

**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 Hoy for the following reason: to give the applicant the opportunity to explain the issues which have arisen in respect of achieving the alterations and extension under application 18/00748/P and to give the full committee an opportunity to examine the application to demolish the existing structure to deliver a new structure which matches the design already approved.*

Application No. **19/00543/P**

Proposal Erection of 1 house, garage/workshop and associated works

Location **Good Fortune  
Athelstaneford  
North Berwick  
East Lothian  
EH39 5BE**

Applicant Mr and Mrs Peter and Johanna Allan

Per Somner Macdonald Architects

**RECOMMENDATION** Application Refused

## **REPORT OF HANDLING**

### **PROPOSAL**

The property to which this application relates is a single-storey, detached house located to the north of Main Street, Athelstaneford, and immediately to the west of Athelstaneford Village Hall. Other surrounding uses include residential properties to the west and south, a community hall to the east, and agricultural land to the north. The property is within a predominantly residential area as defined by Policy RCA1 of the adopted East Lothian Local Development Plan 2018. The property is also within the Athelstaneford Conservation Area.

By way of planning history, planning permission (Ref: 18/00748/P) was granted in September 2018 for alterations and extension of the property to include a first floor extension, a rear ground floor extension and a new front porch. A new garage/ workshop was also approved, to replace the existing garage. The approved scheme of development also involved the removal of an existing front extension that adjoins the north east end of the house. Planning permission 18/00748/P has not yet been

implemented but could be at any time up until 21 September 2021.

Conservation Area Consent (Ref: 18/00125/CAC) was also sought for the demolition of fences and gates and the existing garage building. That application is pending consideration and no decision has been taken on it.

Planning permission is now sought for the erection of a house on the application site. To facilitate the new house, the existing house would be demolished. The applicant states that the built form of the new house would be the same as the house as it was approved to be altered and extended by planning permission 18/00748/P. A new garage/workshop is also proposed, to replace the existing garage.

Conservation Area Consent (19/00545/CAC) is separately sought for the demolition of the existing house, garage, wall and gate. A separate report on application 19/00545/CAC is at this time on the Council's Committee Expedited List.

The proposed house would have an identical footprint and arrangement of window and door openings to the house as it was approved to be altered and extended by planning permission 18/00748/P. The elevation drawings specify that the external walls of the new house would be finished in 'natural stone to match existing where shown, or wet dash render where shown'. The walls of the new garage would be finished in natural stone to match existing south elevation with a wet dash render finish for the other elevations. The roof of the house would be finished in terracotta pantiles and natural slate. The frames of the glazed screens and windows of the new house would be constructed of white coloured UPVC. The external doors would be timber stained. Photovoltaic cell slates would be located on the south facing roof slope of the single storey component of the new house. New fascias and doors would be of timber construction while rainwater goods would be cast iron.

The garage would measure metres 16 metres in length and 6.8 metres in width and have a height of 2.7 metres at the eaves and an overall height of 5.3 metres. It would be positioned in the same location as the existing garage, which would be demolished.

## **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 South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Plan 2008.

There are no relevant policies of the approved South East Scotland Strategic Development Plan (SESplan). Policies DP2 (Design), DP7 (Infill, Backland and Garden Ground Development), CH2 (Development affecting Conservation Areas), CH3 (Demolition of an Unlisted Building within a Conservation Area), RCA1 (Residential Character and Amenity), NH8 (Trees and Development), T1 and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of this planning application.

Material to the determination of the application are 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.

## **REPRESENTATIONS**

Two letters of support have been received in respect of the application highlighting the proposals potential to improve this property which it is said is in a poor state of repair and stating that the proposal would result in the creation of a building which is safe and would meet modern building standards. It is also mentioned that the proposed building would be more attractive than the existing.

One letter of representation has also been received stating the proposed development would bring the property back up to a good standard and will make both the house and garage much more attractive and have environmental benefits in terms of energy use and insulation.

