

**REPORT TO:** Planning Committee

**MEETING DATE:** Tuesday 26 March 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 Hampshire for the following reasons: This is a compact site with housing in close proximity. I have concerns about overlooking and loss of trees. I think the Planning Committee should look at this site before determining this application.*

Application No. **18/01319/P**

Proposal                      Erection of 1 house and associated works

Location                     **Ashfield House  
Countess Road  
Dunbar  
East Lothian  
EH42 1DZ**

Applicant                    Mr Gregor and Mrs Wendy Morrison

Per                             JM Planning Services

RECOMMENDATION         Consent Granted

#### PLANNING ASSESSMENT

The application site comprises of an area of land that is currently part of the garden ground of the residential property of Ashfield House, Countess Road, Dunbar. The site is within a Town Centre Area as defined by Policy TC2 of the East Lothian Local Development Plan 2018. It is also within the Dunbar Conservation area and within the Dunbar II Historic Battlefield.

There are a number of trees on the site; there are no Tree Preservation Orders on or adjacent to the site. There is a shed erected in the north west of the site and some children's play equipment located within the southern area.

To the north, the site adjoins the residential property of Ashfield House, which is an L-shaped single storey building positioned at the corner of the main Countess Road and a spur to the south. Ashfield House has few windows on the north elevation, with the front elevation and garden ground to the south and additional garden ground to the east of the property. Although the more formal garden area is next to the house, the property's

garden does extend south to encompass the whole application site.

The application site is bounded to the west by a public road, which is a spur from Countess Road, and from which there is vehicular access to Ashfield House. The public road slopes down towards the south and narrows under a railway bridge, before reaching a small area of hard standing next to a play area. The road then becomes a cycle and footpath. It is understood that one house on Retreat Crescent does still have vehicular access rights along this pathway. The road to the west of the site is at a significantly lower level than the majority of the application site, with a random rubble stone retaining wall approximately 1.5 to 3 metres high bounding it. On the opposite side of the road is a detached single storey property with accommodation in the roofspace (93 Countess Road) which sits slightly higher than the road. There is no footway on either side of the road south of the accesses to the existing properties at Ashfield House and 93 Countess Road and no footpath immediately to the north of the Ashfield House access.

To the south, the site is bounded by the platform of Dunbar Railway Station, beyond which is a main railway line. The level of the platform is significantly lower than the site and separated from it by a high, random rubble stone wall.

The east of the site adjoins the residential development at Kings Court. The application site shares an eastern boundary with the rear garden of 15 Kings Court, the areas accommodating the underground SuDS feature for the site and the rear garden of 14 Kings Court. Both 14 and 15 Kings Court are two storey properties. A timber fence approximately 1.8 metres in height defines the boundary of the site to the east.

The current application site and the area of land to the east was allocated in the East Lothian Local Plan 2008 for a mixed development of housing and car parking. In September 2013 a planning application (Ref:13/00719/P) was submitted for a residential development of 17 detached houses, including associated roads and landscaping on the site. The application site did not include the current application site. Application 13/00719/P was refused by East Lothian Council Planning Committee in May 2004. The reason for refusal was that the proposed development did not include for the provision of the development of a car park and was therefore contrary to Proposal H10 of the adopted East Lothian Local Plan 2008. In December 2004 the application was granted at appeal (Ref: 000071626-001). The sections submitted with this application do not show the level differences which now exist between the house plot, which is now 14 Kings Court, and the adjacent land which is the subject of the current application.

In July 2016 planning permission (Ref: 15/00994/P) was granted for the erection of 4 flats on plot 6, changes to some house types and their position and associated works, as changes to the scheme of development the subject of planning permission 13/00719/P. The permission has been implemented and the houses at 14 and 15 Kings Court are occupied.

In May 2017 planning permission (Ref: 17/00224/P) was refused for the erection of 1 house, a shed and associated works on the application site.

The reasons for refusal were:

“1) The house would be of a scale and design which would result in a cramped form of infill development and would constitute overdevelopment of the application site. It would appear overbearing and incongruous on the prominent site and would have a detrimental visual impact on the area. It would be contrary to Policies DP2 (Design) and DP7 (Infill, Backland and Garden Ground Development) of the adopted East Lothian Local Plan 2008.

