

REPORT TO: Planning Committee

MEETING DATE: Tuesday 12 January 2021

BY: Executive Director – Place

SUBJECT: Application for Planning Permission for Consideration

Note - this application was called off the Scheme of Delegation List by Councillor Henderson for the following reason: I and members of the community have concerns over the size, scale and design of the proposed building on a relatively small site within a conservation area.

Application No. **20/00999/P**

Proposal Alteration to building and erection of 1 house and associated works

Location **82 High Street And Land North Of 82 High Street
North Berwick
East Lothian**

Applicant Sutherland & Co Architects Ltd

RECOMMENDATION Consent Granted

REPORT OF HANDLING

PROPOSAL

The property to which this application relates is part of a flat roofed extension on the north (rear) elevation of the two storey building of 82 High Street and a yard area to the rear of the property. The application site is located on the south side of Forth Street onto which it has a direct frontage. The application site is located within the North Berwick Conservation Area. The application site is predominantly located within a residential area as defined by Policy RCA1 of the adopted East Lothian Local Plan 2018 however the southern part of the site including the building containing the property of 82 High Street and the extension is within the Town Centre as defined by Policy TC2 of the adopted East Lothian Local Plan 2018.

Planning permission 16/00915/P was granted in March 2017 for the alterations and part change of use of shop (class 1) use to financial, professional and other services (class 2) use. Planning permission 16/00915/P has been implemented with the ground floor of the property of 82 High Street currently being in use as a shop (class 2) while the first floor of the property is currently in use as an architect's office (class 2). Through the alterations undertaken through the granting of planning permission 16/00915/P the ground floor rear extension on the property has no access with or association with the shop on the ground floor.

Planning permission is now sought through this application for the alteration to the building of 82 High Street comprising of the demolition of an existing two storey brick extension on the rear (north) elevation of the building and the erection of a three storey house within the northern part of the application site with access off and fronting directly onto Forth Street. The application site is bound to the west by the residential property of 47 Forth Street, to the south by the buildings on the High Street predominantly with commercial units at ground floor level and largely residential flatted properties on the upper floors, to the north by Forth Street on the opposite side of which lie residential properties and to the east by an adjacent yard area beyond which are flatted residential properties. The application site is currently enclosed by a high brick wall along the eastern boundary, partly by the side elevation of the residential property of 47 Forth Street to the immediate west and a high brick and rendered wall along the west boundary and by a high timber gate over the yard access on the northern boundary. The proposed house would occupy the northern part of the site and would have a rectangular footprint measuring at most some 4 metres by 20 metres. The proposed house would be of a contemporary design providing living accommodation over three levels. A private courtyard garden, garden store and first floor roof terrace would be provided to the south of the proposed house.

Through separate application 20/00111/CAC Conservation Area Consent is sought for the demolition of the rear extension on the building of 82 High Street, the boundary wall and gates. That application stands to be determined on its merits.

The applicant has submitted a Design and Access statement in support of the application. The statement states 'no. 82 High Street, North Berwick comprises a Class 1 shop on the ground floor, Class 2 architects office on the first floor (both accessed from High Street) and a yard area to the rear which includes a former shop store and redundant fire escape neither with any internal connection to 82 High Street. This vacant yard area is self-contained with a frontage and established vehicle access onto Forth Street. For the avoidance of doubt, the yard is unconnected to the uses at 82 High Street. It is this yard area 28.6m x 4.2m, known as 45 Forth Street, which is proposed as the site for a house on 3 levels with access from Forth Street. This will involve the demolition of the former shop store and redundant fire escape. The store and fire escape on this portion are redundant and not required for the viability of the High Street uses. The majority of retail and other commercial uses are on High Street. The location of the site on Forth Street, which is predominantly residential, does not conflict with the vertical mix of land uses found on High Street. The design of the house is such that it will not have a significant environmental impact either on the commercial uses on High Street or the surrounding housing on Forth Street. The design of the proposed new house reflects the attributes of those buildings which give the Conservation Area its character. In contrast to some of the nearby late 20th century developments which are of little or no merit, it is a positive addition which will not only preserve, but enhance the special architectural or historic character or appearance of the Conservation Area. The former shop store and the fire escape are relatively recent additions of no merit which detract from the character of the Conservation Area. Their demolition and replacement with the proposed house will serve to enhance the Conservation Area. The siting and design of the proposed new house, as part of the residential frontage onto Forth Street, reflect the character and density of established development, ensuring commensurate levels of privacy and amenity along with suitable servicing and access. It has been demonstrated that the site can accommodate the entire development, there will be no significant loss of privacy and amenity to existing development, the new development will enjoy appropriate levels of privacy and amenity, the scale and design are sympathetic, there is no overdevelopment as the design reflects established density, and there is no material loss of space or features.'

