better with the colours of its landscape setting.

The Landscape Officer goes on to recommend that the existing established landscape of trees, self-seeded scrub and gorse should be retained as much as possible to provide an established setting and shelter for the indicatively shown proposed holiday lodge buildings, and that a scheme of landscape planting for the site is submitted to detail the replacement of areas of vegetation required to be removed during construction and to screen the bin storage, car parking areas and retaining walls on the main body of the site in wider landscape views.

The Landscape Officer raises some concerns about whether a sedum roof would be successful in this location. However, she does not object to the use of sedum but suggests that the use of a turf roof may be more suitable and may be more easily established.

Subject to the recommended controls and controls relating to the height, size and finishes of the buildings, the Council's Landscape Officer is satisfied that the principle of the proposed development of the site for holiday lodge accommodation would not be harmful to the landscape character of the area or the character and appearance of the nearby Area of Great Landscape Value.

The application site is not actively used as agricultural land. Rather it is an unused and overgrown area of rough grass and scrub. Thus, the indicatively shown holiday lodge accommodation buildings and associated buildings and works would not result in a significant or unacceptable loss of agricultural land. The remaining areas of the countryside land within the site would be retained with their established landscaping in order to retain the established landscape setting of the site. Thus, the principle of the proposed development of the site for holiday accommodation in the manner indicatively shown would not conflict with the requirement of Part 5 of Policy DC1 of the adopted East Lothian Local Plan 2008 that development must minimise the loss of prime agricultural land.

The indicatively shown holiday lodge accommodation use of the site would be of a scale and character appropriate to its countryside location, would be sufficiently integrated into the landscape and would be compatible with its surroundings. Subject to the aforementioned planning controls, it would not be harmful to the character and appearance of this part of the East Lothian countryside.

The application site is accessed from the ZC86 public road via a stone and earth farm track measuring a total of some 1.12 miles in length, which passes across the northern and eastern edges of the operational farm at Stobshiel House and which then continues through agricultural fields to the application site.

The Council's Road Services raise no objection to the principle of the holiday accommodation development of the site, subject to the junction of the private farm access road with the public road being hard formed over the first 5 metres of it measured back from the edge of the public road and across its full width in order to prevent loose materials being brought onto the public road on vehicle tyres. The applicant's agent has been made aware of this requirement. Subject to the requirement for the hard-surfacing of the first 5 metres of the access onto the public road, the Council's Road Services are satisfied that the proposed holiday accommodation development could be provided with a satisfactory means of vehicular access and a sufficient provision of on-site parking.

The fact that the applicant/developer does not own the farm access track along which access to the site from the public road would be taken is not a material consideration in the determination of this application for planning permission in principle. It is a civil legal matter between the applicant/developer and the owner of that access track. Furthermore, it would be for the applicant to establish whether their right of access along that farm access track would allow for the commercial traffic associated with the proposed business use and if it does not to seek to negotiate a right of access for such use. Again, this is a civil legal matter between the applicant/developer and the owner of that access track.

The nearest neighbouring residential property of Wanside is located some 35 metres away to the north of the main body of the site. At its closest point the access track to the

site is some 18 metres away from that neighbouring property.

At such distance it should be possible to design a holiday accommodation development of the site that would not give rise to a harmful loss of daylight or sunlight to that neighbouring property and therefore would not on this consideration have a harmful affect on the residential amenity of that property. In turn, the indicatively shown proposed holiday lodge buildings would receive a sufficient amount of sunlight and daylight.

In assessing whether or not a proposed new development would result in harmful overlooking and therefore loss of privacy to existing neighbouring residential properties it is the practice of the Council, as Planning Authority to apply the general rule of a 9 metres separation distance between the windows of a proposed new building and the garden boundaries of neighbouring residential properties and an 18 metres separation distance between directly facing windows of the proposed new building and the windows of existing neighbouring residential properties.

There are no nearby residential properties to the east, south and west of the site. The nearest neighbouring residential property of Wanside is located some 35 metres away to the north of the main body of the site and at its closest point the access track that would serve the site is some 18 metres away from that neighbouring property. At such distances, it should be possible to design the holiday accommodation development so that it would not result in any harmful overlooking of the existing neighbouring house of Wanside and its garden ground. Thus, the principle of the development of the site for holiday accommodation would not result in harmful impact on the amenity of any neighbouring residential properties.

On these matters of privacy and amenity the principle of the development of the site for holiday accommodation does not conflict with Part 5 of Policy DC1 of the adopted East Lothian Local Plan 2008.

The Council's Environmental Protection Services advises they have no comment to make regarding the principle of the development of the site for holiday accommodation.

