

REPORT TO: Planning Committee
MEETING DATE: Tuesday 6 September 2022
BY: Executive Director for Place
SUBJECT: Application for Planning Permission for Consideration

2

Application No. **21/00872/P**
Proposal: Erection of two flats and associated works
Location: **Garden Ground Of 6 The Hawthorns
Gullane
East Lothian**
Applicant: Mr and Mrs Lorn and Catharine Macneal
Per: Pritchett Planning Consultancy

RECOMMENDATION Consent Granted

REPORT OF HANDLING

PROPOSALS

This application relates to part of the garden of the house of 6 The Hawthorns, Gullane, which is located at the western end of the residential cul-de-sac of The Hawthorns. The property of 6 The Hawthorns comprises of two roughly rectangular shaped areas: the eastern part of the plot on which the house and its garage and car port are positioned and the western part of the plot, which is largely planted with trees. The house occupies the northeast part of the eastern part of the plot and its detached garage and car port occupies the southeast part of that area of the plot with garden ground between them and to the west. There are further narrow areas of garden ground to the north and east sides of the house. There are a number of trees on the western part of the plot and on the southwest part of the eastern part of the plot. The trees on the western part of the plot and those on the southwest part of the eastern part of the plot are protected by Tree Preservation Order Nos.42 and 138.

The application site is within a predominantly residential area as defined by Policy RCA1 (Residential Character and Amenity) of the adopted East Lothian Local Development Plan 2018.

In July 2016 planning application 16/00589/PP was registered for planning permission in principle for the erection of one house on a site measuring some 4,340 square metres in area that comprises the western part of the garden of the house of 6 The Hawthorns and the southern third of the eastern garden of that house. Application 16/00589/PP was accompanied by indicative drawings illustrating how a detached house with a rectangular shaped footprint might be positioned towards the western side of the main western part of that application site and how parking for the proposed house and the existing house of 6 The Hawthorns could be provided on a shared driveway area on the eastern part of that site. The advice from the **Council's Landscape Officer (Policy & Projects)** to planning application 16/00589/PP was that the submitted tree report was for tree management purposes only and was now out of date having been prepared in April 2015 and being valid for only 12 months. The Landscape Officer further advised that the indicative layout shown on the application drawings would result in the loss of a significant number of trees from the site, which make a positive contribution to the landscape character of the area and form part of a wider group of trees that extend from Gullane Main Street to the south to Broadgait and linking to the treed areas to the north of the site. The Landscape Officer further stated that the visual importance of this band of trees in the wider area is further underlined by the placing of a TPO on a section of these trees at Broadgait (TPO No. 138). As a consequence the applicant's agent withdrew planning application 16/00589/PP.

In December 2016, the same applicants as for planning application 16/00589/PP, being Mr and Mrs C Chatham, submitted planning application 16/00973/PP for planning permission in principle for the erection of one house on the predominantly treed western part of the house plot of 6 The Hawthorns and with vehicular access being taken across the southern part of the larger eastern part of that house plot. In June 2017, planning application 16/00973/PP was refused with the reason for refusal being that "The placing of a house on the western part of the application site would result in the loss of trees from the application site that, due to their visual significance as a group with the other trees within the wider landscape setting of Gullane, make a significant positive contribution to the landscape setting and amenity of the area, and thus their removal from the site would have a detrimental visual impact on the landscape character and appearance of the area. Consequently, the principle of the erection of a house on the application site conflicts with Policies DP7, DP14 and NH5 of the adopted East Lothian Local Plan 2008 and with Scottish Planning Policy: June 2014".

The decision to refuse planning application 16/00973/PP was subsequently appealed to the Local Review Body. At their meeting of 21st September 2017 the Local Review Body upheld the refusal of planning application 16/00973/PP for the reasons set out in the original decision notice for planning application 16/00973/PP. That reason being that "The placing of a house on the western part of the application site would result in the loss of trees from the application site that, due to their visual significance as a group with the other trees within the wider landscape setting of Gullane, make a significant positive contribution to the landscape setting and amenity of the area, and thus their removal from the site would have a detrimental visual impact on the landscape character and appearance of the area. Consequently the principle of the erection of a house on the application site conflicts with Policies DP7, DP14 and NH5 of the adopted East Lothian Local Plan 2008, and with Scottish Planning Policy: June 2014."

In May 2018, a tree works application for the felling of 48 Scots Pine trees forming part of Tree Preservation Area No.42 on the western part of the garden of the house of 6 The Hawthorns and the replacement planting of trees in a different location on the garden was refused by East Lothian Council. The decision to refuse the tree works application was subsequently appealed to the Scottish Governments Planning and Environmental

Appeals Division (DPEA). In August 2018, the DPEA dismissed the appeal (TWCA-210-2000) and upheld the refusal of the tree works application. The DPEA Reporter concluded that whilst she accepted that the forty-eight Scots pine trees are in poor condition and would benefit from being felled, the safety issues of the trees do not outweigh the adverse effects on the amenity of the area that would result from the replacement planting not being in the same location as the existing trees.

In April 2021 planning permission 20/01434/P was granted for extensions, alterations and sub-division of the house of 6 The Hawthorns to form 2 flats and associated works. Work to implement planning permission 20/01434/P has commenced.

In June 2022 planning application 22/00628/P was registered for alterations to the building to form 2 houses as design changes to the scheme of development the subject of planning permission 20/01434/P. Planning application 22/00628/P is under consideration and stands to be determined on its own merits.

Through this current application, planning permission is now sought for the erection of a detached flatted building containing two flats and for associated works comprising the formation of hardstanding areas and the erection of boundary enclosures and a bin store.

The land of the current application site comprises an irregular shaped area of land that forms the majority of the garden ground of the house of 6 The Hawthorns. It measures some 3,150 square metres in area and comprises of two parts: the roughly rectangular shaped western part of the garden of the house of 6 The Hawthorns on which there are a number of trees and an irregular shaped eastern part, which comprises of roughly half of the remaining western and southern areas of garden ground of the house of 6 The Hawthorns, including the detached garage and car port. The land of the application site slopes downwards gradually to the north before levelling out on the northern part of the site roughly aligned with and to the west of the position of the existing house.

The current application site incorporates more of the garden of the house of 6 The Hawthorns than did withdrawn planning application 16/00589/PP and refused planning application 16/00973/PP.

The current application site is bounded to the north in part by land of the southwest part of Muirfield Golf Club and in part by the house of 6 The Hawthorns and what would remain of its garden ground. To the west the site is bounded in part by the single storey with attic accommodation house of Mossdale Muir and its garden ground and in part by the single storey house of The Howes and its garden ground. To the east is the house of 6 The Hawthorns and what would remain of its garden ground and the public road of The Hawthorns. To the south the site is bounded in part by the single storey house of The Howes and its garden ground and the two storey house of 5 The Hawthorns and its garden ground. To the southwest, is the house of Mossdale and its garden ground, and further to the east is the house and garden of 7 The Hawthorns.

An informal public footpath passes to the north of the site along the edge of the land of Muirfield Golf Club. Further to the north beyond the informal footpath is a further tree belt.

The application site is enclosed along its north boundary with the land of Muirfield Golf Club by a combination of 1.8 metres high timber 'hit & miss' vertical board fencing and a blockwork wall some 1.1 metres high. The west boundary of the site with the property of Mossdale Muir is enclosed by 1.6 metres high timber horizontal board fencing. The south and west boundaries of the site with the house and garden of The Howes and the house and garden of 5 The Hawthorns are enclosed by timber fencing some 1.8 - 2.0

metres in height. The east boundary of the site with the public road of The Hawthorns is open for vehicular access to the existing detached garage and car port, which otherwise enclose that boundary. The parts of the east and north boundaries of the site with what would remain of the garden of the house of 6 The Hawthorns are not presently enclosed.

The now proposed detached flatted building would provide accommodation over two floors and would contain two flats, each comprising of 3-bedrooms. The proposed flatted building would be positioned to the west of the position of the existing house of 6 The Hawthorns and on a general alignment with that existing house so that its north and south elevations would be on a similar alignment to the north and south elevations of the existing house of 6 The Hawthorns. Its roof would be part steep mono-pitch and part flat. An entrance porch would project on its east side and an external first floor terrace would project on its west side. Solar panels would be installed on its flat roof. Its external walls would be finished with a combination of white render and larch timber cladding and its roofs would be finished with a combination of zinc and single-ply roofing membrane.

Each of the proposed two flats would benefit from an area of garden ground with the ground floor flat retaining the majority of garden ground, including the woodland area to the west of the position of the proposed flatted building.

A timber enclosure comprising a bin storage area to serve the two proposed flats would be located at the western end of the parking area.

New areas of hardstanding would be formed to the south, west and east sides of the proposed flatted building.

Access to the proposed flatted building would be taken from the public road of The Hawthorns via the existing vehicular access to the existing detached garage and carport on the southeast part of the site. A new parking area with space to accommodate 9 cars would be formed on the southeast part of the site. That parking area would provide parking for the proposed flatted building the subject of this application, and for the two flats to be formed through the sub-division and alteration of the existing house of 6 The Hawthorns approved by the grant of planning permission 20/01434/P. To facilitate the formation of the proposed vehicular access and parking area, the existing garage and carport would be demolished and removed. The demolition and removal of the existing garage and carport is not development for which planning permission is required and thus does not form part of the assessment of this application for planning permission.