The applicant has also provided a further design statement in support of the application stating that the building presents a slender double-pitched gable to the street, a self-consciously domestic form that is sympathetic to the scale and character of surrounding

buildings. The local street context is defined by an eclectic mix of materials and finishes, providing no obvious single material language to draw upon in developing the proposal. It is further considered that the new house should have an unashamedly contemporary expression with the main volume of the house being clad in natural zinc, both as a wall and roofing material. Pale grey brick is proposed for the ground floor walls. This is a robust and durable finish which acknowledges the materiality of the existing brick boundary walls and relates to the use of brickwork elsewhere on Forth Street. Proposed windows are timber framed but clad externally in aluminium. The proposed use of zinc as the primary cladding material and also the proposed aluminium clad window system have numerous precedents in recent development in the North Berwick Conservation Area.

DEVELOPMENT PLAN

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.

There are no relevant policies of the approved South East Scotland Strategic Development Plan (SESplan). Relevant to the determination of the application are Policies RCA1 (Residential Character and Amenity), TC2 (Town and Local Centre), CH2 (Development Affecting Conservation Areas), DP2 (Design), DP5 (Extensions and Alterations to Existing Buildings), DP7 (Infill, Backland and Garden Ground development), T1 (Development locations and accessibility) and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018.

Material to the determination of the application is 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.

Also material to the determination of the application is the Scottish Government's guidance on housing design and quality given in Planning Advice Note 67: Housing Quality.

Planning Advice Note 67: Housing Quality explains how Designing Places should be applied to new housing. In PAN 67 it is stated that the planning process has an essential role to play in ensuring that: (i) the design of new housing reflects a full understanding of its context - in terms of both its physical location and market conditions, (ii) the design of new housing reinforces local and Scottish identity, and (iii) new housing is integrated into the movement and settlement patterns of the wider area. The creation of good places requires careful attention to detailed aspects of layout and movement. Developers should think about the qualities and the characteristics of places and not consider sites in isolation. New housing

should take account of the wider context and be integrated into its wider neighbourhood. The quality of development can be spoilt by poor attention to detail. The development of a quality place requires careful consideration, not only to setting and layout and its setting, but also to detailed design, including finishes and materials. The development should reflect its setting, reflecting local forms of building and materials. The aim should be to have houses looking different without detracting from any sense of unity and coherence for the development or the wider neighbourhood.

REPRESENTATIONS

Eight Letters of representation to the application have been received all objecting to the proposed development. The main grounds of objection are:

- i) Road safety due to proposed parking bay;
- ii) Intrusion on privacy to neighbouring residential properties;
- iii) Overdevelopment;
- iv) Design and cladding inappropriate for Conservation Area;
- v) Overshadowing and loss of daylight to neighbouring properties;
- vi) Roof terrace threat to local residential amenity and will set a precedent for other roof gardens;
- vii) Property could be sold and used as an air B & B or holiday home with the roof garden becoming a noise pollutant;
- viii) Loss of view to the beach, sea, Craigleith Island and Fife will lead to a devaluation of neighbouring properties;
- ix) Disruption to Forth Street will be considerable with delivery of materials which will impact on local residents;
- x) Alleged that when the applicant renovated the office space the building work was not kept within the structured hours;
- xi) Security risk to the pharmacy and neighbouring residential flatted properties with roof garden on a level with the flat roof of Boots the Chemist;

The type of development proposed in this application is common place and there would be nothing extraordinary in the construction works to be carried out that would justify the Planning Authority exercising planning control over matters of site noise, hours of working, delivery and storage of materials and parking of builder's vehicles and skips. Any matters of alleged nuisance to neighbours from any construction works that may be carried out would be for the Council's Environmental Health Manager to investigate under separate environmental protection legislation. Any skips to be sited on the public road would require a permit for that from the Council's Road Services.

