

**REPORT TO:** Planning Committee  
**MEETING DATE:** 2 May 2023  
**BY:** Executive Director for Place  
**SUBJECT:** Application for Planning Permission for Consideration

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***Note** – this application was called off the Scheme of Delegation List by Councillor Findlay for the following reasons: Given the high number of objections and the erection of these buildings are on prime agricultural land the application should be looked at and decided by the Planning Committee.*

Application No.     **23/00072/P**  
Proposal             Erection of two agricultural buildings  
Location             **East Fortune Farm  
East Fortune  
Athelstaneford  
East Lothian**

Applicant                             R Brand And Son  
Per   BHC Limited

**RECOMMENDATION**                     Consent Granted

#### **REPORT OF HANDLING**

This application relates to a site located within the East Lothian countryside at East Fortune Farm, East Fortune to the north east of Athelstaneford. The site is located within the open countryside as designated by Policy DC1 of the East Lothian Local Development Plan 2018. The site is not located within any area of special character.

The land is bound to the north by an existing agricultural building as well as the Edinburgh - North Berwick Railway line beyond. The west and south of the site is bound by agricultural land while a telecommunications mast lies to the east. The south east of the site is bound by land associated with Station Park Caravan Site. The nearest residential properties are sited some 115 metres to the south.

## **PLANNING HISTORY**

In November 2022, an application for prior notification for the erection of two agricultural buildings was submitted (Ref: 22/01245/NAF) to East Lothian Council. The Council as Planning Authority Raised Objection to application 22/01245/NAF given that it did not comply with the provisions of Class 18 of Part 6 (Agricultural Buildings and Operations) of Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 as the agricultural buildings would be located within 3 kilometres of the boundary of East Fortune Airfield and the buildings as proposed exceed 3 metres in height. Accordingly, prior notification for the erection of two agricultural buildings at the above site was refused in December 2022 and the applicant was advised that full planning permission was therefore required for the works as proposed.

## **PROPOSAL**

Planning permission is sought through this application for the erection of two agricultural buildings on the site. The proposed agricultural building No. 1 as proposed would have a rectangular footprint. It would measure some 48.768 metres in length and some 12.190 metres in width. It would also have a height of 6.151 metres in height to the ridge of its dual pitched roof and 4.8 metres to the eaves. The elevations would be finished in a Juniper Green coloured plastisol cladding with the roof being clad fibre cement sheets and 16 roof lights. A large gate would be inserted within each gable elevation. The new building would be for an agricultural use for the storage of straw, hay and machinery. The proposed building would be situated approximately 200 metres to the north of the nearest public road.

The proposed agricultural building No. 2 as proposed would again have a rectangular footprint. It would measure some 24 metres in length and some 12 metres in width. It would also have a height of 6.13 metres in height to the ridge of its dual pitched roof and 4.8 metres to the eaves. The elevations and roof would be finished in a Juniper Green coloured plastisol cladding. A large roller shutter door would be inserted within the side elevation with a personal door within one gable elevation. The new building would be for an agricultural use to store feedstuffs and smaller implements. The proposed building would again be situated approximately 220 metres to the north of the nearest public road.

The agent has stated that the agricultural buildings are to be used for agricultural purposes as part of the agricultural holding at East Fortune. More specifically, they state that the applicant has recently been given notice to vacate rented steadings at the East Fortune Hospital site as well as the original East Fortune Farm steading site and as such require additional infrastructure at the proposed site to house those activities and to facilitate the ongoing operations of the existing agricultural business at East Fortune Farm. The agent has informed that one of the sheds is intended for the storage of straw, hay and machinery while the second would be used for the storage of feedstuffs and smaller implements.

## **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 National Planning Framework 4 (NPF4) and the adopted East Lothian Local Development Plan 2018.

Policies 1 (Tackling the climate and nature crises), 2 (Climate mitigation and adaptation), 3 (Biodiversity), 5 (Soils) and 29 (Rural Development) of NPF4 and Policies DC1 (Rural Diversification), DP1 (Landscape Character), DP2 (Design) and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of the application.

## REPRESENTATIONS

One representations and fifty nine letters of objection have been submitted in respect of the proposed development. The main grounds of representation and objection are:

- o Use of the buildings not for agricultural purposes;
- o Lack of need for the new buildings given the modest scale of the farm operation;
- o Potential relocation of East links Family Park to the application site;
- o Loss of privacy;
- o Loss of property values;
- o Operation of other business from the site such as markets, caravan storage and existing shed converted to a farm shop;
- o Increase in noise pollution in the area from potential recreational use;
- o Increased traffic congestion and road safety issues associated with potential recreational use;
- o Insufficient access to utilities;
- o Loss of prime agricultural land;
- o Detrimental impact on the appearance of the rural landscape;
- o Displacement of natural wildlife;
- o The area is a conservation area;
- o Adverse effect on the railway line;
- o the height is dangerous due to the location of the airfield; and
- o Neighbour notification not undertaken correctly.