2) The proposed development would result in the removal of all trees within the site which at present provide an established setting and attractive feature on this approach to the town centre. Although some replanting is proposed, this would not adequately compensate for the loss of the mature trees. The merits of the proposed development do not outweigh the detrimental impact that the loss of the trees would have on the visual and environmental amenity of the area. The proposal would be contrary to Policies DP14 (Trees in and Adjacent to Sites) and NH5 (Protected Trees) of the adopted East Lothian Local Plan 2008.

3) The proposed development would result in a large, incongruous building, elevated above the existing street level. The building and the loss of the existing trees on the site would have a detrimental impact on the character and appearance of Dunbar Conservation Area and would be contrary to Policy ENV4 of the adopted East Lothian Local Plan and Scottish Planning Policy: June 2014”.

In October 2017 planning application (Ref: 17/00946/P) was submitted for the erection of 1 house and associated works on the site. The application was withdrawn in January 2018 before it was determined.

Planning permission is now sought for the erection of a house and associated works within the garden ground of Ashfield House.

The following have been submitted in support of the application:

- 1) Acoustic report (November 2018)
- 2) Report on Tree Condition (March 2019)
- 3) Construction Method Statement (March 2019)
- 4) Design statement (March 2019)
- 5) Planning Statement (December 2018)
- 6) Structural Feasibility Report (November 2018)

Amended drawings and an amended tree report, design statement and construction method statement have been submitted since the submission of the application.

The proposed house would be 2 storeys in height, comprised of a ground floor living area and kitchen, with 3 bedrooms at first floor level. It would be some 15 metres long and 8 metres wide, with a curved western elevation. It would have a mono-pitched roof, 5.2 meters at the east side rising to 6.2 metres at its highest point on the west side. The sloping roof would be clad in zinc with standing seams. A flat ‘green’ roof section, surfaced in sedum is proposed on the west side of the building. The walls would be a mixture of timber cladding and smooth render.

The east elevation would have two windows. Both would serve hallways and are proposed to be glazed with obscured glass. There would be windows on the north and south ends and the main windows on the west elevation. The proposed house would be approximately between 1.8 and 2.6 metre from the eastern boundary, 4.5 metres from the west boundary and 8 metres from the southern boundary.

The proposal includes parking for two cars within the north of the site with a pedestrian access path leading to the proposed house. An air source heat pump is proposed on the south side of the property.

The applicant is proposing to retain all but two trees on the site, with two sycamores to be removed.

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 Development Plan 2018.

Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) and Policies TC2 (Town and Local Centres), CH2 (Development affecting Conservation Areas), CH5 (Battlefields), DP1 (Landscape Character), DP2 (Design), DP7 (Infill, Backland and Garden Ground Development), NH5 (Biodiversity and Geodiversity Interests including Nationally Protected Species), NH8 (Trees and Development), T1 (Development Location and Accessibility), T2:General Transport Impact, NH13 (Noise) of the adopted East Lothian Local Development Plan 2018 and Supplementary Planning Guidance Cultural Heritage and the Built Environment 2018 are relevant to the determination of the application.

Also 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 and proposals outwith 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.

Written representations from two parties have been received to the application. The main points of which are summarised below:

- \* Previous application 17/00244/P on the site was refused. The three reasons for refusal still apply to the current application;
- \* The residents will have to park in front of Ashfield House and walk the rest of the way to the new house, this will have detrimental impact on residents of Ashfield House;
- \* The plans for the parking area indicate 4 parking spaces plus a turning space which will result in a serious loss of privacy for us at 15 Kings Court, there has been no attempt to screen the parking area from number 15 Kings Court;
- \* Objection to car park with associated noise and pollution next to boundary fence compromising privacy of 15 Kings Court;
- \* This site is not suitable for the siting of a new home, it is too small and this would be over development of the area;
- \* There may be more pressure to remove the trees within the retained garden ground for Ashfield house, which would have an impact on Conservation Area;

