

**PLANNING COMMITTEE**

**1 OCTOBER 2019**

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

**TUESDAY 3 SEPTEMBER 2019  
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

**1**

**Committee Members Present:**

Councillor N Hampshire (Convener)  
Councillor L Bruce  
Councillor J Findlay  
Councillor N Gilbert  
Councillor W Innes  
Councillor S Kempson  
Councillor K Mackie  
Councillor C McGinn  
Councillor K McLeod  
Councillor J McMillan  
Councillor F O'Donnell  
Councillor J Williamson

**Other Councillors Present:**

Councillor J Goodfellow  
Councillor J Henderson

**Council Officials Present:**

Mr K Dingwall, Team Manager – Planning Delivery  
Mr K Graham, Solicitor  
Ms E Taylor, Senior Planner  
Ms M Haddow, Transportation Planning Officer  
Mr N Morgan, Outdoor Access Officer  
Mr D Taylor, Planning Officer  
Ms P Bristow, Communications Adviser  
Ms R Crichton, Committees Officer

**Clerk:**

Ms A Smith

**Visitors Present/Addressing the Committee:**

Item 2 – Mr T Thomas, Mr D Lawson, Mr M White

**Apologies:**

None

**Declarations of Interest:**

None

**1. MINUTES FOR APPROVAL – PLANNING COMMITTEE 26 JUNE 2019**

The minutes of the meeting of the Planning Committee of 26 June 2019 were approved.

**2. PLANNING APPLICATION NO. 18/01366/AMM: APPROVAL OF MATTERS SPECIFIED IN CONDITIONS OF PLANNING PERMISSION IN PRINCIPLE 16/00594/PPM - ERECTION OF 122 HOUSES, 28 FLATS AND ASSOCIATED WORKS AT LAND AT SALTCOATS FIELD, GULLANE**

A report was submitted in relation to Planning Application No. 18/01366/AMM. Emma Taylor, Senior Planner, presented the report, summarising the key points. She drew attention to matters raised at the site visit and outlined the wording for two new conditions (15 and 16) should Members be inclined to support the application. The report recommendation was to grant consent.

Ms Taylor and other officers responded to questions from Local Members. Regarding Condition 16 (Construction Method Statement (CMS)), and whether *encourage* could be changed to *enforce* Keith Dingwall, Team Manager – Planning Delivery, indicated this had been looked at but it was very difficult to ensure people did not to park on a public road; the wording had to remain as *encourage*. Regarding suitability of the C111 road for construction traffic, Morag Haddow, Transportation Planning Officer, stated that this was the only road that could be used at present but the CMS would restrict movement times and there would also be temporary widening of the road. Mr Dingwall replied to questions about the delay in completion rates, how this affected the education capacity, clarifying the view of the Education Service. Ms Taylor confirmed that SEPA had not submitted an objection. She clarified that the developer would negotiate with Scottish Water as regards timescales. In respect of how an assurance could be given on the direction of construction traffic elsewhere, Ms Haddow advised that traffic would be directed south but the only access would be from the north. Ms Taylor clarified that the CMS would apply to the whole site. Regarding safe routes to school, Mr Dingwall advised that normally there would never be a requirement for a safe route to school through a construction site; there was a requirement through earlier conditions relating to the C111 road to update the path.

Tony Thomas of APT Planning and Development Limited, agent for the applicant, informed Members that CALA had worked collaboratively with the Council to ensure the best possible solution for this site. The principle of development had been established and the application reflected the strategy of the adopted East Lothian Local Development Plan 2018 (ELLDP). This detailed application set out the design and layout of the application; he gave details of the mix and number of units. He addressed some of the points raised. Regarding pedestrian access CALA had explored this with Muirfield Grove residents but they would not agree to a link being formed, however it was possible that the Council could use its statutory powers to deliver a path here. CALA would facilitate the offsite path to the northwest corner of the site to the recreation park. This would be delivered at no cost to the Council and would be adopted and lit. As regards volume and management of construction traffic, he advised that it had been agreed previously to use the C111 road to minimise traffic elsewhere. He informed Members that the CMS would be issued to all suppliers.

Derek Lawson, representing CALA, the applicant, responded to questions. Regarding construction traffic adhering to the CMS Mr Lawson confirmed that the CMS was issued to all contractors and suppliers and if there were complaints about non-adherence this would be taken on board. In relation to on-site construction vehicle parking this would be located in the southwest compound, furthest away from the village. Replying to further points he provided more details about measures being taken to minimise the impact to residents during the construction phase. He clarified that the footpath would be open and usable on the C111 road prior to occupation of the first house. In respect of queries about negotiations

regarding this site and other sites along the coast with Scottish Water, he referred to Scottish Water's report (December 2018) which stated there would be no impact on water treatment works of the Gullane applications. As to whether there had been a conversation/outcome in relation to Scottish Water's comments in the report Mr Lawson indicated that at this stage of the process the technical approval had not yet been lodged as planning permission was needed first. Questions were asked about the developer's footprint reduction as the Council had just approved a climate change emergency motion with the aim to be a carbon neutral county. Mr Lawson stated that developers working sustainably were doing this and that house build would comply with energy efficient aspects of building regulations. He clarified that where feasible there would be provision of renewable technology for residential units and infrastructure for car charging points. He reiterated that there was an open invitation to Muirfield Grove residents for dialogue with CALA regarding pedestrian access.

Martin White, representing Gullane Area Community Council spoke against the application. The Community Council had considerable concerns about the weak connectivity of the site to the rest of Gullane. The Indicative Master Plan (16/00594/PPM) had more options than the new layout. Condition 1 of that Plan stated that the layout should generally comply with the earlier Master Plan. He referred to connectivity/legal issues in respect of the Fenton Gait East site. Regarding pedestrian access, he stated that using a path beside a wood, even if lit, was not a safe route. Much of the connectivity seemed dependent upon the delivery of Council paths and access; it was not acceptable for officers to say this was available and would be investigated; this was private land. The Travel Plan significantly underestimated the walking times; as a result, people would use their cars so there would be an increase in traffic volumes to/from the centre of the village. This application should be refused until better connectivity could be delivered.

Mr White responded to questions. Regarding the Travel Plan, he confirmed that in the Community Council's opinion the walking times were underestimated by 50%. He reiterated that the path beside the wood was not a safe route to school but responding to further points, acknowledged that it would be a different matter if a parent accompanied a child.

At the request of the Convener, prior to commencement of the debate, Mr Dingwall clarified the additional conditions.

*15. Prior to the commencement of development details of a footpath link between the approved footpath network within the site and the northern edge of the application site, to the south of the play area and open space on the southern side of Muirfield Grove, shall be submitted to and approved in writing by the Planning Authority. The details shall include a timetable for implementation. Development shall thereafter be carried out in accordance with the details so approved.*

*Reason: In the interests of road safety.*

*16. A Construction Method Statement to minimise the impact of construction activity on the amenity of the area shall be submitted to and approved by the Planning Authority prior to the commencement of development. The Construction Method Statement shall recommend mitigation measures to control construction traffic and shall include hours of construction work and details of wheel washing facilities to be provided. The Statement shall detail measures to encourage parking on site by the applicant and their subcontractors and shall provide details of the on site compound, which shall be large enough to accommodate the vehicles of the applicant and their sub-contractors. Wheel washing facilities must be provided and maintained in working order during the period of operation of the site. All vehicles must use the wheel washing facilities to prevent deleterious materials being carried onto the public road on vehicle tyres. Construction activity shall thereafter be carried out in accordance with the Construction Method Statement so approved.*

*Reason: To minimise the impact of construction activity in the interests of the amenity of the area.*

*17. Prior to the commencement of development, a report on the actions to be taken to reduce the Carbon Emissions from the build and from the completed development shall be submitted to and approved in writing by the Planning Authority. This shall include the provision of renewable technology for new residential units, where feasible, and infrastructure for new car charging points within residential curtilages, where feasible. The details shall include a timetable for implementation. Development shall thereafter be carried out in accordance with the report so approved.*

*Reason: To minimise the environmental impact of the development.*

Mr Dingwall answered further questions from Local Members. Regarding Condition 15 he clarified that this referred to access outwith the land owned by residents of Muirfield Grove. He stated that this condition would secure a footpath up to the boundary; it would then be for the Council to investigate a footpath link. He clarified that CALA had indicated they would be amendable to discussions with the Council regarding this. In relation to the CMS, he confirmed that it would be possible to formalise the direction of traffic.

Local Member Councillor Goodfellow, not a member of the Planning Committee, asked that CALA continue negotiations with Muirfield Grove residents and pursue the matter of ownership of the play area and surrounding land.

