

**REPORT TO:** Planning Committee  
**MEETING DATE:** 4 March 2025  
**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 McFarlane for the following reason: Given the affordable housing crisis, this application warrants a discussion at Committee.*

**Application No.** 24/01050/P

**Proposal** Erection of 14 flats and associated works

**Location** 34 Dirleton Avenue  
North Berwick  
EH39 4BH

**Applicant** Caledonian Heritable Ltd

**Per** Baseline Developments Ltd

**RECOMMENDATION** Application Refused

## REPORT OF HANDLING

### APPLICATION SITE

The property to which this application relates is a two storey with attic and a lower ground level, detached building. The applicant states the building has been vacant for some 4 years. The building is situated on the north side of Dirleton Avenue and occupies a prominent corner plot between Dirleton Avenue and Hamilton Road. The building is situated within a predominantly residential area as defined by Policy RCA1 of the adopted East Lothian Local Development Plan 2018. The building is situated within the North Berwick Conservation but is not listed.

The property is bounded to the north and west by neighbouring residential properties, to the east by Hamilton Road and further beyond by neighbouring residential properties and to the south by Dirleton Avenue and further beyond by neighbouring residential properties.

## **PLANNING HISTORY**

Planning permission (ref: 06/00303/FUL) was sought in March 2006 for the change of use of the former hotel building to a staff hostel for the Marine Hotel. That application was withdrawn in June 2006 without it being determined.

In August 2023 and July 2024, the applicant sought pre-application advice with East Lothian Council, as Planning Authority on a proposed scheme of development to alter and extend the existing building to form 14 residential units. The advice given by the Planning Service on those proposals was the proposed extensions would appear incongruous in their visual relationship with the architectural style of the building and the built form of the area, would not be in keeping with the size, scale, form, massing and proportions of the existing building and would appear as incongruous and unsympathetic additions to the existing building.

The advice also was that the demolition of the existing building on the site would unlikely to be supported as it contributes positively to the character and appearance of the North Berwick Conservation Area, and if demolition and a new build development was proposed, it would need to demonstrate that the requirements of Policy 30c of NPF4 and Policy TOUR4 of the East Lothian Local Development could be met with regard to the loss of the authorised hotel use of the site.

## **PROPOSAL**

Planning permission is now sought for the erection of a four-storey, detached flatted building which would contain 14 residential units.

Planning permission is also sought for the following associated works:

- (i) The re-positioning of the existing vehicular and pedestrian access with associated gates to the eastern boundary of the site;
- (ii) The formation of a new pedestrian access with associated gate to the eastern boundary of the site;
- (iii) The formation of 14 parking spaces;
- (iv) The formation of paths and associated steps and hardstanding within the application site;
- (v) The erection of fencing and formation of hardstanding to form a refuse compound within the northeast corner of the application site; and
- (vii) The erection of three cycle shelters within the eastern component of the application site.

Through separate application 24/01051/CAC conservation area consent is sought for the demolition of the building. That application stands to be determined on its own merits.

The proposed four storey detached flatted building would be U-shaped and would be sited further to the south of the application site than the existing building. The proposed flatted building would also project further to the east than the front elevation of the existing building and would have a larger footprint than the existing building.

The proposed flatted building would have a length of some 29 metres, at its longest point, a width of some 28 metres at its widest point and would have a height of some 13.9 metres when measured at its highest point.

The proposed flatted building would contain 14 residential units which would comprise of 8 two-bedroom apartments and 6 three-bedroom apartments.

The external walls of the proposed flatted building would be finished in a white render with red sandstone which would be reused from the existing building. There would also be sections of timber cladding which would be painted anthracite grey. The pitched roof component would be clad in grey natural slate which would be salvaged from the existing building whilst the flat roof components would be clad in a slate grey roofing membrane. The proposed window and door frames would be of timber construction and would feature anthracite grey frames. The apartments to the top floor would feature terraces which would be enclosed by a glass balustrade and the decking to the terraces would comprise of composite deck boards.

The proposed flatted building would be served by a total of 14 off-street parking spaces, one of which would be designated as an accessible parking space. The parking would be situated on the northern part of the application site and would comprise of a tarmac finish.

Vehicular and pedestrian access would both be taken from the eastern boundary of the application site and would be accessed via Hamilton Road. Two pedestrian access are proposed to the south of the proposed vehicular access.

The submitted drawings show that three cycle shelters would be provided, one to the east of the flatted building and two within the southeast corner of the application site. The submitted brochure relating to the proposed cycle shelters states they would each have a height of some 1.35 metres, a width of some 2.3 metres and a depth of some 2.4 metres. It is further noted that each cycle shelter could store 5 bicycles.

