

REPORT TO: Planning Committee

MEETING DATE: Tuesday 1 September 2015

BY: Depute Chief Executive
(Partnerships and Community Services)

SUBJECT: Application for Planning Permission for Consideration

Note - this application was called off the Scheme of Delegation List by Councillor Berry for the following reason: I believe that change of use might impede neighbours' ability to access their own equivalent ground. This needs full consideration by the committee.

Application No. **15/00322/P**

Proposal Change of use of open space to car parking area

Location **13 Hopetoun Terrace
Gullane
East Lothian
EH31 2DD**

Applicant Mrs Doreen Sinclair

Per Colin Sinclair

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

The site that is the subject of this planning application consists of the residential property of 13 Hopetoun Terrace and an area of land that is immediately to the (rear) west of it. To the west of the rear boundary wall of the property of 13 Hopetoun Terrace is a small shrub bed, a grassed area of land, part of a mutual access that serves the residential properties of 13-23 Hopetoun Terrace and beyond that a planted area containing trees and bushes. The site is located within a predominantly residential area as defined by Policy ENV1 of the adopted East Lothian Local Plan 2008. It is also within Gullane Conservation Area.

In May 2014 planning permission (Ref: 14/00440/P) was sought for (i) the change of use of the part of the application site to the rear of the residential property of 13 Hopetoun Terrace from open space to a car parking area and (ii) the erection of six bollards that would enclose that area of land the subject of the proposed change of use. At their meeting on 2nd September 2014 the Planning Committee decided to refuse planning permission 14/00440/P. The reason for the refusal to grant planning permission was that "the visual impact of the bollards would be detrimental to the character of the

conservation area". Thus, the sole reason for the refusal of planning permission 14/00440/P related to the visual impact of the bollards. In that regard the Planning Committee considered that the proposed change of use was acceptable.

The applicant appealed against that decision to the Scottish Government's Directorate of Planning and Environmental Appeals on 29th December 2014.

On 23rd March 2014 the Reporter, appointed by the Scottish Ministers to determine the appeal, dismissed the appeal and refused planning permission 14/00440/P.

In reaching that decision he considered that the erection of six sizeable bollards would have an urban appearance out of character in this village location. Moreover, stainless steel would be a conspicuous and alien material in the context of the Conservation Area. He therefore found that the erection of the proposed bollards failed to have regard to the need for high quality design and would not preserve or enhance the Conservation Area.

In reaching his decision the Reporter stated that he agreed with the Council that the change of use of the small area proposed for domestic parking purposes would not be harmful to the character, appearance or residential amenity of the locality or to the preservation or enhancement of the Conservation Area.

Planning permission is now sought for the change of use from open space to a car parking area of the part of the application site to the rear of the residential property of 13 Hopetoun Terrace.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan unless material considerations indicate otherwise.

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Plan 2008.

Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan) and Policy ENV4 (Development Within Conservation Areas) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

Material to the determination of the application are Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Scottish Government's policy on development within a conservation area given in Scottish Planning Policy: June 2014.

Scottish Planning Policy echoes the statutory requirements of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that a planning authority must have regard to the desirability of preserving or enhancing the character or appearance of a conservation area in exercising its responsibilities in the determination of any application for planning permission for development affecting a conservation area. It is stated in Scottish Planning Policy that proposed development within conservation areas and proposals outwith which will impact on its appearance, character or setting, should preserve or enhance the character and appearance of the conservation area. Proposals that do not harm the character and appearance of the conservation area should be treated as preserving its character and appearance.

Six written objections to the application have been received.

The main grounds of objection are that:

(i) the area of land is amenity ground which is enjoyed by all the neighbours with access and any development encroaching onto this space will limit access and use of the area for all those who have rights over such;

(ii) the applicant was apparently party to an informal agreement made some 40 years ago to allow planting (comprising of trees and shrubs) on the mutual access to the rear of the row of terrace houses of Hopetoun Terrace (numbers 13-23). Unless the existing trees are removed and the original mutual access reinstated (as per is shown in Title Deed plans), which would need to be surfaced with appropriate material to allow the passage of vehicles, the residents of the neighbouring properties of 15-21 Hopetoun Terrace will be denied access to park their vehicles to the rear of their properties. Furthermore, as the trees are within the Conservation Area the removal of them would require approval from the Council's Landscape department;

(iii) the applicant has not provided any proposal to reinstate the mutual access to allow vehicle access to the neighbouring properties of 15-21 Hopetoun Terrace. Even without the bollards vehicular access would be severely restricted and only possible if the well established amenity belt of trees and shrubs were removed;

(iv) Delivery, maintenance and emergency vehicles would encounter severely restricted access as would dog walkers, families with push chairs and children walking through between Hopetoun Terrace and Goose Green. Reversing vehicles would be a serious hazard with drivers visibility severely restricted;

(v) the approval of this planning application will set a precedent for others to follow suit which would spoil and restrict the area even more;

(vi) the applicant could park his car on the main road or within Goose Green;

(vii) At present Hopetoun Terrace suffers very badly from the high number of vehicles parked on the carriageway. If this application was approved then up to eight additional vehicles could be forced to park on the carriageway.

Whether or not the applicant could park his car elsewhere is not a material planning consideration in the determination of this planning application.

Approval of this application would not set an undesirable precedent for similar proposals to be made elsewhere. Any future application seeking planning permission for the change of use of open space to a car parking area would be assessed on its individual merits.

The existing narrow access lane to the rear of the applicant's house and garden is a private road and thus no changes are being proposed to public paths, public rights of way nor would it affect any public rights of access as a result of the proposal.

Matters raised by the objectors concerning rights of access, title deeds, and mutual agreements made with other parties are not material planning considerations in the determination of this planning application.

There is no proposal to change the surface of the land the subject of the proposed change of use. The proposed change of use would not be harmful to the character, appearance and residential amenity of the locality or to the character and appearance of this part of the Gullane Conservation Area. Use of the land for car parking to serve the

applicant's house would not be harmful to the amenity of neighbouring residential properties.

The Council's Road Services raise no objection to the proposed change of use.

The landscape advice from Policy and Projects is that the proposed area of land the subject of the change of use is outwith the root protection areas of the small trees to the west of the site. They therefore raise no objection to the proposals.

On these considerations the proposal is consistent with Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan), Policy ENV4 of the adopted East Lothian Local Plan 2008 and with Scottish Planning Policy: June 2014.

CONDITION:

1 None.