

REPORT TO: Planning Committee

MEETING DATE: Tuesday 5 November 2019

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 Findlay for the following reason: there has been much concern in this Conservation Area over this infill development and its impact on the village that I believe it would be beneficial for the Planning Committee to look at this application and to determine the outcome.

Application No. **19/00781/P**

Proposal Erection of 1 house and associated works

Location **Land East of Whitekirk Village Hall**
Whitekirk
North Berwick
East Lothian

Applicant G Tuer and Sons

Per Wardell Armstrong LLP

RECOMMENDATION Consent Granted

REPORT OF HANDLING

PROPOSAL

This application relates to a 318 square metre area of land located to the east of Whitekirk village hall. The application is located within the Settlement boundary of the village of Whitekirk as defined by Policy RCA1 of the adopted East Lothian Local Development Plan 2018. The site is bound to the immediate west by Whitekirk Village Hall and its associated ground, to the south partly by a rock outcrop with the gardens of the single storey residential properties of nos. 4 and 6 Whitekirk Cottages beyond and partly by a rock outcrop with undeveloped land beyond. To the north the application site is bound by the vehicle access track which serves the residential property of Tithe Barn which is located to the east of the application site. Tithe Barn is listed as being a building of special architectural or historic interest (Category A) and is located within the Scheduled Ancient Monument of the Whitekirk remains of Pilgrims' House. The application site is located within Whitekirk Conservation Area but not within the Scheduled monument.

Planning application 19/00069/P seeking planning permission for a two storey detached house on the application site was withdrawn prior to determination in July 2019.

Through this current application planning permission is now sought for the erection of a detached single storey house with living accommodation within the roofspace and associated works on the application site being the area of unmanaged self-seeded ground to the east of Whitekirk Village Hall and the same application site as that which was the subject of planning application 19/00069/P.

The application site would be accessed off the existing vehicular access which serves Tithe Barn off the Whitekirk public road. The proposed new house would occupy a central position within the application site. The proposed house would have a rectangular shaped footprint measuring some 12 metres in length by some 6.7 metres wide. The proposed house would be single storey in height with living accommodation within the roofspace and a ridge height of some 6.5 metres. Private garden ground would be provided to the south, east and north east of the house with parking for two cars being provided within the northwest corner of the application site accessed off the existing vehicle access which runs along the north boundary of the application site. An area of paving is proposed immediately to the north east of the proposed house. A new timber fence and gate some 1.3 metres high would be erected along the western boundary of the application site to delineate the boundary between the application site and the neighbouring land of the Whitekirk Village Hall. The existing stone wall which delineates the eastern boundary of the application site would be retained.

DEVELOPMENT PLAN

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.

There are no relevant policies of the approved South East Scotland Strategic Development Plan (SESplan). Policies RCA1 (Residential Character and Amenity), CH1 (Listed Buildings), CH2 (Development Conservation Areas), CH4 (Scheduled Monuments and Archaeological Sites), DP1 (Landscape Character), DP2 (Design), DP7 (Infill, Backland and Garden ground Development), NH8 (Trees and Development), 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.

Material to the determination of the application are Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Scottish Government's policy on development affecting the setting of a listed building and development within a conservation area given in Scottish Planning Policy: June 2014.

Scottish Planning Policy echoes the statutory requirements of Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that in considering whether to grant planning permission for development which affects a listed building or its setting a planning authority shall have special regard to the desirability of preserving and enhancing the building, its setting and any features of special architectural or historic interest which it possesses.

Scottish Planning Policy echoes the statutory requirements of Section 64 of the Act that a planning authority must have regard to the desirability of preserving or enhancing the character or appearance of a conservation area in exercising its responsibilities in the determination of any application for planning permission for development affecting a conservation area. It is stated in Scottish Planning Policy that proposed development

within conservation areas which will impact on its appearance, character or setting, should preserve or enhance the character and appearance of the conservation area. Proposals that do not harm the character and appearance of the conservation area should be treated as preserving its character and appearance.

Also material to the determination of the application is the Scottish Government's guidance on housing design and quality given in Planning Advice Note 67: Housing Quality.

Planning Advice Note 67: Housing Quality explains how Designing Places should be applied to new housing. In PAN 67 it is stated that the planning process has an essential role to play in ensuring that: (i) the design of new housing reflects a full understanding of its context - in terms of both its physical location and market conditions, (ii) the design of new housing reinforces local and Scottish identity, and (iii) new housing is integrated into the movement and settlement patterns of the wider area. The creation of good places requires careful attention to detailed aspects of layout and movement. Developers should think about the qualities and the characteristics of places and not consider sites in isolation. New housing should take account of the wider context and be integrated into its wider neighbourhood. The quality of development can be spoilt by poor attention to detail. The development of a quality place requires careful consideration, not only to setting and layout and its setting, but also to detailed design, including finishes and materials. The development should reflect its setting, reflecting local forms of building and materials. The aim should be to have houses looking different without detracting from any sense of unity and coherence for the development or the wider neighbourhood.

