
COMMITTEE: Planning Committee
MEETING DATE: 31 March 2026
BY: Depute Chief Executive – Resources and Economy
REPORT TITLE: Application for Planning Permission for Consideration

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Note: This application was called off the Scheme of Delegation List by Councillor McMillan for the following reason: To explore the tourism and economic development benefits in relation to DC1.

Application no. **25/01055/P**

Proposal Erection of two houses, both for use as holiday let accommodation, and associated works

Location **Land at Liberty Hall
Gladsmuir
Haddington
East Lothian**

Applicant M & C Fielding Developments Ltd

Per Rem Associates

RECOMMENDATION Application Refused

REPORT OF HANDLING

CONTEXT

This application relates to an area of land some 39m in length by some 21.3m in width, situated to the west of the residential dwelling of Barrel Cottage, Liberty Hall. The application site is located within a countryside location as defined by Policy DC1 of the adopted East Lothian Local Development Plan 2018 ('ELLDP 2018').

The site is bounded to the north by an unnamed public road, inclusive of Core Path nos. 110 and 111. It's bounded to the east by two residential properties (Barrel Cottage and the Birks), beyond which is an access track leading to Nairns Mains Farm. The site is bounded

to the south by Liberty Hall South Wood and to the west by an area of land approved by planning permission Ref: 10/01078/P for the keeping of horses and further areas of woodland associated with Liberty Hall South Wood.

The application site is bounded on its eastern boundary by a number of trees and a high hedge. It's enclosed to the north by a post and wire fence and by a 1m high timber rail fence to the west. A row of trees bound the site to the south. There are two existing structures on-site, one appears to be a timber shelter and the other forms as a trailer of sorts. There is some evidence of historic foundations associated with a former building to the north of the site.

There is no existing vehicular access into the application site, though an informal path leads through an existing gate on the northern boundary through to the south of the site.

PLANNING HISTORY

In November 1993, Outline Planning Permission was refused under ref: 93/00857/P for the erection of a dwelling.

In March 2006, Planning Permission was refused under ref: 05/00973/FUL for the erection of 1 house and a double garage, the change of use of vacant land for the keeping of horses, erection of a stable block and associated works. The application was refused for the following reasons:

- i) The proposal for a new house on the site represents sporadic countryside development in East Lothian without evidence of agricultural or rural diversification need. Therefore, it conflicts with Policy ENV3 of the Edinburgh and Lothians Structure Plan 2015, Part 2(a) of Policy DC1 of the East Lothian Local Plan 2000, and Scottish Planning Policy 3 on controlling new housing in rural areas.
- ii) The proposal would require the felling of a large number of mature trees that make a positive contribution to the countryside character of the area. The proposed development does not contribute more to the good planning of the area than would the retention of the trees and is therefore contrary to Policy ENV13 of the adopted East Lothian Local Plan 2000.
- iii) If approved, the proposed development would set an undesirable precedent for the development of new houses in the countryside, the cumulative effect of which would result in a detrimental impact on the rural character and amenity of the open countryside of East Lothian.

In November 2006, Planning Permission was again refused under ref: 06/00766/FUL for the erection of a house and garage. It was refused for the following reasons:

- i) The proposed house would be a new build in the East Lothian countryside without any proven need for agricultural or rural diversification purposes. As a result, it is contrary to Policy ENV3 of the Edinburgh and Lothians Structure Plan 2015, Part 2(a) of Policy DC1 of the East Lothian Local Plan 2000, and Scottish Planning Policy 3 on controlling new rural housing.
- ii) If approved the proposed development would set an undesirable precedent for the development of new houses in the countryside, the cumulative effect of which would result in a detrimental impact on the rural character and amenity of the open countryside of East Lothian.
- iii) The proposed change of use would extend residential development into woodland, causing harmful urbanisation and loss of rural character. No special justification exists, so the proposal conflicts with Policy DC1 of the East Lothian Local Plan 2000.

This decision was later appealed to Scottish Minister's Directorate for Planning and Environmental Appeals ('DPEA') and was dismissed in July 2007. Whilst the Reporter found both the site and the design to be potentially acceptable. In their view, the restrictive approach embodied in both the structure plan and the local plan and in the absence of justification for this proposal on grounds of operational requirement or rural diversification, the reporter concluded that the proposal was contrary to the development plan.

In May 2022, planning permission was again refused under ref: 22/00135/P for the erection of one house and associated works. The application was refused for the following reasons:

- i. The principle of the building of a house on the application site is contrary to Policies DC1 and DC4 of the adopted ELLDP 2018 and Scottish Government Policy Statement Designing Streets, and Planning Advice Note 67: Housing Quality.
- ii. If approved the proposed development would set an undesirable precedent for the development of new houses in the countryside, the cumulative effect of which would result in a detrimental impact on the rural character and amenity of the open countryside of East Lothian; and,
- iii. No information has been submitted to demonstrate that the proposed development would not detrimentally impact on trees within or directly adjacent to the application site to the detriment of the character and appearance of the area. Accordingly, as it has not been demonstrated that the erection of a house on the site would not result in harm to nearby trees the proposals are contrary to Policy NH8 of the adopted ELLDP 2018.

