

REPORT TO: Planning Committee
MEETING DATE: 1 April 2025
BY: Executive Director – 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 Akhtar for the following reason: Due to a number of local concerns, which include road safety.*

Application No. 24/00788/P

Proposal Change of use of grass verge to form vehicular access, erection of agricultural building and associated works

Location 4 Boggs Holdings
The Boggs
Pencaitland
Tranent
EH34 5BA

Applicant Mr Michael Scott

Per COGEO Planning & Environmental Services

RECOMMENDATION Consent Granted

REPORT OF HANDLING

PROPOSAL

This application relates to agricultural land at Boggs Holdings, Pencaitland. The application site is located within the countryside to the north of Pencaitland as defined by Policy DC1 of the adopted East Lothian Local Development Plan 2018 (ELLDP).

The site lies at the northern end of two agricultural fields within the control of the applicant. To the west lies an agricultural field. To the north-west lies the property of 3 Boggs Holdings and to the north lies the existing cottage currently being extended by the applicant. To the east of the site lies the public road (B6363).

Planning permission is sought for the erection of an agricultural building and for the formation of a vehicular access.

The proposed agricultural building would have a total length of some 30 metres; a width of some 24 metres and would have a height of some 4.27 metres at eaves and 7.5m at

ridges.

The proposed agricultural building would be finished externally in concrete and steel, colour to be Jupiter green. The roof planes of the agricultural building will be extensively covered in 152 solar panels measuring 2.38 metres x 1.3 metres.

The proposed agricultural building would allow for the storage of agricultural equipment and animal feed.

The proposed vehicular access would be formed to the east of the proposed agricultural building and would be taken via the public road of B1377.

The proposed vehicular access would be some 5.5 metres wide. The access would extend approximately 100 metres to the proposed shed.

The building would have a 6m hard standing to the north and a 10m hardstanding to the east.

DEVELOPMENT PLAN

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

The development plan is National Planning Framework 4 (NPF4) and the adopted East Lothian Local Development Plan 2018.

Policies 1 (Tackling the climate and nature crises), 2 (Climate mitigation and adaptation), 3 (Biodiversity), 11 (Energy), 14 (Design, quality and place) and 29 (Rural Development) of NPF4 and Policies DC1 (Rural Diversification), DP1 (Landscape Character), DP2 (Design) and T2 (General Transport Impact) of the ELDLP are relevant to the determination of this application.

REPRESENTATIONS

Seven letters of objection have been submitted in respect of the proposed development. The main grounds of objection are:

- * in breach of legal burden on the land;
- * size of the shed is disproportionate to the size of the land;
- * no drainage information;
- * proposed vehicular access is dangerous;
- * existing access is adequate;
- * no footpath;
- * development has commenced, including tree removal;
- * building would be used to store hens;
- * gate too close to road;
- * large scale agriculture would adversely impact on the area;
- * neighbouring drain runs through land;
- * development has commenced, including tree removal;
- * inadequate/inaccurate information.

There is an adequate level of information to assess this proposal.

The fact that there is currently an adequate access does not prevent the applicant from

proposing and forming a new vehicular access.

Subsequent to the registration of the application, information on drainage was submitted.

The matter of the breach of burdens or title deeds, and the drains of a neighbouring property running through the site is a civil matter between the relevant parties and not a matter controlled by the Planning authority. Therefore, this is not a material planning consideration relevant to the determination of this planning application.

There is no requirement for the applicant to provide a separate pedestrian access to this type of development for an agricultural building.

On the matter of development commencing and tree felling - the earthworks on site are understood to relate to the ongoing house extension. The applicant was contacted to rationalise this matter and subsequently submitted a retrospective application for the drainage, relating to the neighbouring house. The removal of these trees does not require the consent of the Planning Authority.

Other matters raised are considered in the planning assessment.

PLANNING ASSESSMENT

Policy 29 of NPF4 seeks, among other things, that development proposals that contribute to the viability, sustainability and diversity of rural communities and local rural economy are supported, including farms where use of good quality land for development is minimised and business viability is not adversely affected. Policy DC1 of the ELLDP supports the principle of development in the countryside where it is for agricultural use.

The proposed steel framed agricultural building would provide modern facilities appropriate for modern agricultural practices and would be seen in relation to the existing agricultural landscape.

