



**MINUTES OF THE MEETING OF THE
PLANNING COMMITTEE**

**TUESDAY 7 MAY 2013
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Committee Members Present:

Councillor N Hampshire (Convener)
Councillor D Berry
Councillor S Currie
Councillor T Day
Councillor A Forrest
Councillor J Gillies
Councillor J Goodfellow
Councillor D Grant
Councillor W Innes
Councillor P MacKenzie
Councillor J McMillan
Councillor J McNeil
Councillor J Williamson
Councillor M Veitch

Other Councillors Present:

Councillor P McLennan
Councillor K McLeod

Council Officials Present:

Mr I McFarlane, Service Manager, Development Management
Ms M Ferguson, Corporate Legal Adviser
Mr D Irving, Planner
Ms E Taylor, Planner
Ms S Greaves, Planner
Mr G Talac, Transportation Planning Officer
Mr G McLeod, Transportation Planning Officer
Ms S Martin, Principal Environmental Protection Officer

Clerk:

Ms A Smith

Visitors Present:

Item 1 – Mr I Waugh, Mr C Crawford, Ms S Guy, Ms K Moulin, Mr D Allen, Ms J MacDonald
Item 2 – Ms F Sheldon
Item 3 – Mr N Bibby, Mr Kitchen
Item 4 – Mr E McIntyre

Item 5 – Mr D Rose, Mrs Wilmshurst

Apologies:

Provost Broun-Lindsay
Councillor Trotter

Declarations of Interest:

None

1. PLANNING APPLICATION NO. 12/00874/P: ERECTION OF 1 WIND MONITORING MAST FOR A TEMPORARY PERIOD OF 18 MONTHS, 1 WIND TURBINE AND ASSOCIATED WORKS AT BLACKCASTLE HILL, DUNBAR

A report had been submitted in relation to Planning Application No.12/00874/P. The Service Manager, Development Management, Iain McFarlane, presented the report summarising the key points. The report recommendation was to refuse the application.

Mr Waugh addressed the Committee on behalf of the applicant, Dunbar Community Energy Company (DCEC). The proposed wind turbine would be 56.3 metres from ground level to blade tip; the diameter of its rotating blades would be 47 metres. Many sites had been considered but the isolated nature of this site and the ability for the turbine to be powered irrespective of wind direction made it the preferred option. He outlined details of the anticipated financial return to the local community and how this would be administered. He referred to the 101 wind turbines on the Lammern Hills, each over twice the height of this wind turbine. He compared their contribution to the local economy against the return from this community wind turbine. He referred to the report recommendation for refusal but argued that community benefit did outweigh visual impact. He informed Members that DCEC had carried out a survey which showed, by a 3-1 majority that the community were in favour of this proposal.

Mr Crawford, of Locogen, the agent, outlined further details in relation to the wind turbine and the wind monitoring mast. The location was 1.2 kilometres from the nearest house so the application passed the general rule of shadow flicker effect. A number of design options had been considered and ultimately this smaller wind turbine chosen. He was aware that the proposal did not comply with the Council's 2011 Capacity Study but stated that for a community wind turbine this site could be judged as suitable. An independent report commissioned by the applicant had concluded that the site was acceptable; the benefits of the project outweighed any other considerations. He disputed several statements within the officer's report. In relation to Oldhamstocks Conservation Village he argued that there would be minimal visual impact. He also disagreed with the Council's viewpoint assessment.

In response to questions Mr Crawford clarified issues in relation to the chosen site and other potential locations.

Ms Guy read a statement in support of the application on behalf of Kate Darrah. This proposed small wind turbine would be owned by the local community. The annual income it generated would go into local projects. The benefits of a locally owned wind turbine could not be overstated. There were a great variety of community groups wanting to develop but stymied by lack of finance. The social profile of Dunbar was mixed so the area did not usually qualify for financial assistance given to other areas.

Dunbar's location meant it lacked access to training/work opportunities which had a particular impact on young people. The benefits from this project could assist with plans to address these issues. The local community was resourceful but needed access to a steady stream of income; it needed this to support its vulnerable members. This community wind turbine was the chance to do just that.

Ms Moulin spoke in support of the application. The income from the development of this community wind turbine would allow policy outcomes already endorsed by the Scottish Government. This proposal would meet a number of outcomes within East Lothian's Single Outcome Agreement (SOA). She referred to the SOA's 5 cross cutting themes. The application would help to promote East Lothian's Environmental Strategy 2010-15. It would promote sustainability; it would have positive environmental and economic impacts. The proposal would accord with East Lothian's Economic Development Strategy 2012-22. By supporting this application the Council would fulfil its own stated aims. She urged Members to support the application.

In response to further questions Mr Waugh reiterated that the financial return from the 101 wind turbines at Lammermuir went into private profit; with this proposal all of the return would come back into the community. Mr McFarlane clarified the planning legislation position regarding community and commercial wind turbines.

Mr Allen spoke against the application on behalf of Sustain a Beautiful East Lothian (SABEL). This application raised issues previously addressed by SABEL but critically this case had required legal advice, which stated that the intended use of turbine profits was not a material planning consideration. He made some points in relation to procedure. He made reference to several planning policy considerations. He explained why the application failed key aspects of Policy NRG3. He referred to the Council's December 2010 guidance and also to its Capacity Study. He also referred to the concerns expressed by Scottish Natural Heritage. The report concluded that the wind turbine could not be successfully accommodated in its proposed location; SABEL agreed. SABEL endorsed the recommendation to refuse the application and hoped the Committee would support this. To do otherwise would completely invalidate the established planning policy framework for this type of development.

Ms MacDonald spoke against the application on behalf of East Lammermuir Community Council (ELCC) which covered Stenton, Spott, Innerwick, Oldhamstocks and the surrounding area including Blackcastle Hill. She pointed out that the proposed location was actually some distance from Dunbar. She stressed that ELCC was careful to consider each planning application on its own merits and where they were aware of conflict of opinion they would carry out a survey. A survey was carried out in February 2013. A presentation was also held at Innerwick Village Hall. The survey had a 33% response rate and of those, 55% were opposed to this application. This proposal contravened planning policy guidance. The ELCC urged rejection due to the strong local opinion against this application.