- \* Although overgrown and unkempt the whole site contains a mature landscape/boundary setting. The proposals already require the removal of a number of existing trees as well as the unnecessary removal of much of the less substantial holly and yew trees and shrubs;
- \* Many of the mature Holly trees are not included on this current planning application. There are 3 Yew trees in the area earmarked for parking and only the smallest one is mentioned on the plans;
- \* The removal of the trees opens up the site and neighbouring properties to views from the rail station platform. This would be a compromise to the character and setting of the conservation area, a compromise to the setting and amenity of the proposed new building, and to the residents of Ashfield House and at 14 Kings Court;
- \* Concerns regarding the tree protection during building works in such a narrow plot, with the movement of tons of material and heavy machinery moving around the building area;
- \* Concerns over potential damage having already been made to tree number 3798 (mature sycamore) on the proposal and that any further work, of any nature around its root base would put the tree at great risk;
- \* There is no evidence that tree 3798 has been terminally damaged by building the house at 14 Kings Court;
- \* If tree 3798 is removed, there will be loss of privacy for garden of 14 Kings Court;
- \* Bats forage around the trees;
- \* Loss of privacy and amenity of neighbouring properties around site;
- \* The height difference between the application site and the ground floor of 14 Kings Court is significant. This means that both gardens are overlooked by neighbours. People in the garden of Ashfield house can look into the house of 14 Kings Court;
- \* Although the site is already garden ground the intensification of the use of the site will increase the chance of conflict and therefore affect the amenity of all concerned;
- \* A house in this site and all those who would use it daily, including workmen, gardeners, delivery people, and the residents, would be able to see directly into our main bedroom of 14 Kings Court;
- \* The overlooking issues were not apparent when the neighbouring house at 14 Kings Court was purchased;
- \* The garden area to the south of 14 Kings Court is smaller and overshadowed by 13 Kings Court and will have an extension granted by (18/01120/P). The garden to the west will be the principle amenity area;
- \* The proposed hedge planting will take time to establish and will be in effectual due to species and maximum growth height. A screen of approx. 10 would be required due to level differences;
- \* Loss of light to garden of 14 Kings Court. The addition of another property and tall planting or fencing this would require to mitigate the privacy issues created by this

proposal will result in a huge loss of amenity, a cramped and overcrowded look and feel to the area which is not in keeping with the aims of the conservation area in Dunbar;

- \* The amended plans show the loss of more trees, replacement trees take time to establish;
- \* Any hedging or planting would need to be further into the site so the residents at 14 Kings Court are not faced with a wall of plants close to the kitchen window;
- \* The area of garden to south of the southeast corner of the proposed house would not be screened. This is most likely to be the usable garden area for future residents;
- \* There will be a loss of privacy for the house at 93 Countess Road;
- \* The proposed house has a flue protruding from the roof. Kings Court will be effected by smoke exiting the building;
- \* The proposed zinc roof is not an appropriate addition to the site or the conservation area;
- \* Concern for the drains from Kings Court that cross the plot, due to the movement of heavy building equipment;
- \* Proposal is contrary to: NH8, CH2, DP1, DP2, DP7;
- \* Concern regarding the high historic wall on the lane from Countess Road with reference to potential movement due to the building works; and
- \* Removing mature tree 3798 may cause damage to the property at 14 Kings Court.

In terms of the last two points, a structural feasibility report has been submitted, which avers that a house could be safely built on the site taking into account existing trees and the constrained access. On this matter a building warrant would be required for the construction of the proposed house. The tree roots under the property and garden of 14 Kings Court have been built over and subject to level changes when the house was constructed and therefore would not be expected to be functioning in this area. The roots themselves would not be removed from under the house. The other points raised are discussed below. Any damage caused would be a civil matter to resolve.

There is no evidence to suggest that the proposed development would damage drains from Kings Court that cross the plot. Any damage caused would be a civil matter to resolve.