With regards to waste storage, a refuse compound is proposed within the northeast corner of the application site which would be partially enclosed by a 1.6-metre-high timber fence. The hardstanding to the proposed refuse compound would be finished with natural stone paving.

The proposed path to the east of the proposed flatted building would comprise of a natural paving stone finish. The path to the south and west would comprise of gravel and the path to the north and partially the west of the building would comprise of block paving.

There are five existing trees shown to the north of the proposed flatted building,

however, these trees fall outwith the application site but are noted to be retained. The submitted drawings also show the retention of a tree to the east of the proposed flatted building and two trees to the south of it. However, the submitted landscape plan indicates that a total of 6 trees within the application site would be removed which are a mix of Holly, Laburnum, Bay Laurel and Norway Spruce. The submitted landscape plan also indicate the existing sycamore tree to the south of the site would have all deadwood cut out and retrenchment pruning to reduce the crown. It is also proposed to remove damaged limbs and retrenchment pruning to reduce the crown to the Cherry-gean tree to the east of the site. The submitted drawings indicate that additional landscape planting would be undertaken to the east, south and west of the application site with a total of 13 new trees proposed and new shrubs also proposed.

The agent has submitted a design and access statement which supports their submission for the erection of the proposed flatted building comprising of 14 residential units and associated works on the application site. The statement notes the proposal seeks to deliver a high quality, high specification and energy efficient development that benefits from the use of current construction and environmental enhancing technologies, and which will, over time settle into its surrounds and become a positive addition to the local fabric of the conservation area. As noted above in this report the statement confirms the flatted building would consist of 14 residential units which would comprise of 8 two-bedroom apartments and 6 three-bedroom apartments. With regards to the rationale of demolishing the existing building the agent has noted in their design and access statement that the existing building due to the form and location of the building make it extremely difficult to reuse in a viable way. It is noted that materials from the demolished buildings will be re-used where possible and other masonry material such as hardcore or aggregate will be re-used within the site where possible. The statement notes that high thermal insulation and air tightness values will allow the proposed flatted building to significantly reduce its heating and other carbon producing demands and emissions. Furthermore, zero and low carbon generating technology, systems and materials will be used to further reduce the flatted buildings imbedded carbon footprint and energy use. Subsequent to the registration of the application the agent has confirmed in writing that the proposed residential units would be heated via an electric boiler located in the utility room of flat and internal clothes drying would also be provided within the utility rooms.

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.

National Planning Framework 4 (NPF4) Policies 1 (Tackling the climate and nature crises), 2 (Climate mitigation and adaptation), 3 (Biodiversity), 6 (Forestry, woodland and trees), 7 (Historic assets and places), 9 (Brownfield, vacant and derelict land and empty buildings), 12 (Zero Waste), 13 (Sustainable Transport), 14 (Design, quality and place), 15 (Local living and 20 minute neighbourhoods), 16 (Quality homes) and 30 (Tourism) of NPF4 would be relevant in the determination

of any forthcoming planning application. In addition, policies TOUR4 (Hotels and Guest Houses), RCA1 (Residential Character and Amenity), Proposal CF1 (Provision of New Sports Pitches and Changing Accommodation), CH2 (Development Affecting Conservation Areas), Proposal ED7 (North Berwick Cluster Education Proposals), HOU3 (Affordable Housing Quota), HOU4 (Affordable Housing Tenure Mix), T1 (Development Location and Accessibility), T2 (General Transport Impact), T32 (Transport Infrastructure Delivery Fund), SEH2 (Low ad Zero Carbon Generating Technologies), W3 (Waste Separation and Collection), NH5 (Biodiversity and Geodiversity Interests, including Nationally Protected Species), NH10 (Sustainable Drainage Systems), DP1 (Landscape Character), NH8 (Trees and Development), DP2 (Design), DP7 (Infill, Backland and Garden Ground Development) and DEL1 (Infrastructure and Facilities Provision) of the East Lothian Local Development Plan 2018 would be relevant to the determination of any forthcoming planning 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 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.

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 this planning application is the Council's Supplementary Planning Guidance on Affordable Housing and The Cultural Heritage and the Built Environment.

## **COMMUNITY COUNCIL**

North Berwick Community Council have objected to this planning application in their capacity as a consultee. In summary their main grounds of objection are:

(i) The proposed building would be positioned at a higher ground level than the flats at Hamilton Road which would make the proposal stand out more;

(ii) The proposal would dominate the entire stretch of road and radically change the impression into North Berwick;

(iii) The site would be overdeveloped; and

(iv) The Community Council welcome the addition of new flats but any new building on this site should be lower and further set back from Dirleton Avenue.

