

LOCAL REVIEW BODY

17 June 2021

Application No: 20/01241/P

26 Victoria Road, North Berwick EH39 4JL

Applicant's Supporting Documentation



Local Review Body Appeal



APPLICATION – 20/01241/P

Change of Use of open space to outdoor seating for servery/takeaway for a temporary period of three years and formation of hardstanding areas at

The Rocketeer Restaurant, 26 Victoria Road, North Berwick EH39 4JL.

REVIEW STATEMENT

May 2021

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Application 20/01241/P – Change of Use of Open Space to Outdoor Seating for a Temporary Period of 3 Years and Formation of Hardstanding Areas at The Rocketeer Restaurant, North Berwick.
Local Review Body Support Statement – May 2021.



Monday 20th July 2020

Surely this is what we all want North Berwick to look like on a summer's day?

A local businessman seeking to make this happen should be supported and encouraged - it benefits the town, its businesses and East Lothian as a whole.

We should all be looking for ways to ensure this happens, not reasons to stop it.

EXECUTIVE SUMMARY

- i. Having prepared and seen this application through to determination and having now read the Officer Report and reasons for refusal, this is essentially a simple case, a simple decision to take.
- ii. There is no measurable or significant impact on the character or setting of the North Berwick Conservation Area or the Special Landscape Area, nor are there any heritage, amenity or traffic/transport concerns.
- iii. The only consideration is whether the Panel can support the temporary and slight alteration to this part of Anchor Green. Apart from the resurfacing of the existing and deteriorating paths, nothing proposed is permanent, nothing is unsightly and as last summer proved, it is a popular destination.
- iv. People make places more than places make people and allowing people to sit helps to encourage interaction with others and with the surroundings.
- v. The ability to sit and enjoy a take-away from any number of outlets or simply take a rest after taking the dog for a walk really added something positive to the harbour and beach area. The picture below (summer 2020) shows a dog walker (front right), visitors unpacking their own food and drink (back centre) and the others in the picture simply making use of the ability to take a seat and rest a while (and this is on a dry day). No one in this picture is eating take-away fish and chips from **The Rocketeer**.



Application 20/01241/P – Change of Use of Open Space to Outdoor Seating for a Temporary Period of 3 Years and Formation of Hardstanding Areas at The Rocketeer Restaurant, North Berwick.
Local Review Body Support Statement – May 2021.

- vi. Will **The Rocketeer** benefit – we certainly hope so. This popular local eatery will need all the help it can get to recover from the devastating impacts of the COVID lockdowns.
- vii. But more than that, the area will continue to be a hub for locals and visitors to congregate and make use of the tables and chairs provided by the applicant; an applicant with a long history or investing millions in the North Berwick economy over the past 25 years, who currently employs over 80 people across three North Berwick businesses and who uses a range of local suppliers.
- viii. **This Local Review Panel has the advantage of looking at an application with a fresh perspective. It is neither bound by the original decision nor a strict interpretation of planning policy, which, after, all provides a framework for decision making not an absolute.**
- ix. It is our view that the siting of tables and chairs at Anchor Green will not remove the land from public use. Instead quite the opposite - **it will provide significant benefits to locals and visitors alike**. In a post COVID environment being flexible, understanding and embracing the evolving nature of public space will provide more opportunities for social interaction, social mixing and social inclusion.
- x. The following Appeal Statement addresses each of the reasons for refusal and the planning policies referenced in these reasons. In each case, the officer report significantly overstates the impact of temporary tables and chairs at Anchor Green. Providing outdoor seating in this area is a perfect example of ways in which people can enjoy the location with no permanent impact on the landscape character and appearance of this part of the North Berwick Conservation Area and adjacent to the Special Landscape Area.
- xi. The public benefits of providing outdoor seating on a temporary basis during the warmer months clearly outweigh any adverse impact (of which we don't think there are any) on the setting of the Special Landscape Area. The resurfacing of the existing unsightly paths will be a benefit and the applicant is happy to consider alternative surfaces if the panel thought this helpful though a similar treatment has already been used at the steps to The Rocketeer and the first section of the path and this has been considered acceptable.

INTRODUCTION

1. **apt planning & development** has prepared this Review Statement on behalf of **Mr Stirling Stewart** with regards to application **20/01241/P** seeking temporary planning permission for change of use of a small area of Anchor Green to outdoor seating for servery/takeaway for a period of 3 years and improvement of existing paths at **The Rocketeer Restaurant**, 26 Victoria Road, North Berwick.
2. Mr Stewart has a longstanding history with North Berwick. He has owned and operated **The Nether Abbey Hotel, Bar & Restaurant** for over 25 years and more recently has invested further in the establishment of **The Lobster Shack** and **The Rocketeer**. He employs over 80 staff (almost all of which are local to North Berwick and East Lothian), provides 12 rooms for visitors/tourists, uses a wide range of local suppliers and over the past quarter of a century has invested millions of pounds in the local economy.
3. **The Rocketeer** is a well-established, thriving business and a significant contributor to the vitality and viability of this area of North Berwick attracting locals, visitors and tourists alike.

COVID 19 GLOBAL PANDEMIC – APPLICATION CONTEXT

4. The hospitality sector has been hit hard by the COVID-19 crisis and whilst many moved swiftly to mitigate the impact on their business (furloughing staff, reducing costs, providing a takeaway offer) the impact has been significant and in some cases devastating. As restaurants such as **The Rocketeer** open their doors again, the world in which the industry finds itself is very different – new habits and expectations have arisen.
5. Understanding how this peoples' behaviour has evolved and responding effectively to these changes will be critical to how businesses such as **The Rocketeer** recover in a post-pandemic economy. The sector may be required to maintain strict, if evolving, rules on physical distancing which may continue to limit capacity indoors and increase take-away/outdoor dining. With a much greater emphasis on the outdoors, customers themselves may be reluctant to return to old dining habits.
6. We believe that we have already demonstrated that the provision of outdoor seating is a welcome addition to this part of North Berwick but it is important to highlight that it also presents an opportunity to respond to peoples changing behaviours and to support a popular local business to recover.
7. The ongoing temporary use of the public space for this purpose throughout the COVID 19 pandemic has demonstrated that by making best use of the space available we can enable people to utilise the space and enjoy what makes North Berwick unique in a way that makes

Application 20/01241/P – Change of Use of Open Space to Outdoor Seating for a Temporary Period of 3 Years and Formation of Hardstanding Areas at The Rocketeer Restaurant, North Berwick.
Local Review Body Support Statement – May 2021.

them feel safe and comfortable. Not everyone will want or is able to sit down on cold, damp grass and this proposal provides better facilities for people visiting the beach and harbour areas.

8. The location is not only perfect for people to sit and relax but is also accessible and walkable - encouraging customers to leave the car at home where possible and walk or cycle to the harbour beach area (the proposals did not raise any transportation/parking concerns).

SITE CHARACTERISTICS, BACKGROUND AND PLANNING HISTORY

9. This appeal statement relates to an area of land measuring 230 square metres that comprises the strip of land surrounding **The Rocketeer** along the north, south and west sides of the building, the existing footpath leading from the building to Victoria Road, and the southern part of the '**Anchor Green**' to the south of the restaurant.
10. **The site is privately owned. It is not public open space. The landowner as well as the Scottish Seabird Centre who lease the whole of the site, both support this application.**

PLANNING HISTORY

11. The location has an extensive planning history which is set out below:

Date	Application Number	Outcome	Notes
11/01/2012	11/00064/P	Granted Change of Use	Former Coastguard station – restaurant/takeaway
06/11/2012	12/00410/P	Granted Retrospectively	Alterations and additions to the building. Did not grant permission for two wall mounted heaters or for retractable awning.
06/03/2015	14/00980/P	Granted	2 canopies to be attached to the building and windbreaks installed.
13/03/2017	16/00860/P	Granted	2 additional canopies.
15/12/2017	17/00746/P	Granted	Addition of an extension with glazed walls and glazed roof to be wrapped around the building (also approved a number of minor changes).

APPLICATION 20/01252/P

8. **Application 20/01241/P** was validated on 14th December, 2020 and was refused on the 28th January, 2021. The Officer Report prepared in determining this application responds **positively to some key aspects of the application**. In summary
9. **The Rocketeer** is an established business within the operational harbour area. As a use in association with that existing restaurant/servery/takeaway business, the principle of the use of the area of land for the siting of tables and chairs and the formation of the proposed and retrospective hardstanding areas **would not in principle conflict with Policy EMP2 (Operational Harbours)**.
 - a. Despite being in the Conservation Area and close to heritage assets, no heritage concerns were raised by either the Council's Heritage team or Historic Environments Scotland.
 - b. The Council's Road Services raise no objection to the proposed change of use of the area of open space to use as an outdoor seating area associated with the use of the existing restaurant/servery/takeaway or to the formation of the proposed and retrospective areas of hardstanding, and accordingly, **the application does not conflict with Policies T1 (Development Location and Accessibility) and T2 (General Transport Impact)**.
 - c. Senior Environmental Health Officer raises no objection to the proposed development and concludes that with a planning condition in place to ensure the management of litter collection at the site, **the proposed use of land as outdoor seating would not give rise to a harmful loss of amenity to any neighbouring residential property or land use and would not conflict with Policy DP2 (Design)**.
10. **The Officer Report concludes therefore the aspects of the proposed development are consistent with policies EMP2, T1, T2 and DP2 of the adopted East Lothian Development Plan.**
11. **The application was however refused via delegated powers on 28th January 2021.** Five reasons for this refusal were given and we address each one in turn below.

Reason 1

The proposed change of use of the area of public amenity open space to use as an outdoor seating area is association with the existing restaurant/servery/takeaway business of 'The Rocketeer' at 26 Victoria Road would result in an unacceptable harmful impact, detrimental to the recreational function of the area of amenity open space and would significantly compromise the visual amenity and landscape character of the area, contrary to Policy OS1 of the adopted East Lothian Development Plan 2018.

11. **Policy OS1: Protection of Open Space** states that recreational, leisure and amenity open space and facilities will be safeguarded to meet the recreational needs of the community or protect the amenity of the landscape setting of an area. Alternative uses will only be considered where there is no significant loss of amenity or impact on the landscape setting and:
 - a. The loss of a part of the land would not affect its recreational, amenity of landscape function, or
 - b. Alternative provision of equal community benefit and accessibility would be made available, or
 - c. Provision is clearly in excess of existing and predicted requirements.
12. It is our view that the officer report **significantly overstates the impact of temporary tables and chairs on the site's natural character and the landscape setting of this part of North Berwick and also exaggerates the loss of recreational amenity.**
 - The site is not a formal recreational area and will remain as open space (it is privately owned land and both landowner and the primary lessee, The Scottish Seabird Centre, support this application). The proposals will increase the amenity of the space in providing freely available tables and chairs. The proposals will likely increase the use of the site, therefore increasing its amenity value;
 - When the tables and chairs are in use (March - October), they will be available to all members of the public. There will be no barrier to entry, nor will they be exclusively for patrons of **The Rocketeer**;
 - The site is infrequently used as any sort of recreational area. This has been confirmed in recent months (when travel was permitted but restaurants were closed). North Berwick has been extremely popular and busy but the application site has remained largely unused or used fleetingly by people passing through (see photo below). It does not perform a discernible function on a say-to-day basis...it is simply there. This contrasts with last summer when the tables and chairs were permitted and the site was vibrant, busy and acted as one of a number of hubs of activity around the beach and harbour;

Application 20/01241/P – Change of Use of Open Space to Outdoor Seating for a Temporary Period of 3 Years and Formation of Hardstanding Areas at The Rocketeer Restaurant, North Berwick.
Local Review Body Support Statement – May 2021.

- The officer report refers to the ‘use of the space for picnics which may occur during good weather’. Even with the proposed tables and chairs in situ there will still be space for people to picnic to the east and rear of the proposed site should they wish to do so as well as using the table and chairs if/when free;



- We believe that the provision of tables and chairs during the spring/summer months will afford significant benefits - encouraging people to make the most of this particular area, taking in and understanding the surroundings whilst enjoying something to eat and/or drink – see the contrast above – two similar days (sunny with a chilly wind) but the tables and chairs immediately improve the amenity of the space, encouraging people to sit with or without a Rocketeer take-away. Please not the cyclists on the right of the 2nd picture. The site will still afford amenity for those simply looking for a place to sit.
 - By increasing the use of this part of Anchor Green, there is more chance that people will take the time to understand more about St Andrews Church to the north of **The Rocketeer** as well as understanding the context of the Memorial Cross (*not a listed structure or an ancient monument*) and its poignant reason for being there. It remembers the bravery of Catherine Watson a 19 year woman from Glasgow who saved a child from drowning in 1889. It is worthy of investigation which is less likely if people simply pass through Anchor Green hurrying to their next destination or don't stop at all if the grass is wet and cold.
13. In response to the first reason for refusal, we do not accept that there will be ***“an unacceptable harmful impact, detrimental to the recreational function of the area of amenity open space and would significantly compromise the visual amenity and landscape character of the area”***.
14. In contrast, we believe the opposite to be true; that these proposals will positively impact the overall use and amenity of the site, creating amenity and comfort for all.

Application 20/01241/P – Change of Use of Open Space to Outdoor Seating for a Temporary Period of 3 Years and Formation of Hardstanding Areas at The Rocketeer Restaurant, North Berwick.
Local Review Body Support Statement – May 2021.

15. To state that the proposals would “*significantly compromise the visual amenity and landscape character of the area*” is a gross exaggeration of the potential impacts of a number of tables and chairs being placed here.
16. We would counter that the tables and chairs, encourage use, vitality and vibrancy to the area, exactly what North Berwick and East Lothian Council should be seeking to promote regardless of the economic recovery from the impacts of the pandemic, whilst causing no permanent change to the appearance of the area.
17. Finally, the case officer refers to the impact of the proposals in terms of the loss of public open space. We have highlighted that this is actually private land and furthermore, as the rough plan below illustrates, the site is surrounded by vast areas of open space including both beaches, Coo’s Green, Elcho Green and The Lodge Gardens. This site of just 230sq m, will still be open to the public, will not be removed or permanently changed and is literally surrounded by open space in every direction bar the north (although even here there is the harbour and the remainder of Anchor Green).



Reason 2

The proposed change of use of the area of public amenity open space to use as an outdoor seating area in association with the existing restaurant/servery/takeaway business of 'The Rocketeer' at 26 Victoria Street would result in the temporary loss of an area of amenity open space that makes a significant positive contribution to the landscape character and appearance of this gateway approach to the harbour promontory and as a result would be significantly harmful to the landscape character and appearance of this part of North Berwick Conservation Area, contrary to policy CH2 of the adopted East Lothian Development Plan 2018 and with Scottish Government guidance on development affecting a conservation area given in Scottish Planning Policy (revised December 2020).

