

# LOCAL REVIEW BODY

15<sup>th</sup> December 2022

Application No: 22/00587/P

**Land at the Heugh, North Berwick**

Applicant's Supporting Documentation

**Part 1**

*[Includes: PA Document List, PA 0.01 – 0.11, PA 0.13, PA 1.01 – 2.02]*

## The Heugh, North Berwick Planning Application (PA) Document Reference List

<b>Referred to</b>	<b>Planning Application as Lodged</b>
PA 0.01	Application Form
PA 0.02	Location Plan
PA 0.03	Dwg. 20015-STEX-P001 Site Location
PA 0.04	Dwg. R495 PL01 Topographical Survey
PA 0.05	Dwg. PL02b Proposed Site Plan
PA 0.06	Dwg. PL03a Proposed Floor and Roof Plans
PA 0.07	Dwg. PL04a Proposed Elevations
PA 0.08	Dwg. PL05a Proposed Sections
PA 0.09	Dwg. PL06 Proposed Details
PA 0.10	Supporting Statement
PA 0.11	Design Statement
PA 0.12	Landscape and Visual Impact Assessment
PA 0.13	Ecological Assessment
PA 0.14	Setting of Historic Assets
<b>Referred to</b>	<b>Consultation Responses &amp; Correspondence</b>
PA 1.01	Environmental Health Officer Consultation Response (31 <sup>st</sup> May 2022)
PA 1.02	Roads Officer Consultation Response (1st June 2022)
PA 1.03	Scottish Water Consultation Response (6 <sup>th</sup> June 2022)
PA 1.04	Waste Services Consultation Response (6 <sup>th</sup> June 2022)
PA 1.05	Contaminated Land Consultation Response (7 <sup>th</sup> June 2022)
PA 1.06	North Berwick Consultation Response (9 <sup>th</sup> June 2022)
PA 1.07	Biodiversity Officer Consultation Response (10 <sup>th</sup> June 2022)
PA 1.08	Landscape Officer Consultation Response (14 <sup>th</sup> June 2022)
PA 1.09	Archaeology Officer Consultation Response (16 <sup>th</sup> June 2022)
<b>Referred to</b>	<b>Determination</b>
PA 2.01	Officer Report
PA 2.02	Decision Notice



John Muir House Haddington EH41 3HA Tel: 01620 827 216 Email: [planning@eastlothian.gov.uk](mailto:planning@eastlothian.gov.uk)

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100417577-002

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

## Type of Application

What is this application for? Please select one of the following: \*

- Application for planning permission (including changes of use and surface mineral working).
- Application for planning permission in principle.
- Further application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- Application for Approval of Matters specified in conditions.

## Description of Proposal

Please describe the proposal including any change of use: \* (Max 500 characters)

Proposed residential development of one house and associated infrastructure and landscaping works. This Application for Planning Permission follows the withdrawal of a previous planning application (ref: 21/00781/P). This new Application seeks to respond to the matters raised in the draft Report of Handling for the previous Application (ref: 21/00781/P).

Is this a temporary permission? \*  Yes  No

If a change of use is to be included in the proposal has it already taken place?  
(Answer 'No' if there is no change of use.) \*  Yes  No

Has the work already been started and/or completed? \*

No  Yes – Started  Yes - Completed

## Applicant or Agent Details

Are you an applicant or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant  Agent

## Agent Details

Please enter Agent details

Company/Organisation:	Geddes Consulting		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Stuart	Building Name:	Quadrant
Last Name: *	Salter	Building Number:	17
Telephone Number: *	0131 553 3639	Address 1 (Street): *	Bernard Street
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Edinburgh
Fax Number:		Country: *	UK
		Postcode: *	EH6 6PW
Email Address: *	stuart@geddesconsulting.com		

Is the applicant an individual or an organisation/corporate entity? \*

Individual  Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	Wamphray Farm
First Name: *	Tom	Building Number:	
Last Name: *	Tait	Address 1 (Street): *	Wamphray Farm
Company/Organisation		Address 2:	
Telephone Number: *		Town/City: *	North Berwick
Extension Number:		Country: *	UK
Mobile Number:		Postcode: *	EH39 5NS
Fax Number:			
Email Address: *	stuart@geddesconsulting.com		



## Site Address Details

Planning Authority:

East Lothian Council

Full postal address of the site (including postcode where available):

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

Land at the Heugh, North Berwick

Northing

684324

Easting

356212

## Pre-Application Discussion

Have you discussed your proposal with the planning authority? \*

Yes  No

## Pre-Application Discussion Details Cont.

In what format was the feedback given? \*

Meeting  Telephone  Letter  Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) \* (max 500 characters)

Previous agreement between Council and Applicant on viewpoints to be included within the Landscape and Visual Impact Assessment submitted in support of this Application.

Title:

Other title:

First Name:

Last Name:

Correspondence Reference Number:

Date (dd/mm/yyyy):

In what format was the feedback given? \*

Meeting  Telephone  Letter  Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) \* (max 500 characters)

Submission of Pre-Application Enquiry to the Council was made on 22nd April 2020. A response from the Council to this Enquiry was received on 14th May 2020. The response from the Council provided feedback on the proposal. This Planning Application has sought to address the issues raised.

Title:

Other title:

First Name:

Last Name:

Correspondence Reference Number:

Date (dd/mm/yyyy):

Note 1. A Processing agreement involves setting out the key stages involved in determining a planning application, identifying what information is required and from whom and setting timescales for the delivery of various stages of the process.

## Site Area

Please state the site area:

0.25

Please state the measurement type used:

Hectares (ha)  Square Metres (sq.m)

## Existing Use

Please describe the current or most recent use: \* (Max 500 characters)

Vacant agricultural land.

## Access and Parking

Are you proposing a new altered vehicle access to or from a public road? \*

Yes  No

If Yes please describe and show on your drawings the position of any existing. Altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any change to public paths, public rights of way or affecting any public right of access? \*

Yes  No

If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application Site?

0

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the Total of existing and any new spaces or a reduced number of spaces)? \*

6

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycles spaces).

## Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? \*

Yes  No

Are you proposing to connect to the public drainage network (eg. to an existing sewer)? \*

- Yes – connecting to public drainage network  
 No – proposing to make private drainage arrangements  
 Not Applicable – only arrangements for water supply required

Do your proposals make provision for sustainable drainage of surface water?? \*  
(e.g. SUDS arrangements) \*

Yes  No

Note:-

Please include details of SUDS arrangements on your plans

Selecting 'No' to the above question means that you could be in breach of Environmental legislation.

Are you proposing to connect to the public water supply network? \*

- Yes  
 No, using a private water supply  
 No connection required

If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

## Assessment of Flood Risk

Is the site within an area of known risk of flooding? \*

Yes  No  Don't Know

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? \*

Yes  No  Don't Know

## Trees

Are there any trees on or adjacent to the application site? \*

Yes  No

If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

## Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? \*

Yes  No

If Yes or No, please provide further details: \* (Max 500 characters)

Waste and recycling storage will be accommodated within the utility room. Details on the location of refuse and recycling collections will be discussed and agreed with the Council during the determination process.

## Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? \*

Yes  No

How many units do you propose in total? \*

1

Please provide full details of the number and types of units on the plans. Additional information may be provided in a supporting statement.

## All Types of Non Housing Development – Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? \*

Yes  No

## Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013) \*

Yes  No  Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

## Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? \*

Yes  No

## Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? \*

Yes  No

Is any of the land part of an agricultural holding? \*

Yes  No

## Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate A

## Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding

Signed: Stuart Salter

On behalf of: Mr Tom Tait

Date: 24/05/2022

Please tick here to certify this Certificate. \*

## Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? \*

Yes  No  Not applicable to this application

b) If this is an application for planning permission or planning permission in principle where there is a crown interest in the land, have you provided a statement to that effect? \*

Yes  No  Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major development (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? \*

Yes  No  Not applicable to this application

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? \*

Yes  No  Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? \*

Yes  No  Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? \*

Yes  No  Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

- Site Layout Plan or Block plan.
- Elevations.
- Floor plans.
- Cross sections.
- Roof plan.
- Master Plan/Framework Plan.
- Landscape plan.
- Photographs and/or photomontages.
- Other.

If Other, please specify: \* (Max 500 characters)

Provide copies of the following documents if applicable:

- |  |  |
|--|--|
| A copy of an Environmental Statement. *  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Design Statement or Design and Access Statement. *                                   | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> N/A |
| A Flood Risk Assessment. *   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Drainage/SUDS layout. *  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Transport Assessment or Travel Plan  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Contaminated Land Assessment. *  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Habitat Survey. *  | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> N/A |
| A Processing Agreement. *  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |

Other Statements (please specify). (Max 500 characters)

Landscape & Visual Impact Assessment; Assessment of the Impact on the Setting of Historic Assets; and Supporting Statement

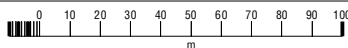
## **Declare – For Application to Planning Authority**

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Mr Calum Glen

Declaration Date: 24/05/2022

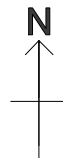
# new dwellinghouse at the heugh, north berwick



OS MasterMap 1250/2500/10000 scale  
 Monday, May 31, 2021, ID: M4P-00966071  
 www.nicolsondigital.com

1:2500 scale print at A4, Centre: 356265 E, 684441 N

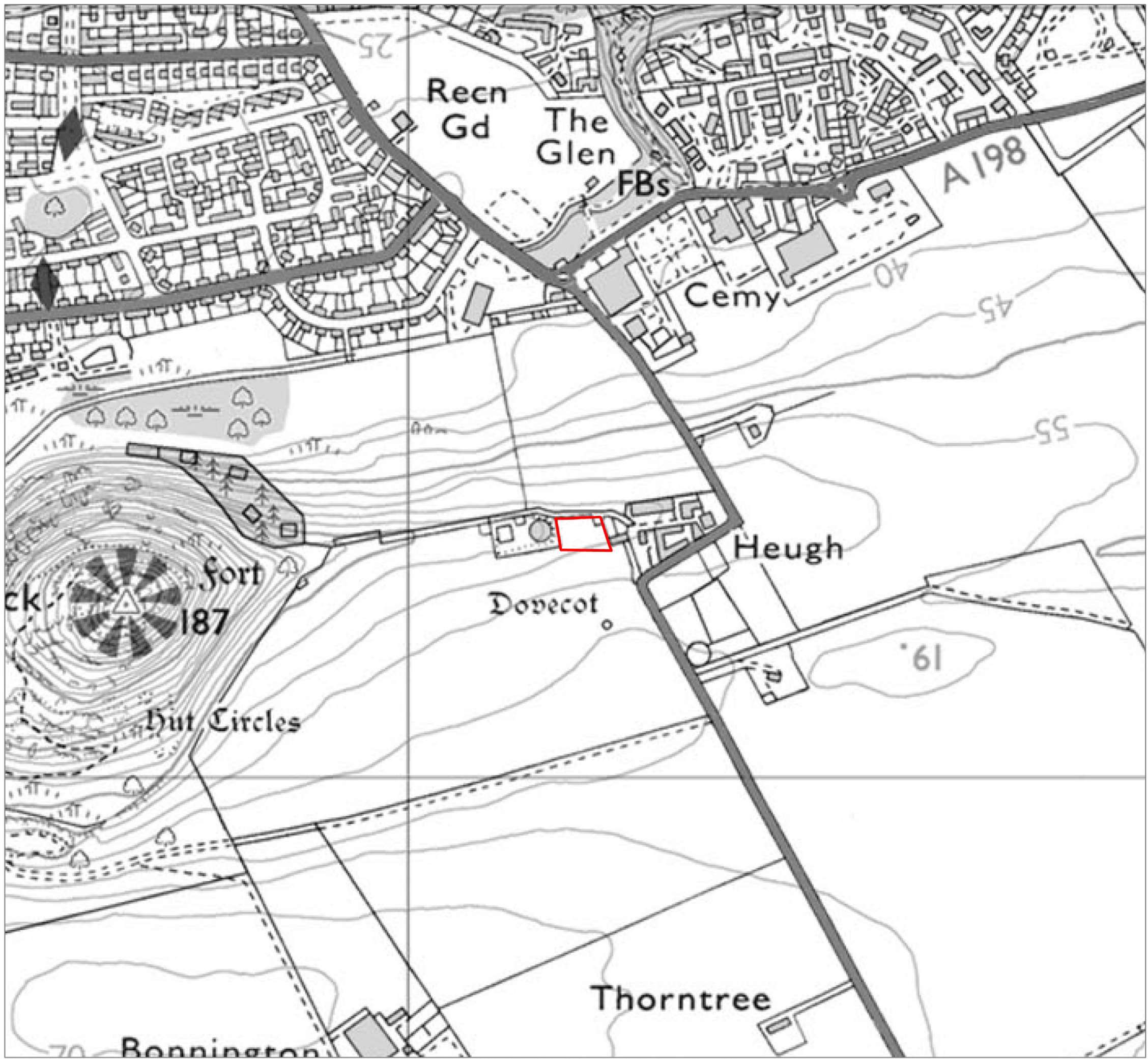
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**richard hall architects**  
 the studio, cordon mains  
 abernethy, PH2 9LN  
 T.07973 701025  
 E. rick@hallarchitects.co.uk







# The Heugh, North Berwick

Tom Tait

Drawing No. 20015-STEX-P001  
Site Location

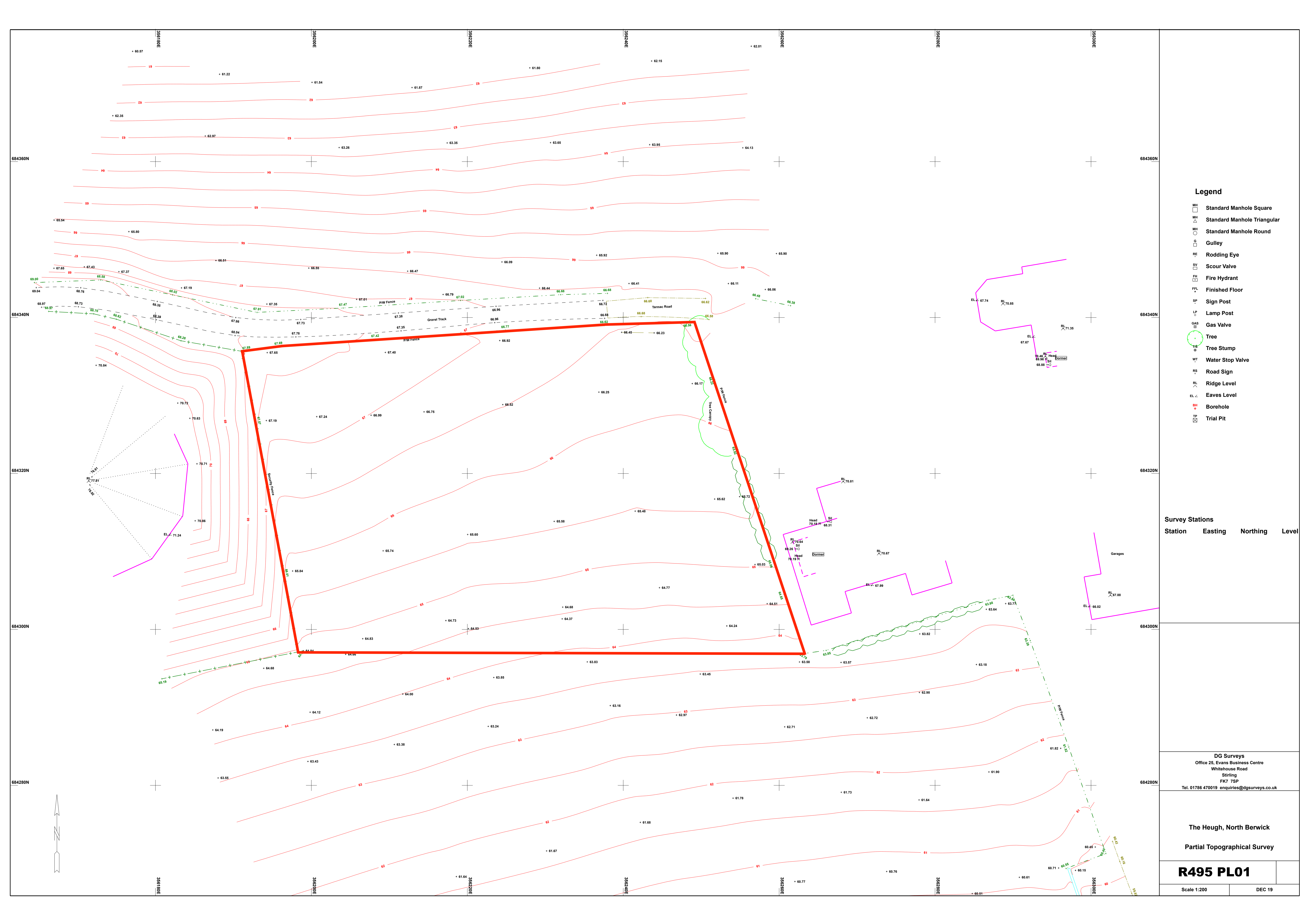
 Site boundary

Rev - (02.06.21) Drawn: KP Checked: SB Approved: CG

**Status: For Information**  
scale 1:5,000 @ A3  
0 50m 100m 250m 

  
The Quadrant, 17 Bernard St., Edinburgh, EH6 6PW | Tel: 0131 5533639 | info@geddesconsulting.com





**Legend**

- MH □ Standard Manhole Square
- MH △ Standard Manhole Triangular
- MH ○ Standard Manhole Round
- G Gulley
- RE Rodding Eye
- SV Scour Valve
- FH Fire Hydrant
- FFL Finished Floor
- SP Sign Post
- LP Lamp Post
- Gas Gas Valve
- Tree Tree
- TS Tree Stump
- WT Water Stop Valve
- RS Road Sign
- RL Ridge Level
- EL Eaves Level
- BH Borehole
- TP Trial Pit

**Survey Stations**

Station	Easting	Northing	Level
---------	---------	----------	-------

DG Surveys  
 Office 25, Evans Business Centre  
 Whitehouse Road  
 Stirling  
 FK7 7SP  
 Tel. 01786 470019 enquiries@dgsurveys.co.uk

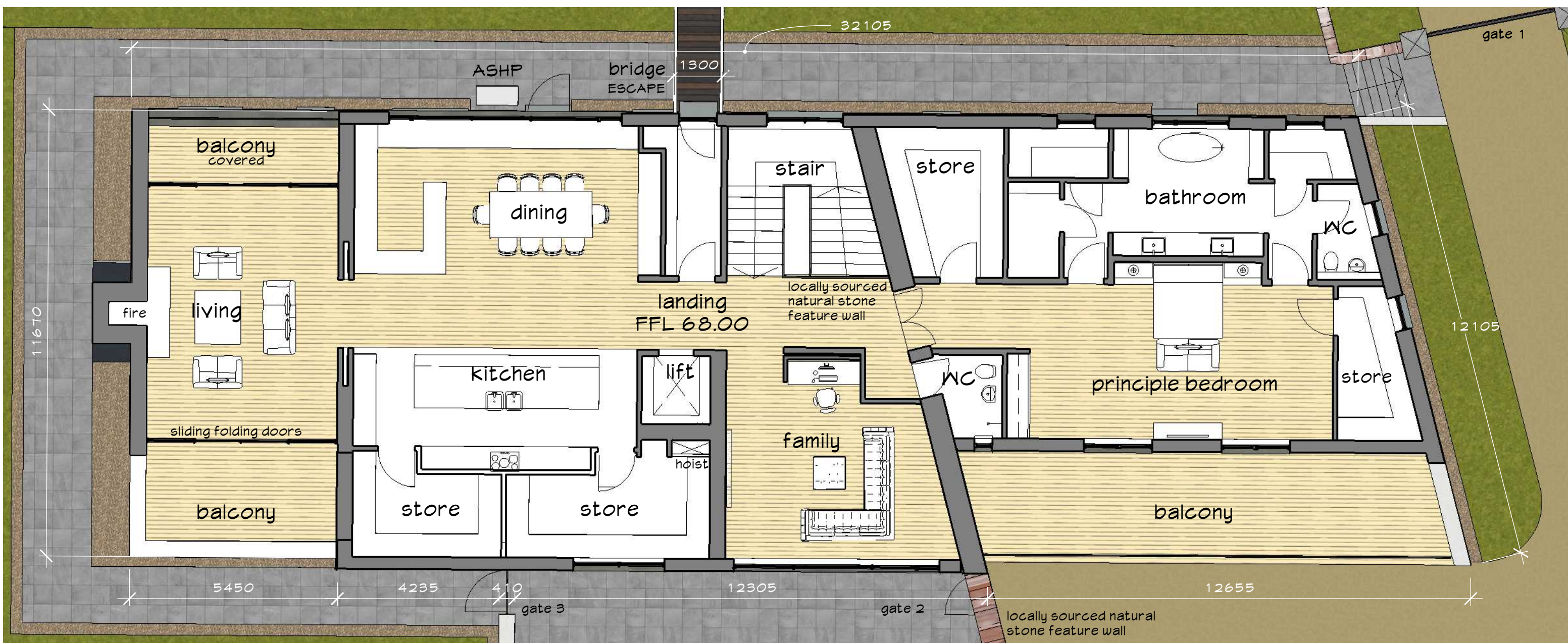
**The Heugh, North Berwick**  
 Partial Topographical Survey

**R495 PL01**  
 Scale 1:200      DEC 19





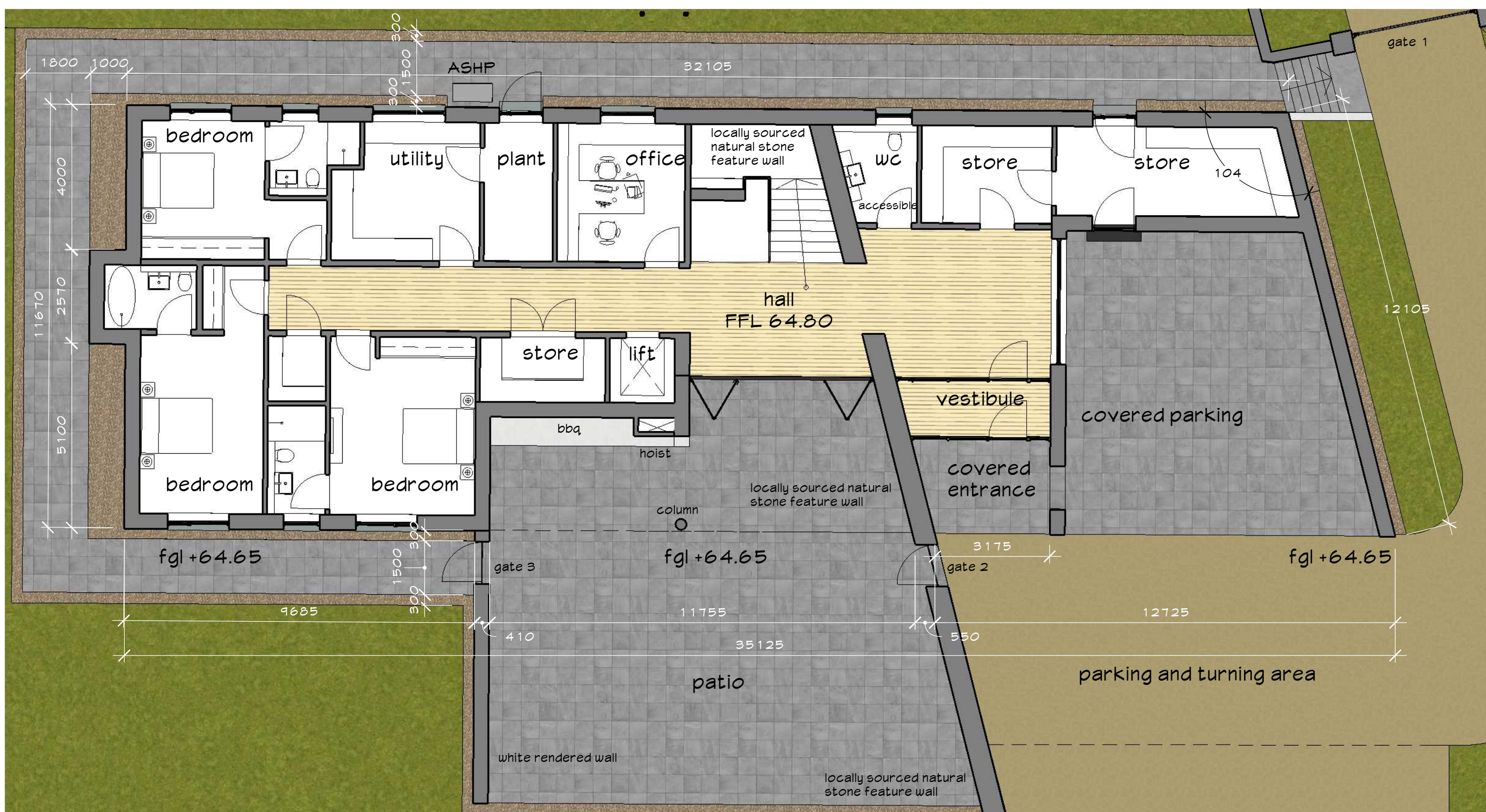




proposed upper floor plan - 1:100 @ A 1



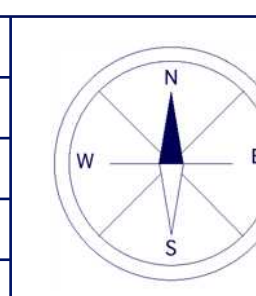
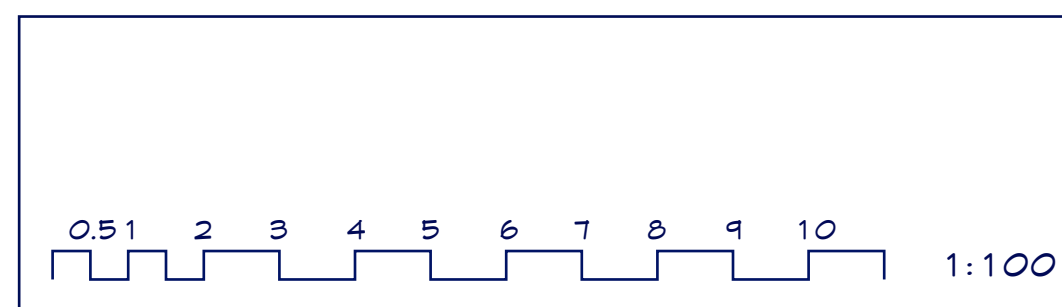
roof plan - 1:100 @ A 1



proposed ground floor plan - 1:100 @ A 1

### Material Key

-  Locally sourced natural stone feature wall
  -  Sarnafil grey single membrane roof system
  -  VM zinc external walls/ window surrounds where shown,
  -  Path. Patio surfacing finish; Grey Granite slabs
  -  Driveway finish; resin bonded driveway/ parking/ courtyard
  -  Washed river gravel
  -  light grey smooth concrete cope
  -  Lawn
  -  planted "green" roof of mixed sedums with zinc aluminium grey detailing
  -  dark stained timber
- Windows - dark grey satin anodised aluminium with in-built ventilation panels where shown.  
Doors - painted dark timber to match windows



<b>Planning Drawing</b> Proposed new house at land at Whamphray Farm the Heugh, North Berwick <b>FLOOR PLANS &amp; ROOF PLAN</b>	Job No.-R495 Date-June 2021 Drawn by - Checked by -	Drawing No <b>PLO3a</b> Paper size A1 Scale 1:100	<b>RICHARD HALL</b> architecture design The Studio, Cordon Mains, Abernethy, Perth, PH2 9LN Architects Office, Unit 1, Seton Garage, East Lothian, EH32 0NN T: 07473 701025 T: 01875 812175
	RICHARD HALL architecture design		





Proposed south elevation- 1:100 @ A 1



Proposed north elevation- 1:100 @ A 1






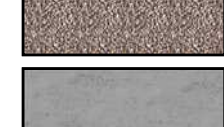






Proposed east elevation- 1:100 @ A 1

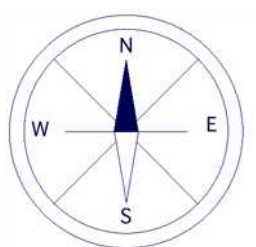



Proposed west elevation- 1:100 @ A 1

Material Key

-  Locally sourced natural stone feature wall
  -  Sarnafil grey single membrane roof system
  -  VM zinc external walls/ window surrounds where shown,
  -  Path, Patio surfacing finish; Grey Granite slabs
  -  Driveway finish; resin bonded driveway/ parking/ courtyard
  -  Washed river gravel
  -  light grey smooth concrete cope
  -  Lawn
  -  planted "green" roof of mixed sedums with zinc aluminium grey detailing
  -  dark stained timber
- Windows - dark grey satin anodised aluminium with in-built ventilation panels where shown.  
Doors - painted dark timber to match windows

0.5	1	2	3	4	5	6	7	8	9	10
1:100										

	<b>Planning Drawing</b> Proposed new house at land at Whamphray Farm the Heugh, North Berwick NORTH, SOUTH, EAST WEST ELEVATIONS	Job No.-R495 Date-June 2021 Drawn by - Checked by -	Drawing No <b>PLO4a</b> Paper size A1 Scale 1:100	
	The Studio, Cordon Mains, Abernethy, Perth, PH2 9LN Architects Office, Unit 1, Seton Garage, East Lothian, EH32 0NN		T: 07473 701025 T: 01875 812175	











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**New house at the Heugh, North Berwick  
Supporting Statement**

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**On behalf of**

**Tom Tait**

**May 2022**



Prepared by:



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## Document Control and Approval

Status	Prepared	Approved	Date
Final	Bob Salter	Calum Glen	2 May 2022

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## 1.0 Introduction

- 1.1 This Planning Statement (the Statement) has been prepared on behalf of Mr Tom Tait (the Applicant) in support of an Application for Planning Permission (PP). The Application is for a development of one house on land comprising part of the housing group at The Heugh, North Berwick. The proposal also includes associated infrastructure and landscaping works.
- 1.2 The site has been chosen as it is an infill site within an existing building group with available services in close proximity to North Berwick. It extends to approximately 0.25 hectares as shown on Dwg. No 20015-STEX-P001. It is part of Wamphray Farm. The site is located between existing houses at the Heugh building group of around 14 houses, to the south of the settlement of North Berwick. This site is difficult to farm with large, modern farm machinery. Therefore, it is not in productive agricultural use and is disused land.
- 1.3 This proposal was subject to a previous application (21/00781/P) which was withdrawn before determination. The Report of Handling has been made available and it was recommended for refusal. The Application was withdrawn before it was determined. It is noted that there were no objections from Scottish Water, and no objections from the Council's service departments – Waste Services, Road Services, Environmental Health, Biodiversity Officer, Contaminated Land Officer, Archaeology/Heritage Officer.
- 1.4 The Application was to be refused on non-compliance with Policy DC1, Policy DC4, Policy DC5, DC8, DC9, DP1, DP2 and Policy CH1 of the adopted Local Development Plan (LDP), the Council's approved *Special Landscape Areas* Supplementary Planning Guidance and Scottish Planning Policy (SPP) regarding control of development in the countryside and impact on the adjacent listed building. The Case Officer concluded that there were no material considerations which would justify planning permission being granted.
- 1.5 Circumstances have changed since this Application was withdrawn. Mr Tait has now purchased another farm with an existing farmhouse which will meet his future housing needs. He no longer plans to retire. This means that the existing farmhouse at Wamphray Farm will be occupied by his daughter who will take on the management of Wamphray Farm. Therefore, there is no longer any operational agricultural need for this new house. This current Application is, therefore, a standalone proposal for a new home on an infill site within an existing building group.
- 1.6 Moreover, a review of the Report of Handling of the previous application (now withdrawn) highlights that the Case Officer's application of the policies to be taken into account in the determination results in a misdirection in how this Application should have been determined.
- 1.7 Decisions on planning applications need to be taken with regard to the development plan unless material considerations indicate otherwise. The Council does not have a LDP policy preventing housing in the countryside. In the absence of such a policy, material considerations both for and against the proposal should be considered. An assessment should then be made as to whether or not these considerations support (or otherwise) a positive determination of the application. In the Report of Handling for the previous application, material considerations should have taken into account and these material considerations should have been given significant weight. as part of the determination process This Application is supported by the following documents to provide the Council with sufficient information to make a decision:
- *Supporting Statement;*
  - *Design Statement;*
  - *Assessment of the Impact on the Setting of Cultural Assets;*

- *Landscape & Visual Impact Assessment*; and
- *Ecological Assessment*.

- 1.8 The Application is a local development under the terms of the *Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009*. There is no statutory pre-application consultation requirement for this proposal.
- 1.9 This Statement highlights the relevant development plan policies along with material considerations which need to be taken into account in the determination of this Application.
- 1.10 A description of the proposal is outlined in Section 2 of this Statement. Further details of the proposal and an explanation of the design approach taken are set out in the *Design Statement*.
- 1.11 An assessment of the proposal's compliance with the development plan is set out in Section 3. Although the Council's planning policy framework in the adopted Local Development Plan supports infill development within settlement areas, it does not support infill development within building groups in the countryside and therefore requires an operation need for a new house, irrespective of the merits of the site being proposed for development.
- 1.12 Relevant material considerations, such as the need to comply with Scottish Planning Policy (SPP) 2014, Scottish Ministers' advice on compliance with PAN 72 *Housing in the Countryside* , and the Council's Supplementary Planning Guidance are considered in Section 4. These material considerations need to be in accord with the two main tests set out in Annex A of Circular 3/2013: *Development Management Procedures*.
- 1.13 Conclusions about the compliance of this proposal with the approved development plan, taking into account material considerations, are set out in Section 5 of this Statement. It is recommended that, by taking all relevant material considerations into account, there is sufficient weight and justification to justify a departure from the approved development plan. This Application should, therefore, be approved.

## 2.0 The Proposal

### Site Context

- 2.1 The proposal has not been amended from the previous design submitted by the Applicant.
- 2.2 The site is in the countryside just outside North Berwick. The site extends to approximately 0.25 hectares and is not in agricultural use. The site is part of the existing building group at the Heugh, North Berwick. In total, the area of existing built development at the Heugh extends to around 1.29ha. The site is within the *North Berwick Law* Special Landscape Area.
- 2.3 It is bound to the east by the Heugh's existing residential development and the redundant Category B Listed *North Berwick Drinking Water Tank* (Water Tank), now with consent to become a house to the west. The site is bound to the north by an existing access track, with open fields to the north and south. In planning terms, it is an infill site between existing development and part of the building group at the Heugh.
- 2.4 Access to the site will be from Heugh Brae via an existing access. This access passes through the existing housing at the Heugh to the east and onto the access track which also serves the adjacent Water Tank building to the west. This Water Tank now has planning permission (ref: 19/00700/P) to be converted to a house. The Application site is bounded by housing on its western and eastern boundaries.
- 2.5 Any development on this site will be served from existing services already provided to the adjacent residential development.
- 2.6 The site is located on the ridge to the west of the housing at the Heugh, to the southeast of North Berwick, and to the east of North Berwick Law. The site is in an area designated under Policy DC8: *Countryside Around Towns* within the adopted East Lothian Local Development Plan (2018) (LDP). The site is approximately 200m south east of the settlement edge of North Berwick. It lies within an area of existing development (stretching to over 300m) on this ridge which forms the tail of North Berwick Law which itself is over 1,300m in length.

### Environmental Designations

- 2.7 The *North Berwick Drinking Water Tank* (the Water Tank) adjacent to the western boundary of the site, is a Category B Listed Building. The full listing description for the Water Tank is as follows:

*1905, octagonal water tank sited on hill above burgh, roofed circa 1911. Brick base course bearing octagonal slate roof wept close to ground with apex ventilator. Gabled porches with slated roofs rising well above low eaves in opposite roof pitches.*

*INTERIOR: Brick tank with steel trussed framework supporting roof.*

- 2.8 This listing description does not specify any matters relating to the setting of the Water Tank.
- 2.9 The Category B Listed *Heugh Farm Dovecot* is located approximately 120m south of the site. The full listing description for *Heugh Farm Dovecot* (the Dovecot) is as follows:

*18th century. 2-stage circular dovecot. Random rubble formerly harled. Projecting rat course dividing stages. Low doorway at ground. Square opening in upper stage filled with 4 rows of light holes. N perimeter of upper stage stepped up.*

2.10 North Berwick Law is designated as a Scheduled Monument. North Berwick Law is located approximately 350m west of the site. The Historic Environment Scotland Listing for North Berwick Law is as follows:

*...Prehistoric domestic and defensive: enclosure (domestic or defensive, rather than funerary); fort (includes hill fort and promontory fort); hut circle, roundhouse.*

2.11 The site is also located within *Special Landscape Area 19 North Berwick Law* as identified within the adopted LDP. The site's location within this Special Landscape Area (SLA) is shown on Dwg. No 20015-STAN-P002 *Site Context*. The SLA extends to over 250 ha and the site occupies an area of 0.25 ha within it. This is equivalent to 0.1% of the SLA and is insignificant in area.

2.12 The site sits on the tail or ridge of North Berwick Law extending to the east. This tail is 1,315m in length. There is already built development extending to 309m on this tail or over 23% of the length of the tail. The Application site is located within the developed part of the tail, adjacent to the prominent Water Tank. The site has a length of 35m but only occupies 2.7% of the tail.

2.13 There are no other environmental designations affecting the site.

### **Planning History and determination approach**

2.14 As explained in the Introduction, the previous application was withdrawn before determination and the Report of Handling and Reasons for Refusal have been reviewed. The Reasons for Refusal would have been:

1. Contrary to Policy DC 1: *Rural Diversification* and Policy DC 4: *New Build Housing in the Countryside* and contrary to SPP regarding control of housing development in the countryside.
2. Contrary to Policy DC 5: *Housing as Enabling Development*.
3. Contrary to Policies DC 8: *Countryside Around Towns*, DC 9: *Special Landscape Areas*, DP1: *Landscape Character* and DP2: *Design*, contrary to the Council's Supplementary Guidance: *Special Landscape Areas* and contrary to SPP regarding the Council's view of a perceived impact on North Berwick Law Special Landscape Area.
4. Contrary to Policy CH1: *Listed Buildings* and SPP contrary to SPP regarding the Council's view of a perceived impact on the setting of the Category B Listed Water Tank to the west of the Application site.
5. Would set an undesirable precedent leading to suburbanisation of the countryside.