Since the application was registered the proposals have been amended to:

- 1) Show the positions of solar panels and air source heat pumps on the application drawings;
- 2) Provide a drawing showing elevations of the proposed bin storage area;
- 3) Provide a drawing showing a streetscape elevation of the proposed development alongside the existing houses in views from the north;
- 4) Clarify details on the application drawings;
- 5) Clarify that the use of the proposed flats is as residential properties and not as holiday letting accommodation;
- 6) Correct errors on the application drawings;

- 7) Provide drawings showing sections through the southern part of the application site;
- 8) Provide clarification on the number of trees proposed to be felled, their locations, and the locations of new tree planting;
- 9) To move the proposed flatted building further to the east on the application site;
- 10) Reduce the footprint of the northwest single storey component of the proposed flatted building and the orientation of its external staircase; and
- 11) To move the proposed vehicular access further to the south and change the layout of the proposed car parking spaces.

All of these changes are shown on revised and additional drawings submitted by the applicant's agent.

In addition, the Design Statement has been amended to reflect the changes to the application drawings.

Following consultation with the **Council's Biodiversity Officer**, a bat survey and breeding bird assessment has been submitted for the proposed development.

Furthermore, following consultation with the **Council's Road Services**, the position of the proposed vehicular access from the public road of The Hawthorns has been amended and moved some 4 metres further to the south so that it would now be adjacent to the property of 5 The Hawthorns, and as a result of this the on-site parking and turning arrangement has been amended so that the majority of parking spaces would also be adjacent to the boundary with the neighbouring property of 5 The Hawthorns.

The changes to the vehicular access position and the on-site parking and turning arrangement and the changes to the size and position of the footprint of the proposed flatted building are significant changes to the proposals, and therefore are material changes to the proposed development, and because of this the application has been re-registered and accordingly neighbours were again notified and the application was again advertised.

A Supporting Planning Statement, a Design Statement, a Carbon Reduction report, a Bat Assessment and Breeding Birds report, a Transportation Overview report, a Tree Survey report, and a Woodland Management Plan have been submitted in support of the application.

The Supporting Planning Statement explains that the importance of the trees on the site in the wider urban and rural context is not disputed however, the application seeks to put forward proposals which will lead to the enhancement of the tree belt by increasing its diversity and longevity taking into account previous decisions and the desirability of replacing 48 Scots pines. The Statement purports that the proposed development would result in visual enhancement to the area through the development of the proposed flats and the new tree planting. It is further argued that the proposed tree planting would reinforce the links between the trees on the site and trees that are established to the south, and that the aim is to enhance the TPO and to ensure its long term viability and management.

The Supporting Planning Statement refers to the planning history of the site including the tree works appeal to the Scottish Governments Planning and Environmental Appeals

Division (DPEA), and sets out the relevant planning policies and guidance and other material considerations relevant to the proposed development and the Applicant's Agent's interpretation of those policies and considerations relative to the proposed development for the erection of a flatted building containing two flats on the application site.

The Design Statement explains that the proposed development would create a high quality living environment that would be of a scale and design that would be attractive to people looking to reside in the village for the first time or for those that may be downsizing but looking for high quality bespoke housing which has a contemporary feel.

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.

The purpose of the approved Edinburgh and South East Scotland Strategic Development Plan (SESplan) is to set out the strategic planning framework to assist preparation of local development plans. Its policies are generally not relevant for assessing individual applications.

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

Policies RCA1 (Residential Character and Amenity), DC6 (Development in Coastal Areas), DC9 (Special Landscape Areas), DP1 (Landscape Character), DP2 (Design), DP7 (Infill, Backland and Garden Ground Development), T1 (Development Location and Accessibility), T2 (General Transport Impact), NH3 (Protection of Local Sites and Areas), NH4 (European Protected Species) and NH8 (Trees and Development) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of the application.

Also relevant to the determination of the application is planning policy guidance on urban infill housing development given in Scottish Planning Policy: June 2014 and Planning Advice Note 67: Housing Quality.

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

and coherence for the development or the wider neighbourhood.

Also material to the determination of the application is Scottish Government's Control of Woodland Removal Policy.

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

REPRESENTATIONS

A total of 35 public representations to the application have been received (27 to the original proposals and 8 to the amended proposals). Twenty-four of those representations have been submitted by eight representors. All of the 35 representations raise objection to the proposed development and the main grounds of objection as summarised are:

- i) the loss of trees from the site and the importance of the trees on the site in their wider context. The trees on the site should not be viewed in isolation as they form part of a spinal feature running from Muirfield Golf Course, through the application site and down through the town, and the replanting proposals would be significantly different in shape and tree composition, breaking up the tree belt feature that contributes significantly to the local amenity;
- ii) woodland areas should not be destroyed to enable 2 houses to be built;
- iii) the loss of trees would have a detrimental impact on wildlife, including roosting bats, nesting owls and other birds;
- iv) previous planning applications to develop the site at the expense of the TPO have been refused by the Council and Scottish Government Appeals Division has refused tree works as well;
- v) noise, light and odour impacts from the car parking area would be detrimental to the amenity of neighbouring properties;
- vi) parking congestion is likely to be exacerbated and to result in emergency vehicles, deliveries, and refuse vehicles not being able to access the cul-de-sac and the application drawings do not take account of current parking density at the turning head at the west end of the cul-de-sac;
- vii) the parking provision would be inadequate to accommodate visitors to the proposed two flats and the two flats already approved to be formed through the sub-division of the existing house;
- viii) the proposals would result in road safety hazards;
- ix) the proposed flats would not be for residential use but would be used as rented holiday accommodation which would be incongruous with the residential purpose of the street;
- x) the loss of trees from the site would have a detrimental impact on the landscape character and amenity of the area;
- xi) new trees planted to replace those removed would not be protected by the TPO and some are proposed to be planted in an already congested part of the woodland;

xii) the nature of the proposed dwellings would further compound the crisis of non-availability of affordable homes within the Gullane and North Berwick area;

xiii) the proposals would not accord with Local Development Plan Policy DP7 and the supporting statement is misleading in respect of that policy;

xiv) the proposals are contrary to East Lothian Councils Climate Action Strategy;

xv) the proposals would be highly visible and would be harmful to the character and appearance of the area;

xvi) nuisance from construction to users of the footpath to the north of the site;

xvii) the terms of the Feu Disposition require the agreement of the majority of properties within the Muirfield Park estate and should be satisfied before planning permission can be granted;

xviii) contrary to the supporting statement the proposals conflict with Policies DP7 in that trees must be removed to accommodate the proposals, the proposed flats would be at odds with the single residencies otherwise on the street, scale of development would be unsympathetic to its surroundings, and the proposals would result in the loss of green space;

xix) the site is not allocated for residential development, could not be safely accessed and serviced, would be on the edge of a coastal area that is protected from development, and close to two SSSI's, and the proposals would be contrary to Policies DC6 (Development in Coastal Areas), DC8 (Countryside Around Towns), DP2 (Design), DP7 (Infill, Backland and Garden Ground Development) and T2 (General Transport Impact); and

xx) the validity and accuracy of the tree report is questionable as none of the trees have succumbed to the storms of earlier this year and the report inaccurately shows trees on the adjacent house plot.

Some of the representations refer to the terms of sale for the area of woodland, highlighting that the TPO protected woodland was sold by East Lothian Council in 1972 and the terms of sale included that "no building or structure..... should be built" and that it be used "in all time" as "a plantation of trees to beproperly maintained... and any contravention and the agreement becomes null and void without declaration or other process of law"...."returning ownership to East Lothian Council".

The matter of the content and wording of the deed of sale for the woodland area is a civil matter between the relevant parties and is not a material planning consideration in the determination of an application for planning permission.

Some of the public representations to the application suggests that the proposed two flats could be used as holiday accommodation. What is applied for through this application is that the proposed two flats would be permanent residential accommodation. The application does not propose the use of the proposed two flats as holiday accommodation. Once built, if any of the proposed two flats were to be used as holiday accommodation, such use would be a material change in the use of the proposed two flats, for which a further application for planning permission would be required. Should any such application be forthcoming, such development would be assessed on its own merits.

Whether or not the woodland management report inaccurately plots the location of the trees on the adjacent land does not materially affect the assessment of this application for planning permission and the Landscape Officer has not raised concerns regarding the impact of the proposed development on the trees on neighbouring land.

COMMUNITY COUNCIL

Gullane Area Community Council has been consulted on the proposals however no response has been received from them.

PLANNING ASSESSMENT

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

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

The application site is part of the curtilage of the residential property of 6 The Hawthorns. It is within a predominantly residential area and is surrounded by residential properties to three sides. Due to such locational circumstance, development of the site for the erection of a flatted building containing two flats would be urban infill housing development.

At present The Hawthorns is characterised by reasonable sized houses set in reasonable sized gardens. However, planning permission 20/01434/P approves the alteration, extension and sub-division of the existing house of 6 The Hawthorns to form two flats, and that grant of planning permission is currently undergoing construction.

The proposed development for the erection of a flatted building containing 2 flats on part of the garden of 6 The Hawthorns would continue the existing residential use of the site however with a higher intensity of use due to the flatted nature of the proposed development. Whilst undoubtedly the development of part of the garden of 6 The Hawthorns for the erection of a flatted building containing two flats would result in a higher level of occupancy and thus a higher associated generation of movement to and from the site, those higher levels of occupancy and movement would not themselves be harmful to the residential character and appearance and amenity of The Hawthorns. Furthermore, the movements associated with the proposed two flats on the application site would be unlikely to be so different as to appear to materially change the character of the site or the area. Thus, in these circumstances, the residential use and activities of the proposed flatted building comprising 2 flats would not in principle have a detrimental impact on the amenity of neighbouring residential properties and thus would not change the residential character and amenity of the area.

Accordingly, the proposed development, being urban infill housing development within a residential area is, in principle, consistent with Policies RCA1 and DP7 of the adopted East Lothian Local Development Plan 2018 and current Scottish Government planning policy guidance on urban infill housing development given in Scottish Planning Policy: June 2014.

