Note: this application was called off the Scheme of Delegation List by Councillor Berry for the following reasons: the number of local objectors, including AHSS; that regulation distance for neighbour notification is inadequate for a development of this scale; contrary to stipulations of Part 1a of Policy DC1 of ELLP 2008 there is an absence of a clear operational requirement; East Lothian Supplementary Landscape Study evaluation of sensitivity does not allow for proximity of a tourist route; and ‘dispersed industrial development’ is not the character of this area.

Application No. 11/01053/P

Proposal Erection of wind turbine

Location Land To The North East Of West Fenton Court
West Fenton Farm
Gullane
East Lothian

Applicant W Courtenay Morrison & Co
Per Atmos Consulting
Ward 005

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

Planning permission is sought for the erection of a wind turbine on a part of the agricultural lands of West Fenton Farm.
West Fenton Farmhouse is on the north side of the C110 public road, close to the junction of the C110 with the C111 public road, to the southeast of Gullane. The proposed wind turbine would be positioned on the edge of a generally flat field some 211 metres north of the C110 public road and some 270 metres to the northeast of West Fenton Farmhouse and some 226 metres to the northeast of the group of former steading buildings of West Fenton Farm that are now converted to housing. There are two small treed areas to the north of where the proposed wind turbine would be positioned, and there is a hedgerow along the field edge beside which it would be positioned.

West Fenton Farmhouse is listed as being of special architectural or historic interest (Category B). The former West Fenton Farm Steading buildings that are now converted to housing are immediately to the north of West Fenton Farmhouse. Those buildings are also listed as being of special architectural or historic interest (Category B).

Some 190 metres to the south of where the proposed wind turbine would be positioned is the row of West Fenton Cottages, all of which cottages are listed as being of special architectural or historic interest (Category B).

New Mains Enclosure, a Scheduled Ancient Monument is located some 640 metres to the south of the position proposed for the wind turbine.

The proposed wind turbine would comprise of a supporting column measuring 15 metres in height from the ground to the centre of the rotor hub. The triple blades of the rotor would each have a length of 3.5 metres. The wind turbine would therefore have a height of 18.5 metres from ground level to blade tip. The diameter of the rotating blades would be 7 metres. The supporting column of the proposed wind turbine would be constructed of steel.

As the proposal is for the erection of only one wind turbine with a hub height that does not exceed 15 metres, it does not fall into a category of a Schedule of Development that may require the submission of an Environmental Impact Assessment (EIA) under the provisions of The Environmental Impact Assessment (Scotland) Regulations 2011.

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 ENV3 (Development in the Countryside), ENV6 (Renewable Energy) and ENV1C (International and National Historic or Built Environment Designations) of the approved Edinburgh and the Lothians Structure Plan 2015 and Policies DC1 (Development in the Countryside and Undeveloped Coast), DP13 (Biodiversity and Development Sites), NRG3 (Wind Turbines), ENV3 (Listed Buildings), ENV7 (Scheduled Monuments and Archaeological Sites) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

Material to the determination of the application are:
1. The Scottish Government’s policy on renewable energy given in Scottish Planning Policy: February 2010;

2. The Scottish Government web based renewables advice entitled “Onshore Wind Turbines”, which has replaced Planning Advice Note 45: Renewable Energy Technologies;

3. The Council’s Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010;

4. The Council’s East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011);

5. Section 59 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 given in Scottish Planning Policy: February 2010;

6. The Scottish Historic Environment Policy: December 2011;

Scottish Planning Policy on renewable energy states that the commitment to increase the amount of electricity generated from renewable sources is a vital part of the response to climate change. In this, there is potential for communities and small businesses in urban and rural areas to invest in ownership of renewable energy projects or to develop their own projects for local benefit. Planning authorities should support the development of a diverse range of renewable energy technologies whilst guiding development to appropriate locations. Factors relevant to the consideration of applications for planning permission will depend on the scale of the development and its relationship with the surrounding area, but are likely to include impact on the landscape, historic environment, natural heritage and water environment, amenity and communities, and any cumulative impacts that are likely to arise. When granting planning permission planning authorities should include conditions for the decommissioning of renewable energy developments including, where applicable ancillary infrastructure and site restoration.

The advice entitled “Onshore Wind Turbines” forms one section of the web based renewables advice that the Scottish Government have introduced to replace Planning Advice Note 45: Renewable energy technologies. It provides advice on, amongst other things, matters relating to landscape impact, wildlife and habitat, ecosystems and biodiversity, shadow flicker, noise, road traffic impacts, aviation, and cumulative effects. In relation to landscape impact, the advice is that wind turbines can impact upon the landscape by virtue of their number, size or layout, how they impact on the skyline, their design and colour, any land form change, access tracks and ancillary components (anemometers, substations and power lines). The ability of the landscape to absorb development often depends largely on features of landscape character such as landform, ridges, hills, valleys, and vegetation. Selecting an appropriate route for access, considering landform change, surfacing and vegetation can also influence to what extent proposals are integrated into the landscape setting. In relation to landscape impact, a cautious approach is necessary in relation to particular landscapes which are rare or valued. In assessing cumulative landscape and visual impacts, the scale and pattern of the turbines plus the tracks, power lines and ancillary development will be relevant considerations. It will also be necessary to consider the significance of the landscape and views, proximity and inter-visibility and the sensitivity of visual receptors. Planning authorities are more
frequently having to consider turbines within lower-lying more populated areas, where design elements and cumulative impacts need to be managed.

Policy ENV6 of the approved Edinburgh and the Lothians Structure Plan 2015 states that the development of renewable energy resources will be supported where this can be achieved in an environmentally acceptable manner. Local Plans should set out the specific criteria against which renewable energy developments will be assessed including cumulative impact.

It is stated in paragraph 9.6 of the adopted East Lothian Local Plan 2008 that the Council is supportive of Government policy to secure greater energy generation from renewable sources. The benefits will be weighed against the impact on the local environment and features of interest. With regard to wind turbines it is stated in paragraph 9.7 that because of the need for turbines to catch the wind it is not possible to hide them. The visual and landscape impact, both of the turbines themselves and associated infrastructure, is usually the main concern. In paragraph 9.8 it is stated that the Council wishes to protect valued landscape features, including North Berwick Law.

Policy NRG3 of the adopted East Lothian Local Plan 2008 states that subject to consistency with other plan policies, proposals for individual turbines or wind farms and associated access tracks and transmission lines will be supported where (i) they would not change the existing landscape character in an unacceptable way; (ii) they would not have an unacceptable visual impact on landscape or townscape including the impact on distinctive public views, landmark buildings or natural features, or routes; (iii) they would not have an unacceptable impact from noise at any noise sensitive property including the gardens of such properties however large; (iv) there would be no demonstrable nuisance from a shadow flicker effect; (v) they would have no unacceptable adverse impacts on hydrogeology or hydrology; (vi) alternative, better, sites are not available; and (vii) there are no unacceptable cumulative impacts. Policy NRG3 also requires that in assessing all proposals the Council will have regard to the findings and recommendations of the Landscape Capacity Study for Wind Turbine Development in East Lothian (May 2005).

The Landscape Capacity Study for Wind Turbine Development in East Lothian (May 2005) is not material to the determination of this application as its findings are not based on an assessment of the affect on the landscape of East Lothian of a wind turbine(s) lower than 42 metres high.

