



MINUTES OF THE MEETING OF THE PLANNING COMMITTEE

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TUESDAY 3 OCTOBER 2023
VIA A DIGITAL MEETING FACILITY

Committee Members Present:

Councillor N Hampshire (Convener)
Councillor L Allan
Councillor C Cassini
Councillor D Collins
Councillor J Findlay
Councillor A Forrest
Councillor N Gilbert
Councillor C McGinn
Councillor S McIntosh
Councillor J McMillan
Councillor C Yorkston

Other Councillors Present:

None

Council Officials Present:

Mr K Dingwall, Service Manager – Planning
Ms E Taylor, Team Manager – Planning Delivery
Ms W Taylor, Head of Housing
Mr D Taylor, Planner
Mr C Grilli, Service Manager – Governance
Ms P Gray, Communications Adviser
Mr J Canty, Transportation Planning Officer
Mr G McLeod, Transportation Planning Officer
Mr A Hussain, Transportation Planning Officer
Ms M Haddow, Transportation Planning Officer
Mr R Yates, Transportation Planning Officer
Mr A Hunter, Structures Officer - Roads

Clerk:

Ms B Crichton

Visitors Present/Addressing the Committee:

Item 3: Mr T Laird
Item 4: Mr D Anderson and Mr M Scott

Apologies:

Councillor K McLeod

Declarations of Interest:

Item 3: Councillor Forrest due to having worked with constituents involved in the application.

Item 4: Councillor McMillan, due to having worked with the applicant's family business on matters of economic development.

1. MINUTES OF PLANNING COMMITTEE MEETING, 22 AUGUST 2023

The minutes were agreed as an accurate record of the meeting.

2. MINUTES FOR NOTING

a. LOCAL REVIEW BODY (PLANNING), 15 JUNE 2023

The Committee agreed to note the minutes.

b. LOCAL REVIEW BODY (PLANNING), 20 JULY 2023

The Committee agreed to note the minutes.

Sederunt: Councillor Forrest left the meeting.

3. PLANNING APPLICATION NO. 22/00812/P – ERECTION OF SHEDS, GREENHOUSE AND FENCING (PART RETROSPECTIVE), 68 WHITECRAIG ROAD, WHITECRAIG

A report was submitted in relation to Planning Application No. 22/00812/P. Emma Taylor, Team Manager – Planning Delivery, presented the report, highlighting the salient points. The report recommendation was to grant consent.

Officers responded to questions from Members. Responding to questions from Councillor McGinn, Ms Taylor advised that the bin store and decking area were within the fenced area of the garden, but were considered to be moveable structures and did not require planning permission. She advised that officers had last visited two or three weeks previously to check the garden from the roadside.

The Convener reported that the path under discussion had been blocked by several items when Members had made a site visit, and asked what action could be taken to ensure the path remained clear to allow the tenant at 70 Whitecraig Road to access their garden. Wendy McGuire, Head of Housing, said that plans had been sent to the applicant, Mr Laird, marking what was in the lease agreements, and making clear that the path was a mutual path for use by both Mr Laird at 68 Whitecraig Road and the neighbour at no. 70. The letter had stated that the path must be cleared to allow the neighbour access to their garden. She advised that the Area Manager had visited several times to raise concern about the blocked path. She had written to legal colleagues for advice on next steps should the blocking continue, as the applicant was in breach of his tenancy agreement.

Responding to questions from Councillor Collins, Ms Taylor advised that the new gates opened inwards and would not cause further impeding of the footpath. Ms McGuire added that Mr Laird was also required to seek landlord permission to make any alterations; she had been unaware of the timber gates under discussion and would check whether permission had been granted. Ms Taylor advised that the gates within the fencing were not part of the planning application and officers had only become aware of these gates at the site visit the previous day.

Mr Laird, applicant, spoke to his application. He said that the path being referred to as the communal path was not communal. He said he had tried to use the proper legal channels to seek permission for the works. He said the hut and the car port were already in situ before he moved into the property. He said the gates at the driveway were to enable access for his car to the garden. He said his neighbours had been offered a gate on two separate occasions. Mr Laird said he had designed his garden to allow his partner access to his car to accommodate his disability needs. He claimed that if neighbours were allowed access through his garden, they would continue to harass his partner. He said he had laid the pathway down for his own use. He considered that planning permission was not needed for a hut or a fence within a garden, and noted that neighbours did not have planning permission for their fences. He reiterated that the pathway was his own and said the garden design would stay as per his drawings. He said he was not breaking his tenancy agreement, and said the only shared pathway to which his neighbours were entitled access was the path running under the windows for service use. He was extremely unhappy that the council sought to allow his neighbour access to the path he had put down, and reiterated that he would not allow his neighbours to walk through his garden. He said that the council should give his neighbours a gate to be able to access their own garden, and said that he would block the pathway to stop neighbours using the path.

Councillor McGinn noted the conflict over the path and the gate at the end. He felt it was clear that the construction within the garden was permissible, but to grant permission to all aspects of the application would deny the tenant at no. 70 access to their garden. He noted that officers had checked and had made clear that the path was a communal pathway, but noted that Mr Laird was unwilling to accept this. He felt that the response would have to be robust if Mr Laird decided to continue blocking the pathway; Councillor McGinn was keen for officers to follow this up.

Councillor Allan asked whether there was any grey area as to the ownership of the path. The Convener responded that the Head of Housing had made clear that the path was for communal use and the tenant at no. 70 also had a right of access over the path.

Councillor Collins noted that there had been a tarmac path with slabs back in 2011, and asked about the ownership of the gate, which appeared to be part of the neighbour's fence. The Convener noted that the officer recommendation was that this part of the application be refused to safeguard the residential amenity of the occupants of no. 70 Whitecraig Road and to ensure continued access to their rear garden without having to use the public road.

The Convener reminded Committee Members that the scope of the discussion was only around the structures to which the application referred. He highlighted the officer recommendation for approval for the sheds and greenhouse, and said that issues relating to the path were separate to the planning application.

The Convener then moved to a roll call on the officer recommendation to grant consent, with the condition to refuse consent for the replacement of the gate at the end of the path. Members unanimously supported the officer recommendation.

Decision

The Planning Committee agreed to grant the application, subject to the following:

- 1 Planning permission is not granted for the replacement of the existing timber gate at the northwest end of the communal path, between the applicant's garden and the garden of no. 70 Whitecraig Road, with a section of fence.

Reason for Refusal:

To safeguard the residential amenity of the occupants of no. 70 Whitecraig Road and to ensure continued access to their rear garden without having to use the public road.

Sederunt: *Councillor Forrest re-joined the meeting and Councillor McMillan left the meeting.*

4. PLANNING APPLICATION NO. 23/00680/P – FORMATION OF AN UNDERPASS UNDER THE B6368 ROADWAY AND ASSOCIATED WORKS – LAND WEST OF HOWDEN WOOD, GIFFORD

A report was submitted in relation to Planning Application No. 23/00680/P. David Taylor, Planner, presented the report, highlighting the salient points. The report recommendation was to grant consent.

Officers responded to questions from Members. Councillor McIntosh asked why the application had not been made as part of a previous application for an additional hen shed. Mr Taylor advised that SEPA required the extended roaming area on the nitrogen vulnerable area (NVZ). He suggested that the applicant may not have been aware of the requirement for the extended roaming area when the previous application had been made. Regarding the traffic impact on East Saltoun during construction, Mr Taylor advised that a traffic impact assessment had been submitted, and Road Services colleagues had been satisfied with the findings. He advised that there would also be a requirement for the application of a temporary traffic regulation order (TRO) for a temporary road closure to facilitate the proposed development. The impact of any proposed diversion routes would be assessed prior to the granting of any TTRO.

