

some 2.242 metres in height. Its external walls and roof are constructed from plastisol-coated, galvanised steel. Glazed openings are seen in the north and east elevations. The portacabin is light grey in colour. The portacabin is to provide for welfare for the staff of the racecourse.

The fence that encloses the area of land is a 1.8-metre-high timber fence. A stepped access is provided to this enclosed area to the north as well as a gated access to the west. This area has previously been enclosed by 1-metre-high timber post fencing which has been retained inside the proposed 1.8-metre-high timber panelled fencing.

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) which was adopted by The Scottish Government on 13 February 2023 and the adopted East Lothian Local Development Plan 2018.

The relevant policies contained within the National Planning Framework 4 consist of Policies 7 (Historic Assets and Places), 14 (Design, quality and place) and 20 (Blue and Green Infrastructure). Policies CH1 (Listed Buildings), CH2 (Development in Conservation Areas), DP2 (Design) and OS1 (Protection of Open Space) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of the application.

Material to the determination of the application are Section 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires that in considering whether to grant planning permission for development which affects a listed building or its setting a planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires that a planning authority must pay special attention to the desirability of preserving or enhancing the character or appearance of the area in which the building is located.

Also material to the determination of the application is Supplementary Planning Guidance (SPG) on 'Cultural Heritage and the Built Environment' adopted by the Council on 30 October 2018. The SPG expands on policies that are set out in the East Lothian Local Development Plan 2018.

REPRESENTATION:

One letter of objection to the application have been received. The main grounds of objection are;

- o Portacabin too close to boundary of neighbouring property which allows for anti social behaviour for people to climb onto roof of neighbouring garage;
- o Littering by racecourse staff and overflowing bins encourages vermin in the area;
- o Complaints have been made to Councillors regarding the retrospective nature of the proposal and they have asked that it be relocated away from residential properties. This request has been ignored;

- o Furniture being left adjacent to the gateway to the adjacent residential property;
- o Issues of rights of way across the racecourse and health and safety implications of the stepped access being blocked up;
- o Catering vehicles parked in roadway; and
- o Issues of dangerous driving from the Linkfield Road car park access.

In response to the above, the issue of anti-social behaviour is a matter for the Council's Protective Services and Police Scotland and as such concerns with regards to climbing on neighbouring structures should be directed to them.

The matters of right of way being blocked, health and safety, littering, inconsiderate parking and dangerous driving are matters controlled by legislation other than planning legislation. Therefore they are matters not relevant to the determination of this planning application.

The matter of furniture being left at the gateway of an adjacent property is a matter for the management of the racecourse and is not a material planning consideration relevant to the determination of this planning application.

With regards to the retrospective nature of the planning application, Section 33 of the Town and Country Planning (Scotland) Act 1997 allows for the making of a planning application for development already carried out. Therefore, the Council as Planning Authority cannot decline to determine application because it is retrospective.

PLANNING ASSESSMENT

The portacabin and fence have been installed on an area of land designated as open space by Policy OS1 of the ELLDP. Policy OS1 states that "Recreational, leisure and amenity open space and facilities, including outdoor sports facilities, will be safeguarded to meet the recreational needs of the community or protect the amenity or landscape setting of an area. "

In this instance the portacabin contains welfare facilities for staff working at the racecourse. Therefore it has a functional relationship with the racecourse and facilitates its continued operation. On that count it does not conflict with Policy OS1 of the ELLDP or Policy 20 of NPF4. Furthermore, in their position alongside the existing cottage and adjacent to the car park and service yard, the portacabin and fence do not appear prominent or exposed and do not harm the landscape setting of the area. Consequently, the portacabin and fence are not contrary to Policy OS1 of the ELLDP.

In its positioning to the side of the neighbouring listed building and by virtue of its size and scale, the portacabin does not mask or draw focus from the principle elevation of that listed building. Therefore and as they have a visual relationship with the adjacent car park and service yard, the portacabin and fence do not harm the setting of that neighbouring listed building or harm the character or appearance of the Musselburgh Conservation Area consistent with Policies 7 and 14 of NPF4 and Policies CH1, CH2 and DP2 of the ELLDP.

However, the portacabin is of a functional design that reflects its use for a temporary period and is not suitable for being permanently sited at this location. Therefore, it should be made a condition of any grant of planning permission that after the expiration of a period of 2 years and unless any further planning permission is granted to allow its retention, that the portacabin shall be removed and the ground on which it is sited be returned to its original condition.

The portacabin and fencing, do not harmfully impact on the residential amenity of this neighbouring residential property or any others through loss of privacy or loss of daylight /

sunlight. Accordingly, they comply with Policy DP2 of the East Lothian Local Development Plan 2018.

The **Council's Road Services** raise no objection to the proposals.

The **Council's Environmental Protection Officer** raise no objection to the application.

The area of land is within an area at risk of flooding. However, the **Council's Flooding and Structures Officer** concludes that as this is a small-scale development that is unlikely to have a significant effect on the storage capacity of the functional flood plain or affect local flooding problems, they have no objection to the proposal on the grounds of flood risk.

The Coal Authority raises no objection to the application.

On these considerations, the proposals are consistent with Policies 7 (Historic Assets and Places), 14 (Design, quality and place) and 20 (Blue and Green Infrastructure). Policies CH1 (Listed Buildings), CH2 (Development in Conservation Areas), DP2 (Design), OS1 (Protection of Open Space) and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018.

In conclusion, the portacabin and fencing 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. NFP4 raises no additional material considerations in relation to this application.

CONDITION:

- 1 This planning permission is granted for a temporary period of time only. The portacabin and fencing hereby approved shall be removed entirely from the land on which it is sited, and the land restored to its former condition within 2 years from the date of the grant of this planning permission. Within this time period, consideration should be made to a permanent solution for staff welfare on the site.

Reason:

The building, in terms of its form and appearance, is not appropriate for siting as a permanent structure and in the interests of protecting the character and appearance of the Musselburgh Conservation Area and the setting of the adjacent Category B listed building at No. 1 Linkfield Cottage.