Thereafter, the principal determining factor in this case is whether or not, having regard to national, strategic and local planning policy and guidance and other material considerations, the principle of fitting a building containing two flats onto the application site as urban infill housing development, is acceptable, with due regard to the impact such development would have on the character, appearance and residential amenity of the area, including its impact on neighbouring residential properties, whether or not such a new flatted building could be acceptably accessed and provided with a satisfactory on-site parking provision, whether or not such development would have any harmful environmental impacts, whether or not such a development would have a detrimental impact on the character of the coastal area and the adjacent Special Landscape Area, and whether or not such a development would have an adverse impact on the trees that are on the site, including those protected by Tree Preservation Order Nos.42 and 138, and the landscape character of the area.

There are a number of trees on the application site. Those on the western two-thirds of the application site and along the western edge of the eastern part of the application site are protected by Tree Preservation Order Nos.42 and 138. It should be noted that although the area of TPO No.42 extends eastwards to a point aligned with the west boundary of the site with the property of The Howes, the trees do not extend over all of that land but rather are set back on their eastern edge by some 6 - 9 metres from the eastern edge of the area identified as being the area of the TPO. The Council's Landscape Officer (Policy and Projects) advises that the woodland area on the western part of the application site forms an important component of the landscape character of the area. Being visible from the Golf Club land to the north and in glimpsed views from neighbouring streets. The area of woodland is read in conjunction with the woodland area on the Golf Club land to the north and with other groups of trees and individual trees which form a disjointed line of vegetation extending south to the A198 classified public road (Main Street).

Withdrawn planning application 16/00589/PP indicatively proposed the erection of a house on the western half of the western treed part of the garden of 6 The Hawthorns.

Refused planning application 16/00973/PP indicatively proposed the erection of a house on the eastern two thirds of the western treed part of the garden of 6 The Hawthorns, with replacement tree planting indicatively shown on the western third of the western treed part of the garden and on land to the east of that application site on what would remain of the garden of the house of 6 The Hawthorns.

Although in both cases the applications were for planning permission in principle only, it was apparent that the majority of the trees on the western treed part of the garden would be removed and that replacement trees would not be planted in the same area of the garden. Thus, disrupting the contribution that the woodland area on the western part of the application site makes to the landscape character of the area.

The current application differs from the previous applications for planning permission in principle (Refs: 16/00589/PP and 16/00973/PP) in that the now proposed detached flatted building would not be positioned wholly on the western treed part of the garden of 6 The Hawthorns but rather would be positioned further to the east with only a relatively

small part of its footprint being within the area of the site identified as land of TPO No.42.

Although, as stated earlier in this assessment report, the position of the proposed flatted building differs from the indicatively proposed houses of the previous planning applications (Refs. 16/00589/PP and 16/00973/PP) to development the western area of garden of the house of 6 The Hawthorns, nonetheless the application proposes the removal of 48 trees from the site including 47 Scots pine trees protected by Tree Preservation Order (TPO) No.42 and a Sycamore tree. The Tree Survey Report concludes that the Scots Pine trees on the western part of the site (those protected by TPO No.42) are in very poor and declining condition with tall spindly trunks and very small live crowns, and that these trees have a limited life expectancy and that further deterioration and wind-blow is inevitable over the next 10 to 20 year period. The Sycamore tree proposed to be removed is described as having a multi-stemmed crown form, suppressed crown development with bias to the east and with significant crown death and die-back, and being in terminal decline.

The Woodland Management Plan submitted with the application proposes the removal of the 48 existing trees from the woodland area on the western part of the application site and the planting of 48 replacement trees, shrubs and hedging, as well as maintenance of the retained trees on the site.

The Scottish Government Reporter's decision on tree works application appeal TWCA-210-2000 accepted that the Scots pine trees on the western treed part of the garden of 6 The Hawthorns would benefit from felling, and that thinning and/or the phased removal of those trees would increase the risk of wind-blow of the remaining Scots pine trees due to the exposed coastal location. However, the Reporter also concluded that due to the Scots pine trees being quite prominent in views from vantage points in this part of the village, should these (Scots pine) trees be felled, they should be replaced on a like-for-like basis and that the location of such planting should be at the same location as the felled trees or in their immediate vicinity (i.e. within the area covered by TPO No.42).

The original proposals the subject of this application positioned the proposed flatted building further to the west on the application site and the footprint of the proposed flatted building was larger. It also included the removal of a larger number of trees being the 48 Scots Pine trees and the Sycamore tree on the western part of the site and the 13 Scots Pine trees on the southeast part of the site that are protected by TPO No.138, and the planting of replacement trees on a different part of the site and primarily of a different species (i.e. not Scots Pine).

In respect of the original proposals, the **Council's Landscape Officer (Policy and Projects)** advised that the proposals would result in the loss of trees protected by the tree preservation orders and that there was a lack of replacement of these trees on the same location, thereby leading to the loss of a landscape feature important to the amenity and landscape character of the area. The Landscape Officer advised that should the Scots Pine Trees be removed, given their protection by TPO for their visual amenity value, to retain the landscape feature and offer the same landscape character in future years their replacement would have to be in the same location and of species that offer the same visual amenity value. The Landscape Officer notes that the original position of the proposed flatted building would prevent new tree planting in the location of the existing pine trees. Accordingly, the Landscape Officer advised that the original proposals could not be supported in landscape terms due to the loss of TPO tree cover, loss of integrity of the woodland and change to the landscape character of the area, which would have a negative effect on the local area in terms of its character and appearance and the impact on both the local and wider character and setting of Gullane, particularly in views from the coast and the North Berwick to Seton Sands Coast Special

Landscape Area to the north of the site.

As a result of these landscape comments, the footprint of the proposed flatted building has been reduced on its western side and the building has been moved further to the east. In addition, the number of trees to be removed has been reduced from 61 to 48. Furthermore, the replacement tree planting has been increased to 48 trees, including 27no Scots Pine trees planted on the location of the trees that are proposed to be removed and along part of the northern edge of the woodland area of TPO No.42 and to the southeast of it providing a connection to the retained Scots Pine trees on the southeast part of the site.

On these revised proposals for the proposed flatted building, the Council's Landscape Officer (Policy and Projects) comments that although the proposed flatted building would extend into the defined TPO area there are no existing trees at this location on the TPO area. The Landscape Officer also comments that although the tree survey report categorises the Scots Pine trees on the western part of the application site as being in poor condition, it classifies them as being Category C trees, not for immediate removal. However, the Landscape Officer further comments that the replacement of these trees would enable a proper managed woodland to be developed as part of the proposed development.

The landscape advice is that the revised proposals for the proposed flatted building address concerns regarding the proximity of the proposed development to the existing retained trees and the proposed trees, and that the now proposed replacement tree planting would, in the main, be undertaken on the location of the trees to be removed and would comprise of 48no trees to replace the 48no trees proposed for removal, including the planting of 27 Scots Pine trees to be planted on the location of the existing Scots Pine trees that are proposed to be removed and along part of the northern edge of the woodland area of TPO No.42 and to the southeast of it providing a connection to the retained Scots Pine trees on the southeast part of the site. The Landscape Officer notes that the Tree Survey report finds that the existing TPO trees on the western part of the application site have been planted in close proximity to each other and as a consequence the trees are overcrowded and suppressed. The Landscape Officer goes on to note that the spacing of the proposed tree planting would give a more sustainable spacing between the trees for their future growth.

The Landscape Officer comments that although the trees are categorised as Category C trees, not for immediate removal, the replacement of the Scots Pine trees would enable a proper managed woodland to be developed as part of the proposed development.

Subject to conditions being imposed to secure that only the trees identified by red dashed lines and tag numbers on the tree removal plan being removed, and to the replacement trees, shrub and hedge planting being carried out in accordance with the Woodland Planting proposals, the provision of the woodland management plan, and to the retained trees being protected during construction, the Landscape Officer does not raise objection to the proposals on landscape grounds.

There is potential for drainage, including SUDS, and the installation of other utility services to have a harmful impact on the TPO protected trees that are on the site. If not appropriately designed and positioned such drainage, including SUDS, and other utility services could potentially have a harmful impact on the protected trees. It would therefore be prudent to impose a condition on a grant of planning permission requiring details and layout of the drainage, including SUDS, and other utility services for the proposed development to be submitted for the prior approval of the Planning Authority.

Although the removal of the 48 trees from the TPO area of the application site would have an immediate impact on the landscape character and amenity of the area, subject to the replacement tree planting being undertaken as is proposed through this application and the woodland thereafter being monitored and managed, also as proposed through this application, details that could be secured through planning conditions, in time once the replacement tree planting has become established, in general views from the main public vantage points, including from the Golf Course land to the north, the treed area would not appear to be dissimilar to the present views of the TPO area. In contrast to the previous withdrawn and refused planning applications (respectively, Refs. 16/00589/PP and 16/00973/PP) half of the trees of the western part of the woodland area would be retained. Furthermore, all of the trees of the southeast part of the site would be retained. Thus, once that new tree planting becomes established the proposed tree removals would not have a detrimental impact on the amenity of the neighbourhood in terms of its landscape character and appearance. Accordingly, subject to the controls on the number of trees to be felled, the erection of temporary protective fencing to protect the retained trees during construction, the replacement tree, shrub and hedge planting being undertaken, and the trees thereafter being managed in accordance with the woodland management plan, the proposed development would not have a detrimental impact on the amenity of the area in terms of its landscape character and appearance and would not conflict with Policy NH8 of the adopted East Lothian Local Development Plan 2018 or with Scottish Government's Control of Woodland Removal Policy.