As stated in the applicant's planning statement "a shed of this size would provide the applicant with space for storing machinery and equipment required to maintain the area of land and access tracks (e.g. pick-up/utility truck, trailers, grass mower, building supplies, fencing and maintenance tools, grit, aggregate) as well as storing feed for future livestock (e.g. haybales). The shed would also be used to store materials resulting from the disassembled feed shed, which is to be relocated as part of the masterplan. Furthermore, as a local farmer, the applicant undertakes agricultural work out with the site. As such, the agricultural shed will provide storage space for machinery and equipment necessary to carry out such work. This will be particularly useful as the applicant intends on residing at the property associated with this site, following renovations."

The applicant has provided further clarified about the proposed use through an internal layout plan and a supporting statement, this states:

"The shed would also provide the applicant with flexibility to store additional equipment associated with farming activities out with the site as he is involved in another agricultural enterprise. While the size of sheds on other small holdings may be smaller, their intended uses may not be comparable. This shed is intended for multi-purpose use. In addition to storing equipment, machinery, tools and supplies, a shed of this size would afford the applicant with space to carry out repairs and undertake administrative tasks of farm management. It is also worth noting that older sheds tend to be smaller as modern machinery and equipment for farms continue to increase in size over time..."

Whilst some equipment associated with East Lothian Eggs (located at Howden Farm, EH41 4JS) may be stored in this shed, these will not be used off-site frequently as daily use equipment will remain at Howden Farm. However, there are specialist pieces of equipment required for the operation, cleaning and maintenance which will be used as required...

The shed will not be used for commercial operation/contracted farm work. It is primarily intended for multi-purpose uses associated with farming operations on site...

Whilst we understand there may be concerns about the applicant's connection with East Lothian Eggs, the proposed shed will not at any point be used for poultry operations."

As such, the proposed agricultural building would facilitate the ongoing operations of the existing agricultural business. The principal use of the building would be for agriculture as the storage element is a small component and would not constitute a commercial storage operation. Therefore, the principle of the siting of the proposal in this countryside location is consistent with Policy 29 of NPF4 and Policy DC1 of the adopted East Lothian Local Development Plan 2018.

Due to the proximity of adjoining residential properties there is the potential for the shed to operate in such a way as to adversely impact upon neighbouring amenity. It is therefore considered appropriate and reasonable to restrict the type of agricultural operation that may take place. The attached restrictive condition mirrors the approach taken in the The Town and Country Planning (General Permitted Development) (Scotland) Order 1992, Part 6 AGRICULTURAL BUILDINGS AND OPERATIONS, Class 18 which clearly distinguishes specific operations from other agricultural operations.

Policy 29 of NPF4 also states that development proposals in rural areas should be suitably scaled, sited and designed to be in keeping with the character of the area. Policy DP1 of the East Lothian Local Development Plan 2018 states that new development must be well integrated into its surroundings by responding to and respecting landform.

Policy 14 of NPF4 and Policy DP2 of the ELLDP seeks for new development to be designed to 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.

In its position the proposed agricultural building would be visible from public views due to its location and orientation. However, the proposed agricultural building would be seen in relation to the wider landscape context which not only comprises of fields contained by trees and hedgerows but also buildings of a commercial scale. Furthermore, the proposed agricultural building would be of a functional design to reflect its agricultural purpose, and it would be of a form, size and scale reflective of other agricultural buildings typically seen throughout the agricultural landscape of East Lothian. In this locational circumstance and by virtue of its architectural form, size, scale, materials and positioning the proposed agricultural building would be appropriate to its countryside setting and would not be out of keeping with its surroundings. The proposed agricultural building would not harm the character of the surrounding landscape or be overly intrusive or prominent within the landscape.

Due to the formation of the new access the site will be more visible from the public highway. To mitigate this visual impact and achieve biodiversity enhancement, as required by policy 3 of NPF4, a condition is attached to secure suitable landscaping and biodiversity enhancement.

Although the height of the building is modest the use of photovoltaic panels on the roofscape will make this building more prominent than traditional agricultural buildings. At its meeting on 27 August 2019 the Council approved a motion declaring a Climate Emergency. Thereafter, at its meeting on 3 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 buildings and from the completed development should be imposed on relevant applications for planning permission. In this instance, the proposal would allow for the generation of renewable energy which is supported by policy 11 of NPF4. Accordingly, the proposal is aligned with the declared climate emergency, and the imposition of the above condition is not necessary in this instance and the proposal is aligned with policies 1 and 2 of National Planning Framework 4.

Subject to appropriate conditions, the proposal would not have an unacceptably harmful impact on the landscape character of the area. On these matters of design, the proposed agricultural building is consistent with Policies 14 and 29 of NPF4 and Policies DP1 and DP2 of the ELLDP.