Local Member Councillor McLennan stated that this application had generated a large number of representations both for and against the proposal. This application should be about considering the visual impact against the possible financial benefit to the local community. He stated that there were some local authorities, Highland Council for example, where the community benefits of a turbine outweighed other considerations. There would be a visual impact but in his view the community benefits would outweigh this. The community aspects, investment and employment opportunities had to be taken into account. He urged Committee Members to support the application.

Local Member Councillor Veitch indicated that as stated by ELCC the application site was not in Dunbar; it was in Innerwick essentially. This was a very important point. ELCC had carried out a survey and the majority of residents in the more immediate vicinity of the turbine were opposed to the application. In addition, this application was contrary to the Council's own Supplementary Landscape Capacity Study for Smaller Wind Turbines; it would be a very serious issue if Members ignored the Council's own study. The issue of visual impact was key. He drew attention to the overall findings of the viewpoint appraisals as detailed in the report. If the Committee decided to reject this application he hoped that Sustaining Dunbar and DCEC would respect this decision and not take the application any further. He would endorse the report recommendation.

Councillor Berry expressed disappointment at the resistance to this initiative; community benefit should be encouraged. He had written to the Scottish Government to complain about the current lack of distinction in planning terms between small community wind turbines and large commercial wind farms. An example was Aikengall, which was large but generally hidden; the difficulty was when the turbine(s) would be prominent, as in this case. This was a good initiative but an ill considered site. It contravened the well considered mechanism for locating turbines in more visible places. Members could not make a decision based on the financial issue, this was prohibited; no distinction could be made between applications for a community wind turbine or a commercial one. It would be unwise to go against the officer's recommendation. He would be supporting the report recommendation.

Councillor Goodfellow referred to statements about the projected amount to be refunded to the community and raised concerns in relation to future implications. The fundamental issue was that despite their hard work DCEC had been unable to persuade 2 of the local community councils to support this application. He expressed concern that with this application coming to the Committee it was now eligible to go to appeal; he referred to previous appeals approved by the Scottish Government despite total opposition from local people. He would be supporting the officer's recommendation.

Councillor McMillan stated that there was an issue, as mentioned by Councillor McLennan, to look further at the community aspects. In relation to Mr Waugh's statement he appreciated Sustaining Dunbar's contribution to the local community but he did not think that this proposal would go on and sustain the community. He referred to Ms Moulin's comments regarding the SOA. There were difficult issues in calling this a community wind turbine; it was not. He would support the report recommendation; however there were serious issues that had to be considered.

Councillor Innes remarked that he did not have the same issues with wind farms as many of his colleagues. He also felt that the people of East Lothian did not get enough benefit from existing wind turbines. He was also aware that the Council had considered ways to raise finance from local energy. He had carefully considered the application and although his instinct was to support it he could not; he shared some of the concerns outlined by Councillor McMillan. He would support the report recommendation but added that the Council needed to look at ways to support local community projects.

The Convener, and third local member, brought the discussion to a close. There were 2 key issues; funding and location. Funding: this application would be good for the Dunbar community; he fully supported having this in his area. Location: this was a very difficult issue. The Council's wind turbine guidance was recognised throughout Scotland as some of the best guidance available. The applicant had stated that a

community wind turbine should be treated differently; the difficulty was that if the Committee departed from Council policy a precedent would be set. There were other locations within the Dunbar and East Linton ward which would have less visual impact. He would be supporting the recommendation to refuse planning permission as set out in the report and moved that this be put to the vote.

Decision

The recommendation that planning permission should be refused was put to the vote and received **14 votes for** and **none against**; there were no abstentions. The Committee agreed to refuse to grant planning permission for the following reasons:

- 1 The proposed wind turbine is contrary to the Council's East Lothian Supplementary Landscape Capacity Study for Smaller Wind Turbines (December 2011) which states that a Typology B wind turbine cannot be accommodated within the Eastern Lammermuir Fringe landscape character area and that the part of the Eastern Lammermuir Fringe landscape character area in which the proposed wind turbine would be located cannot accommodate any Typology of wind turbine.
- 2 The proposed wind turbine due to its positioning, form, height and scale would in many views of it appear as a highly exposed and obtrusive skyline feature and in its relationship with the existing two telecommunications masts would harmfully amount to visual clutter on Blackcastle Hill. Such effects would harmfully detract from the landscape character and focus of Blackcastle Hill and from the landscape character of the Eastern Lammermuir Fringe landscape character area and the Lammermuir Hills Area of Great Landscape Value. It would be visible from parts of the Oldhamstocks Conservation Area from where it would be prominent in its visual relationship with, and a discordant and incongruous feature harmful to the setting of that Conservation Area. Accordingly, the proposed wind turbine is contrary to Policy ENV1D of the approved Edinburgh and Lothians Structure Plan 2015, Policies DC1 (Part 5), NH4 and NRG3 and of the adopted East Lothian Local Plan 2008, Scottish Planning Policy: February 2010, the Scottish Government web based renewables advice entitled "Onshore Wind Turbines" and the key considerations of landscape impact of Planning Guidance for the Location and Design of Wind Turbines in the Lowland Areas of East Lothian: December 2010.

Sederunt – Councillor McLennan left the meeting

2A. PLANNING APPLICATION NO. 13/00092/P: FORMATION OF PEDESTRIAN ACCESS, HARDSTANDING AREA, ERECTION OF GATE AND PIERS AT BOUNDARY WALL BETWEEN YESTER ESTATE AND PARK ROAD, GIFFORD

A report had been submitted in relation to Planning Application No.13/00092/P. Mr McFarlane presented the report, summarising the key points. The report recommendation was to grant consent.