Once completed and occupied, the proposed flatted building and its garden ground would benefit from permitted development rights for alterations to the proposed flatted building and for the erection of structures and boundary enclosures within its curtilage. In order to ensure that any such further domestic development of the flatted building or its garden curtilage would not have a detrimental impact on the trees that are to be retained on the site and the new trees that are to be planted, and in order to protect the woodland character of the treed area of the site and to guard against increased pressure to remove the trees from the site, which would result in the loss of these important landscape features and would open up views of the proposed flatted building, it would be prudent for the Planning Authority to remove permitted development rights under the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (as amended) for any further development on the site other than that detailed in this application for planning permission. This matter could be controlled by a condition of a grant of planning permission.

The **Council's Biodiversity Officer** notes that the 'Bat Assessment and Breeding Birds Report' found that none of the trees surveyed had any potential for roosting features but that heavy ivy found to be growing on nine of the trees may provide roosting opportunities for individual bats, and that three further trees were found to have evidence of breeding birds (likely to be woodpigeon). On this basis, the Biodiversity Officer supports the recommendation of the report that the felling of trees on the site should be undertaken between October and March to avoid any impacts on bat species or breeding birds. This matter could be controlled by a condition of a grant of planning permission.

The Council's Biodiversity Officer further comments that the tree (including native species) and hedge planting are welcomed and would be likely to increase the biodiversity of the site.

Accordingly, the Biodiversity Officer raises no objection to the proposed development. Thus, the proposals would not have a detrimental impact on biodiversity and do not conflict with Policies NH3 and NH4 of the adopted East Lothian Local Development Plan 2018.

It is now necessary to consider the position, density, height, architectural form and finishes of the proposed detached flatted building.

With respect to infill, backland and garden ground development, Policy DP7 of the adopted East Lothian Local Development Plan 2018 states that, amongst other principles of development, it must, by its scale, design and density be sympathetic to its surroundings and not an overdevelopment of the site, and that landscape and boundary features important to the character of the area must where possible be retained.

Policy DP2 of the adopted East Lothian Local Development Plan 2008, amongst other things, requires that all new development must be well designed and integrated into its surroundings, and that physical or natural features that are important to the amenity of the area should be retained or adequate replacements provided where appropriate.

Whilst it is not essential to replicate existing building styles to build successfully in a Conservation Area or indeed in other locations, both national planning and development plan policy nevertheless state that in designing proposed new buildings developers should think about the qualities and the characteristics of places. The development should reflect its setting and local forms of building and materials. The aim should be to have houses looking different without detracting from any sense of unity and coherence for the development or the wider neighbourhood.

The houses and other buildings of The Hawthorns and the houses to the west of the application site on Erskine Loan and on the north side of Erskine Road to the southwest of the site, within the context of which the proposed flatted building would be predominantly viewed are generally reasonable sized houses set within reasonable sized gardens. The main exception to this being the house of 6 The Hawthorns which has a larger garden than its neighbouring properties. That larger garden includes the wooded areas on which the trees are protected by tree preservation orders. The house of 5 The Hawthorns to the south of the application site had a similarly larger garden and with the benefit of planning permissions granted (Refs. 05/00957/OUT, 07/01129/FUL, 10/00707/P and 13/00669/P) a new house (now known as 5A The Hawthorns) was erected on part of its larger garden. In all of this the density of development of The Hawthorns is one of generally reasonable sized houses set within reasonable sized gardens.

Notwithstanding this, some of the existing houses are built up to or close to their side boundaries with neighbouring properties, and in some instances the built form of the existing houses and their associated garages extends across almost the full width of their plot. The houses of The Hawthorns, Erskine Loan and the north side of Erskine Road (to the west and southwest of the application site) and Muirfield Park to the east and southeast of The Hawthorns vary between single and two storeys in height and are of mixed architectural form and design, including dual pitched and asymmetrical roofs. Their external walls are predominantly finished with render and many have gable or other architectural detailing accented by horizontal or vertical board cladding. Their roofs are predominantly clad with natural slates. In the nearby streets of Muirfield Park and Erskine Road, roofs are also clad with red clay pantiles or concrete tiles.

In that the existing houses of The Hawthorns are positioned set back at varying distances away from the public road of The Hawthorns, there is thus no uniform building line to which the proposed flatted building should align itself. Nonetheless the proposed detached flatted building the subject of this application would be positioned to the west of the position of the existing house of 6 The Hawthorns and on a general alignment with that existing house so that its north and south elevations would be on a similar alignment

to the north and south elevations of the existing house of 6 The Hawthorns. In such position, the proposed flatted building would respect the positions of the houses of The Hawthorns relative to the public road and to their rear garden boundaries with the land of Muirfield Golf Club.

Moreover, although the proposed development would result in the sub-division of the existing garden ground of 6 The Hawthorns, as that area of garden ground is larger than that of the other properties of The Hawthorns, and that the plot retained by 6 The Hawthorns would not be dissimilar in size to that of the neighbouring house of 7 The Hawthorns, the proposed flatted building would not significantly increase the density and ratio of built form to garden ground of the area.

In the position proposed for it, to the west of and alongside the existing house of 6 The Hawthorns, which with the benefit of planning permission 20/01434/P is being subdivided to form 2 flats, the proposed flatted building would be well contained within its site, and would be positioned on a similar alignment to that existing house. Although the proposed flatted building would not have a direct frontage with the public road of The Hawthorns, the existing house of 6 The Hawthorns has only direct frontage with the public road at its vehicular access to its garage/carport and otherwise that existing house is set back from the public road. The house of 5A The Hawthorns also does not have a direct frontage with the public road of The Hawthorns but rather is similarly set back from the public road with its only frontage being that of its shared access driveway with 5 The Hawthorns. The proposed flatted building would maintain a similar frontage with the public road of The Hawthorns as that which exists for the existing house of 5A The Hawthorns and the property of 6 The Hawthorns.

On its east side the two storey part of the proposed flatted building would be positioned only some 0.9 to 1.3 metres away from the east boundary of the site with what would remain of the garden of the existing house of 6 The Hawthorns and the single storey porch component of the proposed flatted building would abut that east boundary. At such distance the two storey component of the proposed flatted building would be only some 3.6 metres away from a single storey component of the neighbouring house to the east. The house of 6 The Hawthorns is with the benefit of planning permission 20/01434/P presently undergoing construction works to sub-divide it to form two flats, including alterations to that existing single storey part of the building. Although positioned close to the east boundary with what would remain of the garden of 6 The Hawthorns and thus in close proximity to that existing house which is in the process of being converted to form 2 flats, the proposed flatted building would be positioned at a splayed angle to the existing house of 6 The Hawthorns and to that existing building as it is proposed to be extended and altered to form 2 flats. Thus, in that the east/southeast elevation of the proposed flatted building would splay away from the west/southwest elevation of the existing building of 6 The Hawthorns it would create space between the two buildings and in such position, the proposed flatted building would not appear harmfully overbearing or dominant to the occupiers of the neighbouring building of 6 The Hawthorns either as a house or as it is proposed to be extended and altered to form 2 flats.

The proposed flatted building would be predominantly two storeys in height, with a maximum height of some 8.3 metres to the highest part of its mono-pitched. At such height the proposed flatted building would be in keeping with the varied heights of the houses and other buildings in the locality.

The existing house of 6 The Hawthorns is not readily visible in public views from the road of The Hawthorns. Views of it are predominantly from the informal footpath that passes along the Golf Club land to the north. Similarly, the proposed flatted building would only

be partially visible in public views from the road of The Hawthorns but would be readily visible in views from the informal footpath that passes along the Golf Club land to the north of the application site. In such views as there would be of it the proposed flatted building would be seen in the context of the existing building of 6 The Hawthorns and the adjoining houses of 5 and 7 to 10 The Hawthorns and the houses of Erskine Loan further to the west. It would also be viewed in the context of the trees that are to be retained on the site and the woodland area outwith the site to the north, and in time, once established, the new tree, shrub and hedge planting will also contribute to the landscape setting of the proposed flatted building. In all of this the proposed flatted building would be of a similar scale, massing and positioning to the existing houses of The Hawthorns and the wider locality and would not appear out of keeping or overly dominant within the streetscape.

The houses and buildings of The Hawthorns, Erskine Loan and the north side of Erskine Road, and of Muirfield Park are of mixed architectural form and design, including dual pitched, mono-pitched and asymmetrical roofs. In terms of its architectural form and design, the proposed flatted building would have a contemporary form comprising steep mono-pitched and flat roofed components. In the context of the mixed architectural form of the houses and other buildings of The Hawthorns, Erskine Loan, the north side of Erskine Road and Muirfield Park, the proposed flatted building would not be out of keeping with the architectural form and composition of other houses and buildings in the locality, and would add to and complement that existing mixed architectural form. It would be a contemporary interpretation of the mixed architectural form and design of the existing surrounding built form.

The use of a white rendered finish for parts of the external walls of the proposed detached flatted building would be in keeping with the finish of the external walls of the existing house of 6 The Hawthorns and with the finish of the external walls of the other houses and buildings of The Hawthorns and wider locality.

The use of vertical board larch timber cladding for the finish of parts of the external walls of the proposed flatted building is not a material used on the external walls of the houses and buildings of The Hawthorns. However, it would not be dissimilar to the board cladding used to accent gables and other features of some of the houses in the locality, and would add to and complement the palette of existing finishes of the buildings of the area. It would sit comfortably alongside the otherwise white rendered finish of the building. The predominant finish of the external walls of the proposed flatted building would still be white render.