The proposed building lies within a high-risk historic mining area. The applicant has provided a Mining Report, and the Coal Authority were consulted on this information. The Coal Authority do not object to the development providing two conditions are attached to the consent relating to potential mitigation measures. These conditions are attached accordingly.

Due to its siting and location the proposed agricultural building would not allow for any harmful overlooking of neighbouring residential properties.

Owing to the size, form and positioning of the proposed agricultural building would not result in a harmful loss of sunlight or daylight to any neighbouring residential properties.

The proposed vehicular access would be formed to the east of the proposed agricultural building and would be taken via the public road (B6363). The proposed vehicular access would be approximately 38 metres south of the existing lane which serves the site and other properties at Boggs Holdings. It is noted that the existing junction with the B6363 has restricted visibility. There is also an existing road junction some 10m south of the proposed access on the B6363.

The **Council's Road Services** were consulted and have reviewed the information submitted as part of the application and other relevant data. They have confirmed that the access is located appropriately in terms of spacing for a private access from adjacent junctions. Based on published statistics, they do not consider this road to have an existing problematic personal injury accident record and do not anticipate the proposed development would have an adverse impact on that situation in future. They have raised no objection to the proposal subject to suitable conditions relating to the formation of the access, setback and opening of the gates and the required visibility splays. Therefore, subject to these conditions, which can be attached to the grant of planning permission, the proposals would be consistent with Policy T2 of the ELLDP.

The applicant has clarified that there will be no foul water from the proposed building and that the rainwater from the building and the hard standing areas will drain into the field. There will be a level of surface water run off from the proposed shed and hard standing and this must be considered. ELC Flood and Drainage team consider this to be a small-scale development that is unlikely to have a significant effect on the storage capacity of the functional flood plain or affect local flooding problems. They have confirmed that this arrangement is suitable in this instance and have no objection on the grounds of flood risk

or drainage of out building and hardstanding area.

On these considerations, the proposed agricultural building with associated vehicular access and, subject to the appropriate conditions, is considered to be in accordance with the Development Plan and there are no material considerations which outweigh the proposal's accordance with the Development Plan.

CONDITIONS:

- 1 The development hereby approved shall begin before the expiration of 3 years from the date of this permission.

Reason:

- Pursuant to Section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.
- 2 Prior to commencement of development a Landscaping and Biodiversity Enhancement Scheme comprising of hedge and tree planting shall be submitted to and approved in writing by the Planning Authority. The scheme shall provide details of the species, size, siting and number of plants and shall include, but not be limited to, the land where the new vehicular access is to be formed. Thereafter the approved scheme of landscaping shall be implemented in full unless otherwise agreed by the Planning Authority.

All planting comprised in the approved details of landscaping shall be carried out in the first planting season following the completion of the development or occupation of any building hereby approved, whichever is the sooner. Any plants which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar species and final size, unless the Planning Authority gives written consent to any variation.

Reason

To ensure the implementation of landscaping important to mitigate the visual impact of the development and deliver biodiversity enhancement.

- 3 The agricultural building hereby approved shall not be used for housing pigs, poultry, rabbits or animals bred for their skin or fur or for the storage of slurry or sewage sludge.

Reason:

To protect the amenity of protected buildings located within 400m of the building.

- 4 Prior to the development being brought into use at least the first 10m of the proposed access, measured back from its junction with the public road, to be hard formed in a bound surface. The first two metres of the access to remain part of the adopted road and must be constructed to footway standard in asphalt.

Reason

To ensure materials do not transfer onto the public road.

- 5 Notwithstanding the approved drawings, the approved gates shall be inward opening and setback 10m from the entrance, measured back from its junction with the public road. The approved timber fencing shall extend to meet with the setback gate location.

Reason

Roads safety.

- 6 Prior to the development being brought into use, the visibility splay shown on the approved Drawing Appendix 2.7 Visibility Splay (2.4m x 120m in both directions and including the southbound tangent to the nearside carriageway edge) to be created through the removal of vegetation. The visibility splay must then be maintained for the lifetime of the development.

Reason:

To ensure the safety of road users.

- 7 No development shall commence until;

a) a scheme of intrusive investigations has been carried out on site to establish the

risks posed to the development by past coal mining activity, and;
b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

Reason

To enable the Planning Authority to consider this matter in greater detail.

- 8 Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason

To ensure that remedial works and/or mitigation necessary to address the risks posed by past coal mining activity are carried out.