18. **Policy CH2 : Development Affecting Conservation Areas** states that all development proposals within or affecting a conservation area or its setting must be located and designed to preserve or enhance the special architectural or historic character or appearance of the Conservation Area.
19. The possible impacts of the proposed outdoor seating area on the appearance of the gateway approach to the harbour and this part of North Berwick Conservation Area has been significantly overstated:
 - The tables and chairs make a positive contribution and are an asset to this location in terms of making good use of an underused area, providing an simple, attractive outdoor seating area, enhancing the vitality and viability of the area whilst also increasing the opportunities for visitors to take the time to understand the history of the area;
 - As we continue to move forward into a '*new normal*', many appreciate even more the importance of spending time outdoors. Placing tables and chairs on Anchor Green during the warmer months will significantly enhance this part of North Berwick. The proposed seating complements the existing facilities and simply offers locals and visitors alike somewhere to sit rather than people dispersing to eat elsewhere in the vicinity or taking their chances on potentially wet and cold grass;
 - Anchor Green will continue to be a well cared for space open for public use. The ancillary seating would be sufficiently small scale so as to not have a detrimental impact the appearance of the gateway approach to the harbour and this part of North Berwick Conservation Area. Equally the use of the area for outdoor seating would not obscure and significant features of architectural or historical significance thus preserving the setting;
 - Finally, the applicant, in conjunction with the site owners, has committed to reseeding/repairing the lawn each year. This is better than the current situation and by moving tables and chairs around the site, will ensure that maintenance of the site each year.

Application 20/01241/P – Change of Use of Open Space to Outdoor Seating for a Temporary Period of 3 Years and Formation of Hardstanding Areas at The Rocketeer Restaurant, North Berwick.
Local Review Body Support Statement – May 2021.

18. The temporary nature of the tables and chairs means no permanent changes are being proposed. **The applicant is not seeking to alter the appearance of the area**; There will be no tables and chairs each evening or at all between November and February; Outwith the hours of operation all tables and chairs shall be stored within the building and none left outside; No freestanding canopies, umbrellas, outdoor heaters or other similar type utilities shall be placed on Anchor Green and the area will be kept free of litter and by enabling customers to stay close to The Rocketeer, it allows staff to monitor the area and ensure it is kept litter free, as well as providing bins/recycling for customers to use.
23. **In summary and relating to the second reason for refusal**; there are not permanent changes proposed for the application site (in terms of the tables and chairs). There can be no permanent impact on the appearance or character of the Conservation Area. This small scale proposal will provide additional facilities for visitors to Anchor Green, the harbour and beach area.
24. It is overstating the role of the application site to state that it makes a ***“significant positive contribution to the landscape character and appearance of this gateway approach to the harbour promontory and as a result would be significantly harmful to the landscape character and appearance”***
25. As we have addressed with regards to Reason 1, there are no permanent changes and we have requested a temporary permission. We would argue that for a change to be significant, it would have a permanent, detrimental impact on the Conservation Area. These proposals do neither. These are temporary proposals for the siting of mobile tables and chairs to better provide for visitors and customers alike. The site will continue to make a contribution to this ‘*gateway approach*’ as a vibrant part of the town.
26. We would contend that a busy Anchor Green presents an attractive, popular site, an asset to East Lothian’s tourist and visitor offer, and makes it more likely that people will take the time to understand the area (most notably the Memorial Cross), St Andrews Church and the wider harbour location.

Reason 3

The proposed hardstanding areas to the north, south and west sides of the building of 26 Victoria Road, by virtue of their modern appearance and uniformity and their positioning around all the sides of the building, would be out of keeping with the character and appearance of the surface finishes of the area, and as unsympathetic areas of hardstanding would be harmful to the landscape character of the area and of this part of the North Berwick Conservation Area, contrary to policies DP2 and CH2 of the adopted East Lothian Local Development Plan 2018, and with the Scottish Government guidance on development affecting a conservation area given in Scottish Planning Policy (revised December 2020).

27. **Policy DP2: Design** states that the design of all new development (with the exception of change of use and alterations and extensions to existing buildings) must:

- Be appropriate to its location in terms of positioning, size, form, massing, proportion and scale and use of a limited palette of materials and colours that complement its surroundings;
- Create a sense of welcome, safety and security;
- Provide a well connected network of paths and roads within the site that are direct and will connect with existing networks in the wider area.

28. The application is not seeking development of any sort, merely the resurfacing of existing, unkempt paths around the building and the temporary change of use of part of Anchor Green.



29. There can be no doubt that the provision of tables and chairs will enhance the sense of welcome to the site and immediate surrounds and there are no safety or security concerns. It is accepted that there are no concerns over any impacts on local amenity. **The resurfacing of the existing, unsightly paths is seen as a further enhancement of the site and in-keeping with the high quality restoration and reuse of the former Coastguards building.**

Application 20/01241/P – Change of Use of Open Space to Outdoor Seating for a Temporary Period of 3 Years and Formation of Hardstanding Areas at The Rocketeer Restaurant, North Berwick.
Local Review Body Support Statement – May 2021.

30. The proposed mono-block paving will provide a more attractive solution, in-keeping with the existing paths and other characteristics of the area whilst improving what is currently a poorly maintained, informal and deteriorating path. The existing situation is detrimental to the character and appearance of the Conservation Area. You have the benefit of seeing the mono-block in situ at the steps from Victoria Road and we believe that to continue this around the building would represent a significant improvement. Mr Stewart has always been open to discussing alternative treatments/surface but there was no opinion given or conversation had with the case officer during the determination.
31. A great deal has been spent on maintaining the character and appearance of **The Rocketeer** building (former Coastguard Station) whilst delivering significant enhancements to ensure it is fit-for-purpose (though compromised) as a restaurant and take away. The pictures below show the poor condition and appearance of the building before it became **The Rocketeer**. The resurfacing of the existing path will simply be the next step in the continued investment in, and improvement of, the former Coastguard Station site.



32. **Policy CH2: Development Affecting Conservation Areas.** In addition to the policy detail outlined in Reason 2, Policy CH2 also states that proposals for new development should accord with the size, proportions, orientation, alignment, density, materials, and boundary treatment of nearby buildings and public and private spaces.
33. As before the provision of tables and chairs on Anchor Green does not in itself constitute development. It is the change of use that requires permission (along with the resurfacing of the path). The use of Anchor Green will not have any detrimental impact on the Conservation Area. It is already a busy part of North Berwick and as the use of the site over the summer of 2020 clearly illustrated, there was an attractiveness and liveliness to the area when the tables and chairs were being used.
34. In summarising our response to **Reason for Refusal Three**; the existing paths are unsightly, deteriorating and can become muddy during wet weather. The intended resurfacing will enhance the overall appearance of the path, providing a high quality finish to the site and matching the surfacing from the steps to Victoria Road (already deemed acceptable). The proposals will enhance the character and appearance of the Conservation Area.

Reason 4

An unsympathetic development that would have a harmful impact on the landscape character and visual amenity of the area and of this part of North Berwick Conservation Area, the proposed change of use of the area of amenity open space to use as an outdoor seating area would also have a detrimental impact on the setting of this part of the North Berwick to Seton Sands Special Landscape Area, and the public benefits of the proposed development would not clearly outweigh any adverse impact on the setting of the Special Landscape Area. Accordingly, the proposed change of use of the land to the use as an outdoor seating area would be contrary to Policy DC9 of the adopted East Lothian Local Development Plan 2018.

35. The officer report clearly states that the site is **NOT** within the North Berwick to Seton Sands Special Landscape Area (SLA), though it is close to the southern boundary. In the context of the SLA, the site is insignificant and does not play a prominent role under any definition. It is not credible to state use Policy DC9 as a reason for refusal in this instance.
36. We have provided a photo-study of the site from various angles showing the role the site plays in the wider landscape (Conservation Area and SLA). Whether there are tables and chairs or not makes very little difference and as we have stated elsewhere the activity and use of the site is to be encouraged. When viewed from the SLA, Victoria Road, Melbourne Road, the east or west beaches, the impact of having tables and chairs is negligible (and from certain viewpoints, positive as it encourages people to sit down).



Application 20/01241/P – Change of Use of Open Space to Outdoor Seating for a Temporary Period of 3 Years and Formation of Hardstanding Areas at The Rocketeer Restaurant, North Berwick.
Local Review Body Support Statement – May 2021.

37. As the image above illustrates, when viewing the site within the SLA context, the sweeping view of the east beach, the site is an insignificant, indiscernible part of the much wider panoramic. This is the SLA context, not zooming in to ensure you can identify change. It plays no role in the SLA. Similarly, the site cannot be seen from the west beach mainly due to the surrounding built environment and the change in ground level/elevation.
38. The **seasonal and temporary** placing of tables and chairs at Anchor Green cannot possibly have a detrimental impact on the setting of the SLA (which after all runs from Port Seton to North Berwick) nor can the resurfacing of an existing path similarly have any detrimental impact on the character or setting of the SLA .
39. **Policy DC9: Special Landscape Areas** states that development within or affecting Special Landscape Areas will only be permitted where it accords with the Statement of Importance and does not harm the special character of the area;
40. The Statement of Importance provides 14 Guidelines for development. These proposals do NOT constitute development in such a way as they could ever have an impact on the SLA. This is the temporary siting of tables and chairs to complement an existing use. There is literally no permanent visual or physical impact.
41. We acknowledge the views from the harbour to the beach area are important aspects of the North Berwick but cannot agree that the temporary placement of tables and chairs outside an existing eatery (restaurant/servery/takeaway business) could possibly have a detrimental impact on the coastline. Views to the site are very limited and the tables and chairs do not make any discernible difference (as opposed to people freely using the site anyway). The prominent feature is the Memorial Cross and this will remain as such.
42. The area is already a hub of activity. This part of town includes attractions such as the East and West beaches, the Harbour and The Scottish Seabird Centre. The Rocketeer is an established business, an asset to the area and itself a bold and committed reuse of the former Coastguards Station. The positioning of temporary tables and chairs will further complement the existing facilities available to visitors in this eclectic and vibrant part of North Berwick.

Reason 5

As development contrary to Policies OS1, CH2, DP2 and DC9 of the adopted East Lothian Local Development Plan 2018, the proposed development would be harmful to this part of the East Lothian coastal area and contrary to Policy DC6 of the adopted East Lothian Local Development Plan 2018.

43. Reason 5 has only been added due to the assessment of the other policies referenced to justify the refusal of this application. Reasons for Refusal 1 to 4 greatly exaggerate or inaccurately reflect the potential impacts of the proposals when testing against these policies. Some of the policies are not relevant at all. If we are confident that our earlier assessment is correct then the proposals do not conflict with Policy DC6.
44. Regardless **Policy DC6: Development in the Coastal Area** states that development proposals in the coastal area will be assessed against the relevant qualities of the coastal area in addition to all other relevant Plan policies. The siting and design of new development must respect the qualities of the particular coastal location.
45. The placement of removable/non-fixed tables and chairs on a **seasonal and temporary basis** does not constitute development (it is the temporary change of use that requires permission, not any temporary physical changes).
46. As has already been highlighted, the temporary nature of the tables and chairs means no permanent changes are being proposed. The site effectively remains unchanged. The applicant is not seeking to alter the appearance of the area (other than the resurfacing of the paths which will introduce a very minor change and a positive alteration to the current situation).
47. As we have addressed the four reasons for refusal outlined above we believe that the application complies with Policies OS1, CH2, DP2 and DC9 is therefore cannot conflict with DC6;
48. If the Panel deems that the proposals could be harmful to this part of the Developed Coast (it is already acknowledged as being developed) then the application cannot comply. It continues to be our position that the temporary siting of tables and chairs at Anchor Green is a positive use of the space from a practical, physical and social perspective and is of benefit to North Berwick and East Lothian.

CONCLUSIONS

49. As the image at the front of this report illustrates, Anchor Green was a hub of activity and vitality in the Summer of 2020, providing a comfortable space for people to meet, eat and relax during the height of restrictions and widespread fear. Even more recently (the last two Sunday's with similar weather conditions) the placing of tables on the application site has seen a marked difference in usage.
50. Habits will have changed and people will expect to be able to eat outside, and socially distanced (even if the law does not require it). **The Rocketeer** is seeking to address this, whilst ensuring that the area is not for their exclusive use.
51. The Local Development Plan provides a framework within which to determine an application for planning permission. In this instance, the Refusal Notice, and Officer Report has assessed that the application fails when tested against a number of key policies of the 2018 Plan. We have provided a detailed response to these reasons for refusal.
52. Given the details of the application, the officer report and reasons for refusal present an overwhelmingly negative and exaggerated view of the potential impacts that these proposals could possibly generate.
- a. **Policy OS1** – there is no loss of public open space. This application concerns the temporary placing of non-fixed tables and chairs. This is a privately owned pieces of land that is surrounded by large expanses of freely available open space;
 - b. **Policy CH2** – the proposed use of the space at Anchor Green will benefit the character and appearance of the North Berwick Conservation Area. The resurfaced paths will be a notable improvement and the tables and chairs will have only a beneficial impact creating an attractive area for people to congregate;
 - c. **Policy DP2** – the proposals are entirely appropriate to the landscape setting of the area. It is a busy vibrant part of the town and the resurfacing will see a significant improvement in existing paths which are in need of maintenance and enhancement.
 - d. **Policy DP9** – the use of the site and the improvement to the paths will have no impact on the setting of the Special Landscape Area. This is a negligible site within the wider context and the provision of enhanced visitor facilities will enable more people to enjoy the area.
 - e. **Policy DC6** – given the above, the proposals do not conflict with DC6. This is already acknowledged as being the 'Developed Coast' and the temporary siting of tables and chairs will bring no permanent change alongside significant benefits.

**Application 20/01241/P – Change of Use of Open Space to Outdoor Seating for a Temporary Period of 3 Years and Formation of Hardstanding Areas at The Rocketeer Restaurant, North Berwick.
Local Review Body Support Statement – May 2021.**

53. None of these policies are contravened. It feels like there has been an attempt to highlight every possible policy regardless of the likelihood or scale of any potential impact.
54. The proposals complement the existing facilities and improve the immediate area to benefit locals and visitors alike. The temporary use of the site with non-fixed tables and chairs, removed every night will increase the amenity of the site and present an attractive and practical facility to visitors.
55. In essence, the panel must decide if they are willing to support this local business in allowing tables and chairs on this section of Anchor Green.
56. There are no discernible impacts on the Conservation Area, Special Landscape Area, no concerns over amenity or traffic, it is simply a case of the acceptability or otherwise of the tables and chairs to serve customers and the wider public. Mr Stewart's efforts should be applauded as his commitment and investment in North Berwick continues.



Local Review Body Appeal



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PHOTO STUDY

May 2021

apt planning &
development

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Application 20/01241/P – Change of Use of Open Space to Outdoor Seating for a Temporary Period of 3 Years and Formation of Hardstanding Areas at The Rocketeer Restaurant, North Berwick.
Local Review Body Support Statement – May 2021.



Monday 20th July 2020

Surely this is what we all want North Berwick to look like on a sunny summer's day?

A local businessman seeking to make this happen should be supported and encouraged - it benefits the town, its businesses and East Lothian as a whole.

We should all be looking for ways to ensure this happens, not ways to stop it.