In response to questions Mr MacFarlane clarified that the proposed gateway would connect with the Core Path Network (CPN). In relation to the garages in the vicinity of the access he would check if these had planning consent.

Ms Sheldon spoke against both applications on behalf of all objectors. The first application concerned 2 pieces of legislation; planning legislation and the Land Reform (Scotland) Act 2003 (LRA) in respect of access rights. 18 objections and 1 letter of concern had been submitted; no letters of support. These objections had also been made to a previous similar application, which had been withdrawn. This new access was not necessary; there were at least 2 existing accesses to Yester Woods which could be linked to the CPN. There was traffic congestion currently in Park Road; this would only exacerbate matters. She appreciated that many of the objections were not material in respect of planning legislation but were valid concerns

in relation to the LRA. She quoted from this Act. The end section of Park Road was not an adopted road on the Roads Network, it was not in a fit state for general use; it was used for parking/garages. Residents felt that matters relating to the LRA had not been adequately investigated and addressed. A decision should be deferred for further consultation; the Council had to consider its duties under access legislation.

Ms Sheldon responded to questions regarding the materiality of the objections, access rights legislation and traffic levels.

Local Member Councillor McMillan remarked that Ms Sheldon had eloquently put forward the points of concern on behalf of all the objectors. There was a real issue here; it was potentially a very busy road, the proposed gateway would attract extra vehicles, there was no parking provision for residents. In relation to this access there were issues, other approaches could be taken. He agreed that this application should be deferred for further consideration. He referred to quotes by Ms Sheldon from access legislation. The Committee needed to consider wider issues including access, effect on the village, attracting visitors and making the village more sustainable. This proposal needed to be considered amongst these wider issues.

Councillor Currie referred to the site visit and the noticeably poor condition of the hardstanding area. In relation to traffic concerns he felt there could be potential issues. He referred to comments from the Community Council's representative at the site visit; they were trying to do their best for the local community. However he felt that removing a section of wall to form the access at this proposed location would have a significant impact on residents; there would be a loss of privacy, it would be severely detrimental. He would not support the report recommendation. In addition, work should be carried out on this area of road to improve its condition.

Councillor Berry appreciated that this was a very quiet corner and that residents wanted it to remain as such. Regarding the question of benefit to the community he stated that Gifford Community Council had requested this, he was sure they had not done this lightly. In addition, the landowner's preference was for the path at that point. This seemed a fairly reasonable request. Schoolchildren did not access the school at the proposed location so this was not an issue. He would be supporting the report recommendation.

Councillor Innes referred to comments made by Councillor McMillan in relation to other opportunities to create this access and the difficulty of the proposed location. He supported the suggestion to continue this application. He did not want to prejudice the CPN as such but if there were other options it would be his preference to explore these.

Councillor Veitch agreed with Councillor Innes. Initially this seemed quite a sensible application, supported by the local Community Council, this Council and Yester Estate. It was unfortunate that no-one from Gifford Community Council was present to state their case. He noted the comments made by Councillor McMillan; there were quite a large number of concerns. He was also inclined to defer this application and bring it back to Committee after further discussion.

Councillor Goodfellow sympathised with the Council's Access Officer in trying to get landowners to engage with the CPN. However, in this case, the proposal would create a problem, as highlighted by Ms Sheldon. He stated that if this gate was created Park Road would become part of the CPN. He would also be in favour of continuation.

Councillor Grant stated that this application had been through considerable consultation already, to continue it for further consultation was not required. The application should be welcomed and he would be supporting the report recommendation.

The Convener brought the discussion to a close. He indicated that due to the division amongst Members of the Committee a vote would be taken on whether to continue this application or determine it today: **for continuation – 6 votes, for determination – 8 votes**. The application would therefore be determined.

Decision

The recommendation that planning permission should be granted was put to the vote and received **7 votes for** and **7 votes against**; there were no abstentions.

Due to the equal number of votes, and in accordance with the Council's Standing Orders, the Convener used his casting vote. He stated that as the Cabinet Member for Housing and Environment and responsible for the CPN, and being aware of the extensive consultation that had been carried out, he supported the view of the Access Officer that this application was the only solution to fulfil this part of the CPN. **He would use his casting vote in favour of the application.**

The Committee agreed to grant planning permission, **by 8 votes to 7**, subject to the following conditions:

- 1 No use shall be made of the pedestrian access hereby approved if the gate erected within it is installed so as to open outwards towards the adjacent public road.

Reason:

In the interests of road safety.

- 2 No trees or shrubs shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the previous written consent of the Planning Authority.

Reason:

To safeguard the landscape character of the Designed Landscape.

- 3 No development shall take place on site until temporary protective fencing comprising standard scaffold poles as uprights driven into the ground avoiding tree roots, with 3 standard scaffold poles as horizontal rails (top, middle and bottom), all with weldmesh wired to uprights and rails has been installed and approved in writing by the Planning Authority. This temporary protective fencing should be 2.3 metres in height, erected prior to works commencing and kept in good condition throughout the works, all in accordance with Figure 2 of British Standard 5837_2012 "Trees in relation to design, demolition and construction". The temporary fencing should be located to the south side of the wall on both sides of the proposed pedestrian access. It should extend to the south to enclose the boundary trees and should be located no closer than 1m to the trunk of any tree all in accordance with docketed drawing "Protective fencing dated 20 March 2013.

All weather notices should be erected on said fencing with words such as "Construction exclusion zone - Keep out" and the fencing shall remain on site and intact through to completion of the development. Within the fenced off areas the existing ground level shall neither be raised nor lowered, no materials, temporary buildings, plant, machinery or surface soil shall be placed or stored and no herbicides shall be used.

Planning of site operations should take sufficient account of wide loads, tall loads and plant with booms, jibs and counterweights in order that they can operate without coming into contact with trees.