2.15 The Report of Handling concluded that there are no material considerations which would justify planning permission being granted.

2.16 There are in fact material considerations which should have been taken into account, some of which have significant weight. These were highlighted in the submitted *Supporting Statement*.

2.17 Accordingly, this is an incorrect conclusion and the Council would have misdirected itself in concluding that no material conclusions applied in determining that Application. Material conclusions were relevant in the determination of that Application and continue to be relevant in the determination of this Application.

2.18 In addition, having reviewed SPP, the Council is wrong to conclude that SPP (paragraphs 76 and 81) gives support for refusing this proposal or indeed prevents this type of housing in the

countryside from being approved. Further details are provided in Section 4 of this Supporting Statement. Because some of the policies in the adopted LDP are contrary to the advice in SPP, it is concluded these policies should be given less weight in the determination.

- 2.19 Accordingly, the Council's approach to its determination process for this Application requires a much more balanced approach. This is explained in detail in sections 3 and 4 of this Statement.
- 2.20 It is also noted that the Council has allocated two areas of new development within the *North Berwick Law* Special landscape Area (Dwg. No 20015-STAN-P002 *Site Context*) and referred to as PROP NK 1 and PROP NK 4. On the flanks of the ridgeline of the Crag and Tail within Allocation NK 4, parts of 16 housing plots have been approved on an area extending to 0.6ha. This area of urban development extends to more than twice the area proposed in the application.

## **Brief Description of the Proposal**

### *Relevant Planning Matters*

- 2.21 The proposal is for a new house and remains unchanged from the previous proposal. The site is a disused area of a field (0.25 ha), forming part of the farming operation at Wamphray Farm. It is not possible to farm this small area of land with modern farm machinery because of the restrictions imposed by the shape of the site. These restrictions are imposed by the existing built developments on either side of the site. It is an infill site along the tail of North Berwick Law which is already extensively developed.
- 2.22 The proposal forms part of a significant building group already established on the tail of North Berwick Law. This building group includes the telecommunication masts and the Category B Listed Water Tank to the west of the site. Adjoining the eastern boundary of the site, is the group of 14 residential properties at the Heugh.
- 2.23 The site is only 180m south west of the settlement boundary of North Berwick. The site is, therefore, not within a remote location or rural countryside. Rather, it sits adjacent to an existing settlement with a population of around 7,000 people. The distance to the settlement boundary is shown on Dwg. No 20015-STAN-P001 *Site Context*.
- 2.24 The site is located around a 1km walk to the Tesco Superstore which is located to the north east. This is well within the maximum threshold of 1,600m set out in Annex B of PAN 75 *Planning for Transport*. The ALDI supermarket is also located within an easy walking distance (around 700m) to the north west of the site.
- 2.25 The nearest bus stops to the site are located on Dunbar Road (A198). These bus stops are around a 700m walk from the site. These bus stops provide regular services (every 30 minutes) between North Berwick and Edinburgh. Whilst this is beyond the recommended 400m distance set out in PAN 75, they are not unreasonable.
- 2.26 North Berwick Station is located to the north west of the site. The Station is beyond 1,600m walking distance of the site as is most of the housing to the immediate north of the site in North Berwick. The Station provides regular services (around 30 minutes at peak times) to Edinburgh.
- 2.27 The site is also within walking distance (around 800m) of the Recreation Park and playground located along Dunbar Road to the north of the site.
- 2.28 The site is, therefore, well served by existing facilities which are within the maximum recommended walking distance of 1,600m set out in PAN 75. The walking distance to these facilities are shown on Dwg No 20015-STAN-P001 *Site Context*.

- 2.29 These distances are based on pedestrians walking from the site, along Heugh Brae into North Berwick. It is noted that a section of Heugh Brae (around 300m) does not contain a footway. Given the rural nature of the road and the existing housing at the Heugh, there are no road safety issues along this section of road.
- 2.30 The proposal is an example of sustainable development as it meets the principles set on into SPP (para 29) and this is explained in Section 4.
- 2.31 The listing of the Water Tank does not require its setting to remain undeveloped. There is modern development on the west side of the Water Tank and this is part of its setting. The location of the house on its site has been chosen to minimise impacting on the setting of the Listed Building. An assessment of the impact of the proposal on the Water Tank is set out in the *Assessment of the Impact on the Setting of Cultural Assets*.
- Design Appraisal*
- 2.32 The design of the proposed house remains unchanged from the previous Application. The proposed house is a contemporary design, two storeys in height with a sloping green ‘sedum’ roof to reflect the surrounding sloping landscape. As shown on Dwg. No PL03a, the living accommodation is located on the first floor. The ground floor contains three bedrooms, along with an office, utility room and storage space. The upper floor of the property has a master bedroom and en-suite with kitchen and dining area along with a living room. The upper floor will also accommodate two balconies to the north and south, one of which will be accessed from the living room. The second balcony will only be accessed from the master bedroom.
- 2.33 The proposed house is appropriate and reflects the design influences of the residential development at the Heugh. The neighbouring properties are generally white painted render. The proposal, therefore, incorporates a combination of white render and zinc cladding on external walls. The use of zinc cladding will reflect the use of metal cladding on agricultural buildings within the wider area, including that at Wamphray Farm.
- 2.34 The proposed windows will be dark grey anodised aluminium, with light grey concrete cills. The proposed external doors will be dark grey timber doors to match the windows. The use of a limited palette of quality materials complements the site’s setting.
- 2.35 It is a distinctive house being designed in a modern contemporary style. That does not make it unacceptable design or a ‘blot on the landscape’. Discussions with the Council have been held. The design and siting of the proposed house has evolved to ensure that there is a visual separation between the existing ‘traditional style’ of residential buildings to the east (the Heugh) and the ‘industrial style’ Water Tank to the west. This house echoes its agricultural surroundings and will form part of this substantial building group situated on the ridge. The built form on this ridgeline also includes industrial masts, water tank as well as houses.
- 2.36 The siting of the house is more in the eastern part of the site to achieve a separation of 18m from the boundary adjoining the Water Tank and 23m from the Water Tank itself. This responds to concerns raised by the Council during previous pre-application discussions where the separation to boundary was only 9m (50% less than now proposed). By maintaining this separation, North Berwick Law, the Water Tank and residential development will continue to be read as distinctive elements on the horizon within the overall built form. The Council clarified the key viewpoints to view the proposal from around the site.
- 2.37 The proposed footprint of the house was reduced following this pre-application response from the Council. In total, the proposed footprint of the building has reduced in length by 6m. The width remains the same.



- 2.38 This reduction in the building footprint not only helps maintain the visual separation between the existing buildings at the Heugh and the Water Tank but reduces the massing of the house by 20%.
- 2.39 The proposed house has also been set back from the northern site boundary by 8m. This is behind the projected building line of the existing properties to the east. This set back allows views towards the Water Tank from these existing properties to be retained.
- 2.40 The proposed house also features a single pitch ‘sedum’ roof that follows the slope of the existing ridgeline. This feature adds to the sustainability of the house as well as ensuring the house appears as a natural feature when viewed from North Berwick Law.
- 2.41 The roof height of the proposed house has been carefully controlled to ensure there is a stepping roof line, from the height of the ridge of the Water Tank, down to and across the new house and to step down to the ridge height of neighbouring bungalows and cottages. This does not take away from the landmark nature of Water Tank’s conical roof, which stands separately at the end of the building group. The eaves height is set at +70.20m and the ridge at +72.8m. The proposed roof height is still in keeping with those of adjacent properties, and well below the ridge height of the Water Tank at +77.81m. The highest point of the roof will be 8.15m above finished floor level along the southern elevation. The roof will slope to the north to a low point of 5.5m above finished floor level along the northern elevation.
- 2.42 Access into the site will be taken from the existing track which runs along the northern boundary of the site. A 3.5m wide driveway will be created on the eastern side of the house.
- 2.43 The proposal includes covered parking for two cars in accord with the Council’s requirements. Informal parking for visitors is also available at the end of the driveway adjacent to the proposed house. This informal parking will provide three to four additional parking spaces.
- 2.44 The proposal includes the incorporation of low carbon technology to minimise CO<sub>2</sub> emissions, both in the specification of components and in passive means to minimise energy consumption. The house has been orientated within 30 degrees of the east – west axis to maximise solar absorption. The upper floor of the house will incorporate extensive areas of glazing along its southern elevation. This will allow the house to be passively heated by sunshine to help heat the air within the property in winter. A system of timber louvres will help to control the heating of the air. The windows will also be triple glazed to help retain the heat generated from the sun.
- 2.45 The house will be heated by an air source heat pump which will provide underfloor heating on both floors. The use of concrete screed will help to retain the heat generated and reduce the demand on the air source heat pump. The proposal will incorporate high levels of insulation in the walls and the floor which will exceed the requirements of current building regulations. The planted sedum roof will also provide high levels of insulation and help to limit the discharge of rainfall.
- 2.46 All of this is high standard of technical specification and represents a highly sustainable proposal.
- 2.47 The landscape proposals include the creation of an earth bund along the southern boundary of the Application site. This bund will be shaped to match the bunded landform around the existing Water Tank to the west. The bund will rise from ground level on the south east edge of the site and finish at a height of around 2.25m in the south west corner of the site. The bund will provide a setting for the new house integrating the built form into the wider landscape as well as whilst responding to the surrounding landscape character and landform. Its form also avoids the lying over the existing route of the water pipe.

- 2.48 Landscaping including tree planting in the south east corner of the Application site is also proposed. This additional tree planting will restrict views of the southern elevation of the house from the south east.
- 2.49 A feature stone wall running from north to south is also proposed. The stone wall will create character as well as enclosing a private garden for the house to the west and an additional parking area to the east. The wall will be constructed from locally sourced stone to match that of the stone used in the Heugh residential development to the east.
- 2.50 The boundary treatments for the proposal comprise a new post & wire fence along the northern, western and southern boundaries of the site. The existing post & wire fence and hedgerow will be retained along the eastern boundary.
- 2.51 The full description of the proposal is contained in Section 5 of the *Design Statement*. Section 4 of the *Design Statement* confirms that the design of the proposals meet the Council's *Design Standards for New Housing Areas* (May 2020) Supplementary Planning Guidance.

## 3.0 Compliance with Planning Policy

3.1 In accord with the provisions of Sections 25 and 37(2) of the *Town and Country Planning (Scotland) Act 1997*, as amended by the *Planning etc (Scotland) Act 2006*, this Application must be determined in accord with the provisions of the development plan unless material considerations indicate otherwise.

3.2 The development plan comprises the approved Strategic Development Plan (SDP) for Edinburgh and South East Scotland (SESplan) (2013) and the adopted East Lothian LDP (2018).

### **SESplan SDP (2013)**

3.3 The proposal is a local development and does not raise any issues of strategic significance. There are therefore no relevant SESplan SDP policies to consider for this Application.

### **East Lothian LDP (adopted 2018)**

3.4 The Council has already highlighted the policy framework which it considers this proposal needs to accord with. These were set out in the Reasons for Refusal in the Report of Handling of the previous Application:

1. Contrary to Policy DC 1: *Rural Diversification* and Policy DC 4: *New Build Housing in the Countryside* and contrary to SPP regarding control of housing development in the countryside
2. Contrary to Policy DC 5: *Housing as Enabling Development*
3. Contrary to Policies DC 8: *Countryside Around Towns*, DC 9: *Special Landscape Areas*, DP1: *Landscape Character* and DP2: *Design*, contrary to the Council's Supplementary Guidance: *Special Landscape Areas* and contrary to SPP regarding the perceived impact on North Berwick Law Special Landscape Area.
4. Contrary to Policy CH1: *Listed Buildings* and SPP contrary to SPP regarding the perceived impact on the setting of the Category B Listed Water Tank to the west of the Application site.
5. Would set an undesirable precedent leading to suburbanisation of the countryside

3.5 The Report of Handling concludes that there are no material considerations which would justify planning permission being granted.

3.6 This represents the starting point for considering the determination of this proposal. It should be noted that unlike all other planning authorities, the Council does not incorporate a housing in the countryside policy and ignores the advice in PAN 72 *Housing in the Countryside*. It is understood that the Council consider that paragraphs 76 and 81 of SPP supersedes the advice in PAN 72.

3.7 This is an incorrect interpretation of the relationship between SPP and PAN 72. PAN 72 remains current guidance from Scottish Ministers. If the Council's interpretation on the relationship between SPP and PAN 72 was correct, then Scottish Ministers would have withdrawn PAN 72. As the Council is aware, all of the other five planning authorities in SESplan area have an LDP policy framework which includes a policy on housing in countryside as supported by SPP.

- 3.8 It is the Council's adopted LDP which is contrary to the advice in SPP. Housing in the countryside especially as part of a building group, is in accord with SPP and PAN 72 as explained in Section 4 of this Statement.
- 3.9 What this means is that the Council's interpretation of the policy framework in the adopted LDP is not in accord with SPP and its supporting Planning Advice Notes (PAN). This means that less weight should be given to a policy such as Policy DC4 which are not fully in accord with SPP.
- 3.10 The following reviews these relevant policies applicable to this determination together with an assessment of the proposal's compliance against these policies.

**Policy DC1: Rural Diversification**

- 3.11 This policy supports the development in the countryside for particular countryside purposes (specified as agriculture, horticulture, forestry, infrastructure, or countryside recreation) and businesses requiring an operational requirement.
- 3.12 This policy does not refer to new housing in countryside. The supporting text to the policy makes it clear that this policy is about rural economic development and hence the policy name (rural diversification). The Council's policy framework on *housing in the countryside* follows, as explained in Paragraph 5.8 onwards.
- 3.13 This is therefore not a relevant policy in the determination of this Application.

**Housing in the Countryside and Policy DC 4: New Build Housing in the Countryside**

- 3.14 This is the adopted LDP's policy on new housing in the countryside and is the most relevant to the determination of this Application. The Council's policy position is that **there is a general presumption against new housing in the countryside** (our emphasis).
- 3.15 The Council is aware that this is not the general planning policy in Scotland, and is inconsistent with the Scottish Government's advice on housing in the countryside as set out in PAN 72 and SPP. Some housing in the countryside is permissible.
- 3.16 There is no policy in the adopted LDP which has a presumption against housing in the countryside. This wording is only referred to in supporting text (paragraphs 5.8, 5.10 and 5.11) and is not specifically referred to any of the adopted LDP's policies. It therefore does not represent the Council's approved policy. Accordingly, it needs to be given limited weight in the determination of this Application.
- 3.17 It is noted that the Council highlights exemptions to its position in terms of Policy DC2: *Conversion of Rural Buildings to Housing* and Policy DC3: *Replacement Buildings in the Countryside*. These two policies are again not relevant to the determination of this Application.
- 3.18 It is noted that the Council supports small scale affordable housing proposals in the countryside (para 5.11). It states... *such proposals must adjoin an existing small-scale settlement identified by this Plan and be subordinate in scale to that settlement*. This is permissible housing development in the countryside where it will form part of an existing small-scale settlement identified in the Plan. The Heugh is not a small-scale settlement identified in the adopted LDP.
- 3.19 As the Council is aware, its planning function is to control development in the countryside in physical land use terms. A housing proposal for an affordable house needs to be as acceptable in planning terms as a private house. Exemptions cannot be promoted for a particular form of housing tenure. A new house in the countryside should be tenure blind. Policy DC 4 part (ii) is simply the application of part of the general guidance in PAN 72 to a specific tenure of housing.

3.20 Policy DC 4 (ii) should be regarded as giving weight to new build housing in the countryside, at least next to a small scale settlement in the countryside. As set out in Section 2, the Application site is within a large housing group but is not within a defined small-scale settlement. The site is however in close proximity (around 180m) to the settlement of North Berwick and represents a sustainable location for further development.

**Policy DC4: New Build Housing in the Countryside**

3.21 Policy DC4 is split into two parts providing justification for exemptions to the unstated presumption against housing in the countryside in the LDP's policy framework. The first part is about an exemption for a single house on operational needs and the second part is about exempting small scale affordable housing projects which are a logical extension to a small-scale rural settlement identified in the adopted LDP.

3.22 In terms of the application of this policy in development management terms, Policy DC4 part (i) in a practical sense applies only to **private housing** (our emphasis) in the countryside which is required for a direct operational purpose related to a range of rural businesses. This qualification on tenure is necessary as one or more affordable houses is permitted under Policy DC4 part (ii). As already highlighted, the Council's policy should not be restricting housing in the countryside in terms of its tenure. Planning policy should only be about imposing restrictions to that associated with impacts of the physical presence or impact of new housing (or house in this case) in the countryside.

3.23 Further, in order to control development approved under this policy, the Council needs to impose occupancy conditions. As the Council is aware, this policy approach is contrary to SPP (paragraph 81) which requires development plans to set out the circumstances in which new housing outwith settlements may be appropriate - **avoiding the use of occupancy restrictions** (our emphasis). There are now many examples in East Lothian where historic occupancy conditions (restrictions imposed under Section 75 Agreements) have had to be removed as now being ultra vires.

3.24 The Council's policy position on occupancy restrictions for a private house therefore should only be given limited weight in the determination of this application.

3.25 As stated in the adopted LDP, the Council's approach to private housing in the countryside is therefore to prohibit it – irrespective to its planning merits. This means that there is no policy support for a single house within an infill site such as this proposal even where it is bounded to the east and west by existing built development. It is noted that although there are more than 15 homes and buildings in the Heugh, it is not a small-scale settlement in the adopted LDP. Kingston is the nearest small-scale settlement designated around North Berwick in the countryside.

3.26 The Council's adopted LDP policy framework is out of step with its neighbouring authorities in the SESplan region and does not take into account of the advice of Scottish Ministers set out in PAN 72 (approved February 2005) and SPP 2014 with the exception that in Policy DC (ii), small-scale housing in the countryside for affordable needs is acceptable where it is adjacent to a settlement in the adopted LDP. This support for affordable housing represents the guidance in PAN 72 which the Council refuses to acknowledge. This policy support for affordable housing is material in the determination of this type of Application.

3.27 Of particular relevance in this context is the *Concluding Remarks* of Scottish Ministers' advice in PAN 72 *Housing in the Countryside*:

*There will continue to be a need for new houses in the countryside and this demand will have to be accommodated. Although we are sensitive about our landscapes, they are evolutionary, not static. Most are able to accommodate some degree of change.*

*This change can be positive, if it is well planned. The location and appearance of each new house must be determined with care and thought, as short-term thinking can have a long-term impact on the landscape.*

*Every settlement should have its own distinctive identity. This is determined in part by the local characteristics of the area's architectural style of individual buildings and the relationship of these buildings to each other.*

*The key messages are to:*

- *set the scale of change that is acceptable;*
- *establish a clear policy framework which promotes opportunities to create sustainable and affordable new homes, and apply it consistently;*
- *ensure that developments enhance local character; and make a positive contribution.*

*Creating new homes represents an important challenge for all concerned. Together, we must ensure that today's new developments have the quality and integrity to form the Conservation Areas and listed buildings of the future*

3.28 This part of Scottish planning advice has been ignored by the Council as the Council considers that it has been superseded by SPP 2014. These are the typical matters which are normally taken into account in the determination of this type of proposal. It is evident that the Council's policy framework in the adopted LDP is designed to restrict any private housing development in the countryside to only that required for ongoing operational matters, contrary to SPP and the advice in PAN 72. This is discussed further in Section 4 of this Statement.

3.29 In the determination of this Application, the weight to be given to Policy DC 4 part (i) should be given limited weight as the advice and guidance set out in SPP and PAN 72 have been ignored by the Council.

**Policy DC 5: Housing as Enabling Development**

3.30 This policy supports the building of new house in the countryside where it is required as enabling development for another form of development. The proposal is not acting as enabling development and therefore is not relevant to the determination of this application.

**Policy DC 8: Countryside Around Towns**

3.31 Inset Map 10 of the adopted LDP designates the site under Policy DC8: *Countryside Around Towns*. The preamble to Policy DC8 states that the objectives of the *Countryside Around Towns* designation are:

- *to conserve the landscape setting, character or identity of the particular settlement; and / or*
- *to prevent the coalescence of settlements; and/or*
- *where it can provide opportunity for green network and recreation purposes.*

3.32 Paragraph 5.16 of the adopted LDP confirms that certain areas within East Lothian's landscape are *...of particular importance and merit a degree of enhanced protection*. These areas include those designated under Policy DC8 of the adopted LDP.

3.33 The Policy itself states that development *...that would harm the objectives of the specific Countryside Around Towns area, as defined in supplementary planning guidance, will not be permitted. New development within areas designated as Countryside Around Towns will be supported in principle only where:*



- i. it is required to implement part of the green network strategy as defined by that strategy;*
- ii. it is required for community uses;*
- iii. it is required for rural business, tourism or leisure related use;*
- iv. it is essential infrastructure that has a clear operational requirement for that particular location and there is no other suitable site available.*

3.34 Policy DC8 of the adopted LDP provides further restrictions on certain types of development which are permitted within countryside locations. Policy DC8, therefore, does not provide support for a new home that isn't linked to any of the four criteria outlined above. The principle of the development does not find support in Policy DC8.

3.35 Notwithstanding the above, Policy DC8 also confirms that any new development ...*must not harm the landscape setting of the countryside location and must be of a scale, size and form that would not harm the objectives for the countryside around towns designation.*

3.36 An assessment against the three objectives<sup>1</sup> of the *Countryside Around Towns* designation (as set out in the Policy preamble) is provided as follows:

1. *to conserve the landscape setting, character or identity of the particular settlement*

A *Landscape and Visual Impact Assessment* (LVIA) has been prepared to assess the impact of this proposal. The purpose of the LVIA is to assess the impact of the proposal on the Special Landscape Area in which the Application site is located and on other identified landscape and visual receptors in the vicinity. The Council has confirmed the seven viewpoints that should be taken into account in this LVIA.

The *North Berwick Law* Special Landscape Area has been designated by the Council as it is considered to be an important feature that contributes to North Berwick's sense of place. Section 8 of the LVIA provides an assessment of the impact of the proposal on the Special Landscape Area. The findings of the LVIA conclude that ...*The diminutive effect of the proposal in views towards or from North Berwick Law does not materially affect the Special Qualities and Features of the SLA.*

The LVIA confirms that the location and scale of the proposal will not impact on the setting of North Berwick Law. This is partly due to the inclusion of a green 'sedum' roof, which reduces the visual impact of the proposal on views from North Berwick Law towards the settlement to the north. This is demonstrated within Viewpoint 4 – *North Berwick Law* on page 26 of the LVIA. Viewpoint 4 demonstrates that the proposal will sit within the existing residential built form at the Heugh. It will, therefore, not detract from existing views towards North Berwick or the coast beyond.

The proposal is also far enough away from the base of the Law that it does not affect the relationship between the *Crag and Tail* of Berwick Law.

The proposal will not impact on the landscape setting, character or identity of North Berwick. The proposal will, therefore, not impact upon this objective of the *Countryside Around Towns* designation.

2. *to prevent the coalescence of settlements*

The site is located approximately 180m to the south west of North Berwick between existing residential development to the east at the Heugh and the Category B Listed Water Tank to the west. The Water Tank has planning consent to be converted in a house. Once converted, the

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<sup>1</sup> Each of these objectives have been numbered for ease of reference

Water Tank will form part of the existing building group forming the residential development at the Heugh.

Given that the proposal is located within this existing building group, the development of the site will not result in the coalescence of North Berwick with this building group at the Heugh.

The proposal will, therefore, not impact upon this objective of the *Countryside Around Towns* designation.

3. *where it can provide opportunity for green network and recreation purposes*

The site is located within a small corner of a large agricultural field, between existing built development. The site does not provide any opportunities to strengthen the existing green network or for recreational purposes.

The proposal will, therefore, not impact upon this objective of the Countryside Around Towns designation.

3.37 It is accepted that the principle of the development is not supported by Policy DC8. For the reasons set out within this Statement, it is considered that there are material considerations that outweigh the proposal's non-compliance with aspects of Policy DC8 of the adopted LDP.

3.38 It should be noted that this proposal does not adversely impact on the objectives of Policy DC8.

3.39 This Policy is a relevant consideration and needs to take into account advice in the approved *Countryside and Coast* SPG.

3.40 The site lies within the North Berwick Countryside Around Town (CAT) area of the *Countryside and Coast* SPG. This states that *...development to the east of North Berwick along the tail would impact detrimentally on the importance of North Berwick Law as a distinctive feature of the setting of the town.* (page 38 of the SPG). The SPG states that CAT areas... *form the distinctive setting of the town and should be protected from visually harmful development that would detrimentally impact on these views or the countryside setting of the town and the landscape setting and character of the Law* (page 39 of the SPG).

3.41 In the Report of Handling for the previous application, the case officer introduced the following description of the site.

*The application site is in a countryside location ...that is characterised by a low density dispersed built form within an agricultural landscape. ...the existing group houses at Heugh Steading and the approved conversion of Heugh Reservoir ...are existing buildings and thus they are not therefore new build developments. Those existing characteristics are long established in their countryside location and form part of the landscape character and appearance of the area.*

3.42 This is an odd description of the Application site. The site is located on the tail of the North Berwick Law. Irrespective of the change of use of the surrounding buildings to residential use, the proposal is in an infill site between existing development. The tail is developed on either side of the proposal and therefore the impact of any new development is much reduced given the existing extent of development. Given that these existing developments form part of the landscape character and appearance in the area, further development on an infill site will have more limited impact. These characteristics are in support of this proposal. This is the fundamental reason as explained in PAN 72 why further housing in the countryside should be located in building groups.



3.43 It is noted that Policy DC8 states that ...*Development that would harm the objectives of the specific Countryside Around Town area, as defined in supplementary planning guidance, will not be permitted.* The Policy then highlights four categories of development that will be supported. The proposal is not one of these categories. The Policy finally notes that ... *Any new development must not harm the landscape setting of the countryside location and must be a scale, size and form that would not harm the objectives for the countryside around towns.*

3.44 If the proposal can demonstrate that these requirements are met, then the proposal as new development complies with Policy DC8. Compliance with the *Countryside and Coast SPG* is set out in Section 4 of this Statement.

**Policy DC 9: Special Landscape Areas**

3.45 Map 4 *Coastal Categorisation and Special Landscape Areas* of the adopted LDP designates the site within the *North Berwick Law* Special Landscape Area (SLA). The total area of the SLA equates to over 200 ha in size. As shown on Dwg. No 20015-STAN-P002 *Site Context*, around 17.8 ha of the SLA is located within the settlement boundary of North Berwick.

3.46 Paragraph 5.23 of the adopted LDP confirms that the Council has prepared Supplementary Planning Guidance on Special Landscape Areas. The LDP confirms that development is required to be in accord with this Supplementary Planning Guidance.

3.47 Policy DC9: *Special Landscape Areas* states that development within or affecting a Special Landscape Area ...*will only be permitted where:*

1. *it accords with the Statement of Importance and does not harm the special character of the area; or*
2. *the public benefits of the development clearly outweigh any adverse impact and the development is designed, sited and landscaped to minimise such adverse impacts.*

3.48 Policy DC9 confirms that the Council ...*will refer to the Statement of Importance of the relevant site in assessing planning applications.*

3.49 The Council's Supplementary Planning Guidance (SPG) *Special Landscape Areas* confirms that North Berwick Law is designated as an SLA because it is an important feature that contributes to North Berwick's sense of place. It is also designated for its recreational, wildlife, cultural and archaeological values.

3.50 As set out above, 17.8 ha of the SLA is located within the settlement boundary of North Berwick. Around 2.84 ha of the SLA is also located within site allocation ref: PROP NK4 *Land at Tantallon Road, North Berwick*. This mixed use allocation (including 125 homes) is located to the north east of the Application site. PROP NK4 is currently under construction with around 0.61 ha of built development (including 16 homes and gardens) located within the SLA.

3.51 This Area's Statement of Importance is set out in the Council's SPG. The SPG notes that the housing at the Heugh is generally built from stone from the Law. This provides a link between the natural and built environment with the pantiled roofs contrasting with the surrounding fields when viewed from the Law. The Statement of Importance also notes that the scale and agricultural appearance of the housing relates to the agricultural use of the area.

3.52 The Statement of importance (as set out in the SPG) also notes that:

*There is a historic relationship between North Berwick Town and the Law which has affected development of North Berwick since at least the medieval times. The Law was a prominent marker within the landscape and is still visually prominent and visible from East Lothian.*

3.53 The Statement of Importance has the following guidelines for development and the Case Officer determined that the following are the most relevant:

- Any proposed development must not harm open views to the Law
- Any proposed development must not harm the Law as a landmark crag and tail feature, both in close and distance views or compete with it as a focal point within the landscape
- Any proposed development must not harm views of the Law in particular from the John Muir Way, A198 and B1347.

3.54 An assessment of the proposal against these three guidelines is provided as follows:

- Any proposed development must not harm open views to the Law

The *Landscape and Visual Impact Assessment* (LVIA) provides an assessment of the impact of the proposal on views both towards and from North Berwick Law. The LVIA includes viewpoints from the south east of the Law (from Core Path 79), from Dunbar Road and from Tantallon Road. The location of these viewpoints were agreed with the Council prior to the submission of the previous Application.

As demonstrated within the LVIA, the proposal will not harm the existing views towards the Law. The proposal is located within an infill site, between existing residential homes to the east and the consented conversion of the Water Tank to the west.

As concluded in Section 8 of the LVIA ...*The diminutive effect of the proposal in views toward or from North Berwick Law does not materially affect the Special Qualities and Features of the SLA.*

As shown on Dwg. No 20015-STAN-P002 *Site Context*, around 17.8 ha of the SLA is located within the settlement boundary of North Berwick. The Council has also allocated a mixed use development (PROP NK4) which encompasses around 2.84 ha of the SLA. This mixed use allocation includes for 125 homes (currently under construction), of which, 16 homes are located within the SLA designation.

PROP NK4 is located around 200m to the north east of the Application site, The total area of built development consented by the Council within the SLA equates to 0.61 ha. The proposal subject of this Application equates to 0.25 ha. This current proposal is, therefore, less than 50% of an area previously consented by the Council for development within the SLA.

The LVIA has demonstrated that this current proposal will not harm the existing open views to the Law. The Council has also previously supported built development within the SLA, including 16 homes from the consented development PROP NK4 which is located around 200m to the north east of the Application site.

- Any proposed development must not harm the Law as a landmark crag and tail feature, both in close and distance views or compete with it as a focal point within the landscape.

As set out in Section 6 of the LVIA, North Berwick Law has a distinctive conical form and 'crag and tail' features. These features provide a focal point within the wider area, with the Law visible in long distance views to North Berwick from all directions.

As set out within the LVIA, the proposal will introduce an additional house within the existing and much more significant extent of built form along the ridge that runs from the edge of North Berwick Law to the Heugh to the east. When viewed from the south, the proposed house will appear to be of a similar scale to existing properties to the east and the Water Tank to the west. Whilst the proposal will extend the built form west from the existing buildings at the Heugh, the proposal will maintain a clear visual separation to the Water Tank in accord with the pre-application response from the Council.

This visual separation has been achieved by siting the proposed house within the eastern part of the Application site. This siting has enabled a separation of 18m to be formed from the edge of the proposed house and the western boundary of the site. As shown on Viewpoint 1 Core Path 79 at Heugh Brae (page 20 of the LVIA), the proposal will retain a clear visual separation between the existing built form of the Heugh and the Water Tank along the existing ridge.

The second key viewpoint is from North Berwick Law. As noted within the LVIA, the existing properties at the Heugh are seen in the context of the nearby farm buildings, the Category B Listed Dovecot, the former Water Tank, and mobile phone masts, located within 100m of the site.

The proposal will introduce additional built form in the small area of ground between the existing properties at the Heugh and the Water Tank. As shown on Viewpoint 4 North Berwick Law (page 26 of the LVIA), the visual impact of the proposed house will be minimised. This is partly due to the introduction of the proposed sedum roof, which will blend the largest surface (the roof) of the proposal into the surrounding landscape.

As concluded within Section 8 of the LVIA, the proposal will not affect views of the crag and tail feature of the Law when viewed from the north and south. This is due to the proposal being situated over the horizon when viewed from the north, with the proposed earth bund ensuring views from the south remain uninterrupted.

- Any proposed development must not harm views of the Law in particular from the John Muir Way, A198 and B1347.

The LVIA provides an assessment of the impact of the proposal from these three views.

Viewpoints 3 and 5 of the LVIA provide an assessment of the proposal from the A198 at both Dunbar Road (to the north of the site) and Tantallon Road (to the north east). These viewpoints are also located along the John Muir Way.

The LVIA states that the proposal *...introduces a small extrusion above the horizon between the existing properties at Heugh and the former water tank...* when viewed from Dunbar Road. The LVIA, therefore concludes that the proposal will not result in a noticeable change to the experience of the landscape from this viewpoint.

The LVIA assesses that the proposal, when viewed from the Tantallon Road *...does not alter or detract from the legibility of the 'crag and tail' feature of the Law.*

Viewpoint 1 Core Path 79 at Heugh Brae is taken from a view to the immediate west of the B1347. Section 8 of the LVIA states that whilst the proposal will introduce a new building within this view *...the proposed building appears to be of a roughly similar scale to the existing properties, and does not overly stand out from this location.*

The LVIA, therefore, concludes that the proposal will only have a minor effect on this viewpoint.

3.55 The proposal is, therefore, in accord with the Council's Statement of Importance for *North Berwick Law* SLA. The proposal is, therefore, compliant with criteria 1 of Policy DC9.

3.56 Criterion 2 of Policy DC9 states that development will only be permitted if the public benefits outweigh any adverse impact associated with the development. As set out within this Statement, the development proposal will not lead to any adverse impacts on the surrounding landscape.

3.57 The proposal is, therefore in accord with Policy DC9 of the adopted LDP.

**Policy DP1: Landscape Character**

3.58 Policy DP1: *Landscape Character* requires a proposal to consider its impact upon its surroundings. The Policy requires the proposal to:

1. *Be well integrated into its surroundings by responding to and respecting landform, and by retaining and where appropriate enhancing existing natural and physical features at the site, including water bodies, that make a significant contribution to the character and appearance of the area and incorporate these into the development design in a positive way;*
2. *Include appropriate landscaping and multifunctional green infrastructure and open spaces that enhance, provides structure to and unifies the development and assists its integration with the surroundings and extends the wider green network where appropriate.*

3.59 An assessment against these two criteria is provided below:

1. *Be well integrated into its surroundings by responding to and respecting landform, and by retaining and where appropriate enhancing existing natural and physical features at the site, including water bodies, that make a significant contribution to the character and appearance of the area and incorporate these into the development design in a positive way;*

The proposal will be located along an existing ridgeline that runs from North Berwick Law to the Heugh to the east of the site. This ridgeline falls from west to east and is identified as forming part of the *North Berwick Law* Special Landscape Area designation.

The landscape proposals include the creation of an earth bund along the southern boundary of the Application site. This bund will be tapered to match the bund landform around the existing Water Tank to the west. The bund will rise from the south east and finish at a height of around 2.25m in the south west corner of the Application site. The bund will provide a protective setting for the new house whilst responding to the surrounding landform. The bund will give the appearance that the proposal sits beyond the horizon when viewed from the south. This will help to integrate proposal into the Special Landscape Area.

The proposal also includes a proposed green 'sedum' roof. The introduction of the green roof will blend the largest surface of the proposal into the surrounding landscape. This will help to integrate the proposal into its landscape setting when viewed from North Berwick Law.

There are no waterbodies or other landscape features within the site that require to be protected or enhanced.

The proposal is therefore compliant with criterion 1 of Policy DP1.

*2. Include appropriate landscaping and multifunctional green infrastructure and open spaces that enhance, provides structure to and unifies the development and assists its integration with the surroundings and extends the wider green network where appropriate.*

In addition to the landscape bund discussed above, the proposal will include tree planting in the south east corner of the site. This additional tree planting will help to restrict views of the proposal from the south east.

Given the scale of the proposal, there is no requirement to provide multi-functional green infrastructure and areas of open space. The proposed footprint of the building is less than 30% of the total site area. The proposal provides sufficient garden ground and open space within the site.

This demonstrates that the proposal is in accord with Policy DP1 criterion 2.

3.60 The proposal is therefore in accord with Policy DP1.

**Policy DP2: Design**

3.61 This Policy is relevant to the determination of this Application. Policy DP2: *Design* sets out the Council's requirements for the design of new development. The proposal is required to comply with the following criteria:

- 1. Be appropriate to its location in terms of its positioning, size, form, massing, proportion and scale and use of a limited palate of materials and colours that complement its surroundings;*
- 2. By its siting, density and design create a coherent structure of streets, public spaces and buildings that respect and complement the site's context, and create a sense of identity within the development;*
- 3. Position and orientate buildings to articulate, overlook, properly enclose and provide active frontages to public spaces or, where this is not possible, have appropriate high quality architectural or landscape treatment to create a sense of welcome, safety and security;*
- 4. Provide a well connected network of paths and roads within the site that are direct and will connect with existing networks, including green networks, in the wider area ensuring access for all in the community, favouring, where appropriate, active travel and public transport then cars as forms of movement;*
- 5. Clearly distinguish public space from private space using appropriate boundary treatments;*
- 6. Ensure privacy and amenity, with particular regard to levels of sunlight, daylight and overlooking, including for the occupants of neighbouring properties;*
- 7. Retain physical or natural features that are important to the amenity of the area or provide adequate replacements where appropriate;*
- 8. Be able to be suitably serviced and accessed with no significant traffic or other environmental impacts*

3.62 The following provides an assessment of the proposal against these criteria.

*1. Be appropriate to its location in terms of its positioning, size, form, massing, proportion and scale and use of a limited palate of materials and colours that complement its surroundings*

The proposed house has been positioned within the site to retain a visual separation between the existing built form to the east and the Category B Listed Water Tank to the west. The positioning of the house in the eastern part of the site will achieve a separation of 18m from the boundary adjoining the Water Tank. This separation responds to concerns raised by the Council during pre-application discussions for the previous application.

The proposed home has been designed to maximise the extent of south facing garden. This will provide appropriate amenity space for future residents of this home.

The proposed home has been designed to ensure that the overall scale and massing does not detract from the nearby designations. The home has been set at lower ground level than the pre-application proposal, with a finished ground level (FGL) of +64.8m. This ground level has been determined by the levels required to provide vehicular access to the proposed house, and to ensure the long distance views from the north and south are retained.