With regards to the use of the site for Recreation/Tourism as part of the potential relocation of East Links Family Park, a Proposal of Application Notice (Ref: 23/00002/PAN) was submitted to the Council as Planning Authority in February 2023 which was consulting on the proposed relocation of East Links Family Park to East Fortune Farm. The Proposal of Application Notice is submitted to inform the Council of what pre-application community consultation an applicant intends to undertake in advance of an application for planning permission being submitted for the proposed development. The Council has no involvement in the operation of the community consultation event and any comments should be made to the applicant/ agent. The pre-application consultation notice does not give planning permission for the use of the site as a family park. Therefore, whilst the Pre application Notice has been submitted the site does not have planning permission to operate as a family park and there is no presumption that planning permission will be granted for that use. This planning application has been submitted on the basis of the 2 agricultural buildings will be used in association with East Fortune Farm and therefore for agricultural purposes. It is on that basis that this application will be determined.

Any future use of the buildings as part of any proposal to relocate East Links Family Park to East Fortune would require planning permission and would therefore be subject to a further application for planning permission for the change of use. An assessment of any application submitted for a family park would be determined on its merits in accordance with the development plan unless material planning considerations indicate otherwise. Furthermore, any application submitted would be the subject of neighbour notification and advertisement in the local press and members of the public would have the opportunity to make representations to that application.

Issues of other commercial uses operation from the site without the benefit of planning permission are subject to a planning enforcement investigation and should planning permission be required, a further planning application for such uses would be sought separately and considered on its own merits.

The issue of loss of property values is not a planning consideration relevant to the determination of this planning application and as such cannot be taken into account in the determination of this planning application.

All neighbour notification has been undertaken in full accordance with statutory requirement as well as an advert being placed in the East Lothian Courier on the 10th February 2023.

The height of the buildings would not have a detrimental impact on the operation of the nearby airfield.

Access to utilities is not a material planning consideration relevant to the determination of this application.

The site is not located within a Conservation Area or any area of special character.

Further issues raised within the written objections are addressed in the planning assessment below.

## **COMMUNITY COUNCIL COMMENTS**

None.

## **PLANNING ASSESSMENT**

Policy 29 of NPF4 states that development proposals that contribute to the viability, sustainability and diversity of rural communities and local rural economy will be supported. Policy DC1 of the East Lothian Local Development Plan 2018 supports the principle of development in the countryside where it is for agricultural use.

In this regard, the proposed agricultural buildings are required to support and further develop the existing agricultural business at East Fortune Farm. The agent has stated that due to a recent change in available rented buildings offsite, there is a requirement to provide additional infrastructure onsite to house equipment and feedstuffs. Notwithstanding that there is no requirement to demonstrate the need for the 2 new sheds the agent has informed that one of the sheds is intended for the storage of straw, hay and machinery while the second would be used for the storage of feedstuffs and smaller implements. Therefore the principle of the siting of this agricultural building in this countryside location and within an area of prime agricultural land is consistent with Policies 5 and 29 of NPF4 and Policy DC1 of the adopted East Lothian Local Development Plan 2018.

In this instance as the proposed 2 agricultural buildings would be related to an existing agricultural holding then there is an operational requirement for them in this location. Therefore and as this is small scale development directly linked to an existing rural business the proposed 2 agricultural buildings do not conflict with Policy 5 of NPF4.

Policy 29 of NPF4 also states that development proposals in rural areas should be suitably scaled, sited and designed to be in keeping with the character of the area. Policy

DP1 of the East Lothian Local Development Plan 2018 states that new development must be well integrated into its surroundings by responding to and respecting landform.

Policy DP2 of the East Lothian Local Development Plan 2018 seeks for new development to be designed to be appropriate to its location in terms of its positioning, size, form, massing, proportion and scale and use of a limited palette of materials and colours that complement its surroundings.

The proposed agricultural buildings would be visible from the public road which runs from the south west to north east to the south of the site. The buildings would be of a functional design to reflect their agricultural purpose and they would be of a form, size and scale reflective of other agricultural buildings typically seen throughout the agricultural landscape of East Lothian. Furthermore, the proposed building would be seen in the context of and in relation to an existing agricultural building at East Fortune Farm with which it would have a visual relationship with.