Material the accidental spillage of which would cause damage to a tree should be stored and handled well away from the outer edge of its RPA.

Fires should not be lit in a position where their flames can extend to within 5m of tree foliage, branches or trunk, and due cognisance must be taken of wind speed and direction prior to and during such operations.

Reason:

To ensure the health and vitality of the trees in the interests of safeguarding the landscape character of the Designed Landscape.

2B. PLANNING APPLICATION NO. 13/00092/LBC: FORMATION OF HARDSTANDING AREA, ERECTION OF GATE, PIERS AND PART DEMOLITION OF WALL AT BOUNDARY WALL BETWEEN YESTER ESTATE AND PARK ROAD, GIFFORD

A report had been submitted in relation to Planning Application No.13/00092/LBC. Mr McFarlane presented the report, summarising the key points.

Decision

The Committee agreed to grant listed building consent subject to the following condition:

- 1 The works to implement this listed building consent shall begin before the expiration of 3 years from the date of this grant of listed building consent.

Reason:

Pursuant to Section 16 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

3. PLANNING APPLICATION NO. 12/00842/P: ALTERATIONS, EXTENSION TO HOUSE, FORMATION OF BALCONY, NEW VEHICULAR/PEDESTRIAN ACCESS, VEHICULAR TURNING CIRCLE AND INFILLING OF EXISTING PEDESTRIAN AND VEHICULAR ACCESS AT BEULAH, GULLANE ROAD, ABERLADY

A report had been submitted in relation to Planning Application No.12/00842/P. Mr McFarlane presented the report, summarising the key points. The report recommendation was to grant consent.

In response to questions Mr McFarlane clarified that the wall between the house and houses to the south was Category B listed and that there would be no alterations to the actual wall.

Mr Bibby, resident of The Gardens, spoke against the application. His objections were based on the adopted East Lothian Local Plan 2008, Policy DP6. He quoted from this policy. He stated that as Members would be aware from the site visit the proposed elevation would abut his boundary; it would completely dominate. It would be impossible to render the proposed southern extension without damaging the listed wall. In relation to the west elevation of the extension the proposed new windows would overlook a considerable area of his garden. The extension would double the size of the roof. The zinc finish proposed was not in keeping with existing buildings; it did not complement buildings in the locality. This proposal would result in a significant loss of privacy and amenity.

Mr Kitchen spoke against the application. He lived at 7 The Gardens, which was immediately to the south of the application site. He had 2 main objections. The block cavity wall screen at the south and east elevation of the terrace would only be 1.5

metres high; this was insufficient to protect his privacy and would allow a person of average height to be able to see into his garden, which was used daily from spring to autumn. The height of the screen should be at least 1.8 metres. His other objection concerned the zinc roof as described by Mr Bibby. His understanding was that extensions should be sympathetic to their surroundings; a zinc roof was not suited to this Conservation Area and where all properties had red pantile roofs.

In response to further questions from Members regarding the height of the proposed screen wall Mr McFarlane explained that 1.5 metres was regarded as the standard height that the Council would recommend for screening which was based on someone sitting on a balcony.

Local Member Councillor Goodfellow expressed sympathy for the objectors. He referred to the screen wall to be erected along 2 sides of the proposed roof terrace and stated that 1.5 metres was not sufficient; 1.8 metres may be sufficient. This proposal demonstrated a lack of consideration from the applicant for his neighbours. He informed the Committee that Planning Officers, not the applicant, had suggested the obscure glazing. In relation to the proposed zinc roof he stressed that there was no other zinc roof anywhere else in Aberlady. He stated for these reasons he would not be supporting this application.

Local Member Councillor Day indicated he would be supporting the report recommendation. He liked the proposed design; he felt it complemented the existing building. He disagreed with his colleague's comments regarding the zinc roof; again he liked the more modern design, it provided a narrative to the existing building. He had listened carefully to the objectors but could not find any planning reason to object to the proposal. He noted that the proposed development complied with Policy DP6.

Local Member Councillor Berry made disparaging reference to some applications previously approved by the Committee within this Conservation Area. The key question was whether or not the proposal would enhance the existing building. He felt the Grade B listed boundary wall would be completely overshadowed; there could also be potential damage. The roofing materials proposed were inappropriate. Regarding the proposed height of the screen wall, if 1.5 metres was the Council's standard this was totally inadequate in this instance; the standard needed re-examined. In conclusion, he had 3 reasons for going against the officer's recommendation: the zinc roof, the Grade B listed wall and lack of privacy. He would not support the report recommendation.

Councillor Currie remarked that the eclectic nature of buildings along Gullane Road added character to the area, although he appreciated this was subjective. He could not see any material grounds for refusal. He appreciated there was a difficulty where a change would result in more overlooking. The height of the screen wall, 1.5 metres, was however a test applied consistently across East Lothian. He understood the points made, but Members had to operate within existing policies. He would be supporting the report recommendation to grant planning permission.

Councillor MacKenzie remarked that the house was a remarkable building in places, because of the nature of its structure and style; it did need refurbished but this could be done in an imaginative way. In relation to the proposal he felt the zinc was appropriate as it fitted in with the sea and sky scape. He did however agree with colleagues that the 1.5 metres high screen wall was inadequate and thought the Committee should put forward a stipulation that it should be at least 1.8 metres.

The Convener brought the discussion to a close. He stated that most of the arguments being advanced against the application were not material planning considerations however the argument regarding overlooking had merit. He felt that the height of the screen wall should be increased from 1.5 metres to 1.8 metres; there should be a change to recommended Condition 7 to facilitate this. He stated that with this amendment he would support the recommendation to grant consent.

Councillor Day indicated he would be comfortable with this change.

Councillor Berry stated he would be prepared to support the application with this change to Condition 7.

The Convener moved that the report recommendation, with the amendment as outlined above to Condition 7, be put to the vote.