REPRESENTATIONS

Twenty five letters of written representation to the application have been received. The main grounds of representation and objections are:

- i) Proposal would compromise the integrity of the conservation area and the ancient monument of the Pilgrim houses and the Listed Tithe Barn;
- ii) High ground on the site would result in the existing row of cottages being overlooked affecting their privacy;
- iii) Proposal contradicts Policies DP1, DP2, DP7 and DP9;
- iv) Proposed 3 bedroom house is crammed into the site;
- v) Road safety concerns over parking and access;
- vi) Will be visible from the Listed Tithe Barn and Scheduled Monument;
- vii) No archaeology assessment accompanied the application;
- viii) Objects in terms of Policies CH1, CH2 and CH4;
- ix) Contrary to Policy DC1 and DC4 ;
- x) Proposal is not needed nor wanted and will bring nothing positive to the village and will probably indeed detract from many aspects of the village;
- xi) Loss of trees contrary to NH8;
- xii) Proposed 1.5 storey house is not in keeping with area;
- xiii) Misleading /inaccurate information/levels are not accurate;
- xiv) Will have a negative impact on the Village Hall and its holding functions;
- xv) Development would set a negative precedent for development within a conservation area, within an area of protected countryside;
- xvi) Area around the village hall has been a place for play for local children;
- xvii) Completely inappropriate site for any house to be built;
- xviii) Would destroy the character of the old quarry site;

The application is within the settlement boundary of the village of Whitekirk as defined by Policy RCA1 of the adopted East Lothian Local Development Plan 2018 and not within the countryside. As such policies DC1 and DC4 are not relevant to the determination of

this application.

The application site is not an area of public open space or play area as defined by Policy OS1 of the adopted East Lothian Local Development Plan 2018.

There is no development brief for the application site and as such Policy DP9 of the adopted East Lothian Local Development Plan 2018 is not relevant to the determination of the application.

The application site is located adjacent to and not within the site of the existing Whitekirk Village Hall and as such would not restrict the functioning or operating of the existing Village Hall.

PLANNING ASSESSMENT

The application site is within the village of Whitekirk settlement boundary and within a predominantly residential area as defined by Policy RCA1 of the adopted East Lothian Local Development Plan 2018. Policy RCA1 does not actively promote the development of land for new build residential development. The principal purpose of Policy RCA1 is to ensure that the predominantly residential character and amenity of its area of coverage is safeguarded against the impacts of land uses other than housing. However Policy RCA1 does state that infill, backland and garden ground development will be assessed against Policy DP7 of the adopted East Lothian Local Development Plan 2018.

The land of the application site is an area of unmanaged ground within the confines of the predominantly residential area of the village of Whitekirk. Accordingly, the development of the site for the erection of a house on it can be defined as being infill housing development. The principle of such development is supported by Policy DP7 of the adopted East Lothian Local Development Plan 2018.

Thereafter the determining factor in this case is whether, having regard to national, strategic and local planning policy and guidance and other material considerations, the size, form, design and architectural appearance of the now proposed development are acceptable in terms of the potential impact of the development on the character and amenity of the area, including the impact on the character and appearance of the Whitekirk Conservation Area, the setting of the listed Tithe Barn and Scheduled Monument and neighbouring residential amenity, and whether the proposed development would be provided with a satisfactory means of vehicular access and a sufficient standard of on-site parking provision.

The applicant has submitted a Design Statement in support of the application which states that the current application and 'revised design of the proposed house seeks to address previous concerns regarding the scale and materials proposed and the position of the site in relation to the Category A listed Tithe Barn and its location within the boundary of Whitekirk Conservation Area. The scale of the proposed dwelling has been reduced to 1 and a half storeys. The revised scale sits more comfortably within the context of the diminutive terraced and semi-detached cottages present along the main street and which add to the character of the Conservation Area. This reduction in scale and overall height allows the proposed dwelling to sit more quietly and discreetly within the natural hollow of the former quarry area without protruding incongruously above the quarry ridge. Reducing the scale also responds to an understanding of key views of the Tithe Barn from within the Conservation Area. These views which are from the east, south east and south present the Tithe Barn as the prominent feature and focal point of the view where the openness and isolation of the building against the backdrop of Whitekirk Hill enhances its historical and aesthetic values. These views also add to the sense of place of the Conservation Area. The proposals would not infringe on these