This decision was appealed to the Council's Local Review Body (LRB) which was held on 8th December 2022. The LRB Committee concluded by a majority to dismiss the appeal and uphold the decision to refuse planning permission for the house.

PROPOSAL

Planning permission is now sought for the erection of 2 houses, both for use as holiday let accommodation and associated works on the site.

Two semi-detached houses with garden ground and parking are proposed to be located on the application site. Both of the houses would be used for holiday letting accommodation. Each of the two houses for holiday let accommodation would be situated within individual plots of some 29m in length by some 9.2m in width.

Each of the proposed houses would face onto the existing grass verge and unnamed road to the north, with their front (north) elevations being roughly in line with Barrel Cottage to the east. They would each have pitched roofs and would be one to one and a half storeys in height with accommodation proposed within the roof space of each. They would each measure some 8.7m in length by some 7m in width and they would have a total height of some 5.5m in height from their respective ridge heights and some 2.5m from the eaves to ground level.

Each of the houses would have a flat roofed 'extension style' component attached to their rear (south) elevations. These would be some 6.3m in length by some 5.9m in width. They would be single storey and would have a total height of some 2.8m.

Each of the proposed houses would also have a 'dormer style extension' attached to their rear (south) roof slopes. Each dormer would be some 7.4m in length by some 3.2m in width. They would each have a height of some 2m from the lowest part of the roof slope in which they are proposed to be attached.

The front (north) elevation of each house would be constructed with natural sandstone.

Walls of the rear (south) and side (east and west) elevations including the extension style components would be finished in render. The walls of the dormer cheeks and facing would be clad in composite cladding. Windows and doors would be of alu-clad framed construction with triple glazed units. The pitched roofs would be clad in terracotta pantiles and the roofs of both the dormer and extension style components would be clad in single ply membrane.

Each of the semi-detached houses would contain 2 sets of glazed window openings and a non-glazed door opening on their front (north) elevations. 1 glazed window opening and a set of fully glazed bi-fold (4 panel) doors would be contained on each of the rear (south) elevations. 3 fully glazed floor to ceiling windows and a set of glazed French style doors would be contained on one side elevation of each of the extension style components. A total of 5x roof lights would be contained on each of the front (north) roof slopes. Each of the dormer style extensions attached to the rear (south) roof slope would contain 2 glazed window openings on the rear (south) roof slope. Both the proposed dormer and flat roof extension style components would contain 1 skylight each.

The houses proposed would effectively mirror each other in terms of design and layout. They would both be marketed for holiday let as two, three-bedroom cottages. The ground floor layout would comprise: an open plan kitchen, living room and diner with a utility room, bedroom, separate bathroom and a lounge. The first floor / attic level of each property would contain 2x bedrooms, each with an en-suite.

Each of the houses would have an area of rear garden ground, some 18m in length by some 10m in width. An existing 1.2m fence would be retained along the western boundary and would be used to partially enclose the rear curtilage of the house furthest to the west. All other rear garden boundaries would be bounded by timber fencing at 1.8m in height.

Grass lawn would be laid in each garden, as well as areas of hardstanding comprising grey concrete paving slabs which would be laid directly adjacent to the rear (south) elevations of the holiday lets and would lead south to the car parking at the end of each garden. An area of deck would be formed to the side (east) of one holiday let and to the side (west) of the other holiday let. The decked areas would each be some 6.3m in length by some 2.7m in width.

A treatment plant and soak away would be contained within the rear garden of the proposed holiday let furthest to the west. This would serve both properties.

An Air Source Heat Pump ('ASHP') would also be positioned to the rear (south) elevations of each of the proposed holiday lets. Each ASHP would be 0.8m in length by some 0.3m in width.

A total of four parking spaces; two spaces per house would be positioned to the south of each garden. Each parking space would be some 5.1m in length by some 2.5m in width. The car parking areas would be constructed with concrete pavers. Cycle racks for a total of four bikes would be provided in each of the curtilages.

A new vehicular access would be formed to the north of the site. An access track would extend south from the access by some 39m before extending west by some 22m. The first 4.5m of the newly formed access would be hard surfaced. The remainder of the track would be laid in gravel.

In support of this application, the following reports have been submitted:

- i. Business Plan;
- ii. Supporting Statement;

- iii. Sustainability Report;
- iv. Tree Report; and,
- v. Design and Access Statement (as revised).

BUSINESS PLAN

The Business Plan as submitted provides an overview of the business concept proposed by the applicant, their proposed key offerings, mission and target market. It also outlines the growing short term let market in Scotland and more specifically in East Lothian, before summarising the proposed marketing strategy and financial targets and projections for the business. The business plan outlines risk, plans for expansion and sets out a 5-year plan for the business.

SUPPORTING STATEMENT

The Supporting Statement outlines why East Lothian is an ideal location for holiday let accommodation and makes reference to East Lothian beaches, coastal walks, castles, golf courses, gardens and day trips to Edinburgh. It also sets out that a regular bus service connects Haddington to Edinburgh City Centre within 30 - 40 minutes.

