

REPORT TO: Planning Committee
MEETING DATE: 4 February 2025
BY: Executive Director – Place
SUBJECT: Application for Planning Permission for Consideration

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Application No. **24/01140/P**
Proposal Erection of 1 house and associated works
Location **Former Garden Ground of
1 Dirleton Avenue
North Berwick
East Lothian**

Applicant Mr Euan Revell
Per APT Planning & Development

RECOMMENDATION Application Refused

REPORT OF HANDLING

PROPOSAL

This application relates to an area of land on the east side of the properties of 1 and 1A Dirleton Avenue in North Berwick. The application site occupies a corner location on the west side of the junction of Dirleton Avenue with Station Road. It is in a predominantly residential area as defined by Policy RCA1 of the adopted East Lothian Local Development Plan ('ELLDP 2018') and is located within the North Berwick Conservation Area.

To the north of the site is the public road of Dirleton Avenue, to the east is the public road of Station Road, beyond which is the flatted building containing the flats of 1-34 Royal Apartments, to the south is the house and garden of 2 Station Road and to the west is the buildings of 1 & 1a Dirleton Avenue. The building of 1 and 1A Dirleton Avenue contains a dental practice at ground floor level (addressed as 1 Dirleton Avenue) and a residential flat on part of the ground floor, first and second floors of the building (addressed as 1A Dirleton Avenue). There are areas of garden ground to the north (front) and south (rear) of the building of 1 and 1A Dirleton

Avenue and an existing driveway that serves it, accessed off Station Road, to the east side of the building, which is within the application site boundary. The flatted property of 1A Dirleton Avenue has its own garden ground and a detached garage situated to the rear of the existing building. This garage is accessed from the existing driveway off Station Road.

The application site is separated from the adjacent site by a 1.8m high timber fence. There are two existing car parking spaces associated with the application site which lie outwith the fenced off area. The application site is currently used to grow potted Christmas trees in connection with a business (North Berwick Christmas Tree Company Limited). The applicant's agent advises that the site is in use as garden ground.

Access into the site is obtained via the singular vehicular access on the northeast boundary of the site at the crossroads where Dirleton Avenue meets Station Road. That access is shared with the occupants of the adjacent flat and dental practice within 1 and 1A Dirleton Avenue.

PLANNING HISTORY

In June 2021, Planning Permission was granted ref: 21/00362/P for the erection of fencing around the north and west boundaries of the application site. This consent has since been implemented.

In April 2013, Planning Permission was refused ref: 13/00090/P for the erection of a 2-storey house, formation of vehicular access and associated work which included a new vehicular access which was proposed to be taken from the east of the application site from Station Road. This application was refused for the following reasons:

1. The proposed house by virtue of its size, scale and positioning would be an intrusive and inharmonious form of infill development on this prominent corner site and in its position between the building of 1 and 1A Dirleton Avenue and Station Road would be a cramped form of infill development harmful to the pattern and density of development of the streetscape of the south side of Dirleton Avenue, which is a definitive part of the character and appearance of this part of the Conservation Area.

The proposed house would not therefore preserve or enhance but would be harmful to the character and appearance of the Conservation Area. Consequently, the proposed house is contrary to Policies ENV1D and ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015, Policies ENV4, DP2 and DP7 of the adopted East Lothian Local Plan 2008, Scottish Government policy on infill housing development given in Scottish Planning Policy: February 2010 and the advice on designing for place given in Planning Advice Note 67: Housing Quality.

2. By virtue of its position close to the traffic signal-controlled junction of Dirleton Avenue with Station Road, use of the proposed new vehicular access would result in an increased number of vehicle-to-vehicle potential collision points. Therefore, the proposed new vehicular access would be a road safety hazard,

contrary to Policy T2 of the adopted East Lothian Local Plan 2008.

An application for planning permission was submitted under ref: 12/00782/P in October 2012 for the erection of a one and a half storey, detached house and associated works. Parking provision was proposed to be provided outwith the current application site boundary to the south on Abbey Court. The application was withdrawn by the applicant in December 2013.

In October 2008, planning permission ref: 08/00104/FUL was refused for the erection of a 2.5 - 3 storey house, the formation of vehicular access, part demolition of wall and associated works. The proposed house was proposed to be situated centrally on the application site with access to the site being formed from the east.