Decision

The recommendation that planning permission should be granted, with the amendment as outlined above to Condition 7, was put to the vote and received **13 votes for** and **1 vote against**; there were no abstentions. The Committee agreed to grant planning permission subject to the following conditions:

- 1 Prior to the new vehicular access being brought into use the existing vehicular and pedestrian accesses in the north roadside boundary wall of the property shall be completely infilled and the new on-site driveway, parking spaces and turning arrangements and the visibility splay of the new vehicular access shall all be laid out as shown in docketed drawing nos. AL/01/02/Rev B and AL0102/Rev C, and thereafter each shall be retained for such uses.

Prior to the new vehicular access being brought into use the proposed vehicle turntable shall have been installed and made operational. Thereafter it shall be retained in the form and place approved for it and maintained in full working order and available for use at all times to enable vehicles to access/egress the new vehicular access in a forward gear.

Prior to the new vehicular access being brought into use the first 2 metres of the driveway behind it and back from the back edge of the footpath of the adjacent public road and across the full width of the access shall be hard formed and thereafter shall be retained as such.

Any gates erected across the new vehicular access shall open into the application site and not outwards towards the A198 public road.

Reason:

In the interests of road safety.

- 2 Samples of the zinc roofing material and the lead roofing material shall be submitted to and approved in writing by the Planning Authority prior to their use in the development hereby approved, and thereafter the zinc roofing material and the lead roofing material used shall accord with the samples so approved.

Reason:

To ensure the satisfactory appearance of the development in the interest of safeguarding the character and appearance of the area, the character and appearance of the Conservation Area, the conservation objectives of the Luffness Designed Landscape and the setting of the Category B listed southeast boundary wall.

- 3 The render to be applied to the external walls of the extension, the screen walls of the roof terrace and as an external finish to the infilling of the alterations to the existing window and door openings of the existing house shall match in type, texture and colour the render on the walls of the house.

Reason:

To ensure the satisfactory appearance of the development in the interest of safeguarding the character and appearance of the area, the character and appearance of the Conservation

Area, the conservation objectives of the Luffness Designed Landscape and the setting of the Category B listed southeast boundary wall.

- 4 The natural rubble stone to be used to infill the existing vehicular and pedestrian accesses through the north roadside boundary wall shall match as close as possible in texture, colour and coursing the natural rubble stone of the existing north roadside boundary wall.

Reason:

To ensure the satisfactory appearance of the development in the interest of safeguarding the character and appearance of the area, the character and appearance of the Conservation Area, the conservation objectives of the Luffness Designed Landscape and the setting of the Category B listed southeast boundary wall.

- 5 The roof windows hereby approved shall be installed in a manner which ensures that their upper surface is as near flush as possible with the upper surface of the roof into which they are to be installed.

Reason:

To reduce the visual impact of the roof windows in the interests of protecting the character and appearance of the area, the character and appearance of the Conservation Area, the conservation objectives of the Luffness Designed Landscape and the setting of the Category B listed southeast boundary wall.

- 6 The extension hereby approved shall not be occupied until the first floor level window of its west elevation that is marked on the docketed drawings to be obscure glazed is obscure glazed and thereafter that window shall remain obscure glazed unless otherwise approved by the Planning Authority.

Reason:

To safeguard the privacy and amenity of the occupiers of the neighbouring residential property of 6 The Gardens to the south.

- 7 No use shall be made of the roof terrace hereby approved unless the 1.8m high screen wall is in place in its entirety on the east and south sides of it, as specified on the docketed drawings and thereafter that screen wall shall be retained.

Reason:

To prevent harmful overlooking of the neighbouring residential properties to the south and east in the interests of safeguarding the privacy and amenity of that property.

Sederunt – Councillor Veitch left the meeting

4. PLANNING APPLICATION NO. 12/00925/P: ERECTION OF 1 HOUSE AND ASSOCIATED WORKS AT GLENCONNER, 28 DIRLETON AVENUE, NORTH BERWICK

A report had been submitted in relation to Planning Application No.12/00925/P. Mr McFarlane presented the report, summarising the key points. The report recommendation was to grant consent.

Mr McFarlane and Grant Talac, Transportation Planning Officer, responded to questions from Members in relation to the access.

Mr McIntyre of EMA Architecture, the agent, addressed the Committee. He indicated that no objections had been received in relation to density of the plot, the trees would be protected by a Tree Preservation Order and the architectural style was appropriate. The access issue had been discussed at the site visit; Transportation Officers were content. With regards to road safety and the junction of Hamilton Road/Links Road he stated there were more than 40 houses, a hotel and a nursing home in the vicinity; adding a single extra house was irrelevant. He informed

Members that residents of the 5 flats of Glenconner would still have pedestrian and cycle access. The proposal would have little impact on the surrounding properties.

Local Member Councillor Goodfellow congratulated the architect on the design, stating it fitted well into the Conservation Area. However, he could not support the application on the grounds that to use an access that had fallen out of use over many years and which he considered was not safe, was not acceptable. In addition, the site was only 20 metres from traffic lights and had very poor sight lines. He could not support this application.

Local Member Councillor Day indicated he would be supporting the officer's recommendation. The architect had shown that the proposal would complement the existing design; it did not constitute an overdevelopment and there was a history of infill in this area. His colleague was right to raise the issue of vehicular access but this issue had also arisen in relation to an earlier planning application for the Bass Rock Garage. He felt this could be addressed if drivers exercised caution and the presence of traffic lights might actually slow traffic down.

Local Member Councillor Berry understood why North Berwick Community Council had objected to this application but it was very similar to another site further along Dirleton Avenue. He did not think this was necessarily infill in the typical sense as there was plenty of space on site. The architect had devised something sympathetic to the existing buildings and with the tree screening there would be no intrusion to anyone else. So, while he had similar concerns along with his colleague regarding vehicular access, he did feel able to support this application.

The Convener brought the discussion to a close. He indicated that he would be supporting the recommendation to grant planning permission as set out in the report, and moved that this be put to the vote.