The Convener noted that the development would drop significantly below road level and asked if there was potential for flooding. Mr Taylor responded that the proposals had been discussed with the Senior Engineer – Flooding, and there was a new silt trap proposed within the underpass which would connect to an existing outfall to the southeast of the south roaming area. The Senior Engineer – Flooding was satisfied that surface water and drainage had been taken care of within the application.

Dave Anderson, applicant's agent, spoke to the application. Michael Scott, applicant, was also present. Mr Anderson confirmed that the reason the underpass had not been included in the previous application for an additional hen shed had been due to the Scottish Government's free range egg requirements and the applicant not having been aware of the requirement for the further roaming ground. He advised that detailed traffic modelling had been undertaken in respect to the application. He acknowledged the comments from the community council regarding volume of traffic, and reported that the applicant had been working with the Roads Services. He felt that everything had been done to keep disruption to a minimum over a relatively short period of time.

Responding to questions from Councillor Collins, Mr Anderson advised that there would be no feed and water on the other side of the range, as feed was kept within the sheds. Mr Scott advised that there was no deep litter system in place, and that muck belts were run weekly. He advised that muck was dried on the belt to lower emissions before being exported off site for use at other farms.

Councillor Cassini asked about landscaping requirements along the eastern flank of the road. Mr Anderson advised that Scottish Power had erected an overhead line at the entranceway to the road, so it was not possible to plant underneath this. He also advised that the wider landscaping conditions were part of previous planning consents and were still to be implemented.

Responding to questions from Councillor McIntosh, Mr Anderson clarified that the hen shed application and the current application were separate, and the additional shed was already in operation. He confirmed that eggs currently being sold were not being advertised as being free range due to the requirements for roaming not currently being met. Mr Anderson thought that the figure of 1000 additional vehicles per day travelling through East Saltoun had come from a previous model. He said the figures were not disputed, but said extensive discussions had taken place with Roads Services and officers were comfortable with this increase for a short period of time. Councillor McIntosh also asked about ground cover in the area the hens would be roaming. Mr Anderson said the applicant was aware that planting would provide the hens with cover and was good for hen welfare as well as biodiversity. He said this could not be agreed with the Scottish Government and with the purchaser of the eggs until it could be confirmed where the planting could take place. He highlighted that the landscape officer had requested reinstatement of certain planting. He said that decisions on planting could not be made as there was not currently access to the ranging area.

Responding to questions from Councillor Findlay, Mr Anderson advised that hens were self-regulating, so would come back to the sheds to feed and roost. He advised that the underpass would not be of suitable size for use by vehicles or people.

Responding to further questions from Councillor Collins, Mr Anderson said that the size of ranging area was usually dictated by NVZ requirements; in this case, 40 hectares of ranging area was required, but the NVZ requirements also specified the distance the hens were allowed to travel to access the ranging area.

Councillor Collins said she had called the application following concerns from locals over the disruption caused by construction traffic. She felt that the discussion had helped to alleviate those concerns. She felt that the NVZ figures tied in and was happy to support the application after hearing the applicant's explanations.

Councillor McIntosh still had questions over how much the hens would use the further roaming area and felt there was to be quite significant disruption caused by the construction. She questioned whether the application constituted best use of the land, but felt that answers had been thorough and understood why consumers wished to buy free range eggs. She would support the application. Councillor Collins responded that the hens would use the extra space to explore additional feed, grass, and insects the land would offer.

The Convener then moved to a roll call on the officer recommendation to grant consent, and Members unanimously supported the officer recommendation.

Decision

Planning Committee agreed to grant the application, subject to the following 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 any part of the development hereby approved it shall be demonstrated to the satisfaction of the planning authority that the underpass is designed to adoptable road standards in accordance with the Design Manual for Roads and Bridges (DMRB) and that an Approval in Principle has been granted for the underpass by East Lothian Council Roads Services (Structures) as Technical Approval Authority.

The underpass shall be constructed thereafter in accordance with the Approval in Principle unless otherwise agreed in writing by the planning authority.

Reason:

In the interest of the safety of users of the existing road carriageway.

3 Prior to the commencement of the development hereby approved:

i) Drawings/Details relating to the Designers Response to the submitted Stage 2 Road Safety Audit shall be submitted for the approval of the planning authority approval;

ii) The proposed roads, cycleways and external roadworks shall be subject to Road Safety Audit completed through Stages 3 & 4 (Post Opening Audit & Post Opening Audit + 12 months) - The audit process shall be undertaken in accordance with GG119 Road Safety Audits, or as amended by latest version. The findings of the Road Safety Audit shall be submitted for the approval of the Planning Authority prior to the implementation of any outcomes arising from them; and

iii) A Quality Audit shall be undertaken which considers accessibility and connectivity from the wider transport network and between different elements of the application site. The Quality Audit should consider all different modes of transport including walking/cycling and the needs of users who are mobility impaired as well as those with visual impairments. The outcomes of the Quality Audit shall be implemented through the detailed design stages and the full audit process completed through the design and implementation stages - including post construction/opening in accordance with a timetable to be agreed with the Planning Authority in advance of any use of any part of the development hereby approved.

Reason:

In the interests of road and pedestrian safety.

4 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 underpass 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.

5 The range areas to be used for poultry free range roaming in association with use of underpass hereby approved shall be limited to those areas shown on the drawing titled 'Authorised Site Boundary' docketed to this planning permission unless otherwise approved in writing by the planning authority.

A 1.2 metres high stock proof fence in accordance with that shown on drawing ref COG383/APP/004a titled 'Extent of Range Area at Howden Farm' and docketed to this planning permission shall be erected around the entirety of the range areas prior to their use in association with the underpass hereby approved and retained and maintained thereafter.

Reason:

In order to conserve the biodiversity of Howden Wood Ancient Woodland.

Signed

Councillor Norman Hampshire
Convener of the Planning Committee

REPORT TO: Planning Committee
MEETING DATE: 7 November 2023
BY: Executive Director for Place
SUBJECT: Application for Planning Permission for Consideration

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Note: This application has been called off the Scheme of Delegation list by Councillor Findlay for the following reason: *Given the high level of publicity that this application has received and the large number of objections it is only right that it should be viewed by the Planning Committee and that residents are given opportunity to outline their objections.*

Note: This application has been called off the Scheme of Delegation list by Councillor Cassini for the following reasons: *There are a considerable number of objections from constituents. As these are the people we were all elected to represent, it is only right that we take the time to examine their objections properly.*

Application No. **23/00911/P**

Proposal Change of use of agricultural land for the formation of two sports pitches and associated works

Location **Land South West of North Berwick High School
Grange Road
North Berwick
East Lothian**

Applicant East Lothian Council

Per East Lothian Council

RECOMMENDATION Consent Granted

REPORT OF HANDLING

SITE CONTEXT

The site of this application is a roughly square shaped area of agricultural land of some 1.8 hectares located to the southwest of North Berwick High School. The site is mainly contained with land safeguarded for educational uses by Proposal NK2: North Berwick High School and Law Primary School Expansion Land of the adopted East Lothian Local Development Plan 2018. The easternmost part of the application site falls within the existing sport pitch of North Berwick High School and therefore on land safeguarded for education and community facilities as defined by Policy SECF1 of the adopted East

Lothian Local Development Plan 2018.