The reasons for refusal were as follows:

1. The proposed house by virtue of its size, positioning and design features would not respect, but would be a dominant, intrusive and disruptive forms of infill development on this prominent corner site at odds with the design, pattern and density of layout of the buildings on the south side of Dirleton Avenue to the detriment of the character and appearance of the streetscape of Dirleton Avenue and of this part of the North Berwick Conservation Area contrary to Policies ENV1D and ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015, Policies ENV3, ENV4 and ENV10 of the adopted East Lothian Local Plan 2000, Government policy guidance on infill housing development given in Scottish Planning Policy 3: Planning for Homes, Government policy guidance on the control of development in a conservation area given in NPPG 18 and planning advice on designing new housing for place given in Planning Advice Note 67.

That decision was appealed to the Scottish Government. The Reporter appointed by the Scottish Ministers to determine the appeal dismissed it, thereby refusing to grant planning permission for that proposed erection of a house on the application site.

Her reasoning for reaching that decision was that the development would be detrimental to the character and appearance of the streetscape and the North Berwick Conservation Area, and the access arrangements proposed in that application would be a pedestrian and road safety hazard.

PROPOSAL

Planning permission is now sought for the erection of a single storey detached house and associated works on land to the east of 1 & 1A Dirleton Avenue.

The proposed house would be formed in a rough 'T' shaped formation and would be positioned centrally within the application site with garden ground to the rear (east) as well as areas of garden ground to the north and west. The site would be accessed via the existing access located to the northeast of the application site.

The proposed house would predominantly be split into two components which would be linked together by an entrance lobby. The section of the house furthest

north would comprise as an open plan kitchen, dining and living room. The second section would be situated further back to the south of the application site and would comprise of 3x bedrooms and a separate family bathroom. One of the bedrooms would also have an en-suite.

The proposed house would be constructed with natural sandstone walls, it would have a flat roof with dark grey PPC aluminium flashing, which would be topped with a green roof. Window and door frames would be of aluminium construction and would be dark grey in colour.

The entrance door which would be recessed would be contained on the front (west) elevation. 2x further glazed window openings would be contained on this elevation and would service 'Bedroom 1' and 'Bedroom 2' respectively. The side (north) elevation would contain a total of 2x glazed openings, the side (northeast) elevation would contain 1x glazed window opening which would service a bathroom. The rear (east) elevation would contain 2x sets of patio doors and 1x glazed opening of which would also be recessed. Of the side (south) elevations, a set of patio doors would service the proposed kitchen/dining, living room providing access into the rear garden.

The proposed house would have an area of private rear garden ground of some 115m² to the east of the property. The property would also have an area of garden ground to the north and an area of garden ground to the west. A private patio area would be formed to the east of the proposed house within the rear curtilage. Areas of hardstanding would also be formed west of the proposed front (west) elevation. The patio and hardstanding areas would be formed with porcelain plank paving (Marshals Symphony). Porcelain planks would be some 1200mm by 300mm.

An Air Source Heat Pump (ASHP) would be situated west of the front (west) elevation of the proposed house. It would be some 632mm in height, some 886mm in width and would have a thickness of some 353mm. It would be white in colour. An EV charger would be installed adjacent to the ASHP.

There are two existing car parking spaces within close proximity to the south boundary wall which are already hard formed. As part of this application, the applicant proposes to lengthen these spaces to a total of 5m in length. The spaces would each remain as 2.5m in width.

A formal turning area is proposed to be created through the widening of the private access track, using a portion of land from the application site. The new turning area would be some 6.6m by 7m and would be formed with asphalt to match the existing track.

Elements of new fencing and two new gates would be erected at some 1.8m in height and would be constructed with horizontal timber battens to match existing fencing. New or realigned fencing would be positioned along the north and part of the west boundaries. A new gate would provide pedestrian access within this fence line on the northwest boundary into the front curtilage. A further gate would be positioned within the fence line on the north boundary and would provide pedestrian access into the rear curtilage.

Sections of existing fencing would be required to be removed to facilitate the proposed development. The removal of part of a fence within a conservation area would not require Conservation Area Consent.

In support of this application, the applicant's agent has submitted the following documents:

- i. A Supporting Statement;
- ii. A Scheme of Landscaping;
- iii. A Root Protection Area Survey;
- iv. A Transport Statement; and,
- v. A Sunlight and Daylight Study.

The Supporting Statement summarises proposals put forth and highlights that the application site is well defined owing to its existing boundary treatments and as such would almost appear hidden from public views. Further, the applicant's agent puts forth that policies 1, 2, 7, 9, 11, 12, 13, 14, 15 and 16 of National Planning Framework 4 ('NPF4') and policies RCA1, CH2, CH3 and DP7 of the ELLDP 2018 are of most relevance in the determination of this application and provides an appraisal of the proposed development with relevance to these Development Plan policies in demonstrating that proposals are policy compliant.