Decision

The recommendation that planning permission should be granted was put to the vote and received **12 votes for** and **1 vote against**; there were no abstentions. The Committee agreed to grant planning permission subject to the following conditions:

- 1 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.

- 2 Prior to the occupation of the house hereby approved the access, turning and parking areas shall be laid out as shown in docketed drawing nos.11016(11)001 Rev B and 11016(11)002 Rev B, and thereafter the access, turning and parking areas shall be retained for such uses.

'In-curtilage' parking for at least 2 vehicles shall be provided.

Prior to the occupation of the house and the use of the driveway, all as hereby approved, a permanent vehicle bollard shall be erected in the position shown for it on docketed drawing nos. 11016(11)001 Rev B and 11016(11)002 Rev B and shall thereafter be retained in such position. Details of the vehicle bollard shall be submitted to and approved in writing by the Planning Authority prior to its erection on the site.

Reason:

To ensure provision of a safe access and adequate parking and turning in the interests of road safety.

- 3 No development shall be carried out unless and until a schedule of materials and finishes and samples of such finishes has been submitted to and approved in advance by the Planning Authority for the: -

- i. render and natural stone of the external walls, including the colour of the render;
- ii. rosemary clay tiles of the roof; and
- iii. natural stone to be used for the base course, crow-steps, window and door surrounds

Thereafter, the materials used shall accord with the samples, including any colouring, so approved.

Reason:

To enable the Planning Authority to control the materials, finishes and colour to be used to achieve a development of good quality and appearance in the interest of the visual amenity of the area, the character and appearance of the Conservation Area and the setting of the listed building of 28 Dirleton Avenue.

- 4 A sample of the gravel to be used to surface the hardstanding area to be used as a driveway shall be provided for the inspection and approval of the Planning Authority prior to the use of such ground surfacing within the development, and thereafter the gravel used shall accord with the sample so approved.

Reason:

To enable the Planning Authority to control the materials, finishes and colour to be used to achieve a development of good quality and appearance in the interest of the visual amenity of the area, the character and appearance of the Conservation Area and the setting of the listed building of 28 Dirleton Avenue.

- 5 The frames of the windows and where relevant their astragals and the frames of the external doors and patio doors shall be of timber construction. The external doors shall be of timber or timber and glazed construction.

The timber frames of the windows and where relevant the timber astragals shall be painted white, unless otherwise approved by the Planning Authority.

Reason:

In the interest of the visual amenity of the area, the character and appearance of the Conservation Area and the setting of the listed building of 28 Dirleton Avenue.

- 6 Other than the three trees to be removed from the eastern part of the application site as denoted on docketed drawing no. 11016(11)001 Rev B and 11016(11)002 Rev B and in the Tree Survey and Arboricultural Constraints Report no trees or bushes which are to be retained on the site shall be damaged or uprooted, felled, lopped, or topped without the prior written consent of the Planning Authority.

Reason:

To ensure the retention of vegetation important to the appearance and environment of the development and the character and appearance of the Conservation Area.

- 7 In the first planting and seeding season (October - March) following the felling of the three trees hereby approved to be removed from the eastern part of the site, or the completion of works, whichever is the sooner, three replacement trees shall have been planted on the application site, in positions to be approved in advance in writing by the Planning Authority. Details of the proposed replacement planting, including the species and size of the replacement trees, shall be submitted for the prior approval of the Planning Authority and thereafter the replacement tree planting shall be carried out in accordance with the approved details unless otherwise approved by the Planning Authority.

In the event that any such replacement tree(s) dies, is removed, or becomes seriously damaged or diseased within a period of 5 years following planting they shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

Reason:

In order to ensure the implementation of a landscaping scheme to enhance the appearance of the development in the interests of the landscape amenity of the area and of the Conservation Area.

- 8 No development shall take place on site until temporary protective fencing to protect the trees along the north, east and south boundaries of the site has been installed and approved in writing by the Planning Authority.

The temporary protective fencing shall comprise of standard scaffold poles as uprights driven into the ground avoiding tree roots, with 3 standard scaffold poles as horizontal rails (top, middle and bottom), all with weldmesh wired to uprights and rails, should be 2.3 metres in height, unless otherwise approved by the Planning Authority, and shall be erected prior to works commencing and kept in good condition throughout the works, all in accordance with Figure 2 of British Standard 5837: 2005 'Trees in Relation to Construction'. The temporary protective fencing shall be tied into the hedge along the north boundary of the site and into the south (roadside) boundary fence.

Details of the temporary protective fencing and its position shall be submitted for the prior approval of the Planning Authority and thereafter the temporary protective fencing erected shall accord with the details so approved.

All weather notices should be erected on said fencing with words such as "Construction exclusion zone - KEEP OUT". Once erected the temporary protective fencing shall be retained in place until works on the application site have been completed and all plant and machinery associated with those works have been removed from the site.

Within the fenced off areas the existing ground level shall neither be raised nor lowered, no materials, temporary buildings, plant, machinery or surface soil shall be placed or stored and no herbicides shall be used.

Care should be taken when planning site operations to ensure that wide or tall loads, or plant with booms, jibs and counterweights can operate without coming into contact with any retained trees.

Material that will contaminate the soil, e.g. concrete/mortar mixing, diesel oil, paints, solvents and vehicular washings, should not be discharged within 10m of any retained tree stem. It is essential that allowance be made for the slope of the ground so that such damaging materials cannot run towards retained trees.

Fires should not be lit in a position where their flames can extend to within 5m of tree foliage, branches or trunk, and due cognisance must be taken of wind speed and direction prior to and during such operations.

Details of any trenches or services in the fenced off areas shall require the prior consent of the Planning Authority and all trenches shall be dug and backfilled by hand. Any tree roots encountered with a diameter of 25mm or more shall be left unsevered.

Reason:

In order to ensure protection of the trees within and outwith the application site in the interests of safeguarding the landscape character of the area and of the Conservation Area.