## REPRESENTATIONS

A total of 35 objections have been received in relation to this planning application. The main grounds of objection can be summarised as follows:

- o The loss of the hotel would add to the struggle for accommodation for visitors;

- o The demolition of the building will not preserve or enhance the character or appearance of the area;

- o The existing building should be submitted for consideration for listing as there has been no reassessment by HES in years;

- o The property could be turned into flats, if needed through an extension to the existing building;

- o The existing building makes a positive contribution to the North Berwick Conservation Area and has architectural merit;

- o There is no justification as to why the building needs to be demolished and why it cannot be renovated instead;

- o The proposal to demolish the existing building does not comply with Policy CH3 of the ELLDP;

- o The proposal does not comply with Policy CH2 of the ELLDP or PAN 67;

- o There is no methodology provided for the removal of asbestos;

- o The proposal is an overdevelopment of the site;

- o The proposed building is one storey higher than existing and would dominate the surrounding area;

- o The proposed building would not be in-keeping with the area and would not contribute or enhance the character of this part of the conservation area;

- o The proposed building does not accord with the size, proportions, alignment or materials or nearby buildings;
- o The footprint of the proposed building is larger than the existing building;
- o The elevations of the proposed building are wider than the existing building;
- o The building occupies a prominent site within North Berwick;
- o The proposed building would result in a loss of sunlight and daylight to neighbouring residential properties;
- o The proposed building would result in the loss of privacy to neighbouring residential properties;
- o The proposed off-street car parking is insufficient and the proposal would create additional pressure on nearby roads;
- o The proposed entrance to the site is dangerous given its proximity to the entrance to Broadsands;
- o An objector notes that EV charging should be required;
- o It will be difficult to store building equipment within the site due to the size of development and size of the site;
- o No CGI has been submitted to show the proposed building;
- o The proposed building does not show carbon emission reducing measures;
- o The proposed building should be reduced in height by one-storey as this would fit within the locality and result in better parking provisions within the site;
- o Additional tree planting should be provided within the site;
- o Any new building should be of a form that respects the style and setting of the location;
- o The construction works would cause disruption for neighbouring residential properties;
- o An objector queries the proposed access to the site and parking provision;
- o The cherry-gean tree is the most significant tree within the plot and should be pruned as little as possible;
- o The proposal does not include adequate communal land/gardens and environmentally friendly garden space for residents;
- o Outbuildings such as cycle storage and bin shelters should not be

positioned within public views within a conservation area;

- o If approved the proposal would result in the loss of all vegetation and trees within the site; and
- o The applicant must provide evidence of a formal marketing campaign at a reasonable price for a minimum of a year, including details of methods of marketing, relevant dates, copies of particulars, and details of all interest and offers received in relation to the loss of the hotel.

The comments received in relation to the proposed demolition of the existing building are not material to the consideration of this planning application. The assessment of the proposal to demolish the existing building relates to the associated conservation area consent application reference 24/01051/CAC.

The comments relating to the recommendation for the existing building to be considered by Historic Environment Scotland for listing is a separate matter and process that is not material to the determination of this application.

There is no planning requirement to provide information relating to the potential presence and removal of asbestos within the building the subject of this planning application.

Furthermore, there is no requirement for the submission of CGI images of the proposed flatted building.

The storage of any building equipment within the site would be temporary and this is not a material consideration in the determination of this application.

Any disruption caused by any works to demolish this building would be temporary in nature and would be investigated through separate environmental health legislation.

The proposed vehicular, pedestrian accesses as well as the proposed parking provision are shown on the submitted drawings.

## **PLANNING ASSESSMENT**

The proposed (i) re-positioning of the existing vehicular and pedestrian access with associated gates; (ii) hardstanding areas; (iii) refuse compound with associated fencing; and (iv) cycle shelters would be readily visible from public views. However, they would be seen in relation to the proposed flatted building and as such they would not appear as overly prominent or incongruous features. Therefore, by virtue of their form, size, materials and positioning these proposals would not be harmful to the character or appearance of the surrounding area or to the North Berwick Conservation Area.

The use of the proposed hardstanding areas would not give rise to any harmful overlooking of any neighbouring residential properties.

The proposed refuse compound and cycle shelters would not give rise to a harmful



loss of sunlight or daylight to any neighbouring residential properties.

The **Council's Waste Services** have been consulted on the application and advise they raise no objection but advise that the Council supply individual 240 litre bins to flats and not communal bins. It would therefore be the resident's responsibility to present these out with the bin storage area for kerbside collection. The developer should order the containers for waste and recycling in bulk to avoid repeat journeys.

The **Council's Environmental Health Officer** has been consulted on the application and raises no objection to it, satisfied that the proposed development would not be harmful to the amenity of any neighbouring residential property.