The scheme of landscaping details that existing multi-species hedgerows along the east of the site would be retained as well as the parts of the existing beach hedge along part of the north and northwest of the application site. A grass lawn would be planted within the rear curtilage along with a cherry tree within the southeast corner. New planting is also proposed along part of the south, north and west boundaries of the application site.

The Root Protection Area Survey as submitted with this application indicates that there are three existing trees on the application site. There is a sycamore and a holly tree located to the north-east of the site by the access junction and a birch tree is located to the south. The Root Protection Area Survey indicates that the northern (side) elevation of the proposed house would encroach into the tree root protection areas of both the holly and the sycamore tree by approx. 0.15m² and 0.38m² respectively.

The Transport Statement as submitted by the applicant has been provided by Mor, a Transport Planning and Development Consultancy. It details:

- i. The plot has two existing parking spaces which are used daily.
- ii. The access is located within the signalised junction and is shared with the dental practice and the flatted residential dwelling of 1a Dirleton Avenue.
- iii. The existence and use of this access pre-dates the introduction of the signalised crossroad junction.
- iv. The existing access into the site is not controlled by signals but behaves successfully as a give-way/priority type arrangement with drivers observing safe exit.
- v. Vehicles enter and exist onto the public road in a forward gear.
- vi. Visibility to all arms of the junction from the access is good, allowing drivers to observe signal operation, pedestrians and other vehicles.
- vii. Analysis of the latest available accident data from Crashmap.co.uk confirms

that no accidents were reported for the 5-year period to the end of 2022. This confirms that the signalised junction, which incorporates the development site access and currently operates safely; and,

viii. Public transport links and public services are within walking distance and accord with the local living/20-minute neighbourhood concept.

The Sunlight and Daylight Study submitted concludes that as a result of the proposed development, the adjacent residential properties of both 2 Station Road and 1A Dirleton Avenue would receive adequate levels of sunlight and daylight. Further, it sets out that any future occupants of the proposed dwelling would also receive adequate levels of sunlight and daylight.

Subsequent to the registration of this application and at the request of ELC's Landscape Officer, a Root Protection Area Survey was submitted. The applicant also amended drawings to i) remove reference to a proposed footpath north of the proposed house; ii) Identify parking spaces for each use on site; and iii) alter the red line boundary slightly bringing it in tightly against the private access track on the west boundary.

DEVELOPMENT PLAN

Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan comprises NPF4 and the adopted ELLDP 2018.

Policies 1 (Tackling the Climate and Nature Crisis), 2 (Climate Mitigation and Adaptation), 3 (Biodiversity), 6 (Forestry, Woodland and Trees), 7 (Historic Assets and Places), 9 (Brownfield, Vacant, Derelict Land and Empty Buildings), 12 (Zero waste), 13 (Sustainable Transport), 14 (Design, Quality and Place), 15 (Local Living and 20-minute Neighbourhoods) and 16 (Quality Homes) of NPF4 are of relevance and Policies CH2 (Development Affecting Conservation Areas), RCA1 (Residential Character and Amenity), T1 (Development Location and Accessibility), T2 (General Transport Impact), SEH2 (Low and Zero Carbon Generating Technologies), W3 (Waste Separation and Collection), DP1 (Landscape Character), DP2 (Design), DP7 (Infill, Backland and Garden Ground development) and NH5 (Biodiversity and Geodiversity Interests, including Nationally Protected Species) of the ELLDP 2018 are relevant to the determination of this application.

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

Section 64 of the (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires that a planning authority must have regard to the desirability of preserving or enhancing the character or appearance of a conservation area in exercising its responsibilities in the determination of any application for planning permission for development affecting a conservation area.

Also relevant to the determination of the application is 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.

REPRESENTATIONS

A total of nine representations have been received in respect of this application. Three of which were letters of objections and six of which were letters of support. The main grounds of objection are:

- i. Loss of privacy to neighbouring properties.
- ii. Loss of view to the east.
- iii. Loss of amenity as a result of proposals.
- iv. The property is not in keeping with the historic and traditional properties in which surround the application site.
- v. The proposed house by virtue of its form, positioning and size would fail to respect the established pattern of development and the site context on this prominent site.
- vi. It would be at odds with the design, pattern and density of development characteristics of the south side of Dirleton Avenue.
- vii. The proposal would not sit comfortably in the street scene or in the Conservation Area.
- viii. One objector has experienced problems with cars coming out of the dental surgery and ignoring the green man, thinking they have the right to proceed.
- ix. The development of this awkward site would give rise to increased vehicle movements that would increase danger to other road users; and
- x. The proposal does not accord with development policies, the statutory tests or with PAN 67.

