

REPORT TO: Planning Committee
MEETING DATE: 3 December 2024
BY: Executive Director for Place
SUBJECT: Application for Planning Permission for Consideration

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Application No. **24/01092/P**
Proposal Installation of CCTV camera (Retrospective)
Location **East Gate
Hummel Road
Gullane
EH31 2BG**

Applicant Mr Simon McIntosh

RECOMMENDATION Granted Permission

REPORT OF HANDLING

PROPOSAL

The property to which this application relates to is a two-storey semi-detached house and its garden ground located within a predominantly residential area as defined by policy RCA1 of the adopted East Lothian Local Development Plan 2018. It is also within Gullane Conservation Area.

The property is bounded to the north, south and west by neighbouring residential properties and to the east by the public road of Hummel Road.

In May 2024, planning permission (Ref: 24/00114/P) was sought retrospectively for:

- (i) The installation of four ring CCTV camera lights, two within the south elevation, one within the east elevation and one within the north elevation of the house;
- (ii) The installation of six Astro Richmond lights, two within the south elevation and four within the east elevation of the house; and
- (iii) The installation of four Astro Dartmouth lights within the north elevation of the house.

The application was recommended for approval and was taken to a meeting of the Council's Planning Committee for determination. Members of the Planning Committee approved the application retrospectively, subject to a condition which refused planning permission for one of the cameras. The condition reads:

Planning permission is not hereby granted for the CCTV that has been installed above the rear access door on the south elevation of the house.

Reason: The CCTV installed above the rear access door on the south elevation of the house is harmful to the privacy and amenity of the neighbouring residential property of Dromore.

The minutes of the Planning Committee note that members suggested that the applicant move the camera on the south elevation westwards to remove concerns regarding possible overlooking of the windows within the east elevation of the neighbouring residential property to the west.

PROPOSAL

Planning permission is now sought retrospectively for the installation of a CCTV camera unit, that is positioned in the recess of the rear access doorway in the south elevation of the applicant's house, and specifically in the top west corner of that doorway. The CCTV camera is a 'ring spotlight cam plus' which features two spotlights and a camera. The camera unit is fixed to the wall and does not rotate.

The applicant has stated in their submission that:

- o The unit is fixed to the wall so can't be moved - the unit only points forward and not round corners;
- o The motion activated LED lights are less powerful;
- o The unit is smaller than previous unit;
- o It is the same manufacturer as the previous unit, so has the curtain function and will only activate if there is motion in the area its monitoring - i.e. on the applicant's property. What happens next door is not picked up or monitored;
- o The unit is fixed to the doorway reveal which is within the applicant's ownership.

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.

Policies 7 (Historic Assets and Places), 14 (Design, Quality and Place) and 16 (Quality Homes) of NPF4 and Policies CH2 (Development Conservation Areas) and DP5 (Extension and Alterations to Existing Buildings) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of the application.

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

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.

REPRESENTATIONS

A total of nine written letters of objection have been received in relation to the application. The main grounds of objection can be summarised as follows:

- (i) This third application has not materially changed from the previous two applications and does not address the Councillors at Planning Committee who denied planning permission, stating that the camera should not be placed outside the Dromore bathroom window as it was harmful to the privacy and amenity of Dromore;
- (ii) The wall where the new camera has been affixed is the deeded property of Dromore and not East Gate;
- (iii) There have been four, 8 feet tall plotted trees placed outside the windows of Dromore and these trees continuously set off the existing illegal camera that was previously refused;
- (iv) Dromore has a right of servitude access through East Gate to where the camera is fixed and access is never unauthorised as the applicant claims;
- (v) The new camera is placed even closer to Dromore with a camera light that can be toggled on and off, if planning permission is secured this will present a constant nuisance to Dromore;
- (vi) The applicant has not provided any specifications for the camera, either visuals or audio components as to the range of the camera and what can be filmed or floodlit;
- (vii) This third application wastes over stretched Council time and resources;
- (viii) The camera has caused upset and stress to the neighbour who lives next door;
- (ix) It is completely unacceptable to install CCTV within close proximity of your neighbours windows and there are data protections laws in place of this reason;
- (x) Cameras outside bathroom windows where you may be exposed intimately is totally inhumane;
- (xi) Privacy in your own home setting is a human right and this camera infringes on that human right;
- (xii) This application sets a dangerous precedent for other applications;
- (xiii) The owner of Dromore may have elderly and disabled visitors and this new camera denies disabled access to the ground floor bathroom of Dromore due to the camera looking into the bathroom; and
- (xiv) The applicants have blatantly ignored the previous refusal by deliberately implementing loopholes within the planning system and is now a year that this camera has caused distressed to the neighbour.

The applicant has confirmed that the CCTV unit is fixed to a doorway reveal in the applicant's property, which is within the applicant's ownership. There is no evidence to suggest that the CCTV camera is affixed to a neighbouring property.

The matter of the recording of images and sound by CCTV cameras and how images captured by the cameras are used is controlled through Data Protection legislation and not through planning legislation. Therefore, as this matter is controlled by legislation other than planning, it is not a material planning consideration relevant to the determination of this planning application.

The matters of the applications causing upset to neighbours and that the applications wastes Council time and Council resources are not material considerations relevant to the determination of this planning application.

Issues relating to rights of access are a civil matter between the applicant's and the owner of the neighbouring residential property. This is not a material planning consideration in the determination of the application.

PLANNING ASSESSMENT

The CCTV camera is to be fixed within the recess on the west side of the rear doorway within the south elevation of the house. In this position, the CCTV camera unit due to its small size and discreet positioning does not harm the character and appearance of the house or the character and appearance of this part of the Gullane Conservation Area.

Within its position, the CCTV camera unit faces over the applicant's own garden ground and would not, due to the tall southern boundary fence of the applicant's garden, allow for harmful overlooking of any gardens of neighbouring residential properties.

Furthermore, due to the position of the CCTV camera unit, within the recess of the door on the south elevation of the house, it does not allow for harmful overlooking or loss of privacy to the windows in the east elevation of the adjoining house to the west.

Therefore, the CCTV camera unit does not harm the residential amenity of the occupants of the neighbouring house to the west or to any other neighbouring residential properties.

The existing CCTV camera that is positioned above the rear access doors within the south elevation of the house was previously refused planning permission (ref: 24/00114/P) as it was harmful to the privacy and amenity of the neighbouring house to the west. That camera is still in place and has not yet been removed. To ensure the residential amenity of the neighbouring house to the west is safeguarded, it would be prudent to impose a condition on any grant of planning permission for the new CCTV camera that requires the removal of that the existing camera within a period of 1 month of the date of any grant of planning permission. Subject to the removal of the existing camera, the privacy and amenity of the neighbouring house to the west would be safeguarded.

The **Council's Senior Environmental Health Officer** has not raised any objection to the application.

Subject to the imposition of that aforementioned planning control, the CCTV camera does not conflict with policies 7, 14 and 16 of NPF4 and policies CH2 and DP5 of the adopted East Lothian Local Development Plan 2018. In conclusion, the proposals are considered to be in accordance with the provisions of the stated relevant Development Plan policies and there are no material considerations which outweigh the proposal's accordance with the Development Plan.

CONDITION:

- 1 Within 1 month of the date of this decision notice the CCTV camera located above the rear access door in the south elevation of the house and which was refused by a condition of planning permission 24/00114/P shall be removed.

Reason:

To safeguard the residential amenity of the occupiers of the neighbouring residential property