The proposed house also features a single pitch 'sedum' roof that follows the slope of the existing ridgeline. The eaves height is set at +70.20m and the ridge at +72.8m. The proposed roof height is in keeping with adjacent properties, and below the ridge height of the Water Tank at +77.81m. The highest point of the roof will be 8.15m above finished floor level along the southern elevation. The roof will slope to the north to a low point of 5.5m above finished floor level along the northern elevation.

As demonstrated within the *Landscape and Visual Assessment*, this will minimise the visual impact of the proposal when viewed from the north of the site and any impact is negligible.

The proposal incorporates a contemporary design solution, which is appropriate for the site's agricultural surroundings. The proposal will utilise a limited palette of quality materials that will complement the site's setting.

The use of white render reflects the neighbouring properties to the east of the site. The southern elevation of the property comprises a combination of white render, glazing, and zinc cladding. This will help to break up the visual massing of the building when viewed from the south.

The use of large expanses of glazing will help to embed the new home into the existing context by reflecting the light and trees.

As shown within viewpoint 4 of the *Landscape and Visual Assessment*, the introduction of the green 'sedum' roof will help integrate the proposed home into its surrounding landscape setting when seen from the elevated viewpoint on top of North Berwick Law

The proposal is in accord with this criterion of Policy DP2.

*2. By its siting, density and design create a coherent structure of streets, public spaces and buildings that respect and complement the site's context, and create a sense of identity within the development*

This criterion relates to larger scale proposals and is not strictly relevant to the determination of this Application. The siting and proposed design of the homes has been developed to complement the site's location within the Special Landscape Area.

The siting of the proposed home has been selected to sit adjacent to the existing residential dwellings to the east of the site. This siting will maintain a separation between these existing residential dwellings and the Category B Listed Water Tank to the west.

*3. Position and orientate buildings to articulate, overlook, properly enclose and provide active frontages to public spaces or, where this is not possible, have appropriate high quality architectural or landscape treatment to create a sense of welcome, safety and security*

This criterion relates to larger housing developments and is not applicable to this Application.

*4. Provide a well connected network of paths and roads within the site that are direct and will connect with existing networks, including green networks, in the wider area ensuring access for all in the community, favouring, where appropriate, active travel and public transport then cars as forms of movement*



This criterion relates to larger housing developments. Whilst it is not applicable to this proposal, the house connects directly to the available track and access road.

*5. Clearly distinguish public space from private space using appropriate boundary treatments*

The criterion relates to proposals for larger housing developments. The proposal will not require to distinguish public space from private space. Land to the north and south will remain in agricultural use.

*6. Ensure privacy and amenity, with particular regard to levels of sunlight, daylight and overlooking, including for the occupants of neighbouring properties*

The proposed home has been sited to ensure there is no overlooking or privacy issues. The design and orientation of the proposed home will ensure that there will be no issues of overlooking or privacy.

*7. Retain physical or natural features that are important to the amenity of the area or provide adequate replacements where appropriate*

The proposal will not result in the loss of any physical or natural features that are important to the amenity of the area. The proposal has been designed to minimise any impact on the surrounding Special Landscape Area.

As shown on Dwg. No 20015-STAN-P002 *Site Context*, around 17.8 ha of the SLA is located within the settlement boundary of North Berwick. This includes mixed use allocation PROP NK4 which is located around 200m to the north east of the Application site,

This mixed use allocation has been granted planning permission by the Council and is currently under construction. The total area of built development consented by the Council within the SLA equates to 0.61 ha. The proposal subject of this Application equates to 0.25 ha. This current proposal is, therefore, less than 50% of an area previously consented by the Council for development within the SLA.

The proposal does not have an adverse impact on the setting of the adjacent Category B Listed Water Tank to the west of the site (refer to paragraphs 3.61 to 3.90).

The landscape proposals include the creation of an earth bund along the southern boundary of the Application site. This bund will be blended and tapered to match the landform around the existing Water Tank to the west. The bund will rise from the south east and finish at a height of around 2.25m in the south west corner of the site. The bund will provide a protective setting for the new house whilst responding to the surrounding landform.

The proposal is in accord with this criterion of Policy DP2.

*8. Be able to be suitably serviced and accessed with no significant traffic or other environmental impacts*

The proposed home will be accessed from the existing road that serves the Water Tank to the west.

The proposed driveway has been sited to the east of the proposed home to minimise its visual impact when viewed from the south.

The proposal is in accord with this criterion of Policy DP2.

3.63 The proposal fully accords with all of the criteria in Policy DP2.

**Policy CH1: Listed Buildings**

- 3.64 This Policy is relevant insofar that *...new development that harms the setting of a listed building will not be permitted.*
- 3.65 The *North Berwick Drinking Water Tank* (the Water Tank) adjacent to the western boundary of the site, is a Category B Listed Building. The full listing description for the Water Tank is as follows:
- 1905, octagonal water tank sited on hill above burgh, roofed circa 1911. Brick base course bearing octagonal slate roof wept close to ground with apex ventilator. Gabled porches with slated roofs rising well above low eaves in opposite roof pitches.*
- INTERIOR: Brick tank with steel trussed framework supporting roof.*
- 3.66 This listing description does not specify any matters relating to the setting of the Water Tank.
- 3.67 This Application is supported by an *Assessment of the Impact on the Setting of Cultural Assets* Report. There are three cultural heritage designations relevant to the determination of this Application. The following assesses the proposal's impact upon these designations against relevant policies of the adopted LDP.
- 3.68 The preamble to Policy CH1: *Listed Buildings* states that the *...setting of a listed building can be affected by new development proposed within its curtilage, adjacent to it or visible from it. Development proposals ...should not interrupt key views of, from or to a listed building and ensure that the presence of new development does not dominate or detract from the listed building in a way that affects understanding and appreciation of it.*
- 3.69 Policy CH1 also states that new *...development that harms the setting of a listed building will not be permitted.*
- 3.70 There are two Category B Listed Buildings within close proximity of the site. The closest is the Category B Listed *Heugh Farm, North Berwick Drinking Water Tank* (Water Tank), which is located adjacent to the western boundary of the site.
- 3.71 The majority of the Listed Water Tank and associated infrastructure is located underground. Only its most distinctive feature, the slated, domed roof, and some associated ancillary cabinets, are visible above ground.
- 3.72 An application to convert the Water Tower into a residential dwelling and office was granted in April 2020 (Ref: 19/00700/P). The proposed works include the excavation of part of the bund that surrounds the building (to the south), and the introduction of window openings.
- 3.73 The consented proposals for the Water Tank will increase its visibility in views from the south and changes the impression of this building to being more residential in nature.
- 3.74 As noted above, this Application is supported by an *Assessment of the Impact on the Setting of Cultural Assets* Report. This Report provides an assessment of the impact of the proposal on the Water Tank and its setting.
- 3.75 The Water Tank is located just south of the ridgeline formed by the 'tail' of North Berwick Law located to the west. The Water Tank is surrounded by a landscaped bund, with this grassed slope providing the immediate setting for the roof of the Water Tank. The bund creates the appearance of a simple groundline extending from North Berwick Law to the Heugh to the east.
- 3.76 To the immediate west of the Listed Building are mobile phone masts and associated infrastructure. These features have detracted from the setting of the Listed Buildings and detract



from the rhythm of the features on the ridgeline - North Berwick Law, the Water Tank roof, and residential development at the Heugh.

- 3.77 The Water Tank is also currently surrounded by 2m security fencing. This fencing detracts from the elegance and simplicity of its roof structure in close views.
- 3.78 The design and siting of the proposed home has evolved to ensure that a visual separation between the existing built form to the east (the Heugh) and the Water Tank is retained. The siting of the house in the eastern part of the site will achieve a separation of 18m from the boundary adjoining the Water Tank, and a separation of 23m from the Water Tank itself. This responds to concerns raised by the Council during pre-application discussions. By maintaining this separation, the Law, Water Tank, and residential development at the Heugh will continue to be read as distinctive elements on the horizon.
- 3.79 The proposed home has been set back from the northern site boundary by 8m. This is behind the building line of the existing properties to the east. This setback allows views towards the Water Tank from existing properties to be retained.
- 3.80 The scale of the proposed house is similar to the existing properties to the east at the Heugh. The house has a finished ground level (FGL) of +64.8m. This ground level will ensure the long distance views from the north and south are retained.
- 3.81 The *Statement of Special Interest* for the Water Tank in the Listing includes reference to the unusual roofing form, which was a subsequent addition to the original building. The impact of the proposal on the setting of the roof of the Water Tank is, therefore, a determining factor in assessing its impact upon this Listed Building.
- 3.82 Viewpoint 2 of the *Assessment of the Impact on the Setting of Cultural Assets* Report demonstrates that the proposed house will introduce ...*a minor extrusion above the horizon between the Water Tank and the existing properties at Heugh*. As the vertical scale of the proposed house is less than the properties to the east at the Heugh and the Water Tank to the west, the Report concludes that the unique vertical shape of the Water Tank roof will remain prominent. when viewed from key viewpoints to the south.
- 3.83 The proposal, therefore, does not dominate or detract from the setting of the Water Tank or how it is understood.
- 3.84 The second Listed Building is the Category B Listed *Heugh Farm Dovecot* (Dovecot). The Dovecot stands within open fields around 120m to the south east of the Application site. The Dovecot forms part of the foreground setting in views from the south. The height of the Dovecot means that it does not protrude into the skyline. The location of the Dovecot (on the south facing slope of the ridgeline of the crag and tail feature of North Berwick Law) limits the visibility of the building in views from the north.
- 3.85 The primary views of the Dovecot are from Core Path 79 to the south and from Heugh Brae to the east. The photomontages of viewpoints 1 and 2 in the *Assessment of the Impact on the Setting of Cultural Assets* Report demonstrate that the proposal will not obstruct views of the Dovecot from the south, east or north east.
- 3.86 The proposal, therefore, does not dominate or detract from the setting of the Dovecot or how it is understood.

- 3.87 For the reasons set out in the *Assessment of the Impact on the Setting of Cultural Assets* Report, the proposal will not impact upon the setting of either Listed Building. The proposal is, therefore, in accord with Policy CH1.
- 3.88 The site is located approximately 350m east of North Berwick Law, which is a designated Scheduled Monument consisting of a *fort, hut circles and enclosures*. Policy CH4: *Scheduled Monuments and Archaeological Sites* of the adopted LDP states that:
- ...Where a proposed development might affect any Scheduled Monument or archaeological site (of known or suspected archaeological interest), the developer must undertake and make available to the planning authority a professional archaeological assessment and, if necessary, a field evaluation. Development that adversely impacts on a scheduled monument, or its setting, will not be permitted.*
- 3.89 The Historic Environment Scotland (HES) citation for North Berwick Law does not include a detailed description of the Scheduled Monument. The location of the Scheduled Monument on North Berwick Law is presumed to relate to its defensible location, with good visibility of the surrounding area.
- 3.90 The *Assessment of the Impact on the Setting of Cultural Assets* Report does not provide a detailed assessment of the impact of the proposal on the Scheduled Monument. An assessment of the impact of the proposal on North Berwick Law and its setting is contained within the LVIA.
- 3.91 An assessment of the impact of the proposal on North Berwick Law is provided against Policy DC9: above. The LVIA confirms that the location and scale of the proposal does not impact upon the setting of North Berwick Law.
- 3.92 The proposal is, therefore, in accord with Policy CH1.
- Other policy considerations**
- 3.93 LDP Policy SEH2: *Low and Zero Carbon Generating Technologies* states that *...all new buildings must include Low and Zero Carbon Generating Technologies (LZCGT) to meet the energy requirements of Scottish Building Standards.*
- 3.94 The proposal will utilise air source heat pumps. The proposed LZCGT measure is included within the technologies considered acceptable under Policy SEH2 (as set out in LDP Advice Box 4). The locations of the proposed air source heat pumps are shown on Dwg. No PL03a *Proposed Ground Floor Plan*.
- 3.95 The proposal has also taken cognisance of other environmental and design considerations. The *Ecological Assessment* has confirmed that there are no natural environment designations or protected species on the site. The conclusion from the *Ecological Assessment* is that *...there will be an enhancement of biodiversity as a consequence of development as proposed.*
- 3.96 The site is also not at risk of flooding as confirmed by the online SEPA Flood Mapping tool.
- 3.97 LDP Policy NH7: *Protecting Soils* states that development on prime agricultural land will not be permitted unless:
- *It is to implement a proposal of this plan, or*
  - *It is necessary to meet an established need and no other suitable site is available; or*

- *It is for an appropriate development in the countryside, including that which is directly linked to a rural business or an existing house; and*
- *The layout, design and construction methods of development minimises the amount of such land that is affected, taking into account the design policies of the plan.*

3.98 The Report of Handling for the previous application stated that the Macaulay Land Capability for Agriculture (LCA) classification identifies the site as being Class 5.1 *Land capability for agriculture (partial cover)*. A review of the *Land capability for agriculture (partial cover)* mapping confirms that the site is classified as Class 5.1 *Land capability for agriculture (partial cover)*. The site is, therefore, not prime agricultural land as concluded within the Report of Handling.

#### **Compliance with the approved development plan**

3.99 The Council in its Report of Handling has highlighted the policy framework which this proposal presumably will also need to accord with and these policies were set out in the Reasons for Refusal for the previous application. This LDP policy framework has been reviewed in detail and conclusion reached that the Council is not properly following its policy framework in the adopted LDP. The conclusions reached on these matters are as follows:

1. There is no policy presumption in the adopted LDP for housing in the countryside. The Council has developed a policy framework where housing in the countryside is only permitted under specified circumstances such as operational need or enabling development. The Council's justification for this policy approach is that SPP inhibits the application of advice and guidance in PAN 72. This is not the case and a major misunderstanding on the Council's part. Consequently, limited weight needs to be given to the Council's LDP policy framework.
2. Policy DC1: *Rural Diversification* is not relevant to the determination of this Application for the reasons explained above.
3. Policy DC4: *New Build Housing in the Countryside* is in two parts. The second part supports affordable housing in the countryside and is in accord with advice in SPP and PAN 72 but is not relevant to the determination of this Application as the proposal is not for affordable housing.

The first part of this Policy, as already highlighted, should not be restricting housing in the countryside in terms of its tenure. Planning policy should only be about imposing restrictions to that associated with impacts of the physical presence or impact of new housing (or house in this case) in the countryside.

Further, in order to control development approved under this policy, the Council needs to impose occupancy conditions. As the Council is aware, this policy approach is contrary to SPP (paragraph 81) which requires development plans to set out the circumstances in which new housing outwith settlements may be appropriate - **avoiding the use of occupancy restrictions** (our emphasis).

The proposal therefore is not contrary to SPP regarding control of housing development in the countryside.

Our conclusion is that limited weight should be given to this policy since it is contrary to both SPP (paragraph 81) and ignores the advice in PAN 72.

4. Policy DC5: *Housing as Enabling Development* is not relevant to the determination of this Application for the reasons explained above.
5. Policy DC8: *Countryside Around Towns* places further restrictions on the types of development acceptable in countryside locations. Policy DC8, therefore, does not provide support for a new home that isn't linked to any of the four criteria mentioned.
6. It is accepted that the principle of the development is not supported by Policy DC8. For the reasons set out in this Statement, the Council's policy framework ignores the advice in PAN 72. The adopted LDP is deficient in that it lacks a policy on housing in the countryside unlike every other planning authority in the SESplan area. In this circumstance, less weight should be given to the proposal being contrary to Policy DC 8. Policy DC9: *Special Landscape Areas* restricts development within Special Landscape Areas to that which accords with its relevant Statement of Importance and does not harm its special character.

An assessment of the proposal's compliance with the Statement of Importance for *North Berwick Law* SLA is set out above. The assessment (based on the findings of the LVIA) concludes that the proposal is in accord with the Statement of Importance and will not harm its special character.

The development of a single house will have no adverse impacts on the North Berwick Special Landscape Area due to its location within an existing building group, its minuscule size within the Special Landscape Area (0.1% of the total area) and finally the appropriateness of the design, including the siting of the house. The proposal therefore accords with Policy DC 9.

7. Policy DP1: *Landscape Character* requires a proposal to assess its impact on its surroundings. An assessment of the proposal against the two criterion of Policy DP1 is set out above. The findings of this assessment are that the proposal is compliant with these criteria.
8. Policy DP2: *Design* sets out eight design criteria which new development must demonstrate compliance with. An assessment of the proposal against these eight criteria is set out above. The findings of this assessment are that the proposal is compliant with these criteria.
9. Policy CH1: *Listed Buildings* prevents new development that will harm the setting of a listed building. The proposal is located adjacent to the Category B Listed Water Tank which has planning approval for its conversion into a residential home. The *Heugh Farm Dovecot*, located to the south of the proposal is also a Category B Listed Building.

This Application is supported by an *Assessment of the Impact on the Setting of Historic Assets* report. The findings of the Assessment demonstrate that ...*the proposal will have a negligible impact on the setting of the Category B Listed North Berwick Drinking Water Tower and Heigh Farm Dovecot.*

The proposal is, therefore, compliant with Policy CH1.

- 3.100 As set out above, the adopted LDP does not have a policy presumption against housing in the countryside. Effectively, the Council has developed a policy position where it only supports private housing in the countryside if an operational need can be demonstrated, or for small scale affordable housing within or next to a small-scale settlement. This is contrary to SPP (paragraph 81) which states that occupancy restrictions should not be used. It is also contrary to advice in PAN

72 which supports infill development within existing building groups as well as individual houses in the countryside.

- 3.101 The proposal complies with other policies in the adopted LDP which relate to the proposal's impact on its surrounding environment.
- 3.102 The policy framework of the adopted LDP ignores proposals for infill development within existing building groups in countryside locations. In these circumstances, the adopted LDP policy framework should be given limited weight. There is, therefore, a requirement to consider whether there are any material considerations that outweigh the proposal's non-compliance with every policy in the adopted LDP.

## 4.0 Material Considerations

- 4.1 Decisions on planning applications need to be taken in accordance with the development plan unless material considerations indicate otherwise. The conclusion reached in Section 3 of this *Supporting Statement* is that the proposal is not fully in accord with the development plan.
- 4.2 Material considerations both for and against this Application should be considered and assessed to determine whether these warrant a departure from the approved development plan.
- 4.3 Circular 3/2013: *Development Management Procedures* (Annex A) explains what material considerations can be considered. All material considerations presented must meet the main tests as to whether a consideration is material and relevant. All matters must be related *...to the development and the use of the land... and ...fairly and reasonably relate to the planning application before the Council* (paragraph 3 of Circular 3/2013 Annex A).

### **Scottish Planning Policy (2014)**

- 4.4 The purpose of SPP is to set out national planning policies, which reflect Scottish Ministers' priorities for the development and use of land. As such, SPP is a material consideration in the determination of this Application.
- 4.5 SPP promotes the presumption in favour of sustainable development, stating that:

*The planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost* (paragraph 28).

- 4.6 SPP is clear that proposals which do not accord with the development plan should not be considered acceptable unless material considerations indicate otherwise. It states that:

*Where a proposal is for sustainable development, the presumption in favour of sustainable development is a material consideration in favour of the proposal. Whether a proposed development is sustainable development should be assessed according to the principles set out in paragraph 29* (paragraph 33).

- 4.7 The presumption in favour of sustainable development, as set out in SPP, is a material consideration in the determination of all planning applications. The presumption in favour of sustainable development does not change the statutory status of the approved development plan as the starting point for decision making.
- 4.8 SPP confirms that planning decisions should support sustainable development, clarifying that to assess whether a proposal supports sustainable development, the following 13 principles should be taken into account:
- *giving due weight to net economic benefit;*
  - *responding to economic issues, challenges and opportunities, as outlined in local economic strategies;*
  - *supporting good design and the six qualities of successful places;*
  - *making efficient use of existing capacities of land, buildings and infrastructure including supporting town centre and regeneration priorities;*

- supporting delivery of accessible housing, business, retailing and leisure development;
- supporting delivery of infrastructure, for example transport, education, energy, digital and water;
- supporting climate change mitigation and adaptation including taking account of flood risk;
- improving health and well-being by offering opportunities for social interaction and physical activity, including sport and recreation;
- having regard to the principles for sustainable land use set out in the Land Use Strategy;
- protecting, enhancing and promoting access to cultural heritage, including the historic environment;
- protecting, enhancing and promoting access to natural heritage, including green infrastructure, landscape and the wider environment;
- reducing waste, facilitating its management and promoting resource recovery; and
- avoiding over-development, protecting the amenity of new and existing development and considering the implications of development for water, air and soil quality.

4.9 An assessment of the proposal in the context of the 13 guiding principles of sustainable development has been undertaken. The outcome of this assessment is as follows:

<b>Table 4.1 Principles of Sustainable Development</b>	
<b>Principle</b>	<b>Assessment</b>
<i>Giving due weight to net economic benefit</i>	The Homes for Scotland and Nathaniel Lichfield and Partners joint report <i>The Social and Economic Benefits of Home Building in Scotland</i> (March 2022) calculates that 3.5 direct and indirect jobs are created per dwelling built annually.  The home proposed on site will be built within a year and would therefore sustain up to 4 new jobs during its construction.
<i>Responding to economic issues, challenges and opportunities, as outlined in local economic strategies</i>	The construction of the house will help support economic recovery and growth through the sustaining up to 4 local jobs during the construction period.
<i>Supporting good design and the six qualities of successful places.</i>	The proposal complies with the six qualities of successful places and is in accord with Scottish Government policy set out in <i>Designing Streets</i> .
<i>Making efficient use of existing capacities of land, buildings and infrastructure including supporting town centre and regeneration priorities.</i>	The development of the site will not extend the pattern of built form within this countryside location. The proposal is to be located within a disused area of a field at Wamphray Farm. The site is bounded on two sides by existing development, including the Water Tank which has consent to be converted into a residential development.  The proposal will be located within the existing building group at the Heugh.  The proposal will utilise the existing access track that serves the adjacent development to the east and the Water Tank to the west.
<i>Supporting delivery of accessible housing, business, retailing and leisure</i>	The proposed house has been designed in accord with local and national design standards, including accessibility.



<i>development.</i>	
<i>Supporting delivery of infrastructure, for example transport, education, energy, digital and water.</i>	The proposal is for a single house. Services are available within the existing building group. It will not have any impact upon existing infrastructure in the surrounding area.
<i>Supporting climate change mitigation and adaptation including taking account of flood risk.</i>	<p>The proposed house has been designed to comply with relevant technical specifications required by Building Standards and relevant climate change requirements. The proposal includes for the provision of an air source heat pump.</p> <p>The proposal is not at risk of flooding as confirmed by the SEPA online mapping tool.</p>
<i>Improving health and well-being by offering opportunities for social interaction and physical activity, including sport and recreation.</i>	<p>The proposal is within walking distance (around 700m) of existing amenities along Dunbar Road. The recreation park is located around 700m walking distance from the site.</p> <p>The proposal is, therefore, within easy walking distance of existing services and amenities, including sport and recreation.</p>
<i>Having regard to the principles for sustainable land use set out in the Land Use Strategy.</i>	<p>The Land Use Strategy 2021 – 2026 sets out national objectives relating to the economy, environment and communities. The latest Land Use Strategy 2021 – 2026 removes the ten principles that were set out in the previous iteration of the Strategy.</p> <p>The latest Strategy states that sustainable land use ...<i>means that our land will be fully contributing to the fight against climate change and biodiversity loss, benefiting the wider natural environment, supporting our communities socially and economically, and underpinning the health and wellbeing of the population.</i></p> <p>The proposal is in accord with this definition of sustainable land use. The proposal includes the provision an air source heat pump. This will provide a renewable energy source from a Low and Zero Carbon Generating Technology (LZCGT) in accord with national policy.</p> <p>An <i>Ecological Assessment</i> has been prepared in support of the proposal. The findings of this Appraisal confirm that there are no designated sites within the Site. The proposal will have no impact on any sites with any biodiversity value.</p> <p>Opportunities for social interaction and physical activity are within the 1,600m acceptable walking distance threshold stated in PAN 75 Annex B, helping consolidate 20 minute neighbourhoods.</p> <p>The location of the proposal, and the provision of active travel links within it, will contribute towards the improved health and well-being of residents.</p> <p>The incorporation of the measures and impacts listed above, demonstrate that the proposal is an example of sustainable land use.</p>
<i>Protecting, enhancing and promoting access to cultural heritage, including the historic</i>	The <i>Assessment of the Impact on the Setting of Cultural Assets</i> Report, confirms that the proposal will not impact upon the setting of the two listed buildings located near the site.



<i>environment.</i>	
<i>Protecting, enhancing and promoting access to natural heritage, including green infrastructure, landscape and the wider environment.</i>	<p>The proposal promotes access to the surrounding countryside through its proximity to Core Path 79 which is located within 300m to the south of the site.</p> <p>Landscaping proposals included in the development will also promote biodiversity and enhance the ecological and natural qualities of the area.</p> <p>The <i>Landscape and Visual Impact</i> demonstrates that the proposal will not have any significant impacts on the surrounding Special Landscape Area or the setting of North Berwick Law.</p>
<i>Reducing waste, facilitating its management and promoting resource recovery.</i>	<p>The proposal incorporates a hard standing area within the curtilage of each house for the storage, recycling and separation of waste. Domestic waste will be separated and treated according to the Council's domestic waste collection requirements. This will be pulled to the kerb in line with the Council's bin collection calendar.</p>
<i>Avoiding over-development, protecting the amenity of new and existing development and considering the implications of development for water, air and soil quality</i>	<p>The proposed density of development is appropriate for this location and makes efficient use of land.</p> <p>The proposed footprint of the house is less than 30% of the total site area. The proposed garden ground is substantial and will prevent the over development of the site.</p>

- 4.10 This assessment confirms that the proposal supports the 13 guiding principles of sustainable development as set out in SPP by Scottish Ministers. Accordingly, the proposal is sustainable development. In accord with SPP (paragraph 29), this is a material consideration which should be given weight in the determination of this Application.
- 4.11 Paragraph 136 of SPP states that the *...historic environment is a key cultural and economic asset and a source of inspiration that should be seen as integral to creating successful places.*
- 4.12 Paragraph 141 of SPP states that the *...layout, design, materials, scale, siting and use of any development which will affect a listed building or its setting should be appropriate to the character and appearance of the building and setting.*
- 4.13 As set out in Section 3, the proposal has been developed to avoid any adverse impact upon the appearance and setting of the Water Tank. The design, use of materials and scale are all appropriate to the character and appearance of the listed building. The proposal is in accord with SPP.
- 4.14 Paragraph 145 of SPP states that *...where there is potential for a proposed development to have an adverse effect on a scheduled monument or on the integrity of its setting, permission should only be granted where there are exceptional circumstances.*
- 4.15 As set out in Section 3, the proposal will not have an adverse impact upon the *North Berwick Law* Scheduled Monument. The proposal is in accord with this requirement of SPP.

### **Relationship between SPP and PAN 72 Development in the Countryside**

- 4.16 The Report of Handling for the previous Application makes only one reference to PAN 72 *Development in the Countryside*. The Report of Handling fails to provide an assessment of whether

the proposal is compliant with the guidance contained within PAN 72. It is understood that the Council considers the content of PAN 72 to have been superseded by SPP, specifically paragraph 76 and paragraph 81.

- 4.17 The Report of Handling for the previous Application makes reference to paragraph 76 of SPP which directs the Council's local development plan *...to make provision for most urban development to take place within, or in planned extensions to, existing settlements.*
- 4.18 The development strategy in the adopted LDP is completely in accord with this direction from SPP (para 76). However, this direction does not supersede or inhibit the application of the advice in PAN 72 *Development in the Countryside.*
- 4.19 Scottish Ministers expect development plans to accommodate housing in countryside as part of development plans otherwise it would have revoked PAN 72. The Scottish Ministers have not done this. PAN 72 remains current guidance for the development of housing in the countryside.
- 4.20 Planning Advice Note (PAN) 72 *Housing in the Countryside* was published by the then Scottish Executive in 2005. The purpose of PAN 72 is to set out key design principles that need to be taken into account when planning a new development for a house in the countryside. The purpose of this PAN is to provide advice and guidance to encourage future development in the countryside taking account of the design principles which should apply.
- 4.21 This national planning advice has been ignored by the Council which does allow housing in the countryside other than for operation needs. It is evident that the Council's policy framework in the adopted LDP is designed to restrict any housing development in the countryside to only that required for ongoing operational matters, contrary to the advice in PAN 72
- 4.22 Most planning authorities have adopted this advice and introduced development management policies in LDPs which support further housing in the countryside. These support new housing unrelated to operational needs and allow limited housing development in particular circumstances mainly associated with existing building groups in the countryside and new homes in rural locations. This is promoted to encourage a supply of new housing for those living in rural locations.
- 4.23 The development of suitable infill sites within small building groups in the countryside is supported by all of the other planning authorities in the SESplan region. These authorities and their associated policies are as follows:
- The City of Edinburgh Council's *Guidance for Development in the Countryside and Green Belt* (2019) allows for new houses not associated within the countryside where there are *...exceptional planning reasons for approving them.* The Guidance confirms that exceptional planning reasons include *...gap sites within existing clusters of dwellings.*
  - Policy 8 *Houses in the Countryside* of the adopted Fife Council LDP (2017) allows for the development of houses in the countryside *...within an established and clearly defined cluster of five houses or more.*
  - Policy RD 1 *Development in the Countryside* of the adopted Midlothian Council LDP (2017) allows for the development of one additional dwelling where there are five or more existing units in the countryside.
  - Policy HD2 *Housing in the Countryside* of the adopted Scottish Borders Council LDP (2016) provides support for new housing in existing building groups within the countryside.

- Policy ENV 2 *Housing Development in the Countryside* of the adopted West Lothian Council LDP (2018) provides support for new houses within existing building groups in the Countryside.

4.24 Clearly, all other five councils in the SESplan region are in harmony with allocating most of the agreed housing land requirement in urban locations whilst allowing for limited housing in the countryside through its development management policy framework. Since the Council's development strategy complies with SPP (para 76), this is not relevant to the determination of this Application.

4.25 In addition, the Report of Handling refers to paragraph 81 of SPP, stating ... *in accessible or pressured rural areas, where there is a danger of unsustainable growth in long distance car based commuting or suburbanisation of the countryside, a more restrictive approach to new housing development is appropriate*. This quote ignores the following two criteria in this paragraph:

- *Guide most new development to locations within or adjacent to settlements; and*
- *Set out the circumstances in which new housing outwith settlements may be appropriate, avoiding the use of occupancy restrictions*

4.26 SPP (para 81) fully supports a housing in the countryside policy where a development proposal avoids long distance commuting (as it must do by definition) and avoids the suburbanisation of the countryside. As set out previously, the site is both sustainable and will not lead to the suburbanisation of the countryside as it is an infill site.

4.27 SPP (para 81, second bullet point) actually gives support to a promoting a development management policy for housing in the countryside in the adopted LDP which avoids the use of occupancy restrictions. The Council's Policy DC 8 is contrary to SPP as it promotes an occupancy restriction - a need to have countryside occupation to occupy a new house.

4.28 SPP (para 81) supports the policy position that less weight should be given to LDP Policy DC 4 in this determination.

4.29 SPP (para 83) is also referred to. However, this is not relevant to the determination of this proposal as the proposal is not within a remote rural area. As set out above, the site is within 200m of the settlement of North Berwick. It is also located in close proximity to existing facilities in accord with PAN 75.

4.30 This demonstrates that the guidance in PAN 72 remains valid and must be taken into account in this determination. It has not been superseded by the guidance contained within paragraphs 76 and 81 of SPP. PAN 72 is, therefore, a material consideration in the determination of this Application.

4.31 This position is supported by all of the other planning authorities in the SESplan region. Their adopted local development plans provide clear policy guidance for the development of suitable infill sites within small building groups in the countryside and can be supported. This position adopted by other planning authorities post-dates SPP and follows the guidance within PAN 72. Therefore, the Council is incorrect in its view that PAN 72 has been superseded by paragraphs 76 and 81 in SPP.

### **PAN 72 Development in the Countryside**

4.32 As set out above, PAN 72 *Development in the Countryside* remains an important material consideration in the determination of this Application.

- 4.33 Page 7 of PAN 72 sets out opportunities for new homes in the countryside. This includes new housing relating to existing groupings. PAN 72 is clear that such groupings *...should be small in size, and sympathetic in terms of orientation, topography, scale, proportion and materials to other buildings in the locality.*
- 4.34 The Application site is bounded by existing residential development to the east at the Heugh. To the west of the site is the Category B Listed Water Tank which has planning consent to be converted into a residential home. When viewed in this context, the Application site is located within an existing grouping of houses.
- 4.35 PAN 72 provides support for single houses within the countryside. PAN 72 is clear that these *...have to be planned, with location carefully selected and design appropriate to locality.* As set out in Section 3 of this Statement, a detailed assessment of the Application site and design proposal has been undertaken. The findings of this assessment have concluded that the proposed house is appropriate to the site's locality. The proposal, therefore, is supported by this aspect of PAN 72.
- 4.36 Policy DC4: *New Build Housing in the Countryside* restricts all new housing to only that requiring an operational need. The preamble to Policy DC4 states that there is a *...general presumption against new housing in the countryside.* This is contrary to Scottish Ministers' advice in PAN 72. The Council's policy framework in the adopted LDP is designed to restrict any housing development in the countryside to only that required for ongoing operational matters, contrary to the advice in PAN 72.
- 4.37 As the proposal will be located within part of the existing building group at the Heugh and be located on a disused site, it is an excellent example of infill development in planning terms which is supported by PAN 72.
- 4.38 Importantly, the development of the site will not extend the pattern of built form within this countryside location, nor be seen as an example of suburbanisation as highlighted in paragraph 5.2 of the adopted LDP.
- 4.39 PAN 72 also provides design guidance with regard to new development in the countryside. PAN 72 is clear that the overall aim *...should be to ensure that new housing is carefully located, worthy of its setting, and is the result of an imaginative, responsive and sensitive design process.* In determining whether a proposal is in accord with this aim, PAN 72 outlines three factors which should form the basis of this determination:
1. *Scale;*
  2. *Materials;* and
  3. *Details*
- 4.40 An assessment of the proposal's compliance with each of these factors follows.

*Scale*

The proposed home has been set back from the northern site boundary by 8m. This is behind the projected building line of the existing properties to the east. This set back allows views towards the Water Tank from existing properties to be retained.

The scale of the proposed house is similar in height to the existing properties to the east at the Heugh. The house has a finished ground level (FGL) of +64.8m. This ground level will ensure that the long distance views from the north and south are retained.

The use of white render reflects the neighbouring properties to the east of the site. The southern elevation of the property comprises a combination of white render, glazing, and zinc cladding. This will help to break up the visual massing of the building when viewed from the south.

The use of large expanses of glazing will help to embed the new home into the existing context by reflecting the light and trees.

As shown within viewpoint 4 of the *Landscape and Visual Assessment*, the introduction of the sedum roof will help blend the proposed home into its surrounding landscape setting when seen from the elevated viewpoint on top of North Berwick Law.

The proposal is in accord with this factor of PAN 72.

#### *Materials*

PAN 72 states that the use of inappropriate or too many materials can have a negative impact on a proposal.

As set out above, the proposal will incorporate a limited palette of contemporary materials. The use of these materials, including white render, will tie the proposal in with the design of neighbouring properties to the east.

The proposal is in accord with this factor of PAN 72.

#### *Details*

PAN 72 states that whilst design details need to be assessed on their individual merits ...*excessive detailing and ornamentation should generally be avoided.*

As set out in the *Design Statement*, the proposal is a contemporary architectural interpretation of a traditional East Lothian farm building. In this regard, the proposal has sought to avoid excessive detailing and ornamentation. The proposal incorporates white render, zinc cladding, and areas of glazing, rather than any decorative elements or unnecessary detailing. The use of these building materials is reflective of agricultural buildings within East Lothian.

The proposal is in accord with this factor of PAN 72.

- 4.41 As demonstrated above, the proposal is in accord with the advice and guidance in PAN 72. This compliance with PAN 72 is another significant material consideration in support of the determination of this Application. This should be given significant weight in the determination of this Application given that the Council has not incorporated the advice in PAN 72 into its policy framework.

### **Historic Environment Scotland Guidance**

- 4.42 Historic Environment Scotland has published a series of guidance notes about making changes to the historic environment. These guidance notes are referred to as ...*Managing Change Guidance.*
- 4.43 Managing Change in the Historic Environment: *Setting* sets out the principles that apply to developments affecting the setting of historic assets or places. The Guidance is clear that development ...*should seek to avoid or mitigate detrimental impacts on the settings of historic assets.*
- 4.44 The Guidance details factors to be considered when assessing the impact of a change on the setting of a historic asset. These are as follows:

- *whether key views to or from the historic asset or place are interrupted*

- *whether the proposed change would dominate or detract in a way that affects our ability to understand and appreciate the historic asset*
- *the visual impact of the proposed change relative to the scale of the historic asset or place and its setting*
- *the visual impact of the proposed change relative to the current place of the historic asset in the landscape*
- *the presence, extent, character and scale of the existing built environment within the surroundings of the historic asset or place and how the proposed development compares to this*
- *the magnitude of the proposed change relative to the sensitivity of the setting of an asset—sometimes relatively small changes, or a series of small changes, can have a major impact on our ability to appreciate and understand a historic asset or place*

4.45 A response is provided to each of these criteria<sup>2</sup> follows.

*1. whether key views to or from the historic asset or place are interrupted*

The *Assessment of the Impact on the Setting of Cultural Assets* Report provides an analysis of the setting of the two Category B Listed buildings. The Assessment follows the three stage methodology as set out in the Guidance.

As set out in Section 5.1 of the Report, the proposal will not impact on the keys view to or from these historic assets. The Report, therefore, concludes that the proposal will have a negligible impact on the setting of the two Listed Buildings.

The proposal is in accord with this criterion.

*2. whether the proposed change would dominate or detract in a way that affects our ability to understand and appreciate the historic asset*

The scale of the proposed home is of a similar scale to the existing properties to the east. It will, therefore, be viewed in the context of these existing properties. Viewpoint 2 of the *Assessment of the Impact on the Setting of Cultural Assets* Report demonstrates that the proposal will introduce a minor extrusion above the horizon of the adjacent Category B Listed Water Tank.

The vertical scale of the proposed dwelling is less than that of the properties to either side. This allows the unique shape of the Water Tank roof to remain prominent.

The proposal therefore does not dominate or detract from the setting of the Listed Buildings or how they are understood. The proposal is in accord with this criterion.

