

REPORT TO: Planning Committee

MEETING DATE: Tuesday 27 March 2018

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 Henderson for the following reasons: I believe wider consideration and inspection of this application, within a conservation area, is desirable, specifically to enable full appreciation of the number and nature of formal objections. In addition, I believe the Planning Committee should be allowed to consider just how materially different, or not, this application is from the proposed development, which was refused permission on this site in November 2017, again specifically with the objections in mind.

Application No. **18/00012/P**

Proposal Erection of 1 house and associated works

Location **Garden Ground To The Rear Of 7, 9 And 11 Nungate Road
North Berwick
East Lothian
EH39 4PD**

Applicant Mr Hew Dalrymple

Per Ford Design Ltd

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

The application relates to an area of land which currently forms part of the garden ground of the residential properties at 7, 9 and 11 Nungate, North Berwick. The site is within a predominantly residential area as defined by Policy ENV1 of the East Lothian Local Plan 2008. It is also within the North Berwick Conservation Area. The residential properties of 7, 9 and 11 Nungate are not listed as being of special architectural or historic interest.

To the north of the site are the residential properties of 7, 9 and 11 Nungate and their associated communal garden ground. These cottages are single storey, stone built properties with pitched roofs. There are two later flat roof extensions on the northern elevations of the cottages. The front elevations of numbers 7 and 9 Nungate are to the south of the properties, facing towards their respective garden areas. Number 11 fronts towards Nungate Road (to the west). This property is separated from the road by its front garden which is approximately 5 metres deep. This property also has a side

garden parallel to the garden of number 9, which extends from the gable to the southern boundary.

The cottage gardens are currently approximately 14 to 19 metres long with a high hedge along the southern boundary. There is a low timber fence and gate at the south east corner of 7 Nungate. A pathway runs along the south of the buildings, allowing accesses to all three gardens. The gardens have a number of domestic outbuildings in them, such as greenhouses and sheds but have an open character with low boundary treatments between them.

The site is bounded to the south by a high boundary hedge beyond which is a public park. Within the park is Abbey Farm Dovecot which is situated approximately 33 metres from the site boundary and is listed as being of special architectural or historic interest (Category B).

To the east, the site is bounded by a high random rubble wall, approximately 3 metres in height. This forms the western boundary of the residential property at 5 Nungate which adjoins the site to the east. The north eastern part of the site is currently an area of existing hard standing. The site is accessed via this area and the unadopted lane to the north of the existing cottages. The lane also provides access to the houses at 3 and 5 Nungate.

In September 2017 planning permission (Ref: 17/00514/P) was refused for the erection of 1 house on a site which extended along the whole of the rear gardens of 7, 9, and 11 Nungate. The proposed house was positioned at the west of the site to the rear of 11 and 9 Nungate. The reasons for refusal were:

“1) The proposed development would lower the level of amenity that residents of 7, 9 and 11 Nungate enjoy by substantially reducing their open garden ground, resulting in insufficient private garden ground for number 11 Nungate. Moreover, it would have an overbearing effect on the garden of 9 Nungate. In all of this, the proposed development would have an unacceptable impact on the amenity of the residents at 7, 9 and 11 contrary to Policy DP7 of the adopted East Lothian Local Plan 2008.

2) The proposed house and associated works would result in an incongruous building which would appear crammed onto the site. Moreover, the location of the building on this site would result in the loss of the visual relief that the open and attractive garden grounds currently provides, in addition to the visual transition that they make between the cottages and the trees to the south. The insertion of the house on the restricted site and disruption of the historic link between the gardens and the cottages would have a significant detrimental impact on this part of the North Berwick Conservation Area. On this consideration the proposal is contrary to Policy ENV4 of the adopted East Lothian Local Plan 2008.

3) The proposed development would result in the loss of a willow tree. The willow tree contributes positively to the character of the Conservation Area and is an attractive feature. The applicant has not demonstrated that the tree requires to be removed for safety reasons and its removal would not contribute more to the good planning of the area than would retaining the tree. On this consideration the proposal is contrary to Policy NH5 of the adopted East Lothian Local Plan 2008”.

The site that is the subject of this planning application is different from that the subject of planning application 17/00514/P. It does not include the garden ground to the rear of 11 Nungate, and it also includes slightly less of the garden ground to the rear of 9 Nungate. The site the subject of this application does however include slightly more of

the garden ground to the rear of 7 Nungate, as well as now including the coal sheds that are on the east gable of 7 Nungate.

Planning permission is now sought for the erection of 1 house and associated works on the application site. The proposal includes the demolition of the coal sheds on the east gable of 7 Nungate. The applicant has submitted a supporting statement setting out how they have sought to address the previous reasons for refusal.