Local Member Councillor Findlay stated that his primary concern was lack of communication with the local community. He quoted from Policy T1, stating that this development failed this test. The only pedestrian/cycle path was a narrow strip of grass owned by residents of Muirfield Grove, who did not wish this to be used, or to have a route through Millenium Wood. He agreed with Mr White that this was not the shortest or safest route to school, so this was not a viable alternative. He referred to Right to Roam legislation stating this was not designed to make people give up a piece of land on the curtilage of their area. Residents of this new development would use their cars to access the shops, as it was a 30-minute return walk, which would cause more traffic congestion on the High Street. He would not be supporting the application as it went against Policy T1 of the ELLDP.

Local Member Councillor Henderson, not a member of the Planning Committee, said she was comforted by work that had been done, there were matters to be resolved but she hoped that in the end there would be a good situation. Regarding wastewater, she wished to highlight issues across Scotland where Planning Committees were being forced into negotiation with Scottish Water. This was an issue that should be taken forward to a higher level as it could not be ignored.

Councillor Findlay proposed that the application be delayed until access had been sorted out. There was no seconder for this proposal, which then fell.

The Convener stated that the additional conditions would improve connectivity, which was necessary and deliverable. He referred to the Council's duty to provide safe routes to school; he did not agree that walking through a small section of lit woodland would be especially hazardous. In relation to his colleague's points about the climate change emergency, he stressed that the Council had a duty now to take actions to deliver to avert this climate emergency. The Council needed to ensure that all applicants from now on would have to report on actions delivered to minimise this impact on developments. He welcomed the provision for renewable technology. He would be supporting the report recommendation.

The Convener moved to the vote on the report recommendation (to grant consent) subject to the addition of the new conditions as outlined:

For: 11  
Against 1:  
Abstentions: 0

### **Decision**

The Committee agreed that approval of matters specified in conditions 1(a-k) and 3 of planning permission in principle 16/00594/PPM for the proposed housing development be granted 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 buildings 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 Notwithstanding that which is stated on the drawings docketed to this approval of matters specified in conditions, the external finishes of the houses and flats shall be in accordance with a co-ordinated scheme of materials and colours that shall be submitted to and approved in advance by the Planning Authority. This co-ordinated scheme shall in detail promote render as the predominant finish to the walls of the houses and flats, with a use of more than one render colour and with a strongly contrasting difference in the colours such that they will not each be of a light colour. All such materials used in the construction of the houses and flats shall conform to the details so approved.

Reason:

To ensure the development is of a satisfactory appearance in the interest of the amenity of the locality.

- 3 Prior to the occupation of the last house or flat hereby approved, the proposed access roads, parking spaces, and footpaths shall have been constructed on site in accordance with the docketed drawings.

Those areas of land shall not thereafter be used for any other purpose than for accessing and for the parking of vehicles in connection with the residential use of the houses and flats and shall not be adapted or used for other purposes without the prior written approval of the Planning Authority.

Reason:

To ensure that adequate and satisfactory provision is made for access and for off-street parking in the interests of road safety.

- 4 A timetable for the provision of the erection of the 1.8 metre high boundary enclosures for the rear gardens of the houses hereby approved shall be submitted to and approved in advance by the Planning Authority and development shall thereafter be carried out in full accordance with the timetable so approved, unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure the satisfactory provision of the boundary enclosures in the interest of safeguarding the privacy and amenity of future residents of the development.

- 5 All the open space recreation areas indicated on the docketed drawings shall be available for use prior to the occupation of the last house or flat on the site. The open space recreation areas, when provided, shall be used for such purposes at all times thereafter unless agreed in writing by the Planning Authority.

Reason:

To ensure the satisfactory laying out of all areas of open space in the interest of the amenity of the future occupants of the dwellings hereby approved

- 6 No development shall take place until there has been submitted to and approved in writing by the Planning Authority a scheme of landscaping. The scheme shall provide details of: the height and slopes of any mounding on or re-contouring of the site including SUDS basin/ponds details; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. Non-thorn shrub species should be located adjacent to pedestrian areas. The scheme shall include indications of all existing trees and hedgerows on the land, details of any to be retained, and measures for their protection in the course of development.

It shall be based on the drawing titled 'Soft landscape layout' numbered SF-RF-AA-XX-DR-L-0002 and specifically include a mixed native species hedgerow along the full length of the southern boundary of the site, a native mixed woodland of a minimum of 20m wide along the full length of the western boundary of the site, groups of mixed sized species trees on the southerly located areas of open space,

large species trees within open spaces throughout the site, and feature trees and landscaping on the eastern road frontage of the site. Large species trees should be spread throughout the site. Additional pine and oak trees should be included to the southern boundary areas. Holm oak should also be introduced to the mix. Feature pines, oaks and horse chestnuts should be placed within the centre of the large open spaces such as the linear park from plots 86 and 93 to 41 and 42; also within the park between plots 72 and 57 with root barriers to protect the underground services. Care should be taken in locating the large pine and beech trees close to property gables, no large species tree shall be located closer than 12m to any building. These should be substituted with hornbeams at plots 23, 30, 01 and 38. No shrub planted or hedged area shall be narrower than 1.5m to enable successful establishment of the landscaping to ensure successful amenity for the development. All hedging to rear of boundary wall shall be maintained at a height of between 1.75 and 2m in height.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the completion of the development or occupation of any house hereby approved, whichever is the sooner. Any trees or plants which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar species and final size, unless the Planning Authority gives written consent to any variation. No trees or shrubs, detailed in the approved landscaping plans to be retained on the site, shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the previous written consent of the Planning Authority.

Reason:

In the interests of achieving an appropriate landscaped setting for the housing development.

- 7 No development shall take place on site until temporary protective fencing in accordance with Figure 2 of British Standard 5837\_2012 "Trees in relation to design, demolition and construction" has been installed, and confirmed in writing by the Planning Authority. The fencing must be fixed in to the ground to withstand accidental impact from machinery, erected prior to site start and retained on site and intact through to completion of development. The position of this fencing must be as indicated on the drawing titled 'Tree retention and removal' numbered SF-RF-AA-XX-DR-L-0003 rev B, shall be positioned outwith the Root Protection Area (RPA) as defined by BS5837:2012 for all trees and approved in writing by the Planning Authority.

All weather notices should be erected on said fencing with words such as "Construction exclusion zone - Keep out". Within the fenced off areas creating the Construction Exclusion Zones the following prohibitions must apply:-

- \_ No vehicular or plant access
- \_ No raising or lowering of the existing ground level
- \_ No mechanical digging or scraping
- \_ No storage of temporary buildings, plant, equipment, materials or soil
- \_ No hand digging
- \_ No lighting of fires
- \_ No handling discharge or spillage of any chemical substance, including cement washings

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

Reason

In order to form Construction Exclusion Zones around retained trees and protect retained trees from damage.

- 8 Prior to commencement of development on site, full details of the proposed Sustainable Drainage System shall be submitted to and approved in writing by the Planning Authority. Thereafter, the approved details shall be implemented as approved for the lifetime of the development.

Reason:

To ensure that the final Sustainable Drainage System design complies with 'Sewers for Scotland 3' and in the interest of flood prevention and the long term amenity of the site.

- 9 No work shall be carried out on the site unless and until an effective vehicle wheel washing facility has been installed in accordance with details to be submitted to and approved by the Planning Authority prior to its installation. Such facility shall be retained in working order and used such that no vehicle shall leave the site carrying earth and mud in their wheels in such a quantity which causes a nuisance or hazard on the road system in the locality.

Reason:

In the interests of road safety.

- 10 Prior to the commencement of development, details showing compliance with the following transportation requirements shall be submitted to and approved in writing in advance by the Planning Authority.

(i) a supplementary construction method statement shall be provided for the site to expand on that already provided and controlled through planning permission in principle 16/00594/PPM. This shall take account of routes to the site from the A198;

(ii) cycle parking shall be provided at the rate of 1 space per flat. This shall be provided in a secure/undercover area;

(iii) all footpaths and cycle paths from a zone under construction to their connections to existing pedestrian/cycle routes shall be constructed to an adoptable standard before the occupation of any of the residential units of the particular zone;

(iv) driveways shall have minimum dimensions of 6 metres by 3 metres. Double driveways shall have minimum dimensions of 5 metres width by 6 metres length or 3 metres width by 11 m length;

Reason:

In the interests of road safety.

- 11 Prior to the commencement of development confirmation from Scottish Water shall be provided that demonstrates that there is an available connection to the public sewer and that Scottish Water will accept waste from this development. If Scottish Water cannot accept foul drainage from this site, proposals for alternative arrangements should be provided, prior to the commencement of development and SEPA should be re-consulted.