The Council’s Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010 is relevant to the determination of this application. In setting out the policy framework and key considerations for wind turbine development the purpose of this supplementary planning guidance is (i) to provide potential applicants for planning permission for smaller and medium sized turbines with guidance on the range of issue which they should consider when preparing wind turbine proposals, and (ii) to indicate the matters which will be considered by the Council when assessing these applications. It is focused primarily on turbines with a height to blade tip ranging from between 20 to 120 metres but is also applicable to single and small groups of turbines in excess of 120 metres to blade tip where the same design and policy issues would be relevant.
The Council’s East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011) is also relevant to the determination of this application. This Supplementary Landscape Capacity Study determines the capacity of the East Lothian lowland landscapes and the Lammermuir fringe to accommodate various scales of wind turbine development smaller than those considered in the 2005 Capacity Study. In this regard four principal development typologies are considered in the study, namely, (i) Typology A: wind turbines between 65m and 120m high, (ii) Typology B: Single wind turbines between >42m and <65m high, (iii) typology C: wind turbines between 20m and up to and including 42m high, and (iv) typology D: wind turbines between 12m and <20m high, with all wind turbine heights being from ground level to blade tip.

7 written objections to the application have been received. The main grounds of objection are that the proposed wind turbine:

i) would have an unacceptable visual impact on the landscape including adverse impacts on distinctive public views;

ii) would harmfully impact on the setting of the listed West Fenton Steading;

iii) would lead to a harmful noise impact;

iv) would lead to a harmful impact on bats;

v) would impact on public safety;

vi) would devalue objector’s properties.

vii) should require the submission of an Environmental Impact Assessment.

Another objection is that residents of West Fenton Court (the houses of the converted West Fenton Steading) did not receive a neighbour notification of the application.

Due to the distance the houses of West Fenton Court are away from the application site (more than 20 metres) they are not neighbouring properties for the purpose of neighbour notification of this application and there is no statutory requirement for those properties to be the subject of neighbour notification.

The affect of the proposed development on the value of an objector’s property is not a material consideration in the determination of a planning application.

As stated above there is no requirement for the application to be the subject of an Environmental Impact Assessment under the provisions of The Environmental Impact Assessment (Scotland) Regulations 2011.

The Ministry of Defence (MOD), the National Air Traffic Services (NATS) and the Civil Aviation Authority (CAA) have been consulted on the application. NATS and the CAA raise no objection to the proposed wind turbine on grounds of aircraft safety. The MOD have no comment to make on the application.
It is stated in Part 1(a) of Policy DC1 of the adopted East Lothian Local Plan 2008 that infrastructure type development will be acceptable in principle in the countryside of East Lothian provided it has a clear operational requirement for a countryside location that cannot reasonably be accommodated within an existing urban or allocated area. Policy ENV3 of the approved Edinburgh and the Lothians Structure Plan 2015 states that development in the countryside will be allowed where it has an operational requirement for such a location that cannot be met on a site within an urban area or land allocated for that purpose.

The application site is in a countryside location where wind power can be harnessed to generate electricity and thus by its siting and operation in relation to the business use of West Fenton Farm by its connection to West Fenton Farmhouse the proposed wind turbine can as a form of new build infrastructure development in the countryside of East Lothian be justified. The proposed wind turbines are capable of providing the farm with a renewable energy source. On these considerations the proposed wind turbines are consistent with Policy DC1 of the adopted East Lothian Local Plan 2008 and Policy ENV3 of the approved Edinburgh and the Lothians Structure Plan 2015.

Moreover, in its countryside location the proposed wind turbine would not involve any permanent development and furthermore would not preclude the reversal of the use of the land of the application site to agricultural use. On this consideration too the principle of the proposed development is consistent with Policy DC1 of the Local Plan and Policy ENV3 of the Structure Plan.

Policy NRG3 of the adopted East Lothian Local Plan 2008 stipulates that a proposed wind turbine(s) should not demonstrably give rise to nuisance from a shadow flicker effect and Part 5 of Policy DC1 requires there to be no significant adverse impact on nearby uses.

Paragraph 5.20 of Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010 states that the proximity of noise sensitive receptors (e.g. residential properties) will be a significant factor in the requirement for an assessment of the affect of noise from the turbine on such noise sensitive receptors. Paragraph 5.22 states that for single turbines in low noise environments the day time level measured as LA(), 10min should be 35 DB at nearest noise sensitive dwellings, up to wind speeds of 10m/s at 10 metres in height.

In this regard the applicant has submitted a noise assessment of the operation of the proposed wind turbine. The Council's Senior Environmental & Consumer Services Manager has appraised the submitted noise assessment and advises that he is satisfied the external free-field noise levels associated with the operation of the proposed wind turbine would not exceed 35dBLA90 10min at any wind speed up to 10m/s at any residential property. Thus the proposed wind turbine would not have a harmful noise impact on the nearest residential properties of West Fenton Court, West Fenton Farmhouse and West Fenton Cottages.

Policy NRG3 of the adopted East Lothian Local Plan 2008 stipulates that a proposed wind turbine(s) should not demonstrably give rise to nuisance from a shadow flicker effect and Part 5 of Policy DC1 requires there to be no significant adverse impact on nearby uses.
The Scottish Government web based renewables advice entitled “Onshore Wind Turbines” advises that as a general rule the shadow flicker effect of an operating turbine should not be a problem where the distance between the turbine and a dwellinghouse exceeds 10 times the diameter of the rotor blades of the turbine.

In the case of the proposed wind turbine, 10 times the diameter of each of its rotor blades would be 70 metres. The nearest dwellings, being West Fenton Cottages to the south, are some 190 metres away from where the proposed wind turbine would be sited. Thus, the proposed wind turbine passes the Scottish Government’s general rule of shadow flicker effect.

Due to its height and distance from the nearest residential properties the proposed wind turbine would not be physically overbearing on any of them or in the outlook from them. On this count the proposed wind turbine would not harm the amenity of those residential properties.

Policy NRG3 of the adopted East Lothian Local Plan 2008 stipulates that a proposed wind turbine(s) should not have an unacceptable adverse impact on hydrogeology or hydrology.

There is no evidence on which to say that the proposed wind turbine would have an unacceptable adverse impact on the hydrogeology or hydrology of the area.


On the matter of safety, paragraph 5.15 of Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010 states that although wind turbines erected in accordance with best engineering practice should be stable structures, it is desirable to achieve a set back from roads, railways and public footpaths. The Scottish Government web based renewables advice entitled “Onshore Wind Turbines” gives advice on the siting of wind turbines in proximity to roads and railways and states that it may be advisable to achieve a set back from roads and railways of at least the height of the turbine proposed.

The proposed wind turbine would achieve such a set back distance in its relationship with the C110 and C111 public roads to the south and west of them respectively. The Council’s Head of Transportation advises that due to the location of the application site, a construction traffic method statement should be submitted for the prior approval of the Planning Authority in order to control the movement of construction and delivery vehicles during the erection of the proposed wind turbine. This could be secured through a condition attached to a grant of planning permission for the proposed wind turbine, were the decision to be to grant planning permission. Otherwise the Head of Transportation raises no objection to the proposed wind turbine, being satisfied that due to its distance away from the public road it would have no significant adverse consequences for road safety.