The proposed house would be an 'L'-shaped building with a north facing hipped gable. Skews are proposed on the south and north elevations. It would be a three bedroom, single storey house with accommodation in the roofspace. Two bedrooms and a bathroom would be located upstairs and a bedroom, WC/showerroom, kitchen and dining/livingroom would be located on the ground floor.

The height of the property to ridge would be approximately 6.2 metres and 3.3 metres to eaves. The house would be approximately 11 metres wide (north and south elevation) and 10.5 metres deep.

The walls of the proposed house would be finished in a harled render with stone detailing, the roof would be clad in pantiles with metal rainwater goods. The parking bay and hardstanding areas, including paths, would be a mixture of gravel and block paviers.

One rooflight is proposed on the northern hipped roof and four rooflights on the southern roof pitch. One upper floor window is proposed on the west elevation which would be from a bedroom. No windows are proposed on the east elevation. Bi-fold doors are proposed on the western gable opening into the garden. The front door of the house would be on the west elevation, next to a small window from a WC/ shower room. Two ground floor windows are proposed on the south elevation and one on the north.

The garden area for the proposed house would be to the west of the building. The western and northern boundary of the proposed garden area, which would adjoin the existing gardens of 7, 9 and 11 Nungate, would be bounded by a beech hedge. This would extend to overlap the north elevation of the proposed house. A 1.8 metres screen fence and gate is proposed around the hipped section separating it from neighbouring gardens. The south of the proposed garden would be bounded by the existing leylandii hedge and stone wall. The existing hedge would be replaced by a 1.8 metres fence behind the stone wall for a small section near the south west corner of the house. The existing beech hedge would then continue along the remainder of the southern boundary. The eastern side of the site would be bounded by the existing high, stone wall shared with 5 Nungate.

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 of the approved South East Scotland Strategic Development Plan (SESplan) and Policies ENV1 (Residential Character and Amenity), DP1 (Landscape and Streetscape Character), DP2 (Design), DP7 (Infill, Backland and Garden Ground Development), ENV4 (Development within Conservation Areas) and DP22 (Private Parking) of the adopted East Lothian Local Plan are relevant to the determination of the

application.

Material to the determination of the application is Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, the Scottish Government's policy on development affecting conservation areas 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.

Also material to the determination of the application is Planning Advice Note 67: Housing Quality.

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 development should reflect its setting, reflecting 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.

9 written public objections have been received to the application, the main points of which are summarised below:

- * This would be overdevelopment of the site;
- * Although the design has been amended it would still have a huge impact on the existing properties/ the reasons previous proposal was refused have not been addressed;
- * The house would directly overlook neighbouring properties and bedroom/ rooflight on north facing low roof would overlook neighbouring properties;
- * The proposed 6 foot fence would compromise the light into a bedroom on neighbouring property and result in poor aspect for existing properties;
- * The parking area would be very intrusive and close to 7 Nungate and a bedroom window at 5 Nungate;
- * Increased traffic down the lane would affect the tranquillity of 3,5,7,9 and 11 Nungate;
- * The proximity of the proposed house to the old wall and existing buildings is concerning and could damage foundations;
- * The wall between the site and land to the east is aesthetically pleasing and would be

largely blocked by the proposed house;

- * The proposed house would be larger than existing cottages/ 2 storey house would be crammed onto the site;
- * The house would be overbearing and would overshadow existing houses/ gardens;
- * The house would look incongruous and wrong for the historic context/ it would be out of keeping in style and size;
- * The wet dash render and masonry paint would be unsightly and unacceptable in the conservation area;
- * The front of the houses and main living rooms are to the south, facing the proposed development. The aspect from neighbouring gardens would be a blank wall/ existing aspect will be detrimentally affected;
- * Restriction of vehicular access for neighbouring properties;
- * The loss of the gardens / division of the gardens in the Conservation Area will impinge on the serenity and beauty of the area. There are few unspoilt areas of North Berwick left and this should be preserved;
- * The setting of the cottages would be ruined, which have beech hedge, ancient and attractive stone wall and sympathetic and proportionate layout of the garden. The gardens and cottages were part of Abbey Farm and part of local heritage;
- * The new build would not enhance the Conservation Area;
- * Detrimental impact on the amenity of 7, 9 and 11 Nungate;
- * The garden ground of 7, 9 and 11 Nungate would be reduced to unsatisfactory level;
- * An area for wildlife would be lost;
- * The demolition of the coalhouse is unnecessary and will alter the character of the cottages. The extensions are part of the integrity of the building;
- * The proposal is contrary to Policies DP7;
- * If supported the house should be reduced to single storey and natural stone used; and
- * The proposed house will affect the view from neighbouring property.