views. The external materials have sought to replicate characteristic finishes present within the Conservation Area with slate roof, painted timber windows and doors and cast-iron rainwater goods. The external finish to the walls has been amended to render. This finish matches finishes present in the Conservation Area and is honest to the modern construction of the proposed dwelling. The positioning of the building close to the rear of Whitekirk Village Hall and its north south orientation through the site, along with the reduction in height responds better to the site constraints and has sought to reduce the visibility of the dwelling in views south from Whitekirk Hill, where the gable end will now be presented. It is deemed that the proposed house sits comfortably within its setting and does not have any unacceptable adverse impacts on the Whitekirk Conservation Area or neighbouring scheduled monuments and Listed Buildings.'

It is proposed that the new house would occupy a central position within the application site which is located to the east of the existing Whitekirk Village Hall. The proposed house to be erected on the application site would have a rectangular shaped footprint measuring some 12 metres in length by some 6.7 metres wide. The proposed house would be single storey in height with living accommodation within the roofspace and a ridge height of some 6.5 metres. The proposed house would accommodate at ground floor level an entrance hall, open plan kitchen living area, two bedrooms, a bathroom and utility room and within the upper floor a further bedroom and lounge. The walls of the proposed house would be finished in render, with stone window and door sills, stone lintels and creamwhite painted timber frame casement windows, black painted timber framed doors, cast iron rainwater goods, black coated aluminium the pitched roof would be clad in slate. The proposed house would have a north south orientation, with the front elevation of the house facing north east. The gable southeast elevation would have one window opening at ground floor level serving a bedroom, while the northwest gable elevation would have three window openings, one at ground floor level serving the kitchen and two on the upper floor serving the lounge. The northeast (front) elevation would have a number of openings comprising a double window, entrance door opening and patio door opening at ground floor level with a dormer window serving a bedroom and triple window serving the lounge.

It is proposed that the existing vehicle access that runs along the north boundary of the application site and serves the existing residential property of Tithe Barn located to the east of the application site be retained and used as the access for the proposed house with a hardcore parking area for two cars provided within the northern part of the application site. It is proposed that a new garden path to serve the proposed house be formed within the garden which is to be provided to the east and north of the house and along the west boundary of the application site. An area of paving is proposed immediately to the north east of the proposed house off the proposed path. A new timber fence and gate some 1.3 metres high would be erected along the western boundary of the application site to delineate the boundary between the application site and the neighbouring land of the Whitekirk Village Hall while the existing stone wall which delineates the eastern boundary of the application site would be retained.

The application site is located to the east of the existing single storey building of Whitekirk Village Hall which itself is set back from the road frontage. A number of mature trees and planting are located along the road frontage and to the immediate south of the existing Village Hall. Likewise the area of land to the north of the existing vehicle access which runs along the north boundary of the application site is currently an area of unmanaged planting including mature trees while the application site is also currently an area of unmanaged ground which has self-seeded over the years and has a number of trees located within it. The application site sits in the hollow below the existing rock ridge within what was a former quarry to the rear of the existing Village Hall. The rock ridge which lies along the south boundary of the application site is also covered with

unmanaged planting.

The application site is located in the hollow to the north of the existing rockridge and to the immediate east of the existing Whitekirk Village Hall. In its proposed location the proposed house would be, at its closest point, some 7.5 metres from the rear elevation of the existing Village Hall which is a single storey timber building with a pitched roof with a ridge height of some 5 metres. In its proposed location to the rear of the existing village hall which itself is set back from the road frontage the proposed house would be well contained and not readily visible from public roads outwith the site.

It would be seen in views from approaches to the adjacent Village Hall, from the existing vehicle access to Tithe Barn and from the residential property of Tithe Barn itself. However given the intervening landform, distance between the properties and the fact that the proposed house would be seen in relation to the existing Village Hall it would not be an obtrusive or sporadic form of development. The loss of a private view is not a material planning consideration.

While the roof of the proposed house would be seen in short views from over the rock outcrop from the south and north-east, from the village it would not have a detrimental impact on the Conservation Area as the roof of the proposed house would be clad in natural slate, consistent with the roof finish of many of the other buildings within the Conservation Area.

The proposed house would be of a design, proportion and finish in keeping with the character of the Conservation Area with its pitched roof clad in slate and its walls rendered. The height of the proposed house has been reduced to that of a single storey house with living accommodation within the roofspace, more in keeping with the largely single storey and single storey within living accommodation within the roofspace buildings which are located in the locality. In all of this, the proposed house and other associated development would preserve the character and appearance of the Conservation Area, consistent with Policies CH2 and DP2 of the adopted East Lothian Local Development Plan 2018.