As stipulated in Policy ENV1C of the approved Edinburgh and the Lothians Structure Plan 2015 and Policy ENV3 of the adopted East Lothian Local Plan 2008, new development that harms the setting of a listed building will not be permitted. One of the key consideration set out in Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010 is that any proposal for wind turbine development near or within the curtilage of a listed building must ensure that the listed building remains the focus of its setting and is not harmed by the presence of the proposed turbine(s).

The proposed wind turbine would be sited some 270 metres to the northeast of the listed West Fenton Farmhouse, some 226 metres to the west of the listed West Fenton Farm Steading and some 190 metres to the north of the row of listed buildings of West Fenton Cottages. Due to these distances apart, the relatively low height and small scale of the proposed wind turbine and its limited massing, it would not have a harmfully prominent or imposing visual relationship with those buildings and thus it would not be seen to harmfully impose itself on the setting of any of those Category B listed buildings.


It is stated in the Scottish Historic Environment Policy: July 2009 and Scottish Planning Policy: February 2010 that where works requiring planning permission would affect a scheduled monument, the protection of the monument and its setting are material considerations in the determination of whether or not planning permission should be granted for the proposed development.

As stipulated in Policy ENV1C of the approved Edinburgh and the Lothians Structure Plan 2015 and Policy ENV7 of the adopted East Lothian Local Plan 2008, new development that harms a scheduled monument or its setting will not be permitted. One of the key considerations set out in Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010 is that wind turbine development that would harm a scheduled ancient monument or its setting, will not normally be permitted.

Due to its positioning the proposed wind turbine would not encroach onto and indeed would be some 640 metres away to the north of the Scheduled Ancient Monument of New Mains Enclosure. Due to such separation distance and the nature of the low ground form of the New Mains Enclosure Scheduled Ancient Monument the proposed wind turbine would not have any direct visual relationship with that Scheduled Ancient Monument and thus would not have a harmful visual impact on its setting.
Historic Scotland have been consulted on the application and raise no objection to the proposed wind turbine.


It is stated in Scottish Planning Policy that archaeological sites and monuments are an important finite and non-renewable resource and should be protected and preserved in situ wherever feasible. The presence and potential presence of archaeological assets should be considered by planning authorities when making decisions on planning applications. Where preservation in situ is not possible planning authorities should through the use of conditions or a legal agreement ensure that developers undertake appropriate excavation, recording, analysis, publication and archiving before and/or during development. If archaeological discoveries are made during any development, a professional archaeologist should be given access to inspect and record them. Planning Advice Note 2/2011: Planning and Archaeology similarly advises.

As stipulated in Policy ENV7 of the adopted East Lothian Local Plan 2008, new development that would harm a site of archaeological interest or its setting will not be permitted. One of the key considerations set out in Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010 is that wind turbine development that would harm an archaeological site or its setting, will not normally be permitted.

The Council's Archaeology Officer advises that the proposed wind turbine would be situated in an area known to contain archaeological remains dating from the prehistoric period. Because of this the Archaeology Officer recommends that a programme of archaeological works (archive assessment and monitored strip) be carried out prior to the commencement of development. This could be secured through a condition attached to a grant of planning permission for the proposed wind turbines, were the decision to be to grant planning permission. This approach is consistent with Scottish Planning Policy: February 2010 and Planning Advice Note 2/2011: Planning and Archaeology.

The proposed wind turbine is not contrary to Policy ENV7 of the adopted East Lothian Local Plan 2008 or Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010.

Policy DP13 of the adopted East Lothian Local Plan 2008 generally presumes against new development that would have an unacceptable impact on the biodiversity of an area. One of the key considerations set out in Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010 is that sites or species designated or protected for their biodiversity or nature conservation interest will be protected in accordance with development plan policy. Proposals for wind turbines must have regard to both their site specific and wider impacts.

The Council's Biodiversity Officer is satisfied that the proposed wind turbine would not have any adverse biodiversity impacts.
The proposed wind turbine is not contrary to Policy DP13 of the adopted East Lothian Local Plan 2008 or Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010.

On the matter of landscape impact, an important material consideration in the determination of this planning application is the terms of the Council approved East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011).

This Study classifies the land of the application site as being within the ‘Agricultural Plain – Sub Area 2, North’ landscape character area, which comprises an open, very undulating to flat landscape with a relatively expansive scale. Within this character area there is relatively little woodland. Dispersed industrial development and infrastructure are features within this character area. The Study informs that the broad scale of the landscape and the general absence of distinctive landform and land cover features make this landscape character area less sensitive to larger turbine typologies.

The Study further informs that the very tall turbines of typology A would dominate both the scale of small domestic buildings but also the larger industrial and commercial buildings which feature in this landscape character. They would also be more likely to intrude on key views of the Firth of Forth and the Garleton Hills and could be perceived as contributing to the ‘industrialisation’ of the landscape.

There would be a medium-high sensitivity to wind turbines of typologies A and B. Smaller wind turbines would have a better scale relationship with existing settlements and would reduce visual intrusion with medium sensitivity to wind turbines of typology C and low sensitivity to wind turbines of typology D.

As such the Study informs that within this landscape character area there is no scope to accommodate wind turbines of typologies A and B due to the significant adverse impacts that would be likely to occur on a range of landscape and visual sensitivities. Wind turbines of typology C (i.e. wind turbines of a height of between 20 metres and 42 metres) could be more successfully located in this landscape as they would be less likely to dominate existing settlement. There are greater opportunities to locate wind turbines of typology D (i.e. wind turbines between 12 metres and <20 metres high), if visually associated with farms and buildings.

The proposed wind turbine with a height of 18.5 metres from ground level to blade tip falls within typology D of the East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011) and it would be within a landscape character area that according to the findings of the Study has in general a landscape capacity to accommodate a wind turbine of such a height.

Policy ENV3 states that local plans should require that development in the countryside is well integrated into the rural landscape and reflects its character and quality of place.

Part 5 of Policy DC1 stipulates that new development must be sited so as to minimise visual intrusion and landscape impact within the open countryside. With regard to its nature and
scale new development must be integrated into the landscape, reflect its character and quality of place, and be compatible with its surroundings.

As stipulated in Policy NRG3 of the adopted East Lothian Local Plan 2008 a proposed wind turbine(s) should not change the existing landscape character in an unacceptable way and should not have an unacceptable visual impact on landscape or townscape including the impact on distinctive public views, landmark buildings or natural features.

On the key considerations of landscape impact and impact on public views to and from landmark features Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010 states:

(i) wind turbine development will only be supported where the overall integrity and setting of key public views to and from landmark features, both natural and man-made, will not be compromised. Developments which would harm the character, appearance and setting of significant natural landscape features, landmark buildings and structures will be resisted;

(ii) wind turbines must be sited and designed so that they relate to their setting; that any adverse effects on visual amenity and landscape are minimised and that areas which are valued for their landscapes and scenery are protected;

(iii) wind turbines must be acceptable in terms of scale and character for their proposed location and must be well integrated into the landscape, reflect its character and quality of place and be compatible with its surroundings;

(iv) wind turbines must not appear incongruous or dominate the local landscape when viewed from a range of public places. They must be capable of being accommodated within an open landscape without detriment to landscape character. They must not result in a change of landscape character from a predominantly agricultural landscape to one that is a landscape dominated by wind turbines: cumulative impact will be a particular issue here;

In relation to cumulative impact paragraph 4.34 of Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010 states that individual wind turbine proposals must not be looked at in isolation. Cumulative visual impact, viz. the impact of the proposed turbine/s when viewed in association with other turbines already erected or in the planning process needs to be taken into account. A balance must be retained, so that wind turbines are integrated into their landscape setting and do not merge with other turbines to change the character of the landscape into a predominantly wind farm landscape where other significant landscape characteristics of an area become visually subservient to wind turbines.