The main grounds of support are:

- i. It seems out of character for a "corner site" to be empty.
- ii. The design offers a great opportunity for a new home in central North Berwick, being within close proximity to local shops and public transport.
- iii. The design is well considered, it is both modern and in keeping with the surrounding architecture.

- iv. As a low-level design, the home would be of great benefit to the ageing population / elderly residents.
- v. It is an imaginative and sensitive building.
- vi. The crossroads has a significant visual impact when visitors enter the town and a high-quality dwelling such as this would set a wonderful tone for tourists to experience.
- vii. It would be a great addition to North Berwick.
- viii. The high perimeter wall would hide the property nicely.
- ix. The plot of land has always seemed a bit messy and is not used to its full potential.
- x. Proposals would add to the character and uniqueness of the town, particularly as a somewhat hidden nook of a house, similar to that in Nungate, Abbey Crescent and Westgate. This kind of hidden gem is consistent with that kind of character of North Berwick.
- xi. The house has minimal impact relative to the surroundings such as the Royal Apartments opposite, or the house at 2 Station Road, the block of flats at Abbey Court, or the Station Car Park.
- xii. The proposed house does not affect the skyline and the surrounding environs are not particularly unique or distinctive of North Berwick's Conservation Area.
- xiii. Nearby May Terrace is an example of a street with a range of home styles and Station Road would benefit from emulating that.
- xiv. It has sustainable features such as a green roof, heat pump and EV charging, all which contribute to low carbon living; and,
- xv. Proposals are a good use of space, and the design is sympathetic to the surrounding conservation area.

The right to a view is not a material consideration in the determination of this application. All other matters will be addressed below.

COMMUNITY COUNCIL

No comments have been received from the community council.

PLANNING ASSESSMENT

Policy 16 of NPF4 supports new homes on non-allocated housing sites where new homes are consistent with the spatial strategy and other relevant policies including local living, 20-minute neighbourhoods and, where the proposal is for smaller scale opportunities within existing settlement boundaries. Policy 15 of NPF4 seeks for development proposals to contribute to local living including, where relevant, 20-minute neighbourhoods.

Proposals are small scale in nature comprising the erection of 1 house and associated works. Whilst the site is not allocated for residential development within the adopted ELLDP 2018, it is within the existing settlement boundaries of North Berwick and is well connected to existing transport infrastructure. It is also within walking distance of the North Berwick Town Centre and other amenities it offers as well as local schools, beaches and other facilities. Proposals would therefore actively contribute toward local living with most amenities, facilities and services

being within a 20-minute walk of the site. Proposals would therefore be compliant with Policies 15 and 16 of NPF4.

The purpose of Policy RCA1 of the ELLDP is to safeguard predominantly residential areas against detrimental impacts from other potentially harmful land uses. Whilst residential development within an area covered by policy RCA1 would generally be considered acceptable in policy terms, this policy does not actively promote the development of land for residential development. Rather and in respect of proposed residential development in back land or infill locations, it states that proposals must be assessed against Policy DP7 of the ELLDP 2018 which supports the principle of infill or back land development including the subdivision of garden ground.

The site is not located within the greenbelt, a countryside or coastal location, rather it is located within a predominantly residential area within the settlement of North Berwick. Historically, the site appeared to form as garden ground associated with 1 Dirleton Avenue. As proposals would be located on former garden ground forming as infill development and as proposals are of a residential nature which would not be detrimental to the predominantly residential nature of the area, policies RCA1 and DP7 of the ELLDP 2018 would in principle, be supportive of proposals.

Policy DP7 does however require for any such infill or backland development to be consistent with the following criteria:

1. The site can accommodate the entire development, including an appropriate amount of open space, satisfactory vehicle and pedestrian access, car parking and where necessary vehicle turning space; and
2. The occupants of existing neighbouring development experience no significant loss of privacy and amenity and occupants of any new development must also enjoy privacy and amenity; and
3. The scale, design and density of the proposed development will be sympathetic to its surroundings, overdevelopment of the site will be unacceptable, and landscape and boundary features important to the character of the area must be retained where possible; and
4. There will be no material loss of greenfield land or open space important to the character or recreation and amenity requirements of the area, and no loss of important physical or natural features.

