

REPORT TO: Planning Committee
MEETING DATE: 7 March 2023
BY: Executive Director for Place
SUBJECT: Application for Planning Permission for Consideration

Application No. **22/00757/P**
Proposal Installation of lighting (Retrospective)
Location **26 Victoria Road
North Berwick
East Lothian
EH39 4JL**

Applicant Mr Stirling Stewart
Per Somner Macdonald Architects

RECOMMENDATION Application Refused

REPORT OF HANDLING

PROPOSALS

This application relates to the building of the former coastguard station at 26 Victoria Road, which is now in use as a restaurant and takeaway known as 'The Rocketeer'.

The application site is on the east side of Victoria Road, close to the junction of Victoria Road with Melbourne Road. The building of 26 Victoria Road is detached and is single storey in height.

The application site is bounded to the west by a narrow strip of footpath beyond which is the public road of Victoria Road, on the opposite side of which are residential properties. To the north, south and east of the site is land of the public open space of 'Anchor Green'. On the area of open space to the south of the site is the Memorial Cross. The scheduled ancient monument of St Andrews Kirk, including the Old Parish Kirk Porch is also to the north of the site. Further to the north are residential properties, the harbourmaster's office and the buildings of the Scottish Seabird Centre. The East Lothian Yacht Club building at 36-40 Victoria Road, which is located some 35 metres to the north of the application site, is listed as being of special architectural or historic interest, Category B.

The application site is located within an operational harbour area as identified by Policy EMP2 of the adopted East Lothian Local Development Plan 2018, and is part of the developed coast as defined by Policy DC6 of the adopted East Lothian Local Development Plan 2018. It is also within North Berwick Conservation Area. It is outwith but close to part of the southern edge of the North Berwick to Seton Sands Special Landscape Area (SLA) as defined by Local Development Plan Policy DC9. The southern part of harbour promontory, including the application site, is not within the SLA.

PLANNING HISTORY

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

On 6th November 2012 planning permission 12/00410/P was retrospectively granted for alterations and additions to the building of 26 Victoria Road comprising: (i) the addition of a painted timber bin store and maitre d station onto the west elevation wall of the building; (ii) the installation of a rectangular aluminium vent grille in the west elevation wall of the building; (iii) the removal of the white rendered finish of the north and south elevation walls of the building and the cleaning of the resultantly exposed stonework of those elevation walls; (iv) the re-rendering of the east elevation wall of the building with a buff/brown coloured render; (v) the provision of a circular glass window in the entrance door of the south elevation wall of the building; (vi) the installation of two wall mounted lights, one to each side of the entrance door in the south elevation wall of the building; (vii) the installation of two wall mounted lights on each of the north, east and south elevation walls of the building; and (viii) the installation of a dark green coloured gas meter housing cabinet in a position low down on the north elevation wall of the building. Planning permission 12/00410/P was also retrospectively granted for the formation of Indian sandstone slabs that had been laid around the building; between the building and the rubble stone boundary wall, and for the 1.3 metres wide, black painted metal open railing type gate that had been erected across the pedestrian entrance in the west boundary wall.

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

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

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

Planning application 13/00065/P was registered in March 2013 for the erection of a glazed extension to the building. Following discussions between the Applicant, his Agent

and the Planning Officer, that application was withdrawn whilst the Applicant considered the specifics of the design of the extension proposed.

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

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

At Planning Committee on the 13th March 2017, planning permission 16/00860/P was granted contrary to officer recommendation for the erection of two additional canopies on the building, one on the north elevation and an additional one on the southeast elevation. Condition 3 of planning permission 16/00860/P granted planning permission for the 2 additional canopies to be erected between April and October in each calendar year. Planning permission 16/00860/P was implemented in April 2017.