The land of the site is generally flat with a grassed surface. Towards the east of the site is a section of an existing mature hedgerow belt with tree planting that extends from Grange Road to the north. That section of hedgerow forms the existing west and south boundaries of North Berwick High School. To the northeast of the site are the existing sports pitches/ playing fields of North Berwick High School beyond which are the main buildings of the school campus. To the west of the site are areas of housing and associated amenity ground. The site is bounded to the south by agricultural land with the B1347 public road beyond and to the north by further agricultural land.

The land of the application site is also within a wider area defined by the Macaulay Capability for Agriculture (LCA) classification system as being prime agricultural land.

PLANNING HISTORY

Planning permission has previously been granted for extensions and alterations to the buildings of North Berwick High School.

In May 2002 planning permission (ref: 02/00115/FUL) was granted for alterations and extensions to building and associated works.

In October 2019 planning permission (ref: 19/00538/P) was granted for extension to building and associated works.

In November 2020 planning permission (ref: 20/00984/P) was granted for the formation of a roof over an external courtyard within the grounds of North Berwick High School.

PROPOSAL

Through this application planning permission is sought for the change of use of the agricultural land to form two sports pitches and associated works as an extension to the North Berwick High School campus.

The proposed sports pitches would extend the existing school campus by the addition of the 2 sports pitches to the southwest edge of the existing sports pitches. To integrate the new pitches with the existing pitches and allow oversight of them, it is proposed to remove a 142 meters long section of the hedgerow and tree planting that forms the existing western boundary of the school grounds. The proposed sports pitches would be oriented east to west. It is proposed that the ground area of the proposed sports pitches and grassed areas would be cleared of large stones and surface materials and laid with existing and, where required, imported topsoil over compacted subsoil to facilitate grass planting. The proposed pitches would be set back some 14 meters from the B1347 road at their closest point. Each pitch would be some 113 meters in length and some 60 meters wide and would be separated by a central 4 meters wide grassed strip. Additionally a 4 meters wide grassed safety margin would be laid along each of the north and south edges of the proposed pitches and 3 meters wide grassed strips along the east and west edges. The grassed pitches would further facilitate the provision of a grassed and white-lined running track as required.

The north and south boundaries of the site would be enclosed by temporary 0.9 meters high timber post and wire fences to facilitate the growth of planted mixed species hedges, hedgerow trees and wildflower planting along those boundaries. It is proposed that an area of woodland some 74 meters in length and some 6 meters wide and consisting of mixed species trees and shrubs is planted along a section of the western

boundary of the site to link with proposed north and south boundary planting. The proposed woodland would be enclosed to the west by 0.9 meters high post and rabbit proof galvanised wire mesh fencing. The remaining west boundary to the north would be enclosed by 0.9 meters high timber post and wire fence and hedge planting. A 1.2 meters high timber pedestrian access gate and 1.2 meters high double timber service gates would be formed within those enclosures to the northwest of the application site.

Surface water management would be controlled through the installation of surface drainage and underground pipes draining to an attenuation crate and hydrobrake chamber with connection to existing Scottish Water infrastructure. Proposed finished ground levels would be some 1.8 meters lower than existing at the southwest end of the site, some 1.6 meters lower to the south, some 0.3 lower than existing to the east and some 0.4 meters lower to the north and northwest. Finished ground levels to the northeast of the site would be some 0.3 meters higher than existing.

It is further proposed that a 3 meters wide shared footpath is formed to the south and southwest of the application site to provide pedestrian and cycle access between the B1347 public road to the south and Farquharson Rest to the west. The proposed footpath would extend some 118 meters along the south boundary of the site and for some 42 meters northwards from the southwest corner of the site. It would be constructed of a type 1 sub base, 50mm binder course and 30mm tarmac surface and would tie in with existing footpaths adjacent to the B1347 public road and at Farquharson Rest.

Application drawings inform that the levels of the proposed footpath will range from between some 0.3 meters and some 2.4 meters higher than the proposed sports pitch ground levels to the south and some 2.4 meters higher than the ground levels of the pitches to the southwest. It is proposed that a concrete retaining wall is constructed between the proposed footpath and the sports pitches. The proposed retaining wall would feature ivy planting and would be heightened through the attachment of a 1.5 meters high galvanised steel safety railing for its entire length. A total of five 5 meters high aluminium alloy lighting columns featuring LED top mounted lanterns would be erected at roughly equidistant intervals along the entirety of the proposed footpath.

In addition to application drawings the following documentation has been submitted in support of the application:

- Preliminary Ecology Appraisal (Findlay Ecology Services, August 2023);
- Ground Investigation Report (SKF Ltd, June 2023);
- Landscape Design Statement (East Lothian Council, August 2023);
- Path Lighting Specification; and
- Surface Water Layout

Under the provisions of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 the proposed development falls within the category of a Schedule 2 Development, being one that may require the submission of an Environmental Impact Assessment (EIA). Schedule 3 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 sets out the selection criteria for screening whether a Schedule 2 development requires an EIA. The Council's Policy and Projects Section were requested to undertake a screening opinion to establish if an Environmental Impact Assessment (EIA) was required to be submitted as part of the application to identify the environmental effects of the proposals. Policy and Projects have provided no response advising of a requirement for the proposed development and associated works to be the subject of an EIA.

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 adopted National Planning Framework 4 (2023) (NPF4) and the adopted East Lothian Local Development Plan 2018 (ELLDP).

Policies 1 (Tackling the climate and nature crises) 2 (Climate mitigation and adaptation), 3 (Biodiversity), 4 (Natural places), 5 (Soils), 6 (Forestry, Woodland and Trees), 13 (Sustainable Transport), 14 (Design, quality and place), 15 (Local Living and 20 minute neighbourhoods), 20 (Blue and green infrastructure), 21 (Play, recreation and sport) and 22 (Flood risk and water management) of NPF4 are relevant to the determination of this application.

Also material to determination of the application are Proposals PROP NK2 (North Berwick High School and Law Primary School Expansion Land) and Policies SECF1 (Safeguarded Education and Community Facilities), DP1 (Landscape Character) and DP2 (Design), NH3 (Protection of Local Site and Areas), NH5 (Biodiversity and Geodiversity Interests, including Nationally Protected Species), NH7 (Protecting Soils), NH8 (Trees and Development), NH11 (Flood Risk), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the ELLDP.

REPRESENTATIONS

A total of 35 public letters of objection including objections from the North Berwick High School Parent Council, North Berwick Environment and Heritage Trust and Sustaining North Berwick and 6 representations neither objecting to nor supporting the application have been received to the application.

