

**REPORT TO:** Planning Committee  
**MEETING DATE:** 16 August 2022  
**BY:** Executive Director for Place  
**SUBJECT:** Application for Planning Permission for Consideration

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Application No. **22/00559/P**

Proposal Erection of garden room and heightening of fence (part retrospective)

Location **6 Lairds Crescent  
Haddington  
EH41 3FP**

Applicant Mr Craig Smith

**RECOMMENDATION** Consent Granted

## **REPORT OF HANDLING**

### **PROPOSAL**

The property to which this application relates to is a two storey, detached house with associated garden. The property is located within a new modern development in Haddington and as such is located in a predominantly residential area.

The property is bounded to the north, east and west by neighbouring residential properties, and to the south by an area of open space and the classified A6093 road beyond.

Planning permission is sought retrospectively for a single storey garden room building that has been erected in the northeast corner of the garden. Planning permission is also sought for the heightening of the rear (east) garden boundary fence of the property.

The erected garden room is of a rectangular shape with a mono-pitched roof. It measures some 5 metres long and some 3 metres wide, and is some 3.37 metres in height to the highest point of the mono-pitched roof. In terms of materials, the garden room is clad in Siberian larch, its doors are UPVC framed and dark grey in colour and its roof is single ply membrane dark grey in colour.

The side (east) elevation of the garden room contains 1 window and the front (south)

elevation contains 2 windows and double glazed doors. The rear (north) and side (west) elevations do not contain any glazed openings.

The existing east boundary fence is some 1.8 metres high. The proposed heightening of the fence would increase the height of the fence to some 2.3 metres. The heightened fence would be of a wooden timber construction to match the existing fence.

## **DEVELOPMENT PLAN**

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan unless material considerations indicate otherwise.

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Development Plan 2018.

There are no relevant policies of the approved South East Scotland Strategic Development Plan (SESplan). Policy DP2 (Design) of the adopted East Lothian Local Development Plan 2018 is relevant to the determination of the application.

## **REPRESENTATIONS**

There have been 13 written representations received to the application, all of which raise objections to it. The main grounds of objection can be summarised as follows:

- i) The proposal goes against the adopted East Lothian Local Development Plan;
- ii) The garden room will result in a loss of sunlight in neighbouring residential properties;
- iii) Allowing such a development would set a precedent which would allow further similar development within the new development;
- iv) Privacy of neighbouring residents will be lost due to the platform and windows of the garden room;
- v) The garden room is of a size and scale that would not fit in with the character and appearance of the residential development;
- vi) The garden room will create overlooking on to neighbouring properties;
- vii) The structure is of a size that will be overbearing and cause intimidation of surrounding properties;
- viii) The proposed heightening of the fence would look out of place and create an uneven alignment of fences;
- ix) As a result of the structure a loss of views from neighbouring properties has occurred.
- x) Aesthetically the garden room does not appear well within the design of the existing houses;
- xi) The gutters on the garden room have caused drainage issues which will impact the existing wall between the properties;
- xii) The value of the surrounding properties will be affected by the development;
- xiii) Quality of life of the occupants of the neighbouring properties will suffer;
- xiv) The title deeds received from CALA state no buildings should be constructed within the gardens of the properties;
- xv) The building will have a detrimental impact on the load bearing capacity of the existing wall;

Issues relating to title deeds are a legal civil matter and are not material planning considerations in the determination of this application.

Concerns regarding property value, loss of views and quality of life of neighbouring

properties are not material planning considerations in the determination of this application.

With regards to the proposals setting a precedent for the development, any forthcoming application for an outbuilding within the gardens of any neighbouring property would be assessed individually and on its own merits.

## **PLANNING ASSESSMENT**

The applicant's house is part of a modern housing development within Haddington. The proposed garden room is situated within the north eastern corner of the applicant's rear garden. The garden room is visible in public views from the public road of the A6093 to the south and the adjacent public footpath. In views of it from the public road and footpath it is seen against the backdrop of, and in the context of the much larger two storey houses of the development of which the applicant's house is a part of, and therefore is relatively well absorbed into its surroundings. By virtue of its architectural form, height, scale, proportions, materials, and positioning the garden room is appropriate to its rear garden setting and does not appear as a harmfully dominant, overbearing, intrusive or incongruous feature within the rear garden of the house. Neither does it result in an overdevelopment of the rear garden of the property. Consequently it is not harmful to the character and appearance of the house or to the character and appearance of the area.

There is no evidence to suggest that the garden room would be used for a business use. However, given the size of it, a condition can reasonably be imposed on the grant of planning permission that the garden room shall be used only for purposes incidental to the residential use and enjoyment of the residential property that is 6 Lairds Crescent and shall at no time be used for any business, trade or other commercial use.

In assessing whether or not a proposed new development would result in harmful overlooking and therefore loss of privacy to existing neighbouring residential properties it is the practice of the council, as a planning authority to apply the general rule of a 9 metres separation distance between the windows of a new building and the garden boundaries of neighbouring residential properties and an 18 metres separation distance between directly facing windows of the proposed new building and the windows of existing neighbouring residential properties.