The **Council's Contaminated Land Officer** has been consulted on the application and advises there is no direct evidence to suggest any previous contaminative use of the site as it was originally agricultural land prior to the construction of the hotel on the site. Following the demolition of the building there is the possibility that localised 'hotspots' of contamination may exist (possible asbestos containing materials in the building fabric) as well as areas of made ground in the wider site area.

The Contaminated Land Officer also states that it should be noted that according to the latest Radon Mapping data the site falls within a Radon Affected Area (Class 4: 5 to <10 % of properties are at or above the radon action level). This means that the new build will require basic radon protection measures to be installed. In this instance it would be advisable to obtain a Site-Specific Radon Report to determine the actual radon potential (as there is an existing building on the site).

Given the above and due to the nature of the development (residential), the Contaminated Land Officer advises that further information is required to determine the ground conditions and potential contamination issues impacting on the site (with the minimum of a Phase I Geo-Environmental Assessment being carried out). Such a requirement could be imposed as a condition on a grant of planning permission, were that to be the decision.

The **Council's Flooding Officer** has been consulted on the application and advises that SEPA's Flood Hazard Mapping indicates that the site is not at risk from a flood event with a return period of 1 in 200 years, plus climate change.

The Design and Access Statement submitted with the application informs that the main foul drainage from the proposed development would discharge into the existing sewer network and that a connection point is available at the existing manhole located on Hamilton Road adjacent to the site, and that surface water would be collected and taken to surface water attenuation located below the new parking court with controlled outfall to the existing surface water drainage network.

The Flooding Officer has no objection in principle to this arrangement, but advises that full drainage details for the proposed development, including a drainage impact assessment and surface water management plan which should outline any drainage calculations / attenuation calculations should be submitted. Such a requirement could be imposed as conditions on a grant of planning permission,

were that to be the decision.

Scottish Water have been consulted on the application and advise they raise no objection, being satisfied that there is sufficient capacity for in the Castle Moffat Water Treatment Works to service the proposed development and they advise there is sufficient capacity for a foul only connection in the North Berwick Waste Water Treatment works.

The **Council's Planning Obligations Officer** has highlighted that the application site is located within the school catchment areas of Law Primary School and North Berwick High School. Proposal ED7 (North Berwick Cluster Education Proposals) of the ELLDP stipulates that the Council will provide an additional phased permanent extension to North Berwick High School to meet the need arising from new housing development within the cluster. Development contributions will be sought from housing development where permanent provision is created in catchment primary schools with new primary and secondary school establishments and campus land and developer contributions being sought from developers of relevant sites to fund this additional provision.

The Council's Planning Obligations Officer advises that Law Primary School has sufficient capacity to accommodate children that could arise from the proposed development. However they advise that North Berwick High School will not have sufficient capacity to accommodate children that could arise from the proposed development. Therefore, The Council's Planning Obligations Officer advises that they would object to the application on the grounds of lack of permanent capacity at that school. However, they would withdraw that objection provided the applicant makes a financial contribution to the Council of £94,262 indexed towards the provision of additional school accommodation at North Berwick High School.

The required payment of a financial contribution of a total of £94,262 indexed linked from Q1 2019 until date of Payment using the BCIS All-in Tender Price Index towards the provision of additional school accommodation can be secured through an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 or by some other appropriate agreement. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. The applicant has confirmed in writing that they are willing to enter into such an agreement and on this consideration the proposed development does not conflict with Policy 18 of NPF4, Proposal ED7 or Policy DEL1 of the LDP or with the Council's approved Developer Contributions Framework Supplementary Guidance.

As per the Adopted Supplementary Guidance: Developer Contributions Framework, all secondary Education Contributions will be increased in line with indexation from Q1 2019 using the All-in Tender Price Index published by the Building Cost Information Service (BCIS) Limited for the Royal Institution of Chartered Surveyors until due date of payment and the Play Provision Contribution will be increased from Q3 2017 using the All-in Tender Price Index published by the Building Cost Information Service (BCIS) Limited for the Royal Institution of Chartered Surveyors until due date of payment.

Policy T32 of the LDP specifically relates to the package of transportation interventions to mitigate the cumulative impact of development on the transport network which have been identified by the Council in consultation with Transport Scotland. In line with Policy DEL1, relevant developments are required to contribute to the delivery of these transportation interventions, on a proportionate, cumulative pro-rata basis, as set out in Developer Contributions Framework (DCF) Supplementary Guidance.

In terms of Strategic Transport, the Council's Planning Obligations Officer advises this site lies out with the Strategic Intervention contribution zones within the DCF therefore no Strategic Transport contributions are required, and the **Council's Road Services** confirm there are no requirements for a local transportation contribution.