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

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

On 5th February 2021 planning application 20/01241/P was refused for the change of use of an area of open space of the southern part of 'Anchor Green' to use as an outdoor seating area for the restaurant and takeaway known as 'The Rocketeer', at 26 Victoria Road for a temporary period of 3 years and for the formation of hardstanding areas to the north, south and west sides of the building of 26 Victoria Road. The reasons for refusal being: (1) The proposed change of use of the area of public amenity open space to use as an outdoor seating area in association with the existing restaurant/servery/takeaway business of 'The Rocketeer' at 26 Victoria Road would result in an unacceptable harmful impact, detrimental to the recreational function of the area of amenity open space and would significantly compromise the visual amenity and landscape character of the area, contrary to Policy OS1 of the adopted East Lothian Local Development Plan 2018; (2)

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

The decision to refuse planning permission 20/01241/P was subsequently appealed to the Local Review Body. The Local Review Body decision on 9th July 2021 was to dismiss the review and to uphold the refusal of planning permission.

On 1st October 2021 advertisement consent 21/00424/ADV was approved for the retrospective display of advertisements on and adjacent to the property of 'The Rocketeer', at 26 Victoria Road.

On 25th March 2022, planning permission 22/00107/P was granted for the formation of a new length of footpath along the south side of the building of 26 Victoria Road and for the re-surfacing of an existing footpath along the west side of the building of 26 Victoria Road.

PROPOSAL

This current application seeks retrospective planning permission for the installation of LED string/strip lighting that has been installed on the eaves gutter of the south and north sides of the building and on the east and west gables of the building, which is in use as a restaurant and takeaway known as 'The Rocketeer'.

The LED string/strip lighting is encased in a waterproof enclosure and is installed along the eaves gutter lines of the north and south elevations and on an alignment with the bottom edge of the stone skewers of the east and west gable elevations.

The applicant states that he believed he had permission for the lighting as part of an earlier permission.

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.

At the time this report was written the development plan is the approved Edinburgh and South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Development Plan 2018. However, on the 13th February 2023, and thus before the expiration of this Scheme of Delegation List, the Scottish Government adopted National Planning Framework 4 (NPF4), at which time NPF4 became part of the statutory development plan and SESplan and Scottish Planning Policy: June 2014 will be withdrawn.

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

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

Policies EMP2 (Operational Harbours), DC6 (Development in Coastal Areas), DC9 (Special Landscape Areas), CH1 (Listed Buildings), CH2 (Development Affecting Conservation Areas), CH4 (Scheduled Monuments and Archaeological Sites), DP5 (Extensions and Alterations to Existing Buildings) and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of the application.

Policies 1 (Tackling the Climate and Nature Crises), 2 (Climate Mitigation and Adaptation), 3 (Biodiversity), 4 (Natural Places), 7 (Historic Assets and Places), 10 (Coastal Development) and 14 (Design, Quality and Place) of NPF4 are relevant to the determination of this application.

Material to the determination of the application are Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Scottish Government's policy on development affecting a listed building or its setting, and on development within a conservation area given in Scottish Planning Policy: June 2014 and in NPF4.

Scottish Planning Policy and NPF4 echo the statutory requirements of Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that in considering whether to grant planning permission for development which affects a listed building or its setting a planning authority shall have special regard to the desirability of preserving and enhancing the building, its setting and any features of special architectural or historic interest which it possesses.

Scottish Planning Policy and NPF4 echo the statutory requirements of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that a planning authority must have regard to the desirability of preserving or enhancing the character or appearance of a conservation area in exercising its responsibilities in the determination of any application for planning permission for development affecting a conservation area.

It is stated in Scottish Planning Policy that proposed development within conservation areas and proposals outwith which will impact on its appearance, character or setting, should preserve or enhance the character and appearance of the conservation area. Proposals that do not harm the character and appearance of the conservation area should be treated as preserving its character and appearance.

It is stated in the Historic Environment Policy for Scotland (HEPS): April 2019 and Scottish Planning Policy: June 2014 and NFP4 that scheduled monuments are of national importance and that they should be preserved in situ and within an appropriate setting. Where works requiring planning permission would affect a scheduled monument, the protection of the monument and the integrity of its setting are material considerations in the determination of whether or not planning permission should be granted for the proposed development.