The main grounds of objection and the matters raised in representations are:

- i) removal of hedgerow and trees that provide nature networks and biodiversity, amenity and carbon storage benefits;
- ii) minimal engagement undertaken with local community;
- iii) application is deficient in information which is essential for its determination;
- iv) no information has been provided on calculated carbon impacts of tree/hedge removal and proposed ground and excavation works;
- v) Ecology Report submitted as part of the application is not competent and does not accurately reflect the biodiversity value of the existing hedge and tree planting;
- vi) proposed rugby pitches are not consistent with Sportscotland Guidance on Design of School Playing Fields and do not have adequate run off spaces;
- vii) no detailed scaled drawings of the proposed sports pitches and wider application site have been submitted -the application is accompanied by engineering style drawings not easily understood by members of the public;
- viii) proposed seasonal running track is oversized and can be accommodated within alternative options;
- ix) proposals involve only part of land subject of Proposal NK2 - alternative location for proposed development that fully utilises available land has not been considered;
- x) risk of balls flying out of school grounds onto nearby residential properties and public footpaths
- xi) effect on bats of any ball-stopping nets erected;
- xii) proposed footpath adjacent to existing housing will impact on residential amenity of neighbouring residential properties and encourage anti-social behaviour;
- xiii) proposed footpath lighting will disturb nocturnal nightlife and impact on residential

and visual amenity of the area;

- xiv) proposals will result in farm vehicles accessing land to the north via residential housing developments;
- xv) proposals do not comply with relevant policies as provided within NPF4 and the adopted East Lothian Local Plan 2018 nor are they consistent with the Council's Climate Change Strategy and Tree and Woodland Strategy;
- xvi) no evidence of site notices informing public of proposals;
- xvii) proposed excavation works will compromise structural integrity of residential buildings adjacent to application site;
- xix) proposed sports pitches will result in increased parking in Farquharson Rest;
- xx) council has not been open and transparent and has failed to communicate information on which objections may be raised;
- xxi) a Landscape Design Statement submitted as part of the application fails to identify author/qualifications, makes no reference to public submissions and fails to fully consider the landscape impact of the proposals;
- xxii) proposals are not cost-effective;
- xxiii) proposals display a bias of land use towards rugby, which is mainly played by males, over other sports such as netball and therefore do not promote gender inclusion in sport and activity;
- xxiv) proposals do not provide safe routes to school for access to North Berwick Nursery, Law Primary School and North Berwick High School from the west, north and east;
- xxv) cumulative effect of future planning applications has not been taken into account;
- xxvi) the proposed new rugby pitches will impinge significantly on the existing playing fields within the grounds of North Berwick High School; and
- xxvii) proposed development of footpath will require development on land of the residential property at 18 Farquharson Rest - applicants have failed to serve required Land Ownership Notices on relevant landowners.

The application drawings and information are sufficient to enable the determination of the planning application.

Matters relating to the control and management of antisocial behaviour are controlled by legislation other than that of Planning and are not material to the determination of the application.

Applicants have submitted a detailed drawing to show that the proposed footpath would be constructed at a distance of some 300mm from the boundary of the residential property of 18 Farquharson Rest.

As this is a Local Development type there is no requirement to carry out Pre-Application Consultation before the submission of a planning application. Furthermore, the Council, as planning authority, has published details of the application in accordance with the requirements of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 with relevant neighbours being notified and an advert placed in East Lothian Courier. Therefore the Council as Planning Authority has fulfilled its statutory requirements on the notification and publicity of this planning application.

There is no requirement within planning legislation that requires alternative proposals for the provision of the sports pitches to be assessed or that this proposal is cost effective. This planning application will be determined on its merits in accordance with the Development Plan unless material considerations indicate otherwise.

The applicant has certified that all relevant landowners have been notified of the application.

On the matter of the design of the pitches, that they do not take into account future development, that they will impinge on the existing pitches and that they have a bias towards male sporting use the sports pitches will be used in the delivery of the PE curriculum at North Berwick High School. Therefore they have been designed in accordance with the requirements of the school curriculum.

Additionally 3 letters of support have been received to the application

The three letters of public support state that: i) additional sports pitches for the school are welcome; ii) the proposed pitches will increase sporting opportunities for young people; and iii) proposals will provide a safe pedestrian footpath connection between North Berwick High School campus and residential properties to the west.

COMMUNITY COUNCIL COMMENTS

North Berwick Community Council advise that whilst recognising that the proposed sports pitches are necessary for the delivery of curricular sport by North Berwick High School, they object to the application on the following grounds:

- the application contains an Ecological Report on the hedge that is proposed to be removed. This report is heavily redacted. The un-redacted report should be provided, or good reason given why it has not been;
- there is a petition raised by the school pupils and interested parties relating to the removal of this hedge. This cannot be ignored. -removal of the hedge would appear to be against the Council's own policies on Woodland strategy;
- it has been demonstrated that the formation of the pitches retention of the hedge are not mutually exclusive. This should be explored further;
- North Berwick Community Council have previously written to the council requesting better dialogue with the Parent Council in relation to this proposal, but this appears to have been ignored;
- the council are ignoring the legal requirement for statutory consultation, and ignoring the requirements of the Education Act and Sports Scotland Guidance in this proposal; and
- the application should include a pathway providing a safe route to school. The pathway shown includes unnecessary tall lighting poles. These should be removed as they are not required.

PLANNING ASSESSMENT

PROP NK2: North Berwick High School and Law Primary Expansion Land of the adopted East Lothian Local Development Plan 2018 safeguards the land to the west of North Berwick High School campus, including the application site, for the future expansion of North Berwick High School to accommodate the increase in pupil numbers generated from new housing delivered within the North Berwick High School catchment area through housing allocations within the adopted East Lothian Local Development Plan 2018.

Policy SECF1: Safeguarded Education and Community Facilities of the adopted East Lothian Local Development Plan 2018 supports the continued use of land currently occupied by education and community facilities and also applies where planning permission has been approved for the expansion of existing or provision of new education facilities.

The **Council's Head of Education** informs that the current school roll at North Berwick High School is 1052 pupils but that planning capacity for the school is set at 1200 to allow for fluctuations in pupil numbers over a 10-year period. She advises that based on

a pupil roll of 1050 there is a legislative requirement for North Berwick High School to have a minimum of 3.6 hectares of external space that would meet statutory requirements up to a pupil roll of 1200. She advises that the previous extensions to North Berwick High School building and North Berwick Law Nursery to meet the needs of the projected pupil rolls has led to a reduction in sport pitch provision at North Berwick High School. The 2 additional sports pitches proposed within this application would result in the external space of the school being sufficient for to meet the external space requirements for a school roll of up to 1300 pupils which roll projections are not expected to exceed.

A statement submitted by North Berwick High School Senior Leadership Team informs:

- o The growing school roll has necessitated an expansion block and new nursery on site, creating a 3-18 campus. The building work has led to the need for reconfiguration of outdoor space to reflect a new school boundary encompassing additional land to enable full delivery of curricular sport. We see it as our role to ensure the curriculum can be delivered appropriately and agree the planning application meets the curricular needs of the school.

- o Initial questions about the amount of land acquired by East Lothian Council from the North Berwick Trust and its sufficiency for curricular delivery have been asked and answered.

- o North Berwick High School has never had a 400m running track before. The planning application if granted would allow the school to have this, to support the delivery of the PE curriculum.

- o Safeguarding concerns have been taken into consideration, with clear sightlines in place.

- o The flexible grass learning and teaching space includes a proposal for outdoor hardcourts. We understand this has not been budgeted for but welcome this further resource and learning space in terms of enhancing our curriculum.

- o We are aware of community concerns around the impact of the plan on biodiversity. We acknowledge the independent ecology report, planting detail and planting plan and feel this answers our questions sufficiently.

Sportscotland were consulted on the application. They note that works to form the proposed sports pitches will require some works to be undertaken to the existing grass pitches to the west of the school grounds to ensure matching ground levels across all pitches. They are satisfied that any impacts of such works on the existing sports pitches will be short term and will not be detrimental to the long term use of those existing sports pitches. Sportscotland raise no objection to the proposals.

As the sports pitches and associated works are for the expansion of North Berwick High School on the land safeguarded for that purpose or on land already used for education purpose then the principle of this proposal for 2 additional pitches and for associated work does not conflict with either Prop NK2 or with Policy SEFC1 of the adopted East Lothian Local Development Plan 2018.