The level of the garden decreases to the rear (east) of the site, therefore in its location, the garden room sits on higher ground than the residential properties of Buchanan Avenue to the east. On the front (south) elevation double glazed doors with window panels are installed which would face over the applicants rear garden and are not within 18 metres of any directly facing windows of any neighbouring residential property. Therefore they would not allow for harmful overlooking of any neighbouring properties. There are no windows formed within the side (west) elevation of the garden room. Additional windows or glazed openings could be formed within this elevation at a later date without the need for planning permission. If formed within the side (west) elevation the window or glazed opening would face towards the existing house and would not allow for harmful overlooking of neighbouring residential properties.

Due to the slope and change in ground level between the applicant's rear garden and the garden of the neighbouring property to the east, the window formed within the side (east) elevation of the garden room is above the height of the rear garden boundary fence and therefore allows for overlooking of the neighbouring garden to the east. This would continue to be the case even if the existing east boundary fence was heightened in the manner proposed. It would therefore be prudent to condition that the window formed in

the side (east) elevation of the garden room be obscurely glazed in order to protect the privacy and amenity of the neighbouring residential property to the east. It would also be prudent to condition that no other windows or glazed openings are formed within the side (east) elevation of the garden room in order to protect the privacy and amenity of the neighbouring residential property to the east. Such control can be imposed as conditions on a grant of planning permission.

There are no proposals to form windows or other glazed openings in the rear (north) elevation of the proposed garden room. Windows or other glazed openings could be formed at a later date with permitted development rights and thus without the need for planning permission. If formed within the rear (north) elevation, the openings would face over the boundary fence and beyond to the rear garden of the neighbouring residential property to the north and as such would allow for harmful overlooking. It would therefore be prudent to remove permitted development rights for the formation of windows or glazed openings in the rear (north) elevation of the garden room to protect the privacy and amenity of the neighbouring residential property to the north. Such control can be imposed as a condition on a grant of planning permission.

Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice by P.J. Littlefair gives guidance on the impact of a proposed development on the daylight and sunlight received by neighbouring properties.

Application of the sunlight test demonstrates that there would be a gradual increase in overshadowing of the rear garden on 4 Lairds Crescent between the hours of 08.00 and 11.00, the rear garden of 5 Buchanan Avenue between the hours of 11.00 and 14.00 and the rear garden of 4 Buchanan Avenue between the hours of 14.00 and 17.00. However, due to the size of the neighbouring gardens, the garden room would not lead to more than 50% of each neighbouring garden area being overshadowed at any time. Therefore, and in accordance with the Guide, the shadow cast would not be for such an extent or for such a length of time to harmfully impact on the amenity of the neighbouring residential properties.

Owing to its size, form and positioning the garden room would not give rise to a harmful loss of sunlight or daylight to any neighbouring residential properties.

At present, the eastern boundary treatment with the neighbouring house of 4 Buchanan Avenue is formed by a 1.8 metre high fence. The proposed heightening of the fence would match the height of the existing north boundary fence. The heightening of the fence in the manner proposed would not harm the setting of the house or the character and appearance of the area. By virtue of its physical form, height and position the heightened fencing is appropriate to its place and well integrated into its surroundings. It would not appear as a harmfully dominant, intrusive or incongruous feature and would not harm the setting of the house or the character and appearance of the area.

The proposed heightening of the fence would not significantly increase any overshadowing of the neighbouring residential property to the east. Application of the sunlight test demonstrates that there would be an increase in overshadowing of the rear garden of 4 Buchanan Avenue. While there would be a small increase in overshadowing, it would not be of such an extent that would harmfully impact on levels of sunlight or daylight received by to the rear garden of 4 Buchanan Avenue.

Owing to its size, form and positioning the proposed heightening of the fence would not give rise to a harmful loss of sunlight or daylight to any neighbouring residential properties.

On all of the above considerations the proposals are consistent with Policy DP2 of the adopted East Lothian Local Development Plan 2018.

In conclusion, the proposals are considered to be in accordance with the provisions of the stated relevant Development Plan policies and there are no material considerations which outweigh the proposal's accordance with the Development Plan.

## **RECOMMENDATION:**

That planning permission be granted subject to the undernoted conditions:

- 1 Within 3 months of the date of this grant of planning permission, the window formed in the side (east) elevation of the garden room hereby approved shall be fitted with obscure glazing in accordance with a sample of the obscure glazing to be submitted to and approved in advance by the Planning Authority. The glazing of that window shall remain obscurely glazed in accordance with the approved sample, unless otherwise approved by the Planning Authority.

Reason:

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

- 2 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended by Part 1 of the Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011), or of any subsequent Order amending, revoking or re-enacting the 1992 Order, no other windows or other glazed openings shall be formed in the side (east) elevation of the garden room hereby approved, unless otherwise approved by the Planning Authority.

Reason:

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

- 3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended by Part 1 of the Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011), or of any subsequent Order amending, revoking or re-enacting the 1992 Order, no windows or other glazed openings shall be formed in the rear (north) elevation of the garden room hereby approved, unless otherwise approved by the Planning Authority.

Reason:

In order to protect the privacy and amenity of the neighbouring residential property to the north.

- 4 The garden room hereby approved shall only be used for purposes incidental to the residential use and enjoyment of the dwelling house that is 6 Lairds Crescent, Haddington and shall at no time be used for any business, trade or other commercial use.

Reason:

To enable the Planning Authority to control the use of the development in the interests of safeguarding the character and residential amenity of the area and that of the dwelling house of 6 Lairds Crescent, Haddington.

