

**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

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*Note - this application was called off the Scheme of Delegation List by Councillor Goodfellow for the following reason: I believe the level of overshadowing of neighbouring gardens is unacceptable.*

Application No. **15/00511/P**

Proposal Extension to house with 1st floor balcony, formation of decked area and erection of screen

Location **53 Old Abbey Road  
North Berwick  
East Lothian  
EH39 4BP**

Applicant Mr Niall Middleton

Per Christopher Thomson Design

RECOMMENDATION Consent Granted

#### PLANNING ASSESSMENT

This application relates to a two storey detached house and its garden ground that is located within North Berwick, in a predominantly residential area as defined by Policy ENV1 of the adopted East Lothian Local Plan 2008.

In September 2013, planning permission 13/00620/P was granted for a two storey flat roofed extension to be attached to the rear elevation of the house, as a replacement for an existing extension. That planning permission was also for the change of use of an area of land formerly used as a builders yard that abuts the north side of the garden ground of the house to domestic garden ground. Planning permission 13/00620/P has not been implemented and is extant until September 2016.

In October 2014 planning permission 14/00717/P was granted for the erection of a two storey detached house with ancillary residential accommodation in the garden ground to the west side of the house. Planning permission 14/00717/P has been implemented and the house and ancillary accommodation are under construction.

Planning permission is now sought for a two storey extension of a different architectural form and appearance to the two storey extension approved by the grant of planning permission 13/00620/P, again to be attached to the rear (north) elevation of the existing extension.

The now proposed extension would have a ground floor component with a narrower first floor, monopitch roofed component above it. There would be a 1st floor balcony formed at the northern end of the first floor component and additionally a split-level area of decking would be formed at ground floor level.

It is also proposed to heighten the existing brick wall enclosing the east boundary of the rear garden by installing a timber screen opposite the proposed ground floor decking, taking the total height to 2 metres or 1.8 metres above finished floor level of the ground floor decking.

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 DP6 (Extensions & Alterations to Existing Buildings) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

One letter of objection has been received in relation to the proposal. The main grounds of objection are:

- 1) Loss of privacy
- 2) Harmful overshadowing/loss of light
- 3) Visual amenity/loss of view
- 4) Design, appearance and materials
- 5) Layout and density
- 6) Ownership of the boundary wall upon which screening will be installed
- 7) Accuracy of plans with regards to cardinal directions (north point)
- 8) Accuracy of plans with regards to proximity of 47 Old Abbey Road
- 9) Planning policy contravention

The loss of a view from existing neighbouring residential properties is not a material consideration in the determination of the application.

The ownership of the boundary wall is a private legal matter between the neighbours of 53 and 47 Old abbey road and is not a material consideration in the determination of this application.

The accuracy of the plans has been examined via a site visit during which distances between buildings and the positioning of existing buildings were confirmed to be accurate. The cardinal directions of the supplied plans were initially inaccurate, however these have been rectified via submission of amended drawings.

The proposed extension would require the removal of the current pitched roof of the existing extension. Planning permission is not required for this so it is not the subject of the application.

The current pitched roof would be replaced with a shallow mono pitched zinc roof containing solar panels. The roof height of existing extension component would slope with a height difference of 700mm from east to west, and the roof being some 7 metres in

height at its highest point. There are no glazed openings to be formed in either the east or west elevation walls.

The ground floor flat roofed component of the proposed extension would measure some 7.65m out from the rear (north) elevation of the existing two storey extension attached to the rear of the house and would be some 3.7 metres in height from ground level at its highest point, and some 10.8 metres wide at its widest point. An area of decking would protrude a further 3.5m out from the rear elevation of that ground floor component of the proposed extension, split into two areas with a height difference of some 0.5 metres. The higher area of decking would be surrounded by a 1600mm opaque glass screen. It is proposed there would be glazed openings formed on all elevations of the proposed ground floor component. The side (west) elevation would contain 3 high level hopper type windows. The other side (east) elevation would contain 2 high level hopper type windows. The front elevation would contain 2 sets of large sliding glazed door openings with additional glazed surrounding windows. The vertical walls of the proposed ground floor component would be clad with 'Corten' steel mesh cladding.