Four objections have been received to the application, one of which is from an amenity group. Objections are on the grounds of the walls of the reconstructed dwelling losing their random, rubble built pattern and character which cannot be easily replicated. As such this would result in the loss of the traditional vernacular character of the building and any attempt to recreate it would look too contrived. Objection is also raised with regards to their being no justification for the demolition of an unlisted building within the Conservation Area. Objection is also raised to the turret feature and that the granting of planning permission for the alteration and extension of the existing house should not be seen as justification for the current development. The issue of the proposed demolition setting an undesirable precedent for similar works has also been raised which would be detrimental to the character and appearance of the conservation area.

## **PLANNING ASSESSMENT**

The application site is not allocated for residential development in the adopted East Lothian Local Development Plan 2018 or in the proposed East Lothian Local Development Plan. All of it is part of a larger area covered by Local Plan Policy RCA1. The principal purpose of Policy RCA1 is to ensure that the predominantly residential use of its area of coverage is safeguarded against the impacts of other land uses. Policy RCA1 does not actively promote the development of land for new build residential development. Policy RCA1 does state that infill and backland development will be assessed against Policy DP7.

With respect to infill, backland and garden ground development Policy DP7 of the adopted East Lothian Local Development Plan 2018 states that such development should, amongst other principles of development, be of a scale, design and density sympathetic to its surroundings and not be an overdevelopment of the site. This is in line with the requirements of Scottish Planning Policy: June 2014 that planning authorities should ensure that where infill sites are assessed as suitable for development, proposals respect the scale, form and density of the surroundings and enhances the character and amenity of the community.

The proposed new house would not harmfully impact on the privacy or amenity of any

neighbouring property through overlooking or loss of sunlight or daylight.

On overlooking, the Council normally regards a distance of 18 metres between directly facing windows and 9 metres between a window and a garden boundary as a sufficient separation distance to prevent harmful overlooking of neighbouring residential properties. In this regard, no new windows would be sited within 9 metres of the boundary of the site with another residential property or within 18 metres of any directly facing windows to the north, east or south elevations. New windows would however be inserted within the turret stairwell which would be approximately 6.5 metres from the west boundary of the site. This boundary is however characterised by tall trees enclosing the host site and as such these would mitigate against any overlooking towards this garden to the west at Oaklea. As such, the proposal would not lead to the loss of amenity by way of overlooking of any surrounding residential properties.

Given the nature of the site in its contained position and the orientation of the proposed extensions and garage, the proposal would not lead to a harmful loss of daylight or sunlight received by neighbouring residential properties. This is especially relevant with regards to the property to the west at Oaklea which is screened from the host property by way of tall trees along the boundary of the site.

**The Council's Environmental Protection Officer** has no comment to make on the proposal.

**The Council's Road Services** has stated that the proposed house layout, parking and access arrangements are as those previously approved in planning application 18/00748/P. As such they have no objection to the proposal.

The principal determining factor in this case is whether or not the demolition of the existing house and its replacement with the proposed house would preserve or enhance the character and appearance of the Conservation Area.

On this consideration, Policy CH3 of the East Lothian Local Development Plan 2018 states that proposals for Conservation Area Consent will be supported provided that there are appropriate proposals for redevelopment or intermediate treatment and:

- (i) the building to be demolished is incapable of reasonably beneficial use by virtue of its location, physical form or state of disrepair;
- (ii) the structural condition of the building is such that it cannot be adapted to accommodate alterations or extensions without material loss to its character; or
- (iii) the building does not positively contribute to the character or appearance of the conservation area and its removal or replacement would not adversely affect the character of the conservation area or it would facilitate positive townscape benefits.