SUSTAINABILITY STATEMENT

The Sustainability Statement outlines measures proposed to be adapted throughout the development to ensure compliance with Policy 1 of NPF4. Such measures would include use of insulated materials, using local distributors for materials and local contractors would also be engaged. The proposed cottages would also incorporate bee and bird nest bricks in various locations and rainwater butts may be considered in the garden of each.

TREE REPORT

The Tree Report provides a description and assessment of all trees located on, or adjacent to the application site including 17 individual trees, one group of trees (comprising seven trees), one hedge, and one area of woodland. The tree report recommends a number of tree protection measures before, during and after construction. It also highlights that the trees on site are early mature trees with moderate to high landscape and ecological value. One tree was identified as being within the application site (as revised) as being of Category U, a tree which cannot realistically be retained as a living tree for longer than 10 years. This tree is located to the northeast of the site and is the only tree proposed to be felled to facilitate proposed works.

DESIGN AND ACCESS STATEMENT

The Design and Access Statement is summarised below:

- i) Historic maps and photographs from 1853, 1857, 1907 and 1956 illustrate that the site once accommodated farm workers cottages.
- ii) The proposal has been designed to complement the existing properties to the east.
- iii) There will be minimal landscape impacts as landscape features will be retained as far as possible to reduce loss of amenity to existing residents.
- iv) This proposal does not represent inappropriate or unsympathetic development in the countryside.
- v) It is acknowledged throughout the Design and Access Statement that the application does not meet all of the provisions of the relevant planning policies, however, the applicant's agent highlights that planning policy cannot relate to every situation, and every application must be determined on its own merits.
- vi) Proposed construction design for the cottages will be the highest of standards,

highly insulated, highly efficient with inclusion of renewables, air source heat pumps and zoned heating.

- vii) The site does not have any service connections though electric and mains water are within close proximity. A private drainage system will be adopted.
- viii) Electric car charging will be provided for each property.
- ix) Check in would be at 2pm and check out would be at 11am.
- x) Proposals comply with Policies 1, 3, 6, 29 and 30 of NPF4.
- xi) This application is for two short term let units and should not be construed as rural housing under Policy 17 of NPF4 and Policy DC4 of the ELLDP 2018. The Supporting Statement and Business Plan clearly identify commercial viability /tourism within East Lothian which is supported by planning policy. The site is brownfield and has lain unused. There is no intention of rural housing being proposed by the back door and the applicant is willing to enter into a Section 75 Legal Agreement to ensure the use remains in short term holiday let use.

When this application was first registered it included for the siting of 2 shepherds huts in the woodland to the south of the site. However, subsequent to the registration of this application, revised plans were submitted taking account of consultation responses and comments from the case officer and the proposed shepherds huts and parking associated with them were removed from the application. Therefore, no development is now proposed within the woodland as clearly indicated on the updated proposed site plan.

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 is National Planning Framework 4 ('NPF4') and the adopted ELLDP 2018.

Policies 1 (Tackling the Climate and Nature Crises), 2 (Climate Mitigation and Adaptation), 3 (Biodiversity), 6 (Forestry, Woodland and Trees), 13 (Sustainable Transport), 14 (Design, Quality and Place), 15 (Local Living and 20 Minute Neighbourhoods), 16 (Quality Homes), 17 (Rural Homes), 22 (Flood Risk and Water Management), 23 (Health and Safety - Noise) and 30 (Tourism) of NPF4 are relevant to the determination of this planning application.

Policies DC4 (New Build Housing in the Countryside), DP1 (Landscape Character), DP2 (Design), NH5 (Biodiversity and Geodiversity Interests, including Nationally Protected Species), NH8 (Trees and Development), NH10 (Sustainable Urban Drainage Systems), NH11 (Flood Risk), NH13 (Noise), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the ELLDP 2018 are relevant to the determination of this application.

Also, material to the determination of this planning application is the Council's Supplementary Planning Guidance ('SPG') on 'Countryside and Coast' adopted on 29th October 2019.

Circular 4/2025: Planning Obligations and Good Neighbour Agreements is also relevant to the determination of this application.

REPRESENTATIONS

A total of eight objections have been received in respect of this application for planning

permission. A summary of the main grounds of objections can be found below:

- i. The land is designated as agricultural land;
- ii. No more residential development is desired;
- iii. Increased traffic generation would suburbanise the area;
- iv. Potential road safety issues due to insufficient parking and HGV's passing regularly;
- v. The access junction to the proposed site, on Birkhedges Road at the Beechview property, is a dangerous 4-way junction with many 'near miss' road traffic accidents;
- vi. Planning history consists of a number of refusals;
- vii. There has been no building on-site for decades;
- viii. Proposals form as an overdevelopment of the plot;
- ix. Potential noise, disturbance and anti-social behaviour associated with the short term let use could arise;
- x. Any issues arising with anti-social behaviour won't be dealt with promptly owing to the applicant living in Haddington;
- xi. Loss of privacy and amenity to neighbouring residential properties;
- xii. Adverse impact on residential amenity through increased footfall, servicing, deliveries;
- xiii. The new design does not relate to the neighbouring Victorian cottages;
- xiv. Wood burning stoves could result in fire risk;
- xv. The population within a half mile radius of the site would more than double if the short term lets are at full capacity. This would change the character of the area;
- xvi. This rural location has been under pressure from opportunistic development. Approval would set precedent and would erode the rural character of the area;
- xvii. The Business Plan submitted is weak; is for a company which does not exist and there is no solid financial history for it. Figures quoted are inaccurate and not achievable. The proposal as a whole is regarded by some as speculative and subjective and objectors highlighted that it was generated by artificial intelligence ('AI') software.
- xviii. In design terms, the proposed 2x holiday lets are more intrusive than the earlier proposed single dwelling for this site.
- xix. Proposals are contrary to Policies 1, 3, 6, 14, 17 and 19 of NPF4, Policies DC1, DC2, DC3, DC4, NH3, T2 and DP5 of the ELLDP 2018, and to the Council's Design Standards for New Housing Areas SPG (2020). Proposals should be refused planning permission.
- xx. Siting shepherds' huts in or near ancient woodlands is incompatible with the adopted LDP's presumption in favour of protecting local woodlands.
- xxi. The shepherds' huts would require basic services such as waste/water if used separately from the houses.
- xxii. One objector questioned whether there would be sufficient space to the rear of the properties to allow for septic tanks to be emptied.
- xxiii. Fragmentation of the woodland through the introduction of fencing would disrupt existing wildlife corridors, would be harmful to local wildlife and would undermine the integrity of a wider green network.
- xxiv. Approval for fencing should not be granted without definitive clarification on land ownership.
- xxv. The scale and height of proposals is inappropriate for the plot.
- xxvi. Loss of trees and biodiversity.
- xxvii. The proposed development would not be a sustainable development. There is no public transport links within $\frac{3}{4}$ mile of the site. The nearest train station is 3 $\frac{1}{2}$ miles away.
- xxviii. Additional demand for water supply would put pressure on existing flow and supply.
- xxix. If the business fails, there will likely be a change of use submission for residential use, a use which has no justification for a countryside location.
- xxx. The application is not for any rural related activity such as agriculture, horticulture or forestry, but for tourism.
- xxxi. The applicant declared within their application form that the area is not known for

flooding, nor would there be an inherent increase in flood risk. One objector advised that this is incorrect and there has been instances of surface water flooding within the area with a flooding event occurring in 2019.

xxxii. A Short Term Let License would be required and there is no guarantee the applicant would get the appropriate licences.

Matters considered material to the determination of this application will be addressed within the Planning Assessment section of this report.

Matters not considered material to the determination of the application will be addressed below:

With reference to points (xiv), (xx), (xxi), (xxiii) and (xxiv), proposals have been amended. All proposed development within the woodland has since been removed from the overall scheme of development. The red line boundary for the application has also been reduced in size to remove the woodland from the planning application. These matters are therefore no longer relevant.

Matters relating to water pressure and the supply and demand of water (xxviii) is not a material planning consideration, notwithstanding this, Scottish Water has been consulted as part of this application.

Matters relating to anti-social behaviour (ix) and (x) is legislated for under legislation separate to planning legislation and therefore need not be assessed as part of this application.

Proposals would have a shared treatment plant with a soak away, rather than a septic tank (xxii).

Whether or not the proposal if approved would be able to obtain a license for short term holiday let use would be a matter for the Council's Licensing Team to determine (xxxiii).

COMMUNITY COUNCIL

No comments have been received.

PLANNING ASSESSMENT

The application is for the erection of two houses not for use as principal residences but for holiday let accommodation use and associated works. However, Policy 17 of NPF4 and Policy DC4 of the adopted ELLDP 2018 make no distinction between the use of a house or houses for residential purposes and the use of a house or houses for short term holiday let purposes as they fall under the same use class, being Class 9 (Houses) of the Town and Country Planning (Use Classes) Scotland Order 1997 (as amended). Therefore, any application for the houses, although to be used for holiday let has to be assessed under relevant housing policies of the development plan.

On the matter of design, Policy DP2 of the adopted ELLDP 2018 and Policy 17 of NPF4, amongst other matters, requires all new developments to be appropriate to their location in terms of their positioning, size, form, massing, proportion and scale and that their use of materials and colours complement their surroundings. Policy 14 of NPF4 requires that proposals are consistent with the six qualities of a successful place and are designed to improve the quality of an area whether urban or rural.

The application site is situated adjacent to a small cluster of houses within a wider rural

landscape which is generally characterised by woodland and open agricultural fields bound by hedging or low-lying boundary fences. There is also a number of agricultural buildings within the immediate area. The existing houses to the east (Barrel Cottage and The Birks) of the application site are both of traditional character and construction. They are rectangular in shape with stone walls and pitched pantile clad roofs, both of which appear to relate back to the terrace of cottages which once faced onto the road to the north. The terrace of cottages has however been subject to historic demolition works resulting in the terrace becoming two detached dwellings. The dwelling to the west (Southwood) and the dwelling to the east of Barrel Cottage and the Birks (Beachview) are set back from the roadside, single storey and are situated within slightly larger plots. Both of these dwellings have render clad walls and either pantiles, or slate clad roofs. There is therefore a mix of architectural styles within this cluster which characterises these houses. In addition, there is established building lines and heights which define the dwellings immediately to the east of the application site.