The proposed house would be visible from the private vehicle access which is proposed to serve the proposed house and currently serves the Tithe Barn, however it would be seen in relation to the existing village hall building and would not appear as a sporadic form of development. The proposed house would be located at its closest point, some 108 metres from the Listed Tithe Barn which is situated to the east of the application site with the land gently undulating between the application site and the Tithe Barn with the ground level sloping downwards to the east of the application site before rising upwards to the Tithe Barn which has a similar ground level to that of the application site. The Tithe Barn has a ridge height of some 10 metres some 3.5 metres higher than that of the proposed house. Given the area of intervening land between the proposed house and the Tithe Barn and the position, location, height and design of the proposed house the proposed scheme of development would not have a detrimental impact on the setting of the listed Tithe Barn nor the Scheduled Ancient Monument of the Whitekirk remains of Pilgrims' House. Likewise the proposed house would also be located some 155 metres to the North West of the Listed St Mary's Parish Church and similarly given the area of intervening land between the proposed house and the Church it will not have a significant detrimental impact on the setting of the listed Church. Accordingly the proposed scheme of development would not be contrary to Policies CH1, CH2 or CH4 of the adopted East Lothian Local Development Plan 2018.

Historic Environment Scotland have been consulted on the application and advise that they have no comment to make on the application.

The proposed house would be positioned, at its closest point, some 29 metres from the rear elevation of the closest residential properties of nos. 4 and 6 Whitekirk Cottages which are located to the south west of the application site and front onto Whitekirk. The rock outcrop to the south of the application site including an unmanaged self-seeded area of ground with mature planting, shrubs and trees is located between the application site and the rear curtilage boundaries of the residential properties of nos. 4 and 6 Whitekirk Cottages. Given this arrangement and the fact that the proposed house is to be orientated north-south, the south west gable of the proposed house would be orientated towards the rear boundaries of these properties however there is only one window opening at ground floor level within this elevation serving a ground floor bedroom.

As such due to the position of the neighbouring residential properties and the orientation and gradient of the site, the proposed development would not result in a loss of amenity with neighbouring uses or be harmful to existing residential amenity through the loss of privacy from overlooking, or from loss of sunlight or daylight. As such the proposed scheme of development is consistent with Policy DP5 of the adopted East Lothian Local Development Plan 2018. The occupants of the new house would benefit from sufficient amenity.

The proposed new house is of a design which responds to the constraints of the site and the materials to be used on the proposed new house are of an appropriate quality for the Conservation Area.

Scottish Water raise no objection to this planning application.

The Council's Environmental Protection Manager has no adverse comment to make on the application, being satisfied that the development would not have an adverse impact on any neighbouring land uses.

The Council's Contaminated Land Officer has advised that the application site is currently unused ground located immediately adjacent to a former quarry. The nature of the infill material within this quarry is unknown so there is the possibility that localised deposits of made ground may exist both on and in close proximity to the site. Given the nature of the proposed development, the Council's Contaminated Land Officer recommends that further information will be required to determine the ground conditions and potential contamination issues impacting on the site with the minimum of a Phase I Geo-environmental Assessment (Desk Study) being carried out. Investigation and mitigation to ensure that a suitable geo-environmental assessment of the site is carried out prior to the development of the site could be controlled by conditions of a grant of planning permission.

The Council's Road Services advise that as the property will be accessed via a private road they raise no objection to the proposal being satisfied that it would not have an adverse impact on pedestrian or road safety. Accordingly the proposal is consistent with Policy T2 of the adopted East Lothian Local Development Plan 2018.

Policy NH8 of the adopted East Lothian Local Development Plan 2018 requires that trees which make a significant contribution to the setting and amenity of the area should be retained and incorporated into a development. The applicant has submitted a tree survey in support of the application indicating trees which are to be removed and trees which are to be retained. Three trees within the application site are indicated as being removed to accommodate the proposed house, while a further four trees outwith the application site, to the north of the existing vehicle access, are to be retained. The three trees to be removed are young trees which have self-seeded. **The Council's Landscape Officer** raises no objection to the removal of the three trees proposed

however does not concur with the submitted report in particular with regards to the matter of the trees outwith the application site to the north of the existing vehicle access being retained. It is The Council's Landscape Officer's opinion that the manoeuvring of vehicles into the proposed 2 car parking spaces would most probably result in incursions into the root protection area of these trees. The Council's Landscape Officer also does not support the removal of part of the rock ridge to accommodate the proposed house and states that the proposed house is too high with the roof of the proposed building being seen above the ridgeline.