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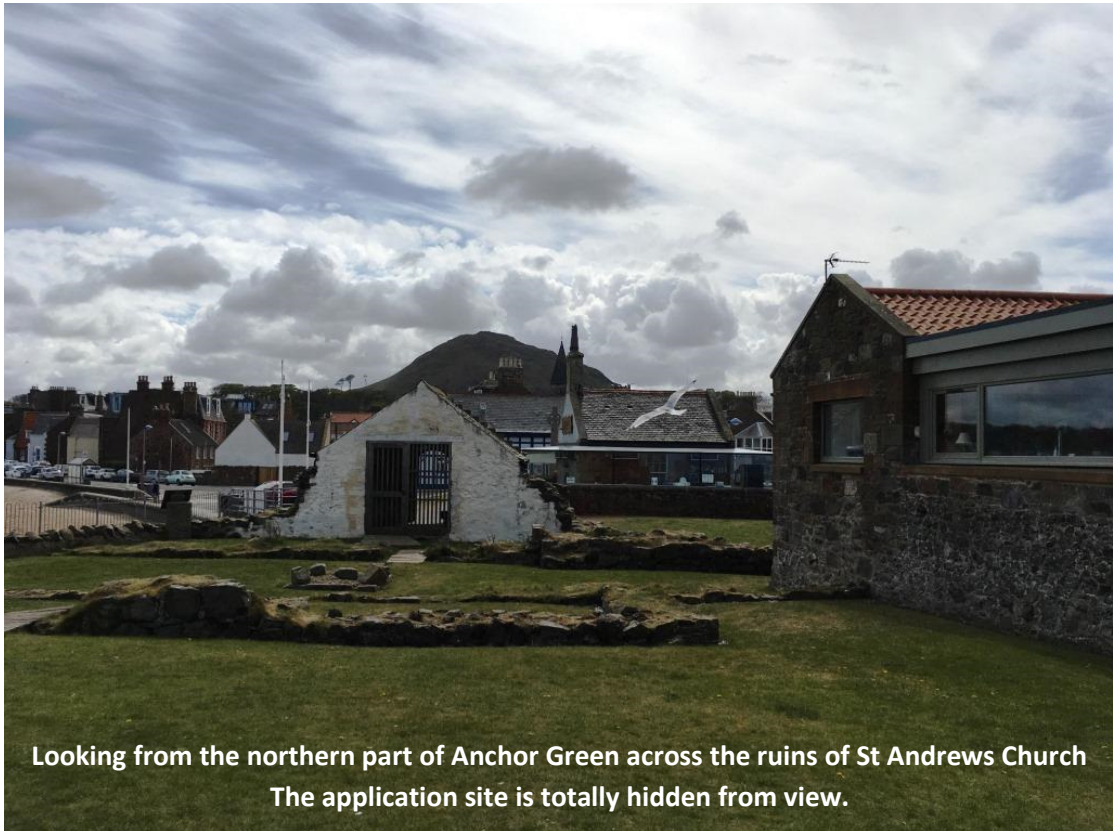
The Special Landscape Area covers the area from Port Seton to North Berwick - views into and out of North Berwick are important but the proposals will have no impact on these views. As below (and even from much closer), the site is indiscernible in the wider landscape and even more so the temporary use of tables and chairs).



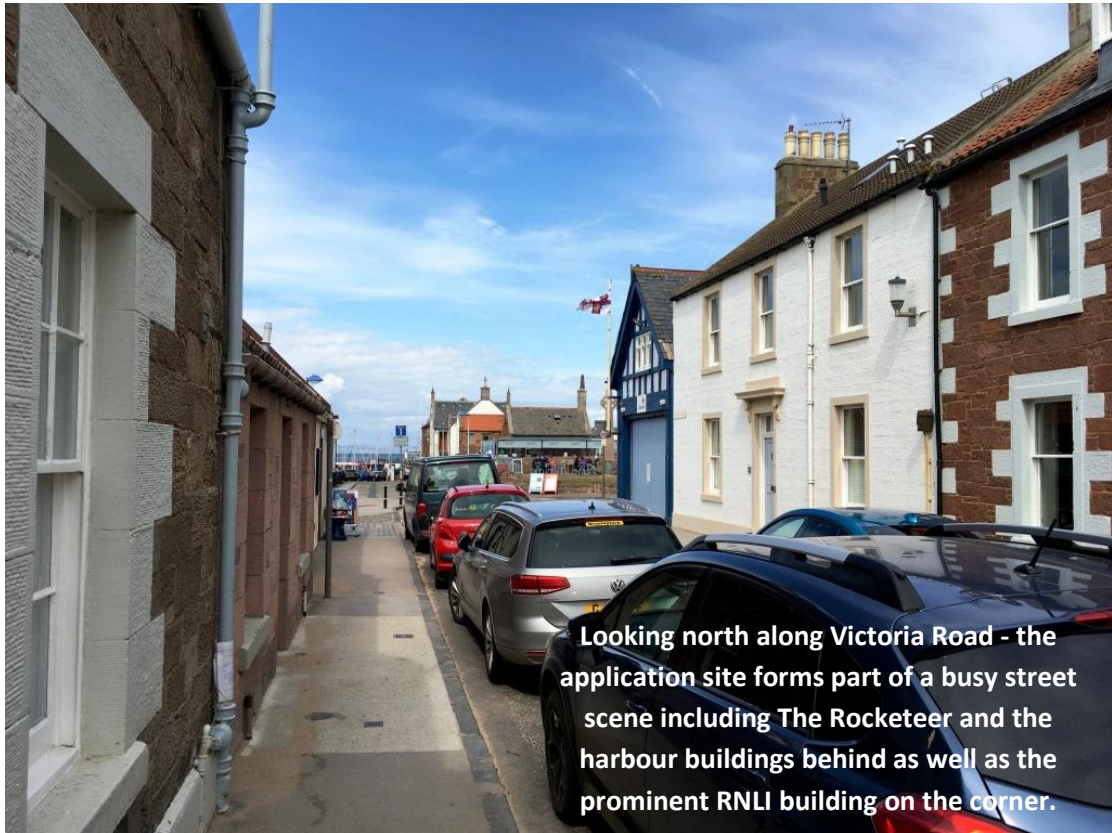
Looking from the path to the Seabird Centre, the application site forms part of a busy view of Victoria Road. The proposals will have no impact on this view looking south past St Andrews Church to the Rocketeer and North Berwick beyond.



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Local Review Body Support Statement – May 2021.



Development Planning
East Lothian Council
John Muir House
Haddington
EH41 3HA

18th November 2020


e tony@apt-plandevlop.co.uk
w www.apt-plandevlop.co.uk
t @aptplandevlop

6 High Street, East Linton
East Lothian
EH40 3AB

Dear Sir, Madam,

**Temporary Change of use from Amenity Open Space to Enable Outside Seating Area and Maintenance/Resurfacing of Existing Paths.
(relating to planning permission 11/00064/P and 18/00266/P)
Anchor Green, North Berwick**

With regards to the above, **apt planning & development ltd.** is pleased to submit this application on behalf of **Mr Stirling Stewart**, seeking planning permission for a temporary change of use at Anchor Green, North Berwick to allow for the siting of tables and chairs to service **The Rocketeer Restaurant**. There would be a maximum of 10 tables (40 covers).



This application also seeks permission to enable to maintenance/improvement and resurfacing of the existing paths around the Rocketeer building.

Whilst Covid-19 continues to present some significant challenges, the change in our dining habits and trends has also provided some different opportunities.

As more local residents are working from home and staying, shopping and socialising locally, others outwith the county are choosing to visit East Lothian and in particular North Berwick. There is therefore an opportunity for the local high street and its surrounding area to benefit.



The Rocketeer is a well-established, thriving business and a significant contributor to the vitality and viability of this part of North Berwick. This application seeks temporary planning permission for the change of use at Anchor Green to allow for the continued siting of tables and chairs at this location (and beyond the relaxation of social distancing measures, hopefully early in 2021).

The ongoing temporary use of the public space for this purpose throughout the COVID 19 pandemic has demonstrated that by making best use of the space available we can enable people to have their takeaway outside, enjoy what makes North Berwick unique and in a way that makes them feel safe. The location is not only perfect for people to sit and relax for a while but it is also adjacent to an area that is accessible and walkable - encouraging them to leave the car at home and perhaps walking or cycling.

The maintenance/improvement to the paths around the building is necessary to prevent further erosion of the path. The mono-block paving is a harder-wearing option with the added benefit of being a more attractive, higher quality solution. It will be installed to match the existing.



- The additional seating does not add to the capacity of The Rocketeer in terms of its ability to serve more customers, but will enable existing customers to consume their food on-site with the benefit of tables and chairs.
- The temporary change of use will not have any traffic or parking implications. We are hoping to be able to better serve existing customers (who have been making use of the current ability to sit outside the Rocketeer);
- The Rocketeer originally operated with only outdoor seating which was an established part of the business (approved as part of planning permission 11/00064/P);
- The existing hours of operation of the restaurant/ servery/takeaway will not change and therefore the outdoor seating will have no additional detrimental impact on the amenity of the neighbouring properties. It is not intended that the outdoor seating will be in use late into the evening and there will be no amplified music;
- The area will be kept free of litter. At all times a receptacle for litter shall be positioned and it will always have the capacity to take litter. By enabling customers to stay close to The Rocketeer, it enables staff to monitor the area and ensure it is kept litter free, as well as providing bins/recycling for customers to use;
- No freestanding canopies, umbrellas, outdoor heaters or other similar type utilities shall be placed on Anchor Green; and

- Outwith the hours of operation all tables and chairs shall be stored within the building and none left outside.
- Finally, this is both an application for temporary permission but also seasonal, and permission is sought from March 1st to October 31st inclusive.

Planning History

Date	Application Number	Outcome	Notes
11/01/2012	11/00064/P	Granted Change of Use	Former Coastguard station – restaurant/takeaway
06/11/2012	12/00410/P	Granted Retrospectively	Alterations and additions to the building. Did not grant permission for two wall mounted heaters or for retractable awning.
06/03/2015	14/00980/P	Granted	2 canopies to be attached to the building and windbreaks installed.
13/03/2017	16/00860/P	Granted	2 additional canopies.
15/12/2017	17/00746/P	Granted	Addition of an extension with glazed walls and glazed roof to be wrapped around the building (also approved a number of minor changes).

Planning Policy

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 policies of the approved SESplan relevant to the determination of this application. The area - Anchor Green - is in a mixed use area as defined by Policy TC2 of the adopted East Lothian Local Plan 2018. It is also within North Berwick Conservation Area. Policies CH2 (Development Affecting Conservation Areas) and Policy TC2 (Town and Local Centre) are therefore relevant.

- **Policies CH2 (Development Affecting Conservation Areas)** states that *'all development proposals within or affecting a Conservation Area or its setting must be located and designed to preserve or enhance the special architectural or historic character or appearance of the Conservation Area'*.

The applicant is not seeking to alter the appearance of the conservation area. The tables and chairs would only be visible during the hours of operation and when not in use would be stored within the building. They would therefore not be a permanent feature.

The positioning of tables and chairs in the proposed area will complement the existing facilities and simply offer locals and visitors alike somewhere to sit rather than people dispersing to eat elsewhere in the vicinity. They will be very obviously temporary in nature and appearance. The addition of tables and chairs therefore will not be harmful to the character and appearance of this part of North Berwick Conservation Area.

As above the proposed mono-block paving will be a more attractive solution, in-keeping with the existing paths and other characteristics of the area (stone walls and buildings). The proposed resurfacing of the paths will have no detrimental impact on the character or setting of the conservation area.

- **Policy TC2: Town and Local Centre** states that *'within a town and village centre, uses that will be acceptable in principle include retailing, business and office use, restaurants, leisure and entertainment, and the principle of a change of use from one of these uses to another will be supported'*.

It also states that *'proposals that would have a significant environmental impact, particularly on housing will not be permitted'*.

The Rocketeer is an established restaurant with a good reputation for high quality food. It is an asset to North Berwick and this particular part of the town is a 'hub' for local people, tourists and visitors with attractions such as the East and West beaches, the harbour and The Scottish Seabird Centre. The tables and chairs will complement the existing facilities available to tourists and visitors who are already attracted to this part of the town.

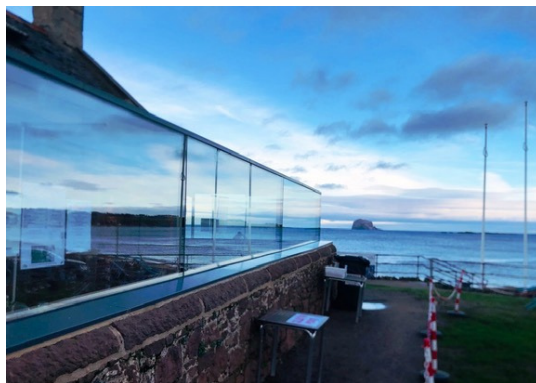
In respecting the existing opening hours restrictions, the proposed tables and chairs will not have any detrimental impact on the appearance or amenity of neighbouring residential properties. Furthermore, the request for a temporary permission (say three years) ensures that the Council has a check-and-balance should there be any unforeseen unacceptable impacts of the proposals.

We have not tested the proposals against those policies that might look at the principle of the use of The Rocketeer as it is an existing business. This application is seeking outdoor seating on a purely ancillary basis.

At present (non-COVID situation) there is nothing to stop customers simply sitting in this area on the grass, walls etc. and eating take away food from any outlet. In this instance we will be able to control who is using the space and ensure littering etc. (from The Rocketeer) is kept to an absolute minimum.

Local Employment

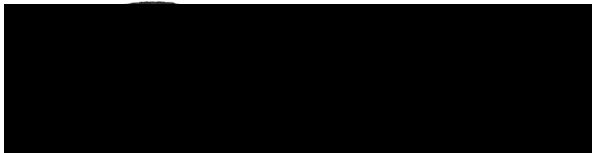
The proposals will also see the retention and growth of the business as a local employer. The Rocketeer currently employs approximately 25 staff (all local) and it is hoped that this number would increase to deal with the outside seating area. At the very worst, and given the impending economic downturn, the proposals will retain the current level of employment.