The use of a profiled zinc roof cladding for the surface finish of its pitched roofs is not a material used on the roofs of the houses and buildings of The Hawthorns, and it would be used on the east facing roof slope of the mono-pitched roof of the proposed flatted building. In such position on the proposed flatted building the zinc roofing material would be likely to be partially visible in public views from the public road of The Hawthorns and to be visible in public views from the informal footpath on the land to the north of the site. However, zinc cladding is a traditional roofing material and in such public views as there would be of it, its grey colouring would not be dissimilar to the grey colour of the existing slate roofs of the neighbouring houses and buildings. Moreover, the use of a profiled zinc roofing material would not be out of keeping with the contemporary architectural character of the proposed flatted building. In all of this, the use of zinc roof cladding would sit comfortably alongside the natural slate roofs of the existing neighbouring houses and buildings and would not cause the proposed flatted building to appear harmfully prominent and intrusive within the streetscape.

The single ply roofing membrane that would be used to clad the flat roofs of the

proposed flatted building would not be dissimilar to the grey colour of the existing slate roofs of the neighbouring houses and buildings, and due to its use on the flat roofs would only be partially visible in public views.

Accordingly, the palette of external finishes of white render, vertical board larch timber cladding, zinc roof cladding and single ply roofing membrane would not be harmful to the character and appearance of the existing houses and building in the locality or the character and appearance of the streetscape. Such proposed finishes would complement and harmoniously contrast with the existing palette of external finishes of the existing houses and buildings of the streetscape and wider area and would not cause the proposed flatted building to appear harmfully prominent or intrusive within the streetscape. Rather the proposed flatted building would sit comfortably alongside the existing built form of the area.

The proposed solar panels would be installed on the flat roof of the proposed flatted building and would comprise only a small feature on the roof of the proposed flatted building. In their position on the flat roof of the proposed flatted building, they would not be readily visible in public views, and in any partial views of them, the proposed solar panels would appear as a subservient component on the roof of the flatted building and would be viewed in the context of the greater massing and bulk of the proposed flatted building. They would not cause the proposed flatted building to appear harmfully prominent and intrusive within the streetscape.

An air source heat pump unit is proposed for each of the proposed 2 flats. The proposed air source heat pump units would be positioned at ground level adjacent to the northeast elevation of the proposed flatted building. In such position they would not be readily visible in public views and would be a subservient component of the flatted building, which would be seen in the context of the greater massing and bulk of the proposed flatted building. By virtue of their size, form, appearance and positioning, they would not cause the proposed flatted building to appear harmfully prominent and intrusive within the streetscape.

The **Council's Senior Environmental Health Officer** raises no objections to the application. They have however recommended that the proposed solar panels should be fitted with bird-proofing measures in the form of wire or netting so as to prevent vermin birds gaining access under the panels for roosting/nesting. They also state that a condition should be attached to any consent requiring that noise associated with the operation of the air source heat pumps shall not exceed Noise Rating curve NR20 at any octave band frequency between the hours of 23:00-07:00 and Noise Rating curve NR25 at any octave band frequency between the hours of 07:00-2300 within any neighbouring residential property. All measurements to be made with windows open at least 50mm. A condition can be attached to any consent issued to control the noise associated with the proposed air source heat pumps. Pending compliance with such a condition, the proposed air source heat pumps would not have a detrimental impact on neighbouring residential amenity.

However, in respect of the bird-proofing measures for the solar panels, it has not been the Council's approach to insist on such netting in previous instances for the installation of solar panels and the Council's Senior Environmental Health Officer has not provided any evidence in this instance to demonstrate that birds would be a particular problem in this instance. As such, the imposition of such a condition would not be reasonable in this instance.

The boundary enclosures in the locality vary in height and form, including low timber fencing, high hedging and high rendered walls to the street frontage and timber fencing

of varying heights along the dividing boundaries of gardens. In addition, the houses of The Hawthorns have a variety of hardstanding areas within their front and rear gardens.

It is proposed to remove the existing garage and car port at the street frontage of the application site and to form a new access to the site at that location. The vehicular access would be positioned immediately adjacent to the neighbouring property of 5 The Hawthorns. A low wall with landscape area would be erected to the north side of the vehicular access. Otherwise the boundary enclosure at the southern end of the eastern part of the plot, being high rendered wall and a black metal pedestrian gate, would be retained. A parking area with space for 9 cars would be formed on the southern part of the eastern part of the site. A bin storage area to serve the two flats the subject of this application would be formed at the western end of that parking area.

This layout of vehicular access and parking area would be readily visible in the streetscape from the western end of the public road of The Hawthorns. However, the majority of the houses of The Hawthorns have a driveway and parking area between it and the public road, which is visible in the streetscape and those driveways and parking areas vary in size. Subject to the low roadside boundary wall to be formed to the north side of the vehicular access being of a height, form, appearance and finish in keeping with the streetscape, a detail that could be secured through a planning condition, although the proposed parking area would be of a greater extent than those existing driveway and parking areas, in its location at the western end of the public road of The Hawthorns it, along with the low roadside boundary wall, would not appear harmfully prominent and intrusive within the streetscape to such an degree as to be harmful to the character and appearance of the streetscape or of the area.

Otherwise, the proposed boundary enclosures comprise the erection of 1.5 metres high horizontal slatted timber fencing along parts of the east and south boundaries of the garden of the flatted building respectively with what would remain of the garden of 6 The Hawthorns and with the proposed parking area, and the formation of two openings in the north boundary of the site and the erection of two pedestrian gates in those openings to provide access from the site to the Golf Club land to the north. In their positions on the site and by virtue of their height, form and materials, the proposed 1.5 metres high timber fencing, in its relationship with the proposed flatted building and in the context of the existing boundary enclosures of the area would not be out of keeping with those existing boundary enclosures, would not appear harmfully prominent and intrusive within the streetscape, and would not be harmful to the character and appearance of the streetscape or of the area. No details of the proposed pedestrian gates have been provided. Subject to the two pedestrian gates to be erected in the north boundary of the site being of a height, form, appearance and finish in keeping with the character of the area, a detail that could be secured through a planning condition, the proposed boundary enclosures, seen as they would be in the context of the proposed flatted building and the neighbouring buildings and enclosures, would not appear harmfully prominent and intrusive within the streetscape to such an degree as to be harmful to the character and appearance of the streetscape or of the area.

The proposed hardstanding areas, in their relationship with the proposed flatted building, and in the context of the existing hardstanding areas of the streetscape, would not be out of keeping with the existing hardstanding areas of the locality, and would not appear harmfully prominent and intrusive within the streetscape and would not be harmful to the character and appearance of the streetscape or of the area.

The bin storage area would be located at the western end of the parking area, some 22 metres away from the public road of The Hawthorns. It would comprise a 1.5 metres high horizontal board timber fenced enclosure. In its position the proposed bin storage

area would be viewed against the backdrop of the trees on the western part of the eastern part of the site and in the context of the proposed flatted building and the existing 1.8 - 2.0 high boundary fencing. In this context and by virtue of its position, form, appearance and finish, the proposed bin storage area would not appear harmfully prominent and intrusive within the streetscape and would not be harmful to the character and appearance of the streetscape or of the area.

Subject to details of the low roadside boundary wall to be formed to the north side of the vehicular access and of the pedestrian gates being submitted for the approval of the Planning Authority, details that could be secured through planning conditions, the proposed vehicular access, parking area, boundary enclosures, hardstanding area, and bin storage area would not appear harmfully prominent and intrusive within the streetscape to such an degree as to be harmful to the character and appearance of the streetscape or of the area.

The proposed flatted building would be surrounded by garden ground on all sides and would be subdivided to provide garden ground for each of the proposed two flats. Most of the garden ground would be overlooked by windows of both of the proposed two flats within the building, however this is not an uncommon occurrence for flatted properties.

Accordingly, on all of these foregoing considerations of positioning, density, height, architectural form and design and external finishes, the proposed detached flatted building, by virtue of its size, scale, height, positioning, form, design, and external finishes would comfortably fit into the mixed pattern and density of the existing built form of the area, and would not harmfully alter the pattern and density of the established layout and built form of the houses and other buildings of The Hawthorns and the wider locality. The proposed flatted building and its associated works would sit comfortably in their relationship with the neighbouring buildings and would not be a crammed form of infill housing development. It would have a similar plot density to the other buildings in the surrounding streets. In its positional circumstance and by virtue of its size, scale, height, positioning, form, design, and external finishes, the proposed flatted building and associated works would appear appropriate within their context and location and would not be harmful to the character and appearance of the surrounding streetscene or wider area. The proposed development would not constitute an overdevelopment of the site or of the garden of the existing house of 6 The Hawthorns.

There is sufficient land within the site to accommodate all of the proposed development and to provide each proposed flat with a sufficient sized garden and adequate parking provision and vehicular access without there being an overdevelopment of the site. Development of the site would not result in any loss of open space important to recreation or amenity requirements.

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. The site is also immediately adjacent to the North Berwick to Seton Sands Coast Special Landscape Area as identified by Policy DC9 of the adopted East Lothian Local Development Plan 2018.

As appropriate development on part of the garden of the existing house of 6 The Hawthorns and otherwise within the built form of The Hawthorns and the wider urban area of Gullane, that would not be harmful to the character and appearance of the streetscape or of the wider area, the proposed flatted building and its associated development would not be harmful to this part of the East Lothian coast area and would not therefore conflict with Local Development Plan Policy DC6 on matters relating to

development within the Developed Coast. Nor would it be harmful to the setting of the North Berwick to Seton Sands Coast Special Landscape Area and as such it would not conflict with Local Development Plan Policy DC9 on matters relating to development within the a Special Landscape Area.

On all of these considerations, the proposed development would not conflict with Policies DP1, DP2, DP7, DC6 and DC9 of the adopted East Lothian Local Development Plan 2018.

Policies DP2 and DP5 of the adopted East Lothian Local Development Plan 2018 require, 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.

On the matter of the impact of the proposed flatted building on daylight and sunlight on neighbouring properties, guidance is taken from "Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice" by P.J. Littlefair.