*3. the visual impact of the proposed change relative to the scale of the historic asset or place and its setting*

The proposed dwelling is sited 7m from the site's eastern boundary, adjacent to the existing residential dwellings to the east of the site. This siting will allow the proposed home to be associated with the existing built form and maintain a separation to the Category B Listed Water Tank to the west.

As set out in Section 3 of this Statement, the proposal does not dominate or detract from the setting of the Category B Listed Dovecot or how it is understood.

The visual impact of the proposal is considered to have a no impact on the setting of the Historic Assets. The proposal is in accord with this criterion.

<sup>2</sup> Each of these criteria have been numbered for ease of reference



*4. the visual impact of the proposed change relative to the current place of the historic asset in the landscape*

The landscape setting of the Listed Buildings is formed by open fields to the north and south, and the 'crag and tail' formation of the Law to the west. The proposed green roof will help to blend the largest surface of the proposal into the surrounding landscape, especially when viewed from North Berwick Law.

The introduction of the proposed landscape earth bund to the southern side of the proposed dwelling will also help to maintain the existing horizon formed by the crag and tail of North Berwick Law.

The *Landscape and Visual Assessment* submitted in support of this application provides further assessment of the impact of the proposal on the landscape. The LVIA concludes the proposal will not have a significant impact on the setting of the surrounding landscape, including North Berwick Law.

The findings of the *Assessment of the Impact on the Setting of Cultural Assets* Report conclude that the character of the area will be retained and the impact of the proposal is considered to be negligible. The proposal is in accord with this criterion.

*5. the presence, extent, character and scale of the existing built environment within the surroundings of the historic asset or place and how the proposed development compares to this*

The proposal is for a single house, the scale of which is in keeping with that of adjacent properties. The proposal incorporates a contemporary design solution, which is appropriate for the site's historical surroundings. The proposal will utilise a limited palette of quality materials that will complement the site's setting. The proposal is in accord with this criterion.

*6. the magnitude of the proposed change relative to the sensitivity of the setting of an asset - sometimes relatively small changes, or a series of small changes, can have a major impact on our ability to appreciate and understand a historic asset or place*

The proposal is for a single house of moderate scale. It will be viewed in the context of existing built form at the Heugh to the east. As confirmed in Section 5.1 of the *Assessment of the Impact on the Setting of Cultural Assets* Report, it will allow the relationship between the Law, Water Tower, and existing residential dwellings to be retained. The proposal is in accord with this criterion.

4.46 The proposal does not impact on the key characteristics of the setting of the historic assets. The proposal is, therefore, in accord with Historic Environment Scotland's guidance.

**East Lothian Council Supplementary Planning Guidance**

4.47 Supplementary Planning Guidance (SPG): *Countryside and Coast* (2018) provides further commentary on the requirements of Policy DC8 of the adopted LDP. The SPG states that one of the main purposes of Policy DC8 *...is to protect the most sensitive parts of the undeveloped landscape around East Lothian's settlements (and Blindwells) from new development that would impact on its setting.*

4.48 Paragraph 1.37 of the SPG confirms that this includes *...areas of sensitive local landscape particularly important to the landscape setting of the settlement.* Paragraph 1.40 of the SPG indicates that the land surrounding North Berwick (including the site) has been designated under Policy DC8 for this reason.

- 4.49 The SPG is clear that any new development permitted by Policy DC8 *...must not harm the landscape setting of the countryside location and must be of a scale, size and form that would not harm the objectives for the Countryside Around Towns designation.*
- 4.50 Appendix 2 of the SPG provides further guidance on the *Countryside Around Towns* designation for the area of land surrounding North Berwick. This guidance includes commentary on the relationship of the *Countryside Around Towns* designation with other landscape designations.
- 4.51 The commentary states that land between the B1347 and the Heugh Road (which includes the site) is *...included for its distinctive landscape setting for North Berwick and for its potential green network links between the town and the countryside.* The commentary also states that the area *...has longer term potential for a public recreational area to serve the town and to preserve views of the area on the approaches to North Berwick from the south.*
- 4.52 The SPG is also clear that the *Countryside Around Towns* designation *...should be protected from visually harmful development that would detrimentally impact on these views or the countryside setting of the town and landscape setting and character of the Law.*
- 4.53 Technical Note 8: *Planning for Countryside Around Towns (CATS)* provides further explanation for the Council's approach to development within designated Countryside Around Towns areas.
- 4.54 Paragraph 4.8 of Technical Note 8 confirms that the designation is applied to meet the following objectives.
- *to conserve the landscape setting, character or identity of the particular settlement and /or*
  - *to prevent the coalescence of settlements and/or*
  - *where it can provide opportunity for green network and recreation purposes*
- 4.55 Paragraph 4.9 of Technical Note 8 also confirms that:
- ...where both an SLA and a Countryside Around Towns is applied any proposed development must therefore be assessed against the SLA Statement of Importance and against Policy DC8: Countryside Around Towns the latter specifying where new development will be supported in principle; if required for the green network, for community use, for rural business, tourism or leisure or essential infrastructure that needs that location. New development permitted in principle must also be of a scale, size and form that does not harm the objectives for the Countryside Around Towns designation in that particular location...*
- 4.56 An assessment of the proposal against Policy DC8 and the North Berwick Law SLA is set out in Section 3 of this Statement. Whilst it is accepted that the proposal is not wholly in accord with the principle of Policy DC8, the proposal is of a scale, size and form that will not harm the objectives of the *Countryside Around Towns* Designation.
- 4.57 SPG *Special Landscape Areas* (2018) provides further guidance for development proposals in Special Landscape Areas.
- 4.58 An assessment of the impact of the proposal on the North Berwick Law Special Landscape Area has been provided in both Section 3 of this Statement and within the LVIA. The LVIA concludes that the proposal will not impact on the existing setting of the SLA when viewed from North Berwick Law.
- 4.59 The findings of the LVIA are that the proposal will have a limited impact upon the SLA. The proposal is, therefore, in accord with the Council's SPG.



4.60 This is confirmed within the LVIA which demonstrates that the proposal will not have an adverse impact on the North Berwick Law SLA. The proposal is, therefore, compliant with Technical Note 8.

**Conclusions**

4.61 There are a number of material considerations which should be taken into account in the determination of this Application, and these have significant weight. These include the following:

- a) The Council has not adopted the advice in PAN 72 as part of its policy framework in the adopted local development plan. The Council's stated reasons for doing so are spurious. SPP does not revoke the adoption of the advice in Pan 72.
- b) The proposal accords with the advice in PAN 72. It is a proposal located on an infill site within an existing building group.
- c) The proposal is sustainable development complying with the 13 principles in SPP.
- d) The proposal accords with the policy guidance about development within the countryside set out in SPP.
- e) The proposal accords with HES's *Managing Change Guidance*.
- f) The design of the proposal accords with the guidance in the Council's *SPG Countryside and Coast (2018)* and Technical Note 8: *Planning for Countryside Around Towns (CATS)*.

4.62 These material considerations provide significant weight to be given in favour of the proposal's determination.

4.63 This is in stark contrast to the officer's conclusions in the Report of Handling of the previous application that ... *there are no material considerations which would justify the planning permission being granted.*

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## 5.0 Conclusion and Recommendations

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- 5.1 This Supporting Statement has been prepared in support of an Application for Planning Permission (PP) for a single house. The Application is for the development of one house on an infill site within the existing building group at the Heugh, North Berwick. The proposal also includes associated infrastructure and landscaping work. It is only 180m from the edge of North Berwick.
- 5.2 This proposed new home is in the countryside. Policy DC4: *New Build Housing in the Countryside* restricts all new housing to only that requiring an operational need. It is only relevant to the determination of this Application if there are no material considerations which need to be taken into account. As set out in Section 4, there are a number of material considerations which need to be taken into account and given significant weight.
- 5.3 The preamble to Policy DC4 states that there is a ...*general presumption against new housing in the countryside*. This is not Council policy and it is contrary to Scottish Ministers' advice in PAN 72 as well as SPP. It is therefore necessary to consider and determine any new housing in the countryside (under the terms of this restrictive policy) by taking into account material considerations. This balanced approach means that all new housing in the countryside should not be refused simply because it is contrary to Policy DC4.
- 5.4 A Pre-Application Enquiry has been held with the Council about the previous application, providing feedback on a number of matters. These matters have been taken into account and addressed in revisions made to the proposal. This is the same proposals which is now submitted for determination in this Application. In addition, a number of assessments have been carried out to assess the impact of the revised proposal on the local environment and designations, namely:
- *Assessment of the Impact on the Setting of Cultural Assets*
  - *Landscape & Visual Impact Assessment*; and
  - *Ecological Assessment*.
- 5.5 The pre-application response from the Council raised concerns with the proposal potentially being perceived as extending residential development along the existing ridgeline, which would link the existing housing development at the Heugh with the Water Tank to the west.
- 5.6 The granting of planning consent to convert the Water Tank into a house has already extended the building group at the Heugh further west towards North Berwick Law. The proposal will, therefore, sit within this extended and existing building group. The house has also been sited to ensure that a separation of 18m is provided from the edge of the house to the western boundary that sites adjacent to the Water Tank.
- 5.7 By maintaining this separation, North Berwick Law, the Water Tank and residential development will continue to be read as distinctive elements on the horizon. The proposal has, therefore, addressed the concerns previously raised by the Council.
- 5.8 The Council's adopted LDP does not support new housing in the countryside except if it is for specified operational reasons. This is contrary to SPP (paragraph 81) in that it continues to use occupancy restrictions to deliver its policy.
- 5.9 The choice of site represents good planning practice as it is part of an existing building group in the countryside, proposes to develop unused land and is an infill site with housing on either side of the site.

- 5.10 The evidence presented in this Statement has demonstrated that the proposal is in accord with six relevant policies of the adopted LDP as follows:
- DC9 *Special Landscape Areas*;
  - DP1 *Landscape Character*;
  - CH1 *Listed Buildings*;
  - DP2 *Design*;
  - SEH2 *Low and Zero Carbon Generating Technologies*; and
  - NH7 *Protecting Soils*.
- 5.11 The *Landscape and Visual Impact Assessment* has been submitted in support of this Application. The findings of this Assessment confirm that the proposal will not have an adverse impact upon the surrounding North Berwick Law Special Landscape Area. A critical aspect in the determination is that the Council is willing to accommodate urban development within the Special Landscape Area. As shown on Dwg. No 20015-STAN-P002 *Site Context*, around 17.8 ha of the SLA is located within the settlement boundary of North Berwick. This includes mixed use allocation PROP NK4 which is located around 200m to the north east of the Application site,
- 5.12 This mixed use allocation has been granted planning permission by the Council and is currently under construction. The total area of built development consented by the Council within the SLA equates to 0.61 ha. The proposal subject of this Application equates to 0.25 ha. This current proposal is, therefore, less than 50% of an area previously consented by the Council for development within the SLA.
- 5.13 In context, the proposal has less impact on the Special Landscape Area than previous proposals which were considered acceptable by the Council. The impact on the Special Landscape Area is absolute whether or not the site is allocated in the development plan.
- 5.14 The findings of the *Assessment of the Impact on the Setting of Cultural Assets* demonstrate that the proposal will have a negligible impact on existing cultural heritage assets. The proposal is therefore in accord with relevant LDP policies and the Historic Environment Scotland guidance.
- 5.15 The *Design Statement* also demonstrates the suitability of the design proposals. The proposal will deliver a contemporary development appropriate for the site's setting. The scale and massing of the proposal is also appropriate for its surrounding context.
- 5.16 The proposal is not wholly in accord with very limited parts of Policies DC4 and DC8 of the adopted LDP.
- 5.17 Policy DC4 restricts housing in the countryside to only that required for operational purposes. This means that there is no policy support for a single house within an infill site such as this proposal. The site is bounded to the east and west by existing built development. The development of the site will not extend the development pattern at the Heugh further into the surrounding countryside. This needs to be given limited weight as it is contrary to SPP and PAN 72.
- 5.18 The development of suitable infill sites within small building groups in the countryside is supported by all of the other planning authorities in the SESplan region.

- 5.19 Policy DC8 also restricts development within the *Countryside Around Towns Designation* to only development that is required for either community uses, rural business, tourism or leisure related use or essential infrastructure that has a clear operational requirement for that location. This is contrary to SPP and PAN 72.
- 5.20 It should be noted that the restrictive choice of who lives in the countryside is not in accord with PAN 72 (2005). This advice and guidance from Scottish Ministers encourages future development in the countryside. Policy DC4 and Policy DC8 is, therefore, at odds with the advice in PAN 72 and SPP. The proposal is in accord with the advice in PAN 72 as demonstrated in Section 4. Weight should be given to the support from Scottish Ministers for a single house in the countryside which is part of a existing building group.
- 5.21 The proposal is an example of sustainable development as it accords with the 13 principles of sustainable development as set out in SPP 2020. The presumption in favour of sustainable development, as set out in SPP, is a material consideration in the determination of all planning applications. The presumption in favour of sustainable development does not change the statutory status of the approved development plan as the starting point for decision making.
- 5.22 Other material considerations highlighted in Section 4 include:
- The proposal accords with the policy guidance about development within the countryside set out in SPP.
  - The proposal accords with HES's *Managing Change Guidance*.
  - The design of the proposal accords with the guidance in the Council's SPG *Countryside and Coast* (2018) and Technical Note 8: *Planning for Countryside Around Towns* (CATS).
- 5.23 In the determination of this Application, the evidence submitted confirms that there are no technical reasons which merit its refusal in terms of the policy framework in the adopted LDP.
- 5.24 The policy restriction imposed by Policy DC4 and Policy DC8 have the consequences of restricting new housing to specific operational needs or land uses unrelated to housing. This matter does not arise in any other planning authority in the SESplan region as these Councils have followed Scottish Ministers advice in PAN 72. This is in accord with SPP.
- 5.25 This proposal complies with the relevant policies in the adopted LDP. Because the Council has ignored the advice in PAN 72 (which continues to be supported by SPP), the proposal should be supported as an exception to Policies DC4 and DC8. The development of the site will not extend the development pattern at the Heugh further into the surrounding countryside nor be seen as an example of suburbanisation as highlighted in paragraph 5.2 of the adopted LDP.
- 5.26 Further, the proposal is sustainable development in accord with SPP and this gives weight to permit the proposal to be approved, contrary to the development plan. There are no matters which give rise to unacceptable impacts if the proposal is approved.
- 5.27 For the reasons highlighted in this Statement, these material considerations outweigh the proposal's lack of complete compliance with all of the policies in adopted LDP and provides the reasoned justification for approving this Application as a departure to policy, without creating a precedence.

APPLICATION  
FOR  
**ERECTION OF DWELLING HOUSE**  
AT  
THE HEUGH  
NORTH BERWICK

**DESIGN STATEMENT**

**10 May 2022**  
**Version 2**

**richard hall chartered architect**  
the studio  
cordon mains  
abernethy  
PH2 9LN

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## 1.0 INTRODUCTION

- 1.01 This application is for a new dwellinghouse on land at the Heugh, North Berwick.
- 1.02 The initial proposals were shown to the Duty Planner, Daryth Irving, on 12<sup>th</sup> March 2020 and his advice was that a formal Pre-App Enquiry would be advisable. A formal Pre-Application Enquiry was submitted in April 2020 and the following is the formal response from David Taylor, dated 14<sup>th</sup> May 2020.

Dear Richard Hall,

I write further to pre-application submissions concerning the erection of a Farm Managers house at Wamphray Farm, North Berwick.

The proposal detailed is for the erection of a house on land at the Heugh, North Berwick. The proposal would involve the erection of a 2-storey, 4-bedroom detached house on land located between a vacant reservoir building and Heugh Steading. Access to the house would be taken from a new driveway access formed on Heugh Brae.

The proposed site lies within the North Berwick Law Special Landscape Area (SLA) (Local Development Plan 2018, Supplementary Planning Guidance).

Within the design of the building efforts have been made to address and minimise its visual impact in views from the north and from NB Law by setting it at a lower ground level and designing a single pitch sedum roof following the slope of the ridge up from the north. However, given the site's exposed and coastal location the first floor of the building would be visible sitting between the roof and the slope of the ridge and would be deemed to impact on views from the north and the Law above.

Views from the east provide a full view from the peak of the Law eastwards down the tail of the crag and tail feature. These views are somewhat broken by the pyramid of the reservoir building. This building however does not appear residential in nature and has a pointed ridge reducing its visual impact. The existing housing at the Heugh is broken by trees in this view, but when visible appears as a single development, tied together by the matching red roofs, set low on the ridge. The proposal would have the effect of extending residential development along the ridge, linking the existing housing with the reservoir building.

From the south the full height of the building and the proposed materials including white render, zinc cladding and timber louvres would be seen sitting on the ridge. The proposed house would again stretch development along the ridge, linking the existing housing with the reservoir.

The SLA guidelines for development note that: Proposed development must not harm open views from the Law; and that proposed development must not harm the Law as a landmark crag and tail feature, both in close and distant views or compete with it as a focal point within the landscape.

Whilst the location of the proposed vehicle/pedestrian access on the outside of a bend would offer reasonable visibility to vehicles entering and exiting the new drive,

Council Roads Services would be consulted on a planning application and generally require a distance of 100m (minimum 40m if feasible) between access junctions on roads such as Heugh Brae to minimise conflict between ahead and turning traffic.

The supporting statement notes “its final alignment will depend on the most efficient lines for the large farm machinery”. As the access will apparently be used by large farm vehicles it is essential to ensure its design and location would allow through drivers to be entirely clear about which access an indicating vehicle would be turning into.

Relevant Local Plan policy DC4 (New Build Housing in the Countryside) requires that the Council is satisfied that a proposed house is a direct operational requirement of a viable agricultural, horticultural, forestry, countryside recreation or other business, leisure or tourism use supported in principle by Policy DC1.

Policy DC1 (Rural Diversification) supports development in the countryside where it is for a) agriculture, horticulture, forestry, infrastructure or countryside recreation; or b) other businesses that have an operational requirement for a countryside location, including tourism and leisure uses

DC8 (Countryside around Towns) also requires a clear operational requirement for a particular location and that there is no other suitable site available.

The submitted Operational Needs Assessment does not state if the proposed house is to facilitate full or part-time working on a permanent or temporary basis. It does however highlight that the main enterprise of the business is arable farming growing combinable crops. It is noted however that a significant estimation of labour requirement is based on a proposed farming structure involving livestock operations (pigs and sheep).

In terms of operational requirements, should this proposal form the subject of an application for planning permission, the Council, as planning authority, would seek to obtain independent advice from an Agricultural and Rural Advisor on whether there is a direct operational requirement for an associated house at this location.

In terms of setting, design and visual impact the proposed house is contrary to the advice of both Countryside around Towns policy and Special Landscape Area guidance. Within this context it is unlikely, in its current form, to be supported as the subject of an application for planning permission.

You will appreciate that the above forms the opinion of an Officer of the Council and does not purport to be a determination within the provisions of The Town and Country Planning (Scotland) Act 1997.

Regards

David Taylor  
Planner  
East Lothian Council  
Tel 01620 82 7430  
Mob: 07580307888



- 1.03 The following map shows the land owned by the applicant, outlined in blue, and the proposed site indicated in red.



Figure 1. land owned by the applicant outlined in blue

- 1.04 The application site is a small corner of a large field, difficult to access with large farm machinery, and so has been left to grass. The area selected is therefore non-productive land and is therefore well suited for a dwellinghouse, because of its relationship to adjoining residential buildings, comprising the listed disused water tank building, the Heugh Steading and a variety of modern bungalows and terraces.



Figure 2. application site between disused water tank and the Heugh Steading

## 2.0 EXISTING SITE & SETTING



*Figure 3. showing land currently excluded from farm operations*

- 2.01 The existing site sits between the residential grouping of the Heugh Steading development in the east, and the redundant listed water tank to the west. This B Listed Building now has Planning Permission (19/00700/P) for conversion to a residential dwelling and this logically extends the residential grouping to this point, highlighting the application site as an infill opportunity. It is a small corner of a large arable field and, because of the large dimensions of modern farm machinery, is no longer accessible for productive use. Figures 2 & 3 show the application site is a small non-workable area that has been set aside as grass.
- 2.02 The existing site is therefore a gap in the grouping of buildings and can therefore be seen as “infill” and is an efficient use of what would otherwise be redundant ground.



*Figure 4. View along ridge looking west, showing existing modern bungalows and terraces.*



*Figure 5. Application site viewed from the south with indicative roof line for infill development.*



*Figure 6. Application site viewed from the north with indicative roof line for infill development.*

- 2.03 The massive rising landform of North Berwick Law is the dominant feature for all of North Berwick and sits adjacent to the application site. The setting for the proposed new dwellinghouse is created by the “gap” between the redundant water tank building in the west, and the residential development that has evolved from the converted Heugh Steading to the east, converted to residential use in the 1980’s. Other modern bungalows and terraces have been added and the whole grouping sits on the skyline of the east “tail” ridge of the North Berwick Law.





*Figure 7. Heugh Steading converted to residential use, built of Law stone.*



*Figure 8. East "tail" ridge with modern terraces and bungalows and conical roof of redundant water tank.*

### 3.0 RESPONSE TO PRE-APP COMMENTS

- 3.01 A *Landscape and Visual Impact Assessment* has been submitted and various viewpoints agreed with East Lothian Council.
- 3.02 The *Landscape and Visual Impact Assessment* concludes that the “siting, scale and design will have very limited effects on the types of views that are experienced within this area.” The view from the top of the North Berwick Law looking down onto the application site, is protected by the inclusion of a sedum roof, the new building having “a diminutive effect” on views towards or from North Berwick Law. This supporting *Design Statement* should be read in conjunction with the *Landscape and Visual Impact Assessment*.
- 3.03 In the Pre-App submission the proposed new dwelling was placed centrally on the application site. In this application the proposed new house has been moved to the east by 6m, creating a clear separation of the new dwelling from the existing listed reservoir building. The effect of this is that in views from the south and north the setting of the conical former water tank roof is unaffected by the inclusion of the new building. Consequently, by taking the proposed dwelling closer to the adjacent cottages, the new house is more included in the grouping of the existing buildings of the Heugh Steading.
- 3.04 In consideration of the Pre-App comments regarding the views from the south, this application includes the bunding of the south boundary. The top of this proposed bund is 1.85m above finished ground level surrounding the new house. The effect of this is that the proposed house is bedded into its setting, in an equivalent way to the former water tank, minimising its effect on the overall setting. Further, from the Pre-App submission, the overall footprint of the proposed house has been reduced by 6m, again helping to reduce the effect on its setting.
- 3.05 Assessment of East Lothian Council’s *Design Standards for New Housing SPG (2020)* is addressed in Section 4.06.
- 3.06 The proposed vehicle access in the pre-app submission was taken from a new driveway accessed on the corner of Heugh Road. The proposed vehicle access in this application is taken from the existing tarmac access to the existing reservoir. There will therefore be no impact on the existing public road.
- 3.07 This application is for a stand-alone dwelling and therefore Policies DC1, DC4 and DC8 do not apply.

#### 4.0 PLANNING POLICY APPRAISAL

The formal response from the Pre-Application Enquiry highlighted a list of Policies that apply. The design and status of the proposed dwellinghouse has been reviewed, and the following Policies now apply, and are reviewed as follows:

4.01 The proposed site lies within the *North Berwick Law Special Landscape Area (SLA) (Local Development Plan 2018, Supplementary Planning Guidance)*. Geddes Consulting have prepared a full *Landscape and Visual Impact Assessment*, which should be read in conjunction with this supporting *Design Statement*.

4.02 The location of the proposed access has been reviewed in light of the comments received. The proposed vehicle and pedestrian access in this application, is from the existing road that serves the water tank to the west, so no new vehicle or pedestrian access has been created.

4.03 *Policy DP1 – Landscape Character and DP9 – Special Landscape Areas*

These have been assessed in the *Landscape and Visual Impact Assessment*, which should be read in conjunction with this supporting *Design Statement*.

4.04 *Policy DP2: Design* sets out the Council's requirements for the design of new development. The proposal is required to comply with the following criterion:

1. *Be appropriate to its location in terms of its positioning, size, form, massing, proportion and scale and use of a limited palette of materials and colours that complement its surroundings:*

#### **Response:**

- The proposed home has been positioned within the site to retain a visual separation between the existing built form to the east and the Category B Listed Water Tank to the west. The positioning of the house in the eastern part of the site will achieve a separation of 18m from the boundary adjoining the Water Tank. This separation responds to concerns raised by the Council during pre-application discussions.
- The proposed home has been designed to maximise the south facing garden. This will provide appropriate amenity space for future residents of the home.

- The proposed home has been designed to ensure the overall scale and massing does not detract from the nearby designations.
  - The home has been set at lower ground level, with the proposed single pitch roof following the slope of the existing ridgeline.
  - As demonstrated within the *Landscape and Visual Impact Assessment*, this will minimise the visual impact of the proposal when viewed from the north of the site.
  - The proposal incorporates a contemporary design solution which is appropriate for the site's historical surroundings. The proposal will utilise a limited palette of quality materials that will complement the site's setting.
  - The use of white render reflects the neighbouring properties to the east of the site. The southern elevation of the property comprises a combination of white render, glazing and zinc cladding. This will help to break up the visual massing of the building when viewed from the south.
  - The use of large expanses of glazing will help to embed the new home into the existing context by reflecting the light and trees.
  - As shown within viewpoint 4 of the *Landscape and Visual Appraisal*, the introduction of the sedum roof will help blend the proposed home into its surrounding landscape setting when seen from the elevated viewpoint on top of Berwick Law.
2. *By its siting, density and design create a coherent structure of streets, public spaces and buildings that respect and complement the site's context, and create a sense of identity within the development:*

**Response:**

- This criterion relates to larger scale proposals and is not strictly relevant to the determination of this Application. The siting and proposed design of the home has been developed to compliment the site's location within the Special Landscape Area.

- The proposed home has been sited to sit adjacent to the existing residential dwellings to the east of the site. This siting will maintain a separation between these existing residential dwellings and the Category B Listed Water Tank to the west.
3. *Position and orientate buildings to articulate, overlook, properly enclose and provide active frontages to public spaces or, where this is not possible, have appropriate high quality architectural or landscape treatment to create a sense of welcome, safety and security:*

**Response:**

- This criterion relates to larger housing developments and is not applicable to this Application.
4. *Provide a well-connected network of paths and roads within the site that are direct and will connect with existing networks, including green networks, in the wider area ensuring access for all in the community, favouring, where appropriate, active travel and public transport then cars as forms of movement:*

**Response:**

- This criterion relates to larger housing developments. It is not applicable to this proposal.
5. *Clearly distinguish public space from private space using appropriate boundary treatments:*

**Response:**

- The criterion relates to proposals for larger housing developments. The proposal is not required to distinguish public space from private space.
6. *Ensure privacy and amenity, with particular regard to levels of sunlight, daylight and overlooking, including for the occupants of neighbouring properties:*

**Response:**

- The proposed home has been sited to ensure there is no overlooking or privacy issues.



- The orientation of the proposed home will ensure there will be no issues of overlooking or privacy issues.

7. *Retain physical or natural features that are important to the amenity of the area or provide adequate replacements where appropriate:*

**Response:**

- The proposal will not result in the loss of any physical or natural features that are important to the amenity of the area. The proposal has been designed to minimise any impacts on the surrounding Special Landscape Area and the adjacent Category B Listed Water Tank to the west of the site.

8. *Be able to be suitably serviced and accessed with no significant traffic or other environmental impacts:*

**Response:**

- The proposed home will be accessed from the existing road that serves the Water Tank to the west.
- The proposed driveway has been sited to the east of the proposed home to minimise its visual impact when viewed from the south.

#### 4.05 Policy CH1 – Listed Buildings

An *Assessment of the Impact on the Setting of Historic Assets* has been included with this application, prepared by Geddes Consulting, which should be read in conjunction with this supporting *Design Statement*.

4.06 An *Ecological Assessment*, prepared by Nigel Rudd Ecology, accompanies this application, which should be read in conjunction with this supporting *Design Statement*.

4.07 East Lothian Council's *Design Standards for New Housing SPG (2020)*, sets out the Council's requirements for the design of new housing. The proposal is required to comply with the following criterion:

1. *Site Layout & Density - assess the character of surrounding built form to ascertain density at site appraisal stage*

**Response:**

- The position of the proposed dwelling has been designed to minimise any effect on the setting of the adjacent former water

tank and to align with the implied north frontage of the existing grouping of the Heugh.

- The proposal is for a single house and the proportion of the footprint of the proposed dwelling to the total application site area is less than 30%, exceeding space standards.

2. *Building Height, Scale, Massing and Proportions - To ensure that the height of buildings respects the existing or preferred character of the area.*

**Response:**

A study of the implied roofline from the top of the adjacent former water tank across the roofs of the building group of the Heugh is illustrated in figures 5 & 6. The proposed dwelling is designed to sit below this implied roofline, when viewed from both the south and the north.

3. *Building Orientation and Microclimate –*

*All relevant developments must:*

- *Maximise natural surveillance and observation of streets and open spaces by fronting buildings onto them*
- *Avoid high boundaries to the front of dwellings*
- *Ensure building alignment, where this is important to the area's character, is protected.*
- *Maximising opportunities for solar gain by orientating blocks within 30 degrees of the east-west axis.*

**Response:**

- The location of the application site allows maximum surveillance of the views to the north, south and east, and the proposed dwelling is orientated to address the northern frontage.
- The north boundary of the application site should be regarded as the “front”, as this face directly addresses the public realm. This boundary is open, to allow maximum views from the proposed dwelling. The boundary to the south, which should be regarded as the “rear”, has been enhanced with a bund to reflect the setting of the adjacent former water tank, and to create an equivalent setting for the proposed dwelling. This bund also helps to provide privacy for the private gardens.
- The proposed dwelling aligns with the east/west setting of the Heugh grouping.
- The proposed dwelling faces virtually north/south maximizing the opportunity for solar gain.

4. *Parking - provide sufficient car parking that is overlooked, but discretely located to ensure streets, front gardens and public spaces are not dominated by car.*

**Response:**

- The proposed site layout allows for discrete and generous car parking to the south/rear of the proposed dwelling, including 2 covered spaces and additional spaces for visitor parking. All cars will be able to turn within the site so access and egress can be achieved in a forward gear.

5. *Materials –*

- *Use building materials that ensure the development fits within the context of the site and is appropriate to the settlement in which it is located*
- *Use roofing material that is most commonly used in the settlement and is of a colour that fits with the local area*
- *Use exterior colours that ensure it reflects its local context*
- *Include the colour of roofing material which do not stand out visually in views*

*Exemplar developments will:*

- *Use natural stone, slate or clay external materials that reflect the traditional local materials common to the settlement in which the development is located*
- *Use exterior colours that ensure it reflects its local context*

**Response:**

- The external building materials have been carefully selected to reflect the local vernacular, and architecturally as appropriate for the setting; The external walls are white render to match the predominantly white render of the existing Heugh Cottages. This white layer forms a solid base rooting the building into its setting. Locally sourced natural stone, both within the proposed house and expressed in the feature wall, anchors the house into the landscape. The use of dark coloured zinc is a sophisticated response to the metal cladding of agricultural buildings, but is used to express the upper, lighter layer of the house. The dark coloured zinc on the north facing elevation deepens the shadow of the overhanging roof and helps to form a “negative” in the overall view.
- The use of wide expanses of glazing will help to embed the new home into the existing context by reflecting the light and trees.

- The proposed roof covering is planted sedum. This not only provides additional insulation and absorption of rainwater, but visually, when viewed from the north and from the top of the North Berwick Law embeds the house into the landscape.

#### 6. Daylight, Sunlight and Overshadowing –

- *be designed to maximise passive solar gain;*
- *provide adequate daylight and sunlight to rooms and rear gardens;*
- *ensure there is no unacceptable loss of daylight to habitable rooms of existing neighbouring properties;*
- *not cause an unacceptable loss of sunlight to neighbouring properties and their gardens*
- *Exemplar developments will maximise sunlight and daylight both within buildings and in the open spaces between them.*

#### **Response:**

- The proposed dwelling is oriented to the south with a monopitch roof rising to maximise solar absorption on the south face.
- The south facing continuous clerestorey window allows daylight to penetrate deep within the plan, controlled by passive louvres.
- Careful positioning of the various functions within the proposed house, ensures that all spaces maximise access to sunlight at the appropriate time of the day.
- The proposed balconies to the south are open to maximise solar gain, while the balcony to the north is covered to minimise exposure.
- The proposed dwelling is positioned to minimise overshadowing of the neighbouring cottages to the east, maintaining a minimum distance of 9m to the boundary. The proposed house is north of these cottages and so will not create any shadow over either the house or their gardens.

#### 7. Separation Distances, Privacy and Overlooking –

- *ensure reasonable privacy for dwellings within their proposed layout*
- *protect the privacy of existing dwellings*
- *ensure a satisfactory level of outlook by minimising dominance/overbearing*
- *demonstrate how habitable rooms within each dwelling are provided with an adequate level of privacy in relation to neighbouring property and the street and other public spaces*

## Response

- Privacy of the neighbouring cottages to the east, is maintained by the careful positioning of the proposed building within its setting, with a minimum 9m to the east boundary. The existing hedgerow boundary will be maintained. Additional planting of 3 specimen native trees (rowan) will help to increase privacy.
- Careful positioning of the various functions within the proposed house ensure that privacy in the new house is maintained. This is explained further in Section 5.05.
- The feature stone spine wall extending into the south garden ensures there is no overlooking of private functions within the new garden.

## 8. *Waste and Recycling*

### Response:

- Bin storage and area for recycling provided.

## 5.0 PROPOSALS

The proposal is for a new dwellinghouse and the design has been based on the following criteria:

- The Client Brief
- Assessment of the physical characteristics of the application site.
- Planning Policy Appraisal
- East Lothian Council's *Design Standards for New Housing SPG(2020)*
- *Landscape and Visual Impact Assessment*
- *Assessment of the Impact on the Setting of Historic Assets*

5.01 The Client Brief asks for a contemporary home, positioned to maximise the views to the south, and views of the Firth of Forth to the north, suitable for its setting. The brief includes the incorporation of low carbon techniques, to minimize CO2 emissions, both in the specification of the components, and in passive means to minimise energy consumption.

5.02 The brief requires 4 bedrooms, living accommodation and a home office. It was decided looking at the first sketch section, that the bedrooms and office should be on the lower floor with the main bedroom and living accommodation on the upper floor, providing maximum views north and south.

5.03 The proposed site is commanding, looking back south across fields to the Lammermuir hills, and north and west over North Berwick and the Firth of Forth, illustrated in figures 9.

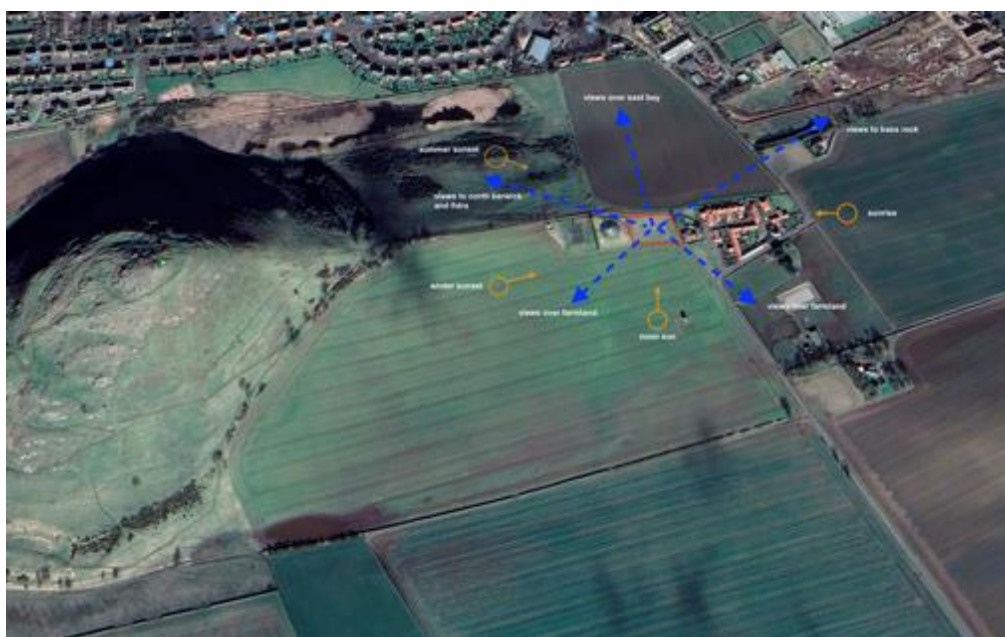


Figure 9. aerial view showing views and sun path.

- 5.04 A full topographical survey was conducted to record the existing ground levels, slopes, and levels of the eaves and ridges of the adjoining buildings.

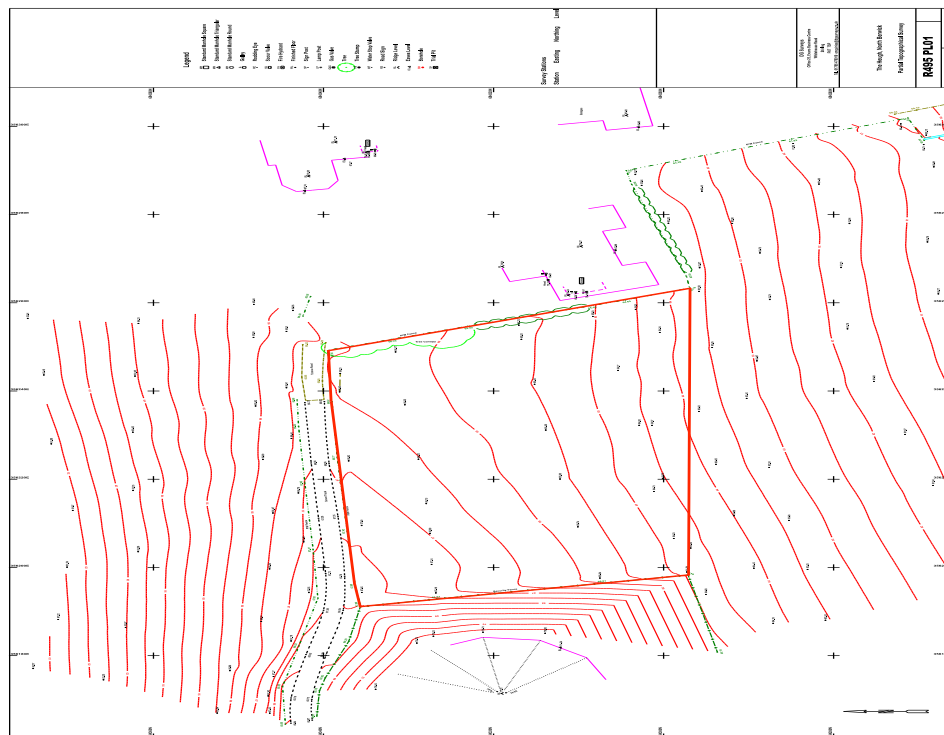


Figure 10. topographical survey

- 5.05 An assessment was made of the aspect of the site to consider the sun's path so maximum use could be made of solar gain in the design, and figure 9. illustrates. The floor plan is organised so that each function within the house has the appropriate sunlight at the appropriate time of the day. For instance the principle bedroom is at the east end of the upper plan to take advantage of morning light; the living room has an open balcony to the south to take advantage of midday/early afternoon sun, and a covered north facing balcony to take advantage of summer sunsets. The core of the upper floor is lit by the continuous south facing clerestorey window, ensuring the main living accommodation is filled with natural light.
- 5.06 Figure 10. shows the first sketch section considering the setting. It also considers the impact of the elevations on the views into the application site; the view from the north, from North Berwick, is of major importance, as this long view includes the Law. It was decided to minimise the elevation to this side of the new house and to extend the slope to form the roof line, thus making it an extension of the ground, and to clad the roof with a "green" sedum mix, to bed the new building into its setting.