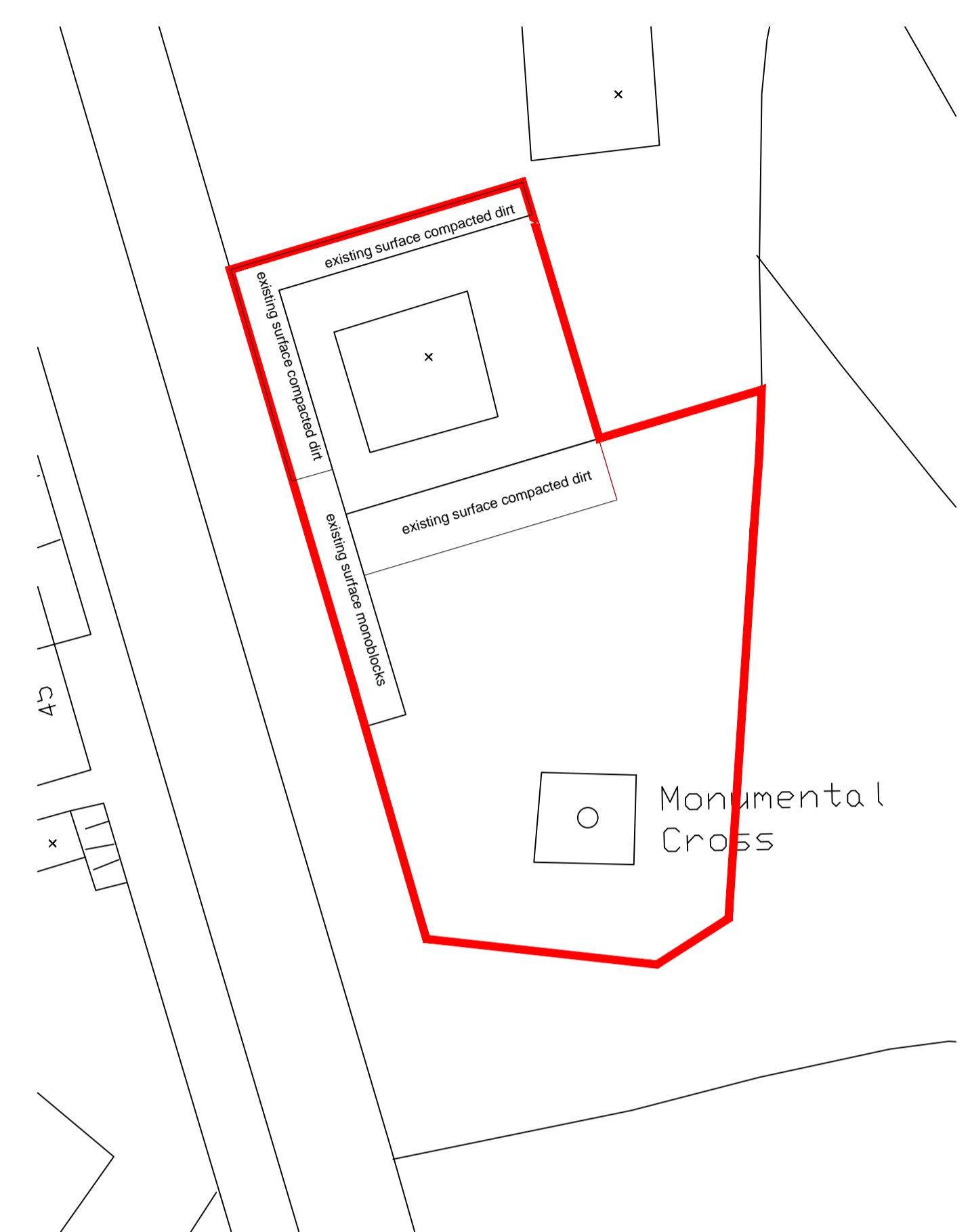
Since planning permission 11/00064/P was granted and as has already been highlighted, The Rocketeer has become a notable destination for local residents and visitors alike. Against this backdrop, we sincerely hope that East Lothian Council will look to support this application.

We are very happy to respond to any requests for further information, and look forward to hearing from you in due course.

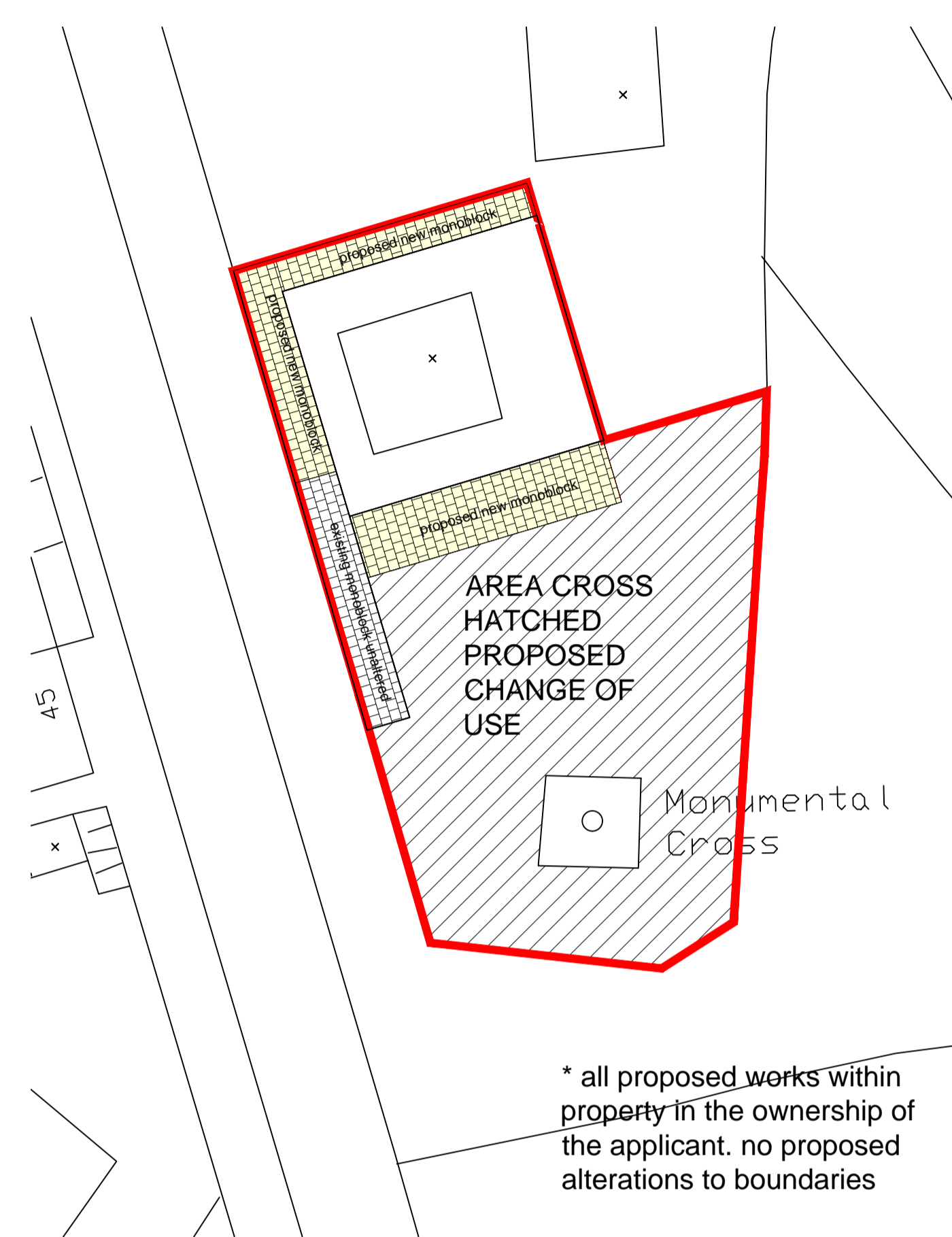
Yours sincerely



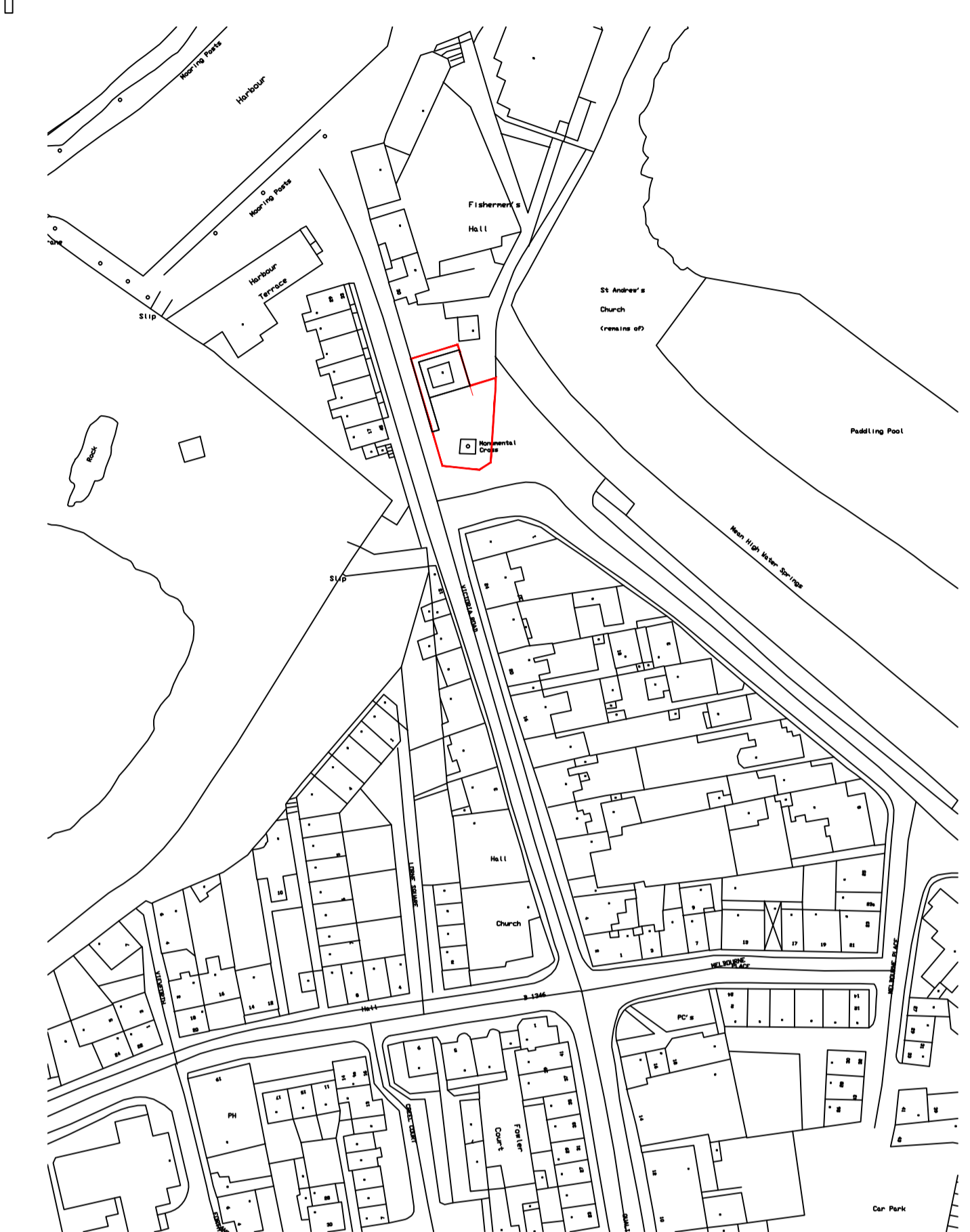
Tony Thomas
Director



BLOCK PLANS: EXISTING



PROPOSED 1:200 scale



LOCATION PLAN 1:1250 scale

date	description	revision
------	-------------	----------

architecturejfltd
 Gullane Business Centre
 12a Lammerview Terrace, Gullane, East Lothian EH31 2HB
 t: 01620 84 5555 e: architecturej@btconnect.com f: 01620 84 5559

project
Rockateer

drawing
Location & Block Plans

scale	date	drawn	approved
1:200 & 1:1250 @A1	Nov 20	jf	
project no.	drawing no.	revision	
20:52	AL(0)100	B	



**Application 20/01241/P – The Rocketeer Restaurant
Table & Chair Specification**

The tables will be erected and placed each morning and collapsed and stored inside overnight.

They will not be located in precise positions but will always be in the area requested for the change of use.

Every effort will be made to maintain quality of the grass, hence the positions will shift slightly most days.

It will be intended to retain social distancing measures (customer confidence and comfort) and we have applied for 10 tables (40 covers maximum).





Application 20/01241/P – The Rocketeer Restaurant
Table & Chair Specification



Paris

Side Chair - Aluminium - Vintage Light Blue

Code: 100.530

£69.00 (EX. VAT)

Item in Stock - Despatched within 3 working days

SELECT COLOUR: VINTAGE LIGHT BLUE



Qty: 1

ADD TO BASKET

ADD TO WISHLIST

PRODUCT DETAILS

DIMENSIONS

- Height - 86cm
- Width - 44cm
- Depth - 50cm
- Seat Height - 45cm
- Weight - 2.41kg



Application 20/01241/P – The Rocketeer Restaurant
Table & Chair Specification



Extrema

Table Top - Rectangular - Vintage

Code: 500.033

£99.00 (EX. VAT)

Item in Stock - Despatched within 3 working days

SELECT COLOUR: VINTAGE



119x69cm

Qty: - 1 +

ADD TO BASKET

ADD TO WISHLIST



PRODUCT DETAILS

Our Extrema range combines a modern appearance with extreme durability and can be used within both indoor and outdoor environments. UV and water resistant, even cigarette burn resistant! Extraordinary resistance to abrasion, impacts and stains and of course, as a result, extremely easy maintenance. Please note, if you are using your own table base, you will need specific fixings. Please call our Sales team on 01452 336520 to discuss this.



**Application 20/01241/P – The Rocketeer Restaurant
Table & Chair Specification**



Tubular Stacking 4 Leg Dining Table Base 700mm Square

£37.95 (£45.54 Incl. VAT)

The Tubular Stacking Dining Table Base is a durable Aluminium 4 leg Dining Table base suitable for indoor dining.

- Maximum top size: 700mm Sq
- Hard wearing aluminium frame
- Stainless Steel Fixings
- Anodized/Polished
- Suitable for indoor use
- One Year Guarantee

Delivery Time: 72hrs – Next Day Delivery call 0800 068 6870

PRODUCT DIMENSIONS & WEIGHTS



Base Sizes: 710mm x 710mm x 710mm (H)



(1/5 (1 Reviews))

MAXIMUM TABLE TOP SIZE



DELIVERY INFORMATION



NOBIS TABLE SIZE GUIDE



DESCRIPTION



App No. 20/01241/P

**EAST LoTHIAN COUNCIL
DECISION NOTICE**

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
TOWN AND COUNTRY PLANNING
(DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATIONS 2008**

**Mr Stirling Stewart
c/o APT Planning & Development
Per Tony Thomas
6 High Street
East Linton
East Lothian
EH40 3AB**

APPLICANT: Mr Stirling Stewart

With reference to your application registered on 14th December 2020 for planning permission under the above mentioned Acts and Regulations for the following development, viz:-

Change of use of open space to outdoor seating for servery/takeaway (class 3) for a temporary period of 3 years and formation of hardstanding areas

**at
26 Victoria Road
North Berwick
East Lothian
EH39 4JL**

East Lothian Council as the Planning Authority in exercise of their powers under the above-mentioned Acts and Regulations hereby **REFUSE PLANNING PERMISSION** for the said development.

The reasons for the Council's refusal of planning permission are:-

- 1 The proposed change of use of the area of public amenity open space to use as an outdoor seating area in association with the existing restaurant/servery/takeaway business of 'The Rocketeer' at 26 Victoria Road would result in an unacceptable harmful impact, detrimental to the recreational function of the area of amenity open space and would significantly

compromise the visual amenity and landscape character of the area, contrary to Policy OS1 of the adopted East Lothian Local Development Plan 2018.