Policy & Projects advise that the location of the proposed wind turbine is within the northeast part of the ‘Agricultural Plain – Sub Area 2, North’ landscape character area. Policy & Projects confirm that according to the East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011) the proposed wind turbine is of a height generally considered acceptable for this landscape character area.

Although the proposed wind turbine would be visible from a number of public vantage points in the locality due to its positioning on open ground on the edge of a field, the visual impact of it would be adequately absorbed into the landscape due to its relatively small
height and relative massing, and by the close proximity of the treed areas to the north of its proposed position. It would be screened from public views from some lengths of the C111 and C110 public roads by the intervening buildings of the converted West Fenton Farm Steading, Weston Fenton Farmhouse and West Fenton Farm Cottages, respectively. The proposed wind turbine would be of an appropriate scale and character for its proposed countryside location and would be well integrated into its landscape setting. It would not change the existing landscape character and appearance of the area in an unacceptable way.

In its location the proposed wind turbine would be visible from some places within its wider landscape setting, particularly from some lengths of the C110 public road to the south and southwest and of the C111 public road to the west. It might also be visible in longer views from the A198 and B1345 to the north and east respectively. However at a height of 18.5 metres from ground level to blade tip it would not be excessively high and its supporting column would be relatively slim. Moreover to an extent its visual impact would be mitigated by the mature tree plantings to the north of it, and the rising landform to the south of it. Due to its relatively low height and the slim form of its supporting column the proposed wind turbine would not appear particularly prominent in views of it from within its wider setting.

In a short duration view from the C111 public road to the west the proposed wind turbine would be visible in relation to North Berwick Law. However North Berwick Law is some 6 kilometres away to the east of where the proposed wind turbine would be sited. Due to such separation distance, its low height, its slim form and limited massing the proposed wind turbine would not visually compete with or draw focus from North Berwick Law, a highly valued landmark natural feature within the countryside of East Lothian.

Due to its positioning, form, height and scale the proposed wind turbine would not appear as a prominently intrusive feature in the landscape and would not change the existing landscape character of the area in a harmful way. It would not have a harmful visual impact on any key views of valued landscape, historic or natural heritage features including the highly valued landmark natural feature of North Berwick Law.

There is an existing wind turbine at Queenstonbank some 960 metres to the northeast of where the proposed wind turbine would be positioned. Due to it being only one low height turbine and due to the separation distance there would be between it and the proposed wind turbine and the rolling form of the intervening landform there would be no resultant harmful cumulative visual impact.

On these counts of landscape impact the proposed wind turbine is consistent with Policies DC1 (Part 5) and NRG3 and of the adopted East Lothian Local Plan 2008, Scottish Planning Policy: February 2010, the key considerations of landscape impact and impact on public views to and from landmark features of Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010 and the East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011).

With regard to Scottish Planning Policy it is appropriate to impose a condition on the grant of planning permission requiring removal of the wind turbine and restoration of the site should the wind turbine become operationally redundant.
CONDITIONS:

1. The development shall begin before the expiration of 3 years from the date of the grant of this planning permission.
   
   Reason: Pursuant to Section 58 of the Town and Country Planning (Scotland) Act 1997

2. The external free-field noise levels associated with the operation of the wind turbine hereby approved shall not exceed 35dBLA90 10min at any wind speed up to 10m/s at any residential property.
   
   Reason: In the interests of the residential amenity of the wider locality and to protect noise sensitive properties.

3. A Construction Traffic Method Statement designed to minimise the impact of the movements of construction traffic to and from the application site on the amenity of the area shall be submitted to and approved by the Planning Authority prior to the commencement of development on the site and shall include any recommended mitigation measures for the control of construction traffic, which shall, as may be applicable, be implemented prior to the commencement of development and during the period of development works being carried out on the application site.
   
   Reason: To minimise the impact of construction traffic in the interests of safeguarding the amenity of the area and in the interests of road safety.

4. No development shall take place until the applicant has, through the employ of an archaeologist or archaeological organisation, secured the implementation of a programme of archaeological work (Archive Assessment and Monitored Strip) on the site of the proposed development in accordance with a written scheme of investigation which the applicant will submit to and have approved in advance by the Planning Authority.
   
   Reason: To facilitate an acceptable archaeological investigation of the site.

5. No symbols, logos or any other markings shall be displayed on any part of the wind turbine hereby approved without the written consent of the Planning Authority, except for over-riding reasons of health and safety.
   
   Reason: In the interests of the visual amenity of the area.

6. In the event that the wind turbine installed on the application site fails to produce electricity for a continuous period of 6 months, then, unless otherwise approved in writing by the Planning Authority, it shall be deemed to have ceased to be required. If it is deemed to have ceased to be required the wind turbine shall be dismantled and removed from the site by the operator by no later than the date occurring 6 months after the end of the said continuous 6 months period, and the ground fully reinstated to the specification and approval of the Planning Authority.
   
   Reason: To prevent a redundant turbine remaining on the application site, in the interests of the landscape amenity of the area.
Please note that the remainder of pages relating to this item have been removed as they contain personal information (for example - names and addresses of people that have made representation).
Note: this application was called off the Scheme of Delegation List by Councillor MacKinnon for the following reason: that following representation from Local Residents it felt appropriate to allow the applicant to expand on their intentions.

Application No. 11/01020/P

Proposal Variation of Condition 2 of planning permission 10/00556/P to extend the opening hours on Saturdays from 9am - 5pm to 9am -11pm

Location 87B High Street
North Berwick
East Lothian
EH39 4HD

Applicant Cake

Ward 005

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

This application relates to the ground floor café premises of 87B High Street, North Berwick. By being within North Berwick Town Centre the premises are within a mixed use area as defined by Policy ENV2 of the adopted East Lothian Local Plan 2008. The premises are also within the North Berwick Conservation Area.

The café premises occupy the ground floor of a four storey end terrace building that is on the south side of High Street. The upper floors of the building contain residential flats.
premises are part of an established commercial ground floor frontage along the south side of High Street.

Planning permission 10/00556/P was granted on 15th October 2010 for the café use of the premises (a use within Class 3 of the (Town and Country Planning (Use Classes) (Scotland) Order 1997) as a change of use from their previous use as a shop (a use within Class 1 of the Town and Country Planning (Use Classes) (Scotland) Order 1997), and for the installation of vents on the north and west elevation walls of the premises.

Planning permission 10/00556/P for the cafe use of the premises was granted subject to a number of conditions. Of these, Condition 2 restricts the hours of operation of the café to 9.00am to 5.00pm on Monday to Saturday inclusive and 10.00am to 5.00pm on Sundays. The reason for Condition 2 is to restrict the hours of operation of the café to that which were applied for.