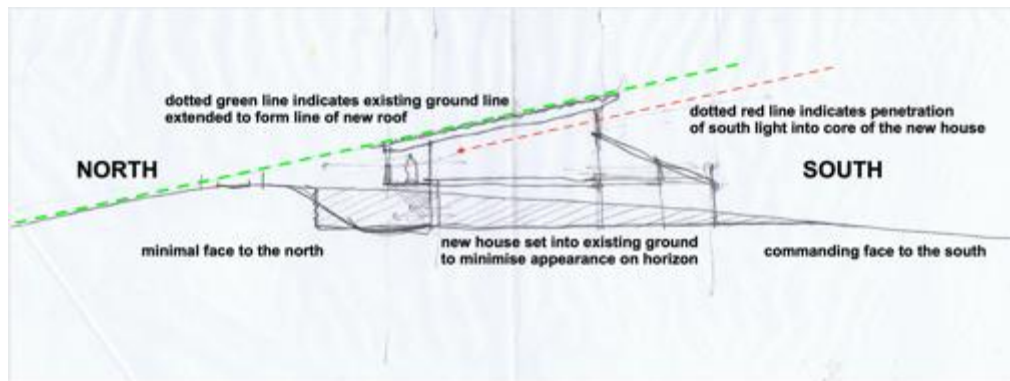


Figure 11. first sketch section

- 5.07 Looking down onto the application site from the top of the North Berwick Law, the green roof will blend the new building into the background, minimising visual impact.



Figure 12. view of new house from top of North Berwick Law

- 5.08 Considering the setting and how the new building would sit alongside its neighbours, an indicative roofline is established from the top of the conical roof of the former water tank, to the roofline of the adjoining cottages, terraces and bungalows.



*Figure 13. indicative roofline established by top of the conical roof of the disused reservoir to the roofline of the adjoining cottages, terraces and bungalows.*

- 5.09 The 12-sided Listed former water tank building is “haunched” with grassed banking up to its eaves, which reduces its physical presence, although its conical slate roof is highly noticeable, from all directions. Planning Permission 19/00700/P allows for the reduction of the banking to create new windows openings into the new dwelling.

The presence of the proposed dwelling has been similarly reduced by setting it into the ground. The creation of a bund to the south boundary enforces this and also helps to put good use of the excavated soil, minimising transport cost during construction and the overall carbon footprint. The bund has been positioned to provide sufficient stand-off from the existing underground water supply pipes.

- 5.10 Access to the application site was originally proposed as a new access from the main road, but this was reviewed in light of the comments received in the formal response to the Pre-App Enquiry. The vehicle and pedestrian access on this application is now from the existing Heugh Steading, owned by the Applicant. The gate to the new dwellinghouse is at the north east corner of the application site minimising the distance to the new entrance, and utilising minimum gradients, to create an accessible entrance, complying with the requirements of the Building Regulations.

- 5.11 Consideration has also been taken of the overlooking of neighbouring properties. Figure 14. Illustrates. There are 2 upper storey dormer windows on neighbouring bungalows, overlooking the application site. The design has provided shielding through sensible location of the various activities of the house but principally by a feature stone wall running north to south, that creates a private garden for the new house to the west and a parking area in the east. Using locally sourced natural stone, to match the stone of the Heugh Steading building, beds the new house into its setting and responds directly to the vernacular. This direct material connection consolidates its architectural integration with its setting, with this wall creating a direct relationship with the landscape.

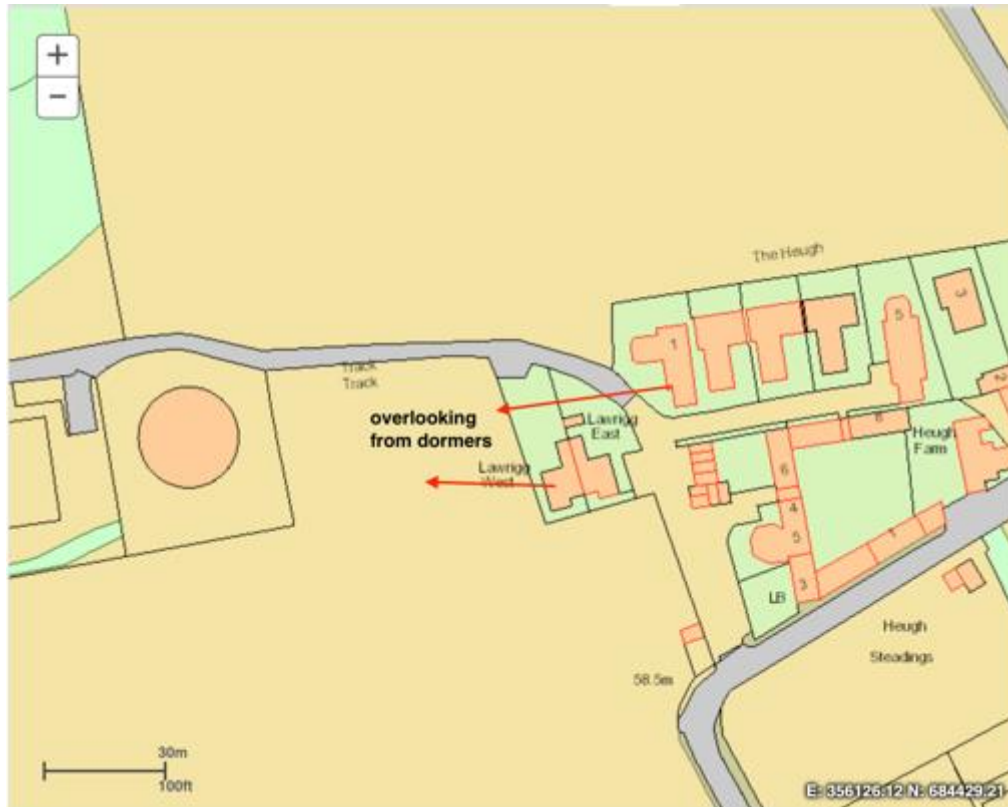


Figure 14. illustrates overlooking from neighbouring properties.

- 5.12 Elevationally, consideration is given to the materials and details of the adjoining Haugh Steading and the modern cottages, terraces and bungalows. Consideration was also given to minimising the carbon footprint, and led to an investigation for suitable material specification.
- 5.13 The neighbouring cottages, terraces and bungalows are generally white painted render, and this is considered a good background palette colour on which to build the details of the elevations. As this is a contemporary architectural interpretation of traditional East Lothian farm buildings, references to the materials of all agricultural buildings was considered. Many agricultural buildings have metal cladding and therefore in response, the more sophisticated detailing of zinc has been adopted for the following reasons;
1. The design seeks to minimise the impact of the new building on the north elevation and therefore the dark colour of zinc, when placed under the overhanging roof will form a shadow line, and a “negative” in the overall view.
  2. The building rises to the south elevation, and so this larger elevation is broken up architecturally and uses different materials to identify the various layers, and zinc is used to identify the projecting kitchen areas of the upper floor. The white render is used to identify the lower storey bedroom layer, as a solid base.

### 3. Zinc is a low-carbon material

- 5.14 The upper storey is made up of the projecting zinc kitchen layer and the large areas of glazing, and also rises to form a clerestorey along the length of the elevation. To accord with the drive to include passive measures of energy reduction, this clerestorey affords the collection of warm sunshine to help warm the ambient air of the house, and this is controlled by a system of timber louvres.
- 5.15 The large areas of glazing will help to embed the new home into the existing context by reflecting the light and trees.
- 5.16 The windows will be high performance anodised aluminium to omit the need for re-painting, with integrated ventilation panels.
- 5.17 The house will be heated by an air source heat pump, and high levels of insulation will be employed to exceed the requirements of the Building Regulations.
- 5.18 The planted “green” sedum roof will also provide high levels of insulation and limit the discharge of rainfall. Visually, the planted “Green” roof blends the roof into the background and will make the roof appear part of the slope facing North Berwick. When viewed from the top of North Berwick Law, the green roof will blend the new building into the landscape.
- 5.19 The angled feature stone wall and east gable align with the east boundary, helping to bed the house into the setting and to respect its neighbours.
- 5.20 The roof height of the proposed dwelling has been carefully controlled to ensure there is a smooth implied roof line, from the ridge of the former water tank building, across the top of the neighbouring bungalows and cottages (see *figures 5 & 6*) and while this helps to positively link the water tank dwelling into the building group, it does not take away from the landmark nature of its conical roof, which stands alone at the end of the group. The setting of the Listed Building is therefore not affected by the proposed new dwellinghouse.
- 5.21 The Application drawings showing the proposed site plan, floor plans, elevations and cross section are shown below at Figures 15,16, 17 & 18. A 3D model has been constructed and model views follow.

6.0 DRAWINGS, PHOTOMONTAGES & MODEL IMAGES

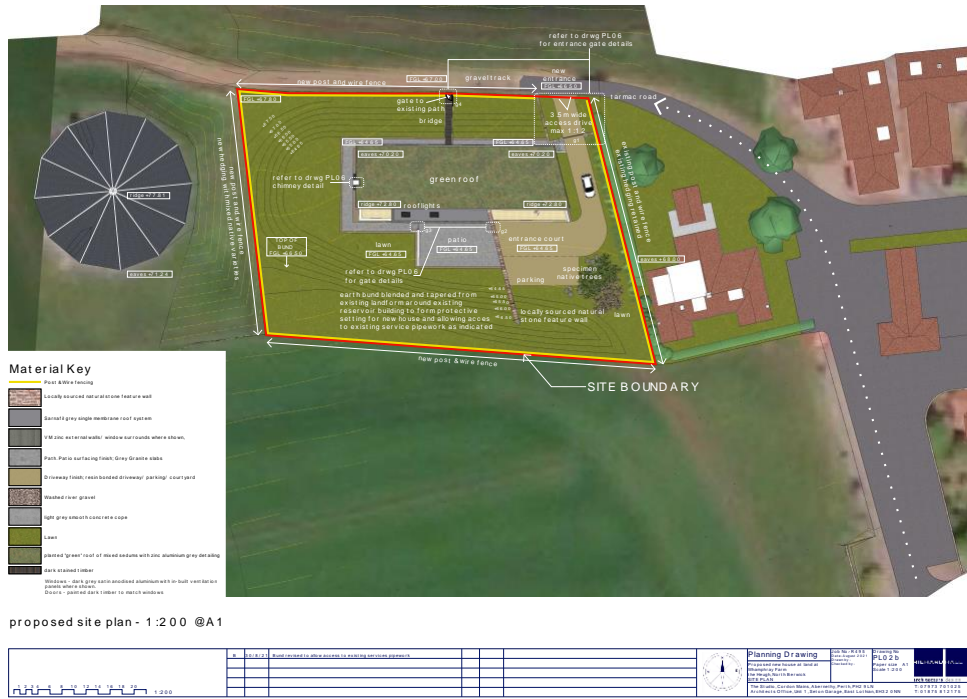


Figure 15. proposed site plan.



Figure 16. proposed floor plans.

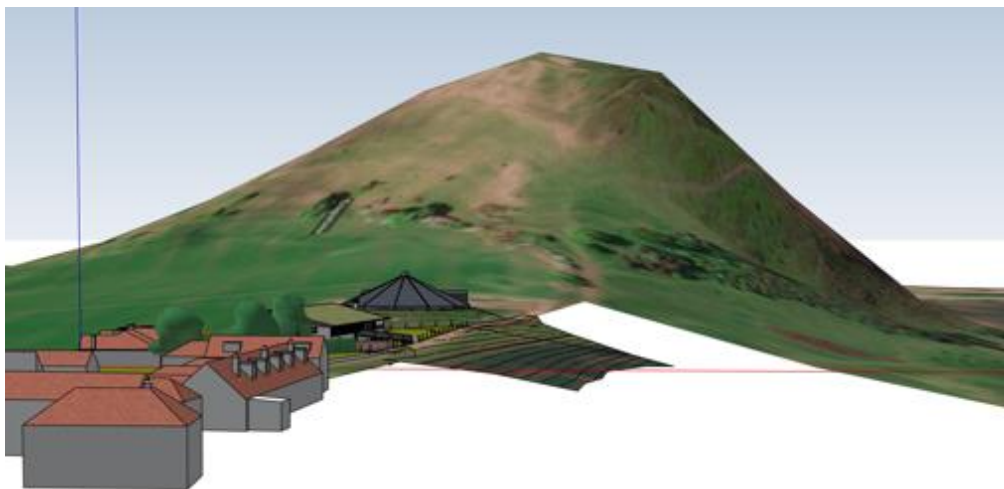




Figure 17. proposed elevations.



Figure 18. proposed site elevation and cross section



*Figure 19. Model view looking west towards the Law showing how the new house bedded into the landscape.*



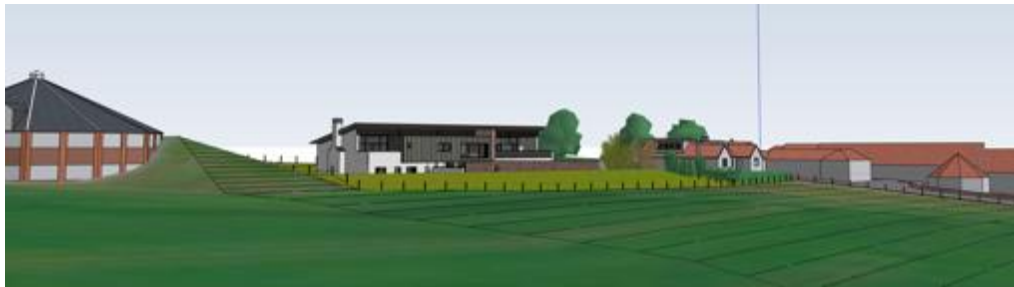
*Figure 20. Model view looking west towards Law*



*Figure 21. Model view looking east*



*Figure 22. Model view looking east. Former water tank conical roof remains as a landmark feature and its individual setting remains unaffected by the proposed new house.*



*Figure 23. Model view as figure 21. illustrates how the proposed dwelling sits comfortably within the application site and the setting of the listed reservoir is unaffected.*



*Figure 24. Model view looking north from existing entrance to the Heugh Steading complex.*



*Figure 25. Model view showing the bund to the south of the application site, bedding the new home into its setting.*





*Figure 26. Model view showing the bund to the south of the application site, bedding the new home into its setting. The feature stone wall reaches out and beds into the bund connecting the new house to the landscape.*

## 7.0 SUMMARY POINTS

- 7.01 The identified application site, is clearly a “gap” site and therefore any development can be considered as infill and links directly to the large grouping of the residential use of the Heugh Steading buildings. The positioning of the proposed dwelling does not affect the setting of the converted water tank building, and its conical roof remains a singular landmark feature.
- 7.02 The proposed design is a contemporary architectural answer to the analysis of the application brief, and of the relevant Planning Policies, and is a respectful and integrated response to the setting, the surrounding vernacular, and the requirements of sustainable passive low carbon regulations.



# Land at the Heugh North Berwick

Tom Tait



Ecological Assessment



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March  
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## SUMMARY

Nigel Rudd Ecology was commissioned by Tom Tait in March 2021 to undertake a Phase 1 Habitat Survey extended to include badgers, over land at Land at the Heugh, North Berwick, there being no suitable habitat for roosting bats, water voles, otters and breeding great crested newts.

The field surveys were complemented by inspection of biological records for the site and the surrounding area to a radius of 5km. In addition, potential effects on designated sites within a radius of 2.5km were considered.

The survey is required to inform an application to develop the Site at Wamphray Farm, in respect of ecological impacts arising from the development as proposed.

There one European designated site within 2.5km of the Site; Firth of Forth SPA. The SPA is remote from the Site, and the features for which it is designated will not use the Site. The SPA will not be adversely affected by the proposed development. The SPA overlap the Firth of Forth SSSI which underpins the SPA and will therefore also not be affected by the proposed development. A second UK site, North Berwick Law SSSI, is designated for the species-rich grassland it supports. There is no connection between Site and the SSSI and there will be no compromise of this SSSI arising from development as proposed. There is one local site, North Berwick Law Reservoir SWT site within 1km of the Site which will be unaffected by development as proposed.

The Phase 1 Survey involved a walkover of the land noting habitats and plant communities and sought evidence of use of the land by badgers. No evidence was found of badgers using the Site. There is one record of the species within 1km of the Site. There is potential for, but little likelihood of, badgers using the Site. No additional survey effort is required in respect of this species, but It is recommended a precautionary approach is adopted to protect small mammals from entrapment and poisoning during construction.

The Phase I Habitat Survey revealed no habitat diversity. The Site is entirely grassland. The habitat is unexceptional.

The development proposals include a new house with a green roof, private garden.

Development as proposed will have a neutral effect on biodiversity. There will be creation of small areas of hard surfacing. The new habitats will be significantly more biodiverse than those they replace. It is anticipated there will be an enhancement of biodiversity as a consequence of development as proposed.



## **1.0 INTRODUCTION**

- 1.1 This report is commissioned by Tom Tait in respect of residential development proposals for land at Land at the Heugh, North Berwick, East Lothian; the Site. (NT562843).
- 1.2 The Site comprises entirely improved neutral grassland on the north edge of a large arable field, to the south of North Berwick (Fig 1). The Site is located between North Berwick Law in the west and the settlement of Heugh and sits above North Berwick to the north. The Law is a volcanic plug and the land to the east falls from west to east as the tail of a glacial crag and tail landform.
- 1.3 The land fall from west to east and north to south. To the immediate east are private houses, and to the immediate west is a Scottish Water facility. The land to the south and north is arable farmland.
- 1.4 There is one European designated site within 2.kkm of the Site; Firth of Forth SPA (Special Protection Area). There are two UK designated sites within 2.5km of the Site; North Berwick Law SSSI (Site of Scientific Interest) and Firth of Forth SSSI. The latter underpins the SPA designation and for the purpose of this the SPA and SSSI will be considered together. There is one locally designated site within 1km of the Site; North Berwick Law Reservoir SWT site (Scottish Wildlife Site).
- 1.5 The proposal is to develop the land for residential use, comprising one new house with access drive and private garden.
- 1.6 It is important this is achieved with no adverse impact on biodiversity. The purpose of the survey is to ensure the wellbeing of protected species is safeguarded during construction and operation of the development and to ensure there is no adverse effect of development on designated sites.
- 1.7 The report is intended to: identify ecological impacts arising from proposed development of the land; identify the need for further surveys; and inform mitigation proposals and recommendations to be made.
- 1.8 The report will set out the survey methods, the findings of the survey, an assessment of the impact of development and recommendations for planting and habitat creation.

## **2.0 LEGISLATION & POLICY**

- 2.1 The following legislation and policies are relevant to the current assessment:
  - The Wildlife & Countryside Act 1981 as amended;
  - The Wildlife and Natural Environment (Scotland) Act 2011;
  - The Conservation (Natural Habitats &c) Regulations 1994
  - The Nature Conservation Scotland Act 2004;
  - The Protection of Badgers Act 1992;
  - Scottish Planning Policy 2020; and





- East Lothian Local Development Plan 2018.
- 2.2 The Wildlife & Countryside Act 1981 as amended - The Act consolidated and amended existing national legislation to implement the Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention) and Council Directive 79/409/EEC on the conservation of wild birds (Birds Directive) in Great Britain, Council Directive 79/409/EEC which was updated by Directive 2009/147/EC.
  - 2.3 The Act is one of the most important pieces of environmental legislation in Britain. The Act provides for the protection of wild animals, birds and plants as well as the protection of areas of natural heritage value and the designation of protected areas including, Sites of Special Scientific Interest (SSSIs), National Nature Reserves, (NNRs) and Marine Nature Reserves (MNRs).
  - 2.4 The Act has been variously amended over the years by legislation including the Nature Conservation (Scotland) Act 2004 and the Wildlife and Natural Environment Act 2011.
  - 2.5 Wildlife and Natural Environment (Scotland) Act 2011 – The Act makes changes to existing legislation covering deer management, game management, species licensing, muirburn, snaring, badgers, invasive non-native species and protected areas protected areas; SSSIs and ASPs.
  - 2.6 The Conservation (Natural Habitats &c) Regulations 1994 – The Regulations transposed Council Directive 92/43/EEC on the conservation of natural habitats and wild fauna and flora (The Habitats Directive) into national law. The Regulations have been amended several times in Scotland, the most recent of which was 2012. Irrespective of the amendments, the purpose of the Regulations has remained the same; containing five Parts and four Schedules, the Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.
  - 2.7 The Nature Conservation Scotland Act 2004 – The Act imposes a wide-ranging duty on the Scotland's public sector to conserve biodiversity and protect the nations natural heritage. The Act strengthens protection of SSSIs and increases maximum fines for deliberate or reckless damage to Scotland's important natural land and wildlife habitat from £5000.00 to £40,000.00.
  - 2.8 The Protection of Badgers Act 1992 – The Act protects badgers by making it an offence to: wilfully kill, injure, take or attempt to kill a badger; possess a dead badger or any part of a dead badger; cruelly ill-treat a badger; use badger tongs in the course of killing, taking or attempting to kill a badger; dig for a badger; possess, sell or offer for sale any live badger; or mark, tag or ring a badger.
  - 2.9 It is also a crime to interfere with a badger sett by intentionally or recklessly causing or allowing: damage to a sett or any part of it; destruction of it; sett access to be obstructed, or any entrance of it; a dog to enter it; disturbance to a badger when it is occupying it.
  - 2.10 There is provision in the Act for licensing any otherwise illegal activity if it can be demonstrated this is in pursuit of a legitimate purpose.
  - 2.11 Scottish Planning Policy 2014 – SPP sets out its principles for safeguard of Scotland's Natural Heritage. They are:



- facilitate positive change while maintaining and enhancing distinctive landscape character;
  - conserve and enhance protected sites and species, taking account of the need to maintain healthy ecosystems and work with the natural processes which provide important services to communities;
  - promote protection and improvement of the water environment, including rivers, lochs, estuaries, wetlands, coastal waters and groundwater, in a sustainable and co-ordinated way;
  - seek to protect soils from damage such as erosion or compaction;
  - protect and enhance ancient semi-natural woodland as an important and irreplaceable resource, together with other native or long-established woods, hedgerows and individual trees with high nature conservation or landscape value;
  - seek benefits for biodiversity from new development where possible, including the restoration of degraded habitats and the avoidance of further fragmentation or isolation of habitats; and
  - support opportunities for enjoying and learning about the natural environment.
- 2.12 Planning authorities are required to adhere to the principles by preparing Development Plans and Development Management Plans, The Development plans should identify International, national and locally designated sites and afford them protection appropriate to their level of designation.
- 2.13 East Lothian Local Development Plan 2018 – Policy NH1: Protection of Internationally Designated Sites - states development proposals unconnected to the conservation management of a Natura 2000 or Ramsar site, that are assessed as likely to have a significant effect on the integrity of such a site will be subject to Appropriate Assessment.
- 2.14 Where the Appropriate Assessment cannot rule out adverse effects on the integrity of the Natura 2000 or Ramsar site, the proposal will only be permitted where:
- There are imperative reasons of over-riding public interest and there are no alternative solutions; and
  - Compensatory measures are provided to ensure that the overall coherence of the Natura 2000 network is protected.
- 2.15 Policy NH2: Protection of SSSIs and Geological Conservation Review Sites – Development of an SSSI or Geological Conservation Review Site would only be permitted where it can be demonstrated that:
- The objectives of designation and overall integrity of the site will not be compromised;
  - Any significant effects on the qualities for which the area has been designated are clearly outweighed by social, economic, economic or environmental benefits of national importance;
  - There is no satisfactory alternative solution; and appropriate mitigation will be provided.



- 2.16 Policy NH3: Protection of Local Sites and Areas – These sites are identified as LNCSs (Local Nature Conservation Sites), which includes Local Biodiversity Sites and Local Geodiversity Sites, on the Proposals Map.
- 2.17 Development that would adversely affect the interest of an LNCS, Local Nature Reserve or Country Park will only be permitted where it is demonstrated that any damage to the natural heritage interest or public enjoyment of the site is outweighed by the public benefits of the development to the local area and suitable mitigation will be secured.
- 2.18 Policy NH4: European Protected Species – Proposals that may have an impact on a European protected species will only be permitted where:
- There are imperative reasons of overriding public interest or for public health and safety;
  - There is no satisfactory alternative;
  - Favourable conservation status of the species can be maintained; and
  - A species protection plan has been submitted, which is based on survey results and includes details of the status of the European protected species on the site and how possible adverse effects are to be mitigated.
- 2.19 Policy NH5: Biodiversity and Geodiversity Interest, including Nationally Protected Species, requires that developers must demonstrate, where relevant, how impacts on biodiversity and geodiversity have been addressed as part of their proposals.
- 2.20 Development that would result in an adverse impact on nationally protected species, the biodiversity value of the site or surrounding area, or serious damage to or destruction of a significant geodiversity feature, will only be permitted where the loss is outweighed by the public benefit arising from development and suitable mitigation has been secured.
- 2.21 The Local Development Plan also provides for protection of trees and stands of trees in regard to their amenity role and protection of the water environment in respect of the provisions of the Water Framework Directive.
- 2.22 The Plan also requires that submission of appropriate Sustainable Drainage Systems proposals within development proposals.

## **3.0 THE SURVEY**

### **3.1 Desk Study**

3.2 The desk study comprised:

- Acquisition of biological data from the National Biodiversity Network Atlas (Scotland) (NBN Atlas);
- Acquisition of biological data from The Wildlife Information Centre (TWIC);
- Acquisition of information on designated sites within 2.5km of the land from Scottish Natural Heritage (SNH Sitelink); and



- Consultation of historical maps of the land and its surroundings.

### 3.3 Field Survey

- 3.4 The survey was undertaken by Nigel Rudd (Appendix 1) in March 2021.
- 3.5 The survey area extended to the site boundary (Fig1) and an area 30m beyond the boundary, where accessible. The weather at the time of survey was bright sun, clear sky and average seasonal temperatures.
- 3.6 The survey comprised a walkover of the land consistent with Phase 1 Habitat Survey methodology (JNCC 2010), noting habitat structure and component plant species, augmented by assessment for potential for use by, or inspection for signs of the presence of, species protected under legislation listed above.
- 3.7 The species sought was badgers. There was no suitable habitat for roosting bats, water voles, otters or great crested newts.
- 3.8 The findings of the 2021 survey are set out below.
- 3.9 The survey findings are complemented by consideration of recorded data available from the NBN Atlas, and TWIC.

## 4.0 BASELINE ECOLOGICAL CONDITIONS

### 4.1 Designated sites

#### 4.2 International sites

- 4.3 There is one European site within 2.5km of the Land at the Heugh; Firth of Forth SPA/SSSI.
- 4.4 The Firth of Forth SPA, underpinned by the Firth of Forth Site of Special Scientific Interest (SSSI), covers an area of 6314 ha and is described as '*a complex of estuarine and coastal habitats in south east Scotland stretching east from Alloa to the coasts of Fife and East Lothian. The site includes extensive invertebrate-rich intertidal flats and rocky shores, areas of salt marsh, lagoons and sand dune.*' (Appendix 4)
- 4.5 The qualifying interests are wintering populations of red-throated diver (*Gavia stellata*), Slavonian grebe (*Podiceps auritus*), golden plover (*Pluvialis apricaria*) and bar-tailed godwit (*Limosa lapponica*). Wintering populations of migratory species pink-footed goose (*Anser brachyrhynchus*), shelduck (*Tadorna tadorna*), knot (*Calidris canutus*), redshank (*Tringa tetanus*) and turnstone (*Arenaria interpres*) also represent qualifying interest. Further interest is the post-breeding (passage) population of sandwich tern (*Sterna sandvicensis*).
- 4.6 The scale of the wintering waterfowl assemblage is important comprising an average of 95,000 individuals (45,000 wildfowl and 50,000 waders). This includes nationally important numbers of:

great crested grebe

*Podiceps cristatus*



cormorant	<i>Phalacrocorax carbo</i>
scaup	<i>Aythya marila</i>
eider	<i>Somateria mollissima</i>
long-tailed duck	<i>Clangula hyemalis</i>
common scoter	<i>Melanitta nigra</i>
velvet scoter	<i>M. fusca</i>
goldeneye	<i>Bucephala clangula</i>
red-breasted merganser	<i>Mergus serrator</i>
oystercatcher	<i>Haematopus ostralegus</i>
ringed plover	<i>Charadrius hiaticula</i>
grey plover	<i>Pluvialis squatarola</i>
dunlin	<i>Calidris alpina</i>
curlew	<i>Numenius arquata</i>

and large numbers of wigeon (*Anas penelope*), mallard (*A. platyrhynchos*) and lapwing (*Vanellus vanellus*).

- 4.7 The conservation objectives of the SPA are to avoid deterioration of the habitats of the above qualifying species or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained.
- 4.8 In addition; the objectives are to ensure for the qualifying species that the following are maintained in the long term:
- Population of the species as a viable component of the site;
  - Distribution of the species within the site
  - Distribution and extent of the habitats supporting the species;
  - Structure, function and supporting processes of the habitats supporting the species; and
  - No significant disturbance of the species.
- 4.9 Where there are development proposals for land near to the SPA it is necessary to consider the likely effect on the SPA. If it is considered that there is likely to be a significant effect on the qualifying interests, then an Appropriate Assessment must be carried out. The Appropriate Assessment should consider direct and indirect impacts of the proposals in the context of other impacts on the SPA qualifying interests.
- 4.10 The application Site is maintained as grassland and because of its size presents no significant habitat opportunity for qualifying features of the SPA. The essential habitat for the over-wintering bird populations is the several thousand hectares of inter-tidal mudflats, mostly found in the middle reaches of the estuary. There are no mudflats within 1km of the site. There will be no loss of habitat as a result of implementation of the proposals. There will be no loss of loafing habitat as a consequence of implementing the proposals.
- 4.11 *National sites*
- 4.12 There are two UK Statutory sites within 2.5km of the Wamphray Farm Site; Firth of Forth SSSI and the North Berwick Law SSSI.
- 4.13 North Berwick Law SSSI is designated for lowland calcareous grassland it supports. The site extends to 38.44ha, around the Law and on the slope to the north-east.



- 4.14 The grassland is unimproved and mineral rich and is rare in East Lothian. Representative species include lady's bedstraw *Galium verum*, burnet saxifrage *Pimpinella saxifrage*, wild thyme *Thymus polytrichus*, and maiden pink *Dianthus deltoides*. Purple milk vetch *Astragalus danicus*, a UK BAP priority species and meadow saxifrage *Saxifraga granulata*, a Red Data List species have also been recorded on the SSSI.
- 4.15 The SSSI approaches to within 40m of the Site. There is no direct connection between the two land packages. The SSSI is regularly disturbed by walkers and development will not result in any direct or indirect significant effect on the SSSI.
- 4.16 *Local sites*
- 4.17 There is one locally designated site within 1km of the Land at the Heugh; North Berwick Law Reservoir SWT site. This is located on the west of the Law, approximately 1km from the Site. Development as proposed will not adversely affect this site.
- 4.18 **Habitats**
- 4.19 The proposed development site is an area of maintained grassland extending to approximately 0.2ha. The sward had been cut since the summer of 2020 creating a sward 150-200mm tall which showed low species diversity and negligible herbaceous species colonisation. There is no tree, shrub or tall ruderal habitat on the Site. The habitat extends to, and along the borders where the vegetation is taller but similarly species poor.
- 4.20 The habitat has **site value**. There are very restricted examples of some low growing grasses and herbaceous species around the perimeter of the site.
- 4.21 Common plant names are used in the text and a list of plants recorded is set out in Appendix 4.
- 4.22 **Species**
- 4.23 The only protected species anticipated as resident on the land was badgers. Inspection of the land revealed no habitat potential for roosting bats, great crested-newts, otters or water voles.
- 4.24 Badgers
- 4.25 The ecology of badgers (*Meles meles*) is set out in Appendix 3, as is the legal protection from which they benefit, and the methods employed to inspect for evidence of their presence on or use of the land under survey.
- 4.26 The NBN Atlas and TWIC holds one record of badgers 1km of the Site.
- 4.27 No evidence was found of badgers using the land.
- 4.28 The site is small with no evidence of use by badgers and it is considered that the land has **negligible value for badgers**.



## 5.0 ECOLOGICAL IMPACTS, OPPORTUNITIES and RECOMMENDATIONS

5.1 The proposal is to build one private house on the Land at the Heugh, comprising the house, private garden and vehicle access.

5.2 The proposed development land is entirely managed, improved, species-poor neutral grassland.

### 5.3 Designated sites

5.4 There is one European designated site within 2.5km of the Site; Firth of Forth SPA/SSSI. The site is valued for its bird populations and the estuarine and marine habitats that sustain these populations. The SPA is remote from the site and the bird species for which the SPA is designated do not use the Site and will not be affected by development of the land as proposed. The SPA overlaps with SSSI and it is clear the SSSI will be unaffected by development as proposed.

5.5 There is one UK statutory site neighbouring the Wamphray Farm Site; the North Berwick Law SSSI. The two sites are separated but support similar habitats. The SSSI supports unmanaged grassland and is an undisturbed habitat. Development of the site will not disturb the established grassland habitat of the SSSI. Indeed, development of the Site as proposed will have no impact on the SSSI.

5.6 There is one locally designated site within 1km of the Site; the North Berwick Law Reservoir SWT site. This site is remote from the Wamphray Farm Site and will be unaffected by development of the Site as proposed.

5.7 **The protected sites will not be affected by implementation of the development proposals.**

### 5.8 Habitats

5.9 There will be loss of managed neutral grassland habitat. The habitat is unexceptional and restricted in area. **The habitat has low value because of its scale and context**

5.10 The habitat lost will be replaced by a house, private garden ground and restricted hard surfacing. The house footprints will represent a permanent loss of semi-natural habitat, but creation of a green roof, garden ground and garden planting will effectively represent a replacement of species poor habitats with significantly more diverse habitats. Development as proposed therefore **causes no significant adverse impact on the local biodiversity status and it is considered there will be a minor positive effect on local biodiversity.**

### 5.11 Species

5.12 There was no evidence of badgers using the Site, but they are recorded 1km west of the Site. It is anticipated there will be no risk to the wellbeing of badgers during the construction process, but house construction raises potential threats to wildlife. **A precautionary approach is recommended, putting measures in place to ensure badgers and small mammals do not come to harm during construction; open pipes should be closed-up at the end of each working day, and trenches should be covered, or a ramp provided to permit animals that fall in a means of exit, to**





**prevent animals becoming trapped. Chemicals and materials should be stored securely.**

- 5.13 There will be clearance of low value semi-natural habitat to make way for development. Nevertheless, **it is recommended that clearance is carried out outside the bird nesting season; March to August. If this is an obstacle to development, it is important that no clearance is undertaken before the land is inspected for nesting birds, by a suitably qualified ecologist, and declared clear of nesting birds.**
- 5.14 **Summary**
- 5.15 Development of the Land at the Heugh will result in the loss of low value grassland habitat to new housing and private gardens. There will be no adverse impact on biodiversity from the loss of unexceptional habitats and it is anticipated there will be a minor positive effect on biodiversity as a consequence developing the land as proposed.
- 5.16 There will be no impact on badger populations, but precautionary measures should be put in place to safeguard small mammals during construction.
- 5.17 There will be no impact on European, UK or locally protected sites.
- 5.18 **It is anticipated that there will be a minor positive impact on biodiversity as a consequence of development as proposed.**

## 6.0 CONCLUSIONS

- 6.1 The proposal is to develop Land at the Heugh, North Berwick for residential use. The proposal comprises a new housing, and private garden.
- 6.2 The land and the immediate area around were surveyed in March 2021 to determine impacts arising from development of the site as proposed, by assessing the habitat resource, potential for, or evidence of, badgers, and potential effects of development on designated sites.
- 6.3 The land is entirely species-poor grassland.
- 6.4 **Habitats**
- 6.5 There will be low-grade habitat loss to development. The grassland will be replaced by a green-roofed house, garden ground and hard surfacing. The new habitats will have greater biodiversity value than those they replace.
- 6.6 **Species**
- 6.7 Badgers and small mammals – there is no evidence of the species using the land and little likelihood of this. No further survey work is necessary in respect of badgers, but it is recommended the precautionary approach set out above is adopted during construction.



- 6.8 Birds – there is potential for bird nesting in the semi-natural habitats. No further survey work is necessary, but site clearance should be undertaken outside the bird nesting season. If this is not possible, it is important the Site is inspected for roosting birds by a suitably qualified ecologist and declared clear of nesting birds before start of work.

