

**REPORT TO:** Planning Committee

**MEETING DATE:** Tuesday 15 January 2019

**BY:** Depute Chief Executive  
(Partnerships and Community Services)

**SUBJECT:** Application for Planning Permission for Consideration

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*Note - this application was called off the Scheme of Delegation List by Councillor Forrest for the following reason: I feel this application should be heard by the Committee due to the development in this area with or without planning this would not look out of place.*

Application No. **18/01119/P**

Proposal Extension to house and formation of roof terrace with balustrade

Location **29 Promenade  
Musselburgh  
East Lothian  
EH21 6LD**

Applicant Mrs J Fernie

Per Scott Allan

RECOMMENDATION Application Refused

#### PLANNING ASSESSMENT

The property to which this application relates is a two storey end of terraced house and its garden located within a predominantly residential area as defined by Policy RCA1 of the adopted East Lothian Local Development Plan 2018. The property is not located within a Conservation Area and is not listed as being special architectural or historic interest.

Planning permission is sought for a part two-storey part single storey flat roofed extension to be attached to the front elevation of the house.

The ground floor component of the proposed extension would project some 9 metres forward of the front elevation of the existing house and would be some 5.168 metres in width. The first floor of the proposed extension would only project some 5.638 metres forward of the front elevation of the house and would be some 3.9m in width. A first floor terrace would be created on the flat roof of the remainder of the ground floor part of the extension. The flat roof of the proposed two storey component would be similar in height to the height of the existing flat roof component attached to the front elevation

of the existing house dwelling. The ground floor component would be some 3.09m in height. The proposed extension would be finished in a white coloured, smooth render and would have French doors and a further pedestrian door at ground floor level and French doors and a full height window at first floor level in its front (north) elevation. All new windows and doors would be grey coloured and UPVC framed. The first floor terrace would be enclosed in a glass balustrade.

The proposed extension would contain a bathroom, kitchen, utility room and sun room. A sitting room, bedroom and wet room at ground floor level as well as a bedroom, bathroom and large roof terrace at first floor level.

The application drawings also show some alterations to the existing house including the formation of a new doorway to the rear of the property. These works do not require planning permission as they are permitted development and therefore do not form part of this planning application.

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 South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Development Plan 2018.

Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan) and Policy DP5 (Extensions & Alterations to Existing Buildings), NH11 (Flood Risk), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of the application.

Three letters of objection to the application have been received. The main grounds of objections are: i) loss of privacy, ii) loss of visual amenity, iii) overdevelopment of the property, iv) loss of daylight and sunlight, v) flood risk, vi) unacceptable appearance of the building, vii) loss of value of property (viii) structural stability concerns and (iv) the correct site boundary of the site.

The issue of property values and concerns about the structural stability of the house are not material planning considerations in the determination of a planning application and cannot be considered in the determination of this application.

With regard the issue of property ownership this has been raised with the applicant. However, there is no built development proposed on the areas where ownership has been questioned. In any event, this is a legal matter to be resolved between the respective parties.

Five letters of support have also been received to the application. These highlight the need for the extension to meet the needs of the applicant who has mobility issues and requires a bedroom and accessible bathroom at ground floor level.

In this regard, the mobility needs of the occupier are noted. However, the Council's planning policy does not distinguish between the needs of one occupier over another and the application will be determined on its merits of design, its impact on amenity and on the impact on road safety in accordance with planning policy.

Policy DP5 of the adopted East Lothian Local Development Plan states that all alterations and extensions to existing buildings must be well integrated into their

surroundings and must be in keeping with the original building or complementary to its character and appearance. In this instance the existing house to which the proposed extension would attach is a two storey flat roofed stone building house that is readily visible from the public road. It has traditional windows on its front elevation that area of a timber framed sash and case style. The house is attached to a two storey stone built house that has a pitched roof with a flat top. The neighbouring building to the east which sits forward of the front elevation of the existing house, is a large 4 storey terraced flatted building the front elevation of which is finished in stone. The existing house, the adjoining building and the neighbouring flatted building all have windows of a variety of styles but which are all of a traditional size i.e their openings are largely unaltered.

