

REPORT TO: Planning Committee
MEETING DATE: 7 May 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 Findlay for the following reasons: There are issues of neighbour privacy that need to be considered by the Planning Committee.

Application No. **24/00114/P**
Proposal Installation of CCTV cameras and lighting (Retrospective)
Location **East Gate
Hummel Road
Gullane
EH31 2BG**

Applicant Mr Simon McIntosh

RECOMMENDATION Grant Permission Retrospectively

REPORT OF HANDLING

PROPOSAL

The property to which this application relates to is a two-storey semi-detached house and its garden ground located within a predominantly residential area as defined by policy RCA1 of the adopted East Lothian Local Development Plan 2018. It is also within Gullane Conservation Area.

The property is bounded to the north, south and west by neighbouring residential properties and to the east by the public road of Hummel Road.

Planning permission is sought retrospectively for:

- (i) The installation of four ring CCTV camera lights, two within the south elevation, one within the east elevation and one within the north elevation of the house;
- (ii) The installation of six Astro Richmond lights, two within the south elevation and four within the east elevation of the house; and
- (iii) The installation of four Astro Dartmouth lights within the north elevation of the

house.

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.

Policies 7 (Historic Assets and Places), 14 (Design, Quality and Place) and 16 (Quality Homes) of NPF4 and Policies CH2 (Development Conservation Areas) and DP5 (Extension and Alterations to Existing Buildings) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of the application.

Material to the determination of the application is Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires that a planning authority must pay special attention to the desirability of preserving or enhancing the character or appearance of the area in which the building is located.

REPRESENTATIONS

A total of two written letters of objection have been received in relation to the application, both of received from the same objector. A copy of each written representation is attached to this Scheme of Delegation List for members to view. The main grounds of objection can be summarised as follows:

- (i) There is limited information and evidence associated with the application there are no site plans, elevations or photographs to show the exact range and impact of the cameras;
- (ii) There is no police evidence to substantiate the applicant's justification that the cameras are required due to a number of recent break-ins locally;
- (iii) The camera units have not been orientated towards their context and surroundings. There is no substantial assessment of the development context or management of the system as required by policies and regulations, the information provided to the council is wholly inadequate and does not ensure privacy;
- (iv) In this case the CCTV being operated illegally in planning and legal terms is infringing on the objector's privacy rights;
- (v) The CCTV has an audio function and not only is the applicant filming but is also capable of listening in to private conversations. The cameras are causing light pollution in the rear garden, spilling into the objector's property;
- (vi) The objector seeks assurances that the operation of the CCTV is monitored to ensure privacy, cameras at the back door and bathroom are removed and relocated, other cameras operated are manually angled away from the property and outdoor private areas of the objector;
- (vii) The planning enforcement officer has been complicit in facilitating this latest application, without due regard to the loss of privacy and amenity to the objector. The officer has neglected to consider the basic planning policy requirements in relation to adjacent residential properties;
- (viii) The application does not respect its context or create a sense of safety and security for the objector and most significantly it does not ensure privacy and amenity regarding overlooking which fails to comply with policy DP2;
- (ix) Guidance on installing CCTV cameras is covered by class 72 of the Town and Country Planning (General Permitted Development and Use Classes Scotland)

Amendment Order and specifies planning requirements regarding intrusion and inconvenience to neighbours;

(x) The application is contrary to policies DP2, DP5, DP7 and CH2 of the East Lothian Local Development Plan and contrary to policies 7, 14, 16, 23 and 24 of NPF4;

(xi) There is no information on visual or amenity impacts or how these have been minimised through careful siting design and technical considerations contrary to Policy 24 of NPF;

(xii) By virtue of its positioning, orientation and range the application as lodged infringes the objector's liberties and there is no indication provided in relation to impact on privacy and amenity;

(xiii) As the application is within a Conservation Area, it does not accord with the provisions of the Listed Buildings and Conservation Areas (Scotland) Act 1997, and in particular Section 64. It also does not follow Historic Environments Scotland Policy (Managing Change) on Setting;

(xiv) The application is also contrary to East Lothian Supplementary Guidance in relation to Heritage and the Built Environment and Residential Design;

(xv) The Council does not have specific guidance on CCTV systems and therefore needs to treat any contentious applications with due diligence. East Lothian Council should refuse the application until it is satisfied of these matters and how the system can be controlled; and

(xvi) The applicant's statement that the cameras are not directed towards the private gardens of neighbouring properties is untrue.

The application drawings are sufficient to allow the determination of this planning application.

There is no requirement in planning legislation for an applicant to have to justify the need for a development the subject of a planning application.

The matter of the recording of images and sound by CCTV cameras and how images captured by the cameras are used is controlled through Data Protection legislation and not through planning legislation. Therefore, these matters are not material planning considerations relevant to the determination of this planning application.

The role of the planning enforcement officer is not to assess the appropriateness of any development. The role of the planning enforcement officer is to ascertain whether a breach of planning control has taken place. In this case, a breach of planning control had taken place and a retrospective planning application has been submitted. The Town and Country Planning (Scotland) Act 1997 allows for the determination of applications for works that have already been carried out.

The matters raised in relation to class 72 of the General Permitted Development Order (GPDO) are not relevant in the determination of this application. The GPDO sets out what requires planning permission and does not impact on the assessment of any planning application submitted to the Council.

Policies DP2 and DP7 of the East Lothian Local Development Plan are not relevant to the determination of this planning application.

Policies 23 and 24 of NPF4 are not relevant in the determination of this planning application.

PLANNING ASSESSMENT

The lighting units that have been installed on the applicant's house are small in size and

scale. They are discreetly positioned on the south, east and north elevations of the house and are only visible in limited public views from Hummel Road to the east of the site. Therefore, and due to their small size and scale they are not seen to be harmful to the character or appearance of the house, the wider area or harmful to the character and appearance of this part of the Gullane Conservation Area.

The four ring CCTV camera lights are primarily black in colour and thus are distinguishable against the light coloured render of the external walls of the house. However, by virtue of their small size and scale they do not appear as harmfully prominent, intrusive, or incongruous additions to the house. As small sympathetic additions to the building they do not harm the character and appearance of the house or the character and appearance of this part of the Gullane Conservation Area.

The applicant has confirmed that the use of the CCTV cameras is to cover their own garden ground. Furthermore, the use of the cameras does not allow for any overlooking of any neighbouring properties that is significantly different to overlooking already possible from the first floor windows of the applicant's house. Notwithstanding this, the matter of how any images captured by the cameras is used, falls to be considered under Data Protection legislation other and as such it is not a relevant consideration in the determination of this planning application.

The **Council's Senior Environmental Health Officer** has not raised any objection to the application.

The proposals do not conflict with policies 7, 14 and 16 of NPF4 and policies CH2 and DP5 of the adopted East Lothian Local Development Plan 2018. In conclusion, the proposals are considered to be in accordance with the provisions of the stated relevant Development Plan policies and there are no material considerations which outweigh the proposal's accordance with the Development Plan.

CONDITION:

- 1 None.