On the matter of design, Policies DP2 and Part iii of DP7 of the adopted ELLDP 2018, amongst other matters, requires that all new development be of an appropriate scale, design and density and be well designed and integrated into its surroundings. Policy 14 of NPF4 also requires for new developments to be suitably designed to improve the quality of an area.

Policy 7 of NPF4 and Policy CH2 of the ELLDP 2018 requires proposals be located and designed to preserve or enhance the special architectural or historic character or appearance of the Conservation Area. New development should accord with the size, proportions, orientation, alignment, density, materials, and boundary treatment of nearby buildings and public and private spaces.

As a site located within the North Berwick Conservation Area, the Conservation Area Character Appraisal ('Character Appraisal') for the North Berwick Conservation Area given within the adopted ELLDP 2018 is of particular relevance. In relation to the western expansion of North Berwick, it states that homes are predominantly architect designed Victorian, Edwardian and Georgian in a variety of styles set within large private grounds. The buildings in this part of the Conservation Area vary in height and some of these large buildings, namely houses have been subdivided to form more than one residential unit, as is proposed in this case. It further states that a feature of this area is the mature trees and planting within the wider area which provides a natural soft setting for the built-up area. It goes on to say that such landscape features often allow for housing to be subsequently developed in the grounds of larger houses.

Furthermore, there are examples of more modern development including single storey flat roofed buildings on Westbay Road and a large, flatted development on the opposite side of Station Road, known as the Royal Apartments. Therefore, this part of North Berwick Conservation area is characterised by buildings of a variety of architectural forms and finishes.

The proposed house would be a detached single storey house which would be positioned to the east of the existing building at 1 Dirleton Avenue. The proposed house would be set back from its front (north) elevation. It would also be positioned centrally and would therefore be set back from the public roads of both Dirleton Avenue and Station Road and also in alignment with the general positioning of the built development along the southern side of Dirleton Avenue. The subdivision of this plot, by way of erecting a detached dwellinghouse of a modest size within its grounds would not be so harmful to the density of the immediate area. Furthermore, as identified within the Character Appraisal, the original low-density development of the area is supplemented by some infill development, which generally appears subservient to existing older buildings. By virtue of its single storey height, its footprint and its offset position, it would otherwise appear subservient to the existing building of 1/1A Dirleton Avenue and would not therefore compete with its dominant massing in this prominent corner location.

The proposed house due to its single storey, flat roof form would in part be screened by existing boundary enclosures and by the existing building of 1/1A Dirleton Avenue. Whilst the proposed house would look somewhat architecturally different from the existing building at 1/1A Dirleton Avenue, it would be predominantly finished in natural sandstone which is reflective of the predominate material used within the North Berwick Conservation Area. Therefore, given its size, scale and position in a part of North Berwick characterised with varying styles of architecture within the immediate area, the proposed house would not appear intrusive and incongruous within its existing setting. It would not detract from or harm the character and appearance of this part of the North Berwick Conservation Area.

The realignment of the 1.8m timber fencing and the erection of gates proposed along part of the north and northwest boundaries of the site would be positioned back from the existing stone boundary wall which bounds the wider site. They

would sit alongside existing fencing with a like for like specification to that approved under ref: 21/00362/P. The fencing and gates would be partially screened from public views by the existing mature trees and landscaping to the front of the site and would be complimented by additional planting which would help soften the timber screening. The realigned fencing and proposed gates would therefore not be so harmful to the character and appearance of the conservation area, the proposed house, or building of nos. 1 and 1A to the west.

The formation of hardstanding areas inclusive of alterations to the existing private drive to improve turning arrangements for users of this access would not be particularly visible from public views and would be of a similar nature to other areas of hardstanding within a residential setting. Proposals would not therefore be harmful to the residential nature of the area, or the character and appearance of the conservation area.

The EV charger and the ASHP would be situated on the west (front) elevation of the proposed house and just north of the south boundary retaining wall. The EV charger and the ASHP would therefore be set back from the roadside and screened by proposed and existing landscaping. Owing to their siting, scale and positioning, they would not be harmful to the character or appearance of the house or the conservation area.

Overall, in design terms, the erection of this house and associated works would not conflict with Policies 7 and 14 of NPF4 or Policies CH2, DP1 and DP2 of the adopted ELLDP 2018. Nor would proposals conflict with Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 or PAN 67.