In response to the Council's Landscape Officer's comments the applicant's agent has confirmed that the existing rock ridge between the proposed house and the Tithe Barn and wider village is being retained in its entirety. What is proposed is a slight cut exercise to the north of the rock ridge to accommodate the house on land north of the ridge. The small cut does not impact on the rock ridge and therefore does not impact views of the proposed house. The applicant's agent has submitted a further section drawing detailing this in support of the application. The trees located outwith the application site are located to the north of the existing vehicle access road and as such vehicles currently drive over the area of ground within the root protection area given this it would be unreasonable to recommend refusal of the application on this matter.

The Council's Archaeology Services advise that they have no comment to make on the application as the proposed development site lies within an old quarry and the proposed development will be in a low lying location and behind the existing ridgeline. As such there will be minimal indirect and direct impacts and no archaeological condition is required.

In conclusion, given all of the above and subject to the aforementioned conditions the proposed development is not contrary to Policies RCA1, CH1, CH2, CH4, DP2, DP7, NH8, T1 and T2 of the adopted East Lothian Local Development Plan 2018 and with Scottish Planning Policy: June 2014.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1 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.

- 2 Samples of the materials to be used in the external finishes of the development hereby approved will be submitted to the Planning Authority for its prior approval, prior to their use in the development. Only those materials approved by the Planning Authority will be used in the external finishes of the development hereby approved.

Reason:

To ensure that the external finishes are appropriate in the interest of protecting the amenity and character of the Whitekirk Conservation Area.

- 3 No trees, shrubs or hedgerows which are to be retained on the site, other than the 3 trees within the application site illustrated in drawing no.1847/1 dated December 2018, in submitted report titled; Tree Survey and Arboricultural Implication Assessment, dated December 2018, written and prepared by Arboricultural consultants, Donald Rodger Associates Ltd, shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the previous written consent of the Planning Authority.

All tree management works required to enable the development shall be carried out under the supervision of an appointed Arboricultural Consultant in compliance with British Standard 3998: 2010 "Tree work ~ Recommendations" Section 7, Pruning and related work and Figure 2 - Positions of final cuts; leaving an overall balanced tree shape on completion of the works.

Reason:

To ensure the retention and protection of the visual amenity of trees on the site which are an important landscape feature of the Whitekirk Conservation area.

- 4 Prior to any site development works a suitable Geo-Environmental Assessment must be carried out, with the Report(s) being submitted to the Planning Authority for approval. It should include details of the following:

(i) A Preliminary Investigation incorporating a Phase I Desk Study (including site reconnaissance, development of a conceptual model and an initial risk assessment);

(ii) A Ground Investigation comprising a survey of the extent, scale and nature of contamination, and an updated conceptual model of the site. It is required if the Desk Study has indicated that the site is potentially contaminated and the degree and nature of the contamination warrants further investigation;

(iii) An appraisal of the remediation methods available and proposal of the preferred option(s).

The site investigation and risk assessment must be undertaken by suitably qualified, experienced and competent persons and must be conducted in accordance with the Environment Agency's Contaminated Land Report 11, Model Procedures for the Management of Land Contamination, CLR11.

If it is concluded by the written report that remediation of the site is not required, then Parts (a) and (b) of this Condition can be disregarded.

(a) Prior to any works beginning on site (and where risks have been identified), a detailed Remediation Statement should be produced that shows the site is to be brought to a condition suitable for the intended use by the removal of unacceptable risks to all relevant and statutory receptors. The Statement should detail all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. It should also ensure that the site will not qualify as contaminated land under Part2A of the Environmental Protection Act 1990 in relation to the intended use of the land following development. The Statement must be submitted to the Planning Authority for approval.

(b) Following completion of the measures identified in the approved Remediation Statement, a Validation Report should be submitted that demonstrates the effectiveness of the remediation carried out. It must be approved by the Planning Authority prior to commencement of the new use of the land.

Reason:

To ensure that the site is clear of any contamination found to be present prior to the use of the building approved.

- 5 In the event that contamination is found at any time when carrying out the approved development that was not previously identified, work on site shall cease and the issue shall be reported to the Planning Authority immediately. At this stage further investigative works and risk assessments may have to be carried out to determine if any additional remedial measures are required. Should further remedial measures be required, then these will be carried out and validated prior to any development recommencing on the site.

Reason:

To ensure that the site is clear of any contamination found to be present prior to the use of the building approved.