NPF4 Policy 5 provides significant protection for valued soils including prime agricultural land. The application site is defined as being prime agricultural land capable of producing a moderate range of crops. Policy NH7 of the ELLDP states that development on prime agricultural land will not be permitted unless in the particular circumstances listed in the Policy. One of those circumstances is if it is to implement a proposal of the plan, which

this application is. Policy 5 of NPF4 also sets out circumstances where development proposals on prime agricultural land will be supported and although sport pitches is not listed as one of those circumstances this land is safeguarded for the expansion of North Berwick High School. These sports pitches are required to support provision of North Berwick High School sports curriculum and cannot reasonably be provided on land that is not Prime Agricultural Land. The Scottish Government's Transitional Arrangements for NPF4 states that "It is important to bear in mind NPF4 must be read and applied as a whole. The intent of each of the 33 policies is set out in NPF4 and can be used to guide decision making. Conflicts between policies are to be expected. Factors for and against development will be weighed up in the balance of planning judgement". In the circumstances of this application where it is to implement a proposal of the LDP, the proposal complies with Policy NH7 of the ELLP and, although not falling within the types of acceptable development listed in Policy 5, it does not conflict with NPF4 when read as a whole.

NPF4 Policy 14 supports development proposals where they are consistent with the six qualities of successful place, those being: Healthy; Pleasant; Connected; Distinctive; Sustainable; and Adaptable.

NPF4 Policy 15 supports development proposals that contribute to local living and, where relevant, 20-minute neighbourhoods. Consideration will be given to the level and quality of interconnectivity of proposed development with the surrounding area including local access to, amongst other things, schools and lifelong learning opportunities and sport and recreation facilities.

The proposed sports pitches would provide additional, accessible sports provision for North Berwick High School. By being an expansion of the North Berwick High School campus they would be seen in the context of the existing school campus and therefore well integrated into their setting. Due to their form, size, scale and positioning they would not be inappropriate to their setting and would not be out of keeping with their surroundings. They would not be harmful to the character and appearance of the area.

The proposed footpath, retaining wall, railings and lighting columns would be seen in the context of the sports pitches. Due to their form and positioning they would not be inappropriate to their setting or out of keeping with their surroundings. They would not be harmful to the character and appearance of the area.

The proposals would not have an unacceptably harmful impact on the landscape character of the area. On these matters of design and layout the proposals do not conflict with Policies 14 and 15 of NPF4 and Policies DP1 and DP2 of the ELLDP.

Due to their positioning in relation to neighbouring residential properties the proposals would not result in any harm to the privacy and amenity of any neighbouring residents.

The **Council's Senior Environmental Protection Officer** has been consulted on the application and has no comments to make on the application.

On the above considerations the proposals are not inconsistent with NPF4 Policies 14 and 15 nor do they conflict with Policies DP1 and DP2 of the ELLDP.

NPF4 Policy 3 states that development proposals will contribute to the enhancement of biodiversity, including where relevant, restoring degraded habitats and building and strengthening nature networks and the connections between them.

On matters of biodiversity the **Council's Team Manager – Countryside** advises that the

existing site habitat provides limited biodiversity value with no evidence of protected species. She advises that the 142 meters long section of mature hedgerow and trees that it is proposed to remove is not considered priority habitat and is not included within the Central Scotland Green Networks. She is satisfied that the proposed planting to include hedgerow and a new woodland area will mitigate for the loss of the section of existing hedgerow and provide positive effects for biodiversity.

The Council's Team Manager – Countryside does however advise that the 142 meters long section of mature hedgerow and trees to be removed will likely support foraging and nesting birds and informs that it is an offence within the provisions of the Wildlife and Countryside Act (1981) (as amended) to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. She recommends that works to remove the section of mature hedgerow and trees should be undertaken outwith the breeding bird season of March to August inclusive unless it is implemented in accordance with a Species Protection Plan submitted for approval by the planning authority. This can be made a condition of a grant of planning permission.

Subject to the above controls the Council's Team Manager – Countryside raises no objection to the application being satisfied that the proposals do not conflict with NPF4 Policy 3.

NatureScot were consulted on the proposals and have advised of the proximity of the application site in relation to the Firth of Forth Special Protection Area (SPA) and potential connectivity with designated bird features. They are satisfied however that, given the relatively small size of the application site and the alternative land available, the proposals would have no adverse effect on the integrity of the SPA or on any protected features.

NatureScot raise no objection to the application.

On the above considerations the proposals are not inconsistent with NPF4 Policy 4 and Policies NH3 and NH5 of the ELLDP.

NPF4 Policy 6 states that development proposals involving woodland removal will only be supported where they will achieve significant and clearly defined additional public benefits. Where woodland is removed, compensatory planting will most likely be expected to be delivered.

NPF4 Policy 20 states that development proposals that result in fragmentation or net loss of existing blue and green infrastructure will only be supported where it can be demonstrated that the proposal would not result in or exacerbate a deficit in blue or green infrastructure provision, and the overall integrity of the network will be maintained.

The **Council's Landscape Officer** has been consulted on the application and is in agreement with the findings of the submitted Landscape Design Statement. He is satisfied that the proposed new areas of planting will mitigate for the loss of the existing hedgerow and trees to the east of the application site and concurs with the Council's Team Manager-Countryside on matters of Biodiversity. He recommends that any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. These matters can be controlled through conditions attached to a grant of planning permission.

Subject to the above controls the Council's Landscape Officer raises no objection to the application.

The proposals are therefore consistent with NPF4 Polices 6 and 20 and Policy NH8 of the ELLDP.

The proposals would have a neutral impact in terms of Policies 1 and 2 of NPF4.

The **Council's Amenity Services** have been consulted and advise that an area of open space to the west of the application site is Council owned and managed. They advise that the development applied for would not impact on the existing public open space and are supportive of proposals for the woodland boundary to the west of the application site.

The Council's Amenity Services therefore raise no objection to the application.

NPF4 Policy 13 states that development proposals will be supported where it can be demonstrated that the transport requirements generated have been considered in line with sustainable travel and investment hierarchies and where appropriate they provide direct, easy, segregated and safe links to local facilities via walking, wheeling and cycling networks before occupation.

Access to the proposed sports pitches would be taken from the existing grounds of North Berwick High School. The proposed access gates to the northwest of the site would be for maintenance purposes and no additional vehicle parking areas are proposed within the application.

The **Council's Roads Services** advise that there are no requirements for additional car or cycle parking based on use of the proposed pitches in association with the existing school. They are supportive of the proposed footpath to the south and southwest of the sports pitches in providing a shared active travel path connection for pedestrians and cyclists between the residential properties at Farquharson Rest and the B1347 public road. They note variations in ground levels between the proposed footpath and sports pitches and advise that the proposed 1.5 meters high galvanised steel railings are an appropriate safety measure for cyclists and pedestrians. They do however recommend that a collapsible bollard is provided at each end of the footpath to control access along with signage to inform of active travel path status. These matters can reasonably form the subject of a condition attached to a grant of planning permission.

Subject to the above control the Council's Roads Services raise no objection to the application.

In all of this the proposals are consistent with NPF4 Policy 13 and Polices T1 and T2 of the ELLDP.