The proposed semi-detached houses would be positioned and orientated to face onto the road to the north and would therefore hold the same building line as the existing dwellings to the east. The proposed semi-detached houses would be rectangular in shape with pitched roofs clad in pantiles and would both have stone façades which would match the houses to the east and would relate back to the cottages previously located on-site. The eaves and ridge height of the proposed houses would be similar to dwellings to the east, and the proposed window and door openings would also be similar in terms of their scale and proportions. Whilst the side and rear elevations of the houses would be clad in render, this is not an uncommon finish for this location with dwellings to both the east and west being render clad as well as secondary elevations on the Birks being render clad.

The flat roof dormer components proposed to the rear (south) roof slope of each of the proposed semi-detached holiday lets would sit below the ridge height of their roofs and would be positioned some 0.8m from their respective side elevations. The extension style components attached to the rear (south) elevation of the holiday lets would each be single storey with a total height of some 2.8m in height. Whilst the dormer and extension style components would have more of a modern appearance in terms of their overall design, they would be situated on the rear (south) elevation which is a secondary elevation and would therefore only be visible in short duration glimpsed views from the public road to the north. Overall, therefore, the houses would not appear as harmfully dominant, intrusive or incongruous features within this rural setting and would by virtue of their architectural forms, sizes, scale, massing and materials would be complementary to the design and architectural variety of the existing houses within the immediate area.

The proposed houses as positioned on-site would not harmfully change the pattern or density of the built form and layout of the cluster of dwellings to which the proposed buildings would form part of. Accordingly, the proposed houses would sit comfortably in their positional relationships relative to one another and to other neighbouring residential properties to the east. Moreover, the application site is of a size sufficiently capable of accommodating two houses on the site in the manner proposed, including an adequate level of provision of garden ground, vehicular access and off-street parking to serve each of them without being an overdevelopment of the site. Therefore, the proposed two houses and their associated works would not be harmful to the character and appearance of the area.

The proposed vehicular access to be formed would lie adjacent to the vehicular access into that of Barrel Cottage. The proposed access and associated track would therefore be seen in relation to existing vehicular accesses in the locality and thus they would be in keeping with their surroundings.

It is proposed that the lengths of 1.8m high fencing would be erected within the site to separate the rear gardens of the 2 houses. Fencing and gates would also enclose the gardens to the south, separating them from the proposed car parking area further south.

As the fencing and gates would be positioned to the rear of the site, behind the proposed houses they would therefore be well contained from public views. Furthermore, by virtue of their size and form, the proposed fencing and gates would not be unlike other boundary treatments within the surrounding area. In the context of their surroundings, they would not appear as harmfully dominant or intrusive features. They would not therefore be harmful to the character and appearance of the area.

Areas of hardstanding, decking, air source heat pumps, cycle racks and the on-site waste treatment plant would all be low lying forms of development positioned within the rear curtilages of each house. They would therefore be well contained within the respective rear curtilages by proposed boundary treatments and thus would be in keeping with their surroundings and would not be harmful to the character and appearance of the area.

On the matter of design therefore proposals are compliant with Policy 14, 16 and 17 of NPF4, Policy DP2 of the ELLDP 2018 and the Council's SPG on 'Countryside and Coast' adopted by the Council on 29 October 2019.

Policy DP2 of the adopted ELLDP 2018 and Policy 14 (c) of NPF4 amongst other matters require 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 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 neighbouring residential properties.

Glazed openings proposed to be formed within the front (north) elevations and roof slopes of the houses would look out onto the road to the north and beyond onto a line of mature trees. Glazed openings proposed on this elevation would not therefore result in the harmful overlooking of any neighbouring residential properties.

Glazed openings to be formed within the rear (south) elevations and roof slopes of the proposed houses would look out onto the respective curtilages of each house and beyond onto a woodland. The formation of glazed openings on the rear (south) elevations and roof slopes would not result in the harmful overlooking of any neighbouring residential property.

The formation of glazed openings on the side (west) elevation of the house furthest to the west as proposed would look onto a stretch of garden ground associated with the house and beyond onto a paddock used for the keeping of horses. The formation of windows on the side (west) elevation of the house furthest to the west would not therefore result in the harmful overlooking of any neighbouring residential properties.

The formation of glazed openings on the side (east) elevation of the proposed extension style component of the house furthest to the east would look onto a stretch of garden ground associated with this unit measuring some 3.3m in width. The garden ground would be enclosed with a 1.8m high fence and hedging. The formation of glazed openings on the

side (east) elevation of the extension style component would not therefore result in the harmful overlooking of any neighbouring residential property given its enclosed nature within the rear curtilage.

Whilst no glazed openings are proposed on the side (east) elevation of the main component of the house furthest east, glazed openings could be formed on this elevation in the future through permitted development rights. The formation of any glazed openings on this elevation would be less than 9m from a glazed window opening on the side (west) elevation of Barrel Cottage which would result in the harmful overlooking of this property. It should therefore be made a condition of any such grant of planning permission that permitted development rights are removed for the formation of glazed openings on this elevation.