Reason:

In the interests of ensuring that foul drainage from the site can be accommodated.

- 12 The roof lights on the east facing roof slopes of the houses to be built on Plots 08,101 & 108, on the west facing roof slopes of the houses to be built on Plots 70, 94 & 111, on the north facing roof slope of the house to be built on Plot 20 and on the south facing roof slope of the house to be built on Plot 21 shall be obscurely glazed, prior to the occupation of those houses. Thereafter those roof windows shall continue to be obscurely glazed unless otherwise agreed in writing by the Planning Authority.

Reason:

To safeguard the privacy and amenity of the occupants of neighbouring houses.

- 13 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 as amended by The Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011 or by any other statutory instrument amending, revoking or re-enacting the 1992 Order, no windows or other glazed openings shall be formed on the first floor or within the roof slope of the east elevation of the houses to be built on Plots 08,101 & 108, the west elevation of the houses to be built on Plots 70, 94 & 111, north elevation of the house to be built on Plot 20 and on the south elevation of the house to be built on Plot 21 without the prior permission of the Planning Authority.

Reason:

In the interests of safeguarding the privacy and amenity of the occupants of neighbouring residential properties.

- 14 Notwithstanding that shown on drawings docketed to this Approval of Matters the car ports on plots 31-37 and 46-52 inclusive shall not have vehicular access doors installed within them but shall instead remain open fronted. Thereafter those car ports shall remain open fronted with no vehicular access doors unless otherwise approved in writing by the Planning Authority.

Reason

To meet the Council's Road Services parking standards for new housing.

15. Prior to the commencement of development details of a footpath link between the approved footpath network within the site and the northern edge of the application site, to the south of the play area and open space on the southern side of Muirfield Grove, shall be submitted to and approved in writing by the Planning Authority. The details shall include a timetable for implementation. Development shall thereafter be carried out in accordance with the details so approved.

Reason

In the interests of road safety.

16. A Construction Method Statement to minimise the impact of construction activity on the amenity of the area shall be submitted to and approved by the Planning Authority prior to the commencement of development. The Construction Method Statement shall recommend mitigation measures to control construction traffic and shall include hours of construction work and details of wheel washing facilities to be provided. The Statement shall detail measures to encourage parking on site by the applicant and their subcontractors and shall provide details of the on site compound, which shall be large enough to accommodate the vehicles of the applicant and their sub-contractors. Wheel washing facilities must be provided and maintained in working order during the period of operation of the site. All vehicles must use the wheel washing facilities to prevent deleterious materials being carried onto the public road on vehicle tyres. Construction activity shall thereafter be carried out in accordance with the Construction Method Statement so approved.

Reason

To minimise the impact of construction activity in the interests of the amenity of the area.

17. Prior to the commencement of development, a report on the actions to be taken to reduce the Carbon Emissions from the build and from the completed development shall be submitted to and approved in writing by the Planning Authority. This shall include the provision of renewable technology for new residential units, where feasible, and infrastructure for new car charging points within residential curtilages, where feasible. The details shall include a timetable for implementation. Development shall thereafter be carried out in accordance with the report so approved.

Reason

To minimise the environmental impact of the development.

Signed .....

Councillor Norman Hampshire  
Convener of the Planning Committee

**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 1 October 2019  
**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 Currie for the following reason: this application has resulted in a number of representations from constituents and as a result I believe the full Planning Committee would benefit from hearing the case and making the determination.*

Application No. **18/00685/P**  
Proposal Alterations to building to form 1 house and associated works  
Location **Land To The Rear Of 17-18 Carlyle Place  
Musselburgh  
East Lothian  
EH21 6AX**  
Applicant Epic Property Developments Ltd  
Per Capital Draughting Cons Ltd  
RECOMMENDATION Application Refused

#### PLANNING ASSESSMENT

On 14th March 2018 planning permission 17/00673/P was granted for alterations and change of use of the existing social club and one flat at 17 And 18 Carlyle Place, a bowling and social club clubhouse for Inveresk Bowling Club, to form a total of three flats and associated works. The alterations to the building include the part demolition of an existing single storey rear extension of the existing building, and the alteration and retention of the southeast part of that extension as a detached building on the rear garden of the proposed two flats and one existing flat. The detached building that would be formed through the alteration and retention of the southeast part of the existing extension is approved to be used as domestic storage for the proposed two flats and one existing flat. Condition 4 of planning permission 17/00673/P requires that "The domestic storage building hereby approved to be formed through the alterations to the rear extension of the building, shall at all times be used as domestic storage purposes only, incidental to the residential use and enjoyment of the existing flat and two proposed flats also hereby approved, and at no time shall the domestic storage building be used as a separate residential unit or be used for any business, trade or other commercial use" for the reason "To enable the Planning Authority to control the use of the domestic storage

building in the interests of safeguarding the residential amenity of the existing flat, the proposed two flats and the neighbouring residential properties."

Works to undertake the development approved through planning permission 17/00673/P have commenced and are well underway, and thus planning permission 17/00673/P has been implemented.

On 1st June 2017 planning permission 17/00225/P was granted for the erection of a clubhouse building, the erection of a gate, and the formation of a ramp on an area of land of the northeastern part of the existing bowling green of Inveresk Bowling Club that is located on the western side of Carlyle Place, Musselburgh. Planning permission 17/00225/P remains extant.

The land and building of the current application site were part of the land and building of planning permission 17/00673/P.

This current application relates to an area of land measuring some 170 square metres that is located to the southeast (rear) of 17 and 18 Carlyle Place. The building of 17 and 18 Carlyle Place is located at the head of the cul-de-sac road of Carlyle Place and is attached to the end of the row of flatted buildings of 2 to 16 Carlyle Place. The frontage building of 17 and 18 Carlyle Place is a two storey building with a dual pitched roof clad with natural slates.

The land of the current application site comprises roughly 60% of the rear curtilage space of the building of 17 and 18 Carlyle Place. There is a detached building on the land of the application site, which comprises the southeast part of an extension of the building of 17 and 18 Carlyle Place that through the grant of planning permission 17/00673/P is approved, through its alteration and retention, for use as a domestic outbuilding to serve the two proposed flats and one existing flat to be formed in the frontage building of 17 and 18 Carlyle Place.

The building on the site is single storey in height with a high wall-head (eaves) height. Its external walls have a rendered finish and its roof is clad with natural slates with red clay ridge tiles. There are two ground floor windows and a double-leaf entrance door in its northwest (front) elevation. There are no other windows or external doors in its elevation walls or roof slopes.

The northeast elevation wall of the building encloses the northeast boundary of the site with the property of Musselburgh Library at 10 Bridge Street and its associated curtilage land. The site is enclosed along its southwest boundary with the communal garden of the flatted properties of 2 to 16 Carlyle Place by a 1.6 metres high brick wall with a concrete cope and with two timber pedestrian access gates, and along its southeast boundary with the garden of the flatted property of 28c to 28f Eskside West by a 1 metres high rubble stone wall. The ground level of the site is generally level however, it is some 1 metre higher than the ground level of the flatted property of 28c to 28f Eskside West to the southeast, and thus the southeast boundary wall of the site acts as a retaining wall to that neighbouring property.

The site is bounded to the southwest by the communal garden of the flatted properties of 2 to 16 Carlyle Place, to the southeast by the flatted building of 28c to 28f Eskside West and its associated garden ground, to the northeast by Musselburgh Library and its associated curtilage land, and to the northwest by the former bowling and social club building of 17 and 18 Carlyle Place, which through the grant of planning permission 17/00673/P is approved for use as three flats, and its associated land.

The site is within a predominantly residential area as defined by Policy RCA1 of the adopted East Lothian Local Development Plan 2018 and is also within the Musselburgh Conservation Area. The application site is also within the designated area of the Battle of Pinkie.

The application site is also within an area identified by The Coal Authority as being at low risk from past mining related activity.

Planning permission is now sought for alterations to the building on the site to form 1 house. The accommodation for the proposed house would be arranged over the ground and attic levels of the building and would result in the formation of a 3-bedroom house.

The proposed alterations to the building comprise:

- i) the formation of a new ground floor window opening in the northwest (front) elevation and the installation in that opening of a new window;
- ii) the formation of two new ground floor window openings in the southwest (side) elevations of the building, including a large picture window in the recessed southwest side elevation, and the installation of a new window in each of those openings;
- iii) the installation of two roof windows in the southwest (side) elevation roof slope, one roof window in the northwest (front) elevation roof slope, three roof windows in the northeast (side) elevation roof slope, and two roof windows in the southeast (rear) elevation roof slope of the building;
- iv) the installation of an extract boiler flue and an extract vent on the southeast elevation of the building; and
- v) the installation of a flue on the northwest elevation roof slope of the building.