The proposed extension would be attached to the front elevation of the house and therefore readily visible from the public road. In those public views it would, with its flat roofed form, its ivory coloured rendered external finish and of its modern style windows and doors have a modern and contemporary appearance. This contemporary appearance would contrast with the more traditional architectural form of the existing two storey stone built house to which it would attach. It would also contrast with the traditional architectural form and finish of the adjoining house and also to the large flatted building to the east.

As such it would be a highly prominent feature within the street scene protruding significantly further forward of the building line of the front elevation of the adjoining house. It would appear out of character with that house. It would not by its size and scale and of its prominence form and finish sit comfortably as an extension to the front elevation of the modest sized house. It would not be in keeping with the character and appearance of the existing house but would instead appear as an incongruous and alien feature within the street scene. As a prominent addition the front elevation of the house the proposed extension and would not be well integrated into its surrounding. Consequently, the proposed extension does not comply with Policy DP5 of the adopted East Lothian Local Development Plan 2018 in this regard.

Policy DP5 also states that with regards to extensions and alterations to existing buildings that a new development must not result in a loss of amenity through loss of privacy from overlooking or from loss of sunlight or daylight.

With regards to privacy and overlooking, the Council normally regards a separation distance of 18 metres between directly facing windows of a proposed extension and the windows of an existing property and 9 metres between a window of a proposed extension and a garden boundary with a neighbouring property as a sufficient separation distance to prevent harmful overlooking of neighbouring residential properties.

With regards the windows and doors of the proposed extension they would not face towards the windows of any neighbouring residential properties. Therefore they would not give rise to harmful overlooking.

With regards the proposed roof terrace, whilst it would allow for the overlooking of the garden of the adjoining house to the west this garden, due to its low boundary enclosures, is already visible in public views from the public road. The proposed roof terrace would not allow for overlooking that would be any different to that already possible from the public road.

The proposed roof terrace would be positioned adjacent to a window within the west side elevation of the flatted building to the east. The bottom cill of that neighbouring

windows window would be some 1.63 metres above the floor level of the proposed roof terrace. Therefore, given the close proximity of that window to the proposed roof terrace it would be potential for someone standing on the terrace to look directly into that window of that neighbouring property. As such, the proposal would result in a loss of the privacy of that neighbouring property through overlooking contrary to Policy DP5 of the adopted East Lothian Local Development Plan 2018.

With regard to the proximity of this window (the Council's Environmental Protection Officer has not raised any concerns with regards to noise and disturbance from the proposed terrace.

Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice" by P.J. Littlefair gives guidance on the impact of a proposed extension on the daylight and sunlight received by neighbouring properties. With regard to daylight the Guide gives a two-part test, one part measured horizontally and the other vertically. The Guide advises that there will not be a harmful loss of daylight if a proposed extension passes at least one part of the test when applied to a window of a neighbouring house.

In this instance, application of the daylight test shows that the first floor component of the proposed extension would fail both the vertical and horizontal tests when applied to the ground floor window on the east side of the front elevation of the adjoining house to the west. Consequently, the proposed extension would give rise to a harmful loss of daylight received by that window of that neighbouring residential property contrary to Policy DP5 of the adopted East Lothian Local Development Plan 2018.

The proposed two storey extension would infill the gap between the front elevation of the applicant's house and the rear elevation of the flatted building to the east. This would enclose an existing gap at first floor level between those two building. As a consequence of this there would be windows on the rear (south) elevation of that flatted building that would be directly adjacent to the proposed extension. Application of the daylight test demonstrates that due to the height of the proposed extension there would be a loss of daylight to that window on the ground floor of the flat at No 30 Promenade. As such, the application fails to comply with Policy DP5 of the adopted East Lothian Local Development Plan 2018 in this regard.

Application of the sunlight test also shows that while there would be overshadowing to the front garden of the adjoining neighbouring property of 28 Promenade this would be restricted to between 08.00 and 10.00 and at no point would exceed 50% of the garden area. As such, there would be no detrimental loss of levels of sunlight to this property caused by the proposed extension.