The loss of a private view, the devaluation in property, security of neighbouring buildings and alleged complaint regarding hours of work on previous renovations are not material considerations in the determination of this planning application.

COMMUNITY COUNCIL COMMENTS

North Berwick Community Council as a consultee on the application object to the application on the grounds that:

- i) The use of zinc cladding is out of character with the surroundings;
- ii) It is an overdevelopment of the site;
- iii) The roof terrace and south facing windows overlook several houses in the High Street and are a clear invasion of privacy for the flats in these houses.

PLANNING ASSESSMENT

The application site is largely located within a predominantly residential area as defined by Policy RCA1 of the adopted East Lothian Local Development Plan 2018. However the town centre boundary runs through the southern part of the application site with the existing rear brick extension containing a ground floor store and a redundant fire escape at first floor level being within the area defined as the town centre by Policy TC2 of the adopted East Lothian Local Development Plan 2018.

The applicant has provided an additional supporting statement which advises that he purchased 82 High Street in 2016 and embarked on a comprehensive refurbishment that was completed in 2018. The ground floor has been retained in retail use and Sutherland & Co. Architects now operates from a shared studio on the first floor. As such both the ground floor and first floor of the building of 82 High Street are in commercial use. The ground floor shop (within 82 High Street) is subject to a 10 year lease, with the tenant having been selected on the basis of a competitive bid following a period of marketing. The current tenant was selected from a total of 5 bids, 2 of which were considered credible with their lease excluding the rear store area and yard. The internal layout of the rear shop was subsequently altered at the tenant's request, relocating the toilet and removing the internal connection to the store to facilitate their fit-out. The fire escape stair, (at first floor level) the most conspicuous feature visible from Forth Street, is now redundant as the High Street building has been fitted with a sprinkler system and the store within the rear extension is no longer internally accessible from the shop or available for the tenant's use. As such both the rear yard and store have been in informal personal use for storage of the applicant's possessions since 2016. It is proposed that the rear extension which comprises of the first floor fire escape and the ground floor store be demolished. The main High Street building will be retained in its current commercial use and is unaffected by the proposal. As such given that the commercial use of the building of 82 High Street will be retained with the existing ground floor shop being let on a 10 year lease and the first floor of the building being retained in commercial use as a Class 2 office the proposed scheme of development would not compromise the North Berwick town centre's vibrancy, vitality or viability and as such would not be contrary to Policy TC2 of the adopted East Lothian Local Plan.

With the exception of the southern part of the application site which accommodates the rear extension on the building of 82 High Street the application site is located within a predominantly residential area as defined by Policy RCA1. Policy RCA1 does not actively promote the development of land for new build residential development. The principal purpose of Policy RCA1 is to ensure that the predominantly residential character and amenity of its area of coverage is safeguarded against the impacts of land uses other than housing. However Policy RCA1 does state that infill, backland and garden ground development will be assessed against Policy DP7 of the adopted East Lothian Local Development Plan 2018.

The site is bound to the west by a residential property, to the south by the buildings on the High Street with commercial units at ground floor level and residential flatted properties on the upper floors, to the north by Forth Street on the opposite side of which lie residential properties and to the east by an adjacent yard area beyond which are flatted residential properties.

Accordingly, the development of the site for the erection of 1 house on it can largely be defined as being infill housing development within the predominantly residential area of this part of North Berwick. The principle of such development is supported by Policy DP7 of the adopted East Lothian Local Development Plan 2018.

Thereafter the determining factor in this case is whether, having regard to national, strategic

and local planning policy and guidance and other material considerations, the size, form, design and architectural appearance of the proposed development is acceptable in terms of the potential impact of the development on the character and amenity of the area including the impact on the character and appearance of the North Berwick Conservation Area and neighbouring residential amenity, and whether the proposed development would be provided with a satisfactory means of residential amenity, vehicular access and a sufficient standard of on-site parking provision.

The buildings within this part of North Berwick Conservation Area vary between single storey and four storeys in height. Those on the north side of Forth Street are generally of a lower height varying between single storey with attic accommodation and two storeys. Those on the south side of Forth Street are generally high, varying between two and four storey in height. The flatted building beyond the yard that is to the east of the site the subject of this application is some 13 metres high while the building to the west of the application site is some 9 metres. The buildings of High Street to the south vary in height between two and four storeys. As such the buildings within this part of the North Berwick Conservation Area are characterised by a mix of varying heights, architectural styles, materials and finishes.