Planning permission is now sought for a variation of Condition 2 of planning permission 10/00556/P to allow for the opening hours of the café on Saturdays to be from 9.00am to 11.00pm rather than the presently approved hours of 9.00am to 5.00pm.

The extension of the opening hours of the café on Saturdays is to enable the proprietor to run a ‘supper club’ on Saturdays.

There are no other proposed changes to the use of the premises and no proposed physical alterations to the premises.

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.


Relevant to the determination of the application is Policy ENV2 (Town and Village Centres, Other Retail or Mixed Use Areas) of the adopted East Lothian Local Plan 2008.

Three representations to the application have been received. One of the representations is a petition from 12 of the residents of the residential flats on the upper floors of the building above the application premises. All of the representations raise objections to the proposed development. The grounds of objection are:

i. whilst it is accepted that a High Street can be a noisy place during the daytime the residents of the residential flats above the application premises look forward to the relative calm of the evenings in the area, and the consequent increased activity and noise associated with the proposed development would deprive them of that restful time of day;

ii. had the extended opening hours been included in the application to change the use of the shop to a café (ref. 10/00556/P) the residents of the residential flats above the application premises would have objected to that planning application;
iii. the proposed development would cause noise disturbance to the residents of the residential flats above the application premises during the evening, and thus disturb sleep or require windows to be closed; and

iv. will the proprietor of the café next apply for extended hours on another night of the week, or to play music or for a licence for the consumption of alcohol.

The determination of this application rests on whether or not the proposed extension to the hours of use of the premises as a café on Saturdays would be likely to result in significant harm to the amenity of any neighbouring use, including neighbouring residential properties.

Policy ENV2 applies to North Berwick Town Centre, an area it defines as being of mixed uses and one in which uses associated with a town centre will be acceptable in principle. These uses include retailing, business and office use, restaurants, leisure and entertainment. Proposals that would have a significant environmental impact, particularly on existing housing will not be permitted.

The café premises form part of the established commercial ground floor frontage along the south side of High Street and as such they are part of the mixed use area of the town centre. Part of the vitality and viability of the town centre derives from the varied uses within the town centre and the varied opening hours of those mixed commercial uses. These uses include restaurants, hot food takeaways and public houses that are open later in the evenings. By being within the mixed use area of the town centre the application premises and thus also the neighbouring residential properties are within an area where some noise and movement in likely to occur in the evenings due to the varied opening hours of the commercial businesses within the town centre.

The café use of the premises between 9.00am and 11.00pm on Saturdays would be comparable with the later opening hours of the restaurants, hot food takeaways and public houses in North Berwick town centre. Furthermore, the proposed extended hours are only, in this case proposed on one day of the week.

The greatest potential impact of the proposed extension to the hours of the café use of the premises from 5.00pm to 11.00pm on Saturdays would be on the neighbouring residential properties that are in the floors of the building above the premises, due to their proximity to the application site.

The Council’s Environmental Protection Manager acknowledges that it is possible that the extended opening hours of the café use would result in some additional noise generation. However, he does not consider that it would be sufficient to have a harmful impact on the amenity of the neighbouring residential properties. Thus, he does not raise any objection to the proposed extension to the hours of café use of the premises from 5.00pm to 11.00pm on Saturdays.

Thus, the proposed hours of café use of the premises from 9.00am to 11.00pm on Saturdays would not have a significant impact on the residential amenity of the neighbouring residential properties.
Planning permission 10/00556/P for the cafe use of the premises is granted subject to conditional planning controls on the preparation and cooking of food, and the operation of mechanical extract ventilation equipment on the premises. These planning controls remain in place and there is a continuing requirement for compliance with them. They would equally apply to any extended hours of use of the premises.

The Council's Head of Transportation raises no objections to the proposed extension to the hours of cafe use of the premises from 5.00pm to 11.00pm on Saturdays.

The proposed extension to the hours of cafe use of the premises from 5.00pm to 11.00pm on Saturdays is not contrary to Policy ENV2 of the adopted East Lothian Local Plan 2008.

CONDITION:

1 Condition 2:

The hours of operation of the cafe hereby approved shall be restricted to 9.00am to 5.00pm on Mondays to Fridays inclusive, 9.00am to 11.00pm on Saturdays and 10.00am to 5.00pm on Sundays.

Reason:
In the interests of safeguarding the amenity of neighbouring residential properties and to restrict the hours of operation of the cafe to that applied for.
Please note that the remainder of pages relating to this item have been removed as they contain personal information (for example - names and addresses of people that have made representation)
Note: this application was called off the Scheme of Delegation List by Councillor Bell for the following reasons: due to various infill developments as well as the subdivision of St Pauli the Planning Committee should have the opportunity to discuss the issues of overdevelopment of the site and access to the proposed new properties.

Application No. 09/00981/P

Proposal Erection of 2 houses, double garage and associated works

Location Eden Cottage
17 Belhaven Road
Dunbar
East Lothian
EH42 1DD

Applicant Mr John Brown

Per Blueprint (Dunbar) Ltd

Ward 007

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

This application relates to a roughly rectangular shaped area of land that measures some 933 square metres in area and comprises the majority of the large southern area of garden ground of the house of Eden Cottage. The house of Eden Cottage and its garden ground and, thus the application site, are in a backland location to the south of Belhaven Road, Dunbar.
The land of the application site is generally level. It is enclosed on its south and west boundaries by a 2.4 metres high rubble stone wall. The north boundary with the gardens of the houses of 19B and 19C Belhaven Road is enclosed by a 1.2 metres high stone, on the north side of which is a 1.8 metres high timber screen fence. There is no boundary enclosure along the remainder of the north boundary of the application site; that boundary being with what would remain of the garden of the house of Eden Cottage. The east boundary of the site with the house and garden of 2 St Pauli is enclosed by a low timber post and rail fence.

The application site is bounded to the north by the houses and gardens of 19B and 19C Belhaven Road and the house of Eden Cottage and its remaining garden ground. To the south and west is land of the playing fields of Dunbar Primary School. To the east is the private road of St Pauli and the house and garden of 2 St Pauli.

By being within the town of Dunbar the application site is within a predominantly residential area covered by Policy ENV1 of the adopted East Lothian Local Plan 2008.

Planning permission is sought for the erection on the application site of two detached two storey houses. Planning permission is also sought for the erection of a detached single garage, for the erection of timber screen fencing and a wall, and for the formation of hardstanding areas.

The proposed two houses would be positioned alongside one another on the central part of the site with one to the north of the other. There would be a 2 metres wide gap between the two houses. The front (east) elevation and the rear (west) elevation of each house would respectively be on the same front and rear building lines. The front elevation of each house would face eastwards and the rear elevations would face westwards. At its closest the north elevation of the northernmost house would be 1 metre back from the north boundary of the site. The south elevation of the southernmost house would be 1 metre back from the south boundary of the site. Their roof ridges would run in an east-west alignment. Their asymmetrical dual pitched roofs would be clad with plain grey tiles and their external walls would be finished with wet dash render. The frames of their windows and glazed external doors would be of white uPVC construction. Their rainwater goods would be of grey uPVC construction. There would be garden ground to the front and rear of each house.