A decked area would be formed to the west of the side (west) elevation of the proposed westernmost holiday let. Users of the deck would have views to the south over garden ground associated with it and west over a field used for the keeping of horses. The formation of this deck would not therefore result in the harmful overlooking of any neighbouring residential property.

A decked area would also be formed to the east of the side (east) elevation of the proposed easternmost house. Users of the deck would have views to the south over garden ground associated with the house and east over the proposed access track and beyond onto the curtilage of Barrel Cottage. The eastern boundary of the rear curtilage of the easternmost house would however be lined with hedging, and the western boundary of Barrel Cottage is currently enclosed with high hedging and trees. Full specification of the decking including its finished floor level has not been provided as part of this application. However, due to the presence of existing high hedging and subject to full specification of the decking being submitted prior to its formation on-site, it would not result in the harmful overlooking of the residential property to the east.

Therefore, subject to conditions should planning permission be granted, proposals would not result in the harmful overlooking of any neighbouring residential property.

In assessing whether or not a proposed development would result in the harmful loss of sunlight or daylight from any neighbouring residential properties, the relevant daylight and sunlight test as contained within the Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice by Paul Littlefair is applied to the closest glazed window opening of the neighbouring residential property to the development proposal. In this instance, the closest window to the proposed development would be the glazed window opening on the side (west) elevation of Barrel Cottage which serves a lounge. The lounge is also served by a glazed opening on the front (north) elevation and a set of glazed door openings on the rear (south) elevation. The glazed opening on the side (west) elevation would be some 8.2m away from the side (east) elevation of the proposed development. Application of the relevant test demonstrates that proposals would pass the 25-degree test. Consequently, the proposed development would not give rise to a harmful loss of sunlight or daylight to any neighbouring residential property.

The occupants of the proposed houses would have sufficient amenity, and proposals would not result in the overdevelopment of the application site.

The **Council's Environmental Health Service** was consulted as part of this application and confirmed that in respect of proposals for the erection of two houses for holiday let use and associated works, a Noise Impact Assessment was not required. It would, however, have been required had the proposed glamping pods remained within the application proposal. On the basis of the application proposal as revised, the Council's

Environmental Health Officer raised no objections to either the proposed use, or development proposed, being satisfied that neither the use nor development proposed would be harmful to residential amenity.

On the matter of amenity therefore proposals would be compliant with Policy 14 and 23 of NPF4 and Policies DP2 and NH13 of the ELLDP 2018.

The **Council's Landscape Officer** was consulted as part of this application. They advised that the application site lies within the Mid Tyne Valley Plain Landscape Character Area and forms part of the north of Long-Established Nature Scot's Ancient Woodland (15) of plantation origin. On the matter of landscape setting and trees, they advised that they had no objection to proposals subject to the following conditions being appended to any such grant of planning permission to protect trees on-site and to establish a landscape scheme that improves the amenity of the area and assists in the integration of the development into its rural setting:

- i. Tree Protection Fencing - Tree protection fencing must be erected prior to the commencement of development and retained in place until completion of the proposed development.
- ii. Tree Retention - no tree identified as being retained within the Tree Survey shall be felled without prior written consent.
- iii. Scheme of Landscaping - A detailed scheme of landscaping should be submitted based upon Site Plan Layout drawing numbered REM9-464.
- iv. New Access Road - prior to the commencement of development, a full method statement should be submitted for the access road.

Therefore, subject to the attachment of these planning conditions on any such grant of planning permission, proposals would comply with Policy 6 of NPF4 and Policies DP1 and NH8 of the ELLDP 2018.

On the matter of biodiversity, the Council's Biodiversity Officer was consulted as part of this application. She advised that there are records of protected species of bats and badgers within 400m of the site. Whilst no development is now proposed within the woodland area to the south, as a precautionary measure a Construction Working Method Statement for bats and badgers should be submitted to ensure any protected species on-site, or within the surrounding area are not negatively affected by proposals. Such a report should cover but not be exclusive to the consideration of lighting, noise, timing of works and pre-construction checks by a suitably qualified ecologist. The submission of the Construction Working Method Statement could reasonably be made a condition of any grant of planning permission.

In addition, the Biodiversity Officer advised that to facilitate proposed works, vegetation on-site would be required to be cleared. Due to nesting birds using this site, during bird breeding season, vegetation should be removed outwith the bird nesting season unless a species protection plan has been carried out in advance.

Subject to conditions protecting the biodiversity value of the site should planning permission be granted, the Biodiversity Officer raised no objections to this proposal, being satisfied that it complies with Policy NH5 of the ELLDP 2018.

As no details of biodiversity enhancements have been provided as part of this application, should planning permission be granted, a condition should be attached to any such grant of planning permission requiring for biodiversity enhancements to ensure compliance with Policy 3 of NPF4. Such a condition can reasonably be attached to any such grant of planning permission. Therefore, subject to this condition on any grant of planning permission, proposals would comply with Policy 3 of NPF4.