The **Council's Senior Engineer (Flooding)** has been consulted on the application and advises that SEPA's Flood Hazard Mapping indicates that the site of the application is not at risk from a surface water flood event with a return period of 1 in 200 years plus climate change allowance. He further advises that whilst a change of use of the site from agriculture to sports pitches may have some impact on drainage and surface water run-off, the proposed lateral filter drains leading to storm pipes and a hydrobrake are a substantial improvement to the current site drainage arrangements.

The Council's Senior Engineer (Flooding) raises no objection to the application.

Given the above the proposals are consistent with NPF4 Policy 22 and Policy NH11 of the ELLDP.

Scottish Water have been consulted on the application and raise no objection to the proposals. They inform however that Scottish Water will not accept any surface water connections into the public sewer system. They do advise that there may be limited exceptional circumstances where such connection is permitted and that this will require significant justification from the customer. A copy of Scottish Waters consultation response has been forwarded to the applicant accordingly.

In all of the above considerations, the proposals are consistent with Policies 3, 4, 5, 6, 13, 14,15, 20,21 and 22 of NPF4 and Policies SECF1, DP1, DP2, T2, NH3, NH5, NH7, NH8, NH11 T1 and T2 of the ELLDP.

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 proposals 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 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 recontouring of the site, tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting. 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.

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 occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

Reason:

In order to ensure the implementation of a landscaping scheme to enhance the appearance of the development in the interests of the amenity of the area.

- 3 Unless otherwise agreed in writing by the Planning Authority through the submission and approval of a Species Protection Plan prior to the commencement of development, no removal of hedgerow, trees or clearance of vegetation within the site shall take place during bird breeding season (which is March- August inclusive).

Reason:

In the interests of safeguarding biodiversity interests.

- 4 Prior to the commencement of development, details, including a timetable for their implementation, showing compliance with the following transportation requirements shall be submitted to and approved in writing in advance by the Planning Authority. Thereafter those transportation requirements shall accord with the details so approved and remain in place unless otherwise approved by the Planning Authority:

- i) bollards to be located at access points to the shared footpath hereby approved to restrict its use to that of pedestrians and cyclists; and
- ii) way finding signage to be provided at access points to show shared active travel path.

Reason

In the interests of road and pedestrian safety.

REPORT TO: Planning Committee
MEETING DATE: 7 November 2023
BY: Executive Director for Place
SUBJECT: Application for Planning Permission for Consideration

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Note: This application has been called off the Scheme of Delegation list by Councillor McGinn for the following reason: *Due to concerns regarding safety to the public from parking and sightlines from traffic, I believe this application would benefit from a discussion with the Planning Committee.*

Application No. **23/00769/P**

Proposal Extension to shop to form additional floor space and to form one flat and associated works

Location **121 Salters Road
Wallyford
East Lothian
EH21 8AQ**

Applicant Mr Abdul Sattar

Per HLP Architecture

RECOMMENDATION Granted Permission

REPORT OF HANDLING

PROPOSAL

This application relates to the property of 121 Salters Road, Wallyford, which operates as a shop. The building is single storey in height with a flat roof and is externally finished in a combination of render and brick, with a glazed shop frontage facing onto Salters Road, to the northeast by Albert Place, to the southeast by the two-storey flatted building of 2 and 4 Albert Place and its associated garden ground, and to the southwest by the adjoining flat roofed two storey house of 123 Salters Road. Adjoining the southeast (rear) elevation of the shop is an existing service yard area enclosed by a high brick wall on three sides and accessed from the public road of Albert Place by way of a gated entrance in the northeast boundary wall. The service yard gate is positioned some 20 metres from the junction of Albert Place and Salters Road.

The application site is situated within the Battle of Pinkie Cleugh Historic Battlefield.

PLANNING HISTORY

The application site has a varied planning history as outlined below.

In January 2003 planning permission Ref: 02/01158/FUL was granted for a first-floor extension to the single storey shop at 121 Salters Road to form 1 flat and associated works. Planning permission 02/01158/FUL has not been implemented and has lapsed.

In November planning permission 2010 10/00791/P was granted for a first-floor extension to the single storey shop at 121 Salters Road to form additional floor space for the shop use of the premises. The scheme of development approved by the grant of planning permission 10/00791/P is almost identical in its size and architectural form to that of planning permission 02/01158/FUL, with the exception of the omission of the roof terrace and with differences in the number, sizes, and pattern of the fenestration of the extension. Planning permission 10/00791/P has not been implemented and has lapsed.

In July 2011 planning permission Ref: 11/00278/P was granted on for a first-floor extension to the single storey shop at 121 Salters Road to form 1 flat and the addition of a single storey ground floor rear extension to provide both additional floor space for the existing ground floor shop use of the premises and an entrance vestibule for the proposed flat. Planning permission was also granted for the formation of two off-street car parking spaces within the existing rear service yard of the shop and for the erection of a 3 metres length of 2.2 metre high brick wall. Planning permission 11/00278/P has not been implemented and has lapsed.

In February 2015 planning application 14/00758/P was refused for a different scheme of development for the addition of a first floor extension to the single storey shop at 121 Salters Road to form 1 flat, the addition of a single storey ground floor rear extension to provide both additional floor space for the existing ground floor shop use of the premises and an entrance vestibule for the proposed flat, for the erection of a screen fence along the southeast edge of the existing flat roof of the existing flat roof of the rear part of the existing shop and for alterations to the existing shop front.

The reasons for refusal of planning application 14/00748/P were:

- (1) By virtue of its height, scale and massing the proposed first floor extension would appear overly dominant, incongruous and intrusive within the streetscape, and would not be in keeping with the height, scale and massing of the neighbouring buildings, and would be harmful to the character and appearance of the area, contrary to Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) and Policy DP6 of the adopted East Lothian Local Plan 2008; and
- (2) By virtue of its positioning and timber form the proposed timber screen would appear incongruous and intrusive within the streetscape and would be harmful to the character and appearance of the area, all contrary to Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) and Policy DP6 of the adopted East Lothian Local Plan 2008.

In October 2015 planning permission 15/00657/P, was granted for the addition of a first-floor extension to the single storey shop at 121 Salters Road to form 1 flat and for the addition of a single storey flat roofed extension to the southeast (rear) elevation of the shop to provide both additional floor space for the existing ground floor shop and an entrance

vestibule for the proposed flat. Planning permission 15/00657/P also sought for the formation of two off-street car parking spaces within the existing rear service yard of the shop, the relocation of two existing air conditioning units, the erection of a 2.2 metres high wall to the northeast of the proposed single storey ground floor extension to form a bin store, and for alterations to the existing shop front fascia.

Planning permission 15/00657/P has not been implemented and has lapsed.

PROPOSAL

Planning permission is again sought through this application for the same scheme of development as was approved through planning permission 15/00657/P and again proposes the (i) addition of a first floor extension to the single storey shop at 121 Salters Road, to form 1 flat and (ii) for the addition of a single storey extension to the rear (southeast) elevation of the shop to provide additional floor space for the shop and an entrance vestibule for the proposed flat.

Planning permission is also again sought for:

- i) The erection of a wall to enclose the proposed shop waste storage area;
- ii) The formation of two off-street parking spaces with an associated EV charger;
- iii) The installation of two condenser units to the side (northeast) elevation of the shop; and
- iv) The installation of external signage to the side (northeast) and front (northwest) elevations of the shop.

Subsequent to the registration of the application the agent has submitted revised drawings which show the previously proposed brick screen wall to the existing flat roof of the shop removed.

The proposed pitched roof, first floor extension to the existing shop to form a flat would have a length of some 10.9 metres and a width of some 10.1 metres. The total height of the existing ground floor shop and proposed first floor flat would be some 9.1 at its apex.

