

**REPORT TO:** Planning Committee  
**MEETING DATE:** 5 March 2024  
**BY:** Executive Director for Place  
**SUBJECT:** Application for Planning Permission for Consideration

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*Note: This application has been called off the Scheme of Delegation List by Councillor Collins for the following reason: Concerns from local residents regarding loss of privacy and road safety.*

Application No. **23/01439/P**

Proposal Alterations and heightening of roof of building to form one flat and associated works

Location **50 School Brae  
West Barns  
East Lothian  
EH42 1UA**

Applicant Mr Irfan Khan  
Per Scott Allan

**RECOMMENDATION** Consent Granted

## **REPORT OF HANDLING**

### **PROPOSAL**

This application is being reported on this Scheme of Delegation List as it raises important planning issues in that the proposal does not accord with East Lothian Council's Parking Standards and therefore is not supported by Roads Services.

The property to which this application relates to is a single storey building in use as a convenience store and its associated land, which is located within a predominantly residential area as defined by policy RCA1 of the adopted East Lothian Local Development Plan 2018.

The property is bound to the north by a small substation and an area of hard surfaced public realm. To the east lies School Brae public road. To the south and west are neighbouring residential properties. The site lies on a slope with the land rising to the south.

Planning permission is sought for the replacement of the existing roof of the building with a new steeper pitched roof to allow the formation of a flatted dwelling above the shop.

The proposed new roof would have two dormers and two rooflights in its east elevation, facing onto the public road, and a single dormer in its west (rear) elevation. The existing eaves height would remain the same and the ridge will be raised 2m. The dormer windows are set back 750mm from the eaves. The raised gables and the dormers will be finished in render. The windows will be of uPVC construction and the roof will be finished in concrete pantiles.

Access to the new flatted dwelling would be from a new external stair to be attached to the north side of the building. The existing parking area to the north side of the building would be used as a parking space for the flat and a drying green and bin store would be formed for the occupants of the flat. The parking layby located to the front of the shop would be retained and would continue to be used as for parking and the servicing of the shop.

## **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 National Planning Framework 4 (NPF4) and the adopted East Lothian Local Development Plan 2018.

Policies 1 (Tackling the climate and nature crisis), 2 (Climate mitigation and adaptation), 13 (Sustainable Transport), 14 (Design, Quality and Place) 16 (Quality Homes) of NPF4 and Policies DP5 (Extension and Alterations to Existing Buildings) and T2 of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of the application.

## **REPRESENTATIONS**

No public letters of objection have been received in relation to the application.

## **COMMUNITY COUNCIL**

West Barns Community Council have raised a number of concerns about the application.

- i. Concerns that the current structure would not be able to bear the weight of the new roof;
- ii. The height of the proposed extension being out of keeping with the area;
- iii. Overlooking of neighbouring residential properties;
- iv. Insufficient parking;
- v. Impact on safe access to adjacent substation;
- vi. Concerns the shop will remain open during building works;
- vii. The road network around the site is very busy and it is not clear where construction traffic will park for deliveries or where construction workers will park;
- viii. As the site is in a residential area there should be restrictions on working times to protect residential amenity.

The matter of the structure being able to bear the weight of a new roof is not a matter relevant to the determination of this planning application. That is matter for Building Standards.

There is no encroachment onto the adjacent substation or any indication that access to it would be impacted by the proposal.

Whether or not the shop will remain open during construction is a matter for the owners/operators of the shop. It is not a matter relevant to the determination of this planning application.

This is not an application of a scale that would require a construction management plan or a restriction on working times. The parking of vehicles and arrangement of deliveries during the construction phase would be for the applicant to manage and to obtain any necessary permits from Roads Services if required.

The matter of noise nuisance is a matter controlled by other legislation and any noise nuisance complaints could be investigated by ELC Environmental Health Service if required.

## **PLANNING ASSESSMENT**

The existing building is a single storey building of a form and character that reflects its use as a convenience store. The replacement of its roof with a steeper pitched roof with dormers would be a change to the character of the building but not in a manner that would make the building harmfully out of keeping with its surroundings. Due to the position of the building at the bottom of a slope, the building, even with its new roof, would be no higher than the neighbouring houses to the north and south. Furthermore, there are other houses in this part of West Barns that have dormers on their roofs. Therefore, as so altered, the building would not appear inappropriate to its location or out of keeping with its surroundings. By virtue of its form, size and scale the proposed new roof extension with dormers would be appropriate to its setting and would not be harmful to the character and appearance of the existing building or harmful to the character and appearance of the wider area.