In its position relative to the existing house of 6 The Hawthorns, to the east of the site, the proposed flatted building would not sit parallel to that existing house, rather it would be positioned at a splayed angle to the existing house, being closest at its northern end and further away at its southern end. The proposed flatted building, at its closest, would be only some 3.6 metres away from the single storey northern part of the existing house of 6 The Hawthorns, and otherwise would be some 11 metres (minimum) away from the two storey southern part of that existing house. That existing single storey northern component of the existing house has ground floor windows in its southwest elevation wall, and there are further ground floor and first floor windows in the southwest elevation of the two storey southern part of that existing house. By the grant of planning permission 20/01434/P the existing house of 6 The Hawthorns has permission to be converted into two flats. Under that approved scheme of development, there would be no windows in the single storey northern component, which would be the same distance, 3.6 metres (minimum), away from the proposed flatted building. The approved scheme of alteration and sub-division of the existing house of 6 The Hawthorns to form 2 flats would also include the provision of ground floor and first floor windows on its southwest two storey component, which would be a minimum of 7.0 metres away from the proposed flatted building. Construction works to implement the grant of planning permission 20/01434/P have commenced on the house of 6 The Hawthorns. By virtue of its height, positioning and orientation, the proposed flatted building would result in a harmful loss of daylight received by the windows of the approved scheme of sub-division of the existing neighbouring house of 6 The Hawthorns to form two flats (Ref. 20/01434/P).

Planning application (Ref. 22/00628/P) seeks to vary the grant of planning permission 20/01434/P for the sub-division of the existing house of 6 The Hawthorns to form two flats and proposes extension and alteration to that approved scheme of development including a change to the means of sub-division to now form two semi-detached houses rather than two flats. That scheme of development proposes altered window arrangements on the southwest elevations of the single storey and two storey components of the altered and extended building of 6 The Hawthorns. Planning application 22/00628/P is at this time not determined and stands to be determined on its own merits. The proposed flatted building would impact on the daylight received by ground floor windows now proposed for the southwest elevation of the proposed altered scheme of development for the existing house of 6 The Hawthorns (planning application ref. 22/00628/P). However, the windows affected would serve a bathroom, study and entrance porch, and the Guide does not define the windows of such rooms as being light

sensitive. Thus, in accordance with The Guide the impact on the daylight received by these ground floor windows is not deemed to be a harmful loss of daylight.

Thus, by virtue of its height, positioning and orientation, the proposed flatted building would not result in a harmful loss of daylight received by the windows of the existing house of 6 The Hawthorns, or to the approved scheme of sub-division of that existing neighbouring house to form two flats (Ref. 20/01434/P), or to the proposed scheme of sub-division of that existing neighbouring house to form two houses (Ref. 22/00628/P) or to any other neighbouring residential property.

By virtue of its height, positioning and distance away from neighbouring residential properties, the proposed flatted building would not give rise to a harmful loss of sunlight to any neighbouring house to the west and south.

By virtue of its height, positioning and distance away from neighbouring residential properties, the proposed flatted building would impact on the sunlight received by the garden of the existing house of 6 The Hawthorns, the garden of the scheme of development approved by the grant of planning permission 20/01434/P and the garden of the now proposed scheme of development the subject of planning application 22/00628/P. However, in accordance with The Guide at least half of the garden of that neighbouring property would receive sunlight for at least 2 hours, and thus, the impact on the sunlight received by that neighbouring garden ground is not deemed to be a harmful loss of sunlight. Therefore, the proposed development would not have a harmful affect on the residential amenity of that neighbouring property.

In turn, the proposed flatted building would receive a sufficient amount of daylight and its garden a sufficient amount of sunlight.

In its position only some 3.6 metres (minimum) away from the existing house of 6 The Hawthorns and the approved and proposed schemes of sub-division of that house, and with its two storey component being only some 0.9 of a metre to 5.0 metres away from the east boundary of the site and its single storey porch abutting the east boundary of the application site, the proposed flatted building would be positioned close to that neighbouring property. However, in that the southeast elevation of the proposed flatted building would splay away from the southwest elevation of the existing building of 6 The Hawthorns it would create space between the two buildings and in such position, the proposed flatted building would not appear harmfully overbearing to the occupiers of the neighbouring building of 6 The Hawthorns.

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 Planning Authority to apply the general rule of a 9 metres separation distance between the windows of a proposed 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.

There are no residential properties to the north of the application site. Therefore the windows and glazed doors of the north elevation of the proposed flatted building would not allow for harmful overlooking of any neighbouring residential properties to the north.

The west elevation of the proposed flatted building would be some 39 metres away from the west boundary of the site with the garden of the property of Mossdale Muir and thus would not allow for harmful overlooking of that neighbouring residential property to the west.

The south elevation of the proposed flatted building would be some 20 metres away from the south boundary of the site with the garden of the property of The Howes and some 40 metres away from the garden of the property of 5 The Hawthorns, and thus would not allow for harmful overlooking of those neighbouring residential properties to the south.

The windows and glazed doors of the northeast/east elevation of the proposed flatted building would be less than 9 metres away from the east boundary of the site with the garden of the existing house of 6 The Hawthorns. The application drawings propose the enclosure of the east boundary with what would remain of the garden of 6 The Hawthorns with 1.5 metres high horizontal board timber fencing with 50mm gaps between the fencing boards. Such fencing would not be of a sufficient height or solidity to prevent overlooking between the ground floor windows of the northeast/east elevation of the proposed flatted building and the windows of the house and garden of 6 The Hawthorns or that building as it is proposed to be altered to form 2 flats.

The application drawings show that the side-light window of the entrance door of the main northeast/east elevation and the first floor windows of the main northeast/east elevation of the proposed flatted building would be obscurely glazed. Such obscure glazing would be sufficient to prevent harmful overlooking of the neighbouring residential property and its garden ground from those windows. However, such obscure glazing would also require to apply to the ground and first floor windows of the projecting northeast/east facing return of the western part of the proposed flatted building, which would be only some 7 metres away from the northeast/east boundary of the site. The requirement for the installation of obscure glazing could be made conditional of a grant of planning permission.

Subject to the installation of obscure glazing to all of the ground floor and first floor windows of the main northeast/east elevation of the proposed flatted building and to the ground floor and first floor windows of the projecting northeast/east facing return of the western part of the proposed flatted building, a detail that could be controlled by a condition of a grant of planning permission, the ground and first floor windows of the northeast/east elevations of the proposed flatted building would not allow for harmful overlooking of the neighbouring property(ies) to the east and its garden ground.

The proposed flatted building would be surrounded by garden ground on all sides and would be subdivided to provide garden ground for each of the proposed two flats. Most of the garden ground would be overlooked by windows of both of the proposed two flats within the building, however this is not an uncommon occurrence for flatted properties.

The proposed first floor roof terrace of the western part of the proposed flatted building would overlook garden ground of the proposed flatted building. However, it is not uncommon for flatted properties to not have garden ground/amenity space that is not overlooked by another flatted property within the flatted building. Other than the garden of the proposed flatted building, the proposed first floor roof terrace, by virtue of its orientation and distance away from neighbouring properties to the west, south and east, would not be within 9 or 18 metres of any neighbouring garden or house, and thus would not allow for harmful overlooking of any neighbouring property.

Notwithstanding the above assessment, once built, further windows or other glazed openings, including roof windows, could be formed at ground or first floor or attic level in the northeast/east elevation of the flatted building without the need for planning permission for them. Such ground or first floor or attic level windows or other glazed openings, including roof windows, would have the potential to allow for harmful overlooking of the neighbouring property of 6 The Hawthorns to the east. Therefore, it

would be prudent for the Planning Authority to remove permitted development rights for the formation of further ground or first floor windows or other glazed openings, including roof windows, in the northeast/east elevation of the building that would comprise the proposed two flats. This matter could be controlled by a condition attached to a grant of planning permission for the proposed development.

The ground floor and first floor window of the neighbouring building of 6 The Hawthorns would be less than 9 metres away from the east boundary of the site and less than 18 metres away from directly facing windows of the proposed flatted building. The ground and first floor windows of the proposed flatted building are shown on the application drawings to be obscurely glazed, a detail which could be secured by a condition attached to a grant of planning permission. Furthermore, the area of garden ground that would be overlooked would be a narrow strip of the eastern part of the garden of the proposed flatted building primarily used for the footpath accesses to the proposed two flats and would be already overlooked by both the proposed two flats and thus is not private amenity space.

Subject to the aforementioned planning controls relating to the obscure glazing of the ground and first floor windows of the northeast/east elevations of the proposed flatted building and the removal of permitted development rights for the formation of additional ground and first floor or attic level windows in the northeast/east elevations of the proposed flatted building, the proposed development would not allow for a harmful loss of privacy or amenity to any neighbouring residential property. The proposed flatted building would also benefit from a satisfactory amount of privacy and amenity.

There is potential for external lighting to be installed at the proposed parking area. If not appropriately designed, positioned and finished such external lighting could potentially have a harmful impact on the amenity of the neighbouring residential property to the south of the site. It would therefore be prudent to impose a condition on a grant of planning permission requiring details of any proposed external lighting to be submitted for the prior approval of the Planning Authority.

Subject to the aforementioned planning controls, on these considerations of loss of sunlight and daylight, and privacy and amenity the proposed development is consistent with Policies DP2 and DP7 of the adopted East Lothian Local Development Plan 2018.

The **Council's Senior Environmental Health Officer** has no comment to make on the application and raises no objection to it.