The perceived loss of a private view is not a material consideration in the determination of a planning application.

North Berwick Community Council discussed the above proposal and voted to object to the application. They make the following points:

- * Policy DP1 of the East Lothian Local Plan 2008 refers to landscape and streetscape and require buildings to be well integrated with the surroundings. The proposal does not integrate but replaces green space;
- * The proposal is not appropriate in terms of position; size, massing, proportion and scale and therefore contrary to Policy DP2 of the East Lothian Local Plan 2008;
- * The proposed house contrasts with rather than complements the context in which it sits;
- * The character of Nungate is not 'urban' as described in the supporting statement. The area has a distinctive, semi-rural feel;
- * The proposed development fails to meet the requirement of Policy DP7 which requires that infill is 'sympathetic to its surroundings [and] over-development of the site will be unacceptable" and "There should be no material loss of green-field land or open space.... [that are] important to the character of the area".

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 proposed new house plot comprises part of the garden ground of the communal garden ground of 7, 9 and 11 Nungate. It is within a predominantly residential area with residential properties to the north and east of it. The building of a house on the site would amount to urban infill housing development, the principle of which is supported by Policy DP7 of the adopted East Lothian Local Plan 2008.

With respect to infill, backland and garden ground development Policy DP7 of the adopted East Lothian Local Plan 2008 states that, amongst other principles of development, it must, by its scale, design and density be sympathetic to its surroundings and not an overdevelopment of the site.

Policy DP2 of the adopted East Lothian Local Plan 2008, amongst other things, requires that all new development must be well designed and integrated into its surroundings.

In this case regard must also be paid to the desirability of preserving or enhancing the character or appearance of the North Berwick Conservation Area as required by Scottish Planning Policy: June 2014 and Policy ENV4 of the adopted East Lothian Local Plan 2008. Regard must also be had to the reasons for the refusal of previous planning application 17/00514/P.

Thereafter, the principal determining factor in this case is whether, having regard to national, strategic and local planning policy and guidance and other material considerations the design, positioning and layout of the proposed new house and the works associated with it are acceptable, with due regard to their potential impact on the character and residential amenity of the area, including their impact on the amenity of neighbouring residential properties and their impact on the character and appearance of North Berwick Conservation Area.

The exterior walls of the proposed house would be finished in a harled render with stone detailing, the roof would be clad in pantiles with cast iron rainwater goods. The windows and doors of the proposed house would be of timber construction.

The buildings situated on the west side of Nungate Road are of different architectural designs. There is no dominant special layout in the immediate area of the site, with various layouts and sizes of properties and their garden. The two storey Telephone Exchange building is a substantial building with walls that are predominantly finished in dry dash render. To the south of that building is the single storey terrace of houses of 7, 9 and 11 Nungate. Those buildings have predominantly stone walls and pitched roof clad in natural slate. Whilst not listed, those houses make a positive contribution to the character and appearance of the Conservation Area. Further to the west of 7, 9 and 11 Nungate is the single storey dwelling of 5 Nungate.

In its position the proposed house would inevitably somewhat change the open character of the garden ground to the rear of 7, 9 and 11 Nungate. However in its position the proposed house would not be an incongruous addition to Nungate Road or to this part of the Conservation Area. In terms of its modest architectural style and finishes the proposed house would sit comfortably in its position with the architectural style, finish and appearance of the neighbouring houses in the Conservation Area. There is sufficient land within the site to accommodate the proposed house, with a sufficient sized garden and adequate parking provision and vehicular access without there being an overdevelopment of it. In its set back position, the proposed house

would not appear harmfully dominant or intrusive, and would not be an incongruous addition to the pattern and density of the built form of this part of North Berwick. It would be an acceptable form of infill housing development of the site that would not be harmful to the character and appearance of this part of the Conservation Area.

In their positions and due to their form and where applicable, the proposed proposed fencing, areas of hardstanding and other associated works would not appear as harmfully intrusive or incongruous features in their relationship with the proposed house. In their positions, they would not be harmful to the setting of the proposed house or the character and appearance of the Conservation Area.

Unlike the house proposed in the previous application, the location of the now proposed house would not result in the loss of the visual relief that the open and attractive garden grounds currently provides. This is because the western part of the communal garden ground of 7, 9 and 11 Nungate would remain undeveloped, thereby preserving open views from Nungate Road towards the southwest. In these views there would remain a visual transition between the cottages and the trees to the south.