Although the site is currently part of the garden ground of Ashfield House, the area is defined as being within a town centre as defined by Policy TC2 of the East Lothian Local Development Plan 2018. This policy states that residential uses may be acceptable, particularly in a backland location. Proposals that would have a significant environmental impact, particularly on housing, will not be permitted. Therefore, the principle of a house on the site is acceptable provided other policies are complied with and it would not have a significant environmental impact.

The site is within the Battle of Dunbar II Historic Battlefield. Due to the already development nature of the site and the surrounding area the proposal would not affect key landscape features of the battlefield and would comply with Policy CH5 of the ELLDP.

The proposed house would utilise the existing vehicular access from the public road. There is sufficient room within the site to accommodate two parking spaces to serve the proposed house and 2 for the existing Ashfield House and sufficient room to turn and leave the site in a forward gear. The applicant is proposing to widen the footway to the north of the existing access to improve visibility. The Council's Road Services confirm that the arrangements for site access and on-site parking are of an acceptable standard of provision and raise no objection to the proposed development. A condition can be imposed to ensure that the footway is widened prior to the occupation of the house. Subject to this planning control, the proposal is consistent with Policies T1 and T2 of the ELLDP.

With respect to infill, backland and garden ground development, Policy DP7 states that, amongst other principles of development, it must, by its scale, design and density be sympathetic to its surroundings and not an overdevelopment of the site. The occupants of existing neighbouring development should experience no significant loss of privacy and amenity and occupants of any new development must also enjoy privacy and amenity, overdevelopment of the site will be unacceptable and landscape and boundary features important to the character of the area must be retained where possible.

Policy DP2 of the ELLDP, require that all new development must be well designed and integrated into its surroundings. The policies require that a building must be appropriate to its location in terms of its 'positioning, size, form, massing, proportion and scale'.

The site is in close proximity to a main railway line and an acoustic report has been submitted by the applicant. The report concludes that measures can be installed to ensure that noise levels do not exceed the guideline values suggested by the World Health Organisation for both daytime and night-time. They advise that vibration levels are predicted to be lower than the threshold value that would be likely to trigger adverse comments. The Council's Environmental Health Service raise no objection to the proposed development in terms of noise. It would be prudent that windows should be glazed with standard double glazing with trickle vents in accordance with the applicant's acoustic report. The Environmental Health Service advise that they do not anticipate any noise issues from the air source heat pump given its proximity to the noise source of the railway and the separation distance between the air source heat pump and the neighbouring property. On this consideration, and subject to the aforementioned planning control, the proposal complies with Policies NH13 and DP7 of the ELLDP.

The applicant had proposed a flue from a wood burning stove. The Environmental Health Service has raised concerns regarding the impacts of smoke, including the smell of smoke, arising from the proposed flue serving a wood burning stove upon neighbouring properties, in particular the occupier of 14 Kings Court. It is noted that the proposed flue terminates at low level and below the height of windows of neighbouring property at 14 Kings Court. In order for it to facilitate the adequate dispersal of smoke Environmental Health require the flue to terminate a minimum, above eaves level of the adjacent property at 14 Kings Court. Due to the level differences between the sites this would result in a very tall flue which would be likely to have a negative visual impact. Therefore, if approved a condition should be imposed stating that the flue is not approved, to protect the amenity of neighbouring properties.

On the matter of the impact of the house on daylight and sunlight on neighbouring properties, guidance is taken from "Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice" by P.J. Littlefair. This recommends that at least half of relevant amenity ground should receive at least 2 hours of sunlight on 21 March. In this case the potential impact of the proposed house on the loss of sunlight to the garden to the east at

14 Kings Court has been assessed.

Application of the sunlight test on the proposed garden ground of the house at 14 Kings Court predicts that before 11am the proposed house will not cause any shadowing of the garden of 14 Kings Court, however, at this time there is overshadowing from the existing house and the house and approved extension to 13 Kings Court. At 11am and 12pm less than half of the western garden area and none of the southern garden areas are predicted to be overshadowed. After 1pm more than half the western part of the garden is predicted to be overshadowed, but none on the southern part of the garden. Therefore, the requirement that at least half of relevant amenity ground should receive at least 2 hours of sunlight on 21 March is met.