- 2 The proposed change of use of the area of public amenity open space to use as an outdoor seating area in association with the existing restaurant/serverly/takeaway business of 'The Rocketeer' at 26 Victoria Road would result in the temporary loss of an area of amenity open space that makes a significant positive contribution to the landscape character of this gateway approach to the harbour promontory and as a result would be significantly harmful to the landscape character and appearance of this part of the North Berwick Conservation Area, contrary to Policy CH2 of the adopted East Lothian Local Development Plan 2018 , and with Scottish Government guidance on development affecting a conservation area given in Scottish Planning Policy (Revised December 2020).
- 3 The proposed hardstanding areas to the north, south and west sides of the building of 26 Victoria Road, by virtue of their modern appearance and uniformity and their positioning around all sides of the building, would be out of keeping with the character and appearance of the surface finishes of the area, and as unsympathetic areas of hardstanding would be harmful to the landscape character of the area and of this part of the North Berwick Conservation Area, contrary to Policies DP2 and CH2 of the adopted East Lothian Local Development Plan 2018, and with Scottish Government guidance on development affecting a conservation area given in Scottish Planning Policy (Revised December 2020).
- 4 As unsympathetic development that would have a harmful impact on the landscape character and visual amenity of the area and of this part of the North Berwick Conservation Area, the proposed change of use of the area of amenity open space to use as an outdoor seating area would also have a detrimental impact on the setting of this part of the North Berwick to Seton Sands Special Landscape Area, and the public benefits of the proposed development would not clearly outweigh any adverse impact on the setting of the Special Landscape Area. Accordingly, the proposed change of use of the land to use as an outdoor seating area would be contrary to Policy DC9 of the adopted East Lothian Local Development Plan 2018.
- 5 As development contrary to Policies OS1, CH2, DP2 and DC9 of the adopted East Lothian Local Development Plan 2018, the proposed development would also be harmful to this part of the East Lothian coastal area and contrary to Policy DC6 of the adopted East Lothian Local Development Plan 2018.

The report on this application is attached to this Decision Notice and its terms shall be deemed to be incorporated in full in this Decision Notice.

Details of the following are given in the application report:

- the terms on which the Planning Authority based this decision;

- details of any variations made to the application in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997.

The plans to which this decision relate are as follows:

<u>Drawing No.</u>	<u>Revision No.</u>	<u>Date Received</u>
SPECIFICATION	-	07.12.2020
AL(0)100	B	14.12.2020

5th February 2021



Keith Dingwall
Service Manager - Planning

NOTES

If the applicant is aggrieved by the decision to refuse permission for the proposed development, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to the Clerk to the Local Review Body, Committee Team, Communications and Democratic Services, John Muir House, Haddington, East Lothian EH41 3HA.

If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the Planning Authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

OFFICER REPORT

28th January 2021

App No. **20/01241/P**

Application registered on **14th December 2020**

Target Date **13th February 2021**

Proposal	Change of use of open space to outdoor seating for servery/takeaway (class 3) for a temporary period of 3 years and formation of hardstanding areas	SDELL	Y
		CDEL	N
Location	26 Victoria Road North Berwick East Lothian EH39 4JL	Bad Neighbour Development	Y

APPLICANT: **Mr Stirling Stewart**

Is this application to be approved as a departure from structure/local plan? N

**c/o APT Planning & Development
Per Tony Thomas
6 High Street
East Linton
East Lothian
EH40 3AB**

DECISION TYPE:

Application Refused

REPORT OF HANDLING

PROPOSALS

This application relates to an area of land, measuring some 230 square metres in area that comprises a strip of land along the north, south and west sides of the building and land of the former coastguard station at 26 Victoria Road, which is now in use as a restaurant and takeaway known as 'The Rocketeer', a strip of land to the southeast of that building that comprises a length of footpath leading from the building to the east side of the public road of Victoria Road, and the southern part of the 'Anchor Green' public open space to the south of the building of 26 Victoria Road.

The application site is on the east side of Victoria Road, at the junction of Victoria Road with Melbourne Road. The areas of land of the application site comprise lengths of footpath and part of an area of public open space. The building of 26 Victoria Road is detached and is

single storey in height. On the southern part of the 'Anchor Green' that comprises part of this application site is a memorial cross.

The application site is bounded to the south and east by the public footpaths of Victoria Road/Melbourne Road and by further land of the public open space of 'Anchor Green'. To the north is further land of the public open space of 'Anchor Green' and the scheduled ancient monument of St Andrews Church, including the Old Parish Church Porch. Also to the north are residential properties, the harbourmasters office and the buildings of the Scottish Seabird Centre. To the west is the public road of Victoria Road, on the opposite side of which are residential properties. The East Lothian Yacht Club building at 36-40 Victoria Road, which is located some 35 metres to the north of the application site, is listed as being of special architectural or historic interest, Category B.

The application site is located within an operational harbour area as identified by Policy EMP2 of the adopted East Lothian Local Development Plan 2018, and is part of the developed coast as defined by Policy DC6 of the adopted East Lothian Local Development Plan 2018. It is also within North Berwick Conservation Area.

On 11th January 2012 planning permission 11/00064/P was granted for: (i) the change of use of the former coastguard station building and its associated land at 26 Victoria Road to use as a restaurant and takeaway with an external decked seating area; (ii) the installation of vents and a flue on the building; and (iii) the addition of a bin store onto the north elevation wall of the building. The use of the building as a restaurant and takeaway that is named 'The Rocketeer' has commenced therefore, planning permission 11/00064/P has been implemented.

On 6th November 2012 planning permission 12/00410/P was retrospectively granted for alterations and additions to the building comprising: (i) the addition of a painted timber bin store and maitre d station onto the west elevation wall of the building; (ii) the installation of a rectangular aluminium vent grille in the west elevation wall of the building; (iii) the removal of the white rendered finish of the north and south elevation walls of the building and the cleaning of the resultant exposed stonework of those elevation walls; (iv) the re-rendering of the east elevation wall of the building with a buff/brown coloured render; (v) the provision of a circular glass window in the entrance door of the south elevation wall of the building; (vi) the installation of two wall mounted lights, one to each side of the entrance door in the south elevation wall of the building; (vii) the installation of two wall mounted lights on each of the north, east and south elevation walls of the building; and (viii) the installation of a dark green coloured gas meter housing cabinet in a position low down on the north elevation wall of the building. Planning permission 12/00410/P was also retrospectively granted for the formation of Indian sandstone slabs that had been laid around the building; between the building and the rubble stone boundary wall, and for the 1.3 metres wide, black painted metal open railing type gate that had been erected across the pedestrian entrance in the west boundary wall.

Planning permission 12/00410/P did not grant approval for two wall mounted heaters with associated wiring boxes that had been installed on each of the north, east and south elevation walls of the building, or for a retractable awning that had been installed on each of the south and east elevation walls of the building, as also retrospectively applied for. These elements of unauthorised development carried out at the premises were refused by conditions of planning permission 12/00410/P.

The decision to refuse by condition of planning permission 12/00410/P the installation of the retractable awnings was subsequently appealed to the Scottish Ministers (Directorate of Planning and Environmental Appeals Ref: PPA/210/2032). That appeal was dismissed on 28th March 2013.

The decision to refuse by condition of planning permission 12/00410/P the installation of the wall mounted heaters and their associated wiring boxes was not appealed to the Scottish Ministers.

Planning application 13/00065/P was registered in March 2013 for the erection of a glazed extension to the building. Following discussions between the Applicant, his Agent and the Planning Officer, that application was withdrawn whilst the Applicant considered the specifics of the design of the extension proposed.

On 16th May 2014 planning permission 14/00185/P was granted for the temporary siting for a period of two years of five foldaway gazebos on the areas of land to the south and east sides of the building, between the building and the rubble stone boundary wall. Two of the gazebos would be sited on the area of land to the south of the building and three would be sited on the area of land to the east of the building. Planning permission 14/00185/P has now lapsed.

On 6th March 2015 planning permission 14/00980/P was granted for the addition of two canopies to be attached to the building. One canopy would be attached to the south elevation wall of the building and one would be attached to the east elevation wall of the building. Planning permission 14/00980/P also granted approval for the addition of windbreaks to the south, east and north boundary walls that enclose the narrow strips of land on each side of the four sides of the building. Planning permission 14/00980/P has been implemented and the windbreaks have been installed and the framework of the two canopies has been built.

At Planning Committee on the 13th March 2017, planning permission 16/00860/P was granted contrary to officer recommendation for the erection of two additional canopies on the building, one on the north elevation and an additional one on the southeast elevation.

Condition 3 of planning permission 16/00860/P granted planning permission for the 2 additional canopies to be erected between April and October in each calendar year. Planning permission 16/00860/P was implemented in April 2017.

On 2nd February 2018, planning permission 17/00746/P was granted for the addition of an extension with glazed walls and a glazed roof to be wrapped around the building and therefore attached to its north, east, south and west elevations and to the boundary walls that enclose the land on each side of the building thereby enclosing all of the land between the building and those rubble stone boundary walls. Planning permission 17/00746/P also approved: (1) the replacement of the existing roof light on the south elevation roof slope of the building with an air conditioning grille of the same size as the existing roof light it would replace; (2) the resurfacing of a 10m length of the footpath that is to the southwest side of the building, outwith the rubble stone walls that enclose the land that surrounds the building, to match the surfacing within the enclosed outdoor seating area of 'The Rocketeer', and (3) the re-positioning of the existing BT pole that is adjacent to the inner wall of the wall enclosing the north boundary of the property to a position some 11 metres to the west of its position and

adjacent to the northwest corner of the boundary wall. Planning permission 17/00746/P has been implemented.

On 11th May 2018 planning permission 18/00266/P was granted for the variation of Condition 3 of planning permission 11/00064/P to change the opening hours of the business from 10:00 hours until 20:00 hours to 11:00 hours until 22:00 hours.

This current application for planning permission relates to the land and building of planning permission 11/00064/P and the servery/takeaway business of 'The Rocketeer' that is operating from that property.

Planning permission is now sought for the change of use of the area of public open space to the south of the building of 26 Victoria Road to use as outdoor seating for use in association with the servery/takeaway (Class 3) business of 'The Rocketeer' that is operating from the property of 26 Victoria Road, between the months of March to October each year and for a temporary period of 3 years. Planning permission is also sought for the formation of hardstanding areas on the strips of land along the north, south and west sides of the building of 26 Victoria Road.

Planning permission is also retrospectively sought for the hard surfacing of the strip of land to the southwest of the building of 26 Victoria Road that comprises a length of footpath leading from the building's entrance to the east side of the public road of Victoria Road. That area of land has been surfaced using a different material to that which was approved by the grant of planning permission 17/00746/P.

There are no changes proposed to the existing building of 26 Victoria Road.

In a letter submitted with the application by the applicant's agent contains supporting information for the application. The letter states that tables and chairs have been sited on this part of the 'Anchor Green' to allow for physical/social distancing measures enabling the continued operation of the business during the Covid-19 pandemic in 2020. The letter states that 'The Rocketeer' is a well-established thriving business that is a significant contributor to the vitality and viability of this part of North Berwick, and that permission is sought for the continued siting of tables and chairs on this part of the 'Anchor Green' beyond the relaxation of physical/social distancing measures. It is stated that the on-going temporary use of the area of public space for this purpose would enable customers to consume their food on-site with the benefit of tables and chairs and that this would make best use of the space available whilst enjoying what makes North Berwick unique and feeling safe, and that the location is accessible and walkable. It is further stated that the proposed hardstanding areas would prevent further erosion of the paths around the building and that the proposed monoblock surface is a hard-wearing, attractive and high quality solution.

The letter goes on to state that:

- the seating area would not add to the capacity of 'The Rocketeer';
- the seating area would not have any traffic or parking implications;
- 'The Rocketeer' originally operated with outdoor seating;
- the existing hours of operation would not change and that therefore there would be no detrimental impact on neighbouring residential properties;
- the area will be kept litter free;

- no freestanding canopies, umbrellas, outdoor heaters or other similar type of utility is proposed to be used on this part of the 'Anchor Green';
- the tables and chairs will be stored in the building overnight; and
- only a temporary permission is sought for 3 years and only between 1st March and 31st October (inclusive) each year.

The letter further states that the proposed tables and chairs would complement the existing facility and would simply offer customers somewhere to sit rather than them dispersing to eat elsewhere in the vicinity.

The letter states that it is hoped that staffing numbers (currently 25) would be increased to deal with the outside seating area.

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

Since the grant of planning permission 11/00064/P the approved Edinburgh and the Lothians Structure Plan 2015 and the policies of that Structure Plan, and the adopted East Lothian Local Plan 2008 and the policies of that Local Plan have respectively been superseded by the approved Edinburgh and South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Development Plan 2018.

There are no policies of the approved Edinburgh and South East Scotland Strategic Development Plan (SESplan) relevant to the determination of this application.

Policies EMP2 (Operational Harbours), DC6 (Development in Coastal Areas), DC9 (Special Landscape Areas), OS1 (Protection of Open Space), CH1 (Listed Buildings), CH2 (Development Affecting Conservation Areas), CH4 (Scheduled Monuments and Archaeological Sites), DP2 (Design), 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 a listed building or its setting, and on development within a conservation area given in Scottish Planning Policy (Revised December 2020).

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 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.

It is stated in the Historic Environment Policy for Scotland (HEPS): April 2019 and Scottish Planning Policy (Revised December 2020) that scheduled monuments are of national importance and that they should be preserved in situ and within an appropriate setting. Where works requiring planning permission would affect a scheduled monument, the protection of the monument and the integrity of its setting are material considerations in the determination of whether or not planning permission should be granted for the proposed development.

Also material to the determination of the application is the planning history of the site.

REPRESENTATIONS

A total of 45 public representations have been received to the application. Of those 26 raise objection to the proposed development and the main grounds of objection as summarised are:

1. loss of an important area of public open space to private commercial activity would be detrimental to the area;
2. use of public open space for the proposed use and the visual impact of this would have a detrimental impact on this historic part of the Conservation Area;
3. harmful visual impact on this important approach to the historic harbour and an incongruous encroachment into this historic area;
4. the proposed use would be intrusive, having the potential to double the number of covers provided by the business, and such intensification of use would be harmful to amenity of the occupiers of nearby houses through noise, litter, vehicle movements (customers and deliveries) and loss of privacy through overlooking;
5. inappropriate and disrespectful use of the area of open space around the memorial cross;
6. the applicant is taking no cognisance of the cultural or environmental impact of his proposals;
7. the use of mono-block hardstanding will be out of place and inappropriate in this setting and would be harmful to the character of the area;

8. the additional business will result in increased traffic and will further exacerbate parking demand in the area, and will be likely to create road and pedestrian safety hazards;
9. litter bins are inadequate to deal with the rubbish generated at present and this will be exacerbated by the additional business;
10. there are plenty of places to sit and eat a takeaway in the area without the need to place tables and chairs on this area of public open space;
11. whilst supporting local businesses is important it should not be at the expense of the value of and the community use of this area of public open space;
12. proposed use would be harmful to the setting of the historic memorial cross and Auld Kirk and would be visually harmful to the natural beauty of the area;
13. the applicant has shown a level of disregard to the planning officials and a level of arrogance towards both planning officials and local residents in his actions regarding this business;
14. the business would have insufficient sanitary facilities for the number of customers;
15. the stripping away of the grass area and its replacement with mono-blocks would be harmful to the character of the area;
16. the application contains errors, omission and lacks information and should not have been registered;
17. the proposals would be harmful to the human rights of the occupiers of neighbouring properties by interference with their privacy, home and family life (Article 8) and their right to peaceful enjoyment of their possessions (First Protocol, Article 1);
18. what other unnecessary visual clutter (such as litter bins, heaters, windbreaks, lighting, umbrellas, etc) will be brought to the site if this is approved?;
19. this business is having a cumulative adverse impact on this part of North Berwick and the area is becoming very cluttered and this would be exacerbated by the addition of table and chairs on the Anchor Green;
20. the proposals would be contrary to Local Plan Policies ENV1, ENV2, ENV3, ENV4, and ENV7; and
21. the proposals would be contrary to Local Development Plan Policies TC4, RCA1, EMP2, OS1, NH13, CH2, CH4 and DP7.