The proposed detached garage would occupy the southeast corner of the site. The external walls of the proposed detached garage would have a wet dash rendered finish and its mono-pitched roof would be clad with metal profile sheeting. Its rainwater goods would be of grey uPVC construction.

Hardstanding areas in the form of footpaths would be formed between the proposed two houses and immediately to the rear (west) of each of them. Other hardstanding areas are proposed to be formed to the front (east) of the proposed two houses in the form of footpaths, four car parking spaces and a driveway/turning area.

Another hardstanding area is proposed to be formed to the east side of the existing house of Eden Cottage to provide a parking space for one car for that existing house. To facilitate the formation of that parking space an existing single garage in that position would be removed. The demolition and removal of that garage does not require planning permission and thus does not form part of the assessment of this planning application.
The length of stone boundary wall and fencing that encloses the part of the north boundary of the application site with the gardens of the houses of 19B and 19C Belhaven Road is proposed to be removed. That length of the north boundary is proposed to be realigned some 1.0 metre to the south. A new length of 1.8 metres high sandstone boundary wall is proposed to be erected on the realigned boundary positioned.

The removal of the existing length of wall and fencing on that length of the north boundary and the realignment of that length of the north boundary do not require planning permission and therefore are not subject to the control of the Council, as Planning Authority, and thus do not form part of the assessment of this planning application.

The existing boundary treatments on the south and west boundaries of the application site would be retained. A new 1.8 metres high timber screen fence would be erected on the other part of the north boundary of the site between the garden of the northern most of the proposed two houses and what would remain of the garden of the house of Eden Cottage.

Access to the proposed two houses would be taken from the existing access to Eden Cottage, which is taken from the west end of the private road of St Pauli that itself takes access from classified public road of Belhaven Road.

The application has been amended since it was first registered to realign the north boundary of the application site with the resultant effect that the size of the application site has been reduced by some 1 metre for the length of that northern side of the site. In addition, the parking spaces to be formed to the east of the proposed two houses have been moved southwards by some 1 metre. These changes are shown on amended application drawings.

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 proposed development would be infill housing development on part of the garden of an existing house within the urban area of Dunbar. On this matter there are no policies of the approved Edinburgh and the Lothians Structure Plan 2015 relevant to the determination of the application.

Relevant to the determination of the application are Policy ENV1G (Design of New Development) of the approved Edinburgh and the Lothians Structure Plan 2015 and Policies DP2 (Design), DP7 (Infill, Backland and Garden Ground Development), DP22 (Private Parking) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008.

Material to the determination of the application is the Scottish Government’s policy on infill housing development given in Scottish Planning Policy: February 2010 and Planning Advice Note 67: Housing Quality, and on development affecting the historic environment given in Scottish Planning Policy: February 2010 and Planning Advice Note 2/2011: Planning and Archaeology.
In paragraph 82 of Scottish Planning Policy it is stated that infill sites within existing settlements can often make a useful contribution to the supply of housing land. Proposals for infill sites should respect the scale, form and density of the surroundings and enhance the character and amenity of the community. The individual and cumulative effects of infill development should be sustainable in relation to social, economic, transport and other relevant physical infrastructure and should not lead to over development.

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

With regard to archaeological sites and monuments Scottish Planning Policy states that they are an important finite and non-renewable resource and should be protected and preserved in situ wherever feasible. The presence and potential presence of archaeological assets should be considered by planning authorities when making decisions on planning applications. Where preservation in situ is not possible planning authorities should through the use of conditions or a legal agreement ensure that developers undertake appropriate excavation, recording, analysis, publication and archiving before and/or during development. If archaeological discoveries are made during any development, a professional archaeologist should be given access to inspect and record them. Planning Advice Note 2/2011: Planning and Archaeology similarly advises.

Two written representations to the application have been received. Both representations raise objections to the proposed development. The grounds of objection are summarised:

i. the severe impact on light to the neighbouring houses and gardens of 19B and 19C Belhaven Road;

ii. the impact on the privacy of the neighbouring houses and gardens of 19B and 19C Belhaven Road;

iii. that this part of Belhaven Road is in danger of being overdeveloped with St Pauli House having been converted from one house to two houses and the addition of four townhouses to the north of St Pauli House;

iv. the four new townhouses that have been built do not have any off street parking and Belhaven Road was narrowed to provide them with on-street parking;
v. the existing narrowing of Belhaven Road makes it difficult for large vehicles (i.e. buses, lorries) to pass there and vehicles moving to and from the proposed two houses would access onto and from Belhaven Road at this narrowing;

vi. additional traffic at this point on Belhaven Road would only add to the existing traffic problems, making the road more dangerous;

vii. the access to the site is close to a school crossing point; and

viii. noise and fumes from construction work would be harmful to the amenity of neighbouring residential properties.

The application site is within a predominantly residential area as defined by Policy ENV1 of the adopted East Lothian Local Plan 2008. Policy ENV1 does not actively promote the development of land for new build residential development. The principal purpose of Policy ENV1 is to ensure that the predominantly residential character and amenity of its area of coverage is safeguarded against the impacts of land uses other than housing. However Policy ENV1 does state that infill, backland and garden ground development will be assessed against Policy DP7 of the adopted East Lothian Local Plan 2008.

The application site is part of the curtilage of the residential property of Eden Cottage. It is within a predominantly residential area and there are residential properties to the north and east of it. The erection of a two houses on the site would amount to infill housing development within a predominantly residential area, the principle of which is supported by current Government planning policy guidance on urban infill housing development given in Scottish Planning Policy and by Policy DP7 of the adopted East Lothian Local Plan 2008.

Thereafter the considerations in this case are whether, having regard to national, strategic and local planning policies, guidance and other material considerations, the positioning and design of the two proposed houses would have an adverse impact on the character and appearance of the area, and whether or not they would have a detrimental impact on the amenity of neighbouring residential properties.

The house of Eden Cottage occupies a backland location in its relationship with Belhaven Road, as do the houses of 1 and 2 St Pauli, 1 and 2 St Pauli House and 19B and 19C Belhaven Road. The house of Eden Cottage to the north of the application site is single storey in height. The houses of 19B and 19C Belhaven Road, also to the north of the application site and the houses of 1 and 2 St Pauli to the east are single storey in height with accommodation in their roof spaces. However, other than the house of Eden Cottage these existing houses each have a high, steeply pitched roof. The houses of 1 and 2 St Pauli House that are to the north of the houses of 1 and 2 St Pauli and to the northeast of the application site are two storey in height and the four townhouses of 4 to 7 St Pauli to the north of them are three storey in height. All of these houses display a variety of architectural styles. They also display a variable ratio of built form to undeveloped garden ground and thus give the area a mixed pattern and density of built form. The predominant building materials of the houses are painted wet dash rendered or dry dash rendered walls, brown coloured concrete roof tiles, red clay interlocking pantiles and slates. All of this characterises the urban built form of the locality.
The proposed two houses would be positioned in alignment with each other on a north-south axis, their front elevations would face eastwards and their rear elevations westwards. At their height of two storey they would each have a roof ridge height of some 7.5 metres. They would have a combined footprint of about a quarter of the area of the application site. The east-west alignment of their roof ridges would be the same as that of the houses of Eden Cottage, 19B and 19C Belhaven Road and 1 and 2 St Pauli. Their external finishes would be similar to those of the neighbouring houses.