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

REPRESENTATIONS

One public representation has been received to the application. That representation has been submitted by the Architectural Heritage Society of Scotland (AHSS). The representation raises objection to the proposed development and the main grounds of objection as summarised are:

1. that the applicant has a history of submitting retrospective planning applications;
2. there is considerable history behind the question of lights on the building;
3. the LED lighting is garish, prominent and intrusive and completely at odds with the historical and architectural character of this part of the Conservation Area, which includes the historic harbour with its piers, promenade and scheduled ancient monument;
4. whether or not illuminated signage is accepted should not form a precedent for this intrusive lighting;
5. the LED strip lighting has far reaching visual impact and can be seen from a distance away, along the East Bay;
6. the LED lighting does not uphold the peaceful, coastal ambience that lends a night-time quality to the visual amenity and landscape character of this part of the Conservation Area; and
7. the AHSS maintain that the existing street lighting, together with light spillage from the interior lighting of the glazed extension of the building is sufficient a source of external lighting.

Whether or not the application is made retrospectively and whether or not the applicant has a history of submitting retrospective planning applications, the application nonetheless stands to be determined on its own merits.

The application drawings show an existing board sign on each of the east and west gables of the building. The positioning of signage, whether illuminated or not, does not require planning permission and therefore does not form part of this application and is shown on the drawing for information only. The board signs and any illumination of them does require advertisement consent. No application of advertisement consent has yet been submitted. Whether or not specific lighting of such signage and the position of that

signage on the building of 26 Victoria Road requires or has the benefit of advertisement consent is not a material consideration in the assessment of this application for planning permission for the LED string/strip lighting that has been attached to the building but rather can, if relevant, be investigated as a separate matter by the **Council's Planning Enforcement service**. It would be through the determination of any future application for advertisement consent that it will be decided if such illuminated signage is appropriate and will be supported.

COMMUNITY COUNCIL

North Berwick Community Council has been consulted on the application and advises that they have no comments to make on the application.

PLANNING ASSESSMENT

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

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

The LED string/strip lighting that has been installed on the building of 26 Victoria Road is used in association with the existing commercial use of the restaurant/servery/takeaway of 'The Rocketeer' that is operating from the property of 26 Victoria Road with the benefit of planning permission granted. Although that existing business is not related to fishing or other industry connected with the operational harbour, it is nonetheless an established business within the operational harbour area. In its use in association with that existing restaurant/servery/takeaway business of 'The Rocketeer', the LED string/strip lighting does not in principle conflict with Policy EMP2 of the adopted East Lothian Local Development Plan 2018.

The LED string/strip lighting, for which retrospective planning permission is sought through this application, has been installed on the building along the eaves gutter of the south and north sides of the building, and on an alignment with the bottom edge of the stone skews of the east and west gable elevations of that part of the building of 26 Victoria Road. The LED string/strip lighting is encased in a white coloured waterproof enclosure.

Being at the junction of Victoria Road with Melbourne Road, the building is located in a prominent position on the harbour promontory and on the approach to the harbour area. In such location, it is readily visible in views within the iconic backdrop of the harbour area, the approach to the Category B listed North Berwick Harbour, some 35 metres to the south of the Category B listed East Lothian Yacht Club building, and being alongside the Memorial Cross and the Scheduled Ancient Monument of St Andrew's Kirk, including the Kirk Porch. As a consequence of all of this, this is a sensitive location where particular care is required to design appropriate alterations to the building, and this has been noted in past planning and appeal decisions for the building.

In such locational circumstances, the building and thus the lighting that has been

installed on it is readily visible in views within the iconic backdrop of the harbour area within this part of the North Berwick Conservation Area, including the relationship of 26 Victoria Road with the adjacent scheduled monument of St Andrew's Kirk.

Although the building of 26 Victoria Road has been altered in the past, nonetheless, as part of this iconic location around the Anchor Green on the harbour promontory, the building and its setting are an important part of the Conservation Area.

Notwithstanding the addition of the glazed extension to it, the simple single storey gabled form and architectural character of the building of 26 Victoria Road is still legible and remains a dominant component of the building, and makes a positive contribution to the character of this part of the harbour area, and the North Berwick Conservation Area.