The remaining 19 representations make comment in support of the proposed development and the main supporting comments as summarised are:

- a. in these uncertain times, a place to eat outdoors with enjoyable views is welcome;
- b. the business manages the litter collection well and uses biodegradable packaging;

- c. the space does not serve a purpose and this would be a good use for it;
- d. the business is a well-respected restaurant that brings tourists to the town and the proposals would be sensitive to the site;
- e. the proposed hardstanding is sensible to improve the environment for heavier footfall;
- f. the proposals would make outdoor seating more amenable for customers of the business;
- g. there would be no loss of public space, indeed the use of the space would be made more attractive to the public, being more accessible rather than being an archaic, slightly intimidating area that should not be used;
- h. there would be no detriment to vehicular traffic in the area and no greater levels of pedestrian traffic;
- i. the memorial cross would not be harmed and the proposals may encourage more people to take an interest in it;
- j. the proposals would aid recovery of the business and allow continued social distancing; and
- k. the proposals support local businesses, local suppliers and local jobs.

Two further representations to the application have been received however those two representations were received after the period of time for making public comment on the application had ended, and as such those two representations are 'out-of-time'.

Notwithstanding that stated by objectors, the application does not propose the wholesale removal of the grassed area of the 'Anchor Green' and its replacement with mono-blocks. Mono-block hardstanding is proposed in strips along the west, north and south sides of the building of 26 Victoria Road and to the southwest of that existing building, and the areas of proposed monoblock hardstanding are shown on the application drawing(s).

With regards to the comments received relating to the application containing errors, omissions and lacking information, the drawing(s) and documents submitted with the application are of a satisfactory standard with scale bars and correct red line outline to adequately assess and determine the application. They are in accordance with the validation requirements of East Lothian Council in the validation of planning applications for a non-householder type application.

Contrary to that stated in some of the objections to the application, Policies ENV1, ENV2, ENV3, ENV4, and ENV7 of the East Lothian Local Plan 2008 are not relevant to the determination of this application, as that Local Plan has been superseded by the adopted East Lothian Local Development Plan 2018. The equivalent policies of the adopted East Lothian Local Development Plan 2018 are respectively RCA1, CH2, CH1, TC2 and CH4. Policies RCA1 and TC2 are not relevant to the determination of this application, because the site is not within an area defined as being of residential character and amenity by Policy RCA1 and nor is it within an area defined as being a town or local centre as defined by Policy TC2.

Contrary to that stated by one of the objectors, Local Development Plan Policies TC4 and DP7 are not relevant to the determination of this application. Local Development Plan TC4 relates to proposals to form new hot food takeaways and sets out specific criteria/locations in the context of which such development may be supported. In this case the existing restaurant/servery/takeaway business of 'The Rocketeer' is an existing business approved to operate as such by the grant of planning permission 11/00064/P and as amended by subsequent grants of planning permission (please refer to planning history set out in the 'Proposals' section of this report). Local Development Plan Policy DP7 relates to infill, backland and garden ground development. It does not relate specifically to the change of use of land or to the formation of hardstanding areas.

COMMUNITY COUNCIL

North Berwick Community Council, as a consultee to the application, advises that it raises objection, in the strongest terms, to the proposed change of use of the area of open space to use as an outdoor seating area on the grounds that the area of land, with its ancient monument at its centre, is an iconic part of the town, and that this picturesque area was marred and the monument partially disguised by tables and chairs was just about acceptable during the Covid crisis but there is no justification for making this any more permanent.

PLANNING ASSESSMENT

Contrary to that stated by the applicant's agent in the supporting letter submitted with the application, the application site is not within an area identified as being part of a town or local centre as defined by Policy TC2 of the adopted East Lothian Local Development Plan 2018, and thus Local Development Plan Policy TC2 is not relevant to the determination of this application for planning permission.

Although the site is outwith the town centre of North Berwick, it is a 'hub' area for tourists and visitors, with attractions including the east and west beaches, the harbour, the Scottish Seabird Centre and other occasional events held on parts of Anchor Green.

The application site is located within an operational harbour area as identified by Policy EMP2 of the adopted East Lothian Local Development Plan 2018. The principle purpose of Local Development Plan Policy EMP2 is to safeguard the harbour uses. Policy EMP2 states that within harbour areas the Council will give preference to uses that relate to fishing or other industry connected with the harbour. The Council will consider other uses provided they do not prejudice these uses.

The proposed use of the area of land for the siting of tables and chairs to form an outdoor seating area and the formation of the proposed and retrospective hardstanding areas are proposed in association with the existing commercial use of the restaurant/servery/takeaway of 'The Rocketeer' that is operating with the benefit of planning permission granted from the property of 26 Victoria Road. Although that existing business is not related to fishing or other industry connected with the operational harbour, it is nonetheless an established business within the operational harbour area. As a use in association with that existing restaurant/servery/takeaway business of 'The Rocketeer', the principle of the use of the area of land for the siting of tables and chairs and the formation of the proposed and retrospective hardstanding areas would not in principle conflict with Policy EMP2 of the adopted East Lothian Local Development Plan 2018.

There are no off-street car parking spaces dedicated to the use of the existing building as a restaurant/servery/takeaway, and there is no land available on which any could be provided.

Through the grant of planning permission 11/00064/P for the use of the building at 26 Victoria Road as a servery/takeaway, it is accepted that vehicle trips and parking demand associated with the business would be likely to be generated from local people and visitors already in this part of North Berwick, and that it was unlikely that the proposed servery/takeaway would, in itself, attract significantly greater numbers of people to the locality but rather that they would be residents of North Berwick or persons visiting the town anyway. The Council's Road Services advised that, in such circumstances, there would be no significant resultant additional pressure on the use of the existing parking provision in the area and that deliveries would not have a significant impact on traffic movement in the locality. Accordingly, at the time of the determination of planning permission 11/00064/P, Road Services raised no objection to the proposed use of the building as a servery/takeaway.

Subsequently, at the time of the determination of planning permission 17/00746/P for the addition of the glazed extension to the building, the Council's Road Services also advised that the proposed extension would not increase the number of covers offered by the business and therefore raised no objection to that proposal.

In the case of this current proposal, which would provide an additional 10 tables each with 4 chairs (i.e. 40 covers), Road Services comment that the site is well served by infrastructure with marked disabled parking bays, cycle parking and a bus stop close by and that it is within an area where the road network is constrained by double yellow line waiting restrictions, and marked parking bays or single yellow line waiting restrictions otherwise. Road Services comment that it is unlikely that the additional seating area would be a destination in its own right but rather that trips and parking generated as a result of the proposed use of the area of land as an outdoor seating area in association with the existing restaurant/servery/takeaway of 'The Rocketeer' would also be residents of North Berwick or persons visiting the town anyway.

In this context, Road Services advise that, based on its scale, the use of the area of land for the siting of tables and chairs as an outdoor seating area in association with the existing operation of the restaurant/servery/takeaway of 'The Rocketeer' would be unlikely to result in any significant additional pressure on the demand for parking spaces in the area and thus would be unlikely to have a detrimental impact on existing parking demand or road safety. Road Services also advise that they are satisfied that deliveries associated with the business, including the proposed additional external seating area would be unlikely to have a significant impact on traffic movement in the locality. Thus, the Council's Road Services raise no objection to the proposed change of use of the area of open space to use as an outdoor seating area associated with the use of the existing restaurant/servery/takeaway (Class 3) of 'The Rocketeer' for a temporary period of 3 years or to the formation of the proposed and retrospective areas of hardstanding, and accordingly, the application does not conflict with Policies T1 and T2 of the adopted East Lothian Local Development Plan 2018.

Local Development Plan policy DP2 requires, amongst other considerations, that new development should not result in any significant loss of daylight, sunlight or privacy to adjoining properties as a result of overshadowing or overlooking, and that the occupiers of the proposed development should also enjoy sufficient privacy and amenity.

The proposed development is of a nature that would not have an impact on the sunlight or daylight received by any neighbouring property or land use.

At its closest the area of land the subject of the change of use to an outdoor seating area is some 10 metres away from the nearest residential properties on the west side of Victoria Road. Those residential properties have a direct frontage onto Victoria Road with only a narrow strip of land, primarily comprising light-wells between their front elevations and the public footpath and road of Victoria Road. In this context the residential properties are already directly overlooked from the public road and footpath of Victoria Road, which is the primary vehicular and pedestrian route to the harbour area for locals, tourists and visitors. Furthermore, the area of public open space land that is the subject of this application for change of use, is already available for use by members of the public. In this context, the use of the area of land for an outdoor seating area would be unlikely to have a noticeably greater impact on the privacy and amenity of those neighbouring residential properties through overlooking than already occurs in the existing circumstance.

The grant of planning permission 18/00266/P approved the hours of operation of the existing restaurant/servery/takeaway business of 'The Rocketeer' to be 11:00 hours to 22:00 hours on any day of the week. The applicant's agent advises that the proposed hours of operation of the proposed outdoor seating area would be 11:00 hours to 21:00 hours on any day of the week between 1st March and 31st October each calendar year for a temporary period of 3 years.

The Council's Senior Environmental Health Officer advises that due to the proposed seating area for the restaurant/servery/takeaway business of 'The Rocketeer' being wholly outdoors, he has concerns that noise associated with the use and operation of the proposed outdoor seating area of the business would have the potential to have a detrimental impact on the amenity of nearby residential properties from patrons talking/laughing, etc. Although, the Senior Environmental Health Officer goes on to comment that any such noise impact would be subjective and would be likely to vary hour to hour and day by day depending on the behaviour of the customers and the effective management of them by staff. Accordingly, the Senior Environmental Health Officer recommends that the use of the proposed outdoor seating area of the restaurant/servery/takeaway business of 'The Rocketeer' should cease at 21:00 hours on each day of the week. This matter could be controlled by a planning condition. Subject to the aforementioned planning control to restrict the hours of operation of the proposed outdoor seating area to 11:00 to 21:00 (inclusive) on each day of the week the Senior Environmental Health Officer raises no objection to the proposed development, which in such context would not give rise to a harmful loss of amenity to any neighbouring residential property or land use.

The Senior Environmental Health Officer also recommends that suitable controls be put in place to ensure the management of litter collection at the site. This matter could be controlled by planning conditions, similar to those attached to the grant of planning permission 11/00064/P and 18/00266/P.

On these foregoing amenity considerations, and subject to the aforementioned planning controls, the proposed use of the land as an outdoor seating area would not have a detrimental impact on the amenity of any neighbouring residential property or land use, and would not conflict with Policy DP2 on these considerations.

In the supporting statement submitted with the application, it is stated that the proposed additional outdoor seating area would not add to the capacity of the existing restaurant/servery/takeaway business of 'The Rocketeer' in terms of its ability to service more customers but rather would enable existing customers to consume their food on-site with the benefit of tables and chairs. It is stated that the proposed outdoor seating area would be an enhancement of the existing business rather than an expansion.

It would however not be unreasonable to assume that there would be some degree of increase to the number of customers and thus also revenue as a result of the proposed outdoor seating area and the additional 40 covers that this would provide to the business, albeit that those additional covers would be outdoors.

The Council's Environmental Protection Service (Business Regulation Team) advises that the kitchen for the premises is not of a sufficient size to suitably cope with the additional table capacity, and furthermore, the premises has only one toilet for both staff and customers. On this basis, the Environmental Protection Service (Business Regulation Team) would not support the proposals for the proposed outdoor seating area.

It is now necessary to assess the impact of the proposed use of the land as an outdoor seating area on the area of public open space land and the impact of the proposed development on the visual amenity of the area, including the character and appearance of this part of the Conservation Area, and on the setting of nearby listed buildings and the scheduled ancient monument of St Andrews Church.

North Berwick is a popular tourist destination in East Lothian with attractions including its beaches, the natural beauty and wildlife of the surrounding coastline, as well as the leisure facilities of the golf courses of the area, and commercial attractions of the town, including shops, cafes, restaurants and the existing Scottish Seabird Centre. The harbour area as a whole, including 'Anchor Green', is one of the main attractions of the town and contributes to the popularity of North Berwick as a tourist destination.

The North Berwick Conservation Area Character Statement of the Cultural Heritage and Built Environment Supplementary Planning Guidance of the adopted East Lothian Local Development Plan 2018 identifies the oldest areas of the present town as being around the harbour area, Quality Street and High Street and describes the buildings and spaces of these parts of the town as being intimate, human scale spaces with the built form reflecting North Berwick's windy, coastal position. Of the harbour promontory, the Character Statement states that this part of the town retains many of its distinctive former warehouses and stores, some of which have been adapted to new uses and that most houses in the approaches to the harbour are small scale. The statement identifies the Scottish Seabird Centre building as a good example of a modern building that manages to harmonise both with its shore location and existing buildings of this part of the Conservation Area, and which is a landmark building standing alone in an open position.

The Conservation Area Character Statement further explains that glimpses of the sea between the buildings are part of the seaside town's character, as are the views of the harbour promontory from North Berwick Bay (to the west), where the harbour buildings and sky are reflected in the sea. The Character Statement further identifies that views across the Conservation Area from the East Links and the higher ground to the south are also

distinctive, showing the old town nestled around Milsey Bay (to the east of the harbour promontory) in its setting of sea and farmland, and that the West Links Golf Course and the beach are attractive, open spaces that provide an important setting for the town.

'Anchor Green', and thus the current application site, is part of the harbour promontory and is located between Melbourne Road and the harbour esplanade. It is a historic area of open space adjacent to the harbour and the remains of the scheduled ancient monument of St Andrews Church. Part of the character of 'Anchor Green' is derived from its openness and the views from it and across it to the east beach, to the north towards the harbour esplanade and beyond to the rocks of the foreshore and the Firth of Forth and its islands beyond, and the views that it affords south from the harbour, between the existing Seabird Centre and sun-lounge buildings. The link and vistas between 'Anchor Green' and the Category B listed harbour is part of the character of this part of the North Berwick Conservation Area. 'Anchor Green' provides an attractive green space and open setting within which the existing Seabird Centre building sits (as noted in the North Berwick Conservation Area Character Statement).

It is in this context that this application for the change of use of the southern part of 'Anchor Green' to use as an outdoor seating area between 1st March and 31st October each calendar year for a period of 3 years must be considered.

Paragraph 3.122 of the Local Development Plan states, amongst other matters, that the Council will consider the value of land not formally identified as being recreational, leisure or amenity open space based on its contribution to the amenity of the area against Policy OS1. Policy OS1 states that the loss of areas of open space that have significant amenity or recreational value will be resisted by the Council, unless their function is not harmed or appropriate alternative provision can be made locally. Policy OS1 identifies larger areas of land of such value as open space but acknowledges that it has not been possible to identify all areas that have local value either as areas for informal recreation or play, or as a setting for built development.