It should also be noted that this test was carried out without taking into account the significant level changes between the site and the adjacent garden. As the western section of the garden slopes up towards the house, the extent of overshadowing from the proposed development on the higher areas of garden would be expected to be less than predicted by the test.

It is noted that there is some shading from the existing trees on the application site and in the garden of 14 Kings Court, although a Sycamore is proposed for removal. However, this is not anticipated to be to such an extent as the erection of the proposed house to result in a significant loss of amenity from loss of sunlight. Taking all this into account, the proposed house would not result in an unacceptable loss of sunlight to neighbouring residential properties.

In assessing whether or not a proposed new development would result in overlooking and loss of privacy to other residential properties it is the practice of the Council as planning authority to apply the general rule of a 9 metre separation between the windows on the proposed house and the garden boundary of neighbouring residential properties and an 18m separation between directly facing windows, if they are not adequately screened.

Due to the position and design of the proposed house, there would be no directly facing windows between it and neighbouring houses.

The potential for overlooking from the proposed house to the garden area of the existing house at 14 Kings Court must be considered. The proposed house would have one first floor window facing east from a hallway. The applicant has shown that this would be obscured. As the site is within Dunbar Conservation Area which is the subject of an article 4 direction, planning permission would be needed to change this. There would be one ground floor window from a hall which would be obscured and would also be screened by the existing fence and proposed hedging. The requirement for the two east facing windows to be obscure glazed could be secured by the imposition of a planning condition. Subject to this planning control, the proposed house itself would not result in unacceptable loss of privacy for neighbouring properties.

The impact of the proposal on the privacy and amenity of the garden ground and house of the existing property at 14 Kings Court from the use as garden of the proposed house must then be considered. It is a material consideration that the site is currently residential garden ground for Ashfield House, however, the area in which the proposed house is sited is some distance from Ashfield House and is not used as their main garden area, which is next to the property. It is understood that the area is used occasionally and by the family's children to play in. Indeed, an objector has raised this as an existing issue due to the intervisibility between the gardens. It is also the case that the development of a house on the site would be reasonably expected to result in an increase in the



frequency and nature of the use of the garden area, which would be next to the proposed house and which would serve as its main outside amenity area.

The garden ground serving the new house would be at a lower level than that of the garden ground serving the existing house of 14 Kings Court. Due to the angle of the existing house, the angle at which a person has to look up to the existing neighbouring property, the distance between it and the garden, and due to the proposed landscaping and size of the windows, there would not be unacceptable loss of privacy to rooms inside the house at 14 Kings Court from people using the garden of the proposed house.

The ground level at the base of the existing house would be approximately 4.5 metres above the ground level of the proposed house and its surrounding garden area. The garden area to the west and south of the house slope significantly down to the boundary fence. Therefore, when in the higher areas of the garden the existing 1.8 metres timber fence provides less screening than in the lower area. The proposed house would result in some screening of the western garden of the existing house from those using the garden to the south and southwest. New hedge planting is proposed along the eastern boundary of the proposed house and the shared boundary fence. This would not be of a sufficient height to provide screening above the height of the fence and any planting would take time to establish. However, it would reduce the visibility through the fence in this area and is likely to lessen the use within this part of the garden. The cumulative effect of the existing fence, the trees and shrubs to be retained on site and the angle at which users would be looking would mean that the garden of the existing house would not suffer significant loss of privacy and amenity.

There would be no significant loss of privacy for other neighbouring properties due to the location of the proposed house. The formalisation of parking areas on land to the west of the rear garden of 15 Kings Court would not have a significant effect on the amenity of the occupants of Ashfield House or that of the nearby houses of Kings Court. This area is part of the garden area for Ashfield House and there is a timber fence along the end of the garden. This would not result in a significant increase in the intensity of the use of the area and new hedging is proposed between the rear of the parking and the boundary.

The proposed house would be approximately 3.3 metres higher than the existing timber boundary fence with 14 Kings Court. It would be set back from the boundary by approximately 2 metres. Due to the height of the proposed building, its position and the size, level differences and position of the neighbouring garden, the proposed house would not have an overbearing impact on the neighbouring property.