All new windows would have white upvc framing. All new roof windows would be conservation type (ref. U04) roof windows.

The application site occupies a backland location, wholly to the rear (southeast) of the frontage building of 17 and 18 Carlyle Place. There is no land on which to provide any off-street parking for the proposed house.

Pedestrian access to the proposed house would be taken via an existing pedestrian path between the flatted buildings of 9 to 12 Carlyle Place and 13 to 16 Carlyle Place, and then via an existing footpath that crosses the communal garden of the flatted properties of 2 to 16 Carlyle Place to a shared footpath of the three flats formed in the building of 17 and 18 Carlyle Place through the approval of planning permission 17/00673/P.

Garden ground for the proposed house would be predominantly to the northwest (front) of the house with only narrow strips of garden (some 1 metre wide) along the southeast and southwest sides of it.

A supporting planning statement has been submitted with the application. In that statement it is explained that the proposal is to convert part of a rear extension (formerly used as a function room) of a former bowling and social club into one house. It is explained that the retained part of the rear extension of the frontage building of 17 and 18 Carlyle Place is approved by the grant of planning permission 17/00673/P to be altered and retained for use as a domestic storage building. The statement further explains that

the Inveresk Bowling Club social space is to relocate into a new constructed purpose built modern space adjacent to the bowling green (planning permission 17/00225/P). The statement goes on to explain that initial marketing by the developers indicates that potential would-be purchasers of the flats approved by the grant of planning permission 17/00673/P would find the presence of a domestic storage building on the rear garden of the flats obsolete given its detached form on the rear garden and the lack of convenience that brings for storage purposes. The statement further explains that this sets off a negative perception of the development the subject of planning permission 17/00673/P. It is stated that the proposed use of the building as a house would benefit overall character and visual presence of the area, self-police against any anti-social behaviour and bring further vitality into the neighbourhood.

The statement goes on to explain that the blank northwestern gable of the building would not be the most appealing aesthetic or design for future occupants of the 3 flats in the frontage building of 17 and 18 Carlyle Place to look out onto, and that instead the design proposals for the proposed single dwelling would break up the monotonous and featureless elevation of the building.

It is further stated that the proposed development would not be harmful to the character and appearance of this part of the Musselburgh Conservation Area.

On the matter of the on-site parking demand associated with the proposed house, it is stated that the proposed house would require 2 parking spaces, and that whilst no on-site parking would be provided, there is unrestricted on-street parking within walking distance of the proposed house.

Since the application was registered it has been amended to: (i) clarify the boundary enclosures of the site; and (ii) clarify details of the application drawings. This information is shown on revised and additional drawings submitted by the applicant's agent.

The application drawings include changes to the layout of the fencing, gates, hardstanding areas and steps of the rear gardens of the three flats approved to be formed in the frontage building of 17 and 18 Carlyle Place by the grant of planning permission 17/00673/P. Those changes are outwith the red application site outline for this current application and therefore do not form part of the proposals of this application. Thus, they do not form part of the assessment of this application.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that this application for planning permission 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 Development Plan 2018.

There are no policies of the approved South East Scotland Strategic Development Plan (SESplan) relevant to the determination of the application.

Policies CH2 (Development Affecting Conservation Areas), CH5 (Battlefields), DP2 (Design), DP5 (Extensions and Alterations to Existing Buildings), DP7 (Infill, Backland and Garden Ground Development), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018 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.

One public representation to the application has been received. It is from a representative of the Musselburgh Conservation Society. The representation raises objection to the proposed development and the grounds of objection as summarised are that to conform to Policy ENV4 of the Local Plan the proposed windows should be of timber construction rather than upvc and that the Musselburgh Conservation Society is of the opinion that upvc windows in this situation do not enhance the conservation area but are detrimental to the character and appearance of the conservation area. Thus the Society raises objection to the use of upvc windows.

The reference to Policy ENV4 (Development Within Conservation Areas) is a reference to the policies of the East Lothian Local Plan 2008. At their meeting on 29 May 2018, the Council approved the East Lothian Local Development Plan (ELLDP) as the Local Development Plan it intended to adopt and in September 2018 that Local Development Plan was adopted. Thus the East Lothian Local Plan 2008 was superseded by the adopted East Lothian Local Development Plan 2018 (ELLDP). The ELLDP reflects the most recent planning view of the Council and is a material consideration in the determination of applications. Policy CH2 (Development Affecting Conservation Areas) is the equivalent policy of the adopted East Lothian Local Development Plan 2018 and has similar terms to superseded Policy ENV4 in respect of the impacts of new development on a Conservation Area.

The application site is part of a wider area characterised as being of residential character and amenity by Policy RCA1 of the adopted East Lothian Local Development Plan 2018. Policy RCA1 does not actively promote the development of land for new residential development. The principal purpose of Policy RCA1 is to ensure that the predominantly residential character and amenity of existing housing areas is safeguarded from the adverse impacts of uses other than housing. However, Policy RCA1 does state that proposals for new development will be assessed against appropriate local plan policies, which in the case of infill, backland and garden ground development is Policy DP7 of the adopted East Lothian Local Development Plan 2018.

The site and thus the building that is proposed to be altered and converted to form one house, is within a predominantly residential area and is bounded to the southeast and southwest by residential properties. Further residential properties are located to the northwest and west of the bowling green that is located on the northwest side of Carlyle Place. Furthermore, the conversion of the frontage building of 17 and 18 Carlyle Place (former bowling and social club building) to the northwest of the application site to use as three flats is approved by the grant of planning permission 17/00673/P. The alteration and change of use of the building on the application site, which was formerly part of the rear extension of the building of 17 and 18 Carlyle Place, and which is approved to be a domestic storage building for use by the three flats to be formed in the building of 17 and

18 Carlyle Place by the grant of planning permission 17/00673/P, would be a residential use within a predominantly residential area of Musselburgh. The principle of which does not conflict with Policy RCA1 of the adopted East Lothian Local Development Plan 2018.

Thereafter, the material consideration in this case is whether, having regard to national, strategic and local planning policies and guidance, and other material considerations, the conversion of and alteration to the building to use as one house would have an adverse impact on the character and amenity of the area, including its impact on neighbouring residential properties, and the character and appearance of the Conservation Area, and whether the proposed development could be provided with a safe means of vehicular access and a satisfactory provision of on-site parking and turning.

Scottish Water has been consulted on the application however no response has been received from them.

The application site is within an area identified by The Coal Authority as being at low risk from past mining related activity. In such areas, if planning permission were to be granted, the Coal Authority's Standing Advice would be applicable.

The existing building on the site is single storey in height with a high wall-head (eaves) height. It has a traditional dual pitched roof. Its external walls are finished with a wet dash render and its roof is clad with natural slates with red clay ridge tiles.

The proposed new ground floor window openings to be formed in the southwest (side) and northwest (front) elevations of the building would be larger than the existing two window openings of the northwest (front) elevation of the building. However, in the backland location of the application site, the new window openings would be of a size, form and proportion that would not be out of keeping with those existing windows and would be in keeping with the varied sizes, forms and proportions of the windows of the rear of the other buildings in the locality.

The new windows to be installed in the new ground floor window openings of the northwest (front) and southwest (side) elevations of the building would have white upvc framing. The use of upvc as the construction material for the frames of new windows of the building is not usually supported in a conservation area. However, due to the building being in a backland location and being wholly contained within the rear curtilage of the building of 17 and 18 Carlyle Place, and due to the proposed new windows being positioned on the northwest (front) and southwest (side) elevations of the building, the proposed new windows would not be visible in public views from outwith the site. Thus, in these particular circumstances, the use of upvc framed windows would not be harmful to the character and appearance of the building and nor would they have an appreciable impact on the character and appearance of this part of the Musselburgh Conservation Area.

The new roof windows would be conservation style roof windows and would be installed on the northwest (front), southeast (rear), and northeast and southwest side elevation roof slopes of the building. In the backland position of the building, the proposed roof windows of the northwest (front), southeast (rear) and southwest (side) elevation roof slopes would not be readily visible in public views from outwith the site. There may be glimpsed views of the proposed roof windows on the northeast (side) elevation roof slope, between the buildings of Bridge Street to the northeast. A number of buildings in the locality of this part of the Musselburgh Conservation Area have roof windows of differing sizes. The proposed roof windows would be small in size in their relationship with the greater massing and height of the proposed house. They would not dominate

the roof slopes on which they would be installed and would not be an overdevelopment of the part of the roof of the proposed house they would be installed on. In any glimpsed views of them from outwith the site, the proposed roof windows would be seen in their relationship with the greater massing of the proposed house. Accordingly, by virtue of their size, form, proportion and appearance, and due to their positioning on the roofs of the proposed house and the containment afforded to the proposed house in its backland location, the proposed roof windows would not appear as overly dominant, conspicuous or incongruous features on the roof of the proposed house.