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

In their backland location the proposed two houses would not be readily visible from public places in the area. They would not be seen from Belhaven Road.

The proposed two houses would have dual pitched roofs and would be finished in materials in keeping with the predominant building materials in the area. Although the dual pitched roofs of the proposed two houses would not be symmetrical like those of the neighbouring houses, such design would not be different to such an unacceptable degree as to be harmful to the architectural character and appearance of the houses in the area. In terms of their design and finishes the proposed two houses would be sufficiently in keeping with the existing mixed architecture of the built form of the houses in the area, would fit comfortably into the mix of different architectural styles of the houses of the area and thereby would preserve the architectural character and appearance of the area.

They would sit comfortably in their positional relationship with each other and with the neighbouring houses. Furthermore, by their two storey height they would fit comfortably with the varied heights of the existing houses in this locality. They would not harmfully change the disparate pattern of layout and of the mixed density of the existing built form of this locality. The highest part of the asymmetrical roof of the northern most of the proposed two houses would be positioned towards its southern side. By such positioning that house would not have a harmfully overbearing affect on the neighbouring properties of Eden Cottage and 19C Belhaven Road to the north. Due to the distance of 21 metres they would be away from the property of 2 St Pauli they would not have a harmfully overbearing affect on that house and garden.

In all of these considerations the proposed two houses, by their size, height, positioning and architectural design would not appear dominant or intrusive, would not be incongruous additions to the pattern and density of the built form of this part of the area and would not be harmful to the character and appearance of the area.

There is sufficient land within the site to accommodate the proposed two houses, each with a sufficient sized garden and adequate parking provision and vehicular and pedestrian access without there being an overdevelopment of it. The house of Eden Cottage would also still occupy a sufficient sized plot with garden ground to the north and south of it.
Development of the site would not result in any loss of open space important to recreation or amenity requirements.

The footpaths to the rear (west) and between the proposed two houses would be surfaced with paving slabs. The footpaths and the parking spaces to be formed to the east of the two houses would be surfaced with block paving. The access from the west end of the existing private road of St Pauli would be surface with hot rolled asphalt, as is the existing private road. That asphalt surfaced area of the site would also provide a turning area for vehicles. New 1.8 metres high timber screen fencing would be erected between the proposed two house plots. This proposed fencing would provide privacy to the gardens of the proposed two houses. New 1.8 metres high timber screen fencing would also be erected along part of the north boundary of the site with what would remain of the garden of the house of Eden Cottage. Such fencing would be in keeping with other similar fencing of neighbouring properties of St Pauli. The length of new 1.8 metres sandstone boundary wall to be erected on the remaining length of the north boundary of the site would be in keeping with the higher stone walls that enclose the west and south boundaries of the application site. The proposed hardstanding areas, wall and fencing, in their immediate relationship with the proposed two houses and by their form and surfacing finishes would not be harmful to the character and appearance of the area.

The proposed detached garage would measure 6.3 metres long by 6.3 metres wide and its mono-pitched roof would be some 2.5 metres high at its lowest (rear) end and some 2.85 metres high at its highest (front) end. Its external walls would have a wet dash rendered finish and its mono-pitched roof would be clad with metal profile sheeting. Its rainwater goods would be of grey uPVC construction. In its position in the southeast corner of the site and by its size, height and external finishes the proposed detached garage would not appear dominant or intrusive, would not be an incongruous addition to the pattern and density of the built form of the locality and would not be harmful to the character of the backland setting of the application site.


Policies DP2 and DP7 require, amongst other considerations, that new development should not result in any significant loss of daylight, sunlight or privacy to adjoining properties as a result of overshadowing or overlooking.

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

Application of the daylight and sunlight tests of the Guide demonstrates that, in their positions and due to their height, form, orientation and distance away from the neighbouring house of 2 St Pauli to the east and 19B and 19C Belhaven Road and Eden Cottage to the north, the proposed two houses in their combined positioning and alignment would not give rise to a harmful loss of daylight or sunlight to those properties.
On application of the sunlight test, the northern most of the proposed two houses, by virtue of its position to the south of the houses of 19B and 19C Belhaven Road and Eden Cottage would result in some overshadowing of the gardens of those houses. However, the resulting overshadowing would not be of an amount and for such an extended period of the day that it would result in a harmful loss of sunlight to those neighbouring gardens. Likewise although the southern most of the proposed two houses would result in some overshadowing of the garden of the northern most proposed house it would not be of such an amount and for such an extended period of the day that it would result in a harmful loss of sunlight to the garden of that proposed house.

In its position and due to its height, form, orientation and distance away from the neighbouring houses, the proposed detached garage would not, in accordance with the Guide, give rise to a harmful loss of daylight or sunlight to those neighbouring properties.

Thus, on these considerations of daylight and sunlight the proposed two houses and the detached garage would not have a harmful affect on the residential amenity of any neighbouring residential properties. Each of the proposed two houses should also receive a sufficient amount of daylight (skylight) and their gardens a sufficient amount of sunlight.

On these considerations of residential amenity the proposed development is consistent with Policies DP2 and DP7 of the adopted East Lothian Local Plan 2008.

In assessing whether or not a proposed new development would result in harmful overlooking and therefore loss of privacy to existing neighbouring residential properties it is the practice of the Council, as Planning Authority to apply the general rule of a 9 metres separation distance between the windows of a proposed new building and the garden boundaries of neighbouring residential properties and an 18 metres separation distance between directly facing windows of the proposed new building and the windows of existing neighbouring residential properties.

There are no residential properties to the south and west of the application site. Thus, none of the windows or glazed doors of the west elevation of each of the proposed two houses and the windows of the south elevation of the southern most of the proposed two houses would lead to harmful overlooking.

The east elevation of each of the proposed two houses would be 19.5 metres from the east boundary of the site and thus there would be no harmful overlooking of the neighbouring residential property of 2 St Pauli to the east.

The north elevation of the northern most of the proposed two houses would be within 9 metres of the north boundary of the site, and would face towards the houses of 19C Belhaven Road and Eden Cottage and their gardens. There would be two ground floor windows and one first floor window in that north elevation wall. The two ground floor windows would serve a living room and the first floor window would serve a bathroom. The new 1.8 metres high fence and the new 1.8 metres high wall that are proposed to be erected on the north boundary of the site would prevent harmful overlooking of the neighbouring properties of 19C Belhaven Road and Eden Cottage from the two ground floor windows. The first floor window is shown on the application drawings to be obscurely glazed. Subject to the erection of the boundary fencing and wall and the first floor window being obscurely glazed the windows of the north elevation of the northern
most of the proposed two houses would not allow for harmful overlooking of the neighbouring residential properties of 19C Belhaven Road and Eden Cottage.

The north elevation of the southern most of the proposed two houses and the south elevation of the northern most of the proposed two houses would be only 2 metres apart. Each of those elevations would have one ground floor window and two first floor windows in it. The ground floor window would serve a bathroom and the first floor windows would serve a first floor circulation space and a study. Those windows would be directly facing and within 18 metres of each other and would thus allow for harmful overlooking between the proposed two houses. The new 1.8 metres high fence that is proposed to be erected along the mid line of the two metres wide gap between the two houses would prevent harmful overlooking between the ground floor windows of the north elevation of the southern most of the proposed two houses and the south elevation of the northern most of the proposed two houses. The harmful overlooking between the two first floor windows of those respective elevations of the proposed two houses can be mitigated by those windows being obscously glazed. Subject to such mitigation the proposed two houses would not allow for harmful overlooking of each other.