5. PLANNING APPLICATION NO. 11/00699/P: CHANGE OF USE FROM BUTCHER PROCESSING UNIT TO HOT FOOD TAKEAWAY AND INSTALLATION OF FLUE AT MCKIRDY BROTHERS, 29 LINKS ROAD, LONGNIDDRY

A report had been submitted in relation to Planning Application No.11/00699/P. Mr McFarlane presented the report, summarising the key points. The report recommendation was to grant consent.

Mr McFarlane responded to questions regarding the ventilation system and the opening hours. Ms Ferguson clarified matters in relation to licensing issues.

Mr Rose spoke against the application on behalf of Longniddry Community Council. The Community Council had 3 main concerns. Ventilation issue: there were quite a few houses at the back of the shop where the ventilation fumes would be dispersed, which would affect these properties. Opening hours: this site was in the centre of the village, it was a very quiet area and the proposed takeaway would cause a lot of disturbance. CCTV: there was an adequate CCTV system in the centre of the village, however at the application site there were many blind spots with no CCTV coverage. He referred to the car park behind the site and to potential antisocial behaviour issues, which had occurred previously at this location. He asked, if this application was to be approved, if the opening hours could be restricted to 10pm.

In response to questions from Members Mr Rose detailed the closing times of the other facilities in the vicinity.

Mrs Wilmshurst spoke against the application. The shops at the west side of Links Road were central to the community life of the village; the tenants took pride in their premises. She questioned what would happen if the applicant decided to sublet in the future. The use of a unit as a hot food takeaway would substantially change the nature of that environment. As outlined the parking available at the front of these shops was limited, it was inevitable that cars would park on Links Road, already a busy road. This application would result in an increased gathering of people as there were a number of areas where people could gather to eat their takeaway food; this may cause damage to property. The takeaway would generate more traffic, noise, groups of people and would be detrimental to the whole village community.

Local Member Councillor MacKenzie referred to previous incidents of youth disorder and police intervention in Longniddry. He stressed that the feeling of local residents was in opposition to statements in the report; to maintain the amenity of the village had needed a sensitive touch and reflection on previous history. He expressed alarm at the proposed opening hours and the associated traffic noise and disturbance. If Members were inclined to support this application he asked that opening hours be restricted as outlined by Mr Rose. He would not be supporting this application as it would result in a severe detriment to the amenity of the area.

Local Member Councillor Innes referred to Councillor MacKenzie's comments and stated that these patterns of behaviour had occurred without the presence of a hot food takeaway. Other communities had these facilities and managed to co-exist. Other areas had takeaways much closer to residential properties and the environmental consequences were managed. He stressed that only 3 people had submitted objections. This was not an isolated quiet area; the area contained several shops and a number of other facilities. He did have concerns however about the hours of operation; the Council did try to ensure that hot food takeaways were closed

before licensed premises. He would be supporting the report recommendation but would like to restrict the opening hours to 10.30pm.

Councillor Currie commented that antisocial behaviour was controllable under other legislation. This proposal would impact on the local community, the question was whether this would be acceptable or not. On balance he felt the impact would be detrimental. There would also be displacement of parking. He would not be supporting the report recommendation to grant consent.

Councillor Gillies noted that the premises were currently vacant. He felt that this business initiative should be supported. He would support the report recommendation.

Councillor McNeil expressed agreement with Councillor Innes that 10.30pm was a more suitable closing time. With regard to the objection about ventilation he asked if officers were satisfied that the extractor would remove odours, which had been a concern of the Community Council.

Mr McFarlane advised that the ventilation system had been reviewed by Environmental Health; no issues were raised. The system met the required standards. The conditions attached to the grant of permission would secure compliance with these. Councillor McNeil stated in that case he would be prepared to support the application.

Councillor Berry remarked that it was usual to have resistance and objections to applications for hot food takeaways. He appreciated that local residents may have more disturbance than before but the question was whether they also wanted more facilities. Longniddry was a fairly large village with a retail centre. The takeaway would provide some employment. It would also stop people driving to other areas for takeaways. He stated that the suggestion from Councillor Innes for closure at 10.30pm was sensible.

Councillor Grant indicated it was unfortunate the applicant was not present. He did not see any sound planning reasons for refusal. He was wary of restricting the hours without specific reason. He would support the application.

The Convener brought the discussion to a close. He referred to concerns expressed by residents but stated that many town centres in East Lothian had hot food takeaways, the Council had policies in place to exercise control. In relation to antisocial behaviour issues these were not the fault of the operator of the facility; it was up to the Council and the Police to deal with any issues. This hot food takeaway application should not be treated any differently than any similar application in other areas of East Lothian. He would be supporting the report recommendation. However, due to concerns raised by Members, a vote would be taken to determine whether to restrict the opening hours to 10.30pm before taking the vote on the application: **in favour of an amendment to restrict the opening hours - 11 votes, against - 2 votes.**

Decision

The recommendation that planning permission should be granted, with the amendment to condition 3 as outlined, was put to the vote and received **11 votes for** and **2 votes against**; there were no abstentions. The Committee agreed to grant planning permission subject to the following conditions:

- 1 Prior to the commencement of use of the premises as a hot food takeaway as hereby approved the extract ventilation system used to vent the premises, including the flue approved by this grant of planning permission shall be designed and installed in accordance with what is stated in the 'Proposed Odour Abatement System' section of The Airshed Odour Impact Assessment docketed to this planning permission and the extract ventilation system shall be maintained to ensure its continued satisfactory operation and any cooking processes reliant on the extract system shall cease to operate if, at any time, the extract equipment ceases to function effectively in accordance with these requirements.

Reason:

To ensure the use of the premises as a hot food takeaway does not because of cooking odours harm the amenity of nearby residential properties.