In conclusion, and subject to the aforementioned planning controls, the proposed house and its associated access, parking and garden ground would not have an unacceptable impact on the privacy and amenity of the neighbouring property of 14 Kings Court, or on that of any other neighbouring property.

It must then be considered if the proposed house would have sufficient privacy and amenity.

The house at 14 Kings Court is on a corner site and as such has areas of amenity garden ground to the west and south of it. The windows in the west elevation of the existing house at 14 Kings Court would not directly overlook the private amenity ground of the proposed house. There are first floor windows from bedrooms in the centre and right side of the south elevation. There is also a bathroom window on the left side. Ground floor windows are from the kitchen, on the left side of the elevation, and the living room on the right side and patio doors open onto a small paved area in the centre. These would look towards part of the garden ground of the proposed house. The first floor bedroom

windows would be approximately 9 metres or more from the garden boundary and the other is from a bathroom. However, although this would normally satisfy the guideline distance, the levels differences between the site and the adjacent property must be taken into account. On this matter, the ground floor kitchen window on the south elevation of 14 Kings Court is higher than the top of the boundary fence and is less than 9 metres from the boundary. Although the normal window to boundary distance would not be met at this point, the residents of the proposed house would still have amenity in the form of an area of garden ground which would not be directly looked and shrubs and the existing fence which would provide further screening and break up views.

As discussed above, residents of 14 Kings Court using their garden would not be fully screened by the 1.8 metre high fence in most of their garden. The position of the proposed house would screen much of the proposed garden area when looking south from the western area of the garden for 14 Kings Court. The existing 1.8 metre fence and shrubs on the site do provide some screening when within the application site. Policy DP7 does not require that garden areas are completely screened but that they have 'privacy and amenity'. Given the proposed house would have some garden ground with a reasonable level of privacy and amenity, it would comply with Policy DP7 in this regard.

Policies DP1, DP2 and DP7 require that buildings are appropriate for their setting and respect existing landforms and features. The house would be positioned some 4.5 metres off the west boundary at its closest point. It would project approximately 6 metres above the retaining wall to the west, when viewed from the public road. The 2 storey section would be set back from the single storey timber clad part of the building on the west side, which would break up the mass of the building. This design, and an appropriate colour of render for the upper section, would reduce the visual impact of the building and the overall massing and help to integrate it into its treed setting. The house would sit lower than the existing house to the west which would be visible behind it. Therefore, the house would be of a scale and design that is appropriate for the site. The specific issue of trees on the site is discussed further below.

Policy NH8 of the East Lothian Local Development Plan 2018 seek to protect trees through the planning process. It states that development affecting trees, groups of trees or areas of woodland will only be permitted where any tree, group of trees or woodland that makes a significant positive contribution to the setting, amenity of the area has been incorporated into the development through design and layout or in the case of individual trees or groups of trees, their loss is essential to facilitate development that would contribute more to the good planning of the area than would retaining the trees or group of trees.

Policy CH2 of the adopted ELLDP seeks to protect conservation areas and states that all new development within them, 'must be located and designed to preserve or enhance their special architectural or historic character'.

As discussed above, the design of the proposed house is of a scale and form which is appropriate for the site. Although it is of a modern design, the materials, including zinc, would be of a high quality and in keeping with the treed site. The house itself would not have a detrimental impact on the Conservation area. The potential impact on the trees on the site must then be considered.

The Dunbar Conservation Area Statement within the adopted Supplementary Planning Guidance on Cultural Heritage and the Built Environment 2018 observes that, 'Trees are not a principal feature in Dunbar town centre but where groups of mature trees exist they make an important visual impact. Mature treed gardens exist at the manse on Bayswell Road, the rectory at Lawson Place, the Priory at Abbeylands and the field to the west of

Station Road. These trees are important to the landscape setting of Dunbar Conservation Area and should not be removed to facilitate development’.