### **Bibliography**

Collins, J (ed.) (2016), *Bat Surveys for Professional Ecologists: Good Practice Guidelines*, 3<sup>rd</sup> edition, Bat Conservation Trust, London

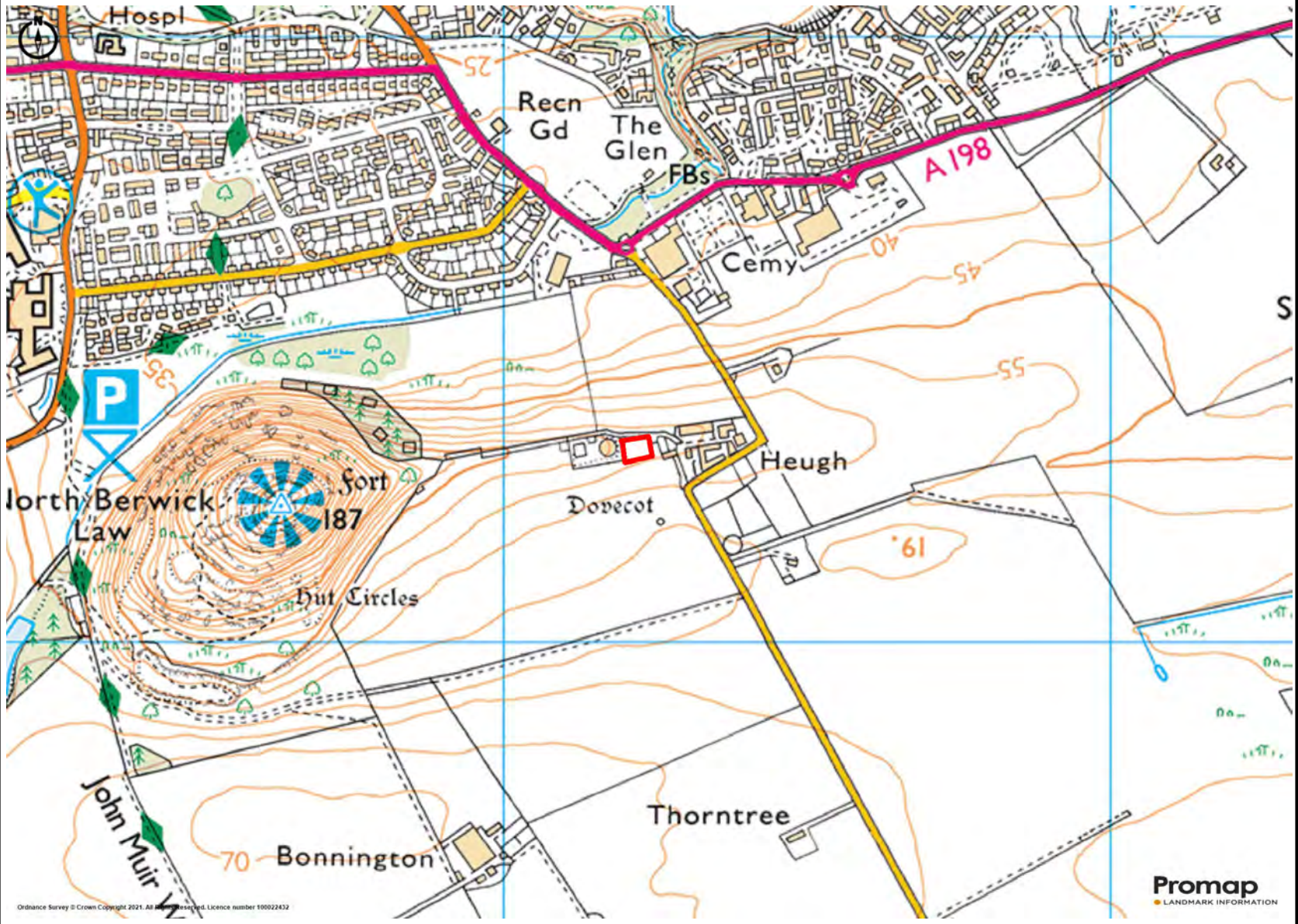
JNCC (2010), *Handbook for Phase I Habitat Survey – a technique for environmental audit*, Monkstone House, City Road, Peterborough.



## Figure 1

Location Plan

Figure 1



Land at the Heugh  
North Berwick

Location Plan March  
2021

**NIGEL RUDD**  
ECOLOGY  
15 Bonaly Grove  
Edinburgh EH13 0QA



[nigel@nigeruddedology.co.uk](mailto:nigel@nigeruddedology.co.uk)

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## Figure 2

Phase 1 Habitat Plan



Figure 2



**Land at the Heugh  
North Berwick**

**Phase 1 Habitat Plan  
March 2021**

**NIGEL RUDD  
ECOLOGY**

15 Bonaly Grove  
Edinburgh EH13 0QA

[nigel@nigelruddedology.co.uk](mailto:nigel@nigelruddedology.co.uk)





## Appendix 1

### Personnel

#### **Nigel Rudd BSc CBiol MRSB CMLI**

Consultant ecologist with forty years-experience. Twenty-three years part-time and seventeen full time. Over twenty-five years-experience in Phase 1 Habitat Survey, twenty in bat, otter, and badger survey and fifteen years in reptile, and formal great crested newt surveys.

Graduated in Applied Biology – Honours Ecology in 1976. (Liverpool Polytechnic)

Three years research in estuarine algae Heriot Watt University. Lectured Ecology to Landscape students at Edinburgh College of Art/Heriot Watt University 1979-2002, Dean of Faculty Environmental Studies 1998-2000.

Chartered Biologist – Member of the Royal Society of Biology since 1976  
Chartered Landscape Architect – member since 1986

Clients – Major house builders, Local and Central Government, non-governmental organisations. Provided survey, EA and BREEAM reports. Professional witness. Co-authored policy and methodology reports.





## **Appendix 2**

### Feature Evaluation Table



<b>Nature Conservation Value</b>	<b>Example of Selection Criteria</b>
<b>International</b>	<p>A site designated, or identified for designation, at the international level e.g. World Heritage Site, Special Protection Area (SPA), Special Area of Conservation (SAC) and/or RAMSAR site.</p> <p>A sustainable area of habitat listed in Annex 1 of the Habitats Directive, or smaller areas of such habitat that is essential to maintain the viability of a greater whole.</p> <p>Any regularly occurring population of an internationally important species e.g. UK Red Data Book Species, which is listed as occurring in 15 or fewer 10km squares in the UK, and that is identified as having unfavourable conservation status in Europe or global conservation concern in the UKBAP.</p>
<b>UK</b>	<p>A site protected by national designations e.g. Site of Special Scientific Interest (SSSI), National Nature Reserve (NNR), or Marine Protected Area or a site considered worthy of such designation.</p> <p>A sustainable area of any priority habitat identified in the UK BAP, or smaller areas of such a habitat that is essential to maintain the viability of a larger whole.</p> <p>A feature identified as of critical importance in the UK BAP.</p> <p>A sustainable population of a nationally important species (species listed in Schedules 1, 5 and 8 of the Wildlife &amp; Countryside Act 1981 as amended), which is threatened or rare in the District.</p> <p>Any regularly occurring population of a nationally important species that is threatened or rare in that region of the country and for which the LBAP identifies the need to protect all remaining sites.</p>
<b>National Scotland</b>	<p>Sustainable area of key habitat identified in the UK BAP or smaller areas of such habitat that is essential to maintain the viability of a larger area.</p> <p>Non-statutory sites that the designating authority has determined meet the published ecological selection criteria for designation, including Local Nature Reserves.</p> <p>Some non-statutory designated sites (Ancient Woodland, TPOs).</p> <p>Any regularly occurring, locally important population of a species listed in a Regional Red Data Book or LBAP on account of its national rarity or localisation.</p>
<b>District</b>	<p>Some designated sites (e.g. Local Nature Reserve)</p> <p>Some non-statutory designated sites (including SLNCl/CWS)</p> <p>A viable area of habitat identified in a District BAP.</p> <p>Sustainable populations of a species that is rare or scarce within a District, or listed in a District BAP.</p> <p>A viable area of a habitat that is uncommon in the District/district or a degraded example of a habitat identity in a District BAP.</p> <p>Sites or populations that appreciably enrich the District/district habitat resource.</p>
<b>Local</b>	<p>Area of internationally or nationally important habitats, which are degraded and have little potential for restoration.</p> <p>Areas within the site or locally, or populations, that appreciably enrich the habitat/species resource within the locality, e.g. species-rich hedgerow.</p>



<b><i>Nature Conservation Value</i></b>	<b><i>Example of Selection Criteria</i></b>
<b>Within zone of influence</b> <b>Site Value</b>	Common and widespread species.  Areas of heavily managed or modified vegetation of low intrinsic interest and low value to species of nature conservation interest that do not appreciably enrich the site or locality.



## **Appendix 3**

### Species inspections



## Badgers

**Background** – The badger is the largest member of the Mustelidae in Britain weighing up to 20kg and reaching a length of 1m. Badgers are strong animals, adapted to digging, have good hearing and a well-developed sense of smell.

Badgers live in setts. A sett is a network of underground tunnels, which can have a total length of several hundred metres, although individual tunnels reach only 15m. The tunnels incorporate nesting and sleeping chambers, which are usually lined with dry plant material.

Setts are recognised by the large volume of soil and rock deposited at their entrances and the shape of the opening, usually an oval/arch wider than it is high. Plant debris from the bedding is often found close to the entrances. Setts are only excavated where the soil is deep enough and dry.

The setts vary. **Main setts** are large and in continuous use and on average have ten to twelve entrances. Often close to a main sett (up to 150m away) there may be an **Annexe sett** linked to the main sett by established paths. Annexe setts have an average of eight entrances and may not be in continuous use. **Subsidiary setts** are close to the main sett and are not connected by a clear path and not continuously active the average number of entrances is four. The fourth kind of sett is an **Outlying sett**. These can be distinguished by having little associated spoil, no approach path and are seldom used. Often, they can be occupied by other species such as foxes and rabbits. The average number of holes is two.

The badger diet is mainly earthworms but also includes fruit, berries, small mammals, birds, carrion, insects and other invertebrates. Usually, the badgers find the earthworms in areas of short grass, the most important forage resource used.

Badgers live in extended families or clans with up to 6 adults. They are territorial, often marking the boundary of their territory with latrines. The latrines can be used to establish the size of badger territories in bait marking exercises. The territory can extend to 120 hectares in areas with plenty of improved grassland. Where the forage resource is poorer the territory can be much larger.

Badgers mate at any time of the year and births are most common between December and June.

### Badgers and the Law

Badgers are protected by the Protection of Badgers Act 1992, which is designed to protect the species against cruelty and incidental effects of lawful activity that might harm badgers.

Under the legislation, it is an offence to wilfully or recklessly:

kill, injure, take, possess or cruelly ill-treat a badger, or attempt to do so  
Interfere with a sett by damaging or destroying it  
Obstruct access to, or any entrance of, a badger sett  
Disturb a badger when it is occupying a sett.

A person is not guilty of an offence if the act was '*the incidental result of a lawful operation and could not have been reasonably avoided*'; what is reasonable often must be determined by the courts.



A badger sett is defined as '*any structure or place which shows signs of current use by a badger*', including culverts, pipes, holes under sheds, piles of boulders, old mines and quarries.

Current does not mean current occupation but applies to any sett in an area of current badger activity. This applies if the sett is used for only short periods in the year.

The Act makes provision for the issue of licences permitting otherwise illegal operations. Scottish Natural Heritage (SNH) is the licence issuing authority for the purposes of development.

The Survey - The inspection was carried out in March 2021 and involved inspection the land for evidence of use by badgers.

In addition to setts, there are a number of signs that indicate badger activity. These include: hair on fences; paths or runs; footprints; latrines; snuffle holes in the ground; day nests and scratch marks on trees.

The site and surrounding accessible land to a radius of 50m, where accessible, was assessed for badger activity. A constant search method was employed in a thorough walkover of the land.

**No evidence was found of badgers using the land.**

**TWIC hold records of badgers within 1km of the Wamphray Farm land as does the NBN Atlas Scotland.**

**It is not considered badgers will be adversely affected by development as proposed, provided measures are put in place to prevent badgers and small mammals becoming trapped or accessing toxic materials during construction.**



## **Appendix 4**

### Plant species list





**Wamphray Farm  
North Berwick**

**Plant Species**

Annual meadow grass  
Bent grass  
Bramble  
Cock's foot  
Dock  
Fescue  
Plantain

*Poa annua*  
*Agrostis sp.*  
*Rubus fruticosus*  
*Dactylis glomerata*  
*Rumex obtusifolius*  
*Festuca sp.*  
*Plantago lanceolata*



## **Appendix 5**

### Sites

## CITATION

### NORTH BERWICK LAW SITE OF SPECIAL SCIENTIFIC INTEREST East Lothian

Site code 1228

NATIONAL GRID REFERENCE: NT 555842

OS 1:50,000 SHEET NO: Landranger Series 66 / 67  
1:25,000 SHEET NO: Explorer Sheet 351

AREA: 33.61 ha.

## NOTIFIED NATURAL FEATURES

**Biological: Lowland grassland: Lowland calcareous grassland**

## DESCRIPTION

North Berwick Law Site of Special Scientific Interest (SSSI) is located approximately one kilometre south of North Berwick, East Lothian. The steep sides of this volcanic plug are covered with large areas of unimproved, mineral rich grassland, a rare and declining habitat in East Lothian. This is an extensive and representative area of this habitat.

Several vascular plant species indicative of base-rich conditions are present, including lady's bedstraw *Galium verum*, burnet-saxifrage *Pimpinella saxifraga*, wild thyme *Thymus polytrichus*, knotted clover *Trifolium striatum* and maiden pink *Dianthus deltoides*. The UK BAP priority species purple milk-vetch *Astragalus danicus*, not normally found inland and the Red Data List species meadow saxifrage *Saxifraga granulata* are also known from the site.

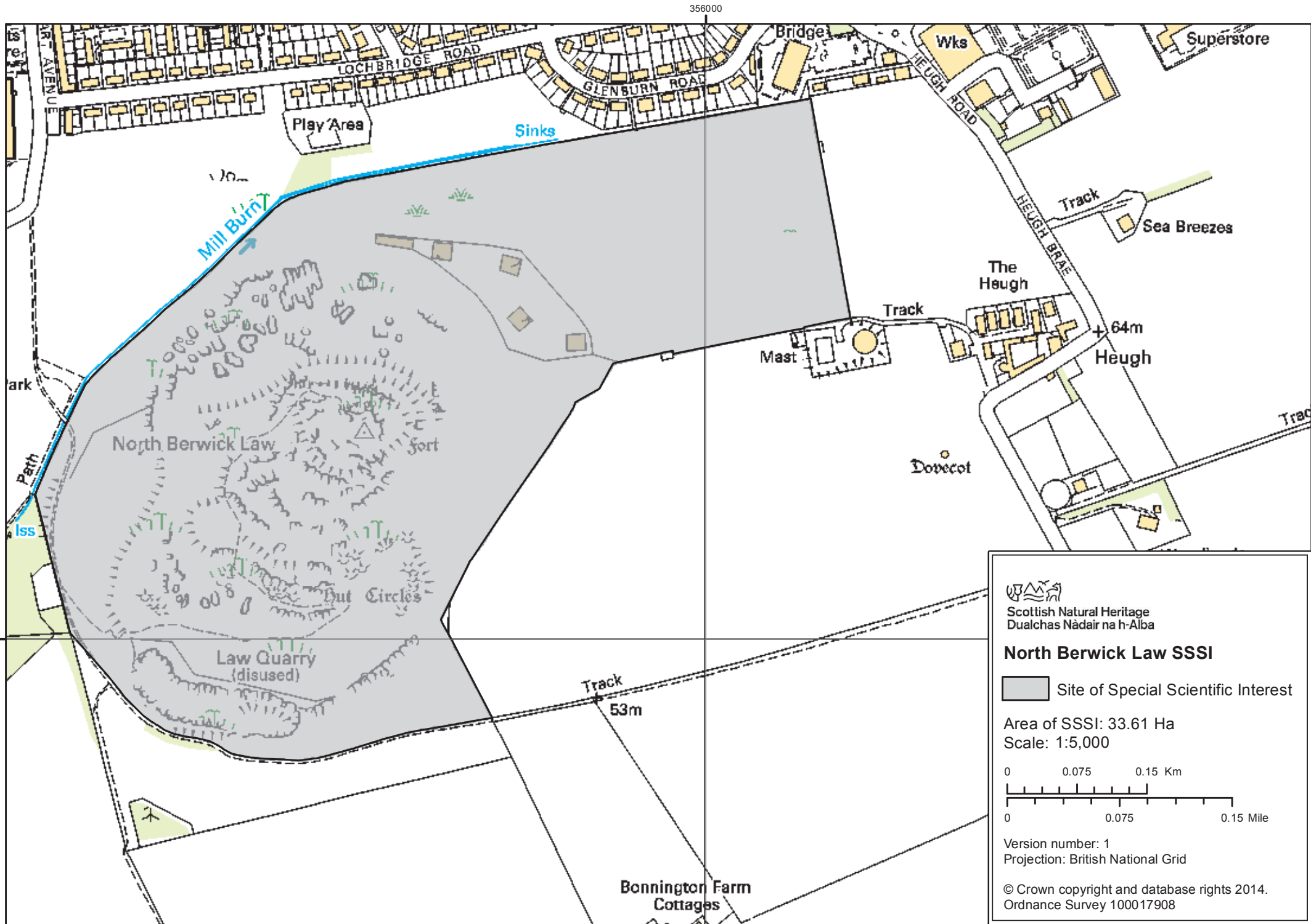
Although not notified, the site also contains a number of rare bryophytes.

## NOTIFICATION HISTORY

First notified under the 1949 Act: 1952  
Re-notified under the 1981 Act: 15 August 1983 with an 18.1 ha decrease in area.  
Notification reviewed under the 2004 Act: 21 April 2010  
Partial denotification confirmed under the 2004 Act: 13 January 2015 with a 5.22 ha reduction in area

## REMARKS

Measured area of site corrected (from 38.44 ha).

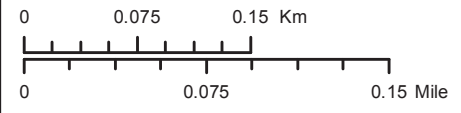


Scottish Natural Heritage  
Dualchas Nàdair na h-Alba

**North Berwick Law SSSI**

Site of Special Scientific Interest

Area of SSSI: 33.61 Ha  
Scale: 1:5,000



Version number: 1  
Projection: British National Grid

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Ordnance Survey 100017908



## Calum Glen

---

**From:** Clark, Colin - EHO <cclark1@eastlothian.gov.uk>  
**Sent:** 31 May 2022 11:18  
**To:** Environment Reception  
**Cc:** Millar, Neil  
**Subject:** RE: 22/00587/P - Neil Millar - Planning Consultation

I refer to your consultation request of 27<sup>th</sup> May 2022 in connection with the above and would advise I have no comment to make regarding the application.

Regards

Colin Clark | Senior Environmental Health Officer, Public Health & Environmental Protection | Protective Services | East Lothian Council | John Muir House | Haddington | EH41 3HA |  
Tel. 01620 827443 or [REDACTED] | Email. [cclark1@eastlothian.gov.uk](mailto:cclark1@eastlothian.gov.uk) | Visit our website at [www.eastlothian.gov.uk](http://www.eastlothian.gov.uk)

-----Original Message-----

From: Environmental Health/Trading Standards <ehts@eastlothian.gov.uk>  
Sent: 27 May 2022 12:00  
To: [REDACTED]  
[REDACTED]  
[REDACTED]  
Subject: FW: 22/00587/P - Neil Millar - Planning Consultation

-----Original Message-----

From: Environment Reception <environment@eastlothian.gov.uk>  
Sent: 27 May 2022 11:51  
To: Environmental Health/Trading Standards <ehts@eastlothian.gov.uk>  
Subject: 22/00587/P - Neil Millar - Planning Consultation

Please see attached document in relation to the following application: Erection of 1 house and associated works

This Application for Planning Permission follows the withdrawal of a previous planning application (ref: 21/00781/P). This new Application seeks to respond to the matters raised in the draft Report of Handling for the previous Application (ref: 21/00781/P), at Land At The Heugh North Berwick East Lothian

NHS Coronavirus Information

[[https://intranet.eastlothian.gov.uk/multimedia/1624/1624\\_250x83.jpg](https://intranet.eastlothian.gov.uk/multimedia/1624/1624_250x83.jpg)]

## Calum Glen

---

**From:** Canty, Jon <jcanty@eastlothian.gov.uk>  
**Sent:** 01 June 2022 10:15  
**To:** Millar, Neil  
**Subject:** RE: 22/00587/P - Neil Millar - Planning Consultation

Hi Neil,

My comments for this application are as follows (i.e. the same as the comments that I made for 21/00781/P as they have not been addressed in the current submission):

The proposed residential dwelling is accessed from the existing private road via a new 3.5m wide driveway with a gated entrance set back from the road leading to a rear parking area, alongside additional gated pedestrian entrances to the plot. Given that the gate for the driveway is set back from the road, which is private, we have no objections to this gated arrangement in principle. Whilst the driveway gradient of 1:12 is steeper than our typical requirements where driveways form the only access to a dwelling, given that there is a separate gated pedestrian entrance then we would be able to accept the proposed arrangement. However, we request that the tarmac road construction is extended to the front pedestrian gate to allow for direct access here for those with mobility impairments who are not driving and parking at the rear area. The informal parking area exceeds our requirements for private parking within the plot and we have no objections to this, however, we do seek an electric vehicle charging point be provided on an external wall of the building in this area. Subject to these two points being addressed, we have no objections to this planning application.

Regards,

Jon

**Jon Canty**

Transport Planning Officer  
East Lothian Council  
**01620 827285**  
[jcanty@eastlothian.gov.uk](mailto:jcanty@eastlothian.gov.uk)

-----Original Message-----

From: Environment Reception <environment@eastlothian.gov.uk>  
Sent: 27 May 2022 11:53  
To: Transport Planning <transportplanning@eastlothian.gov.uk>  
Subject: 22/00587/P - Neil Millar - Planning Consultation

Please see attached document in relation to the following application: Erection of 1 house and associated works

This Application for Planning Permission follows the withdrawal of a previous planning application (ref: 21/00781/P). This new Application seeks to respond to the matters raised in the draft Report of Handling for the previous Application (ref: 21/00781/P). at Land At The Heugh North Berwick East Lothian

NHS Coronavirus Information

[\[https://intranet.eastlothian.gov.uk/multimedia/1624/1624\\_250x83.jpg\]](https://intranet.eastlothian.gov.uk/multimedia/1624/1624_250x83.jpg)



Monday, 06 June 2022



Local Planner  
Planning and Building Standards  
East Lothian Council  
Haddington  
EH41 3HA

Development Operations  
The Bridge  
Buchanan Gate Business Park  
Cumbernauld Road  
Stepps  
Glasgow  
G33 6FB

Development Operations  
Freephone Number - 0800 3890379  
E-Mail - [DevelopmentOperations@scottishwater.co.uk](mailto:DevelopmentOperations@scottishwater.co.uk)  
[www.scottishwater.co.uk](http://www.scottishwater.co.uk)



Dear Customer,

**Land At The Heugh, North Berwick, EH39 5NP**  
**Planning Ref: 22/00587/P**  
**Our Ref: DSCAS-0066197-KZK**  
**Proposal: Erection of 1 house and associated works**

**Please quote our reference in all future correspondence**

## **Audit of Proposal**

Scottish Water has no objection to this planning application; however, the applicant should be aware that this does not confirm that the proposed development can currently be serviced. Please read the following carefully as there may be further action required. Scottish Water would advise the following:

## **Water Capacity Assessment**

Scottish Water has carried out a Capacity review and we can confirm the following:

- ▶ There is currently sufficient capacity in the Castle Moffat Water Treatment Works to service your development. However, please note that further investigations may be required to be carried out once a formal application has been submitted to us.

## **Waste Water Capacity Assessment**

- ▶ This proposed development will be serviced by North Berwick Waste Water Treatment Works. Unfortunately, Scottish Water is unable to confirm capacity currently so to allow us to fully appraise the proposals we suggest that the applicant completes a Pre-Development Enquiry (PDE) Form and submits it directly to Scottish Water via [our Customer Portal](#) or contact Development Operations.

## Please Note

- ▶ The applicant should be aware that we are unable to reserve capacity at our water and/or waste water treatment works for their proposed development. Once a formal connection application is submitted to Scottish Water after full planning permission has been granted, we will review the availability of capacity at that time and advise the applicant accordingly.

---

## Asset Impact Assessment

Scottish Water records indicate that there is live infrastructure in the proximity of your development area that may impact on existing Scottish Water assets.

- ▶ 8" CI water main in the site boundary

The applicant must identify any potential conflicts with Scottish Water assets and contact our Asset Impact Team via [our Customer Portal](#) for an appraisal of the proposals.

The applicant should be aware that any conflict with assets identified will be subject to restrictions on proximity of construction. Please note the disclaimer at the end of this response.

Written permission must be obtained before any works are started within the area of our apparatus

## Surface Water

For reasons of sustainability and to protect our customers from potential future sewer flooding, Scottish Water will not accept any surface water connections into our combined sewer system.

There may be limited exceptional circumstances where we would allow such a connection for brownfield sites only, however this will require significant justification from the customer taking account of various factors including legal, physical, and technical challenges.

In order to avoid costs and delays where a surface water discharge to our combined sewer system is anticipated, the developer should contact Scottish Water at the earliest opportunity with strong evidence to support the intended drainage plan prior to making a connection request. We will assess this evidence in a robust manner and provide a decision that reflects the best option from environmental and customer perspectives.

## General notes:

- ▶ Scottish Water asset plans can be obtained from our appointed asset plan providers:
  - ▶ Site Investigation Services (UK) Ltd

- ▶ Tel: 0333 123 1223
  - ▶ Email: [sw@sisplan.co.uk](mailto:sw@sisplan.co.uk)
  - ▶ [www.sisplan.co.uk](http://www.sisplan.co.uk)
  
  - ▶ Scottish Water's current minimum level of service for water pressure is 1.0 bar or 10m head at the customer's boundary internal outlet. Any property which cannot be adequately serviced from the available pressure may require private pumping arrangements to be installed, subject to compliance with Water Byelaws. If the developer wishes to enquire about Scottish Water's procedure for checking the water pressure in the area, then they should write to the Customer Connections department at the above address.
  
  - ▶ If the connection to the public sewer and/or water main requires to be laid through land out-with public ownership, the developer must provide evidence of formal approval from the affected landowner(s) by way of a deed of servitude.
  
  - ▶ Scottish Water may only vest new water or waste water infrastructure which is to be laid through land out with public ownership where a Deed of Servitude has been obtained in our favour by the developer.
  
  - ▶ The developer should also be aware that Scottish Water requires land title to the area of land where a pumping station and/or SUDS proposed to vest in Scottish Water is constructed.
  
  - ▶ Please find information on how to submit application to Scottish Water at [our Customer Portal](#).
- 

## **Next Steps:**

### ▶ **All Proposed Developments**

All proposed developments require to submit a Pre-Development Enquiry (PDE) Form to be submitted directly to Scottish Water via [our Customer Portal](#) prior to any formal Technical Application being submitted. This will allow us to fully appraise the proposals.

Where it is confirmed through the PDE process that mitigation works are necessary to support a development, the cost of these works is to be met by the developer, which Scottish Water can contribute towards through Reasonable Cost Contribution regulations.

### ▶ **Non Domestic/Commercial Property:**

Since the introduction of the Water Services (Scotland) Act 2005 in April 2008 the water industry in Scotland has opened to market competition for non-domestic customers. All Non-domestic Household customers now require a Licensed Provider to act on their behalf for new water and waste water connections. Further details can be obtained at [www.scotlandontap.gov.uk](http://www.scotlandontap.gov.uk)

### ▶ **Trade Effluent Discharge from Non-Domestic Property:**

- ▶ Certain discharges from non-domestic premises may constitute a trade effluent in terms of the Sewerage (Scotland) Act 1968. Trade effluent arises from activities including; manufacturing, production and engineering; vehicle, plant and equipment washing, waste and leachate management. It covers both large and small premises, including activities such as car washing and laundrettes. Activities not covered include hotels, caravan sites or restaurants.
- ▶ If you are in any doubt as to whether the discharge from your premises is likely to be trade effluent, please contact us on 0800 778 0778 or email [TEQ@scottishwater.co.uk](mailto:TEQ@scottishwater.co.uk) using the subject "Is this Trade Effluent?". Discharges that are deemed to be trade effluent need to apply separately for permission to discharge to the sewerage system. The forms and application guidance notes can be found [here](#).
- ▶ Trade effluent must never be discharged into surface water drainage systems as these are solely for draining rainfall run off.
- ▶ For food services establishments, Scottish Water recommends a suitably sized grease trap is fitted within the food preparation areas, so the development complies with Standard 3.7 a) of the Building Standards Technical Handbook and for best management and housekeeping practices to be followed which prevent food waste, fat oil and grease from being disposed into sinks and drains.
- ▶ The Waste (Scotland) Regulations which require all non-rural food businesses, producing more than 50kg of food waste per week, to segregate that waste for separate collection. The regulations also ban the use of food waste disposal units that dispose of food waste to the public sewer. Further information can be found at [www.resourceefficientscotland.com](http://www.resourceefficientscotland.com)

I trust the above is acceptable however if you require any further information regarding this matter please contact me on **0800 389 0379** or via the e-mail address below or at [planningconsultations@scottishwater.co.uk](mailto:planningconsultations@scottishwater.co.uk).

Yours sincerely,

**Angela Allison**

Development Services Analyst

[PlanningConsultations@scottishwater.co.uk](mailto:PlanningConsultations@scottishwater.co.uk)



### **Scottish Water Disclaimer:**

*"It is important to note that the information on any such plan provided on Scottish Water's infrastructure, is for indicative purposes only and its accuracy cannot be relied upon. When the exact location and the nature of the infrastructure on the plan is a material requirement then you should undertake an appropriate site investigation to confirm its actual position in the ground and to determine if it is suitable for its intended purpose. By using the plan you agree that Scottish Water will not be liable for any loss, damage or costs caused by relying upon it or from carrying out any such site investigation."*

## Calum Glen

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**From:** Largue, Ross <rlargue@eastlothian.gov.uk>  
**Sent:** 06 June 2022 08:53  
**To:** Environment Reception  
**Subject:** RE: 22/00587/P - Neil Millar - Planning Consultation

Morning,

Waste Services would have no objection to this.

Thanks

Ross Largue  
Team Manager  
Waste Services  
East Lothian Council

Tel : 01620 827271

email: [rlargue@eastlothian.gov.uk](mailto:rlargue@eastlothian.gov.uk)

Waste Services  
Kinwegar Depot & Transfer Station,  
A199 Haddington Road,  
Wallyford,  
East Lothian,  
EH21 8JU

-----Original Message-----

**From:** Environment Reception <[environment@eastlothian.gov.uk](mailto:environment@eastlothian.gov.uk)>  
**Sent:** 27 May 2022 11:53  
**To:** Largue, Ross <[rlargue@eastlothian.gov.uk](mailto:rlargue@eastlothian.gov.uk)>  
**Subject:** 22/00587/P - Neil Millar - Planning Consultation

Please see attached document in relation to the following application: Erection of 1 house and associated works

This Application for Planning Permission follows the withdrawal of a previous planning application (ref: 21/00781/P). This new Application seeks to respond to the matters raised in the draft Report of Handling for the previous Application (ref: 21/00781/P). at Land At The Heugh North Berwick East Lothian

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[[https://intranet.eastlothian.gov.uk/multimedia/1624/1624\\_250x83.jpg](https://intranet.eastlothian.gov.uk/multimedia/1624/1624_250x83.jpg)]

## Calum Glen

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**From:** Callow, Scott <scallow@eastlothian.gov.uk>  
**Sent:** 07 June 2022 16:13  
**To:** Millar, Neil  
**Cc:** Environment Reception; Clark, Colin - EHO  
**Subject:** Planning Consultation: 22/00587/P (Land At The Heugh, North Berwick )

Hi Neil,

I have reviewed the various historical maps for the site as well as looking at the potential contamination issues that may impact on the development and would comment as follows:

- The site is currently open ground adjacent to the Heugh Steading and doesn't seem to have had any historic, potentially contaminative land-use associated with it;
- There is, however, the possibility that undocumented areas of made ground may exist on the site that could have contributed to localised areas of contamination.

Given the above and due to the nature of the proposed development (a new residential build), further information will be required to determine the ground conditions and potential contamination issues impacting on the site (with the minimum of a Phase I Geo-environmental Assessment being carried out). In light of this I would recommend that the following conditions be attached to any grant of consent:

### ***Land Contamination Condition - Investigation, Risk Assessment, Remediation and Validation***

#### ***Part 1***

Prior to any site development works a suitable Geo-Environmental Assessment must be carried out, with the Report(s) being made available to the Planning Authority for approval. It should 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 (only if the Desk Study has determined that further assessment is required), comprising the following:*
  - *A survey of the extent, scale and nature of contamination, and 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;*
  - *An appraisal of the remediation methods available and proposal of the preferred option(s).*

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

If it is concluded by the Reporting that remediation of the site is not required, then Parts 2 and 3 of this Condition can be disregarded.

#### ***Part 2***

*Prior to any works beginning on site (and where risks have been identified), a detailed Remediation Statement should be produced that shows the site is to be brought to a condition suitable for the intended use by the removal of unacceptable risks to all relevant and statutory receptors. The Statement should detail all works to be undertaken, proposed remediation objectives and remediation criteria as well as details of the procedures to be followed for the verification of the remedial works. It should also ensure that the site will not qualify as contaminated land under*

Part2A of the Environmental Protection Act 1990 in relation to the intended use of the land following development. The Statement must be submitted to the Planning Authority for approval.

### Part 3

The approved Remediation Statement must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out the agreed remediation. Following completion of the measures identified in the approved Remediation Statement, a Validation Report should be submitted that demonstrates the effectiveness of the remediation carried out. It must be approved by the Planning Authority prior to the occupation of the new dwelling.

### Part 4

In the event that 'unexpected' ground conditions (contamination) are encountered at any time when carrying out the permitted development, work on site shall cease and the issue shall be reported to the Planning Authority immediately. At this stage a Site Investigation and subsequent Risk Assessment may have to be carried out, if requested by the Planning Authority. It may also be necessary to submit a Remediation Strategy should the reporting determine that remedial measures are required. It should also be noted that a Verification Report would also need to be submitted confirming the satisfactory completion of these remedial works.

If no 'unexpected' ground conditions are encountered during the development works, then this should be confirmed to the Planning Authority prior to occupation of the new dwelling.

Regards,

Scott

**Scott Callow | Environment Protection Officer (Con Land) | Public Health & Environment Protection | East Lothian Council | John Muir House | Haddington | EH41 3HA**

Tel. 01620 827256

Email. [scallow@eastlothian.gov.uk](mailto:scallow@eastlothian.gov.uk)

Visit our website at [www.eastlothian.gov.uk](http://www.eastlothian.gov.uk)

NHS Coronavirus Information





## Calum Glen

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**From:** Environment Reception <environment@eastlothian.gov.uk>  
**Sent:** 09 June 2022 09:59  
**To:** Millar, Neil  
**Subject:** FW: 22/00587/P Land at the Heugh  
**Attachments:** 21-00781-P.pptx

[In idox](#)

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**From:** [REDACTED]  
**Sent:** 08 June 2022 10:11  
**To:** Environment Reception <environment@eastlothian.gov.uk>  
**Cc:** [REDACTED]  
**Subject:** 22/00587/P Land at the Heugh

**CAUTION:** This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Madam/Sir,

In our on-line meeting on 7 Juny, North Berwick Community Council discussed the above application.

The application states that "it responds to matters raised in the draft Report of Handling for the previous application", but we cannot see any substantive changes between the first and the new application.

Accordingly, we decided that we strongly object again to it on the same grounds as the first time round, all related to the visual impact of the development:

- Page 1 of the attachment shows that while the grass roof makes an attempt to minimise the visual impact of the house, it still very clearly sticks out above the ground and alters detrimentally what is an iconic skyline of North Berwick.
- Page 2, even though the house is at some distance in the picture, shows how much more visible the house becomes for people approaching North Berwick from Dunbar Road.
- Page 3 is the most crucial one. It shows how the Visual Impact Statement, that forms part of the application, deliberately misleads. The statement admits that sensitivity is High viewed the house from south, but then goes on to claim that the actual impact is a "Minor effect". The mock-up they present on page 3 has 2 major flaws:
  - As the figure on the lower part of page 3, which is from the approved plan of the water tank conversion, shows, the converted tank hides much more into the countryside - both by colour and by the amount of the surrounding mount taken down - than the mock-up tries to convey with the low cut into the mound and - even more important - with the large white windows.
  - Figure 4 shows that the cladding of the suggested building is not some muted shade of grey as suggested on page 3, but indeed that most of it is zinc - designed to shine and

reflect in the sunshine, and making the house really stand out, in particular in good weather.

On top of that we have been told in the meantime that the land is home of badgers, a protected species, which suggests nothing should be built on that land at all.

We hope very much the planning department will share our concerns and hope that this application will be rejected!

Yours faithfully

[Redacted signature]

North Berwick Community Council

NHS Coronavirus Information



## Calum Glen

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**From:** Cumming, Catherine (Biodiversity Officer) <ccumming1@eastlothian.gov.uk>  
**Sent:** 10 June 2022 16:59  
**To:** Millar, Neil  
**Cc:** Environment Reception  
**Subject:** RE: 22/00587/P - Neil Millar - Planning Consultation

Hi Neil,

I am writing with regards the below application for the erection of 1 house and associated works at the Heugh.

I have no objections to this proposed development. The proposed application is currently within an area of arable habitat which has limited biodiversity value. The application site is within 50m of the North Berwick Law SSSI, however as the location is not within or immediately adjacent to the SSSI I do not anticipate it will have an impact on the SSSI. There is no other ecological connection to any designated sites. I have no records of protected species in the locality, and again given the current land use it provides limited habitat for nesting, foraging or commuting.

The proposed development is within the neutral grassland green network area, and presents a good opportunity to enhance habitat adjacent to the SSSI. I note from the drawings submitted with the application that it is proposed to include an area of lawn but could incorporate an area of grassland habitat for biodiversity, such as a meadow mix. Due to the proximity of the site to a SSSI designated for grassland habitat, I would recommend using native species for any grassland planting, and sourcing seed from as local as possible. Scotia Seeds are currently the only supplier of Scottish seed.

I note the submission of an ecological assessment (Nigel Rudd, March 2021) in support of this application. This concludes the site has limited biodiversity value and no evidence of protected species though notes that badgers are known to be present around North Berwick Law. This development is, however, unlikely to impact on badgers in the wider area.