Subject to the proposed roof windows being fitted as flush as possible with the upper surface of the roof on which they would be installed, being submitted for the approval of the planning authority, a detail that can be controlled by a condition attached to a grant of planning permission for the proposed development, the new roof windows of the northwest (front), southeast (rear), and northeast and southwest side elevation roof slopes of the building, would not be harmful to the character and appearance of the building, would be appropriate to their location, and would not harm the character and appearance of this part of the Musselburgh Conservation Area.

By virtue of their small size, form, appearance, and their positioning on the northwest (front) roof slope and southeast (rear) elevation wall of the proposed house, the proposed vent and flues would not appear as harmfully dominant features on that elevation and roof slope of the proposed house. They would not be an overdevelopment of the wall or roof slope on which they would be installed. In the backland location of the application site, a number of buildings in the locality of this part of the Musselburgh Conservation Area have vents and flues of differing sizes. Thus, subject to the proposed vent and flues being coloured to match as closely as possible the colour of the surface of the roof or wall on which they would be installed, a detail that can be controlled by a condition attached to a grant of planning permission for the proposed development, they would not be harmful to the character and appearance of the proposed house or of this part of the Musselburgh Conservation Area.

All of the proposed alterations to the building would be in keeping with the character and appearance of the building. As sympathetic alterations to the building, and due to the containment afforded by the backland location of the proposed house, they would not cause the building to appear harmfully dominant and intrusive within the streetscape and would not be harmful to the character and appearance of this part of the Musselburgh Conservation Area.

In the contained backland location of the application site, and in that the proposed house would be formed through the alteration and change of use of an existing building, the proposed development would not have a harmful impact on the key features of the designated area of Pinkie Battlefield, including its key landscape characteristics and special qualities.

Development of the site would not result in any loss of open space important to recreation or amenity requirements.

In that the proposed house would be formed through alterations to and the change of use of an existing structure that was once part of an existing extension to the building of 17 and 18 Carlyle Place there would be no change to the existing impact of that building on daylight or sunlight received by neighbouring residential properties.

On the matter of overlooking it is the practice of the Council, as Planning Authority in the case of a proposed new development 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 a 18 metres separation distance between directly facing windows of the proposed new building and the windows of existing neighbouring residential buildings.

Notwithstanding the existing windows of the building and their relationships with neighbouring residential buildings and garden ground it would not be unreasonable to apply the 9 and 18 metres overlooking test to the new windows that are proposed to be formed on the northwest (front) and southwest (side) elevations of the building and the new roof windows that are proposed to be installed in the northwest (front), southwest and northeast (side), and southeast (rear) roof slopes of the building.

In this regard the new windows of the northwest (front) elevation of the proposed house would be less than 9 metres away from the northwest boundary of the site with the communal footpath that would serve the proposed house and the two new flats and one existing flat of the building of 17 and 18 Carlyle Place, and less than 9 metres away from the rear garden areas of the flatted building of 17 and 18 Carlyle Place. However, the footpath is a communal area and the rear garden areas are already overlooked by the flats of the building of 17 and 18 Carlyle Place. The new windows of the northwest (front) elevation of the proposed house would also be less than 18 metres away from ground floor windows of the southeast elevation of one of the ground floor flat to be formed in the building of 17 and 18 Carlyle Place through the grant of planning permission 17/00673/P. Those windows of that ground floor flat would be overlooked from the rear external access staircase that would provide access to the existing first floor flat and the new first floor flat of the building of 17 and 18 Carlyle Place. However, such overlooking would be limited to a person using the external access staircase and is likely to be limited in nature. Furthermore, planning permission 17/00673/P also approves the erection of 1.8 metres high timber fencing along the southeast boundary of the garden of the flats of 17 and 18 Carlyle Place with the communal footpath and along the southeast side the communal footpath. At 1.8 metres high, such fencing would be of a sufficient height to mitigate for any overlooking of the windows of the ground floor flat to be formed in the building of 17 and 18 Carlyle Place by the grant of planning permission 17/00673/P. In these circumstances, the new ground floor windows of the northwest (front) elevation of the proposed house would not allow for harmful overlooking of the garden or windows of the flats to be formed in the building of 17 and 18 Carlyle Place through the grant of planning permission 17/00673/P.

The two new roof windows to be formed in the southwest (side) elevation roof slope of the proposed house would face towards the garden of the proposed house and beyond to the communal garden of the flatted properties of 2 to 16 Carlyle Place. The garden of the flatted properties of 2 to 16 Carlyle Place is a shared space and is already overlooked by those existing flatted properties. Thus, there would be no harmful overlooking from the proposed two new roof windows of the southwest (side) elevation roof slope of the proposed house.

The three new roof windows to be formed in the northeast (side) elevation roof slope of the proposed house would face towards the area of land at the rear of Musselburgh Library. This area of land is associated with a commercial building and thus does not require the same level of privacy as would a private residential amenity space. Thus, there would be no harmful overlooking from the proposed three new roof windows of the northeast (side) elevation roof slope of the proposed house.

The new roof window to be formed in the northwest (front) elevation roof slope of the proposed house would face towards the area of garden ground of the proposed house and beyond to the garden of the ground floor flat to be formed in the building of 17 and 18

Carlyle Place and the windows of the southeast elevation of the flatted building of 17 and 18 Carlyle Place. However, the floor plans for the proposed house show that the new roof window to be formed in the northwest (front) elevation roof slope would not serve an attic (first floor) level room but rather would provide light to a ground floor entrance hallway of the proposed house and thus its lower cill would be more than 1.8 metres above the finished floor level of that room and at such height above the finished floor level would not allow for harmful overlooking of any neighbouring residential property or its garden ground.

The two new roof windows to be formed in the southeast (rear) elevation roof slope of the proposed house would face towards the flatted building of 28c to 28f Eskside West and the garden ground of that building. However, the floor plans for the proposed house show that the two new roof windows to be formed in the southeast (rear) elevation roof slope would not serve attic (first floor) level accommodation but rather would provide light to the ground floor kitchen and a ground floor bathroom of the proposed house and thus their lower cills would be more than 1.8 metres above the finished floor level of the rooms they would serve and at such height above the finished floor level those two new roof windows would not allow for harmful overlooking of any neighbouring residential property or its garden ground.

The occupiers of the proposed new house would also have sufficient privacy and amenity.

The Council's Environmental Health and Trading Standards have no comment to make and raise no objection to the proposed development.

On all of the forgoing matters of design, privacy, overlooking and overshadowing, the alteration and change of use of the existing building to form one house does not conflict with Policies CH2, CH5, DP2, DP5 and DP7 of the adopted East Lothian Local Development Plan 2018, or with Scottish Government guidance on development within a conservation area given in Scottish Planning Policy: June 2014.

Planning permission 17/00673/P approves alterations to and the change of use of the frontage building of 17 and 18 Carlyle Place to form two new flats and to retain one existing flat.

The Inveresk Bowling Club continues to operate on the bowling green to the northwest of the building of 17 and 18 Carlyle Place (on the opposite side of Carlyle Place) and in the existing buildings on the northeast side of the bowling green. Furthermore, extant planning permission 17/00225/P, grants approval of the erection of a new clubhouse building comprising toilet and changing facilities, and a seating area in the location of the existing buildings.

At the time of the determination of planning permission 17/00673/P, there was no existing on-site parking to serve the former bowling and social club use of the building of 17 and 18 Carlyle Place. Parking associated with the existing flat, which would be retained in the building, and for staff, club members and visitors to the bowling and social club were accommodated on-street on the surrounding road network.

As part of planning permission 17/00673/P the Council's Road Services accepted that parking associated with the existing flat in the building was not provided on the site but rather was already accommodated on-street, and thus it would not be reasonable for the Council as Planning Authority to require an on-site parking provision to be provided for that existing flat.

At that time, Road Services advised that the public road of Carlyle Place is a narrow cul-de-sac with limited road width and which is often congested due to on-street parking. Accordingly, in the interests of road safety, Road Services required that on-site parking spaces to serve the two new flats and a satisfactory means of vehicles turning on the site to enable vehicles using the on-site parking spaces to enter and exit the site in a forward gear should be provided.