The land that is proposed to be changed in use to an outdoor seating area is prominently located on the harbour promontory at the junction of Victoria Road with Melbourne Road. It is a picturesque area of the North Berwick seafront and the approach to the harbour and between the east and west beaches and is readily visible in views with the iconic backdrop of the harbour area and coastal views towards the Bass Rock and other islands. Discounting the beaches, the 'Anchor Green' and thus also the application site, is the only area of grassed open space between the harbour area and the Lodge Grounds to the south of the town centre. The land that is proposed to be changed in use to an outdoor seating area also includes the prominently visible memorial cross and has local historical significance in its location immediately to the south of the site of the St Andrews Church.

In all of this the area of land the subject of the change of use is an important area of open space within the town and has considerable visual amenity value. It is easily accessible to the public due to there being no means of enclosure of its boundaries and in its proximity to the public footpath network and its harbour esplanade location. Although not formally identified by Local Development Plan Policy OS1 as being recreational, leisure or amenity open space, and although it may not have an active recreation use, the grassed area of the site as part of the 'Anchor Green' nonetheless makes a significant positive contribution to the landscape character of this gateway approach to the harbour promontory and to this part of the North

Berwick Conservation Area, and is an important feature of and makes a positive amenity contribution to this part of North Berwick.

The siting of the tables and chairs, and the use of the land as an outdoor seating area, would result in the loss of the area of open space, and the resulting visual impact of such proposed use would dominate the approach to the harbour promontory, and would result in the loss of the open character of the grassed amenity space of this southern part of 'Anchor Green', which makes a significant contribution to the landscape character of this part of North Berwick, all to the detriment of the amenity and landscape character and appearance of this gateway approach to the harbour promontory, and to this part of the North Berwick Conservation Area.

The proposed use of the area of land as an outdoor seating area for use in association with the existing business of 'The Rocketeer' at 26 Victoria Road, and the resultant loss of this area of grassed amenity open space, even for a temporary period of time each year for a temporary period of 3 years would result in a significant loss of amenity and a harmful impact on the landscape setting of this gateway approach to the harbour promontory, which would have a detrimental impact on the amenity and landscape function that this area of important green space provides to this part of North Berwick.

Local Development Plan OS1 states that alternative uses of amenity open space will be considered where there would be no significant loss of amenity or impact on the landscape setting and where alternative provision of equal community benefit and accessibility would be made available.

In terms of Policy OS1 there can be no doubt that the proposed use of the land for the siting of tables and chairs as an outdoor seating area would significantly change the site's natural character by removing it from use as public open space. No alternative open space provision is proposed. Such proposed development of the site would result in a significant loss of amenity and a harmful impact on the landscape setting of this gateway approach to the harbour promontory, which would have a detrimental impact on the amenity and landscape function that this area of important green space provides to this part of North Berwick and would have a significant detrimental impact on the amenity and landscape character and appearance of this part of the North Berwick Conservation Area.

The proposed use of the area of open space for the siting of tables and chairs as an outdoor seating area in association with the use of 'The Rocketeer' would be a very different and formal use of the area of open space that would remove the area of land from public use and which would be in stark contrast to any informal use of the space for picnics which may occur during good weather. There remains plenty of informal seating for local residents and visitors to utilise in the area around the harbour promontory and beaches, allowing places to sit to eat food purchased from this, or any other, food establishment.

Although the area of grass the subject of this application for change of use is privately owned it is currently managed by the Council's Amenity Services as public amenity open space.

The Council's Landscape Officer (Policy and Strategy) advises that the land of the application site is an important area of open space for both local residents and visitors, and provides a setting for the scheduled monument of St Andrews Church, and that the proposed formal use of the area of open space for the siting of tables and chairs would detract from the setting of

the memorial cross and would detract from the picturesque character of the area of open space and the landscape character of this part of North Berwick, whether through the presence of the tables and chairs or the resulting condition of the grass. Accordingly, the Landscape Officer advises that the proposals for the change of use of the area of open space for the siting of tables and chairs as an outdoor seating area for use in association with 'The Rocketeer' would not be supported on landscape considerations.

Accordingly, although currently the area of amenity open space does not perform any formal recreational or leisure function, the loss of this existing area of grassed amenity open space in its prominent location on the harbour promontory and within this important part of the North Berwick Conservation Area would significantly compromise the landscape setting and amenity value of the area and would have a detrimental impact on the landscape character of this part of the North Berwick Conservation Area. On these considerations of the impact of the proposed change of use of the land on the amenity open space and the character of this part of the North Berwick Conservation Area, the principle of the development of the site for the proposed use is contrary to Policies OS1 and CH2 of the adopted East Lothian Local Development Plan 2018, and with Scottish Government guidance on development affecting a conservation area given in Scottish Planning Policy (Revised December 2020).

The application site is also close to part of the southern edge of the North Berwick to Seton Sands Special Landscape Area (SLA) as defined by Local Development Plan Policy DC9. The southern part of harbour promontory, including the application site, is not within the SLA. The character statement for the SLA does however comment that the area of the SLA pertaining to North Berwick is popular for recreation and that the popular recreation areas around the sandy bays and harbour headland are an important part of the setting of North Berwick with strong aesthetic appeal that provides diversity and scenic views and comprises an open landscape facing the sea varying in nature from estuaries to dunes and rocky shore (...) as well as several urban areas set directly onto the coast. The Character Statement identifies that there are many excellent views, including that of the North Berwick Beach and Harbour. One of the guidelines for development of the SLA Character Statement is that any proposed development must not harm the recreational and scenic appeal of beaches, including access to them.

The application site is located on the North Berwick Harbour promontory and is at a prominent approach to the harbour and the east and west beaches. As unsympathetic development that would have a harmful impact on the landscape character and visual amenity of the area and of this part of the North Berwick Conservation Area, the proposed change of use of the area of amenity open space to use as an outdoor seating area would also have a detrimental impact on the setting of this part of the North Berwick to Seton Sands Special Landscape Area, and the public benefits of the proposed development would not clearly outweigh any adverse impact on the setting of the SLA. Thus, the proposed change of use of the land to use as an outdoor seating area would be contrary to Policy DC9 of the adopted East Lothian Local Development Plan 2018.

The application site is also part of the developed coast as defined by Policy DC6 of the adopted East Lothian Local Development Plan 2018. Policy DC6 states that new development within the developed coast will be supported in principle if it complies with other relevant Plan policies.

In that the proposed development would be unsympathetic development, harmful to the character and appearance of this part of the North Berwick Conservation Area, and in that it would result in the loss of open space important to the character and appearance of the area, including of this part of the North Berwick Conservation Area, and thus would, as relevant, be contrary to Policies CH2 and OS1, and in that it would be harmful to the setting of the North Berwick to Seton Sands Special Landscape Area contrary to Policy DC9, the proposed development would also be harmful to this part of the East Lothian coastal area contrary to Policy DC6 of the adopted East Lothian Local Development Plan 2018.

With the exception of the land to the east side of the building which is surfaced with tarmac and a small part of the land to the west side of the building, which is surfaced with monoblocks, the strips of land around the north, south and west sides of the existing building of 26 Victoria Road have an informal whin-dust surfacing. Such existing surfacing is in keeping with the informal character of this part of the 'Anchor Green' and the Scheduled Ancient Monument of St Andrews Church. The tarmac surfaced strip of land to the east of the application site forms an extension of the existing public footpath on the north side of Melbourne Road that extends to the entrance to the Auld Kirk porch of the Scheduled Ancient Monument of St Andrews Church and beyond to the Seabird Centre further to the north on 'Anchor Green'.

The proposed hardstanding areas to be formed along the north, south and west sides of the building of 26 Victoria Road would be surfaced with monoblocks to match the surfacing of the strip of land to the southwest of the building which links the entrance to the building with the public road of Victoria Road. Planning permission is retrospectively sought for the monoblock surfacing that has been laid on that area of land to the southwest of the building.

Planning permission 17/00746/P approved that existing strip of monoblock surfaced land to be surfaced with paving slabs to match the surfacing of the narrow areas of land, which at that time were between the boundary walls that encircle the building and the elevation walls of the building and which now are enclosed by the glazed extension approved by the grant of planning permission 17/00746/P. Planning permission 12/00410/P approved the surfacing of those areas of land between the boundary walls and the building with Indian sandstone paving slabs.

The monoblock surfacing that has been laid on the strip of land to the southwest of the building of 26 Victoria Road, which links the entrance to the building with the public road of Victoria Road, is a tegula appearance monoblock in a red/brown colour. It differs in both colour, character and appearance from the paving slabs approved by the grant of planning permission 17/00746/P.

Monoblocks are a relatively modern surface material resulting in a uniform appearance and finish that differs noticeably from the more uneven finish of a traditional cobble stone or sett. Monoblocks are not a surface finish commonly found within this part of North Berwick, other than in instances of private enclosed gardens.

The surface finishes of the footpaths of 'Anchor Green' and the setting of the scheduled ancient monument of St Andrews Church have a simple uncluttered appearance with a limited palette of materials; these being primarily tarmac with a traditional cobble sett providing edge detail to the much of the footpath.

The proposed areas of hardstanding to the north, south and west sides of the building of 26 Victoria Road would be readily visible in public views from 'Anchor Green' to the east and north of the application site, the public footpath on the north side of Melbourne Road to the east and south of the application site and also would be partially visible from Victoria Road to the west of the application site.

In the context of the existing palette of surface finishes of 'Anchor Green' the use of a modern monoblock and the modern finish that this results in for the proposed surface finish of the strips of land to the north, south and west of the existing building of 26 Victoria Road, is not and would not be in keeping with the character and appearance of the surface finishes of the area, and as an enclosing band of hardstanding around the perimeter of the building, the proposed monoblocks would appear as an overly dominant, unsympathetic surface finish which by virtue of its modern appearance and uniformity, would be harmful to the landscape character of the area and of this part of the North Berwick Conservation Area. Accordingly, on these considerations, the proposed areas of hardstanding, would be contrary to Policies DP2 and CH2 of the adopted East Lothian Local Development Plan 2018, and with Scottish Government guidance on development affecting a conservation area given in Scottish Planning Policy (Revised December 2020).

However, in the case of the strip of land for which retrospective planning permission is sought for its surfacing with monoblocks, that area of land is afforded a greater degree of containment by the wall that bounds the east side of that part of Victoria Road and by a low retaining wall with metal railings that encloses the east side of the retrospective hardstanding area. As such that area of land is only visible in short duration views from the public road of Victoria Road at its point of access and at its point of juncture with the entrance to the building of 26 Victoria Road. Otherwise it is afforded a greater degree of containment than are the other proposed areas of hardstanding. In such context, and seen as it would be in such short duration limited views of the site, and by virtue of its small scale and ground level positioning, the monoblock finish of it does not appear overly dominant within the streetscape, does not have a harmful impact on the landscape character of the area, and has a neutral impact on the character and appearance of this part of the Conservation Area. Accordingly, on these considerations the monoblock surfacing of the land to the southwest of the building of 26 Victoria Road would not conflict with Policy DP2 of the adopted East Lothian Local Development Plan 2018.

In its location, for the main part, on the southern part of 'Anchor Green', the land the subject of the proposed change of use would be separated from the scheduled ancient monument of St Andrews Church and the Category B listed building of the East Lothian Yacht Club, both of which are further to the north of the application site on the harbour promontory, by the existing intervening building of 26 Victoria Road and by a small area land of 'Anchor Green' to the east of that building. Only a small strip of land of the application site to the north side of the existing building of 26 Victoria Road would be immediately adjacent to the scheduled ancient monument of St Andrews Church. Due to the intervening land and building and due to their ground level positioning and scale, the proposed change of use of the land of the site to an outdoor seating area and the formation of the proposed and retrospective hardstanding areas would not have a detrimental impact on the setting of the scheduled ancient monument of St Andrews Church or the setting of the Category B listed building of the East Lothian Yacht Club.

Historic Environment Scotland have no comment to make regarding the proposed and retrospective development the subject of this application.

The Council's Archaeology Officer advises that the proposed tables and chairs would not be ground fixed and would be repositioned each day, which would reduce any erosion impacts, and that some five years previously archaeological monitoring was undertaken when this area of 'Anchor Green' was re-graded as part of routine maintenance and no archaeological remains were identified at that time. Thus, on these archaeological considerations, the Archaeology Officer raises no objection to the proposed and retrospective development the subject of this application.

Accordingly, the proposed and retrospective development the subject of this application is not contrary to Policies CH1 and CH4 of the adopted East Lothian Local Development Plan 2018.

It must now be considered whether there are any other material considerations that outweigh the proposal's conflict with the development plan as set out above.

Of consideration are the potential benefit to the business of 'The Rocketeer', including potential for the creation of additional jobs, and the Council's guidance from Scottish Government to, where possible, support local businesses to continue operating during the current Covid-19 pandemic.

On the matter of job creation, the supporting statement submitted with the application indicates that 'The Rocketeer' currently employs approximately 25 staff and it is hoped that this number would increase to deal with the additional outdoor seating area. No specific figure is provided to indicate what if any additional number of jobs would be created. The statement also goes on to state that at the worst, and given the impending economic downturn, the proposals would retain the current level of jobs at the business. It is therefore not clear whether or not the proposed development would result in additional job creation. It is reasonable to conclude that the proposal would benefit the business, possibly increasing customer numbers and turnover. However any benefit to the business would not outweigh the conflict with Policies OS1, CH2, DC6, DC9 and DP2 of the adopted East Lothian Local Development Plan 2018.

Also of consideration is the current Covid-19 pandemic, which is having a detrimental impact on businesses, including hospitality and retail businesses, and thus the business of 'The Rocketeer' at 26 Victoria Road.

In the supporting statement it is indicated that the use of the area of land for the siting of tables and chairs as an outdoor seating area in association with the restaurant/servery/takeaway of 'The Rocketeer' has operated from May 2020 in order to enable the business to continue operating when Covid-19 restrictions allowed whilst complying with physical/social distancing requirements.

The Scottish Government's Chief Planner's letters of March and May 2020, include amongst other matters, guidance for local planning authorities to seek, where possible, to support local businesses in changes to their business practices during physical distancing restrictions and to not seek to undertake planning enforcement action which would result in unnecessarily restricting businesses on a temporary basis during the current exceptional circumstances.

Whilst the proposed change of use of the area of land to use as an outdoor seating area is partially driven by the physical/social distancing requirements of Covid-19 pandemic restrictions, it is clear that the application is seeking for the continued siting of tables and chairs on this part of the 'Anchor Green' beyond the relaxation of physical/social distancing measures and current exceptional circumstances of the Covid-19 pandemic, as well as seeking planning permission for the formation of hardstanding areas. Under the guidance set out in the Scottish Government's Chief Planner's letters on matters relating to the physical/social distancing measures and current exceptional circumstances resulting from the Covid-19 pandemic, it is possible for the Council as Planning Authority to consider whether or not to allow the business of 'The Rocketeer' to continue to operate the seating area on a temporary basis whilst complying with physical/social distancing measures.

Thus, on balance it is not considered that there are any material considerations sufficient to outweigh the conflict with Policies OS1, CH2, DC6, DC9 and DP2 of the adopted East Lothian Local Development Plan 2018.