If, at a later date other first floor window openings or other glazed openings were to be formed in the north and south elevations of the northern most of the proposed two houses and the north elevation of the southern most of the proposed two houses they would lead to harmful overlooking of the neighbouring properties of 19C Belhaven Road and Eden Cottage and between the proposed two houses. To safeguard against this permitted development rights for the formation of additional first floor windows and other glazed openings in those elevations should be removed.

Conditions should be imposed on the grant of planning permission to ensure that: (i) the first floor window in the north elevation and the two first floor windows of the south elevation of the northern most house be obscure glazed; (ii) the two first floor windows of the north elevation of the southern most house be obscure glazed; (iii) to remove permitted development rights to form any further window openings at first floor level on the north and south elevations of the northern most house and the north elevation of the southern most house; (iv) to ensure that the proposed dividing fence between the proposed two houses is erected prior to the occupation of either of the proposed two houses; and (v) to secure the erection of the new fence and wall on the north boundary of the site. Subject to such planning controls, neither of the proposed two houses would have a harmful affect on the residential amenity of the neighbouring properties. The occupiers of the two proposed houses would also have sufficient privacy and residential amenity.

On the forgoing consideration of overlooking the proposed development is consistent with Policies DP2 and DP7 of the adopted East Lothian Local Plan 2008.

There would be nothing extraordinary in the construction works to be carried out for the erection of the proposed two houses that would justify the Planning Authority exercising planning control over matters of site noise and hours of working. Any matters of alleged nuisance to neighbours from the construction works that would be carried out would be for the Council’s Environmental and Consumer Services Section to investigate under separate environmental protection legislation.
The Council's Senior Environmental and Consumer Services Manager raises no objection to the proposed development.

The existing junction of the private road of St Pauli with the public road of Belhaven Road is to be retained and access from that public road to the application site would be taken via the private road of St Pauli. The owners of Eden Cottage currently park a vehicle in front of the single garage that is to the east side of that house. In the formation of the proposed access to the proposed two houses the owners of the existing house of Eden Cottage would no longer be able to park directly outside the front of the single garage, therefore the intention is that the garage would be removed and an additional parking space be formed on the east side of the existing house of Eden Cottage such that there would be no loss of existing parking spaces. The Council's Head of Transportation raises no objection to these proposed access and parking arrangements. The proposed amount of car parking spaces (a total of 4 spaces for the two houses and one space for the house of Eden Cottage) and the turning provision to be provided within the site would be to a sufficient standard.

As the proposed two houses could each be safely accessed and provided with an acceptable standard of off-street parking provision, the proposed development is consistent with Policies T2 and DP22 of the adopted East Lothian Local Plan 2008.

The Council's Head of Transportation further advises that as the application site is in close proximity to a school and that the access from Belhaven Road is close to a school crossing point there should be no movement of construction traffic, including service deliveries, to and from the application site during school term times between the hours of 08:45 and 09:15 and 15:00 and 15:45 Mondays to Thursdays, inclusive and on Fridays between the hours of 08:45 and 09:15 and 11:45 and 12:30.

Subject to this control the proposed development is consistent with Policy T2 of the adopted East Lothian Local Plan 2008.

The Council's Archaeology Officer advises that the site is within an area of archaeological potential. Accordingly he recommends that a programme of archaeological works (archive assessment and evaluation) of the site should be carried out by a professional archaeologist to evaluate the site for any potential archaeological remains. This can be secured through a condition attached to a grant of planning permission for the proposed development. This approach is consistent with Scottish Planning Policy: February 2010, Planning Advice Note 2/2011: Planning and Archaeology and with Policy ENV7 of the adopted East Lothian Local Plan 2008.

Scottish Water raises no objection to the proposed development.

CONDITIONS:

1. The development shall begin before the expiration of 3 years from the date of the grant of this planning permission.

   Reason:
   Pursuant to Section 58 of the Town and Country Planning (Scotland) Act 1997
No development shall take place on site unless and until final site setting out details have been submitted to and approved by the Planning Authority.

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

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

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

No development shall take place until the applicant has, through the employ of an archaeologist or archaeological organisation, secured the implementation of a programme of archaeological work (archive assessment and evaluation) on the site of the proposed development in accordance with a written scheme of investigation which the applicant will submit to and have approved in advance by the Planning Authority.

Reason:
To facilitate an acceptable archaeological investigation of the site.

Prior to any of the two houses hereby approved being brought into use the proposed vehicle access, turning and parking arrangements (including the provision of a new parking space for the residential property of Eden Cottage) shall all be laid out as shown in docketed drawing no. 20807-pl-01C, and thereafter the access, turning and parking areas shall be retained for such uses.

Reason:
To ensure the provision of an acceptable standard of accessing and parking in the interests of road safety.

No movement of construction traffic, including service deliveries, to and from the application site shall take place during school term times between the hours of 08:45 to 09:15 and 15:00 to 15:45 on Mondays to Thursdays (inclusive), and between the hours of 08:45 to 09:15 and 11:45 to 12:30 on Fridays.

Reason:
To minimise the impact of construction traffic in the interests of road and pedestrian safety relative to school generated vehicle and pedestrian movements.

Samples of all of the external finishing materials and finishing colours to be used in the development shall be submitted to and approved by the Planning Authority prior to their use in the development. Only those materials and finishing colours approved by the Planning Authority will be used in the external finishes of the development hereby approved.

Reason:
To ensure the satisfactory appearance of the development in the interest of safeguarding the character and appearance of the area.

The northern most house of the two houses hereby approved shall not be occupied until the first floor window of its north elevation and the two first floor windows of its south elevation are obscure glazed and the southern most house of the two houses hereby approved shall not be occupied until the two first floor windows of its north elevation are obscure glazed. Thereafter those windows shall remain obscure glazed unless otherwise approved by the Planning Authority.

Reason:
To safeguard the privacy and amenity of the occupiers of the two houses hereby approved and the neighbouring residential properties to the north.

8 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended by The Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011, or any subsequent Order amending, revoking or re-enacting that Order, no windows or other openings shall be formed at first floor level within the north and south elevations of the northern most house of the two houses hereby approved, and within the north elevation of the southern most house of the two houses hereby approved, other than those shown for those elevations on the docketed drawings.

Reason:
In the interests of safeguarding the privacy and amenity of the two houses hereby approved and the neighbouring residential properties to the north.

9 Neither of the two houses hereby approved shall be occupied until the new 1.8 metres high timber fence has been erected between them in the position shown for it on the docketed site plan Drg no. 20807-pl-01C and the new 1.8 metres high timber fence and the 1.8 metres high sandstone wall have been erected on the north boundary of the site in the positions shown for them on the docketed site plan Drg no. 20807-pl-01C. Thereafter, those fences and wall shall be retained in place unless otherwise approved by the Planning Authority.

Reason:
To safeguard the privacy and amenity of the occupiers of the two houses hereby approved and the neighbouring residential properties to the north.
Please note that the remainder of pages relating to this item have been removed as they contain personal information (for example - names and addresses of people that have made representation)