Planning permission 17/00673/P approved three on-site parking spaces on the hardstanding area to the northwest side of the building to serve the proposed two new flats, and the installation and provision of a mechanical vehicular turntable on the site in a position to the southwest of those three on-site parking spaces to enable vehicles entering and exiting the site (along Carlyle Place) to do so in a forward gear. Conditions of the grant of planning permission 17/00673/P secure the provision of the on-site parking and the mechanical vehicular turntable.

The current application site forms part of the application site for planning permission 17/00673/P. The current site is located to the southeast (rear) of the frontage building of 17 and 18 Carlyle Place, which is itself located at the end of a narrow dead-end road (cul-de-sac), and as such the site is in a wholly contained backland location. The proposed development does not include the provision of any on-site (off-street) parking to serve the proposed house, and nor is there any land of the application site on which to provide such parking or a vehicular access to such parking.

The Council's Road Services raise objection to the proposed development on the grounds that no on-site parking would be provided for the proposed house.

Road Services remain of the opinion that, due to the narrow constrained nature of the road of Carlyle Place, and the existing on-going use of the bowling green, there is no on-street capacity to accommodate the parking demand associated with the proposed house, and that as there is no land on which the applicant could provide an on-site parking provision for the proposed house, the proposed development should be refused as it is contrary to Policies T1 and T2 of the adopted East Lothian Local Plan 2018.

Through verbal correspondence with the Planning Officer, the applicant's agent purports that the site is close to public transport routes on Bridge Street to the northeast of the site, and that occupiers of the proposed house would have access to other car parks in the vicinity, including the car park at the rear of the nearby Royal Bank of Scotland that abuts the land of 17 and 18 Carlyle Place to the northeast of the site.

The applicant's agent also comments that the response from the Council's Road Services to this current application (Ref: 18/00685/P) differs from their advice in respect of planning permission 16/01029/AMM for the approval of matters specified in conditions of planning permission in principle 06/00770/OUT for the erection of 140 flats and associated works on the former Tesco store and adjacent land at Mall Avenue in Musselburgh. In that case, Road Services advised that the Council's parking standards applicable for a development of the type and size proposed sets a need for the provision of 210 on-site parking spaces - 140 for the residents and an additional 70 parking spaces for visitors. However, Road Services noted that the development would be located in Musselburgh Town Centre and would be close to the main bus routes into Edinburgh and to the 540 parking spaces of the car park of the Tesco Retail Store, and also to the council car park at Eskmills, and in this particular locational context, they were satisfied that the provision of 146 on-site parking spaces as proposed would be sufficient to serve the proposed development. Based on these considerations the proposed development was not considered to be a significant departure from Policy DP22 of the adopted East Lothian Local Plan 2008, which was one of the relevant Local Plan policies at that time.

Whilst planning permission 16/01029/AMM did not meet the Council's Standard for on-site parking, it did provide a sufficient amount of parking for each the proposed flats on the site. Meaning that it would only be visitor parking spaces that would be accommodated off-site in the nearby car park of the Tesco Retail Store and the public car park at Eskmills.

In contrast, in the case of this current application for planning permission (Ref: 18/00685/P), no parking provision is proposed to be provided on the site and nor is there any land available on which parking could be provided and accessed. In addition, although at some 290 metres away, the nearest bus routes on Bridge Street would be relatively close, that distance is twice the walking distance away from the bus routes on Bridge Street than is the site at Mall Avenue from the bus routes of High Street. Furthermore, the application site is not within the defined Musselburgh Town Centre as was the site for planning permission 16/01029/AMM. Moreover, the nearest public car park to the application site is the Eskmills car park some 260 metres away or the New Street car park to the north (rear) of The Brunton Hall, which is some 420 metres away. An inherent characteristic of society is that people seek to park as close as possible to their property or the place they are visiting. Thus, at such distances, it would be reasonable to assume that the occupiers of the flats or their visitors would be unlikely to use these car parks.

On the matter of the car park to the rear of the Royal Bank of Scotland on Bridge Street to the northeast of the application site, that car park is a private car park for the use of customers of the Bank and as such is outwith the control of the applicant and although close to the application site could not be considered to provide the off-street parking provision required for the proposed house.

Accordingly, based on these circumstances and as no on-site parking would be provided for the proposed house and nor is there any land on which such parking could be provided, and that due to the narrow constrained nature of the road of Carlyle Place, and the existing on-going use of the bowling green, there is no on-street capacity to accommodate the parking demand associated with the proposed house, the proposed development would be contrary to Policies T1 and T2 of the adopted East Lothian Local Development Plan 2018.

The buildings of this part of Musselburgh vary in height from single storey to two storey, and there are also some 3 and 4 storey flatted buildings further afield to the northwest (towards the northwest end of Hercus Loan). The buildings predominantly have a traditional dual pitched roofed form. Although their positioning in relation to the street differs, the character of this part of Musselburgh is primarily of houses or flatted buildings having a direct frontage with the public road and footpath from which they would be accessed. In all of this, the layout and density of development of Carlyle Place and Hercus Loan is relatively high.

In that the proposed house would be formed through the alteration and change of use of a part of a rear extension of the building of 17 and 18 Carlyle Place that has through the grant of planning permission 17/00673/P been approved to be a domestic storage building, the proposed house would be positioned to the southeast (rear) of the building of 17 and 18 Carlyle Place, and, in contrast to the properties of Carlyle Place and the surrounding area, it would not have any frontage with the public road and footpath from which it would be accessed. In this respect the proposed house would occupy a wholly contained back garden location. Only by use of the existing communal pedestrian path between the flatted properties of 9 to 12 Carlyle Place and 13 to 16 Carlyle Place would pedestrian access to the site be gained. No vehicular access to the site or off-street parking for the proposed house is proposed and nor could any such vehicular access or

off-street parking be provided as there is no available land of the application site on which to do so.

By its contained backland position, the proposed house would be a substantial intrusion into its setting and a cramped form of infill housing development not appropriate to its place and harmful at odds with the characteristic pattern of the layout of the houses, flatted buildings and gardens of Hercus Loan and surrounding vicinity. As development harmful to the characteristic pattern of the layout of the houses and buildings of this part of Musselburgh, the proposals would be an overdevelopment of the site and would be harmful to the character of this part of the Musselburgh Conservation Area. Furthermore, the proposed house would not be provided with a satisfactory provision of off-street (on-site) parking. Consequently, the proposed development is contrary to Policies CH2, DP2, DP7, T1 and T2 of the adopted East Lothian Local Development Plan 2018 and Scottish Ministers' policy on development within a conservation area given in Scottish Planning Policy: June 2014.

#### REASONS FOR REFUSAL:

- 1 By its contained backland position, the proposed house would be a cramped form of infill housing development, not appropriate to its place and harmful at odds with the characteristic pattern of the layout of the houses, flatted buildings and gardens of Hercus Loan and surrounding vicinity. As development harmful to the characteristic pattern of the layout of the houses and buildings of this part of Musselburgh, the proposals would be an overdevelopment of the site and would be harmful to the character of this part of the Musselburgh Conservation Area. Consequently, the proposed development would be contrary to Policies CH2, DP2 and DP7 of the adopted East Lothian Local Development Plan 2018 and Scottish Ministers' policy on development within a conservation area given in Scottish Planning Policy: June 2014.
- 2 As no on-site parking provision would be provided for the proposed house and nor is there any land on which such parking could be provided, and that due to the narrow constrained nature of the road of Carlyle Place, and the existing on-going use of the bowling green, there is no on-street capacity to accommodate the parking demand associated with the proposed house, the proposed development would be contrary to Policies T1 and T2 of the adopted East Lothian Local Development Plan 2018.

*Please note that the remainder of pages relating to this item have been removed as they contain personal information (for example - names and addresses of people that have made representation)*



**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 1 October 2019  
**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 a) Councillor Akhtar and b) Councillor Hoy for the following reasons:

a) DC1 mentions an “operational requirement” or “other direct operational requirement”. In this case, the “requirement” is based on the occupant’s need for care and support to stay in his home provided by having family on hand. I believe this application highlights an issue in terms of demographics, case and wellbeing which may be a gap in policy and rural development strategy which ought to be addressed by Committee. If such cases show a need for care and were to be supported by appropriate evidence, I believe this should be a factor in determining similar and this application.

b) The Committee previously considered a similar application on this site. Since the last application a number of alterations have been made to address concerns and the material issues raised. I think it is now important that the Committee also consider this new application.

Application No.      **19/00691/P**

Proposal              Erection of 1 house, double garage and associated works

Location              **Ground To The West Of Kiloran  
Ormiston  
Tranent  
East Lothian  
EH34 5DH**

Applicant             Mr and Mrs Allan and Janet Jemmett

Per                      Architectural Building & Design Consultants Ltd

RECOMMENDATION      Application Refused

#### PLANNING ASSESSMENT

This application relates to the western part of the property curtilage of the single storey detached house of 'Kiloran', set within its own large garden, located within an area of countryside to the east of Ormiston. The application site is bound to the east by the garden ground of 'Kiloran', to the north by agricultural land, to the west by the residential property of 'Landour' and its garden ground and to the south by the A6093 public road on the opposite side which lies agricultural land.