Proposal CF1 of the ELLDP states that development proposals for 5 or more homes must make provision for the delivery of new sports pitches and changing accommodation as set out in the Developer Contributions Framework Supplementary Guidance. The Council's Planning Obligations Officer advises the site lies out with the North Berwick Sports Facilities Contributions Zone within the Supplementary Guidance: Developer contributions framework therefore no sporting provision contribution will be sought. Therefore, the planning obligations officer advises there is no contribution to be sought.

Policy 16e) of NPF4 states that Development proposals for new homes will be supported where they make provision for affordable homes to meet an identified need. Proposals for market homes will only be supported where the contribution to the provision of affordable homes on a site will be at least 25% of the total number of homes. Policy HOU3 of the ELLDP states that development proposals that in their totality will bring forward five or more dwellings must make provision for affordable housing, with the required proportion being 25% of the total number of dwellings proposed for the site.

The **Council's Strategy and Development Team** advises that in accordance with the Council's Affordable Housing Policy, 25% of the proposed 14 flats require to be affordable housing units. The affordable housing component of the proposed development is 4 flats. The Strategy and Development Team advise that communication continues with East Lothian Council's Strategy and Development Team Housing Enabler to secure the provision of 4 affordable housing units within the flatted building or if it can be demonstrated to the Council that this, or the off-site provision of 4 affordable units is not practicable, to secure from the applicant a commuted sum payment to the Council in lieu of such an on or off-site provision. The terms for the provision of this affordable housing requirement can be the subject of an agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. Subject to the Council securing the affordable housing requirement, which the applicant is willing to do, the proposal would be consistent with Policy 16 of NPF4 in respect of affordable housing provision and Policies HOU3 and HOU4 of the ELLDP and the Council's adopted SPG on Affordable Housing.

On-site play provision is not required for residential developments of this size. However, the **Council's Amenity Services Manager** confirms a developer contribution is required towards play provision for this proposed residential development to enhance and upgrade local play area facilities in the vicinity of this site which would be impacted by the additional usage arising as a direct result of the proposed development, which would be a contribution of £566 per dwelling index linked from Q3 2017. The basis of this is consistent with the tests of a planning agreement set in Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements. The applicant has confirmed in writing that they are willing to enter into such an agreement and on this consideration the proposed development does not conflict with Policy 21 of NPF4 or Policy DEL1 of the LDP or with the Council's approved Developer Contributions Framework Supplementary Guidance.

The Council's Amenity Services Manager further advises that sufficient levels of garden ground and communal space for future residents should be provided, in accordance with the supplementary planning guidance 'Design Standards for New Housing Areas'. The submitted drawings indicate there would be sufficient outdoor space provided for residents.

With regards to the proposed off-street car parking provision, cycle storage and alterations to vehicular and pedestrian accesses to the application site, the **Council's Road Services** have been consulted on this application. They note they support the rationalisation of the existing two vehicular site access points to a single point of access taken from Hamilton Road and they note the slight repositioning of this access point. Visibility at the repositioned site access should be 2m by 20m (with no obstructions above 1.05m) and the Council's Road Services are satisfied that this visibility splay could be achieved should planning permission be granted.

Furthermore, the Council's Road Services confirm the width of the proposed repositioned vehicular site access of 4.75m is acceptable, however, they do not support the inclusion of gates across the site access unless they are positioned a distance of 6.0m back from the rear of the footway into the site.

With regards to the proposed car parking provision the Council's Road Services note that 14 spaces would be provided which is equivalent to one parking space per unit which is below the Council's adopted car parking standards of 1.5 spaces per unit (i.e. 21 spaces) for properties of this size. However, given the last authorised use of the existing building is as a hotel, the Council's Road Services advise the parking requirements for a hotel use is 1 parking space per room, and with the hotel previously operated with 18 bedrooms according to sales particulars, means the historic parking requirement for the hotel use would be 18 car parking spaces. Therefore, use as a hotel would generate more vehicular trips than the proposed new residential development and as such the provision of 14 car parking spaces is considered acceptable.

In addition, Road Services note the dimensions of the proposed car parking spaces are 2.4m by 4.8m which are below the Council's standard dimensions of 2.5m by 5.0m and therefore this should be modified should planning permission be granted.

However, the Council's Road Services advise the application site could still accommodate 14 parking spaces whilst adhering to the standard parking space dimensions. Furthermore, the Council's Road Services advise there is sufficient space is provided in front of the bays for manoeuvring which is noted and the provision of one disabled bay as part of the parking provision is acceptable. However, they note that one EV charging unit should be provided for each car parking space if planning permission were to be granted.

With regards to the proposed refuse compound and cycle storage these are acceptable to the Council's Road Services.

The proposals include three pedestrian access points to the development from Hamilton Road which are proposed to include gates across these access points. The Council's Road Services recommend that the gates are removed from these accesses to allow ease of movement for those with a physical or sensory impairment, should planning permission be granted.