The **Council's Environmental Health Officer (Contaminated Land)** advises that, although there do not appear to have been any historically potentially contaminative use associated with the site, there is the possibility that undocumented areas of made ground may exist that could contribute to localised areas of contamination and due to the proposed use of the site as residential properties, it is recommended that further information on the ground conditions and potential contamination issues of the site be submitted. The requirement for such ground investigations could be controlled by a condition attached to a grant of planning permission. Subject to such control, the Environmental Health Officer (Contaminated Land) raises no objection to the proposed development.

Vehicular access to the proposed flatted building would be taken from the western end of the public road of The Hawthorns at the location of the current vehicular access to the existing garage and carport. The access would be taken over the southern part of the existing vehicular access and a driveway, parking and turning area would be formed on the southern part of the eastern part of the site. Parking spaces for 9 cars would be

formed, comprising two parking spaces for each of the two proposed flats the subject of this planning application and two parking spaces for each of the two flats to be formed through the alterations and sub-division of the existing house of 6 The Hawthorns, and one additional visitor parking space. The visitor parking space would be of sufficient dimensions for accessible parking. The application drawings indicate that infrastructure for electric vehicle charging would be installed. The parking area and vehicular access would be hard-surfaced with a tarmac finish.

The **Council's Road Services** have considered the Transport Assessment submitted with the application.

Road Services advise that the provision of the proposed nine on-site parking spaces in the location proposed would be sufficient on-site parking spaces to serve the proposed two flats and the two flats to be formed through the sub-division of the existing house of 6 The Hawthorns approved by the grant of planning permission 20/01434/P. The parking spaces should have minimum dimensions of 2.5 metres by 5.0 metres. This detail can be controlled by a condition attached to a grant of planning permission.

Road Services recommend that provision should be made for electric vehicle charging, and that cycle parking should be provided at a rate of 1 space per flat. These requirements can be secured by conditions attached to a grant of planning permission.

Road Services advise that they are satisfied that in the position proposed for it the proposed vehicular access would not obstruct use of the existing garage of No.7 The Hawthorns that is located to the north of the proposed vehicular access, and that subject to visibility to and from that garage being maintained with no obstruction above a height of 1.05 metres immediately adjacent to the north side of it, the first 2 metres of the vehicular access being hard-formed to prevent loose material entering the public road, and vehicle strike protection being installed at the existing street lighting column on the south side of it, the proposed vehicular access would be of a satisfactory standard. These requirements can be secured by conditions attached to a grant of planning permission.

The Council's Road Services also requires that a construction traffic method statement to minimise the impact of construction activity on the safety and amenity of the area should be submitted to and approved in advance by the Planning Authority prior to the commencement of development.

Subject to the aforementioned planning controls, the Council's Road Services are satisfied that the layout of the parking spaces, including their access from the public road is acceptable and would not result in a road safety hazard and that a sufficient amount of on-site parking would be provided. Accordingly, the Council's Road Services raise no objection to the proposed development. Thus, subject to the aforementioned planning controls, the proposed development would not conflict with Policies T1 and T2 of the adopted East Lothian Local Development Plan 2018.

Waste Services raise no objection to the proposed development.

At its meeting on Tuesday 27th August 2019 the Council approved a motion declaring a Climate Emergency. Thereafter, at its meeting on Tuesday 3rd September 2019 the Council's Planning Committee decided that a report on the actions to be taken to reduce the carbon emissions from the building and from the completed development should be required on relevant applications for planning permission. The applicant has submitted a report advising what measures they intend to take to reduce carbon emissions, including where feasible, renewables. Photovoltaics will be installed on the roof of the proposed

flatted building and each of the proposed two flats would be served by an air source heat pump. The report explains that the flatted building has been designed to be site specific and to benefit from solar gain, high levels of insulation, airtight building fabric, reduced thermal bridges, low e-rated double glazed units, and natural ventilation. The effective measures required to reduce carbon emissions will be secured through the subsequent building warrant process. In order to further reduce carbon emissions, it would also be prudent to require proposals for the provision of new electric car charging points and infrastructure for them. This could be secured by a condition imposed on a grant of planning permission for this proposed development.

Scottish Water has been consulted on the application and raise no objection to the proposed development. Copies of Scottish Water's comments have been forwarded by email to the applicant's agent.

On all of the foregoing considerations, the proposed flatted building and its associated development, by virtue of its size, scale, height, positioning, form, design and external finishes, would not be an incongruous or overly dominant addition to the streetscape of The Hawthorns, and would fit comfortably within the pattern of built form of the area. Although it would result in the loss of some trees from the site, new tree planting would be carried out to mitigate for the loss of those trees. In all of this, the proposed development would not appear incongruous within its setting and would not be harmful to the character and appearance of the area, or of the developed coastal area or the North Berwick to Seton Sands Coast Special Landscape Area. Accordingly, on these foregoing considerations, the proposed development does not conflict with Policies RCA1, DC6, DC9, DP1, DP2 and DP7, NH3, NH4, NH8, T1 and T2 of the adopted East Lothian Local Development Plan 2018, Scottish Planning Policy: June 2014, and Planning Advice Note 67: Housing Quality.

In conclusion, the proposal is 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 following conditions:

- 1 Prior to the commencement of the development hereby approved on the site, a suitable Geo-Environmental Assessment shall be carried out, and the report of the Geo-Environmental Assessment shall be made available to the Planning Authority for its written approval prior to development proceeding on the site. The Geo-Environmental Assessment report shall include details of the following:
 - A Preliminary Investigation incorporating a Phase I Desk Study (including site reconnaissance, development of a conceptual model and an initial risk assessment);
 - A Phase II Ground Investigation (if the Phase 1 Desk Study has determined that further assessment is required) incorporating a site survey of the extent, scale and nature of any contamination, (ground investigation, sample analysis and gas monitoring), reporting on the appropriate risk assessment(s) carried out with regards to Human Health, the Water Environment and Gas Characteristic Situation as well as an updated conceptual model of the site, and an appraisal of the remediation methods available and proposal of the preferred option(s).;
 - Phase III - where risks are identified, a Remediation Strategy shall be produced detailing and quantifying any works which must be undertaken in order to reduce the risks to acceptable levels to all relevant and statutory receptors. The Statement shall detail all works to be undertaken, proposed remediation objectives and remediation criteria,

timetable of works and site management procedures. It shall also ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land following development. The Remediation Strategy shall be submitted for the prior approval of the Planning Authority prior to such works being carried out. Thereafter, the remediation works shall be carried out in accordance with the details so approved.

The Desk Study and Ground Investigation must be undertaken by suitably qualified, experienced and competent person(s) and must be conducted in accordance with the relevant guidance and procedures.

Should the Geo-Environmental Assessment report indicate that remedial works be required, and following the completion of the measures identified in the approved Remediation Statement, then prior to either of the two flats hereby approved being occupied, a Validation Report confirming the remedial works have been carried out in accordance with the Remediation Strategy shall be submitted to the Planning Authority for its prior approval in writing.

In the event of the presence of any previously unsuspected or unforeseen contamination of the land of the application site being found, such contamination of the land shall be brought to the attention of the Planning Authority and development shall not begin, or shall cease to continue, until further investigations have been carried out to determine if any additional remedial measures are required and if relevant a scheme to deal with that contamination on the site has been submitted to and approved in writing by the Planning Authority.

Reason

To ensure that the site is clear of contamination prior to the occupation of either of the two flats hereby approved.

- 2 No development shall take place on site unless and until final site setting out details have been submitted to and approved by the Planning Authority.

The above mentioned details shall include a final site setting-out drawing to a scale of not less than 1:200, giving:

- a. the position within the application site of all elements of the proposed development and position of adjoining land and buildings;
- b. finished ground and floor levels of the development relative to existing ground levels of the site and of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and
- c. the ridge height of the proposed shown in relation to the finished ground and floor levels on the site.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the amenity of the area.

- 3 Prior to the commencement of development a Construction Method Statement designed to minimise the impact of construction activity and the movements of construction traffic on the amenity of the area shall be submitted to and approved in writing in advance by the Planning Authority. The Construction Method Statement shall include any recommended mitigation measures for the control of noise, dust and construction traffic, including hours of construction works, routing of vehicles and delivery time restrictions, and a health and safety method statement. The Construction Method Statement shall also provide details of utility/service drainage connections.

The Construction Method Statement shall also make recommendations in respect of how building materials and waste will be safely stored and managed on site.

All of the recommendations of the Construction Method Statement shall be implemented, as applicable, prior to the commencement of development and during the period of development works being carried out on the application site.

The recommendations of the Construction Method Statement shall be implemented in accordance with the details so approved.

Reason:

To minimise the impact of construction activity in the interest of pedestrian, cyclist and road safety in the area and in the interests of safeguarding the amenity of the area.

- 4 Prior to either of the two flats hereby approved being brought into use, the vehicular access, parking and turning arrangements shall be laid out as shown on docketed drawing no. 19.19 / PL(2)04-F, and thereafter the access, parking and turning areas shall be retained for such uses.

Visibility to/from the existing garage of No.7 The Hawthorns shall be maintained to the north side of the vehicular access with no obstruction within that visibility splay above a height of 1.05 metres measured from the surface of the adjacent carriageway, and such visibility shall thereafter be maintained and retained to the north side of the vehicular access unless otherwise approved in writing by the Planning Authority.

Each parking space shall have dimensions of 2.5m wide by 5.0m long.

Any gates erected at the vehicular access shall only open inwards onto the site and shall not obstruct visibility of the existing garage of No.7 The Hawthorns.

Reason:

To provide a satisfactory provision of on-site parking and turning arrangement for the proposed development and to ensure that adequate visibility is provided at the access junction with the public road in the interest of road safety.

- 5 No use shall be made of the vehicular access hereby approved unless and until the first 2 metres of the vehicle access driveway to be formed, measured from the back edge of the carriageway and across the full width of the vehicular access driveway, has been hardsurfaced. The first two metres of the vehicle access driveway shall thereafter remain hard surfaced unless otherwise agreed by the Planning Authority.