The first floor component would extend some 5.5 metres out from the rear elevation and wrap around the west elevation of the existing extension, with an enclosed first floor timber balcony fully covered by the shallow monopitched roof finished in zinc. The building lines of the eaves of the east elevation of the first floor component would be set some 2 metres in from the east edge of the ground floor flat roofed component. The building lines of the eaves of the west elevation of the first floor component would be set some 0.5 metres in from the west edge of the ground floor flat roofed component. The flat roofed area left by the setback would contain a live (grassed) roof covering. The roof height of the first floor component would slope with a height difference of 100mm from west to east, and the roof being some 6.3 metres at its highest point. The side (west and east) elevations would contain no glazed openings. The front elevation would contain a large expanse of glazed openings with a glazed door opening allowing access onto the proposed balcony. The east side elevation of the proposed first floor component would be finished with zinc cladding, whilst the west side elevation would be clad with vertical timber battens.

The proposed extension would be architecturally different to the existing house. It would in part be two storey in height and with the decking would extend some 11m into the rear garden of the house. Thus it would have a substantial footprint. The ground and first floor components would however have a smaller combined footprint than the existing house and extension. Therefore and as the flat top of the first floor component extension would be some 4 metres lower in height than the existing house it would, in terms of its size and scale, be a subservient addition to the house. By virtue of this and of its modern architectural form and building materials with large modern style glazed openings it would be a contemporary, subservient addition to the rear of the house that would not compete with but would complement the character and appearance of the house.

Due to its positioning some 3.7m away from the east boundary of the property and by virtue of its architectural form, size and upper floor setback, the proposed extension would not be of such a size as to have a harmfully dominating or overbearing affect on the neighbouring house to the east, the house being built to the west or the ancillary accommodation to that house. Therefore and as the extension would be visually contained to the rear of the house and only be seen in limited public views from Old Abbey Road it would not harm the character and appearance of the house or the character and appearance of the streetscape of Old Abbey Road.

Although large in size the proposed extension would not be an overdevelopment of the large rear garden. A 3m length of the existing rear garden ground would remain beyond

the proposed area of decking and the 3.7m wide driveway that exists on the east side of the property would also remain in place. Furthermore through the grant of planning permission 13/00620/P planning permission has been granted for the change of use of the area of land beyond what is presently the rear boundary of the garden, land which was formerly used as a builder's yard, to garden ground. This gives the house of 53 Old Abbey Road an additional 196 square metres of garden ground and a parking and turning area. Therefore the proposed extension would not be an overdevelopment of the garden ground of the house.

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 separating distance between the windows of a proposed new building and the garden boundaries of neighbouring residential properties and an 18 metres separating distance between directly facing windows of the proposed new building and the windows of existing neighbouring residential properties.

The glazed openings on the north elevations of both ground and first floor components of the proposed extension and the first floor balcony and area of decking would face directly over the rear garden of the applicant's house and onto the railway beyond. Thus they would not give rise to harmful overlooking of any neighbouring residential properties.

The glazed window openings proposed for the east and west side elevations of the ground floor component of the proposed extension would face towards and be within 9m of the east and west boundaries of the property. However those openings would be of such a height above floor level that it would not be possible for occupants of the ground floor to see out of them. Therefore they would not give rise to harmful overlooking of any neighbouring residential properties to the east and west.

With regards the first floor balcony, it would be fully enclosed at both ends, preventing anyone using the first floor balcony from looking directly onto the rear gardens of the neighbouring houses to the east and west. Furthermore, the east elevation wall of the proposed first floor component would extend 1 metre beyond the balcony, forming a screen, further preventing anyone using the first floor balcony from looking obliquely onto the rear gardens of the neighbouring houses to the west. Provided the screen is installed prior to any use being made of the balcony, which can be made a condition of a grant of planning permission, then that balcony would not allow for harmful overlooking of the rear garden of the neighbouring residential property to the west.

Similarly, the raised timber deck on ground floor level would have its north and west edges enclosed with 1.6m high obscurely glazed screens. Those screens would be of sufficient height to mitigate potential overlooking from the raised decking to the rear garden of the neighbouring house to the west. Provided the screen is installed prior to any use being made of the raised timber deck, which can be made a condition of a grant of planning permission, then that timber deck would not allow for harmful overlooking of the rear garden of the neighbouring residential property to the west.

The proposed timber screen to be added on to the east boundary wall would, by being some 1.6 metres above the finished floor level of the lower area of decking, ensure that there would not be overlooking of any neighbouring residential properties to the east from the proposed decking extending from the north elevation of the proposed extension. It can be made a condition of a grant of planning permission that the timber screen is in place prior to any use being made of the decking.

Other openings could be formed in the east and west elevations of the extension under

permitted development rights. Therefore to safeguard the privacy and amenity of the occupiers of the neighbouring houses to the east and west it should be made a condition of a grant of planning permission that the permitted development rights to form new openings in the first and ground floor of the east and west elevations of the proposed extension be removed. Subject to this planning control the proposed extension would not allow for harmful overlooking of any neighbouring residential properties.

"Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice" by P.J. Littlefair gives guidance on the impact of a proposed extension on the daylight and sunlight received by neighbouring properties.

In the Guide it is stated that in designing an extension to a building it is important to safeguard daylight and sunlight to nearby buildings.

The Guide states that no more than a quarter of a main back garden of a neighbouring residential property should be prevented from receiving any sunlight on the 21st of March due to overshadowing from new development.

The neighbouring garden to the east - the garden of 47 Old Abbey Road - is a north facing garden. Consequently that garden is already overshadowed for parts of the day by the shadow cast by the combined built form of the pair of semi detached houses comprising 47 Old Abbey Road and 45 Old Abbey Road. At present that neighbouring rear garden begins to move out of shadow at 2pm on the 21st of March.

Application of the sunlight test on the proposed extension demonstrates that it would cast shadow onto part of the rear garden of 47 Old Abbey Road between the hours of 2pm and 4pm. Although the shadow cast by the proposed extension is of some size, because it is only cast for a period of two hours, it is not so significant as to have a detrimental effect on the amount of sunlight received by the rear garden of 47 Old Abbey Road.

The test demonstrates that the proposed extension would cast a shadow onto the rear garden of the new house adjacent to 53 Old Abbey Road between the hours of 8am and 10am. Because it is only cast for a period of two hours it is not considered to have a detrimental effect on the amount of sunlight received by the rear garden of the new 53 Old Abbey Road.

Consequently, the proposed extension would not, due to its height, size, and positioning, result in a harmful loss of sunlight to the adjoining houses of 47 and adjacent to 53 Old Abbey Road. Nor would it result in a harmful loss of sunlight to any other neighbouring residential property.

With regard to daylight the Guide gives a two-part test, one part measured horizontally and the other vertically. The Guide advises that there will not be a harmful loss of daylight if a proposed extension passes at least one part of the test when applied to a window of a neighbouring house. This two-part test is applied to the proposed extension relative to the existing windows on the rear (north) elevations of adjoining houses of 47 and that adjacent to 53 Old Abbey Road.

Application of the horizontal and vertical daylight tests to the proposed extension relative to those windows demonstrates that the proposed extension passes both the horizontal and vertical daylight tests. Consequently, the proposed extension would not, due to its height, size, and positioning, result in a harmful loss of daylight to the adjoining houses of 47 and the new 53 Old Abbey Road. Nor would it result in a harmful loss of daylight to any other neighbouring residential property.

On all of these considerations of design and amenity, the proposed extension and fencing would be consistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) and Policies DP2 and DP6 of the adopted East Lothian Local Plan.

#### CONDITIONS:

- 1 No use shall be made of the raised decking at the ground floor north elevation of the extension hereby approved unless and until its north and west boundaries are enclosed by an obscurely glazed screen, of a height at least 1.6 metres above the height of that area of decking, along its western edge as specified on the drawings docketed to this planning permission.

Thereafter the screening so approved shall remain in place unless otherwise approved by the Planning Authority.

Reason:

In the interests of the privacy and amenity of the neighbouring residential property to the west.

- 2 No use shall be made of the north facing, first floor balcony of the extension hereby approved unless and until the full height screen to be formed by the denoted 1 metre long extension of the timber clad west wall, at the northwest corner of the first floor component of the extension, is completed as specified on the approved drawings docketed to this planning permission.

Thereafter the screening so approved shall remain in place unless otherwise approved by the Planning Authority.

Reason:

In the interests of the privacy and residential amenity of the adjoining house and ancillary accommodation to the west.

- 3 The lower decking hereby approved as part of the extension shall not be used either: unless and until a timber screen fence is erected along the 8.5 metres partial length shown for it on the drawings docketed to this planning permission, either on top of or alongside the existing brick wall of the east boundary enclosure of 53 Old Abbey Road, to an effective height of 1.6 metres above the finished floor level of that area of decking; or, some other appropriate screening achieving a height of at least 1.6 metres above finished floor level of that area of decking is installed in accordance with details to be submitted to and approved by the Planning Authority in advance.

Thereafter the screening so approved shall remain in place unless otherwise approved by the Planning Authority.

Reason:

In the interests of the privacy and residential amenity of the neighbouring house to the east.

- 4 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended by Part 1 of the Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011), or of any subsequent Order amending, revoking or re-enacting the 1992 Order, no windows or other glazed openings shall be formed within the ground and first floor east and west elevation walls of the extension hereby approved, unless otherwise approved by the Planning Authority.

Reason:

To safeguard the privacy and residential amenity of the neighbouring residential properties to the east and west.