Therefore, given the above comments from the Council's Road Services and subject to the above recommended control being imposed as conditions on a grant of planning permission, were that to be the decision, the proposal would comply with Policy 13 of NPF4 and Policies T1 or T2 of the ELLDP.

In June 2006 planning application (ref: 06/00303/FUL) which sought planning permission for the proposed change of use from a hotel to a staff hostel for use in association with the Marine Hotel, was withdrawn. As such the last approved use of the site is a Class 7 (Hotel) Use.

In this a main material consideration in the determination of this planning application is whether the proposed change of use of the existing hotel use of the site to a residential use would be acceptable.

NFP4 policy 30 (c) requires that proposals for the change of use of a tourism related facility (e.g. hotels, guest houses, etc) will only be supported where it is demonstrated that the existing use is no longer viable and that there is no requirement for alternative tourism-related facilities in the area. ELLDP 2018 policy TOUR4 states similar.

With regards to the above policies the applicant has not submitted any information in support of their application which adequately demonstrates that the hotel use is no longer viable. As such the proposal is contrary to NFP4 policy 30 (c) and Policy TOUR4 of the ELLDP.

Thereafter, other main material considerations are whether the proposed flatted building with associated works would be appropriate within this part of the Conservation Area and, whether there would be any detrimental environmental or amenity impacts.

It also must be established whether the proposed flatted building on this application site would, as required by Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, preserve or enhance the character or appearance of the conservation area, and thereafter whether this form of

development would be consistent with national and local planning policy or if not whether there are any material considerations that would outweigh the fact that it would not accord with planning policy.

Whilst the former use of the building was a hotel (Class 7 Use), the application site is situated within a larger predominantly residential area as defined by Policy RCA1 of the adopted ELLDP. Policy RCA1 does not actively promote the development of land for new build residential development. The application site is not allocated for residential development in the adopted ELLDP. Although the principal purpose of Policy RCA1 is to ensure that the predominantly residential character and amenity of existing housing areas is safeguarded from the adverse impacts of uses other than housing it does state that proposals for new development will be assessed against appropriate local plan policies, which in the case of infill, backland and garden ground development is Policy DP7 of the adopted ELLDP.

Policy DP7 of the adopted ELLDP states that out with greenbelt and countryside and coastal locations, the principle of development within infill and backland locations will be supported where:

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.

Policy DP2 of the adopted ELLDP requires that all new developments must be well designed and sets out a number of design principles. Amongst these are the requirement that all new development must be appropriate to its location in terms of its positioning, size, form, massing, proportion and scale and use of a limited palette of materials and colours that complement its surroundings and retain physical or natural features that are important to the amenity of the area or provide adequate replacements where appropriate.

Policy 14 of NPF states that development proposals that are poorly designed, detrimental to the amenity of the surrounding area or inconsistent with the six qualities of successful places, will not be supported

The proposed flatted building is of a contemporary design, and there would be a contrast between its design and the design of the existing building on the site and

the designs of other buildings within this part of the Conservation Area. Nevertheless, it would reflect elements of the existing variety of built form within the setting of the application site and in terms of its external finishes and some of its architectural features, would be respectful of the finishes and architecture of neighbouring buildings in this part of the Conservation Area.

The area around the application is characterised by buildings of predominantly traditional stone construction with slate roofs, timber windows and a display a variety of traditional features such as bay windows and turrets. A common character of this part of the North Berwick Conservation Area are architect designed Victorian, Edwardian and Georgian housing in a variety of styles which are typically set within large private grounds. This spatial character and density of development makes a positive contribution to the character and appearance of the North Berwick Conservation Area.

The North Berwick Conservation Area Character Statement contained within the Council's Cultural Heritage and the Built Environment Supplementary Planning Guidance makes particular reference to properties of this traditional style and setting. The size of the existing hotel building and its spatial relationship within its large grounds make it a component feature of Dirleton Avenue and thus of this part of North Berwick Conservation Area.

The proposed flatted building would have a larger footprint than the existing building on the site, its elevations would be wider, and the building would be one-storey taller than the existing building. Moreover, the proposed flatted building would extend further into the site on its east and south sides. The increased size and massing of the proposed new building in its relationship to the garden ground around it would erode the spatial character of large buildings in generous grounds in this part of the Conservation Area. It would result in a more dominant building that would be an overdevelopment of the site, would not represent a similar density of development of surrounding buildings and their gardens and thus would result in a significant change to the characteristic density of development of this part of the Conservation Area.