Although the physical size of the LED string/strip lighting and its waterproof enclosure is small, the LED string/strip lighting extends along all elevations of the building and seen as it is alongside the panel signs and their illumination, creates clutter along the eaves and gables of the building, detracting from its simple architectural character. Furthermore, the white colouring of the waterproof enclosure of the LED string/strip lighting, is seen in stark contrast to the stone of the skews of the building and consequently appears as an incongruous feature on the east and west gables of the building.

Thus, by virtue of its positioning, form and colouring, the LED string/strip lighting is an unsympathetic addition to the building, which detracts from its simple architectural character and is an incongruous feature on the building, harmful to the character and appearance of the building, and by being an unsympathetic and harmful addition to the building, the LED string/strip lighting is harmful to the character and appearance of this part of the North Berwick Conservation Area.

The character of this part of the North Berwick Conservation Area is not confined to daylight hours. During the hours of darkness, the harbour promontory differs significantly from the more prolific illumination of shop frontages found on the High Street and other streets within the Town Centre. In contrast the harbour promontory, of which the application site is a part, has a simple more subdued street-lit appearance with buildings and roofscapes having a simple unilluminated appearance.

By its character when illuminated, the LED string/strip lighting the subject of this application detracts from the simple unilluminated appearance of the roofscape of the building and the surrounding buildings of the harbour promontory and is a visually intrusive feature on the building that is harmful to the character and appearance of the building. When illuminated, the LED string/strip lighting, has far reaching visual impact and can be seen from a distance away, along the East Bay and West Bay, detracting from the subdued ambience of the night-time quality of the visual amenity and landscape character of this part of the Conservation Area. Consequently, as an incongruous, intrusive and unsympathetic addition to the building, the LED string/strip lighting the subject of this application, has a harmful impact on the character and appearance of the streetscape of the harbour promontory, and thus is visually harmful to the character and appearance of this important part of the North Berwick Conservation Area.

Accordingly, the LED string/strip lighting conflicts with Policies DP5 and CH2 of the adopted East Lothian Local Development Plan 2018 and Scottish Government guidance on development affecting a conservation area or its setting given in Scottish Planning Policy: June 2014 and would also conflict with Policies 7 and 14 of NPF4.

Whether unilluminated or illuminated, as an incongruous, intrusive and unsympathetic

and harmful addition to the building, the LED string/strip lighting has a harmful impact on the character and appearance of the streetscape of the harbour promontory, and thus is visually harmful to and detracts from the setting of and approach to the Category B listed North Berwick Harbour and East Lothian Yacht Club building, and the setting of the scheduled ancient monument of St Andrew's Kirk. Accordingly, the LED string/strip lighting conflicts with Policies CH1 and CH4 of the adopted East Lothian Local Development Plan 2018 and Scottish Government guidance on development affecting a listed building or its setting, and the setting of scheduled monuments given in Scottish Planning Policy: June 2014 and the Historic Environment Policy for Scotland (HEPS): April 2019, as relevant and would also conflict with Policy 7 of NPF4.

Historic Environment Scotland have no comment to make on the application.

The application site is also close to part of the southern edge of the North Berwick to Seton Sands Special Landscape Area (SLA) as defined by Local Development Plan Policy DC9. The southern part of harbour promontory, including the application site, is not within the SLA but is located only some 12 metres away from its southern edge. The character statement for the SLA does however comment that the area of the SLA pertaining to North Berwick is popular for recreation and that the popular recreation areas around the sandy bays and harbour headland are an important part of the setting of North Berwick with strong aesthetic appeal that provides diversity and scenic views and comprises an open landscape facing the sea varying in nature from estuaries to dunes and rocky shore (...) as well as several urban areas set directly onto the coast. The Character Statement identifies that there are many excellent views, including that of the North Berwick Beach and Harbour. One of the guidelines for development of the SLA Character Statement is that any proposed development must not harm the recreational and scenic appeal of beaches, including access to them.

The application site is located on the North Berwick Harbour promontory and is at a prominent approach to the harbour and the east and west beaches. As unsympathetic development that has a harmful impact on the visual amenity of the area and of this part of the North Berwick Conservation Area, the LED string/strip lighting also has a detrimental impact on the setting of this part of the North Berwick to Seton Sands Special Landscape Area (SLA), and the public benefits of the proposed development do not clearly outweigh any adverse impact on the setting of the SLA. Thus, the LED string/strip lighting conflicts with Policy DC9 of the adopted East Lothian Local Development Plan 2018 and Policy 4 of NPF4.