Kind regards,

Catherine

-----Original Message-----

From: Environment Reception <environment@eastlothian.gov.uk>  
Sent: 27 May 2022 11:54  
To: Clark, Neil <nclark@eastlothian.gov.uk>; Cumming, Catherine (Biodiversity Officer) <ccumming1@eastlothian.gov.uk>  
Subject: 22/00587/P - Neil Millar - Planning Consultation

Please see attached document in relation to the following application: Erection of 1 house and associated works

This Application for Planning Permission follows the withdrawal of a previous planning application (ref: 21/00781/P). This new Application seeks to respond to the matters raised in the draft Report of Handling for the previous Application (ref: 21/00781/P). at Land At The Heugh North Berwick East Lothian

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## Calum Glen

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**From:** Cheyne, Sarah <scheyne@eastlothian.gov.uk>  
**Sent:** 14 June 2022 17:03  
**To:** Millar, Neil  
**Subject:** RE: 22/00587/P - Erection of 1 house and associated works at Land at the Heugh, North Berwick

Hi Neil

I write in response to the above planning application consultation with landscape comments.

Apart from minor amendments to the bund width to the southwest and northwest and minor changes to the ground levels to the north the plans appear the same as those submitted for application 21/00781/P. Given this the landscape comments remain the same as those made for the previous application:

The site lies within both the North Berwick Countryside Around Towns area (CAT) and the North Berwick Law Special Landscape Area (SLA). The site is also located directly on the ridge of the tail of the crag and tail feature of North Berwick Law. Policy DC8 of the East Lothian Local Development Plan 2018 (ELLDP) covers CAT areas and policy DC9 covers SLAs.

The CAT designation is to protect the most sensitive parts of the undeveloped landscape around East Lothian's settlements from new development that would impact on its setting. The ELLDP Countryside and Coast Supplementary Planning Guidance details the reasons for the designation of the CAT areas. For North Berwick it states "Development to the east of North Berwick along the tail would impact detrimentally on the importance of North Berwick Law as a distinctive feature of the setting of the town". It goes on to say that the CAT areas form the distinctive landscape setting of the town and should be protected from visually harmful development that would detrimentally impact on these views or the countryside setting of the town and landscape setting and character of the Law.

The North Berwick SLA is focussed on the dramatic conical hill of the volcanic plug feature of North Berwick Law with its crag and tail feature. Its wide visibility sitting above the coastal plain makes it important for scenic value and sense of place of North Berwick. The North Berwick Law SLA Statement of Importance notes that the housing at the Heugh is generally built from the stone of the Law which provides a link between the natural and built environment. It notes that the pantiled roofs contrast with surrounding fields when viewed from the Law, but the scale and agricultural appearance of the housing relates to the agricultural use of the area.

The Statement of Importance has several guidelines for development. The most relevant to this proposal include: Any proposed development must not harm open views from the Law.

Any proposed development must not harm the Law as a landmark crag and tail feature, both in close and distant views or compete with it as a focal point within the landscape.

Any proposed development must not harm views of the Law in particular from the John Muir Way, A198 and B1347

The proposals submitted as part of this planning application are similar to those commented on at pre-application stage. The building is the same height, 72.80 to the ridge, which also forms the eaves, on the south elevation. The eaves of the adjacent building at Lawrigg to the east are 68.00. The orientation and design with a single pitch roof to the north and full two storey frontage to the south also remains the same. It is still proposed to be zinc clad with white render and a sedum roof and large areas of glass. A modern appearance in design and materials that provides no link to the existing buildings or to its location. The building has been moved 6m east on the site and a low grass bund has been added to the western part of the southern elevation. The proposed building is over 33m wide compared to less than 19m for the adjacent building at Lawrigg to the east. The character of the proposed house is also very different to the character of the existing buildings. The existing development is in a contained group to the east, with red roofs and generally single storey with some development within the roof-space. As noted in the SLA the scale and agricultural appearance of the existing housing relates to the agricultural use of the area and the use of local stone provides a link between the natural and built environment. Also breaking up the roofline of the existing closest building helps to reduce its overall horizontal massing. No consideration to reducing the massing or breaking up the single linear roof line has been given to the proposed new dwelling.

The proposed site access utilises an existing track to the north of the site with the driveway at the northeast corner of the site. There are trees in the neighbouring property to the east and a boundary hedge, these may be impacted by the proposed new access drive and gate pillars. I can find no information submitted on the trees and their root protection areas to show that consideration has been given to avoid impact on them by the proposals.



A full Landscape and Visual Impact Assessment (LVIA) has been undertaken for the proposal. We offered comment on the proposed photomontage locations at pre-application stage. An additional three locations have been included as per my previous comments. The LVIA identifies the North Berwick Law SLA it as having a medium to high sensitivity, stating that its 'distinctive character is fairly susceptible to small changes within the landscape'.

The design statement notes the highly visible nature of the site in all directions from the ridge. This is confirmed by the ZTV in the LVIA which shows the wide and nearly complete visibility of the site within the 1km study area around the site. The design statement also describes the proposal as 'infill' development, but then notes that the building has been moved further east to provide 'clear separation of the new dwelling from the existing listed reservoir building'. The reservoir building has permission to be turned into a residential dwelling. However its conical roof form is to be retained and no windows will be visible from the northern elevation. This building is not typical of residential development and does not read with the existing residential development at the Heugh. It sits alone with its massing and visual impact reduced in the landscape by virtue of both its colour and form.

The proposed building with its east to west linear form and single roof line extends residential development to the west, and by visually linking the reservoir building to the existing residential development, draws residential development along the ridge. The proposed sedum roof is shown as green, which it will not be all the time. It would help to reduce the impact of the building when viewed from above from North Berwick Law, but the white render and chimney to the west elevation are bold 2 storey elements in this view.

No containment for the development other than the partial grass bunding has been proposed. The boundaries are proposed as timber post and rail fencing. The North Berwick Law SLA includes potential for landscape enhancement, one of which is replace post and wire fencing with hedging. No cognisance appears to have been given to this.

I have looked over the LVIA assessment of the proposal from the submitted viewpoints and have the following comments.

Viewpoint 1 is from the junction of the core path route to the south of North Berwick Law with the minor road leading to Heugh Brae. From here the site is in your immediate line of sight as you travel north along the road, set on the ridge line of the tail of the Law. The LVIA states that in this view 'the building appears to be of a roughly similar scale to the existing properties'. It is however larger, higher and very different in character to the existing residential development. Its ridge, which is also its eaves from this direction, is nearly 5m higher than the eaves of the adjacent house to the east. It forms a single mass with a single ridge. A 1.85m high grass bund has been proposed to the south side of the building. This reduces the amount of white render visible on the lower storey in this view, however the remaining visible building still sits 6.3m above the bund. A couple of trees are indicated to the southeast corner, but together with the bund these have minimal impact in breaking up or reducing the overall massing of the proposed building. The building does not give the impression of being contained within the landscape, but rather of sitting exposed and high on the ridge line. Its modern glass and zinc cladding appearance and single pitch roof is not in character with the existing buildings. The existing view from the south clearly shows the separation between the existing low level residential development to the east and the water reservoir to the west. It also shows the character of the existing building directly east of the site; single storey with development in the roof space and an eaves line broken by gables to reduce its overall horizontal massing. The photomontage includes the approved changes to the water reservoir to make this a dwelling. The design of the reservoir is not typically residential in design and remains embedded in the landscape, surrounded by bunding. Referring to table 2.2 of the LVIA the introduction of the building in the location and design as proposed would appear to be a medium magnitude change with a noticeable partial change to a proportion of the landscape with the introduction of some uncharacteristic elements. A medium magnitude of change on a view with high sensitivity leads to a moderate magnitude effect. It does change the landscape by extending residential development along the ridge towards the Law and linking the built form to the east with the reservoir building, infilling the gap, and drawing more attention to this building. A small but significant proportion of the view is affected.

In viewpoint 2 from the north side of the ridge part way down the Heugh Brae the properties at Lawrigg adjacent to the site are hidden from view to the south beyond the ridge line. This reduces the visible spread of existing residential development along the ridge in this view and increases the visual distance between residential development and the water reservoir building. The line of the ridge of the tail of the Law is a strong feature in this view. The proposed building does not read with the existing residential development in this view. It is visually separated and is of contrasting architectural form. The proposed reduction in the site level helps to reduce the height of the proposed building to single storey in this view. However at night time light from these windows will be visible to the north and this will change the experience of the landscape of this part of the crag and tail feature during the hours of darkness. This introduces a new residential building onto the ridge of the tail that will be visible both day and night and which has no relationship with the existing development on the ridge.

It was pointed out at pre-application stage that the proposed location of viewpoint 3 was not suitable as the site was screened in this view. We suggested the location at viewpoint 6 instead.

Viewpoint 4 is from the summit of North Berwick Law looking east. The existing view from the Law clearly shows the existing separation between existing low level traditional style and conversion residential development contained in a group on the ridge and the water reservoir, which although granted permission to become residential retains its form and character and does not appear residential. The proposal, in this view, represents a small area of change within a much wider view with the impact reduced by the sedum roof, although the white render and chimney to the west elevation are bold two storey elements drawing the eye to the proposal. The photomontage, however, clearly shows that the proposal extends residential development along the ridge line and visually links the reservoir building with the existing residential development at the Heugh. Visually therefore the impact of this proposal is greater than consideration of the introduction of a single building.

Viewpoint 5 is taken from the eastern entrance to North Berwick from the A198 tourist coastal route. As the LVIA notes the crag and tail landform of North Berwick Law is clear in this view and the development at Tantallon Road has been set back from the road edge with single storey buildings to retain views to this feature from the road. From this location the existing residential development at the Heugh is mainly screened by trees. The residential conversion of the water reservoir is not visible, just the original conical roof. The proposed building introduces a new large residential element along the ridge, the only residential building visible in this view on the ridge of the tail landform feature, a view that has been actively retained through careful design of other development. The sedum roof may help to reduce its intrusiveness but the white eastern gable and glazed north elevation are clearly visible. Introducing development onto the ridge would therefore appear to have a greater effect on this view and on the integrity of the character of the feature landscape than stated in the LVIA.

Viewpoint 6 was suggested by us at pre-application stage as a worst case view from the north within the town. As viewpoint 3 shows many public views from Dunbar Road area have partial screening of the ridge by local tree planting, although the ridge from the Law to the Heugh can be seen in its entirety from the recreation ground to the east of Dunbar Road. As with viewpoint 2 the properties at Lawrigg adjacent to the site are hidden from view to the south beyond the ridge line. This reduces the visible spread of existing residential development along the ridge in this view and increases the visual distance between residential development and the water reservoir building. The line of the ridge of the tail of the Law is a strong feature in this view. The proposed building does not read with the existing residential development in this view. It is visually separated and is of contrasting architectural form. The proposed reduction in the site level helps to reduce the visibility of the proposed building to single storey in this view. However at night time light from these windows will be visible to the north and this will change the experience of the landscape of this part of the crag and tail feature during the hours of darkness.

Viewpoint 7 is representative of the view from the John Muir Way to the northwest of the site. The angle of this view along the ridge of the tail limits visibility of the development to mainly the roof, which being 'green' helps it blend with its surroundings. It would appear from the submitted visuals that the proposal would have only a minor effect on this view.

The proposal has not changed significantly from the pre-application proposal, and the information submitted with the application has not changed the landscape comments offered at pre-application stage. Some attempt has been given to reducing the visual impact of the house when viewed from the south, north and from North Berwick Law. However by the nature of its location, scale and design it spreads residential development along the tail of the Law and contrasts with the character of the existing residential development. It is development that would appear contrary to the advice of both the CAT and SLA by proposing residential development on the ridge of the tail feature of North Berwick Law which the CAT states would impact detrimentally on the importance of North Berwick Law as a distinctive feature of the setting of the town and where the SLA advises that any proposed development must not harm the Law as a landmark crag and tail feature. Given this we could not support the development as proposed from a landscape perspective.

Regards  
Sarah

Sarah Cheyne  
Landscape Projects Officer | Planning Service | East Lothian Council | John Muir House | EH41 3HA  
T: 01620 828756 | M: 07818 076 584

-----Original Message-----

From: Environment Reception <environment@eastlothian.gov.uk>  
Sent: 27 May 2022 11:51

To: Landscape <landscape@eastlothian.gov.uk>  
Subject: 22/00587/P- Planning Consultation

Please see attached document in relation to the following application: Erection of 1 house and associated works

This Application for Planning Permission follows the withdrawal of a previous planning application (ref: 21/00781/P). This new Application seeks to respond to the matters raised in the draft Report of Handling for the previous Application (ref: 21/00781/P). at Land At The Heugh North Berwick East Lothian

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**EAST LoTHIAN COUNCIL**

*Archaeology Service, Planning*

**Internal Memorandum**

**From:** Archaeology Service

**To:** Development Management

**per:** Andrew Robertson

**per:** Neil Millar

**ref:** 22/00587/P

**ref:** 22/00587/P

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Date: 16<sup>th</sup> June 2022

***Historic Environment Implications***

**Subject:** Land at The Heugh, North Berwick

**Ref:** 22/00587/P

An initial desk-based appraisal of the above planning application has been undertaken in order to examine the possible Historic Environment implications of the proposed development.

As a result of this study, the following report outlines the potentially significant indirect impact upon the Scheduled Monument and details the reasons and requirements for a **Programme of Works (Archaeological evaluation by trial trench)** that is necessary with regard to the above planning application.

**Please note that these recommendations are based on the information available to the Archaeology Officer as of the date of this letter. If there are any changes to the proposed development plans i.e. in terms of ground-breaking work, level of demolition etc the archaeological recommendations presented here may need to be revisited and modified.**

Please do not hesitate to get in contact if you need any further information.

Andrew Robertson  
**Archaeology/ Heritage Officer**  
**Direct line: 01620 827039**



## **Summary**

### **General Reason:**

The proximity to the Scheduled Monument of North Berwick Law indicates that the area has a high potential for as yet unidentified buried remains. For more detail see Section 3

### **Recommended archaeological work:**

If the application is to be consented the condition requested on this development is for a **Programme of Works (Archaeological evaluation by trial trench)**, to mitigate the impacts of the proposed development upon the Historic Environment. It should be noted that there may be a requirement for further work or mitigation dependent upon the results of the initial work. For more detail see Sections 4 & 5.

### **Recommended Condition:**

*No development shall take place on the proposed site until the applicant has undertaken and reported upon a programme of archaeological work (Archaeological evaluation by trial trench) in accordance with a written scheme of investigation which has been submitted by the applicant (or their agent) and approved by the planning authority*

### **Recommended next step:**

The following report should be forwarded to the agent/developer at the earliest opportunity.

## 1. The Site

The proposed development sits on a prominent ridge which leads up to North Berwick Law. It is located between a B listed water tower and a residential development.

## 2. The Proposed Development

The applicant is seeking planning permission to erect a single house and carry out associated works

## 3. Historical and Archaeological Background

The location of the proposal is in a very archaeologically sensitive area and is visually very prominent. Although no archaeological remains have been identified on the site the potential for remains is high as significant remains have been identified in close proximity including the Scheduled Monument of North Berwick Law.

## 4. Archaeological Impact

The assessment of the potential impacts of this development upon the Historic Environment has been carried out as part of determining this application.

The potential impacts arising from this development are impacts upon the setting of the B listed Water tower and the Scheduled Monument North Berwick Law and the potential for buried archaeological remains to be present in the development area.

The indirect impacts were assessed as part of a previous application (21/00781/P – now withdrawn) this assessment showed that the building will visually extend the existing building group along the ridge line towards North Berwick Law itself. However, it is considered that the impact is acceptable

There is also the potential for direct impact on unidentified buried archaeological remains.

The direct impacts are judged to be significant enough that a suitable mitigated response is required.

## 5. Recommendations

This proposed development should be considered under the following planning policies: *Scottish Planning Policy* the accompanying *Planning Advice Note 2/2011* (PAN 2/2011) and East Lothian Council Local Plan policy CH4.

**The aim should be to preserve archaeological deposits and historical features *in situ* as a first option**, but alternatively where this is not possible, the recording of upstanding historical features and buried archaeological remains may be an acceptable alternative.

An assessment of the proposed development, indicates that there is a potential impact upon Historic Environment assets (as defined in SPP para 150). Therefore, it is essential that a **Programme of Archaeological Works** should be carried out at the site by professional archaeologists..

It is recommended therefore that this **programme of archaeological works** should be secured using a condition as indicated by PAN 2/2011:

*No development shall take place on the proposed site until the applicant has undertaken and reported upon a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant (or their agent) and approved by the planning authority*

The programme of work should comprise a field evaluation by trial trenching which should be reported upon initially through a Data Structure Report (DSR) submitted to East Lothian Council Archaeology Service (ELCAS). All work should be carried out under the terms of a Written Scheme of Investigation (WSI) which will need to be approved by ELCAS (on behalf of the planning authority) prior to work commencing.

The area to be investigated should be no less than **5%** of the total site area

To ensure that the Programme of Archaeological Work is carried out efficiently it is essential that:

- The archaeologist and contractor liaise to ensure that adequate time to allow for the recording and sampling of any surviving archaeological remains uncovered during works is built into the project.
- All ground breaking work that requires to be monitored should be undertaken with a flat bladed ditching bucket.
- If significant remains are uncovered then work should be stopped to allow a fuller assessment

It should be noted that the results of the initial investigations may indicate that further work is required to mitigate the impacts of the proposed development. It is therefore crucial that contingency plans are in place should complex archaeological remains and particularly human remains be identified. Should further work be necessary this will be discussed between all parties.

## **6. The Final Product**

- a. A full written Data Structure Report (DSR) should be produced<sup>1</sup>, illustrated with relevant maps, plans and photographs and including a copy of the DES entry (see h below). This report should include the planning reference number, the archaeological background to the project, details of the work carried out, an assessment of the aims of the project as outlined within the WSI, a synthesis of the results and recommendations for any further post excavation work. It should be submitted within the time limit stipulated within the WSI.

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<sup>1</sup> Prior to full distribution of a report, a draft copy should be sent for approval by the East Lothian Council Archaeology Service to allow any amendments, corrections or additions to be discussed. It should be remembered that this is a public document and should be of sufficient accessibility for public dissemination.

- b. The report should be submitted in both PDF and doc formats.
- c. A minimum of 3-4 photographs illustrating the project should be submitted in a digital format (.jpeg) and not embedded into the digital copy of the report. The contractor will retain copyright of these images, but gives permission for the images to be used by ELCAS in the online Historic Environment Record (HER) and for educational purposes.
- d. The position of all archaeological trenches, excavation areas, survey areas etc. should be submitted as a separate shapefile or as a geo-referenced DXF file.
- e. Photographs, plans and illustrations should fall within the current guidelines for archival standards set by the Archaeology Data Service and Historic Environment Scotland (HES). All digital data should be produced and presented on CD in archive stable format.
- f. A brief summary of the results of the archaeological work must be prepared and submitted for publication in Archaeology Scotland's annual journal 'Discovery and Excavation in Scotland'. The fee for this should be included in the cost estimates for the work. A draft of this text must be included in the report for comment prior to submission.
- g. In addition to the above requirements, the project details need to be recorded and reported via the online OASIS form: <http://ads.ahds.ac.uk/project/oasis/scotland/>. The project report should be uploaded to OASIS once the final draft of the report is approved by ELCAS (the OASIS reference number should be quoted in the final report).

## **7. Archiving**

The complete archive of the project will be deposited with HES within 6 months of completion of the project.

## **8. Finds**

For sites where large finds assemblages are anticipated a selection strategy for use both on site and in post-excavation should be developed in conjunction with the relevant specialists. This should be documented prior to submission of the assemblage to the Treasure Trove Unit.

The finds from the site must be declared to the Treasure Trove Unit within 6 months of completion of the project. A digital copy of the site report and any relevant specialist reports should be retained with the finds for transmission to the recipient museum.

Assemblages should be prepared for museum transfer following the AAF Archaeological Archive and Treasure Trove guidelines.



## 9. Monitoring

The contractor should give at least 5 working days notice prior to the commencement of work on site, to allow monitoring arrangements to be made. A representative of ELCAS may visit the site at any time during the work to inspect progress, methods and site records.

The work must be carried out by a professional archaeological organisation, adhering to the Chartered Institute for Archaeologists (CIfA's) principal codes of conduct. The work should follow a brief prepared by ELCAS or a WSI<sup>2</sup> submitted to and agreed by ELCAS. Responsibility for the execution and resourcing of the programme of archaeological work (including any post-excavation work) and for the archiving and appropriate level of publication of the results lies with the applicant.

It is recommended that the applicant is made aware of the need for archaeological work at the earliest possible date and that the recommended work should be carried out well in advance of any construction work, so that if archaeological remains are identified there is sufficient time for the applicant to modify any ground breaking activities.

Andrew Robertson  
**Archaeology / Heritage Officer**  
16/06/2022

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<sup>2</sup> This document provides guidance for the creation of a Written Scheme of Investigation and is not a detailed Specification. Written Schemes of Investigation are valid for six months following their approval by the East Lothian Council Archaeology Service to ensure that they reflect current best practice.

## Note to Developer

1. The applicant has applied for planning consent to **erect a single house and carry out associated work**. If consent is granted it will be subject to the condition that a **Programme of Works (Archaeological evaluation by trial trench)** is successfully carried out in advance of any development. An appraisal of the proposed development has led to the conclusion that the archaeological condition needs to be undertaken prior to the construction programme.
2. This report sets out in summary the planning background behind the application, the reasons for the archaeological mitigation, and reporting arrangements.
3. This report specifies a **minimum** acceptable level of work. Any Project Design proposals that present a higher standard may be offered and accepted. This report may be used to obtain estimates from archaeological contractors.
4. This report is **not** a brief however, if requested by the applicant, the East Lothian Archaeology Officer can produce a comprehensive archaeological brief for the site.
5. This document provides guidance for the creation of a Written Scheme of Investigation and is not a detailed Specification. All Written Schemes of Investigation and/or Project Briefs are valid for only six months following their approval by the Local Authority Archaeologist. Reason: To ensure that WSI's and Project Briefs reflect current best practice.
6. A list of archaeological contractors can be supplied upon request or alternatively the applicant can consult business directories such as the yellow pages, ClfA's Register of Archaeological Organisations or [www.bajr.org](http://www.bajr.org) .
7. The next step is to secure a tender and a Written Scheme of Investigation (WSI)/Project Design from one or more archaeological contractors. Before an archaeological contractor can be selected for the contract, the WSI needs to be approved by the East Lothian Archaeology Officer, in order to assess that the WSI meets the minimum requirements for this site.
8. Where archaeological work fails to meet the standards and objectives set out in the WSI, the applicant will be in breach of the archaeological planning condition until matters are rectified.
9. Monitoring is not deemed to have been completed until a report and the further materials specified in Section 6 has been received and approved. Until then, the Archaeology Officer cannot sign off archaeological conditions.
10. Responsibility for the execution and resourcing of the programme of archaeological work (including any post-excavation work) and for the archiving and appropriate level of publication of the results lies with the applicant.

11. If significant archaeological remains are uncovered, the applicant is expected to make provision for public accessibility, either through local media involvement, school visits/talks, open days (dependant on site conditions), exhibitions or evening talks. Community involvement should be seen as a positive step in creating both a local sense of history and an important aspect for the development of community well-being. The Adopted East Lothian Local Plan 2018 Policy CH4 also clearly stipulates that where it is feasible to accommodate, preserve and enhance archaeological features or their setting, public access to and interpretation of these features will be expected.

# OFFICER REPORT

**27th June 2022**

App No. **22/00587/P**

Application registered on **25th May 2022**  
Target Date **24th July 2022**

Proposal	<b>Erection of 1 house and associated works</b>	SDELL CDEL	Y/N Y/N
Location	<b>Land At The Heugh North Berwick East Lothian</b>	Bad Neighbour Development	Y/N

APPLICANT: **Mr Tom Tait**

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

**c/o Geddes Consuling  
Per Stuart Salter  
Quadrant  
17 Bernard Street  
Edinburgh  
EH6 6PW**

DECISION TYPE:

**Application Refused**

REPORT OF HANDLING

PROPOSAL

This application relates to a roughly rectangular shaped area of agricultural land, measuring some 0.25 hectares in area, located to the south of North Berwick within an area of the East Lothian countryside designated as Countryside Around Towns as defined by Policies DC1 and DC8 of the adopted East Lothian Local Development Plan 2018. It is also within North Berwick Law Special Landscape Area as defined by Policy DC9 of the adopted East Lothian Local Development Plan 2018.

The application site is bounded to the north by an access track, which is a public right of way, beyond which there is agricultural land. The topography of the site is relatively open and it slopes gradually downwards from north to south. It is bounded to the east by a neighbouring pair of houses and to the south by agricultural land which, positioned within it, includes the Heugh Dovecot which is listed as being of special architectural or historic interest (Category B). To the west of the application site is the former water storage tank facility known as Heugh Reservoir which is listed as being of special architectural or historic interest (Category B), beyond which there are telecommunications masts and equipment with agricultural land and North Berwick Law beyond. North Berwick Law is located some 305 metres to the west of the

site. It is designated as a Scheduled Monument and is also a Site of Special Scientific Interest (SSSI).

Planning permission is sought for the erection of a detached, two storey, 4 bedroomed mono-pitched roofed house and associated works on the application site.

The proposed house would be somewhat centrally positioned within the application site on an east to west axis. Its footprint would be excavated within the site and otherwise it would sit forward of the built form of the pair of semi-detached houses to the east of it and otherwise set back from, and positioned adjacent to, Heugh Reservoir a Category B listed building. Its north elevation would be set back some 8.5 metres from the south edge of the access track located to the north of it. Its south elevation would be positioned some 21 metres away from the south boundary of the application site. It would be two storeys in height with a north facing mono-pitched roof. It would measure some 36.1 metres long (measured to its roof overhang), some 12.8 metres wide (measured to its roof overhang) and some 8.1 metres high to the highest point of its mono-pitched roofed form. Its mono-pitched roof would comprise of a green 'sedum' roof and it would have dark grey aluminium fascias and soffits. Its east and west side elevations would be rendered in a white colour. So too would the lower parts of the north and south elevations of the proposed house. Its upper parts would be clad in zinc with some use of timber louvres also displayed within its south elevation. Its side (west) elevation wall would take the form of a solid rendered wall that would be positioned some 17 metres away from the west boundary of the application site. Its side (east) elevation would have two dark grey coloured aluminium framed windows formed within it at first floor level. Its north and south elevations would have a number of dark grey coloured aluminium framed windows and glazed doors formed within it of varying sizes and proportions. Its north elevation would have a first floor balcony at its western end. The balcony would be recessed and enclosed along its north edge by a 1.1 metres high glass balustrade. Its south elevation would also have a first floor balcony formed at its east and west ends. The western balcony would be recessed and enclosed along its south edge by a 1.1 metres high glass balustrade. The eastern balcony would be enclosed by a 1.1 metres high glass balustrade along its south edge and by a high stone feature wall that would enclose its west edge. A lower section of feature wall, measuring some 3 metres high, would project out from the west end of the south elevation of the house at a length of some 17.3 metres. It would have a pedestrian gated opening formed within it. It would be served by an outdoor patio, comprising of grey coloured granite paving slabs, which would abut the base level of the south elevation of the house and otherwise in the form of a pathway to the west and north elevations of the house.

The proposed house would be served from the access road to the north of the site at its eastern end. The vehicular access would measure some 3.5 metres wide. A 2 metres high black painted metal gate, flanked by 2.3 metres high stone gate piers with concrete copes, would be positioned some 6.8 metres away from the south edge of the vehicular access. A resin bonded surfaced driveway and parking area would be formed to the east and southeast of the proposed house respectively. Within the centre of the north boundary of the site a 1 metre high black painted metal gate would lead onto a raised and suspended footbridge, which would be enclosed by a 1.2 metres high glass balustrade with metal rails along its east and west edges, to facilitate access from the access track to the upper part of the north elevation of the house. A 1 metre high post and wire timber fence would enclose the south and west boundaries of the application site as well as most of the north boundary of the site.



The ground floor component of the proposed house would contain a vestibule, a hallway, stores, a bathroom, an office, a utility and plant room and three bedrooms with en-suites. At first floor level it would contain a large 'principal' bedroom with en-suite and storage rooms, a bathroom, a family room and an open plan dining and kitchen area with stores and a living room.

The proposals include for the creation of an earth bund within the inner sides of the south and west boundaries of the site of between 1.8 metres and 2.2 metres high. Otherwise the proposed house would benefit from a useable garden area immediately to the south and west of it. The application drawings also show the intention to plant native trees close to the southeast corner of the site.

This is a substitute application submitted in favour of planning application 21/00781/P which was withdrawn by the applicant's agent in September 2021.

A supporting statement has been submitted with this application. It states that this site has been chosen as it is an infill site within an existing building group with available services in close proximity to North Berwick. It states that it is part of Wamphray Farm and located between existing houses at the Heugh, which is a group of around 14 houses, to the south of the settlement of North Berwick. It states that the application site is difficult to farm with large modern farm machinery and is not, therefore, in productive agricultural use. It states that the site is therefore disused land.

It also states that this proposal was subject to a previous application (Ref: 21/00781/P) which was withdrawn before determination. It states that the proposed house remains unchanged from the previous withdrawn application. However, it states that circumstances have now changed in that the applicant has purchased another farm with an existing farmhouse which will meet his needs and that he no longer plans to retire. It states that the existing farmhouse at Wamphray Farm will be occupied by the applicant's daughter who will manage and run the farm business. It therefore states that there is no longer any operational agricultural need for the proposed new house and that this application is for a standalone proposal for a new house on an infill site within an existing building group.

A Design statement has also been submitted with this application. It states that the existing site sits between the residential grouping of the Heugh Steading development to the east and the redundant listed water tank to the west. The listed water tank building, known as Heugh Reservoir, was granted planning permission in March 2020 (Ref: 19/00700/P) to alter and convert it into a single dwelling and thus the proposed house, the subject of this planning application, logically extends the residential grouping to this point, highlighting the application site as a 'gap' in the grouping of buildings and seen as an infill opportunity. It states that the application site is a small corner part of a larger arable field and, because of the large dimensions of modern farm machinery, this part of the field is no longer accessible for productive use and therefore it is a non-workable area that is vacant and set aside as an area of grassland. It also states that the client brief asks for a contemporary home, positioned to maximise the views to the south and views to the Firth of Forth to the north, suitable for its setting. The brief requires 4 bedrooms, living accommodation and a home office and includes the incorporation of low carbon technology to minimise CO2 emissions both in the specification of the components and in passive means to minimise energy consumption. It states that the proposed house has been orientated on an east to west axis to maximise solar gain. The upper floor of the house will incorporate extensive areas of glazing along its southern

elevation to allow the proposed house to be passively heated by sunshine to help heat the air within the property during winter. The proposed house would also be heated by an air source heat pump which will provide underfloor heating on both floors. It states that the presence of the proposed new house has been reduced by setting it into the ground whilst creating a bund to the south and west boundaries using the soil to be excavated from the site. It states that this helps minimise transportation costs and the overall carbon footprint. It goes on to state that the external building materials have been carefully selected to reflect the local vernacular. The external walls are white render to match the predominately white render of the existing Heugh Cottages. The use of dark grey coloured zinc is a sophisticated response to the metal cladding of agricultural buildings within the wider area, including that of Wamphray Farm, and is to be used to express the upper, lighter layer, of the proposed new house. It states that the use of wide expanses of glazing will help to embed the new house into the existing context by reflecting the light and trees. It also states that the green sedum roof will provide additional insulation and will absorb rainwater and, visually, when viewed from the north and from the top of the North Berwick Law embeds the proposed new house into the landscape.

The applicant's agent has also submitted a topographical survey, a landscape and visual impact assessment, an assessment of the impact of the proposals upon the setting of North Berwick Law Scheduled Monument and an ecology assessment.

## DEVELOPMENT PLAN

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

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

There are no relevant policies of the approved South East Scotland Strategic Development Plan (SESplan). Policies DC1 (Rural Diversification), DC3 (Replacement Dwellings in the Countryside), DC4 (New Build Housing in the Countryside), DC5 (Housing as Enabling Development), DC8 (Countryside Around Towns), DC9 (Special Landscape Areas), DP1 (Landscape Character), DP2 (Design), CH1 (Listed Buildings), CH4 (Scheduled Monuments and Archaeological Sites), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of the application.

Also material to the determination of the application is the Scottish Government's policy on housing and rural development given in Scottish Planning Policy: June 2014 and Planning Advice Note 72: Housing in the Countryside.

PAN 72 states that buildings in rural areas can often be seen over long distances and they are there for a long time. Careful design is essential. Traditional buildings can be an inspiration but new or imaginative re-interpretation of traditional features should not be excluded. Where possible, the aim should be to develop high quality modern designs which maintain a sense of place and support local identity.

In Paragraph 76 of Scottish Planning Policy: June 2014 it is stated that Local Development Plans should make provision for most new urban development to take place within or in

planned extension to existing settlements. Paragraph 81 states that in accessible or pressured rural areas, where there is a danger of unsustainable growth in long distance car based commuting or suburbanisation of the countryside, a more restrictive approach to new housing development is appropriate.

In Paragraph 83 it is stated that in remote rural areas, where new development can often help to sustain fragile communities, sustainable development that would provide employment and that would support and sustain fragile and dispersed communities through provision of appropriate development should be supported.

It is stated in paragraphs 5.1 and 5.2 of the adopted East Lothian Local Development Plan 2018 that while the LDP's spatial strategy guides the majority of new development to existing settlements in the interests of promoting sustainable travel patterns, it also seeks to support the diversification of the rural economy and the ongoing sustainability of the countryside and coast through support in principle for agriculture, horticulture, forestry and countryside recreation, as well as other forms of appropriate business, leisure and tourism developments. New rural development should be introduced sensitively to avoid harming the characteristics that attract people to live, work and visit East Lothian's countryside and coast.

Paragraph 5.10 of the adopted East Lothian Local Development Plan 2018 states that the LDP has a general presumption against new housing in the countryside but exceptionally a new house may be justified on the basis of an operational requirement of a rural business. In such circumstances, appropriate evidence clearly demonstrating the need for a new dwelling on the particular site in association with the business will be required. Such evidence should include that no suitable existing dwelling has been recently made unavailable for that purpose and that there is no existing building that could be converted to a house.

Also material to the determination of the application is supplementary Planning Guidance (SPG) on "Countryside and Coast" and "Special Landscape Areas" adopted by the Council in October 2019. The SPG provides additional and updated information and guidance in support of the East Lothian Local Development Plan 2018.

## REPRESENTATION

Sixteen objections to this application have been received. The main grounds of objection are:

- (i) the proposals would result in a loss of prime agricultural land;
- (ii) if planning permission were to be granted the applicant could sell off other parts of agricultural land setting a dangerous precedent for future developments in the area;
- (iii) the proposals would impact on the views of a neighbouring residential property;
- (iv) the proposals would result in overlooking of a neighbouring residential property;
- (v) access to the site is to be taken from a private access track which is used daily by walkers and is not adopted by the Council. The maintenance and upkeep of the track is the responsibility of the residents of Heugh Steading. Concerns are raised that heavy vehicles, which will be required for construction works, will damage the access track;
- (vi) the proposals would have a harmful impact on wildlife and would result in the loss of their habitats;
- (vii) the proposed design of the house is inappropriate and would, due to its height, size, scale, footprint, design and finish, be completely out of keeping with the design and character of other houses within Heugh Steading. It would dwarf the existing pair of houses to the east and would

not improve the character or quality of the area. Instead, it would have an adverse impact on the visual amenity of the area;

(viii) the proposed house would be an intrusive and prominent feature on the skyline and would impact on the tail of North Berwick Law. The visuals submitted with this scheme clearly demonstrate that there would be immense visual harm in respect of its landscape setting. It would significantly dominate and disrupt a largely natural landscape in a very serious and adverse way. No reasonable justification is given to outweigh the harm that would be caused;

(ix) the design statement refers to the site as a 'gap' site. However, in a rural setting it is these 'gaps' that separate the countryside from urban sprawl. Encroaching into this 'gap' would be highly intrusive visually and would permanently alter the appearance of this significant ridgeline. The charm of East Lothian, and in particular this part of North Berwick, is the way in which 'gaps' have been cherished;

(x) the contemporary design of the proposed house, which includes extensive use of glass and zinc cladding, is not in keeping with the neighbouring dwellings at the Heugh which display traditional pantile roofs or the neighbouring B listed water tank which has a conical roof clad in slates. It is of the wrong design and in the wrong place;

(xi) the application site is too close to, and in clear sight of, the B listed water tank and from the North Berwick Law which is a Scheduled Monument located within a Special Landscape Area. It would have a harmful impact on the setting of that nearby listed building;

(xii) the proposed house will interrupt views from the Core Path (number 79) to the south and from the town of North Berwick to the north;

(xiii) this application fails to address any of the reasons for refusal set out in the report of handling relating to planning application 21/00781/P (which was subsequently withdrawn); and

(xiv) the proposals are contrary to Policies CH1, DC1, DC4, DC8, DC9 and DP2 and should be refused.

One of the objectors states that they, and their neighbours, were again not notified of this planning application.

In response to some of the points raised by the objectors above:

The land of the application site is designated as being of prime agricultural land. However, the Macaulay Land Capability for Agriculture (LCA) classification system identifies this land as being Land Capable of Supporting Improved Grassland - Class 5.1. Class 5.1 land has a range of different limitations such as climate, slope, wetness and often a heterogeneous pattern of conditions that render even occasional cultivation unsuitable.

The loss of a private view, as a consequence of a development proposal, is not a material planning consideration in the determination of an application for planning permission.

Any damage caused to the existing access track to the north of the site as a consequence of any construction works through the use of heavy vehicles or machinery, and whether or not the applicant is responsible to contribute to costs of the maintenance of the access track, are not material planning considerations in the determination of an application for planning permission.

Only two neighbouring properties within the Heugh were required to be individually neighbour notified as they are located within a 20 metre radius of the application site. The other residential properties of Heugh Steading are outwith the 20 metre radius and thus they do not require to be

neighbour notified. In any event, the application was been advertised in the Edinburgh Gazette on 3rd June 2022 and a site notice has been displayed all in accordance with the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.

The remaining points raised by the objectors are addressed elsewhere within this report of handling.