In that locational circumstance and by virtue of their architectural form, size, scale, materials and positioning the proposed agricultural buildings would be appropriate to their countryside setting and would not be out of keeping with their surroundings. The agricultural buildings would not harm the character of the surrounding landscape or be visually intrusive or harmfully prominent within their landscape setting.

On the above considerations, the proposed agricultural buildings are consistent with Policy 29 of NPF4 and Policies DP1 and DP2 of the East Lothian Local Development Plan 2018.

With regards to neighbouring amenity, in assessing whether or not a proposed new development would result in overlooking and loss of privacy to other residential properties it is the practice of the Council as planning authority to apply the general rule of a 9 metre separation between the windows on the proposed house and the garden boundary of neighbouring residential properties and an 18m separation between directly facing windows, if they are not adequately screened.

In this regard, given the siting of the nearest residential properties some 135 metres to the south of the site the proposed agricultural buildings would not result in a loss of amenity to surrounding residential properties by way of overlooking and loss of privacy.

"Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice" by P.J. Littlefair gives guidance on the impact of a proposed development on the daylight and sunlight received by neighbouring properties. In this instance given the siting and orientation of the building and its proximity away from the neighbouring dwellings to the south, there would be no detrimental loss of daylight to any adjacent residential properties.

Similarly, levels of sunlight to nearby residential properties would not be harmfully affected given the position and orientation of the proposed agricultural buildings some 135 metres to the north of these dwellings.

The Council's **Senior Environmental Protection Officer** has been consulted on the application and raises no objection to the proposed development, satisfied its operation would not result in a loss of amenity to any neighbouring residential property.

On those matters of amenity the proposed agricultural buildings are consistent with Policy DP2 of the adopted East Lothian Local Development Plan 2018.

The Council's **Road Services** have been consulted on the application. They have responded to state that the proposed agricultural buildings are for use as storage of agricultural feedstuffs and machinery for an already established farm and agricultural business. They note that the only vehicular access to the site is via a private track that is shared with the adjacent caravan park which takes access to / from the B1377 via a simple T-junction arrangement that is shared with the adjacent farm shop and residential properties. They state that this access has large gates set back from the road that can close off access to the farm and caravan park site specifically if needed. They conclude that given the nature of the proposed buildings uses, there would not be any associated requirements for car parking as such, however, there is scope for agricultural vehicles to park within the land so there is flexibility in that regard. Furthermore they state that given the nature of the uses there would not be a significant increase in vehicles using the existing shared access onto the public road network. As such, given the above, the Council's Road Services do not have any objections to this proposal. Therefore the proposed development does not conflict Policy T2 of the adopted East Lothian Local Development Plan 2018.

Given the proximity of the site to the adjacent railway, Network Rail has also been consulted on the proposal. They have responded to confirm that the proposal will have no impact on railway infrastructure and they therefore have neither any objections to this application nor any comments to make.

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. Subject to the imposition of this condition, the proposed development does not conflict with Policies 1 or 2 of NPF4.

On the matter of displacement of wildlife it is the responsibility of the applicant to ensure they are compliant with relevant legislation including the Wildlife and Countryside Act 1981. Furthermore, Policy 3 of NPF4 states, among other things, that proposals for local development will include appropriate measures to conserve, restore and enhance biodiversity, in accordance with national and local guidance. Measures should be proportionate to the nature and scale of development.

As no details have been submitted on this it would be prudent to attach a condition to a grant of planning permission requiring that, prior to the commencement of any development, that the details of the measures to support and enhance the biodiversity of the site are submitted to and approved by the Planning Authority. Subject to the imposition of the aforementioned planning control the proposed development would not be contrary to Policy 3 of NPF4.

The proposed agricultural buildings do not conflict with Policies 1 (Tackling the climate and nature crises), 2 (Climate mitigation and adaptation), 3 (Biodiversity), 5 (Soils) and 29 (Rural Development) of NPF4 and Policies DC1 (Rural Diversification), DP1 (Landscape Character), DP2 (Design) and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018.

In conclusion, the proposals are considered to be in accordance with the provisions of the stated relevant development plan policies and there are no material considerations which outweigh the proposal's accordance with the Development Plan.

## CONDITIONS:

- 1 The development hereby approved shall begin before the expiration of 3 years from the date of this permission.

Reason:

Pursuant to Section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.

- 2 Prior to the commencement of development , details of measures to protect and enhance biodiversity on the application site shall be submitted to and approved by the Planning Authority. The measures as so approved shall be implemented prior to any use being made of the agricultural building hereby approved and shall thereafter be retained, unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of protecting and enhancing biodiversity on the site and within the surrounding area.

- 3 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 the new building, 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.