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

In that the LED string/strip lighting is unsympathetic development, harmful to the character and appearance of the building and of this part of the North Berwick Conservation Area, the setting of the nearby listed buildings and scheduled monument and thus is contrary to Policies DP5, CH1, CH2, and CH4, and in that it is harmful to the setting of the North Berwick to Seton Sands Special Landscape Area contrary to Policy DC9, the retrospective development the subject of this application is also harmful to this part of the East Lothian coastal area contrary to Policy DC6 of the adopted East Lothian Local Development Plan 2018.

Policy DP5 requires, amongst other considerations, that new development should not result in a loss of amenity with neighbouring uses or be harmful to existing residential amenity, through loss of privacy from overlooking or from loss of sunlight or daylight.

The proposed development (i.e. installation of LED string/strip lighting) is of a nature that does not have an impact on the sunlight or daylight received by any neighbouring property or land use, and does not result in harmful overlooking or loss of privacy to any neighbouring property.

The **Council's Senior Environmental Health Officer** advises that there is the potential for the LED string/strip lighting that has been installed on the building to have a detrimental impact on the amenity of neighbouring residential properties through light spill/trespass, and he requests that a lighting assessment be submitted in order to confirm that the lighting installed on the building takes into account the Guidance contained within Annex 1 to Appendix 2 of Scottish Government Guidance to accompany the Statutory Nuisance Provisions of the Public Health etc (Scotland) Act 2008. The Council's Senior Environmental Health Officer advises that this information should be submitted prior to the determination of the application.

A request for a lighting assessment was made to the applicant's agent however, the applicant has chosen not to provide the requested lighting assessment. Thus, it has not been demonstrated that the LED string/strip lighting meets the Guidance set out in the paragraph above and therefore it has not been demonstrated that the LED string/strip lighting that has been installed on the building does not have a detrimental impact on the amenity of the neighbouring residential properties.

Accordingly, on this consideration of amenity, the LED string/strip lighting is contrary to Policy DP5 of the adopted East Lothian Local Development Plan 2018.

The **Council's Road Services** raises no objection to the LED string/strip lighting that has been installed on the building of 26 Victoria Road, which is the subject of this application for planning permission. Accordingly, the retrospective development the subject of this application does not conflict with Policy T2 of the adopted East Lothian Local Development Plan 2018.

It must now be considered whether there are any other material considerations that outweigh the LED lighting's conflict with the development plan as set out in this assessment report.

Of consideration is the potential benefit to the business of 'The Rocketeer' from the additional illumination of the building.

Although the site is outwith the town centre of North Berwick, the business of 'The Rocketeer' is in a 'hub' area for locals, tourists and visitors, with attractions including the east and west beaches, the harbour, the Scottish Seabird Centre and other occasional events held on parts of Anchor Green. Reviews on social media indicate that 'The Rocketeer' is a popular venue within North Berwick.

From evening and night-time visits to the locality, it is not unreasonable to conclude that the existing street lighting in the locality, together with visible illumination from the interior lighting of the glazed extension of the building, along with the approved advertisements being displayed on the building, are together a sufficient source of external lighting and advertisement of the business premises. It is also therefore not unreasonable to conclude that any benefit that may possibly accrue to the business from the LED lighting the subject of this application would not make a noticeable difference to the operational business of 'The Rocketeer'. Thus, any possible benefit to the business would not outweigh the conflict with Policies DP5, CH1, CH2, CH4, DC9 and DC6 of the adopted East Lothian Local Development Plan 2018 or conflict with Policies 4, 7 and 14 of NPF4.

Therefore, on balance and notwithstanding that on matters of road and pedestrian safety and being part of an existing established business of the harbour promontory, the LED string/strip lighting the subject of this application would not conflict with Local Development Plan Policies on those matters, it is not considered that there are any material considerations sufficient to outweigh the conflict with Policies DP5, CH1, CH2, CH4, DC9 and DC6 of the adopted East Lothian Local Development Plan 2018 and would also conflict with Policies 4, 7 and 14 of NPF4.