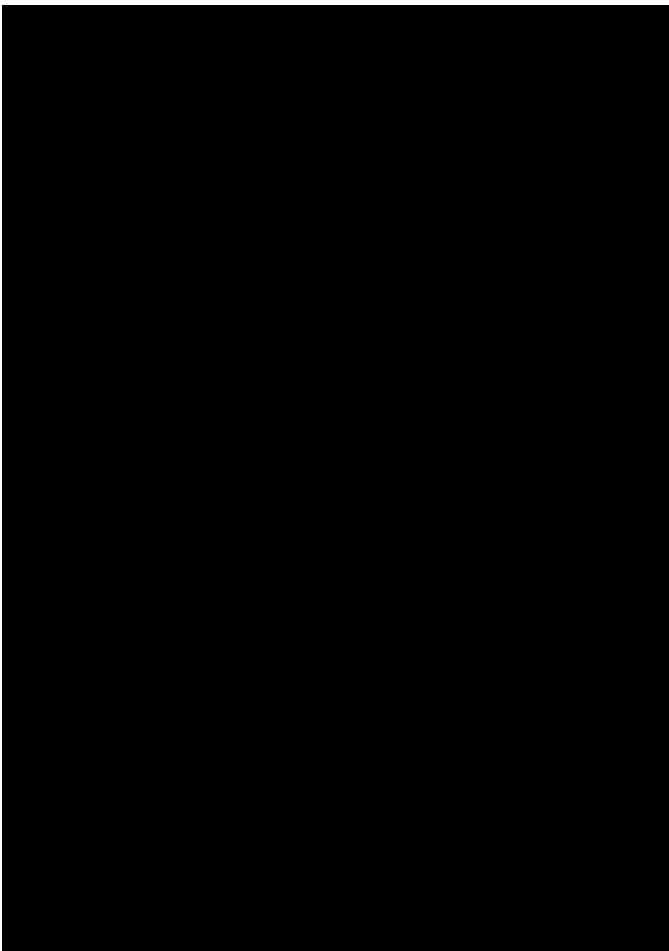
REASONS FOR REFUSAL:

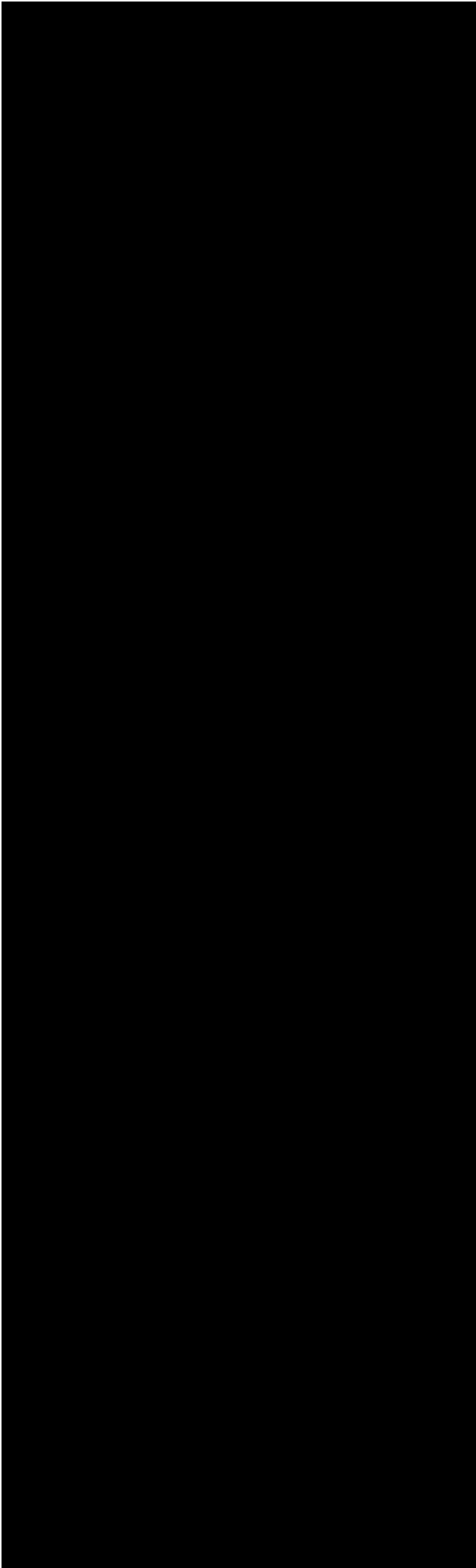
- 1 The proposed change of use of the area of public amenity open space to use as an outdoor seating area in association with the existing restaurant/servery/takeaway business of 'The Rocketeer' at 26 Victoria Road would result in an unacceptable harmful impact, detrimental to the recreational function of the area of amenity open space and would significantly compromise the visual amenity and landscape character of the area, contrary to Policy OS1 of the adopted East Lothian Local Development Plan 2018.
- 2 The proposed change of use of the area of public amenity open space to use as an outdoor seating area in association with the existing restaurant/servery/takeaway business of 'The Rocketeer' at 26 Victoria Road would result in the temporary loss of an area of amenity open space that makes a significant positive contribution to the landscape character of this gateway approach to the harbour promontory and as a result would be significantly harmful to the landscape character and appearance of this part of the North Berwick Conservation Area, contrary to Policy CH2 of the adopted East Lothian Local Development Plan 2018 , and with Scottish Government guidance on development affecting a conservation area given in Scottish Planning Policy (Revised December 2020).
- 3 The proposed hardstanding areas to the north, south and west sides of the building of 26 Victoria Road, by virtue of their modern appearance and uniformity and their positioning around all sides of the building, would be out of keeping with the character and appearance of the surface finishes of the area, and as unsympathetic

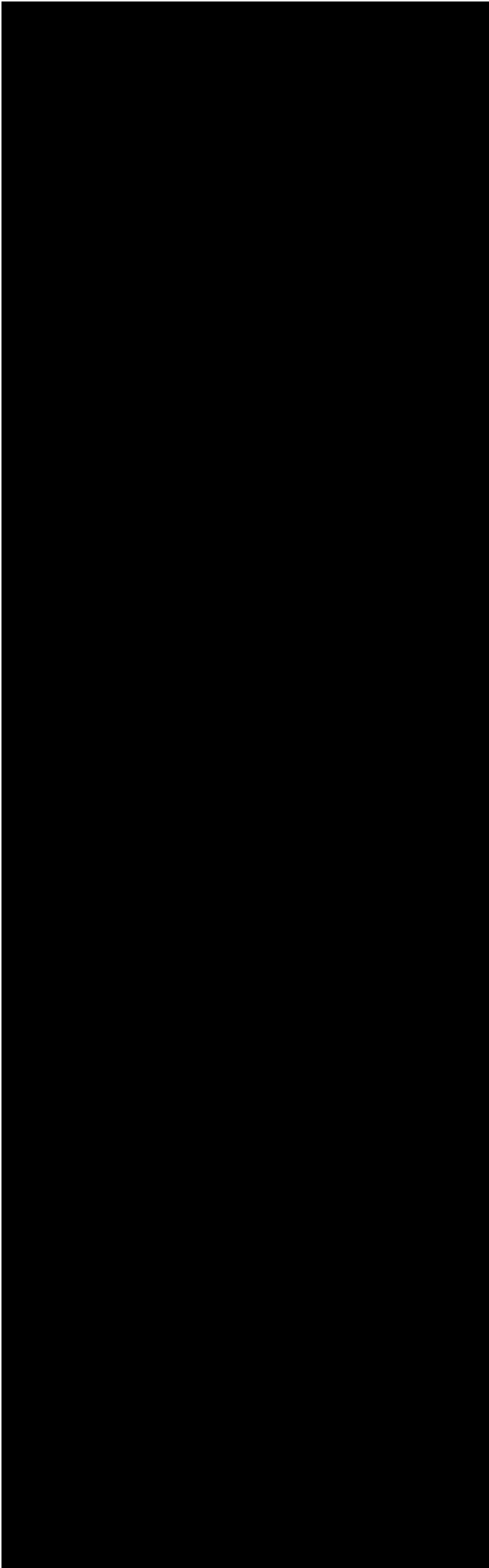
areas of hardstanding would be harmful to the landscape character of the area and of this part of the North Berwick Conservation Area, contrary to Policies DP2 and CH2 of the adopted East Lothian Local Development Plan 2018, and with Scottish Government guidance on development affecting a conservation area given in Scottish Planning Policy (Revised December 2020).

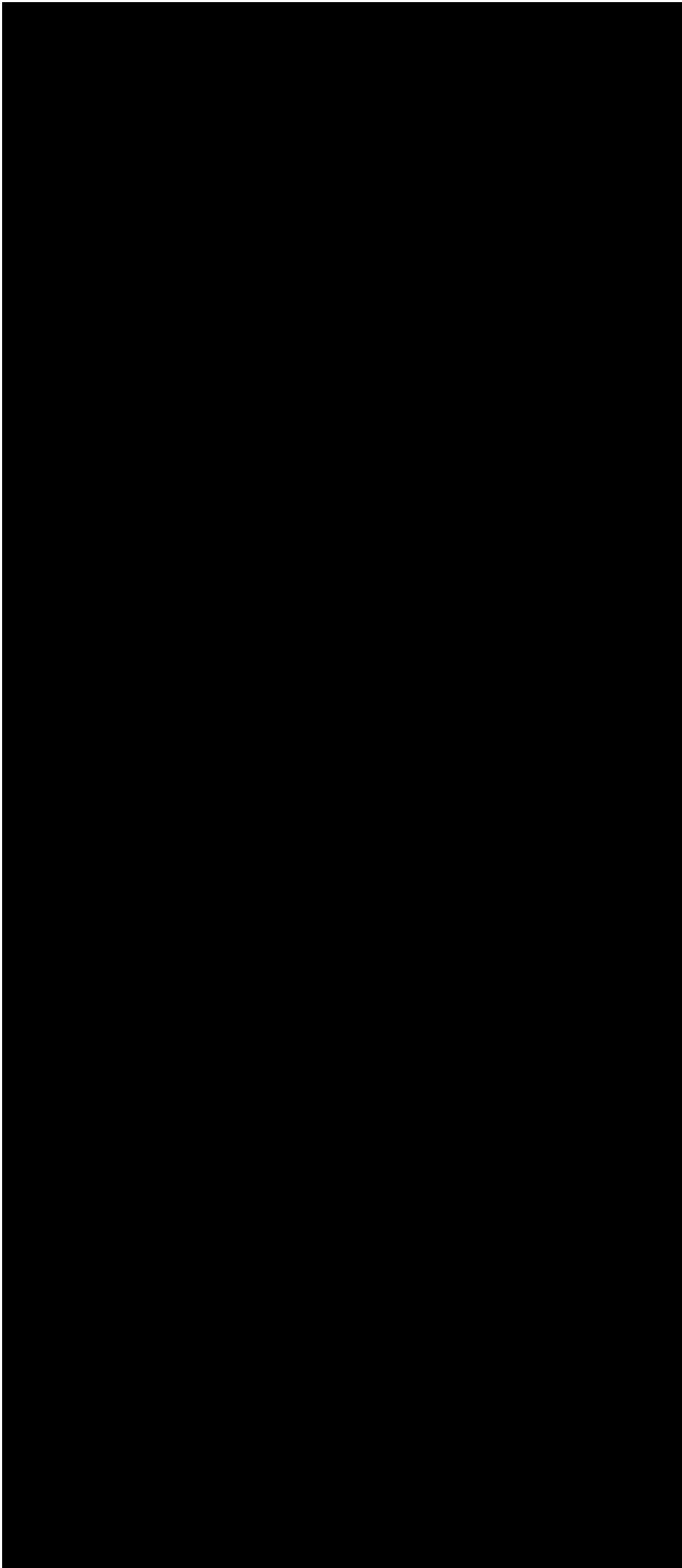
- 4 As unsympathetic development that would have a harmful impact on the landscape character and visual amenity of the area and of this part of the North Berwick Conservation Area, the proposed change of use of the area of amenity open space to use as an outdoor seating area would also have a detrimental impact on the setting of this part of the North Berwick to Seton Sands Special Landscape Area, and the public benefits of the proposed development would not clearly outweigh any adverse impact on the setting of the Special Landscape Area. Accordingly, the proposed change of use of the land to use as an outdoor seating area would be contrary to Policy DC9 of the adopted East Lothian Local Development Plan 2018.
- 5 As development contrary to Policies OS1, CH2, DP2 and DC9 of the adopted East Lothian Local Development Plan 2018, the proposed development would also be harmful to this part of the East Lothian coastal area and contrary to Policy DC6 of the adopted East Lothian Local Development Plan 2018.

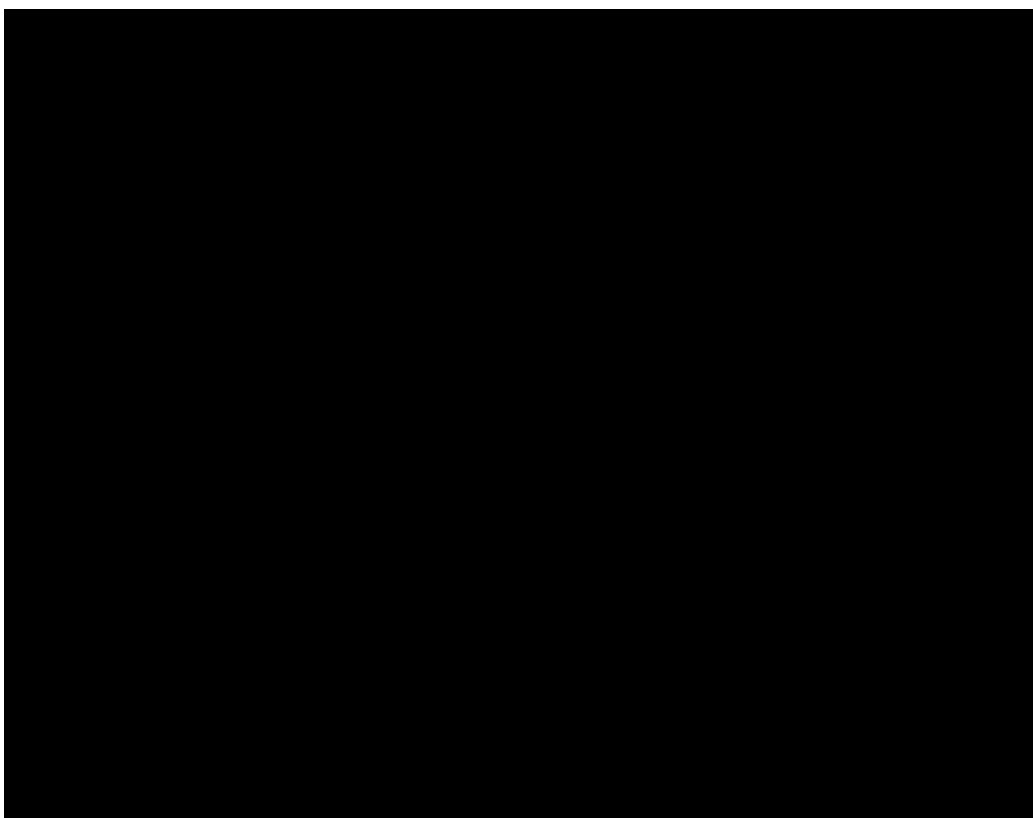
LETTERS FROM











28th January 2021