Policy DP2 of the adopted ELLDP 2018 requires, amongst other matters, that new development should ensure privacy and amenity for the occupants of any neighbouring residential properties as well as the occupants of any new development. Particular regard must be given to factors such as levels of sunlight, daylight and overlooking.

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 building and the garden boundaries of neighbouring residential properties and an 18 metres separation distance between directly facing windows of the proposed new building and the windows of existing neighbouring residential properties.

Starting with the 2x glazed window openings on the side (north) elevation of the proposed house, these would face onto a stretch of ground which would be associated with the application site. Beyond which would be the private access track and the front grounds associated with the dental practice. Glazed openings on this elevation would not therefore result in harmful overlooking or the loss of privacy of any neighbouring residential properties.

The formation of 1x glazed opening on the side (northeast) elevation of the proposed house would face onto part of the proposed house and beyond onto part

of the associated curtilage of the proposed house. This window would not therefore result in the harmful overlooking of neighbouring properties.

Glazed openings proposed on the rear (east) elevation would face onto the applicant's proposed garden ground and beyond onto Station Road. Therefore, these windows would not result in harmful overlooking of neighbouring properties.

A set of glazed patio doors are proposed on one of the side (south) elevations of the proposed house and would serve the proposed kitchen, dining and living room. These doors would look onto some 13m of the applicant's proposed rear garden ground. There is a separation distance of some 15m between the glazed doors on this side (south) elevation of the proposed house and the ground floor windows on the side (north) elevation of 2 Station Road. The side (north) elevation of 2 Station Road only contains windows on the ground floor level. There is an existing 1.8m timber fence which delineates the southern boundary of the garden for the proposed house which would satisfactorily address any harmful overlooking, subject to its retention.

No glazed openings are proposed within the other side (south) elevations. Should glazed openings be formed in these elevations at a later date, they would otherwise require the grant of planning permission owing to their presence within the North Berwick Conservation Area.

The formation of glazed openings on the front (west) elevation of the proposed house would be some 9m from the east boundary of 1A Dirleton Avenue's residential curtilage and would not be within 18m of any directly facing windows, rather both glazed openings on this elevation would look onto the blank (east) elevation of a garage approved under ref: 22/01072/P.

The glazed front door and associated window on the front (west) recessed elevation would look onto some 5m of garden associated the application site, beyond onto the private access track of some 4m. These glazed openings would however only be some 12.5m from the directly facing window on east elevation of 1A on the ground floor level and would therefore result in harmful overlooking. However, proposals would make use of an existing 1.8m fence which sits on the northwest boundary of the site, paired with the slight realignment of additional fencing and the installation of a gate on the northwest boundary. The high fencing and gate would therefore sit between the directly facing windows of the proposed development and would prevent any harmful overlooking. The formation of glazed openings on this front recessed (west) elevation would not therefore result in the harmful overlooking of neighbouring properties.

Subject to the 1.8m fencing being positioned in accordance with the proposed site plan so submitted, the erection of this house would not result in the harmful overlooking, or the loss of privacy to any neighbouring residential properties.

On the matter of impact of the proposed house on daylight and sunlight on neighbouring properties, guidance is taken from "Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice" by P.J. Littlefair ("the Guide").

Proposals would not result in the loss of sunlight or daylight from either the neighbouring property of 1a Dirleton Avenue to the west, or from 2 Station Road to the south. Proposals would not result in the harmful overshadowing of neighbouring residential gardens.

In respect of any prospective occupant's own amenity, the proposed house has a number of ground floor windows which are located within close proximity to a private track shared by the dental practice and the residential flat at 1 and 1A Dirleton Avenue. Other users of this track would if the presence of the 1.8m fencing were not in place, have views into windows located on the north, northwest and the recessed west elevations of the proposed house. Owing to the presence of the existing fence on the north elevation and the partial realignment of the fence and gate on the northeast boundary, the applicant would not be overlooked on these elevations by visitors to the wider site.

The two glazed openings on the front (west) elevation of the proposed house would look onto and be within close proximity to the private track and altered turning area. There would however be a landscape buffer between the turning area inclusive of an existing birch tree which would sit to the west of bedroom 3's window. As users of the turning area would likely only be using it for short durations, on balance, any prospective owner would have sufficient privacy.

The proposed house would also benefit from a sufficient level of sunlight, daylight and outlook. In addition, the private garden ground would benefit from adequate levels of sunlight and daylight and would not be unacceptably overshadowed.