## COMMUNITY COUNCIL COMMENTS

North Berwick Community Council, as a consultee to this application, state that they object to the application on grounds related to the visual impact of the proposed development. In particular, and with reference to the images provided within the submitted visual impact assessment, they state that:

- (i) whilst the grass roof makes an attempt to minimise the visual impact of the proposed house it still clearly sticks out above the ground harmfully altering the iconic skyline of North Berwick;
- (ii) the proposed house would, although it is set back some distance from the road, still be visible when approaching North Berwick from Dunbar Road to the south; and
- (iii) the approved conversion of the neighbouring water tank building to form one house is hidden more into the countryside than the mock-up tries to convey and the cladding of the proposed new house, the subject of this application, is not a muted shade of grey as is suggested. Instead, its zinc cladding is designed to shine and reflect such that the proposed house will stand out - particularly in good weather.

In response to the comments from North Berwick Community Council the applicant's agent states that the visualisations contained within the Landscape and Visual Impact Assessment (LVIA) have been created in accordance with the guidance set out in the 'Technical Guidance Note 06/19: Visual Representation of Development Proposals' produced by The Landscape Institute of Environmental Management and Assessment. It states that these visualisations portray both the neighbouring consented development at the Water Tank and the proposed new house (subject of this application) accurately to make an assessment of visual impact. It states that the extent of mounding shown around the neighbouring water tank has been modelled exactly as per the proposed contours illustrated in the consented application documents. The proposed contours within the neighbouring application have been modelled to amend the existing topography within the 3D site model used to create the visualisations in the LVIA. It also states that, contrary to what is stated by NBCC, the use of zinc has been incorporated into the proposal to actively reduce glare. The specification of the zinc to be used is a 'VMZinc Pigmento Storm Grey' pre-weathered matt dark grey coloured zinc finish which will not reflect light.

## PLANNING ASSESSMENT

Scottish Water raise no objection to this application and advise that there is currently sufficient capacity in the Castle Moffat Water Treatment Works and that the proposed development would be serviced by North Berwick Waste Water Treatment Works. They also state that the proposed development impacts on existing Scottish Water assets such that the applicant must identify any potential conflicts with Scottish Water assets and contact their Asset Impact Team to apply for a diversion. The applicant's agent has been informed accordingly.



The Council's Access Officer raises no objection to this application advising that he doesn't envisage any issues with this development. However, he notes that the access track on the north side of the site is a public right of way and that it should not be blocked at any time. He therefore states that the development should therefore make all contractors aware that there is likely to be people walking there at any time as it is a very popular walk to North Berwick Law. The applicant's agent has been informed accordingly.

The Council's Waste Services raise no objection to this application. However, in their response to planning application 21/00781/P, they also advised that all containers for refuse/recycling would need to be presented for collection at the end of the tarmac road, adjacent to the house named 'Lawrigg East Cottage', before the road curves.

The Council's Environmental Health Officer raises no objection to this application.

The Council's Biodiversity Officer advises that the application site is within an area of arable habitat which has limited biodiversity value. She states that although the application site is within 50 metres of the North Berwick Law, a Site of Special Scientific Interest (SSI), it is not within or immediately adjacent to it such that she does not anticipate any harmful impact on the SSSI. She also advises that there is no other ecological connection to any designated sites and that she has no records of protected species in the locality and, given the current land use, it provides limited habitat for nesting, foraging or commuting. She also notes that the submitted ecological assessment (dated March 2021) concludes that the site has limited biodiversity value and that there is no evidence of protected species but notes that badgers are known to be present around North Berwick Law. However, the Council's Biodiversity Officer states that the proposals are unlikely to impact on badgers in the wider area. Accordingly, she raises no objection to this application.

The Council's Contaminated Land Officer has advised that the application site is currently open ground adjacent to the Heugh Steading and doesn't appear to have had any historic, potentially contaminative, land-use associated with it. However, he advises that there is the possibility that undocumented areas of made ground may exist on the site that could have contributed to localised areas of contamination. Accordingly, he recommends that in order to determine the ground conditions and potential contamination issues impacting on the site, a Phase I Geo-Environmental Assessment (Desk Study) be carried out. This matter can be controlled by condition on a grant of planning permission.

The Council's Road Services note that the proposed house is to be accessed from the existing private road via a new 3.5 metres wide driveway, at a gradient of 1:12, with a gated entrance set back from the road leading to a rear parking area and raise no objection to this arrangement. They also confirm that the informal parking area exceeds their requirements for private parking within the plot. However, they note that the tarmac road construction be extended to the front pedestrian gate to allow for direct access for those with mobility impairments who are not driving and parking within the rear area and that an electric vehicle charging point be provided on an external wall of the house. These suggested recommendations can be controlled by an appropriately worded condition on a grant of planning permission. Subject to such control the proposals do not conflict with Policies T1 or T2 of the adopted East Lothian Local Development Plan 2018.

The Council's Archaeology/Heritage Officer advises that the location of the proposal is in a very archaeologically sensitive area and is visually very prominent. He states that although no

archaeological remains have been identified on the site, the potential for remains is high as significant remains have been identified in close proximity including the Scheduled Monument of North Berwick Law. He notes that the indirect impacts were assessed as part of a previous application (21/00781/P - now withdrawn) and that the assessment showed that the building will visually extend the existing building group along the ridge line towards North Berwick Law itself. However, he advises that the impact is considered acceptable but recommends that a programme of archaeological work (Archaeological evaluation by trial trench) be undertaken prior to development commencing. This could be made a condition on a grant of planning permission. Therefore, subject to an appropriately worded condition, the proposals do not conflict with Policy CH4 of the adopted East Lothian Local Development Plan 2018.

Policy DP2 requires, amongst other things, that new development should not result in any significant loss of daylight, sunlight or privacy to adjoining properties because of overshadowing or overlooking.

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.

The windows and glazed doors to be formed within each of the north and south elevation walls of the proposed new house would not allow for harmful overlooking as there are no immediate neighbouring residential properties in those directions.

The two first floor windows to be formed in the side (east) elevation wall of the proposed new house would face, within a distance of 9 metres, towards the front garden of the neighbouring house named 'Lawrigg Law Cottage' to the east. Notwithstanding that the two first floor windows of the proposed new house would serve a store and a bathroom, the front garden of that neighbouring house is open to views by anyone who uses the access track, a public right of way, to the north of it. Accordingly, the open front garden of that neighbouring house does not benefit from any significant amount of privacy due its exposure to views from the existing access track. Accordingly, the windows to be formed at first floor level in the side (east) elevation wall of the proposed new house would not allow for harmful overlooking of the exposed front garden of the neighbouring house named 'Lawrigg Law Cottage'.

There is no proposal to form windows or other glazed opening within the side (west) elevation wall of the proposed new house or within the ground floor level of the (side) east elevation wall of it. If formed at ground floor level within the side (east) elevation wall of the proposed new house they would face towards the high hedging enclosing the east boundary of the front garden of the neighbouring house to the east and thus they would not allow for harmful overlooking of that neighbouring residential property.

If formed within the side (west) elevation wall they would face, at a distance of more than 9 and 18 metres away from, the existing building named 'Heugh Reservoir'. Accordingly, any windows or other glazed openings to be formed within the side (west) elevation wall of the proposed new house would not allow for harmful overlooking of that neighbouring building which, through the grant of planning permission 19/00700/P, has consent to alter and convert it to form one house.

Use of the proposed driveway, patio and balconies associated with the proposed new house would not allow for harmful overlooking of any neighbouring residential properties.

The proposed house would provide any future occupants with a satisfactory level of privacy and residential amenity.

In its proposed position and due to its orientation on the application site the proposed new house would not have a harmful impact on the sunlight and daylight received by neighbouring residential properties. The proposed new house and its garden would also receive a sufficient amount of daylight (skylight) and sunlight to give sufficient amenity to the occupiers of the proposed new house.

On these considerations of overlooking and overshadowing, the proposed house and its associated works do not conflict with Policy DP2 of the adopted East Lothian Local Development Plan 2018.

Notwithstanding all of the above it is now necessary to consider whether in accordance with national, strategic and local plan policy the principle of this form of development in this countryside location is acceptable and whether it would be of an architectural form appropriate for its setting. Consequently, the proposed erection of one house on the application site must be assessed against national, strategic and local planning policy relating to the control of new housing development in the countryside.

The application site is located in the countryside close to the settlement of North Berwick.

Paragraph 76 of Scottish Planning Policy June 2014 states that “in pressurised areas easily accessible from Scotland’s cities and main towns, where ongoing development pressures are likely to continue, it is important to protect against an unsustainable growth in car-based commuting and the suburbanisation of the countryside, particularly where there are environmental assets such as sensitive landscapes or good quality agricultural land. Plans should make provision for most new urban development to take place within, or in planned extensions to, existing settlements”.

North Berwick is a town that is, due to the railway link with Edinburgh, easily accessible from Edinburgh and consequently is an area that has on-going development pressures for new housing. The proposed new house would not be located within the settlement boundary of North Berwick. Instead it would be located within a sensitive landscape area as demonstrated by it being within an area of the countryside designated as Countryside Around Towns and within the North Berwick Law Special Landscape Area as defined by Policies DC8 and DC9 of the adopted East Lothian Local Development Plan 2018 respectively. Therefore as the application site is not in a remote rural area, that requires new development to sustain a fragile community nor is it a form of development that would provide employment that would support and sustain a fragile and dispersed community, the proposed new house is not a form of development supported by Paragraph 76 and 77 of Scottish Planning Policy: June 2014.

Planning Advice Note 72 – 2005: Housing in the Countryside sets out key design principles to be taken into account when planning new developments. The purpose of this document is to guide design of new development. It is not a document that sets out the criteria for guiding the

principle of new development in the countryside. Therefore PAN 72 does not give support for the principle of the development of the proposed new house in its countryside location.

Policy DC1 sets out specific criteria for new development in the countryside, stating that there will be support in principle for new development where it is for agriculture, horticulture, forestry or countryside recreation; or other businesses that have an operational requirement for a countryside location, including tourism and leisure uses.

Policy DC2: Conversion of Rural Buildings to Housing supports the conversion of appropriate buildings in the countryside to residential use where:

- (i) The existing building is worthy of retention by virtue of its architectural or historic character;
- (ii) The building is physically suitable for the proposed use and any extensions or alterations are compatible with and do not harm any significant architectural or historic features of the building and are in keeping with its size, form, scale, proportion, massing and architectural character;

Policy DC3 states that proposals for replacement housing in the countryside will be supported in principle where they would:

- i) be a like for like replacement of a dwelling recently rendered uninhabitable by unforeseen circumstances, such as a demonstrable and accidental fire, provided there is compelling evidence that the loss of the original habitable dwelling was recent and that it benefited from lawful use as a dwelling immediately prior to the loss; or
- (ii) replace an existing dwelling with lawful use rights as such (not the plot of a previous, now demolished house) that the Council accepts that due to the construction of the building it is incapable of retention for habitation and that all reasonable efforts have been made to maintain the building.

Policy DC4 sets out specific criteria for the erection of new build housing in the countryside, and allows for new build housing development in the countryside where the Council is satisfied that a new house is a direct operational requirement of an agricultural, horticultural, forestry or other employment use. Policy DC4 also allows for other small scale housing proposals that form a logical addition to an existing small scale rural settlement where they are promoted for affordable housing and evidence of need is provided and the registered affordable housing provider will ensure that the dwelling(s) will remain affordable for the longer term.

Policy DC5 sets out specific criteria for the exceptional circumstances where the erection of housing as enabling development in the countryside may be supported. Any such new housing development in the countryside should: (a) enable a desirable primary use supported in principle by criterion by Policy DC1 and the benefits of the primary use outweighs the normal presumption against new build housing in the countryside; or (b) fund the restoration of a listed building or other buildings of recognised heritage value, or other significant designated feature of the built or natural environment, the retention of which is desirable, and should satisfy the terms of Policies CH1 and where relevant CH6, and can be clearly demonstrated to be the only means of preventing the loss of the asset and secure its long-term future; and (c) the proposal satisfies the terms of Policy NH1. In all cases, the benefits of the proposed development must outweigh the normal presumption against new build housing development in the countryside.

The application site is in a countryside location within East Lothian that is characterised by a low density dispersed built form within an agricultural landscape. It is not identified in the adopted East Lothian Local Development Plan 2018 as being within a settlement and the Local Development Plan does not allocate the land of the site for housing development. Furthermore, the existing group of houses at Heugh Steading and the approved conversion of Heugh Reservoir to form one house, located to the east and west of the application site respectively, are existing buildings and thus they are not, therefore, new build developments. Those existing buildings are long established in their countryside location and form part of the landscape character and appearance of this part of the North Berwick Countryside Around Towns area. Policy DC2 of the adopted East Lothian Local Development supports the conversion of such buildings in the countryside to housing. As this application is not proposing the conversion of an existing building to housing, Policy DC2 does not apply and is not relevant to the determination of this application.

Neither is the proposed house being proposed as a replacement dwelling in the countryside. Therefore Policy DC3 (Replacement Dwellings in the Countryside) of the adopted East Lothian Local Development Plan is not relevant to the determination of this planning application.

The supporting statement submitted with this application indicates that the proposed house is not being proposed as a direct operational requirement of an existing agricultural, horticultural, forestry or other employment use or for the day to day running of the farm business. Instead, it is stated that the applicant seeks to build a new house within the countryside for use as a standalone home. Accordingly, the applicant's agent states that the proposed new house does not require an operational requirement such that Policies DC1 and DC4 are not applicable.

Notwithstanding what is stated in the supporting statement, the application site is located within a countryside location where Policies DC1 and DC4 are relevant to the determination of this planning application. Policy DC4 states clearly that new build housing development will only be supported in the countryside where the Council is satisfied that it is a direct operational requirement of a viable agricultural, horticultural, forestry, countryside recreation or other business, leisure or tourism use supported in principle by Policy DC1. In this case the applicant's agent has not advanced any case of justification of need for the proposed new build house. Neither is the proposed house being promoted to support a new or an existing agricultural, horticultural, forestry or countryside recreation use or business. The proposed house does not, therefore, have an operational requirement for its countryside location. Furthermore this is not an affordable housing proposal where the evidence of need of such affordable housing in this location has been provided by a registered affordable housing provider and nor is it being promoted as enabling development to fund a development that is in principle in accordance with Policy DC1.

In the absence of any direct operational requirement for the erection of one house on the application site, any justification of enabling development, and as this is not affordable housing, the proposed house is not supported by Policies DC1 or DC4 of the adopted East Lothian Local Development Plan 2018.

The proposed house is therefore in principle contrary to Policies DC1, DC4 and DC5 of the adopted East Lothian Local Development Plan 2018, and Scottish Government policy guidance regarding the control of new housing development in the countryside given in Scottish Planning Policy: June 2014.



Policy DC8 states that proposals which would harm the objectives of the specific Countryside Around Town area, as defined in supplementary planning guidance, will not be permitted. New development within areas designated as Countryside Around Towns will be supported in principle only where:

- i) it is required to implement part of the green network strategy as defined by that strategy;
- ii) it is required for community uses;
- iii) it is required for rural business, tourism or leisure related use;
- iv) it is essential infrastructure that has a clear operational requirement for that particular location and there is no other suitable site available.

Any new development must not harm the landscape setting of the countryside location and must be of a scale, size and form that would not harm the objectives for the Countryside Around Towns designation.

The description within the North Berwick Countryside Around Town (CAT) area of the Countryside and Coast SPG states that, 'Development to the east of North Berwick along the tail would impact detrimentally on the importance of North Berwick Law as a distinctive feature of the setting of the town'. It also states that the CAT areas form the distinctive landscape setting of the town and should be protected from visually harmful development that would detrimentally impact on these views or the countryside setting of the town and landscape setting and character of the Law.

Policy DC9 states that development within or affecting Special Landscape Areas will only be permitted where it accords with the Statement of Importance and does not harm the special character of the area; or the public benefits of the development clearly outweigh any adverse impact and the development is designed, sited and landscaped to minimise such adverse impacts.

The North Berwick Special Landscape Area focuses on the dramatic conical hill of the volume plug feature of North Berwick Law with its crag and tail feature. Its wide visibility sitting above the coastal plain makes it important for scenic value and sense of place of North Berwick. The North Berwick Law Special Landscape Area Statement of Importance notes that the housing at the Heugh is generally built from the stone of the Law which provides a link between the natural and built environment. It notes that the pantiled roofs contrast with surrounding fields when viewed from the Law, but the scale and agricultural appearance of the housing relates to the agricultural use of the area.

The Statement of Importance has several guidelines for development. The most relevant to this proposal include:

- o Any proposed development must not harm open views from the Law.
- o Any proposed development must not harm the Law as a landmark crag and tail feature, both in close and distant views or compete with it as a focal point within the landscape.
- o Any proposed development must not harm views of the Law in particular from the John Muir Way, A198 and B1347.

Policy DP1 requires that new development be well integrated into its surroundings by responding to and respecting landform, and by retaining and where appropriate enhancing

existing natural and physical features at the site, including water bodies, that make a significant contribution to the character and appearance of the area and incorporate these into the development design in a positive way.

Policy DP2 requires that new development be appropriate to its location in terms of its positioning, size, form, massing, proportion and scale and use of a limited palette of materials and colours that complement its surroundings.

The landscape advice from Policy & Projects states that the proposals are the same as those submitted for application 21/00781/P apart from minor amendments to the width of the bunds to the south and west of the proposed new house and minor changes to the ground levels to the north of the proposed new house. She also states that the proposals submitted as part of this planning application are similar to those to which landscape commented on at pre-application stage. The height of the proposed new house remains the same, as does the orientation and design of the single pitch roof to the north and full two storey frontage to the south. It is still proposed to be zinc clad with white render and a sedum roof with large areas of glass. The landscape officer states that: (i) whilst the house has been moved 6 metres further east on the site and includes a low grass bund, its large size and modern appearance provides no link to the existing buildings or to its location, (ii) that the character of the proposed house is considerably different to the character of the existing buildings - with the group of houses at the Heugh displaying red pantile roofs and generally single storey with some accommodation within the roof space, (iii) no consideration has been given to reducing the massing or breaking up the single linear roof line of the proposed new house and (iv) there are trees within the neighbouring property to the east as well as a boundary hedge which may be impacted upon by the proposed new access, driveway and gate piers and that there is no information submitted in the application on the trees and their root protection areas to show that consideration has been given to avoid impact on them by the proposals.

The landscape officer also states that the proposed building with its east to west linear form and single roof line extends residential development to the west, and by visually linking the reservoir building to the existing residential development, draws residential development along the ridge. The proposed sedum roof is shown as green, which it will not be all the time. She advises that whilst the sedum roof would help to reduce the impact of the building when viewed from above from North Berwick Law, the white render and chimney to the west elevation are bold elements in this view. She also notes that the reservoir building has permission to be converted into a residential dwelling. However its conical roof form is to be retained and no windows will be visible from the northern elevation. She states that this reservoir building is an existing building that is not typical of residential development. It does not read with the existing residential development at the Heugh. It sits alone with its massing and visual impact reduced in the landscape by virtue of both its colour and form.

The Council's Policy and Projects landscape officer further advises that some attempt has been made to reduce the visual impact of the proposed new house (when viewed from the south, north and from North Berwick Law) as a result of its sedum roof and through the proposed bunding. However, she states that due to the nature of its location, scale and design, it spreads residential development along the tail of the Law and contrasts with the character of the existing residential development. Therefore the proposed development is contrary to the advice of both the CAT and SLA by proposing residential development on the ridge of the tail feature of North Berwick Law which would harm the Law as a landmark crag and tail feature.

Accordingly, she advises that the proposals are contrary to Policies DC8 and DC9 of the adopted East Lothian Local Development Plan 2018.

The Council's Policy and Projects landscape officer notes that a Landscape and Visual Impact Assessment (LVIA) has been submitted with this application. The LVIA identifies the North Berwick Law SLA as having a medium to high sensitivity, stating that its 'distinctive character is fairly susceptible to small changes within the landscape'. The landscape officer advises that the LVIA shows the wide and nearly complete visibility of the site within the 1km study area.

In terms of specific landscape appraisal the landscape officer advises the following:

Viewpoint 1 is from the junction of the core path route to the south of North Berwick Law with the minor road leading to Heugh Brae. From here the site is in your immediate line of sight as you travel north along the road, set on the ridge line of the tail of the Law. The LVIA states that in this view 'the building appears to be of a roughly similar scale to the existing properties'. It is however larger, higher and very different in character to the existing residential development. Its ridge, which is also its eaves from this direction, is nearly 5 metres higher than the eaves of the adjacent house to the east. It forms a single mass with a single ridge. A 1.85 metres high grass bund has been proposed to the south side of the building. This reduces the amount of white render visible on the lower storey in this view, however the remaining visible building still sits 6.3 metres above the bund. A couple of trees are indicated to the southeast corner, but together with the bund these have minimal impact in breaking up or reducing the overall massing of the proposed building. The building does not give the impression of being contained within the landscape, but rather of sitting exposed and high on the ridge line. Its modern glass and zinc cladding appearance and single pitch roof is not in character with the existing buildings. The existing view from the south clearly shows the separation between the existing low level residential development to the east and the water reservoir to the west. It also shows the character of the existing building directly east of the site; single storey with development in the roof space and an eaves line broken by gables to reduce its overall horizontal massing. The photomontage includes the approved changes to the water reservoir to make this a dwelling. The design of the reservoir is not typically residential in design and remains embedded in the landscape, surrounded by bunding. Referring to table 2.2 of the LVIA the introduction of the building in the location and design as proposed would appear to be a medium magnitude change with a noticeable partial change to a proportion of the landscape with the introduction of some uncharacteristic elements. A medium magnitude of change on a view with high sensitivity leads to a moderate magnitude effect. It does change the landscape by extending residential development along the ridge towards the Law and linking the built form to the east with the reservoir building, infilling the gap, and drawing more attention to this building. A small but significant proportion of the view is affected.

In viewpoint 2 from the north side of the ridge part way down the Heugh Brae the properties at Lawrigg adjacent to the site are hidden from view to the south beyond the ridge line. This reduces the visible spread of existing residential development along the ridge in this view and increases the visual distance between residential development and the water reservoir building. The line of the ridge of the tail of the Law is a strong feature in this view. The proposed building does not read with the existing residential development in this view. It is visually separated and is of contrasting architectural form. The proposed reduction in the site level helps to reduce the height of the proposed building to single storey in this view. However at night time light from these windows will be visible to the north and this will change the experience of the landscape of this part of the crag and tail feature during the hours of darkness. This

introduces a new residential building onto the ridge of the tail that will be visible both day and night and which has no relationship with the existing development on the ridge.

It was pointed out at pre-application stage that the proposed location of viewpoint 3 was not suitable as the site was screened in this view. We suggested the location at viewpoint 6 instead.

Viewpoint 4 is from the summit of North Berwick Law looking east. The existing view from the Law clearly shows the existing separation between existing low level traditional style and conversion residential development contained in a group on the ridge and the water reservoir, which although granted permission to become residential retains its form and character and does not appear residential. The proposal, in this view, represents a small area of change within a much wider view with the impact reduced by the sedum roof, although the white render and chimney to the west elevation are bold two storey elements drawing the eye to the proposal. The photomontage, however, clearly shows that the proposal extends residential development along the ridge line and visually links the reservoir building with the existing residential development at the Heugh. Visually therefore the impact of this proposal is greater than consideration of the introduction of a single building.

Viewpoint 5 is taken from the eastern entrance to North Berwick from the A198 tourist coastal route. As the LVIA notes the crag and tail landform of North Berwick Law is clear in this view and the development at Tantallon Road has been set back from the road edge with single storey buildings to retain views to this feature from the road. From this location the existing residential development at the Heugh is mainly screened by trees. The residential conversion of the water reservoir is not visible, just the original conical roof. The proposed building introduces a new large residential element along the ridge, the only residential building visible in this view on the ridge of the tail landform feature, a view that has been actively retained through careful design of other development. The sedum roof may help to reduce its intrusiveness but the white eastern gable and glazed north elevation are clearly visible. Introducing development onto the ridge would therefore appear to have a greater effect on this view and on the integrity of the character of the feature landscape than stated in the LVIA.

Viewpoint 6 was suggested at pre-application stage as a worst case view from the north within the town. As viewpoint 3 shows many public views from Dunbar Road area have partial screening of the ridge by local tree planting, although the ridge from the Law to the Heugh can be seen in its entirety from the recreation ground to the east of Dunbar Road. As with viewpoint 2 the properties at Lawrigg adjacent to the site are hidden from view to the south beyond the ridge line. This reduces the visible spread of existing residential development along the ridge in this view and increases the visual distance between residential development and the water reservoir building. The line of the ridge of the tail of the Law is a strong feature in this view. The proposed building does not read with the existing residential development in this view. It is visually separated and is of contrasting architectural form. The proposed reduction in the site level helps to reduce the visibility of the proposed building to single storey in this view. However, at night time, light from these windows will be visible to the north and this will change the experience of the landscape of this part of the crag and tail feature during the hours of darkness.

Viewpoint 7 is representative of the view from the John Muir Way to the northwest of the site. The angle of this view along the ridge of the tail limits visibility of the development to mainly the roof, which being 'green' helps it blend with its surroundings. It would appear from the submitted visuals that the proposal would have only a minor effect on this view.

Consequently the advice from the Policy and Projects Landscape Officer is that the proposed house would not, by virtue of its architectural form, size, scale, massing and materials, be well integrated into its surroundings and would not be in keeping with the existing group of buildings of the Heugh to the east or to the water tank building known as 'Heugh Reservoir' to the west. In its exposed position where it would sit on the ridge line of the site the proposed house would be readily visible in long distance views from the public views of it from Dunbar Road to the north, Heugh Brae to the east and from the approach road into North Berwick to the south. It would also be seen in shorter distance views from the access track (a public right of way, to the north of the site and from core path 79 to the south of the site. In the views to which it would be seen, and due to its contemporary architectural form and contrasting modern finishes, the proposed house would appear as a harmfully prominent, incongruous and intrusive feature within its exposed landscape setting. It would be markedly at odds with the character and appearance of nearby buildings and would significantly alter the open and natural landscape character of this part of the East Lothian countryside. It would be harmful to the open landscape character of the area, the distinctive landscape setting of the North Berwick Countryside Around Towns area and would harmfully affect the special character of the North Berwick Law Special Landscape Area, contrary to Policies DC8, DC9, DP1 and DP2 of the adopted East Lothian Local Development Plan 2018, the Council's approved Special Landscape Areas Supplementary Planning Guidance and with Scottish Planning Policy: June 2014.

Moreover, the proposed house would encroach and close the existing gap between the neighbouring house of Lawrigg West Cottage to the east and the water storage tank facility known as Heugh Reservoir to the west which is listed as being of special architectural or historic interest (Category B). By this encroachment, and due to the infilling of this gap, the proposed house would harmfully disrupt, and draw focus away from, the setting of the listed building named 'Heugh Reservoir' to the west, contrary to Policy CH1 of the adopted East Lothian Local Development Plan 2018 and with Scottish Planning Policy: June 2014.

If approved the proposed development would set an undesirable precedent for the development of new houses in similar circumstances elsewhere within the East Lothian countryside, the cumulative effect of which would result in a detrimental impact on the rural character and amenity of the countryside of East Lothian.

It is stated in the design statement submitted with this application that the proposed new house would incorporate low carbon technology to minimise CO2 emissions both in the specification of the components and in passive means to minimise energy consumption. It also states that the bunds help minimise transportation costs and the overall carbon footprint. However, the benefits of that these renewable forms of technology would provide the future occupier of the proposed house, in a small way, to the environment through the lowering of the carbon footprint do not outweigh the adverse impact the proposals would have on the landscape character and appearance of the area. Neither would the reduced number of lorry trips to deposit material from soil to be excavated within the site. Accordingly, there are no material considerations which would justify planning permission being granted.

In conclusion, the proposals are considered not to be in accordance with the provisions of the stated relevant Development Plan policies and there are no material considerations which outweigh the fact that the proposals do not accord with the Development Plan.



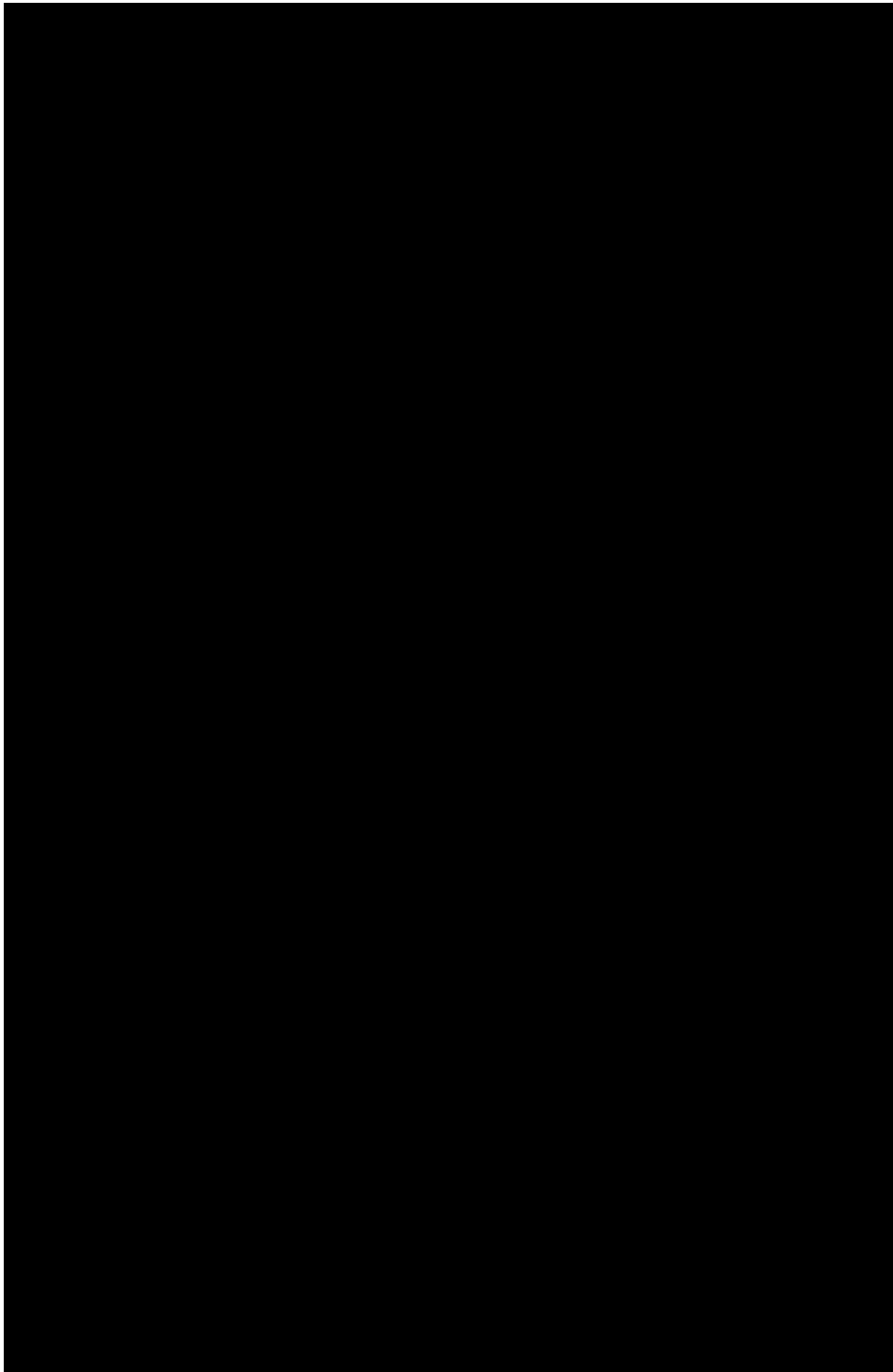
## REASONS FOR REFUSAL:

- 1 The erection of a house on the application site would be new build housing development in the countryside of East Lothian for which a need to meet the requirements of the operation of an agricultural, horticultural, forestry, countryside recreation, or other business, leisure or tourism use has not been demonstrated, and which is not proposed as affordable housing development of an existing rural settlement. The proposal is therefore contrary to Policies DC1 and DC4 of the adopted East Lothian Local Development Plan 2018 and with Scottish Government policy guidance regarding the control of new housing development in the countryside given in Scottish Planning Policy: June 2014.
- 2 The erection of a house on the application site would be new build housing development in the countryside of East Lothian for which a desirable primary use supported in principle by criterion b of Policy DC1 and with benefits that outweigh the normal presumption against new build housing in the countryside has not been demonstrated; and which is not promoted to fund the restoration of a listed building, building of recognised heritage value or significant designated feature of the built or natural environment, the retention of which is desirable. The proposal is therefore contrary to Policy DC5 of the adopted East Lothian Local Development Plan 2018.
- 3 The erection of a house on the application site would not, by virtue of its architectural form, size, scale, massing and materials, be well integrated into its surroundings and would not be in keeping with the existing group of buildings of the Heugh to the east or to the water tank building known as 'Heugh Reservoir' to the west. In its exposed position where it would sit on the ridge line of the site the proposed house would be readily visible in public views of it. In the views to which it would be seen, and due to its contemporary architectural form and contrasting modern finishes, the proposed house would appear as a harmfully prominent, incongruous and intrusive feature within its exposed landscape setting. It would be markedly at odds with the character and appearance of nearby buildings and would significantly alter the open and natural landscape character of this part of the East Lothian countryside. It would be harmful to the open landscape character of the area, the distinctive landscape setting of the North Berwick Countryside Around Towns area and would harmfully affect the special character of the North Berwick Law Special Landscape Area, contrary to Policies DC8, DC9, DP1 and DP2 of the adopted East Lothian Local Development Plan 2018, the Council's approved Special Landscape Areas Supplementary Planning Guidance and with Scottish Planning Policy: June 2014.
- 4 The erection of a house on the application site would encroach and close the existing gap between the neighbouring house of Lawrigg West Cottage to the east and the water storage tank facility known as Heugh Reservoir to the west which is listed as being of special architectural or historic interest (Category B). By this encroachment, and due to the infilling of this gap, the proposed house would harmfully disrupt, and draw focus away from, the setting of the listed building named 'Heugh Reservoir' to the west,

contrary to Policy CH1 of the adopted East Lothian Local Development Plan 2018 and with Scottish Planning Policy: June 2014.

- 5 If approved the proposed development would set an undesirable precedent for the development of new houses in the countryside of East Lothian, the cumulative effect of which would be the suburbanisation of the countryside to the detriment of its character and amenity.

#### LETTERS FROM





27th June 2022

App No. 22/00587/P

**EAST LoTHIAN COUNCIL  
DECISION NOTICE**

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997  
TOWN AND COUNTRY PLANNING  
(DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATIONS 2013**

**Mr Tom Tait  
c/o Geddes Consuling  
Per Stuart Salter  
Quadrant  
17 Bernard Street  
Edinburgh  
EH6 6PW**

**APPLICANT: Mr Tom Tait**

With reference to your application registered on 25th May 2022 for planning permission under the above mentioned Acts and Regulations for the following development, viz:-

**Erection of 1 house and associated works**

**at  
Land At The Heugh  
North Berwick  
East Lothian**

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

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

- 1 The erection of a house on the application site would be new build housing development in the countryside of East Lothian for which a need to meet the requirements of the operation of an agricultural, horticultural, forestry, countryside recreation, or other business, leisure or tourism use has not been demonstrated, and which is not proposed as affordable housing development of an existing rural settlement. The proposal is therefore contrary to Policies DC1 and DC4 of the adopted East Lothian Local Development Plan 2018 and with Scottish

Government policy guidance regarding the control of new housing development in the countryside given in Scottish Planning Policy: June 2014.

- 2 The erection of a house on the application site would be new build housing development in the countryside of East Lothian for which a desirable primary use supported in principle by criterion b of Policy DC1 and with benefits that outweigh the normal presumption against new build housing in the countryside has not been demonstrated; and which is not promoted to fund the restoration of a listed building, building of recognised heritage value or significant designated feature of the built or natural environment, the retention of which is desirable. The proposal is therefore contrary to Policy DC5 of the adopted East Lothian Local Development Plan 2018.
- 3 The erection of a house on the application site would not, by virtue of its architectural form, size, scale, massing and materials, be well integrated into its surroundings and would not be in keeping with the existing group of buildings of the Heugh to the east or to the water tank building known as 'Heugh Reservoir' to the west. In its exposed position where it would sit on the ridge line of the site the proposed house would be readily visible in public views of it. In the views to which it would be seen, and due to its contemporary architectural form and contrasting modern finishes, the proposed house would appear as a harmfully prominent, incongruous and intrusive feature within its exposed landscape setting. It would be markedly at odds with the character and appearance of nearby buildings and would significantly alter the open and natural landscape character of this part of the East Lothian countryside. It would be harmful to the open landscape character of the area, the distinctive landscape setting of the North Berwick Countryside Around Towns area and would harmfully affect the special character of the North Berwick Law Special Landscape Area, contrary to Policies DC8, DC9, DP1 and DP2 of the adopted East Lothian Local Development Plan 2018, the Council's approved Special Landscape Areas Supplementary Planning Guidance and with Scottish Planning Policy: June 2014.
- 4 The erection of a house on the application site would encroach and close the existing gap between the neighbouring house of Lawrigg West Cottage to the east and the water storage tank facility known as Heugh Reservoir to the west which is listed as being of special architectural or historic interest (Category B). By this encroachment, and due to the infilling of this gap, the proposed house would harmfully disrupt, and draw focus away from, the setting of the listed building named 'Heugh Reservoir to the west, contrary to Policy CH1 of the adopted East Lothian Local Development Plan 2018 and with Scottish Planning Policy: June 2014.
- 5 If approved the proposed development would set an undesirable precedent for the development of new houses in the countryside of East Lothian, the cumulative effect of which would be the suburbanisation of the countryside to the detriment of its character and amenity.

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

Details of the following are given in the application report:

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



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

The plans to which this decision relate are as follows:

<u>Drawing No.</u>	<u>Revision No.</u>	<u>Date Received</u>
DWG 001	-	25.05.2022
PL02	B	25.05.2022
PL03	A	25.05.2022
PL04	A	25.05.2022
PL05	A	25.05.2022
PL06	-	25.05.2022
R495 PL01	-	25.05.2022

**8th July 2022**



Keith Dingwall  
Service Manager - Planning

## NOTES

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

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