Athelstaneford Conservation Area encompasses the whole village and the surrounding countryside which provides its landscape setting. The Character Statement for the Conservation Area states that in the late 1780's, the landowner, Sir David Kinloch, created a model village around the parish church at Athelstaneford, a classic example of the scale of rural development occurring in 18th century Scotland. Much of this original village survives today. Athelstaneford has a distinctive character of rubble built single storey pantiled cottages in a meandering linear form alongside the main road, with some larger two storey properties located behind the single storey cottages that form the street frontage. There are also parts of the village, such as Rowan House and the former Schoolmaster's House, where two storey buildings are located immediately adjacent to single storey buildings. This juxtaposition forms part of the character of the Conservation Area.

With its random rubble stone walls, pantiled roof and arrangement of traditional window and door openings, the existing building is one of a number of stone buildings that add significantly to both the character and appearance of the Conservation Area. Whilst it contains a backland position behind the terrace of cottages on Mains Street, it is still readily visible from public views of the site, which are from both Main Street and from the adjacent public hall.

Whilst the applicant has attempted to replace the house on a similar basis to the house as it was previously approved to be altered and extended, the new house would in practice be materially different from the existing house. The traditional construction methods and materials of the remaining house would be lost, and the new house would not be an appropriate replacement.

On this matter, the application also proposes new fenestration to be UPVC framed. UPVC windows are not normally permitted within Conservation Areas within East Lothian. While it is accepted that the site is relatively enclosed by planting and by a high boundary wall, the upper floor windows within the east elevation would still be visible from the public realm. As such, they would detract from the historic character of the Athelstaneford Conservation Area and would set an undesirable precedent for similar UPVC windows elsewhere within the Conservation Area.

In this case, the building to be demolished is capable of beneficial use as a house. In their submissions the applicant advises that as part of their examination of the existing building fabric, their engineers established that the external and internal walls had no foundations other than large boulders at ground level. The applicants have since appointed SMA Construction, who argue that there is a justifiable argument that given the condition of the existing walls and the extent of works proposed (that were approved by planning permission 18/00748/P), that a better quality of result, and visual appearance, would result from demolishing the existing house and erecting a new house in its place. SMA have further strongly expressed a health and safety concern in regard to being able to ensure the continued stability of the external walls during the works.

On the latter matter, it is not unusual for construction workers to be involved in works to historic properties, often with walls that do not have foundations constructed to modern standards. No justification has been given in this case why, subject to complying with relevant health and safety standards, the house could not be safely altered and extended in accordance with planning permission 18/00748/P. In this regard however, health and safety concerns is controlled by legislation outwith Planning Legislation and the primary concern of the Local Planning Authority in this instance is the preservation of the character or appearance of the Athelstaneford Conservation Area.

However in the Site Investigation Report prepared by Christie Gillespie Consulting Engineers Ltd, submitted as part of the application documentation the conclusion has been made that "given the works and likely solutions, there existing property is suitable for the proposed alterations and extensions". The report also states that the existing farm cottage building is in generally good condition given its age.

There are therefore no structural or health and safety considerations, and no other material consideration to justify the demolition of the existing house and its replacement with a new house. The proposal would neither preserve or enhance the character or appearance of the Athelstaneford Conservation Area.

**The Council's Heritage Officer** raises concerns regarding the proposed demolition of this historic building within the Conservation Area. She does however recommend that should planning permission be granted then a high level of historic building recording be

undertaken prior to any demolition works taking place on site.

The proposed development is contrary to Policies DP2 (Design), DP7 (Infill, Backland and Garden Ground Development), CH2 (Development within Conservation Areas), CH3 (RCA1 (Residential Character and Amenity), T1 and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018 and with Scottish Planning Policy: June 2014.

### **RECOMMENDATION**

That planning permission be refused for the following reason:

- 1 The replacement of the existing house with the new house would detrimentally harm the character and appearance of the Athelstaneford Conservation Area, contrary to policies RCA1, DP7, CH2 and CH3 of the East Lothian Local Development Plan 2018 and with Scottish Planning Policy: June 2014.