East Lothian **Council's Senior Environmental Health (EH) Officer** was consulted as part of this application and raised concerns over potential noise nuisance to neighbouring residential properties from the proposed ASHP. The EH Officer therefore recommended that a condition be imposed on any grant of planning permission restricting noise associated with the operation of the ASHP.

Subject to the imposition of a condition requiring that the ASHP shall not exceed Noise Rating curve NR20 at any octave band frequency between the hours of 2300-0700 and Noise Rating curve NR25 at any octave band frequency between the hours of 0700-2300 within any existing neighbouring residential property with windows/doors open, proposed ASHP would not harm the residential amenity of the occupants of neighbouring residential properties.

With regard to residential amenity for both existing and prospective occupants, proposals would be compliant with Policy DP2 and Part ii of DP7 of the ELLDP.

The **Council's Contaminated Land Officer** was consulted as part of this application and raised no objection, stating that it would be unlikely there would be any contaminated land issues at this site. It was however advised that the site may fall within an intermediate radon probability area, where 1-3 % of properties are above the radon action level, possibly requiring radon protection measures to be installed. As an advisory, the Officer recommends that the applicant obtain a Radon Risk Report from the UK Radon website to confirm if there would be an issue with radon levels in the proposed new property. The applicant has been sent a copy of

this consultation response.

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.

The report is required to set out how the applicant would seek to minimise waste, use materials with the lowest forms of embodied carbon (such as recycled and natural materials) and use materials that are suitable for reuse with minimal processing. Such a condition should be imposed on any grant of planning permission for this proposed development.

Subject to the imposition of this condition on any such grant of planning permission, the proposed development does not conflict with Policies 1 (Tackling the Climate and Nature Crises), 2 (Climate Mitigation and Adaptation) and 12 (Zero Waste) of NPF4. Notwithstanding this, proposals do include for an ASHP in accordance with Policy SEH2 of the ELLDP.

The **Council's Waste Services** raise no objection to this application. Moreover, the general collection and management of waste and recycling from the proposed development will be operated by the Council's Waste Services from the public road of Dirleton Avenue or Station Road. Accordingly, the proposals are consistent with Policy W3 of the adopted ELLDP 2018.

Scottish Water were consulted as part of this application and raised no objection.

The **Council's Road Services** were consulted as part of this application and advised that they were satisfied with the altered turning area as proposed, subject to the turning area being retained on-site in perpetuity to ensure residents, visitors, or customers of the dental practice do not need to reverse into a busy junction. This could reasonably be controlled by a planning condition.

In respect of off-street parking associated with proposals, the Senior Road's Officer advised that sufficient parking had been provided for the erection of 1 house (with 5 or less habitable rooms) in accordance with ELC's Parking Standards.

The proposed house would be accessed by the existing access to the northeast which is positioned on the corner of a 4-point crossroads junction and is controlled by traffic lights which operate in four stages. The access sits within this junction and is not therefore controlled by these traffic lights.

The applicant's transportation advisor summarises that a) the 2x parking spaces are used every day by the applicant and therefore the erection of the house would not increase the levels of use of this access; b) there is good visibility from the access to all arms of the junction; and, c) that there has never been an accident.

However, the Senior Road's Officer advises that the application site does not have planning permission for any uses other than as garden ground. Therefore the existing vehicular access is currently only approved for use by the occupants of the flat and the dental practice operating within the adjacent building. The Senior Roads Officer does not accept that the erection of one house would not lead to the intensification of the use of the existing access. On that basis, the Senior Roads Officer advises that they object to this application on the grounds that the intensification of the use of this access within such a sensitive location would be a road safety hazard.

Furthermore, through the determination of the appeal submitted against the refusal of planning application ref: 08/00104/FUL in 2008, Scottish Minister's also highlighted concerns with the use of this existing access by stating that 'The existing vehicular and pedestrian access is a few metres north of the busy traffic signalled junction on the corner of Dirleton Avenue and Station Road. Visibility in both directions is poor and traffic movements in and out are disruptive to the free flow of traffic on both roads'. As the access arrangements of this planning application are not dissimilar to those the subject of planning application 08/00104/FUL then the reasoning of Reporter in that appeal decision still apply to this current application.

Therefore as the erection of a house on the site would result in the intensification of traffic movements at the access junction where Dirleton Avenue meets Station Road within a controlled traffic area and therefore within a very sensitive and busy location to the detriment of the road users and pedestrians, the proposals are contrary to Policies T1, T2 and Part i of DP7 of the adopted East Lothian Local Development Plan 2018 and policy 13 of NPF4.