Reason:

To prevent loose materials entering the public road in the interest of road safety.

- 6 Prior to the commencement of use of either of the two flats hereby approved, vehicle strike protection hoop barriers shall be installed at the street lighting column on the south side of the vehicular access hereby approved in accordance with the details shown on docketed drawing no. 19.19/PL(2)04-F, and details of the vehicle strike protection hoop barriers shall be submitted to and approved in advance in writing by the Planning Authority prior to its installation, and thereafter the vehicle strike protection hoop barriers shall be installed as so approved, and shall be retained and maintained in accordance with the details so approved.

Reason:

To ensure an adequate protection of the street lighting column.

- 7 Details, including metric scale drawings, of the roadside boundary wall hereby approved to be erected on the east boundary of the site (to the north side of the vehicular access) shall be submitted to and approved in writing in advance by the Planning Authority prior to the erection of the length of wall in the development hereby approved. The details shall include the height, form, appearance and finishes of the roadside boundary wall. Thereafter, the wall shall be erected in accordance with the details so approved.

The length of roadside boundary wall accord with the visibility splay requirements of condition 4 of this grant of planning permission.

Reason:

To ensure that the external finishes are appropriate in the interest of safeguarding the character and appearance of the area and in the interest of road safety.

- 8 Prior to the commencement of use of either of the two flats hereby approved, cycle parking at a rate of a minimum of one space per flat shall be provided for each of the two flats, and details of the cycle storage for each of the proposed two flats shall be submitted to and approved in advance in writing by the Planning Authority prior to its installation, and thereafter the cycle storage shall be installed as so approved, and shall be retained and maintained available for use in accordance with the details so approved.

Reason:

To ensure an adequate provision of on-site cycle parking spaces.

- 9 Prior to the commencement of development, details and a layout of the drainage system, including SUDS, and of other utility services for the proposed flatted building and associated works hereby approved shall be submitted to and approved in advance in writing by the Planning Authority, and thereafter, the drainage system, including SUDS, and other utility services installed shall accord with the details so approved.

Reason:

In order to ensure the retention of and health of trees or shrubs on the application site which are important to the landscape character and amenity of the area.

- 10 Details and a drawing showing the form and layout of any proposed external lighting structures of the proposed parking and turning area shall be submitted to and approved in advance in writing by the Planning Authority prior to the installation of any proposed external lighting. External lighting structures shall be of a low height and a bollard style design unless otherwise approved by the Planning Authority. Thereafter, the lighting structures installed and their layout shall accord with the details so approved.

Reason:

To enable the Planning Authority to control the appearance, materials and finishes to be used to achieve a development of good quality and appearance in the interests of the character and amenity of the area and the amenity of neighbouring residential properties.

- 11 Prior to the commencement of development, details of the provision of new electric vehicle charging points and infrastructure for them shall be submitted to and approved in writing by the Planning Authority. The details shall include a timetable for implementation. Development shall thereafter be carried out in accordance with the details so approved.

Reason:

To minimise the environmental impact of the development.

- 12 A schedule and samples of the materials, including their colours, to be used as external finishes for the proposed flatted building hereby approved, including the colour of the frames of the windows, external glazed doors and external doors, and for the surface finishes of the hardstanding areas comprising parking and turning areas, footpaths and patio areas also hereby approved, shall be submitted to and approved in advance in writing by the Planning Authority prior to their use in the development hereby approved and thereafter the materials and colours used shall accord with the schedule and samples so approved.

Reason:

To ensure that the external finishes are appropriate in the interest of safeguarding the character and appearance of the area.

- 13 Prior to the occupation of either of the two flats of the flatted building hereby approved, the ground and first floor windows of the northeast/east elevation of the flatted building including the ground and first floor living room windows of the projecting northeast/east facing return of the western part of the proposed flatted building shall be obscurely glazed, in accordance with a sample of the obscure glazing to be submitted to and approved by the Planning Authority in advance of its use on the flatted building. The obscure glazing of the windows shall accord with the sample so approved. Thereafter the ground floor and first floor windows of the northeast/east elevation of the flatted building, including the ground and first floor living room windows of the projecting northeast/east facing return of the western part of the proposed flatted building shall continue to be obscurely glazed unless otherwise approved by the Planning Authority.

Notwithstanding that shown on the docketed drawings the ground floor and first floor windows to be installed on the northeast/east elevation of the flatted building hereby approved, including the ground and first floor living room windows of the projecting northeast/east facing return of the western part of the proposed flatted building, shall be fixed pane non-opening windows. Thereafter, those windows shall remain as fixed pane non-opening windows unless otherwise approved by the Planning Authority.

Reason:

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

- 14 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended by The Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011, or any subsequent Order amending, revoking or re-enacting the 1992 Order, no further ground or first floor windows or attic level roof windows or other glazed openings, other than those detailed on the docketed drawings, shall be formed at ground floor, first floor and attic level in the northeast/east elevation wall of the flatted building hereby approved, unless otherwise approved by the Planning Authority.

Reason:

In the interests of safeguarding the privacy and amenity of the garden of the neighbouring residential property(ies) to the east.

- 15 Noise associated with the operation of the air source heat pump hereby approved shall not exceed Noise Rating curve NR20 at any octave band frequency between the hours of 23:00 to 07:00 and Noise Rating curve NR25 at any octave band frequency between the hours of 07:00 to 23:00 within any neighbouring residential property. All measurements to be made with windows open at least 50mm.

Reason:

In the interest of the residential amenity of neighbouring residential properties.

- 16 Details, including metric scale drawings, of the two pedestrian gates hereby approved to be erected in the north boundary of the site shall be submitted to and approved in writing in advance by the Planning Authority prior to the erection of the two pedestrian gates in the development hereby approved. The details of the two pedestrian gates shall include the height, form, appearance and finishes of the gates. Thereafter, the two pedestrian gates shall be erected in accordance with the details so approved.

Reason:

To ensure that the external finishes are appropriate in the interest of safeguarding the character and appearance of the area.

- 17 Notwithstanding that which is annotated on docketed drawing no. 1187_001 Rev F (Woodland Planting Proposals), only the trees shown with a dashed red line on the 'Tree removals plan' docketed drawing no.19.19/PL(2)03 rev E shall be removed from the site. All other trees shall be retained and protected during development.

No trees to be retained on the site shall be damaged or uprooted, felled, lopped or topped without the prior written consent of the Planning Authority.

Reason:

To ensure the retention and health of trees or shrubs on the application site which are important to the landscape character and amenity of the area.

- 18 No development shall take place on site until temporary protective fencing in accordance with Figure 2 of British Standard 5837_2012 "Trees in relation to design, demolition and construction" has been installed, approved by the arboriculturist and approved in writing by the Planning Authority. The temporary protective fencing shall be positioned on the site as shown for it on docketed drawing no. 19.19/PL(2)04-F ('Proposed Site Plan' drawing), shall be positioned outwith the Root Protection Area (RPA) as defined by BS5837:2012 for all trees and shall be approved in writing by the Planning Authority. The temporary protective fencing must be fixed in to the ground to withstand accidental impact from machinery, erected prior to site start and retained on site and intact through to completion of development.

All weather notices should be erected on said fencing with words such as "Construction exclusion zone - Keep out". Within the fenced off areas creating the Construction Exclusion Zones the following prohibitions must apply:-

- _ No vehicular or plant access;
- _ No raising or lowering of the existing ground level;
- _ No mechanical digging or scraping;
- _ No storage of temporary buildings, plant, equipment, materials or soil;
- _ No hand digging;
- _ No lighting of fires;
- _ No handling discharge or spillage of any chemical substance, including cement washings.

Planning of site operations should take sufficient account of wide loads, tall loads and plant with booms, jibs and counterweights (including drilling rigs), in order that they can operate without coming into contact with retained trees.

Reason

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

- 19 All tree planting comprised in the approved details of landscaping on the 'Woodland Planting Proposals' docketed drawing no. 1187-001 rev F shall be carried out in the first planting and seeding season (October to March inclusive each calendar year) following the removal of the trees approved for felling as detailed on the 'Tree removals plan' docketed drawing no.19.19/PL(2)03 rev E.

No pine tree shall be planted closer than 10m away from the internal living space of the flatted building hereby approved.

Any trees which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar species and final size, unless the Planning Authority gives written consent to any variation.

No trees detailed in the approved landscaping plans to be retained on the site, shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the previous written consent of the Planning Authority.

Thereafter, the woodland shall be managed in accordance with the Woodland Management Plan (prepared by Donald Rodger Associates Ltd, dated July 2022) docketed to this grant of planning permission, unless the Planning Authority agrees to any

variation.

Reason

To ensure establishment of a landscape scheme that retains the character of the area.

- 20 All tree felling identified on drawing no. 19.19/PL(2)03-E shall be carried out outwith the bird breeding / nesting season (April - September, inclusive), unless it is implemented wholly in accordance with a Species Protection Plan which shall be submitted to and approved in writing in advance by the Planning Authority, and thereafter, the development shall be carried out in accordance with the Species Protection Plan so approved.

Reason:

To ensure the protection of wildlife and biodiversity from significant disturbance arising from the demolition and construction associated with the development hereby approved.

- 21 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended by The Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011, or any subsequent Order amending, revoking or re-enacting that Order, no development other than that hereby approved, or approved in compliance with the above planning conditions shall take place within the curtilage of the flatted building hereby approved or elsewhere on the application site without the prior permission of the Planning Authority.

Reason:

To safeguard the treed areas from possible future domestication in the interests of the character and visual amenity of the area and its landscape setting, and the integrity of Tree Preservation Order Nos.42 and 138.