On the foregoing design and amenity considerations, the LED string/strip lighting is an incongruous, intrusive and unsympathetic form of development, harmful to the character and appearance of the building and of this part of the North Berwick Conservation Area, harmful to the setting of the nearby listed buildings and scheduled monument, the setting of the North Berwick to Seton Sands Special Landscape Area and to this part of the East Lothian coastal area, and it has not been demonstrated that the lighting is not harmful to the amenity of neighbouring residential properties. On these counts, the LED string/strip lighting is contrary to Policies DP5, CH1, CH2, CH4, DC6 and DC9 of the adopted East Lothian Local Development Plan 2018, and Scottish Government guidance on development affecting a listed building or its setting, and the setting of scheduled monuments given in Scottish Planning Policy: June 2014 and the Historic Environment Policy for Scotland (HEPS): April 2019, as relevant and would also conflict with Policies 4, 7 and 14 of NPF4.

In conclusion, the retrospective development the subject of this application does not accord overall with the relevant provisions of the current Development Plan and there are no material considerations which outweigh the retrospective development's discordance with the Development Plan. The retrospective development the subject of this application also does not accord with the policies of NPF4.

The LED string/strip lighting the subject of this application is unauthorised and therefore constitutes a breach of planning control. If within one month of the date of the refusal to grant planning permission for the LED string/strip lighting no steps have been taken by the applicant to have it removed from the building, then enforcement action will be taken to secure the removal of it, with the period for compliance with the enforcement notice being a further period of one month.

REASONS FOR REFUSAL

- 1 It has not been demonstrated that the LED string/strip lighting installed on the building does not have a detrimental impact on the amenity of neighbouring residential properties through light spill/trespass, and accordingly, the LED string/strip lighting conflicts with Policy DP5 of the adopted East Lothian Local Development Plan 2018.
- 2 By virtue of its positioning, form and colouring, the LED string/strip lighting is an unsympathetic addition to the building, which detracts from its simple architectural character and is an incongruous feature on the building, harmful to the character and appearance of the building, and by being an unsympathetic and harmful addition to the building, the LED string/strip lighting is harmful to the character and appearance of this part of the North Berwick Conservation Area, contrary to Policies DP5 and CH2 of the adopted East Lothian Local Development Plan 2018 and Scottish Government guidance on development affecting a conservation area given in Scottish Planning Policy: June 2014 and Policies 7 and 14 of NPF4.

- 3 As an incongruous, intrusive and unsympathetic and harmful addition to the building, the LED string/strip lighting is harmful to the character and appearance of the streetscape and thus is visually harmful to and detracts from the setting of and approach to the Category B listed North Berwick Harbour and East Lothian Yacht Club building, and the setting of the scheduled ancient monument of St Andrew's Kirk. Accordingly, the LED string/strip lighting conflicts with Policies CH1 and CH4 of the adopted East Lothian Local Development Plan 2018, and Scottish Government guidance on development affecting a listed building or its setting and archaeological sites given in Scottish Planning Policy: June 2014 and the Historic Environment Policy for Scotland (HEPS): April 2019, and NPF4 as relevant and Policy 7 of NPF4.
- 4 As unsympathetic development that would have a harmful impact on the landscape character and visual amenity of the area and of this part of the North Berwick Conservation Area, the LED string/strip lighting has a detrimental impact on the setting of this part of the North Berwick to Seton Sands Special Landscape Area, and the public benefits of the lighting do not clearly outweigh any adverse impact on the setting of the Special Landscape Area. Accordingly, the LED strip/strip lighting is contrary to Policy DC9 of the adopted East Lothian Local Development Plan 2018 and Policy 4 of NPF4.
- 5 As development contrary to Policies CH1, CH2, CH4, DP5 and DC9 of the adopted East Lothian Local Development Plan 2018, the LED string/strip lighting is also harmful to this part of the East Lothian coastal area and contrary to Policy DC6 of the adopted East Lothian Local Development Plan 2018.