There is sufficient land within the site to accommodate the proposed house, with a sufficient sized garden and adequate parking provision and vehicular and pedestrian access without there being an overdevelopment of it. Development of the site would not result in any loss of open space important to recreation or amenity requirements.

On the foregoing consideration of design the proposed development does not conflict with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policies ENV4, DP1, DP2 or DP7 of the adopted East Lothian Local Plan 2008 or with Scottish Planning Policy: June 2014 and Planning Advice Note 67: Housing Quality.

The Council's Landscape Officer does not raise an objection to the proposal. They note that the proposals enable retention of the existing landscape setting of the area. The beech hedge to the southern boundary is located to the south side of the boundary wall and will not be impacted by the proposals. A short section of the Leylandii hedge to the west of the beech hedge will be removed to the boundary of the new house. The remaining Leylandii hedge will be retained to form a screen to the garden and new beech hedging planted to form the garden boundary between the new garden and the gardens of 7-11 Nungate. They recommend that the site be fenced off from the neighbouring garden ground during construction to protect these gardens and existing landscaping within them. This can be controlled by condition.

Unlike the previous planning application, the proposed development would not result in the removal of the willow tree from the communal garden ground serving 7, 9 and 11 Nungate.

Policies DP2 and DP7 of the adopted East Lothian Local Plan 2008 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.

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.

One first floor window is proposed on the west elevation. This would face towards the garden ground of the proposed house, which is 9 metres in length. This window and the patio doors on the west elevation would also therefore have 9 metres between them and the boundary. The ground floor windows on the north elevation would face towards the parking area. It would be at a 45 degree angle to the ground floor window of 5 Nungate, which is within the boundary wall. Due to the acute angle there would not be direct views between the windows. The neighbouring window would continue to look onto a parking area.

The front door and side window would be screened by a 1.8 metres high fence. The rooflights would be at such an angle that they would not directly look into any existing windows. Therefore, there would be no unacceptable overlooking or loss of privacy for existing neighbouring properties.

On the matter of the impact of the proposed house 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.

By virtue of its height, size and positioning, the proposed house would not, in accordance with such guidance, give rise to a harmful loss of daylight and sunlight to the neighbouring residential properties of 7, 9 and 11 Nungate. Nor would it give rise to a harmful loss of daylight or sunlight to any other neighbouring residential property.

The proposed house should also receive a sufficient amount of daylight (skylight) and its garden a sufficient amount of sunlight.

The occupiers of the proposed house would benefit from sufficient privacy and residential amenity.

The properties of 7, 9 and 11 Nungate are served by a communal garden to the south of their houses. Whilst there would be a reduction in the amount of communal garden ground, there would remain sufficient garden ground to serve those existing 3 houses.

The existing gravelled area has been indicated for parking and concern is raised by objectors that use of this would harm the privacy and amenity of adjoining residents. However this area is currently surfaced with stone chips and could be used for parking. In this regard, use of the proposed access and parking would not have a significant detrimental impact on residential amenity of existing residents.

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

The Council's Environmental Health Manager has no comment to make on the application.

The Council's Road Services raise no objection to the proposed development, being satisfied that the proposals for site access and parking are to an acceptable standard. On this consideration the proposed development is consistent with Policies T2 and DP22 of the adopted East Lothian Local Plan 2008.

The Council's Waste Service raise no objection to the proposal and note that refuse collection would be at the kerbside to the front of the proposed house.

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 Samples of the materials to be used as external finishes of the house, for the areas of hardstanding and the fencing all hereby approved shall be submitted to and approved by the Planning Authority prior to their use in the development. Only those materials approved by the Planning Authority shall be used as the external finishes of the house, for the areas of hardstanding and boundary wall.

Reason:

To secure a standard of development that is appropriate to its location and in keeping with its surroundings in the interests of safeguarding the character and appearance of the North Berwick Conservation Area.

- 3 Prior to the house hereby approved being brought into use the proposed vehicle access and parking arrangements shall be laid out as shown in docketed drawing no. 09 (Proposed Plans & Elevations) and thereafter the access and parking areas shall be retained for such uses.

Reason:

In the interests of road safety.

- 4 During the construction phase of the development, the application site shall be fenced off from the neighbouring garden ground. Details of the proposed fencing shall be submitted to and approved by the Planning Authority in advance, and development shall thereafter be carried out in accordance with the details so approved.

Reason:

To protect these gardens and existing landscaping within them, in the interest of the character and appearance of the area.

- 5 Prior to the commencement of development, details of all boundary treatments, including a timescale for their installation, shall be submitted to and approved by the Planning Authority. Development shall thereafter be carried out in accordance with the details so approved.

Reason:

In the interests of the residential amenity of the area.