In assessing whether or not a proposed new development would result in harmful overlooking and therefore loss of privacy to existing neighbouring residential properties it is the practice of the council, as a planning authority to apply the general rule of 9 metres separation distance between the windows of a proposed new development and the garden boundaries of neighbouring residential properties. This proposal incorporates a single dormer to the rear which would serve a new bathroom which would directly face and be within 9m of the rear garden of the neighbouring house to the west. However, application drawings indicate that the proposed window would have obscure glazing which would prevent harmful overlooking of the neighbouring property to the west. Furthermore, the rear garden of that neighbouring property is open to public views from School Brae and therefore does not enjoy any significant degree of privacy. Therefore, any overlooking from the external stair would be little different to that already possible from School Brae.

The dormers and rooflights to be formed on the front east facing roof slope would face onto the public road of School Brae and would not directly face any windows of any neighbouring residential properties. Therefore, they would not allow for harmful overlooking of any neighbouring residential properties.

The proposals would not allow for harmful overlooking of any neighbouring residential properties.

As the neighbouring properties lies to the south and west the majority of the overshadowing from the increased height will fall in the application site or on the substation to the north. Owing to its size, form, orientation and position the proposed roof extension would not give rise to a harmful loss of daylight or sunlight received by any neighbouring residential property.

The **Council's Senior Environmental Health Officer** raises no objection to the application.

When first submitted the application did not propose any in-curtilage parking for the proposed. Therefore, **Road Services** objected to the proposal as it does not make adequate provision for car parking for the new dwelling and therefore does not accord with East Lothian Council's Parking Standards.

In response the applicant has amended the proposal and the existing parking space to the north side of the shop building will now be for use by the occupants of the new flat. However, Road Services have maintained their objection as this space is currently used by the shopkeeper and therefore is not an additional parking space. As such the proposal still fails to accord with East Lothian Council's Parking Standards.

Whilst noting that the application does not accord with ELC's Parking Standards in this instance the shop has a parking/service layby immediately outside the front of the shop on School Brae which allows for off street parking. In addition, the public roads of School Brae and Forth View are not subject to unduly high parking demand and have adequate space to accommodate any additional parking generated from the shop. Furthermore, the site is relatively well served by public transport being a very short distance from the bus stop on Edinburgh Road. For these reasons it is considered that there is adequate provision for vehicles to park in association with the new dwelling and the existing shop. As Roads Services did not raise any concerns about road safety, in this particular circumstance, the proposal whilst not according with ELC Parking Standards is not contrary to Policy 13 of NPF4.

At its meeting on Tuesday 27th August 2019 the Council approved a motion declaring a Climate Emergency. Thereafter, at its meeting on Tuesday 3rd September 2019 the Council's Planning Committee decided that a condition requiring a developer to submit for the approval of the Planning Authority a report on the actions to be taken to reduce the carbon emissions from the buildings and from the completed development should be imposed on relevant applications for planning permission. In this instance, no details of measures to reduce carbon emissions are provided in the drawings submitted in support of this application. However, a condition can reasonably be attached to any grant of planning permission issued for the development hereby proposed. Pending compliance with this condition, the proposals do not conflict with Policies 1 and 2 of National Planning Framework 4.

Given the above considerations the proposals are consistent with Policies 13, 14 and 16 of NPF4 and Policy DP5 of the adopted East Lothian Local Development Plan 2018. In conclusion, the proposals are largely in accordance with the provisions of the stated relevant Development Plan policies. There are no material considerations which outweigh the proposal's accordance with the Development Plan.

#### **CONDITIONS:**

- 1 The development hereby approved shall begin before the expiration of 3 years from the date of this permission.

Reason:

Pursuant to Section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.

- 2 No development shall be carried out until a schedule of materials and finishes has been submitted to and approved in writing by the Planning Authority.

Reason:

To enable the Planning Authority to control the materials, finishes and colour to be used to achieve a development of good quality and appearance in the interest of the visual amenity of the area.

- 3 Prior to the occupation of the flat hereby approved the parking area, drying green and bin store shall be laid out and available for use by the occupants of the flat and thereafter retained as such unless otherwise approved by the Planning Authority.

Reason:

In the interests of the amenity of the occupants of the flat.

- 4 Prior to the commencement of development, a report on the actions to be taken to reduce the carbon emissions from the build and from the completed development shall be submitted to and approved in writing by the Planning Authority. This shall include the provision of renewable technology for all new buildings, where feasible and appropriate in design terms, and new car charging points and infrastructure for them, where feasible and appropriate in design terms. The details shall include a timetable for implementation. Development shall thereafter be carried out in accordance with the report so approved.

Reason:

To minimise the environmental impact of the development.