The Council's Contaminated Land Officer (Environmental Protection) advises that due to the previous use of the land as the construction site for the reservoir dam, there is the potential for contamination of soils on the site. He recommends that a condition be imposed on a grant of planning permission in principle to ensure that if the presence of any previously unsuspected or unforeseen contamination becomes evident during the development of the site it shall be brought to the Council's attention. This matter could be controlled by a condition attached to a grant of planning permission in principle.

The Council's Waste Services advise that any waste collection from the site would be classed as trade waste which is chargeable, and the applicant could make private arrangements for such waste collections. The Council's Waste Services provided advice on the nature of the refuse and recycling bins that would be required for the proposed development and advised that for the Council to provide such collections the access track from the public road would be required to be constructed to and maintained to an adoptable standard. This information along with the Council's guidance document on waste services provision was forwarded the to the applicant's agent for their information.

The Council's Biodiversity Officer is satisfied that the proposed development would not harm the natural heritage interest of the priority habitat area and raises no objection to the principle of the proposed holiday accommodation development of the site on biodiversity grounds.

By being on the northern edge of the Stobshiel Reservoir, the southern and eastern parts of the application site are within an area identified as being at high risk from fluvial flooding as identified by the Scottish Environment Protection Agency flood maps.

In their initial consultation, the Scottish Environment Protection Agency (SEPA) raise objection to the principle of the proposed holiday accommodation development of the site on the grounds of lack of information on flood risk, surface water drainage and the potential impact on the water environment. SEPA further advise that it would be necessary to demonstrate that the proposed solar panel array would not have a detrimental impact on the structural integrity of the reservoir and that the solar panels would comply with the Reservoirs (Scotland) Act 2011 and the current CAR licence.

SEPA also highlighted that further consent through the Water Environment Controlled Activities (Scotland) Regulations 2011 (as amended) (CAR) is required for the private foul drainage and surface water arrangements.

The applicant's agent subsequently submitted additional topographical information and removed a fourth holiday lodge from the southeast part of the main body of the site.

SEPA subsequently removed their objection to the principle of the proposed holiday accommodation development of the site in the manner shown on the indicatively application drawings following the removal of a fourth indicatively shown holiday lodge building from the southeast part of the site. SEPA recommend that the indicatively shown proposed micro-hydro plant building should be designed to incorporate flood resistant and resilient measures to limit the potential damage during high flows.

SEPA notes that the holiday lodges would be located immediately adjacent to the spillway structure and highlight that there could be considerable noise when the spillway is overtopped. However, SEPA note that this is not within their remit, but rather is for the Planning Authority to consider in its determination of the application. As set out above, the Council's Environmental Protection Service have no comment to make on the principle of the proposed development.

In their initial consultation, the Council's Structures, Flooding and Street Lighting Team Manager advises that they concur with SEPA's initial comments and that further information regarding floor levels and SUDs provision is required. The Council's Structures, Flooding and Street Lighting Team Manager subsequently removed their objection to the principle of the holiday accommodation development of the site in the manner shown on the indicative application drawings being satisfied that the indicatively shown development would not be negatively impacted by flooding and would not have a detrimental impact on the management of flood waters in the locality.

It is not for the Council as Planning Authority to consider if the proposed indicatively shown holiday accommodation development of the site would comply with CAR requirements. The applicant's agent has been made aware of the requirement to ascertain this separate consent.

On all of the above considerations, subject to the aforementioned planning controls, the principle of the development of the site for holiday accommodation in the manner indicatively shown do not conflict with Policies 1B of the approved South East Scotland Strategic Development Plan (SESplan) and Policies DC1, NH3, DP14, DP16, DP22 and T2 of the adopted East Lothian Local Plan 2008.

Scottish Water have been consulted on the application however no response has been received from them.

CONDITIONS:

1 The submission for approval of matters specified in conditions of this grant of planning permission in principle shall include details of the siting, design and external appearance of the 3 holiday lodges, the micro-hydro plant building, the battery house building, the canoe storage building, the pontoon, the bin storage area, the parking areas, retaining walls, access track, the means of access to them, the means of any enclosure of the boundaries of the site and the landscaping of the site and those details shall generally accord with the indicative details of the drawings docketed to this planning permission in principle, and those details shall accord with the following principles of development for the site:

- a. there shall be no more than three holiday lodge buildings erected on the site;
- b. the holiday lodge buildings shall be no higher than single storey in height with shallow dual pitched, shallow mono-pitched or flat roofs, and with a footprint not significantly greater than is indicatively shown on the drawings docketed to this planning permission in principle;
- c. the holiday lodge buildings shall be located on the site in positions not significantly different than is indicatively shown on the drawings docketed to this planning permission in principle;
- d. the walls of the holiday lodge buildings shall be finished in timber and their roofs shall be finished with sedum or turf;
- e. the design and construction details of the retaining walls shall be submitted for the prior approval of the Planning Authority and screen planting of the visible areas of the retaining walls or planting of the faces of retaining walls shall be included;
- f. the detailed design and finishes of the micro-hydro plant, battery store and canoe store buildings shall be shown;
- g. the detailed design and finishes of the pontoon and bin enclosure shall be shown;
- h. the detailed design and installation of the solar panel array shall be shown;
- i. the detailed construction and surfacing of the access track and parking of the main body of the site shall be shown;
- j. any means of enclosure of the boundaries of the site shall be shown;
- k. the holiday lodges shall be provided with a parking provision to meet the Council's parking standards and those parking spaces shall each have minimum dimensions of 2.5 metres by 5 metres;
- l. the vehicular access with the ZC86 public road shall be hard formed over the full width and the first 5 metres of its length back from its junction with that road;
- m. details of the treatment of surface water runoff by sustainable drainage systems (SUDS) shall be shown;

The details to be submitted shall also include a timetable for the implementation of requirements i, k, l and m above, and thereafter the development shall be carried out in accordance with the details and timetable so approved unless otherwise approved in writing by the Planning Authority.

Reason:

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

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

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

- a. the position within the application site of all elements of the proposed development and position of adjoining land and buildings;
- b. finished ground and floor levels of the development relative to existing ground levels of the site

and of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and

c. the ridge height of the proposed shown in relation to the finished ground and floor levels on the site.

Reason:

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

- 3 The occupation of the holiday letting accommodation use hereby approved shall be restricted solely to short term lets of not more than 28 days. The holiday letting accommodation units shall not be re-let to the party/parties who last occupied it anytime within a period of two months following the date on which the previous time of occupancy ends.

Reason:

To restrict the holiday letting use of the buildings to that applied for and in the interests of safeguarding the Council's policy for new build housing in the countryside.

- 4 In the event of the presence of any previously unsuspected or unforeseen contamination of the land on the application site being found, during development, details of such unsuspected or unforeseen contamination of the land shall be brought to the attention of the Planning Authority and development of the site shall not begin, or shall cease to continue, until a scheme to deal with contamination on the site has been submitted to and approved in writing by the Planning Authority. If investigations establish that remedial measures are required, any remedial measures as required shall be fully implemented prior to any use being made of the site for the holiday accommodation development hereby approved, unless otherwise approved in writing by the Planning Authority.

Reasons:

To ensure that the site is clear of contamination prior to the use of the holiday accommodation development.

- 5 Other than for the erection of the indicatively shown three holiday lodge buildings and their associated retaining walls, the micro-hydro plant building, the battery house building, the canoe storage building, the bin storage area, parking and access track the trees, scrub and vegetation of the site shall be retained unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure minimal landscape and visual impact of the built structures of the holiday accommodation development hereby approved within the wider landscape setting.

- 6 No development shall take place on site until temporary protective fencing in accordance with Figure 2 of British Standard 5837: 2012 "Trees in relation to design, demolition and construction" has been installed and confirmed in writing by the Planning Authority. The temporary protective fencing must be fixed in to the ground to withstand accidental impact from machinery, erected prior to site start and retained on site intact through to completion of development. The position of this fencing must be indicated on a site plan that shall be submitted to and approved in advance in writing by the Planning Authority prior to the commencement of works on the site, and the fencing shall be positioned, outside the Root Protection Area (RPA) as defined by BS5837: 2012 for all trees to be retained on the site.

All weather notices should be erected on the said fencing with words such as "Construction exclusion zone - Keep out". Within the fenced off areas creating the "Construction exclusion zones" the following prohibitions shall apply:

- No vehicular or plant access;
- No raising or lowering of the existing ground level;
- No mechanical digging or scraping;
- No storage of temporary buildings, plant, equipment, materials or soil;
- No hand digging;
- No lighting of fires;
- No handling, discharge or spillage of any chemical substance, including cement washings.

Planning of site operations shall take sufficient account of wide loads, tall loads and plant with booms, jibs and counterweights (including drilling rigs), in order that they can operate without coming into contact with retained trees.

Details of any trenches or services in the fenced off areas shall require the prior consent of the

Planning Authority and all trenches shall be dug and backfilled by hand and any tree roots encountered with a diameter of 25mm or more shall be left unservered.

The only construction access to the site shall be taken along the line of the existing access tracks.

Reason:

To ensure minimal landscape and visual impact of the built structures of the holiday accommodation development hereby approved within the wider landscape setting.

- 7 A scheme of landscaping for the site shall be submitted to and approved in writing by the Planning Authority prior to the commencement of works on the site. The scheme of landscaping shall provide details of: the height and slopes of any mounding on or recontouring of the site; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. The scheme of landscaping shall include indications of all existing trees and scrub on the land of the site, details of any to be retained and measures for their protection in the course of the development.

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

Reason:

To ensure minimal landscape and visual impact of the built structures of the holiday accommodation development hereby approved within the wider landscape setting.