There would also be a loss of sunlight to the rear communal gardens of no's 30 Promenade & 38-40 Beach Road. However, this would be marginal between the hours of 15.00 and 16.00 and these gardens would already be significantly over shadowed by the existing property at these times already. As such, this would not be for such a length of time or over the extent of those neighbouring gardens to have a detrimental impact on the amenity of those neighbouring properties.

Policy T1 of the East Lothian Local Development Plan 2018 states that new developments shall be located on sites that are capable of being conveniently and safely accessed on foot and by cycle, by public transport as well as by private vehicle, including adequate car parking provision in accordance with the Council's standards. Furthermore, Policy T2 states that development must not have a significant impact on road safety, the convenience, safety and attractiveness of walking and cycling in the surrounding area, public transport operations in the surrounding area, the capacity of

the surrounding road network to deal with traffic unrelated to the proposed development and residential amenity as a consequence of an increase in motorised traffic.

The Council's Road Services Officer advises that the proposed extension would double the number of habitable rooms in this property from three to six. East Lothian Council parking standards for a property with this number of rooms states that there should be two parking spaces provided for a house of this size. There are currently no parking spaces available for this property and none are proposed. Therefore, the Council's Road Services Officer recommends that planning permission be refused for the proposed as it would lead to an increase in demand for parking within adjoining streets. The proposal therefore fails to comply with Policies T1 and T2 of the adopted East Lothian Local Development Plan 2018.

The site is within an area identified as being at risk of coastal flooding by The Scottish Environmental Protection Agency (SEPA). Policy NH11: Flood Risk of the adopted East Lothian Local Development Plan states that development that would be at unacceptable risk of flooding will not be acceptable. New development within areas of medium to high risk of coastal flooding should generally be avoided. No evidence has been submitted in support of the application that demonstrates that the proposed extension would not be at risk of flooding. As such the proposal fails to comply with Policy NH11 of the adopted East Lothian Local Development Plan 2018.

The Council's Environmental Health Officer advises that they do not wish to comment on this proposal.

The proposed extension is contrary to Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) and with Policies DP5, (Extensions & Alterations to Existing Buildings), NH11 (Flood Risk), T1 (Development Location and Accessibility) and T2 (General Traffic Impact) of the adopted East Lothian Local Development Plan 2018.

#### REASONS FOR REFUSAL:

- 1 The proposed extension would not by its prominence, size and scale and of its modern form and finish be in keeping with the character and appearance of the existing house. It would instead appear as an incongruous and alien feature within the street scene that would not be well integrated into its surroundings. Consequently the proposed extension is contrary to Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan) and Policy DP5 of the adopted East Lothian Local Development Plan 2018.
- 2 By virtue of its position in relation to neighbouring residential properties, and of its design and height, the proposed extension would result in a loss of amenity through loss of daylight to the ground floor window on the front elevation of No 27 Promenade and to the window in the ground floor of the rear elevation of the adjacent ground floor flat at No 30 Promenade. This loss of daylight to these rooms would have a detrimental impact on the residential amenity of those neighbouring properties contrary to Policies DP5 (Extension and Alterations to Existing Properties) of the East Lothian Local Development Plan 2018.
- 3 By virtue of the height of the first floor terrace and of its close proximity to the first floor window in the west elevation of the flatted property at No. 30 Promenade there would be a loss of privacy through overlooking from the proposed first floor terrace into that adjacent window contrary to Policy DP5 of the adopted East Lothian Local Development Plan 2018.
- 4 The proposed development would double the amount of habitable rooms to this property where no off street parking provision would be provided. As such, the proposal does not meet the Council's Parking Standards as set out in East Lothian Council's Standards for Development Roads 2008, nor can on-street parking be provided as an alternative. The proposal is therefore

contrary to Policies T1 (Development Location and Accessibility) and T2 (General Traffic Impact) of the adopted East Lothian Local Development Plan 2018.

- 5 The application site is within an area identified as being at risk of flooding. No evidence has been submitted in support of the application that demonstrates that the proposed extension would not be at risk of flooding. As such the proposal fails to comply with Policy NH11 of the adopted East Lothian Local Development Plan 2018.