The proposed new flatted building by virtue of its size, scale, massing and positioning would appear as an overly dominant and incongruous addition to the streetscape, would not be sympathetic to its setting or well-integrated into its surroundings and would be harmful to the defined spatial layout of the existing buildings in this part of the Conservation Area. It would be inappropriate to its place. In this it would not preserve or enhance, but rather would be harmful to the character and appearance of this part of North Berwick Conservation Area.

As such the proposed flatted building is contrary to Policies 7 and 14 of NPF4 and Policies CH2, DP2 and DP7 of the ELLDP.

Policy DP7 amongst other things requires that the occupants of existing neighbouring properties experience no significant loss of privacy and amenity from new development and that the occupants of any new development must also enjoy privacy and amenity.

On the matter of the impact of the proposed flatted building 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 sunlight test has been undertaken on March 21st in line with the guidance set out in Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice" by P.J. Littlefair. The sunlight test indicates the proposed flatted building would cast a gradual shadow on the garden ground of 1-6 Lamb Court between the hours of 08.00 and 11.00. The sunlight test also indicates the proposed flatted building would cast a gradual shadow on the garden ground of 5-9 Hamilton Road between the hours of 11.00 and 15.00 and would also cast a gradual shadow on the garden ground of 2 Hamilton Road and Broad Sands between the hours of 15.00 and 16.00. However, the guidance states that at least half of a garden should receive at least two hours of sunlight on 21st March. Therefore, the proposed flatted building by virtue of its size, form and positioning would not allow for a harmful loss of sunlight to any neighbouring residential properties.

Application of the 25-degree daylight test to the neighbouring residential property of 2 Hamilton Road indicates the proposed flatted building would fail in relation to the ground floor windows of that property. However, the ground floor windows that properties extension are served by other glazed openings. In addition, the two ground floor windows to the original component of that property would be situated between the two legs of the proposed flatted building and as such, they would pass the 25-degree daylight test.

Application of the 25-degree daylight test to the neighbouring residential properties of 1-6 Lamb Court indicates the proposed flatted building would fail in relation to the ground and first-floor bathroom windows of that flatted building. However, as the windows affected serve bathrooms then there is no requirement for natural daylight to those bathrooms of the flatted properties at Lamb Court.

Application of the 25-degree daylight test to the neighbouring residential properties of 55-59 Dirleton Avenue indicates the proposed flatted building would pass in relation to the windows of those properties.

Application of the 25-degree daylight test to the neighbouring residential property of 5 Hamilton Road indicates the proposed flatted building would fail in relation to the ground floor windows of that property and as such the proposed flatted building due to its size, scale and positioning would result in a harmful loss of amenity to the neighbouring residential property of 5 Hamilton Road. The proposed flatted building is therefore

Therefore, given the above consideration it can be concluded that the proposed flatted building would result in a harmful loss of daylight to the neighbouring residential property of 5 Hamilton Road which is situated to the north of the proposed flatted building respectively, contrary to Policy 14 of NPF4 and Policy DP7 of the adopted East Lothian Local Development Plan 2018.

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 a planning authority to apply the general rule of 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 residential properties.

In relation to the above, the glazed openings to be formed at ground, first and second floor levels within the front (east) elevation of the proposed flatted building would face over the application site, Hamilton Road and beyond to the high stone wall boundary of the neighbouring properties to the east for some 15 metres and those windows would not fall within 18 metres of any directly facing windows of the neighbouring residential properties to the east and as such the use of them would not allow for any harmful overlooking.

The use of the proposed terraces at third floor level 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 glazed openings to be formed at ground, first, second and third floor levels in the side (south) elevation would not fall within 18 metres of any directly facing windows of the neighbouring residential properties to the south and as such the use of them would not allow for any harmful overlooking.

The glazed openings to be formed at ground, first, second and third floor levels in the rear (west) elevation would face over the application site for some 6 metres and beyond to the grounds of the flatted building named Lamb Court. However, the grounds of that development do not currently benefit from any significant degree of privacy as they are already overlooked by the occupants of Lamb Court. Furthermore, the front ground of Lamb Court is situated adjacent to Dirleton Avenue and therefore also has no significant degree of privacy at present. The side (east) elevation of Lamb Court features windows however, these windows are obscure glazed and as such the use of the proposed flatted building would not allow for any harmful overlooking of those neighbouring residential properties.

The glazed openings to be formed at ground, first, second and third floor levels in the side (north) elevation would face over the application site for some 14 metres and would not fall within 18 metres of any directly facing windows of the neighbouring residential properties to the north and as such the use of them would not allow for any harmful overlooking.

Therefore, given the above considerations it can reasonably be concluded that the use of the proposed flatted building would not allow for any harmful overlooking of neighbouring residential properties.

Policy NH8 of the ELLDP in summary states there is a strong presumption for the retention of individual and group of trees that make a significant positive contribution to the setting and amenity of the area. This is echoed by Policy 6 of NPF4.