The **Council's Senior Landscape Officer** was consulted as part of this application and notes that the Root Protection Area (RPA) Survey as submitted with this application indicates that there would be a minor encroachment of the proposed house into the Root Protection Area of the Holly and Sycamore trees to the north. The Landscape Officer further advises that site conditions such as the presence of roads and structures can influence root growth and that these factors should be taken into consideration in the production of a RPA Survey. A survey which takes these factors into consideration would depict a RPA in a polygonal shape in accordance with BS5837:2012, rather than a circular shape as shown within the RPA as submitted.

In addition, the Officer advises that no information has been provided on underground drainage locations or other underground services which could also impact on the RPAs.

Without the submission of an Arboricultural Assessment which contains the aforementioned information, the Senior Landscape Officer is not able to fully assess the likely root distribution within the application site and the impact, if any of the proposals on the existing trees on site, two of which have particular amenity value. Accordingly, the Senior Landscape Officer objects to proposals on this basis of the potential loss of trees.

As it has not been demonstrated that the proposals would not result in the loss of the proposals conflict with policies NH8 and Part iv of DP7 or policy 6 of NPF4.

Policy 9 of NPF4 supports developments which make use of brownfield, vacant and derelict land. However, this policy states that in determining whether the reuse is sustainable, the biodiversity value of brownfield land which has naturalised should be taken into account.

The **Council's Biodiversity Officer** was consulted as part of this application and advised that the existing site has established vegetation which could provide habitats for birds, invertebrates and mammals as well as providing a suitable nesting and foraging habitat for breeding birds. The Officer also highlighted that the footprint of the building and hard landscaping features would be within close proximity to the red line boundary which has established vegetation of hedges, shrubs and trees. Whilst mitigatory features such as planting works and a green roof have been proposed, the Biodiversity Officer advises that an Ecological Report and an Arboriculture Assessment would be required to be submitted, alongside a Biodiversity Enhancement Plan (BEP) in order to assess how the proposals may impact upon ecological features on-site.

Whilst a condition could reasonably be imposed seeking the submission of a BEP and further details pertaining to the green roof, the Biodiversity Officer is not able to support proposals without first reviewing an Ecological Report and an Arboriculture Assessment. As neither an Ecological Report or an Arboriculture Assessment have been submitted alongside this application, the Biodiversity Officer objects to proposals at this time. As it is not possible to substantiate the likely impact of proposals on existing biodiversity and ecological value, it has not been demonstrated that proposals are compliant with policies 3 and 9 (in part) of NPF4 or policy NH5 of the ELLDP 2018.

Taking the proposed development into consideration as a whole, whilst in design terms, the proposals represent a complementary form of infill development within an appropriate and sustainable location in accordance with policies 1, 2, 7, 12, 14, 15 and 16 of NPF4 and policies RCA1, CH2, DP1, DP2, DP7 (ii & iii), SEH2, W3 of the adopted ELLDP 2018, this does not outweigh the fact that it has not been demonstrated to the satisfaction of the Planning Authority that proposals would comply with policies NH5, NH8 and Part iv of DP7 or Policies 3, 6 and 9 of NPF4 and would not result in the loss of trees or ecological habitats. Nor does it outweigh the proposal's non-compliance with policy 13 of NPF4 and policies T1, T2 and DP7 (i) of the ELLDP 2018 in respect of the unacceptable intensification of the existing access junction in a sensitive location, between Dirleton Avenue and Station Road which would compromise road safety.

Proposals do not therefore wholly comply with all development plan policies and no material considerations outweigh the proposed development's discordance with the development plan. It is therefore recommended that planning permission be refused.

REASONS FOR REFUAL:

- 1 The proposed development would, if permitted, result in the intensification of traffic movements at the access junction where Dirleton Avenue meets Station Road within a controlled traffic area and therefore within a very sensitive and busy location to the detriment of the road users and pedestrians, contrary to Policies T1, T2 and Part i of DP7 of the adopted East Lothian Local Development Plan 2018 and policy 13 of NPF4.
- 2 It has not been sufficiently demonstrated that the proposed development would not result in the loss of amenity value trees within a conservation area contrary to NH8 and Part iv of DP7 of the ELLDP and policy 6 of NPF4.
- 3 It has not been demonstrated that the proposals would not have a harmful impact on birds, invertebrates and mammals nesting and foraging within the site, contrary to Policy 3 and 9 of NPF4 and Policy NH5 of the adopted East Lothian Local Development Plan 2018.