The front (northwest) elevation of the proposed flat would contain 3 windows, the side (northeast) elevation would contain a window and the rear (southeast) elevation would contain 4 windows. The side (southwest) elevation would not contain any glazed openings. The proposed flat would be accessed by a flat roof extension to the rear (southeast) elevation of the shop. Internally the proposed first floor flat would comprise of 3 bedrooms, living room, kitchen/dining room, bathroom, store and hall.

The proposed single storey, flat roof extension to the rear (southeast) elevation of the building would provide additional floor space for the pharmacy by way of extending the existing kitchen and an entrance to the proposed first floor flat.

The proposed single storey extension would have a length of some 4.1 metres; a width of some 2.1 metres and would have a height of some 3.5 metres.

The side (northeast) elevation of the proposed extension would not contain any glazed opening and the side (southwest) elevation would attach to the existing shop. The rear (southeast) elevation would contain a single door opening.

The proposed first floor flat and extension would be finished predominantly in dry dash

render, to match the adjacent property. The roof of the flat would be clad in interlocking tiles whilst the roof of the extension would be clad in felt. The proposed window frames would be of uPVC construction and their frames would be white.

The proposed wall which would enclose the waste storage area for the existing shop would have a height of some 2.1 metres and would be situated adjacent to the proposed single storey extension.

The drawings also indicate a waste storage area for the proposed flat will be created within the southwest corner of the application site, adjacent to the proposed off-street parking.

The off-street parking would be situated to the rear of the application site and would be accessed via Albert Place. The drawings note that the existing gated access to this area would be removed alongside a section of the existing brick wall to accommodate this access. The off-street parking would comprise of 1 parking space for the proposed flatted residential property and 1 parking space for the existing shop. An EV charging point will also be installed for the use of the proposed flatted property.

The installation of external signage to the side (northeast) and front (northwest) elevations of the shop would be to match existing with a squared off corner following the line of the proposed upper floor walls.

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 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), 13 (Sustainable transport), 7 (Historic Assets and Places), 14 (Liveable Places) and 16 (Quality Homes) of NPF4 and Policies, CH5 (Battlefields), DP2 (Design), DP5 (Extensions and Alterations to Existing Buildings), 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 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.

Also material to the determination of the application is the planning history of the site. The principle of the proposed scheme of development on the application has been established through the previous grant of planning permissions 02/01158/FUL, 10/00791/P, 11/00278/P and 15/00657/P.

REPRESENTATIONS

Two public letters of objection have been received in relation to the application. The main grounds of objection are:

- i) The shop/pharmacy does not have parking for their employees at present;
- ii) There is currently not enough parking on this street and surrounding area;
- iii) The owner/staff and delivery drivers block an objectors driveway and other residents driveways;
- iv) Customers and delivery drivers park dangerously on double yellow lines;
- v) The street is narrow and due to dangerous parking it is difficult to drive up and down the street;
- vi) The level of safety is below acceptable on this street as you cannot see oncoming traffic on Salters Road when trying to exit Albert Place due to dangerous parking;
- vii) Planning permission has been rejected many times due to negative issues none of which have been eradicated;
- viii) The owners own the land on the main road where they flattened a unit and it has been left derelict for years. An objector queries why the applicant does not build on this land.

The matter of the previous refusal of planning permission, the fact that the owners flattened a unit on another site and delivery drivers blocking driveways are not material planning considerations relevant to the determination of this planning application.

The access from Albert Place is an existing access onto Salters Road and there are no proposals to alter that access. The matter of dangerous parking and delivery drivers/owner parking on double yellow lines is a matter controlled by legislation other than planning legislation. They are not matters relevant to the determination of this planning application.

PLANNING ASSESSMENT

In the determination of this planning application determining factor in this case is whether, having regard to planning policy and guidance and other material considerations, the size, form, design and architectural appearance of the proposed development are acceptable in terms of the potential impact of the development on the character and amenity of the area and neighbouring residential amenity, and whether the proposed development would be provided with a satisfactory means of vehicular access and a sufficient standard of off-street parking provision or alternatively if the proposal is well served by sustainable transport options such as public transport.

The building containing the existing shop/pharmacy is flat roofed and is externally finished in render and brick, with a glazed shop frontage facing onto Salters Road. The shop occupies a corner site which is bounded to the northwest by Salters Road, to the northeast by Albert Place, to the southeast by garden ground of the two-storey flatted building of 2 and 4 Albert Place and to the southwest by the adjoining flat roofed two storey house of 123 Salters Road. Adjoining the rear (southeast) elevation of the shop is an existing service yard enclosed by a high brick wall on three sides and accessed from the public road of Albert Place by way of a gated entrance in the northeast boundary wall. In order to facilitate the two off-street parking spaces it is proposed to remove this gate and section of wall.

The proposed first floor extension would create a 3-bedroom flat situated above the existing shop/pharmacy and would have a similar form, size and appearance to the extension approved by planning permission 15/00657/P.

The southwest elevation of the proposed first floor extension would tie into the gable wall of the adjacent two storey house of 123 Salters Road. The ridge of its roof would be some 2.4 metres above the level of the flat roof of the adjoining two storey house of 123 Salters Road. A single storey flat roof extension would be added to the rear (southeast) elevation of the shop/pharmacy which would have a rectangular shaped footprint and would provide an enlarged kitchen.

The proposed first floor extension and the single storey rear extension would each be readily visible in views from public places in the locality. However, as was the case for the grant of planning permission 15/00657/P, they would not be an overdevelopment of the existing building. The proposed first floor extension would match the height of the approved extension under planning application 15/00657/P and as such would not appear as overly prominent or incongruous within the locality which features a number of two storey, pitched roof properties. Therefore, by virtue of their architectural form, size, scale, materials, design and positioning the proposed extensions would be in keeping with the existing building and would be appropriate to their surroundings. As such they would not appear visually incongruous in their relationship with the adjacent house of 123 Salters Road and other neighbouring buildings and would not be out of keeping with the architectural character and appearance of the area. In all of this and on the matter of design the proposed extensions would not conflict with Policies 14 and 16 of NPF4 or with Policy Dp5 of the adopted East Lothian Local Development Plan 2018.

Policy DP5 of the ELLDP states that all alterations and extensions amongst other things, must not result in a loss of amenity with neighbouring uses or be harmful to existing residential amenity through loss of privacy from overlooking, or form loss of sunlight or daylight. In assessing whether or not a proposed new development would result in harmful overlooking and therefore loss of privacy to existing neighbouring residential properties it is the practice of the Council, as Planning Authority, to apply the general rule of a 9 metres separation distance between the windows of a proposed new development and the garden boundaries of neighbouring residential properties and an 18 metres separation distance between directly facing windows of the proposed new development and the windows of existing neighbouring residential properties.

In relation to the above, the windows to the front (northeast) elevation of the proposed first floor extension would face over the public road of Salters Road and would not fall within 18 metres of any directly facing windows of any neighbouring residential properties and as such the use of them would not allow for any harmful overlooking.

The window to be formed in the side (northeast) elevation of the proposed first floor extension would face over the public road of Albert Place for some 9 metres but would fall

within 18 metres of the side elevation of the neighbouring residential property of 111 Salters Road which contains a window at first floor level in its side elevation. Therefore, to safeguard the privacy and amenity of the occupants of that neighbouring house it would be prudent to impose a condition on any grant of planning permission that would ensure that the proposed window to be installed in the side (northeast) elevation of the proposed extension is obscure glazed. Subject to the imposition of that planning control the window in the side (northeast) elevation of the first-floor extension would not allow for harmful overlooking of the neighbouring house to the northeast.