The proposed house would provide living accommodation on three floors, with the third floor of accommodation being provided within the roofspace of the building, it would have a dual pitched roof with a ridge height of some 11 metres in height. While the proposed house would be some 2 metres higher than the neighbouring residential building of 47 Forth Street, it would be some 3.5 metres lower than neighbouring flatted buildings on Forth Street. As such it would be seen in the context of the variable heights of the surrounding buildings that are part of the character of this part of the North Berwick Conservation Area. In its context the proposed house would not appear harmfully dominant or intrusive in the streetscape of Forth Street.

The proposed house to be erected on the application site is of a contemporary design which would provide living accommodation over three levels. At ground floor level the proposed house would provide a covered parking bay, bin store, entrance hall, utility/plant room, bathroom and study/bedroom at first floor level a bedroom, toilet and kitchen with roof terrace would be provided and at third floor a bedroom and living room would be provided. A private courtyard garden, garden store and first floor roof terrace would be provided to the south of the proposed house. The parking bay would be accessed directly off Forth Street.

The proposed house would be finished externally with a mix of zinc cladding on the walls and roof with grey brick elements at ground floor level, the windows of the house would be timber framed clad externally in aluminium. The proposed house is of a design which responds to the constraints of the site. Although the design of the proposed house is contemporary, in the context of Forth Street which displays a variety of architectural forms and finishes by virtue of its location, form and layout it would not be so prominent to be seen to harm the character and appearance of this part of the North Berwick Conservation Area. The materials to be used on the proposed new house are of an appropriate quality for the Conservation Area.

On those matters of design the proposed development is not contrary to Policies CH2, DP2 and DP7 of the adopted East Lothian Local Development Plan 2018 and with Scottish Planning Policy: June 2014.

On the matter of the impact of the proposed development on daylight and sunlight on neighbouring properties, guidance is taken from "Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice" by P.J. Littlefair. Application of the relevant daylight and sunlight tests of the Guide demonstrates that by virtue of its height, positioning and distance away from the neighbouring residential properties to the south, west, north and east, the

proposed house would not give rise to harmful loss of daylight or sunlight to them and therefore would not have a harmful effect on the residential amenity of those neighbouring residential properties.

In assessing whether or not a new development would result in harmful overlooking and therefore loss of privacy to existing neighbouring residential properties it is the practice of the Council, as Planning Authority to apply the general rule of a 9 metres separation distance between the windows of a proposed new building and the garden boundaries of neighbouring residential properties and an 18 metres separation distance between directly facing windows of the proposed new building and the windows of existing neighbouring residential properties.

It is proposed that three openings would be formed within the south elevation of the proposed house. A glazed double door serving a bedroom/study would be formed at ground floor level providing access to both the proposed courtyard garden and garden store which would be provided to the south of the proposed house between the rear elevation of the proposed house and the rear elevation of the building of 82 High Street. A glazed double door opening serving a kitchen would be provided at first floor level providing access to a first floor roof terrace which is proposed to be formed on the south elevation enclosed by a 1 metre high brick wall. A double window opening is also proposed to be formed at second floor level serving a bedroom.

The existing rear extension on 82 High Street is proposed to be demolished and the rear elevation of 82 High Street altered in the form of an existing ground floor door opening bricked up and the area of wall where the extension is removed from made good and finished in brickwork to match existing. The area of ground to the immediate north of the building of 82 High Street would be used as the garden store and garden courtyard which is proposed to serve the proposed house.

The proposed ground floor glazed double door opening would be some 8.2 metres from the rear (north) elevation of the building of 82 High Street with the glazed double door facing directly into and providing access to the courtyard garden which is proposed to serve the house. With the proposed alterations to the north elevation of the building of 82 High Street there would be no openings at ground floor level and as such no directly facing openings. The proposed first floor glazed double door opening serving the kitchen would be some 11.7 metres from the rear (north) elevation of the building of 82 High Street while the proposed roof terrace would be some 8.2 metres away. The first floor of the building directly to the rear of the application site is not in residential use as it is in commercial class 2 office use. The proposed alterations to the north elevation of 82 High Street include the installation of an obscured glazed timber framed window within the existing first floor fire escape door which would serve the existing staff room of the first floor commercial office along with the three existing windows fitted with obscure glass, as such there would be no directly facing residential windows at first floor level within the north elevation of the building of 82 High Street. The existing building of 82 High Street being only two storeys in height has no windows at second floor level and as such there would be no directly facing windows. As such the proposed windows on the south elevation of the proposed house would not give rise to overlooking of any directly facing windows within the north elevation of the building of 82 High Street.