The **Council's Senior Environmental Compliance Officer** was consulted as part of this application and advised that whilst there is no direct evidence to suggest any historic contaminative uses, the site was formerly occupied by a row of worker's cottages and as such, there may be localised hotspots of contamination due to areas of 'made ground' associated with demolition works. Given the above and due to the sensitive nature of the proposed development (housing - Short Term Let Accommodation), further information would be required to determine the ground conditions and potential contamination issues impacting on the site. Accordingly, the Senior Environmental Compliance Officer recommends the attachment of a planning condition requiring a Phase 1 Geo-Environmental Assessment being carried out, should planning permission be granted.

The **Mining Remediation Authority (formerly the Coal Authority)** were consulted as part of this application and raised no objection.

The **Council's Flooding and Structures Team** was consulted as part of this application and advised that SEPA's Flood Hazard Mapping indicates that the wider site under the applicant's ownership may be at risk from a flood event with a return period of 1 in 200 years plus climate change. That is the 0.5% annual risk of a flood occurring in any one year with an allowance for climate change. The Officer does however note that the holiday lets proposed on land furthest to the north are not at risk from flooding. Subject to details pertaining to the proposed surface water management, SUDS, soak away or other being submitted prior to the commencement of development and subject to their being no increased surface water runoff from the housing proposed, noting that greenfield runoff rates should be capped to 5l/s/Ha or the existing rate, whichever is lower, proposals comply with Policy 22 of NPF4 and Policies NH10 (Sustainable Urban Drainage Systems) and NH11 (Flood Risk) of the ELLDP 2018.

Scottish Water were consulted as part of this application and advised that there is sufficient capacity at Castle Moffat Water Treatment for Water Treatment Works, however, there is no public waste infrastructure within the vicinity of the proposed development. They caveat their response by stating that they are not able to reserve water and /or wastewater treatment capacity and state that should planning permission be granted, Scottish Water would review capacity at the time of connection.

The **Council's Road Services** were consulted as part of this application and raised no objections on the matter of road safety. They did however request that provision of cycle parking and EV charging be provided on-site. The proposed site plan has since been updated to include these, along with a flat hard surfaced pedestrian access from the car parking area into the respective houses for short term holiday let use. Therefore, subject to a condition requiring these should planning permission be granted, proposals would comply with Policy T2 of the ELLDP 2018.

The **Council's Access Officer** was consulted as part of this application and raised no objection to proposals.

Notwithstanding all of the above, the application site is located in a countryside location within East Lothian. While there are both residential, agricultural and livery buildings within the vicinity of the application site, it is not identified in the ELLDP 2018 as being within a settlement, nor does the ELLDP 2018 allocate the application site for housing development. Consequently, the principle of the erection of two houses for short term holiday let use on the application site must be assessed against national, strategic and local planning policy relating to the control of new housing development in the countryside.

Policy 16 of NPF4 supports proposals for new homes on land not allocated for housing

within the LDP in limited circumstances, including (inter alia...): where the house is consistent with the plan spatial strategy and other relevant policies including local living and 20-minute neighbourhoods and where it is consistent with policy on rural homes. Policy 15 of NPF4 supports development proposals that will contribute to local living including, where relevant, 20-minute neighbourhood, where people can meet the majority of their daily needs within a reasonable distance of their home preferably by sustainable and active travel methods.

As the proposed two houses would not be on land allocated for housing and would not be in an area that could be defined as a 20 minute neighbourhood the proposals are contrary to Policies 15 and 16 of NPF4.

Policy 17a of NPF4 supports new homes in rural areas where the development:

- i. is on a site allocated for housing within the LDP;
- ii. reuses brownfield land where a return to a natural state has not or will not happen without intervention;
- iii. reuses a redundant or unused building;
- iv. is an appropriate use of a historic environment asset or is appropriate enabling development to secure the future of historic environment assets;
- v. is demonstrated to be necessary to support the sustainable management of a viable rural business or croft, and there is an essential need for a worker (including those taking majority control of a farm business) to live permanently at or near their place of work;
- vi. is for a single home for the retirement succession of a viable farm holding;
- vii. is for the subdivision of an existing residential dwelling; the scale of which is in keeping with the character and infrastructure provision in the area; or
- viii. Reinstates a former dwelling house or is a one-for-one replacement of an existing permanent house.

Policy DC4 of the ELLDP 2018 supports new build housing in the countryside where the proposal is outwith the constrained coast, where there is no existing house, or no appropriate existing building suitable for conversion to a house available within the locality and (inter alia...):

- (i) In the case of a single house, the Council is satisfied that it is a direct operational requirement of a viable agricultural, horticultural, forestry, countryside recreation or other business, leisure or tourism use supported in principle by Policy DC1; or
- (ii) In the case of other small scale housing proposals, it is for affordable housing and evidence of need is provided, and the registered affordable housing provider will ensure that the dwellings will remain affordable for the longer term. Proposals should be very small scale and form a logical addition to an existing small-scale rural settlement identified by this plan.