Planning permission was previously refused through application 91/00887/HIS\_P in June 1992 for the erection of a single storey house with living accommodation in the roofspace and garage on the current application site.

Planning permission was subsequently refused through application 18/00636/P in August 2018 for the erection of a single storey house with living accommodation in the roofspace and garage and associated works on the west part of the curtilage of 'Kiloran' being the current application site and the same application site as that which was the subject of application 91/00887/HIS\_P.

Through this current application planning permission is now sought for the erection of a single storey house with living accommodation in the roofspace and garage and associated works on the west part of the curtilage of 'Kiloran' which is currently in use as a paddock ancillary to the domestic use of 'Kiloran'. The application site would be accessed off the A6093 public road off a new access which is to be formed. The application site which is the subject of this current application is the same as the application site which was the subject of planning application 91/00887/HIS\_P and 18/00636/P.

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 Development Plan 2018 (ELLDP).

There are no relevant policies of the approved South East Scotland Strategic Development Plan. Relevant to the determination of the application are policies DC1 (Rural Diversification), DC4 (New Build Housing in the Countryside), DC5 (Housing as Enabling Development), DP2 (Design), T1 (Development Location and Accessibility), and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of the application.

Also material to the determination of the application is Scottish Government guidance given in Scottish Planning Policy: June 2014.

The application site is in a countryside location within East Lothian and is part of a much larger area that is characterised by a low density dispersed built form within an agricultural landscape. It is not identified in the adopted East Lothian Local Development Plan 2018 as being within a settlement and the Local Development Plan does not allocate the land of the site for housing development.

Consequently, the principle of the erection of one house on the application site must be assessed against national, strategic and local planning policy relating to the control of new housing development in the countryside.

In Paragraph 76 of Scottish Planning Policy: June 2014 it is stated that Local Development Plans should make provision for most new urban development to take place within or in planned extension to existing settlements. Paragraph 81 states that in accessible or pressured rural areas, where there is a danger of unsustainable growth in long distance car based commuting or suburbanisation of the countryside, a more restrictive approach to new housing development is appropriate.

In Paragraph 83 it is stated that in remote rural areas, where new development can often help to sustain fragile communities, sustainable development that would provide

employment and that would support and sustain fragile and dispersed communities through provision of appropriate development should be supported.

It is stated in paragraphs 5.1 and 5.2 of the adopted East Lothian Local Development Plan 2018 that while the LDP's spatial strategy guides the majority of new development to existing settlements in the interests of promoting sustainable travel patterns, it also seeks to support the diversification of the rural economy and the ongoing sustainability of the countryside and coast through support in principle for agriculture, horticulture, forestry and countryside recreation, as well as other forms of appropriate business, leisure and tourism developments. New rural development should be introduced sensitively to avoid harming the characteristics that attract people to live, work and visit East Lothian's countryside and coast.

Paragraph 5.10 of the adopted East Lothian Local Development Plan 2018 states that the LDP has a general presumption against new housing in the countryside but exceptionally a new house may be justified on the basis of an operational requirement of a rural business. In such circumstances, appropriate evidence clearly demonstrating the need for a new dwelling on the particular site in association with the business will be required. Such evidence should include that no suitable existing dwelling has been recently made unavailable for that purpose and that there is no existing building that could be converted to a house.

Policy DC1 sets out specific criteria for new development in the countryside, stating that there will be support in principle for new development where it is for agriculture, horticulture, forestry or countryside recreation; or other businesses that have an operational requirement for a countryside location, including tourism and leisure uses.

Policy DC4 sets out specific criteria for the erection of new build housing in the countryside, and allows for new build housing development in the countryside where the Council is satisfied that a new house is a direct operational requirement of an agricultural, horticultural, forestry or other employment use. Policy DC4 also allows for other small scale housing proposals that form a logical addition to an existing small scale rural settlement where they are promoted for affordable housing and evidence of need is provided and the registered affordable housing provider will ensure that the dwelling(s) will remain affordable for the longer term.

Policy DC5 sets out specific criteria for the exceptional circumstances where the erection of housing as enabling development in the countryside may be supported. Any such new housing development in the countryside should: (a) enable a desirable primary use supported in principle by criterion by Policy DC1 and the benefits of the primary use outweighs the normal presumption against new build housing in the countryside; or (b) fund the restoration of a listed building or other buildings of recognised heritage value, or other significant designated feature of the built or natural environment, the retention of which is desirable, and should satisfy the terms of Policies CH1 and where relevant CH6, and can be clearly demonstrated to be the only means of preventing the loss of the asset and secure its long-term future; and (c) the proposal satisfies the terms of Policy NH1. In all cases, the benefits of the proposed development must outweigh the normal presumption against new build housing development in the countryside.

On the matter of Policy DC5, the principle of the erection of one house on the application site is not promoted to enable a desirable primary use supported in principle by criterion b of Policy DC1. Thus, there are no benefits of such a primary use that would outweigh the normal presumption against new build housing in the countryside. Nor is the principle of the erection of one house on the application site promoted to

fund the restoration of a listed building.

Although the application site is adjacent to two existing residential properties, these houses are not defined as a settlement in the adopted East Lothian Local Development Plan 2018. Rather it is defined as being within the countryside. These existing houses and buildings are not new build development but are existing houses which are long established in their countryside location and which are part of the character and appearance of the area. Moreover, whilst the application site is situated to the west of the residential property of 'Kiloran' and to the east of the residential property of 'Landour' the erection of a house on the site would not be an addition to a settlement or an addition adjoining the edge of a settlement. Rather, it would constitute sporadic development in the countryside. There is no agricultural or other employment use presently in operation to justify the need for a new house on the application site. The applicant has not advanced any such case of justification of need for the principle of the proposed new house.

The applicant's agent has however submitted a supporting statement with the application explaining that 'the applicants have lived at 'Kiloran' for twenty five years and wish to continue living there. Mr Jemmett unfortunately has a degenerative disease and as his illness progresses he will require additional care. With the onset of time, Mrs Jemmett requires additional help from her family to provide sufficient round the clock care for her husband. To allow for the applicants to continue living in their own home, this additional help with care comes from their daughter and son in law, however they currently live in Pencaitland and to provide an appropriate level of care need to be in the immediate vicinity. It is therefore proposed that the site to the west of 'Kiloran' be developed to provide a single dwelling for family members to be in close proximity to the applicants. It should also be noted that the applicant's daughter and son in law currently live in a house which was bought from East Lothian Council where the opportunity arose. This is a 4 bedroom house which the applicant's son in law has lived in for 51 years. Should planning permission be granted for the proposed new house, the family would be willing to sell this house back to the Council to allow for an affordable house to become available'.

One letter of objection has been received to the application. The main grounds of objection are:

- i) there has been two previous applications for an almost identical proposal refused on the application site and the reasons for those applications being turned down are still valid;
- ii) the proposed development does not comply with Policy DC1;
- iii) unsuitable access, resulting in loss of residential amenity and real risk to life;
- iv) cesspit located towards the rear part of the garden of the proposed house and the existing outflow pipe would not be able to take the outflow from another cesspit;
- v) highly unlikely that existing water and electricity supplies would be adequate for a third house;
- vi) detrimental impact on residential amenity of neighbouring property;
- vii) proposed development would lead to the loss of valuable green space and would completely destroy the character and nature of the site.
- viii) the applicants acknowledge in their supporting planning statement that their application does not comply with local planning policy but seek to justify the application on the grounds of the applicant's personal health circumstances. The objectors sympathise with the personal circumstances of the applicant but this does not justify the building of a four bedroom dwelling with garage.