The glazed openings to be formed in the rear (southeast) elevation of the proposed first floor extension would face over the existing flat roof to the rear of the building and onto the proposed off-street parking and beyond to the garden and driveway of the neighbouring residential flatted properties to the southeast. However, those gardens are front/side garden and driveway which are situated adjacent to, and readily visible from the public road and footpath. Therefore they do not benefit from any significant degree of privacy and the glazed openings in the southeast elevation of the extension would not allow for harmful overlooking taking into account the existing situation.

However, the neighbouring flatted property of 4 Albert Place has a window at first floor level in its side elevation wall which would face a window in the southeast elevation of the proposed first floor extension at a distance of less than 18m and therefore may allow for harmful overlooking of this window. Therefore, it would be prudent to ensure the kitchen window to the rear (southeast) elevation of the proposed flat is obscure glazed prior to any use being made of it and is thereafter retained. This can reasonably be achieved by attaching a condition to any grant of planning permission.

No windows or glazed openings are proposed in the side (southwest) elevation of the proposed first floor extension. Windows or other glazed openings could be formed in this elevation wall at a later date with permitted development rights and thus without the need for planning permission. If windows were to be formed to the rear section of the southwest elevation wall they would overlook the rear garden of the neighbouring residential property to the southwest and as such it would be prudent to remove permitted development rights for the side (southwest) elevation of the proposed first floor extension in order to protect the privacy and amenity of that property. This can reasonably be achieved by attaching a condition to any grant of planning permission.

No windows or glazed openings are proposed for the rear (southeast) or side (northeast) elevations of the proposed single storey extension. The entrance door proposed for the southeast elevation of the proposed single storey rear extension would face onto the proposed off-street parking and beyond to a high brick wall that is noted to be retained and therefore the entrance door to the southeast elevation of the proposed single storey rear extension would not allow for harmful overlooking of the neighbouring residential properties to the southeast.

If windows or glazed openings were to be formed in the side (northeast) elevation of the proposed single storey extension they would face over the proposed off-street parking and beyond to the public road of Albert Place and the high hedge of the neighbouring residential property to the northeast and as such any windows formed at a later date would not allow for any harmful overlooking.

Accordingly subject to the aforementioned planning controls, the proposed extensions would not allow for harmful overlooking of any neighbouring residential property. The occupiers of the proposed flat would also benefit from sufficient privacy and amenity.

On the matter of the impact of the proposed extensions on daylight and sunlight received

by neighbouring residential properties, guidance is taken from 'Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice' by P.J. Littlefair. By virtue of their height, size, positioning and distance away from neighbouring residential properties, the proposed extensions would not, in accordance with the Guide, give rise to a harmful loss of daylight or sunlight received by neighbouring residential properties and therefore would not have a harmful effect on the residential amenity of them.

The proposed alteration to the existing shop fascia would comprise the formation of a right angled corner at the northeast corner of the shop fascia, where it at present has an angled corner, so that it would align with the northeast corner of the proposed first floor extension.

In its position on the roadside frontage of the building the alteration to square off the corner of the existing shop front fascia so that it would align with the northeast corner of the proposed first floor extension would be readily visible in views from Albert Place and Salters Road. The proposed altered shop fascia would be of a size, form and finish to match the existing fascia. By virtue of its size, scale, form, positioning and external finish, the proposed alteration to the shop front fascia would not be out of keeping with the existing building and would be appropriate to its surroundings. As such it would not appear visually incongruous in its relationship with the existing building or the neighbouring buildings and would not be out of keeping with the character and appearance of the area.

The proposed 2 metre high wall that would enclose the proposed shop waste storage area would not appear as overly prominent or incongruous within its setting and thus would not be harmful to the character or appearance of the building or to the surrounding area.

The proposed off-street parking for the flat and the shop/pharmacy and the associated EV charger would be sited within the existing service yard of the shop. Therefore the formation of the parking spaces and EV charger would not be inappropriate to their setting or out of keeping with their surroundings. They would not be harmful to the character or appearance of the building or the surrounding area.

The side (northeast) elevation of the existing rear extension to the shop would site the two relocated condenser units. In their position on the side (northeast) elevation wall they would not be harmful to the character or appearance of the building or to the surrounding area.

The **Council's Environmental Health Department** have been consulted on the application and advise they raise no objection.

Scottish Water have been consulted on the application and advise they raise no objection.

The **Council's Road Services** have been consulted on the application and advise they raise objection as the proposed off-street parking does not comply with the new parking standards of 3.3m x 6.0m for private driveways. The Council's Road Services are also concerned that a wheelchair or someone with a buggy will not have sufficient room to access the footway at the bottom on the ramp when the shop waste storage area is in use.

However the Council's Road Services raised no objection to granted planning permission 15/00657/P and this proposal is the same scheme of development as planning permission 15/00657/P including replicating the off-street parking approved through that planning permission. Therefore and as there has been no material change in circumstance in the application site since that planning permission was granted then it would be unreasonable to refuse planning permission for this planning application. Furthermore, the application site is situated adjacent to Salters Road which is served by a number of bus stops and bus services. The application site is also situated a short walk from Wallyford train station and

consequently the proposed flat would be well served by public transport. Therefore the proposal does not conflict with Policy 13 of NPF4 or Policies T1 and T2 of the adopted East Lothian Local Development Plan 2018.

The proposed development will not have a significant adverse effect on the Battle of Pinkie Cleugh Historic Battlefield Site and therefore does not conflict with Policy 7 of NPF4 or Policy CH5 of the adopted East Lothian Local Development Plan 2018.

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 planning control the proposals do not conflict with Policies 1 and 2 of NPF4.

With regards to Biodiversity, 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. No details have been submitted on biodiversity enhancement with this application. Therefore it should be made a condition of any grant of planning permission that details of a biodiversity enhancement scheme to demonstrate the positive effects of the proposals for biodiversity are submitted for planning authority approval prior to the commencement of any development. Subject to the imposition of that planning control the proposals would not conflict with Policy 3 of NPF4.

The proposals are consistent with Policies 1, 2, 3, 7, 13, 14 and 16 of NPF4 and Policies CH5, DP2, DP5, T1 and T2 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 proposals 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 first occupation of the flat hereby approved the window to be installed in its side (northeast) elevation and the kitchen window which would be installed in its rear (southeast) elevation shall be obscure glazed in accordance with a sample of the obscure glazing to be submitted to and approved by the Planning Authority in advance of its use on the development. The obscure glazing of these windows shall accord with the sample so approved. Thereafter, those windows to be installed in the side (northeast) elevation and the kitchen window to be installed in the rear (southeast) elevation of the first floor extension shall continue to be obscurely glazed unless otherwise approved by the Planning Authority.

Reason:

To safeguard the privacy and amenity of the neighbouring residential properties to the northeast and southeast.

- 3 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 any subsequent Order amending, revoking or re-enacting that Order, no windows or other openings shall be formed in the side (southwest), side (northeast) and rear (southeast) elevations of the first floor extension hereby approved, other than those shown for those elevations on the docketed drawings.

Reason:

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

- 4 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, where feasible and appropriate in design terms. Development shall thereafter be carried out in accordance with the report so approved.

Reason:

To minimise the environmental impact of the development.

- 5 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 extensions 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.