The Conservation Area Statement notes the contributions that the trees on the site make to the character of the Conservation Area. The site is located at the south western edge of the Dunbar Conservation area, with Ashfield House the first residential property you come to within the designation when approaching from the west along Countess Road, which is a main route into the town. The site is important in establishing the character of the Conservation Area and its historic context. The current trees provide a visual buffer which softens the appearance of the new housing development to the east and the impact of the retaining wall along the side of the public road.

The applicant has submitted a tree survey, a drawing showing the Tree Protection Areas and a Construction Method Statement detailing how the proposed house would be built whilst protecting the trees to be retained.

The applicant proposes to retain most trees on site apart from a sycamore in the south west corner (identified as 3792 in the tree survey) and one on the boundary with 14 Kings Court (identified as 3798 in the tree survey). Sycamore 3792 has been evaluated as in a ‘fair’ condition with restricted rooting and tree 3798 is evaluated as in a ‘fair’ condition with minor dead wood. Trees 3793 and 3794, a sycamore and elm respectively, have been evaluated as poor but are to be retained to provide screening whilst replacement tree establishes in the south west corner of the site. A small leaved lime and a hornbeam are to be planted to replace the tree in the south west corner. The position of the house has been altered slightly to move it away from the trees and shrubs along the western boundary of the site.

The Council’s Landscape Officer has advised the drawings and information submitted by the applicant have addressed previous requirement for information and details of the proposed development. She notes that the replacement tree planting to the southwest corner will mitigate for the loss of the two sycamore trees being removed in a more planned way and provide a new strengthened tree edge to the west side of the Conservation Area. She does note that she remains concerned over possible future requests to fell trees on the site due to the limited unshaded garden ground provided by developing this site and regarding the development on the site and over possible damage to the retained trees due to the constrained access and limited site working space and storage area outwith the root protection areas of the trees even with the suggested conditions and Tree Protection Areas drawing. To address this she has suggested a number of conditions, including arboricultural monitoring of the construction works. Therefore, the applicant has shown that the majority of trees can be retained on the site and the landscaping setting of this part of the Dunbar Conservation Area preserved in compliance with Policies NH8 and CH2 of the ELLDP.

The Council’s Biodiversity officer has advised that there is unlikely to be bats roosting on the site due to the lack of suitable features in the trees. They have noted that mature trees provide valuable habitat and the removal of 2 mature sycamore trees would reduce biodiversity. Scottish Planning Policy reiterates the duty that Planning Authorities have under the Nature Conservation (Scotland) Act 2004 to further the conservation of biodiversity. The current proposal is to plant a replacement hornbeam and small-leaved lime on the site in addition to native hedging. Therefore, there would not be a significant net loss of biodiversity on the site and the proposal would comply with policy NH5 of the ELLDP.

In summary, the site is constrained and on a very sensitive location. However, the applicant has demonstrated that the house could be built while protecting the majority of

trees on the site and protecting the character of the Dunbar Conservation Area. The future residents would have sufficient amenity and neighbouring properties would not suffer a significant loss of privacy and amenity. Therefore, taking all of the above into consideration and with appropriate conditions, the proposal complies with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), with Policies DP1, DP2, DP7, NH8, NH13, T1, T2 and CH2 of the adopted East Lothian Local Development Plan 2018 and with both Scottish Planning Policy: June 2014 and Supplementary Planning Guidance Cultural Heritage and the Built Environment 2018.

## CONDITIONS:

- 1 Notwithstanding the approved drawings, the flue from a wood burning stove on the house is not approved and shall not be installed.

Reason:

To protect the residential amenity of neighbouring properties from smoke and odour.

- 2 Prior to the commencement of development on site, final site setting out details shall be submitted to and approved in writing 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 Survey datum or local datum from which the Planning Authority can take measurements and shall be shown on the setting out drawing. A minimum of three benchmarks must be provided relating to fixed points outwith the development site

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

Thereafter, the development shall be implemented in accordance with the approved details.

Reason:

To ensure that the proposal is implemented in accordance with the approved plans and allow the Planning Authority to control the development in the interests of the visual amenity of the area.