The **Council's Landscape Officer** has been consulted on the application and advises there are a number of trees within the application site, and that the mature

sycamore to the south boundary is protected by a Tree Preservation Order (TPO). The other trees both on and adjacent to the site lie within the North Berwick Conservation Area. Another sycamore to the southern boundary, protected by Tree Preservation Order, was agreed to be felled on condition of replacement planting.

The Council's Landscape Officer notes the proposal increases the mass of building on the site such that the existing trees to the east and west boundaries could not be successfully retained. The Council's Landscape Officer advises that due to the size of the proposed new flat building the proposal does not provide sufficient space to enable new planting to be undertaken to mitigate for the trees proposed to be felled. In addition, no tree survey has been submitted with the application to indicate that these trees require to be removed for arboricultural reasons. Even if these trees required to be felled for arboricultural reasons, the Council's Landscape Officer would expect to see mitigating planting. Therefore, the Council's Landscape Officer objects to the application.

The proposed development would lead to the loss of trees within the application site that make a significant positive contribution to the visual amenity of the North Berwick Conservation Area. The loss of the trees would not facilitate a development that would contribute more to the good planning of the area than would retaining them.

Therefore, on this consideration the proposal is contrary to Policy 6 of NPF4 and Policy NH8 of the ELLDP.

Policy 3 of NPF4 notes 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.

The **Council's Biodiversity Officer** advises that a Biodiversity Enhancement Plan would be required that outlines measure the applicant proposed to enhance biodiversity within the application site. Should planning permission be granted then a condition could reasonably be imposed seeking the submission of a Biodiversity Enhancement Plan.

The Council's Biodiversity Officer further advises there are records of European Protected bat species less than 100m from the application site. Due to this and the nature of the proposal that includes demolition of the existing building the Biodiversity Officer advises that a Preliminary Roost Assessment for bats is required, and that bat surveys and reports must comply with the latest good practice guidelines. If evidence of bats or their roosts is found in the surveys, the applicant will be required to submit to the Planning Authority a Species Protection Plan for bats.

However, the applicant has not submitted a Preliminary Roost Assessment to satisfy this request and therefore, the Council's Biodiversity Officer objects to the planning application as it has not been demonstrated the proposal would not result in the loss, harm or disruption of any bats. The proposal is therefore contrary to Policy 3 of NPF4 and NH5 of the ELLDP.

In conclusion, for the reasons set out above the proposed development does not accord overall with the relevant provisions of the Development Plan and that there are no material considerations which outweigh the proposals discordance with the Development Plan.

## **REASONS FOR REFUSAL:**

- 1 It has not been clearly demonstrated that all reasonable efforts have been made to retain the property in use as a hotel, nor has it been demonstrated that the use of the building as a hotel is no longer viable and that there is no requirement for alternative tourism-related facilities in the area. As such the proposal is contrary to Policy 30 part c of NPF4 and Policy TOUR4 of the adopted East Lothian Local Development Plan 2018.
- 2 The proposed new flatted building by virtue of its size, scale, massing and positioning would appear as an overly dominant and incongruous addition to the streetscape, would not be sympathetic to its setting or well-integrated into its surroundings and would be harmful to the defined spatial layout of the existing buildings in this part of the Conservation Area. It would be inappropriate to its place. In this it would not preserve or enhance, but rather would be harmful to the character and appearance of this part of North Berwick Conservation Area. Therefore, the proposed flatted building is contrary to Policies 7, 14 and 16 of NPF4 and Policies CH2, DP2 and DP7 of the adopted East Lothian Local Development Plan 2018.
- 3 The proposed flatted building, due to its size, scale and positioning would result in the harmful loss of daylight to the windows of the neighbouring residential property of 5 Hamilton Road, which would be harmful to the amenity of that neighbouring residential property. As such the proposal is contrary to Policy 14 of NPF4 and Policy DP7 of the adopted East Lothian Local Development Plan 2018.
- 4 Due to the proposed increases in the mass of building on the site the existing trees to the east and west boundaries could not be successfully retained. The proposal does not provide sufficient space to enable new planting to mitigate for the trees proposed to be felled. In addition, no tree survey has been submitted with the application to indicate that the trees shown on the submitted drawings for removal require to be removed for arboricultural reasons. The proposed development would lead to the loss of trees within the application site that make a positive contribution to the amenity of the North Berwick Conservation Area and as such the proposal is contrary to Policy 6 of NPF4 and Policy NH8 of the adopted East Lothian Local Development Plan 2018.
- 5 It has not been demonstrated the proposal would not result in the loss, harm or disruption of bats. The proposal is therefore contrary to Policy 3 of NPF4 and NH5 of the adopted East Lothian Local Development Plan 2018.