The buildings to the south east and south west of the application site on either side of 82 High Street do contain residential flatted properties at first and second floor level with windows within their rear (north) elevation. However these windows are not directly facing windows of either the windows or the roof terrace within the south elevation of the proposed house. The proposed windows within the south elevation of the proposed house would not be within 9 metres of the garden of any residential property and would not be within 18

metres of any directly facing windows of any neighbouring residential property and thus, they would not allow for any harmful overlooking or loss of privacy and amenity to any neighbouring residential properties.

The first and second floor windows within the north elevation of the proposed house would face towards the public footpath and road of Forth Street. On the opposite of Forth Street directly opposite the application site lie two storey residential properties with accommodation within their roofspace. In its proposed position the proposed house would, at its closest point, be some 10 metres from these existing residential properties located on the north side of Forth Street. However, that separation distance would be over a public street. Moreover, the distance between the proposed house and the existing buildings on the opposite side of Forth Street is of a similar locational relationship to that of the existing built form in other parts of both Forth Street and elsewhere in North Berwick town centre, where buildings face each other directly over the intervening public street. In such circumstances there is insufficient reason to refuse to grant planning permission for the proposed development on grounds of overlooking.

On those matters of amenity the proposals are consistent with Policies DP2 and DP7 of the adopted East Lothian Local Development Plan 2018.

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

The proposed house would be served by a covered parking bay accessed directly off Forth Street. **The Council's Road Services** advise that the dimensions and the scale of the parking facility is in accordance with ELC Standards for Development Roads. The parking bay will be accessed from Forth Street which is a classified road. Ordinarily, Road Services would require vehicles to be able to turn within the curtilage of the property to allow access and egress in a forward gear. However, given that there is an existing service yard in the location of the proposed bay which, although not in regular use, can accommodate vehicles. Road Services advise it would therefore be unreasonable to recommend refusal on the grounds of parking or accessibility. Accordingly 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. On those matters of road safety the proposals are consistent with Policy T2 of the adopted East Lothian Local Development Plan 2018.

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.

Scottish Water raise no objection to this planning application.

At its meeting on Tuesday 27th August 2019 the Council approved a motion declaring a Climate Emergency. Thereafter, at its meeting on Tuesday 3rd September 2019 the Council's Planning Committee decided that a condition requiring a developer to submit for the approval of the Planning Authority a report on the actions to be taken to reduce the carbon emissions from the building and from the completed development should be imposed on relevant applications for planning permission. Such a condition should be imposed on a grant of planning permission for this proposed development.

In conclusion, given all of the above and subject to the aforementioned conditions the proposed development is not contrary to Policies RCA1, TC2, CH2, DP2, DP7, T1 and T2 of

the adopted East Lothian Local Development Plan 2018 and with Scottish Planning Policy: June 2014.

RECOMMENDATION

That planning permission be granted subject to the undernoted conditions:

- 1 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 all new buildings, where feasible and appropriate in design terms, and new car charging points and infrastructure for them, where feasible and appropriate in design terms. 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.

- 2 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 house 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.

- 3 A schedule and samples of all of the external finishing materials and finishing colours to be used in the external finishes of the house hereby approved shall be submitted to and approved in writing by the Planning Authority prior to their use in the development. Thereafter, the external finishing materials and colours used shall accord with the schedule and samples so approved.

Reason:

To ensure the satisfactory appearance of the development in the interest of safeguarding the character and appearance of the Conservation Area.

- 4 Prior to the occupation of the house hereby approved the vehicular access and parking arrangements shall be laid out and made available for use, as shown in docketed drawing no. 2001 (PL) 030 revision B, and thereafter the access and parking areas shall be retained for such uses, unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure the provision of an acceptable standard of vehicular access and parking in the interests of road safety.