The application site is located within a countryside location. It is not allocated for housing within the ELLDP and whilst proposals are small scale, they do not form as proposals for affordable housing; they do not make use of redundant or unused buildings; don't form as a historic asset, nor do they form as the subdivision of an existing residential dwelling. Furthermore, the proposed houses are not required for the retirement succession of a viable farm holding, nor are they required for the sustainable management of a viable rural business.

Whilst the site is not in agricultural use, it is designated as prime agricultural land - category 3.1. However, due to its size and scale and of its location between a house and a paddock used for the keeping of horses, it does not lend itself to agricultural use. Therefore, the development of the site would not result in the loss of agricultural land.

Rather and within the supporting statements submitted as part of this application, the applicant rests their argument for new houses for short term let use in the countryside on the suggested brownfield nature of the application site. The applicant highlights that a terrace of farm worker cottages were located on the application site in circa 1950's with foundations relating to these dwellings still being visible on-site to this day.

Whilst the site previously had houses on it, those houses have been removed, and the site has naturalised. Therefore, the proposal is not for the reuse of brownfield land and Policy 9 of NPF4 does not apply.

As the proposed two houses would neither constitute as the sustainable reuse of a vacant brownfield site, nor would it form as the reinstatement of a former dwelling or dwellings the principle of the two proposed houses do not meet any of the criteria for new build housing within Policy 17a of NPF4 or Policy DC4 of the ELLDP 2018, the erection of two houses would not therefore comply with Policy 17A of NPF4, or Policy DC4 of the ELLDP 2018. Furthermore, the approval of such a development without a locational justification would set a harmful precedent.

Consequently, the erection of two houses on the application site would not accord with the policies of the development plan controlling the development of new build housing in the countryside being Policy 17A of NPF4, or Policy DC4 of the ELLDP 2018.

Policy 17B of NPF4 requires for proposals for new homes in rural areas to consider how the development will contribute towards local living, taking into account local housing needs, economic considerations and the transport needs of the development as appropriate for the rural area.

Policy 30 of NPF4 supports Development proposals for new or extended tourist facilities or accommodation, including caravan and camping sites, in locations identified in the LDP.
b) Proposals for tourism related development will take into account:

- i. The contribution made to the local economy;
- ii. Compatibility with the surrounding area in terms of the nature and scale of the activity and impacts of increased visitors;

The Council's Economic Development Team were consulted as part of this application. They advised that there are demonstrable local economic benefits delivered by all types of short-term holiday let accommodation within East Lothian and new applications for short term holiday lets should be supported and encouraged in order that East Lothian continues to expand its capacity to host overnight visitors, noting that on average, non-serviced short term holiday let accommodation bedspace in East Lothian generates up to £22,722 of annual economic impact and supports 0.5fte jobs. In this particular case, proposals for a maximum of 12 bed spaces would generate up £272,664 of annual economic impact and would support up to 6fte jobs. Accordingly, the Council's Economic Development Team is supportive of proposals given it accords with the strategic goals and objectives of the Local Economy Strategy 2024 - 2034 and thus they raise no objection to this application. It is not therefore unreasonable to assume that such development would likely, in turn, positively contribute towards the tourist industry of East Lothian.

The **Council's Planning Obligations Officer** was consulted on the application and advised that if planning permission were to be granted for the two houses it should be subject to the conclusion of and registration of a S75 agreement which would restrict the occupancy and duration of occupancy of the holiday letting cottages. This would ensure the two houses are used for the purpose applied for and would remain as one business unit, tied together in title as the applicant's business case suggests it requires the two houses to make the business sustainable.

Subject to the prior conclusion of the S75 legal agreement and as the building of two houses for holiday letting use would be of a nature and scale that could co-exist alongside the neighbouring residential properties the proposal would not conflict with Policy 30 of NPF4.

However, notwithstanding the proposal does not conflict with Policy 30 of NPF4 and the potential positive economic impact of the proposed two houses if used for holiday lets, the building of them would be new build housing in the countryside for which there is no operational justification. Therefore, if granted planning permission they would conflict with and would undermine the policies of the development plan controlling new build housing in the countryside. This could encourage the submission of other proposals for new build houses for holiday letting purposes in other parts of the countryside in East Lothian. Therefore, in conclusion the fact that the proposed two houses may accord with Policy 30 does not outweigh the fact that the proposed two houses are contrary to the policies of the development plan controlling new build housing in the countryside.

On the above considerations the proposal is contrary to development policies, 15, 16 and 17 of NPF4 and Policies DC4 of the ELLDP 2018. Further, proposals would set a harmful precedent. There are no material planning considerations that outweigh the fact that the proposed scheme of development is not in accordance with those development plan policies.

REASONS FOR REFUSAL:

- 1 As the two proposed houses do not meet any of the criteria for new build housing within the countryside required by Policy 17a of NPF4 and Policy DC4 of the adopted East Lothian Local Development Plan 2018, the principle of the erection of two houses on this site is contrary to Policy 17A of NPF4 and Policy DC4 of the adopted East Lothian Local Development Plan 2018.
- 2 The proposed new houses would not be located on land allocated for housing development within the LDP or within a 20-minute neighbourhood and would not therefore contribute to local living within an existing settlement contrary to Policies 15 and 16 of NPF4.