The proposed house to be erected on the site is the same as that which was refused planning permission through previous planning application 18/00636/P, the proposed house being a detached, single storey in height house with pitched roof with living accommodation within the roofspace. The proposed house would have a ridge height of some 3.3 metres and would measure, at most some 18 metres by 12 metres. A detached double garage is proposed to be located in the north east corner of the new house plot. The garage would measure, at most some 6 metres by 6 metres, it would have a pitched roof with a ridge height of some 5.4 metres. The proposed house would be finished in white render with the roof clad with grey interlocking rooftiles and the windows and doors would be UPVC framed. The front elevation (south) of the building would have a number of openings including a front door, 4 windows, 4 floor to ceiling windows, a glazed patio door, 6 roof windows and 12 solar panels on the roof slope. The house would have a glazed patio door, glazed bi-folding 4 pane door, 2 windows, 2 floor to ceiling windows and 6 roof windows within the roof slope on the rear elevation (north). The west elevation (side) would have 1 window, 3 floor to ceiling windows and 6 solar panels on the roof slope with the east elevation (side) having 2 floor to ceiling windows. The south (front) and west (side) elevations of the house would feature timber clad Siberian larch elements on the gables. It is proposed that a new vehicular access some 3 metres wide be formed on the southern boundary of the application site off the A6093 public road to serve a new tarmac driveway which would provide vehicular access to a parking, turning area and detached double garage located within the site. The new access would be formed through the formation of a new access over an existing grass verge, to the south of the application site, between the A6093 public road and the existing private access road which serves the existing residential properties of 'Kiloran' and 'Landour'. It is proposed that two paved patio areas and a paved pedestrian access path from the tarmac drive to the front door of the house be formed. The boundaries of the proposed house plot would be enclosed along the west boundary by the existing close boarded timber fence, the north boundary being defined by an existing post and wire fence, the south boundary by the existing post and wire fence and hedge and with the east boundary between the proposed house plot and the existing house of 'Kiloran' being delineated by a new 1.2 metres high post and wire fence. The proposed house would comprise of an entrance hall, study/bedroom, bedroom, bathroom, large open plan kitchen/dining/living room and a sunroom at ground floor level with a further 2 bedrooms each with an en-suite being provided at first floor level. The position of both the proposed house and garage have been amended from that shown on the scheme of development which was refused planning permission through previous application 18/00636/P with the proposed house being relocated slightly to the north within the application site such that it at its closest point it would be some 8 metres from the northern boundary of the site, some 5.3 metres from the western boundary, some 12 metres from the eastern boundary and some 16.5 metres from the southern boundary. The proposed garage is now positioned within the north east corner of the application site such that at its closest point it would be some 4 metres from the northern boundary, some 0.7 metres from the eastern boundary, some 26 metres from the southern boundary and some 28.5 metres from the western boundary.

The existing house 'Kiloran' located to the east of the application site is a single storey detached house while the neighbouring property to the west of the application 'Landour' is a single storey detached house with living accommodation within the roofspace. The proposed house being a single storey detached house with living accommodation within the roofspace would by virtue of its scale, design and materials be inkeeping with the residential properties to the west and east of the application site and given its proposed positional relationship with the neighbouring residential properties to the west and east would not result in harmful overlooking, loss of privacy or loss of sunlight and daylight of the neighbouring properties and such that the occupants of the proposed

house would also be provided with sufficient privacy and amenity.

On these principles of development, the proposal to build a house on the application site would not conflict with the aims and objectives of Policy DP2 of the adopted East Lothian Local Development Plan 2018. However, these material considerations of the principles of design, loss of sunlight and daylight and privacy and amenity do not provide sufficient justification to grant planning permission for the principle of erecting a house on the site contrary to the other relevant policy provisions of the development plan in the form of Policies DC1, DC4 and DC5 of the adopted East Lothian Local Development Plan 2018 and Scottish Government policy guidance regarding the control of new housing development in the countryside given in Scottish Planning Policy: June 2014.

The application site is currently an area of undeveloped paddock ground within the western part of the curtilage of the existing house 'Kiloran'. A large number of mature trees are currently situated on the application site which occupies a countryside location.

The Council's Landscape Officer has advised that he has had previous discussions with the agent in respect of the necessary standards relating to tree root protection. The Council's Landscape Officer advises that the submitted drawing 'Tree root protection area plan' drawing number 08 dated 01/07/2019 by Architectural Building & Design Ltd has identified the construction exclusion zone correctly, which must be protected by temporary protective fencing in accordance with BS 5837:2012 "Trees in relation to design, demolition and construction". Other smaller less significant trees are shown to be removed to accommodate the development with the exception of tree T9, which is too close to the existing septic tank. The Council's Landscape Officer states that he is aware that this application was previously refused; however, if this application is now to be put forward for approval, he would recommend that a planning condition in relation to safeguarding the retained trees be imposed on any grant of planning permission. This matter could be controlled through a condition of a grant of planning permission.

The application site is within a Coal Authority Development High Risk Area. In such areas there are existing recorded risks to the ground stability which need to be assessed and mitigated as part of the new development proposals in the interests of public safety. The Coal Authority's Guidance for Scottish Planning Authorities: 2017 clearly states that any planning application for development which intersects the ground in the Development High Risk Area requires a desk based Coal Mining Risk Assessment and once this has been provided, consultation with the Coal Authority. A Coal Mining Risk Assessment Report has been submitted by the applicant with the application. The Coal Authority have been consulted on the application and advise that the Coal Authority concurs with the recommendations of the Coal Mining Risk Assessment Report submitted, that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigations works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site. The Coal Authority does not object to the planning application subject to the imposition of a condition on any grant of planning permission requiring prior to the commencement of development (i) the undertaking of a scheme of intrusive site investigations which is adequate to properly assess the ground conditions and the potential risks posed to the development by past coal mining activity; (ii) the submission of a report of findings arising from the intrusive site investigations, including details of any remedial works necessary for approval; (iii) implementation of those works. This matter could be controlled through a condition of a grant of planning permission.

The Council's Contaminated Land Officer has advised that the application site is in close proximity to the former Woodhall Colliery and railway siding and historically buildings occupied the site, given this there may be localised deposits of made ground associated with the former buildings (demolition rubble) and potentially from the nearby Colliery spoil. Investigation and mitigation to ensure that a suitable geo-environmental assessment of the site is carried out prior to the development of the site could be controlled by a condition, should planning permission in principle be granted.

The Council's Environmental Protection Manager has no adverse comment to make on the application, being satisfied that the development would not have an adverse impact on any neighbouring land uses.

The Council's Road Services advise that this application is for a new dwelling house at 'Kiloran', Ormiston. A previous application 18/00636/P was submitted and considered for the same site. For this previous application road services objected to the application due to the existing access onto the A6093 not being suitable for increased traffic. The current application provides an updated access arrangement which allows vehicles to enter and exit perpendicularly to the A6093, and the appropriate visibility splay to be achieved. As such the Council's Road Services raise no objection to the proposal being satisfied that it would not have an adverse impact on pedestrian or road safety, subject to conditions being imposed on any grant of planning permission relating to the provision of the required access and visibility splay.

The applicant's agent has submitted a supporting statement with the application which seeks to justify the requirement for a new house on the grounds that the current owner/occupier of the property 'Kiloran' has a degenerative disease which could potentially lead to him requiring round the clock care. While the health condition of the applicant is unfortunate it is not a material planning consideration in the determination of this planning application.

No case has been made for the proposed house to meet an agriculture, horticulture or forestry need. No other operational need has been advanced to justify the erection of a house on the application site in this countryside location such that the proposal is contrary to Policies DC1 (Rural Diversification), DC4 (New Build Housing in the Countryside) and DC5 (Housing as Enabling Development) of the adopted East Lothian Local Development Plan 2018 and Government policy guidance regarding the control of new housing development in the countryside expounded in Scottish Planning Policy: June 2014.

Furthermore, if approved the proposal would set an undesirable precedent for the development of new houses in the countryside, the cumulative effect of which would result in a detrimental impact on the rural character of the open countryside in East Lothian.

In conclusion there are no material planning considerations that outweigh the fact that the proposed development is contrary to Policies DC1, DC4 and DC5 of the adopted East Lothian Local Development Plan 2018 and Government policy guidance regarding the control of new housing development in the countryside expounded in Scottish Planning Policy: June 2014.

## REASONS FOR REFUSAL:

- 1 The erection of a house on the application site would be new build housing development in the countryside of East Lothian for which a need to meet the requirements of the operation of an agricultural, horticultural, forestry, countryside recreation, or other business, leisure or tourism use has not been demonstrated, and which is not proposed as affordable housing development of an existing rural settlement. The proposal is therefore contrary to Policies DC1 and DC4 of the adopted East Lothian Local Development Plan 2018.
- 2 The erection of a house on the application site would be new build housing development in the countryside of East Lothian for which a desirable primary use supported in principle by criterion b of Policy DC1 and with benefits that outweigh the normal presumption against new build housing in the countryside has not been demonstrated; and which is not promoted to fund the restoration of a listed building, building of recognised heritage value or significant designated feature of the built or natural environment, the retention of which is desirable. The proposal is therefore contrary to Policy DC5 of the adopted East Lothian Local Development Plan 2018.
- 3 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.

*Please note that the remainder of pages relating to this item have been removed as they contain personal information (for example - names and addresses of people that have made representation)*