- 2 The design and installation of the extract ventilation system and any other plant and equipment used in association with the operation of the hot food takeaway hereby approved shall be such that any associated noise emanating there from does not exceed noise rating curve NR20 at any octave band frequency when measured within any nearby residential building. Noise measurements shall be taken with the windows of the nearby residential buildings open at least 50mm.

Reason:

To ensure the use of the premises as a hot food takeaway does not because of noise impact harm the amenity of nearby residential properties.

- 3 The hours of operation of the use of the hot food takeaway hereby approved (including the operation of plant and machinery) shall only be between 7.30 am and 10.30 pm on Mondays to Sundays inclusive.

Reason:

To safeguard the amenity of the area, including the amenity of nearby residential properties.

6. PLANNING APPLICATION NO. 12/00862/PP: PLANNING PERMISSION IN PRINCIPLE FOR THE ERECTION OF 1 HOUSE AND INSTALLATION OF CCTV LINK AT EAST LOTHIAN GOLF RANGE, MEADOWMILL, TRANENT

A report had been submitted in relation to Planning Application No.12/00862/PP. Mr McFarlane presented the report, summarising the key points. The report recommendation was to refuse the application.

Mr McFarlane responded to questions from Members in relation to Section 75 Agreements and the Police report.

Local Member Councillor Innes stated that the applicant had invested a significant amount into the business, which supported one of East Lothian's key economic factors - golf. With regard to Policy DC1, he stated that looking at this site it was clearly not open countryside. This was a genuine attempt by the applicant to protect his business; he felt a house onsite was required for security reasons. This was supported by the Crime Prevention Report. Given the history of incidents he would be supporting the application. The number of incidents was affecting the profitability of the business. He asked Members to support the application, linked to a S75 Agreement, which would allow the applicant to continue running his business that supported the local economy.

Councillor McLeod indicated that the applicant had operated this business at Meadowmill for 15 years. He remarked that the Council supported large businesses in East Lothian, and rightly so, but also needed to support small businesses. He referred to the incidents of theft, stating that replacing the stolen equipment had cost the applicant a considerable amount. The applicant took pride in his business and wished to continue to improve it; he needed the Council's support.

Councillor Grant referred to Policy DC1, remarking that there may be a question why this land had been allocated under this policy but nonetheless it was so defined. He could not see the operational business need for the residential property. He noted the comments from the Police as detailed in the report; he also noted the comments made by Councillors Innes and McLeod. He stated he was always concerned about setting a precedent, which would be the case if this application was granted. He would not be supporting the application.

Councillor Gillies commented that he would not usually go against the officer's recommendation but in this case he would be supporting the application as he felt a good business case had been made.

Councillor Day expressed sympathy for the applicant but agreed with Councillor Grant in relation to Policy DC1. This formed the substance of the report. He remarked that similar discussions had taken place at a previous Local Review Body meeting. The land perhaps did not look like it should be defined by Policy DC1 but, it was so defined. He would support the officer's recommendation to refuse the application.

Councillor Currie referred to comments made in relation to Policy DC1. He remarked that the next issue, after Policy DC1, was the question of whether there was an operational link to the business. The applicant had put forward a proposal, had stated there was a requirement to have this house nearer to the golf range, which had qualified support from the Police. He was inclined to support this proposal because a S75 Agreement would presumably contain appropriate wording to make the house an operational requirement of the business and, presumably, the legal position would be that once this S75 Agreement was in place the house could not be sold off separately. He would be supporting the application.

Councillor Goodfellow expressed agreement with Councillor Currie's decision but requested clarification regarding the S75 Agreement. He asked if an extra clause could be inserted into the S75 Agreement stipulating that should an application be submitted to vary or discharge the S75 Agreement then that decision would have to come back to the Planning Committee.

Ms Ferguson clarified the position in relation to S75 Agreement matters and advised that such decisions were currently delegated to officers.

Councillor McMillan quoted from Policy DC1, Part 1(b), which allowed for new housing development in the countryside where operational need had been satisfactorily demonstrated. He added that there were some words within this part of the Policy that the Committee had to consider. It was unfortunate that more detail from the Police report had not been provided. He stressed that the main point was that the presence of that house would maintain the business and deter unwelcome visitors. This was a unique case. The Police report stated there had been 6 incidents; this needed to be given more weight. He would be supporting the application.

Councillor Berry indicated it was a good argument to make that the business needed a house onsite to enable the business to progress. The concern was Policy DC1, which Members had to take at face value. In relation to residential properties in the vicinity there were St Joseph's cottages, but only one was occupied. An argument had been made for supporting the business, but there were other ways to do this. He agreed with the report recommendation to refuse this application.

The Convener brought the discussion to a close. He noted the arguments for and against the application. He agreed this was a very good business for East Lothian, which had been in operation for 15 years. He had concerns however about contravening Policy DC1 and drew attention to the second reason for refusal as detailed in the report. He stated there was a process that the applicant could go through to take this land out of Policy DC1. He would be supporting the recommendation to refuse planning permission as set out in the report and moved that this be put to the vote.

Decision

The recommendation that planning permission should be refused was put to the vote and received **7 votes for** and **6 votes against**; there were no abstentions. The Committee agreed to refuse to grant planning permission for the following reasons:

- 1 It is not demonstrated that the building of a new house on the application site is a direct operational requirement of an agriculture, horticulture, forestry or other employment use in the countryside of East Lothian and neither is it demonstrated that there is a justifiable operational security need at the East Lothian Golf Range for the proposed new build house. Consequently, and because the proposed new build house would constitute isolated, sporadic development in the countryside of East Lothian it is contrary to Part 1(b) of Policy DC1 of the adopted East Lothian Local Plan 2008 and Policy ENV3 of the approved Edinburgh and the Lothians Structure Plan 2015.
- 2 If approved the proposed development would set an undesirable precedent for the development of new houses in the countryside of East Lothian, the cumulative effect of which would be the suburbanisation of the countryside to the detriment of its character and amenity.

Signed

Councillor Norman Hampshire
Convener of the Planning Committee