- 3 Prior to the commencement of any development on the application site, temporary protective fencing in accordance with Figure 2 of British Standard 5837\_2012 "Trees in relation to design, demolition and construction" and ground protection, all as detailed in section 1 of the Construction Method Statement dated March 2019 and docketed to this permission, has been installed, approved by the arboriculturist and this approval confirmed in writing by the Planning Authority.

The fencing must be fixed in to the ground to withstand accidental impact from machinery, erected prior to site start and retained on site and intact through to completion of development. The position of this fencing must be as indicated on the drawing 'Tree Protection Areas' numbered 06 rev E docketed to this planning permission and shall be positioned outwith the Root Protection Area (RPA) as defined by BS5837:2012 for all trees.

Clearly visible all weather notices shall be erected on the protective fencing. The notices shall read: "Construction exclusion zone - Keep out". Within the fenced off areas creating the Construction Exclusion Zones the following prohibitions must 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 should 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.

The temporary protective fencing shall be retained in its approved position for the period of construction on the site unless otherwise approved in writing by the Planning Authority.

Reason

In order to form Construction Exclusion Zones around retained trees and protect retained trees from damage.

- 4 All construction works on site shall be carried out in accordance with the Construction Method Statement March 2019 docketed to this permission.

Reason:

To ensure that the development is carried out as proposed to protect the trees on site in the interest of biodiversity and the character of the Dunbar Conservation Area.

- 5 A person, who through relevant education, training and experience, has gained recognised qualifications and expertise in the field of trees in relation to construction, shall be employed to monitor works with the Root Protection Areas of trees on the site including the installation of the temporary protective fencing and ground protection in accordance with the approved construction method statement and drawing 'Tree Protection Areas' numbered 06 rev E.

Prior to the commencement of development on the application site, details of the appointment of such a person shall be submitted and approved in writing by the Planning Authority. Thereafter, the person shall be retained for the period of construction on the site unless otherwise agreed in writing with the Planning Authority.

During construction works, an arboricultural inspection of the site shall be undertaken at least once a month monitoring compliance with the approved Construction Method Statement and detailing the current site and tree conditions. The findings of the inspection shall be detailed in a report which shall be submitted to the Planning Authority on the 15th of the month (or other date to be agreed) and approved in writing by the Planning Authority. If compliance with the approved Construction Method Statement is not demonstrated in a report then works shall cease on site until agreed in writing with the Planning Authority.

Reason:

To ensure the retention and maintenance of trees which are an important feature of the area.

- 6 Any surfacing within the Root Protection Areas shall be carried out in strict accordance with section 7.4 of BS5837: 2012 "Trees in relation to design, demolition and construction".

The path to the house hereby approved shall be constructed in accordance with the Proposed site / Landscaping Plan 05 Rev E docketed to this permission, unless otherwise agreed in writing with the Planning Authority.

Reason:

To ensure that tree roots are suitably protected in the interests of tree retention and the character of the Dunbar Conservation Area.

- 7 Prior to the commencement of development on site, full details of the footpath widening to the north of the access to Ashfield House shall be submitted to and approved in writing by the Planning Authority.

Thereafter, the detail shall be implemented as approved prior to the occupation of the house hereby approved.

Reason:

To provide safeguarded pedestrian access to the site and improve visibility for drivers egressing the site in the interest of road safety.

- 8 Prior to their use on site, full details including colours, of the materials to be used to externally finish the house hereby approved shall be submitted to and approved in writing by the Planning Authority.

Reason:

To allow the consideration of details yet to be submitted and in the interests of visual amenity and

the character of the Dunbar Conservation Area.

- 9 The house hereby approved shall not be occupied unless and until the two windows in the east elevation of it are obscurely glazed in accordance with a sample of the obscure glazing to be submitted to and approved by the Planning Authority. The obscure glazing of those windows shall accord with the sample so approved and thereafter they shall remain obscurely glazed unless otherwise approved by the Planning Authority.

Reason:

In order to safeguard the privacy and amenity of the neighbouring residential property to the east.

- 10 Windows on the house hereby approved shall be double glazed with standard non-acoustic trickle vents.

Reason:

To comply with the recommendations of the acoustic report submitted with application to protect future residents from noise from the nearby train line.