



**MINUTES OF THE MEETING OF THE
LOCAL REVIEW BODY**

**THURSDAY 10 SEPTEMBER 2020
VIA THE DIGITAL MEETINGS SYSTEM**

Committee Members Present:

Councillor N Gilbert (Chair)
Councillor K Mackie
Councillor F O'Donnell

Advisers to the Local Review Body:

Mr C Grilli, Legal Adviser to the LRB
Mr P Zochowski, Planning Adviser to the LRB

Other Officers present:

Mr M Mackowiak, Planner

Clerk:

Ms F Currie, Committees Officer

Apologies:

None

Declarations of Interest

None

Introductory Statement by the Legal Adviser

The Legal Adviser outlined the procedure for the meeting and the statutory matters which the Local Review Body were required to consider before reaching a decision on the planning application.

Following nominations to chair the meeting, Councillors O'Donnell and Mackie proposed and seconded Councillor Gilbert. It was therefore agreed that Councillor Gilbert would chair the Local Review Body (LRB) on this occasion.

1. PLANNING APPLICATION NO. 17/00727/P: CHANGE OF USE OF AGRICULTURAL LAND FOR THE KEEPING OF HORSES, ERECTION OF STABLE BLOCK, HORSE SHELTERS AND ASSOCIATED OUTBUILDINGS, FORMATION OF RIDING ARENA AND ASSOCIATED WORKS (PART RETROSPECTIVE), SUNNYSIDE FARM, EAST LINTON, HADDINGTON EH41 4PZ

The Chair invited the Planning Adviser, who had had no involvement in the original decision, to present a summary of the planning policy considerations in this case.

The Planning Adviser outlined the background and detailed proposals contained in planning application no. 17/00727/P which related to a change of use of agricultural land for the keeping of horses, erection of stable block, horse shelters and associated outbuildings, formation of riding arena and associated works. The application was part retrospective in that the equine charity business was already operating from the site, the land was already being used for the keeping of horses and the riding arena, and the welfare building was in position and being used. The site was located immediately to the south and south west of Nos 4-10 Sunnyside Farm Cottages with the closest proposed building, the stable block, approximately 7m from the site boundary with the category B listed cottages. The application was submitted in 2017, registered in March 2018 and determined on 27th March 2020.

He reminded Members that Section 25 of the Town and Country Planning (Scotland) Act 1997 required that the application be determined in accordance with the development plan, unless material considerations indicated otherwise. The relevant policies of the East Lothian Local Development Plan 2018 were set out in the paperwork submitted by the planning case officer.

The Planning Adviser summarised the planning case officer's assessment of the application. He indicated that 10 representations had been received objecting to the application, mainly raising issues that the development would adversely affect amenity and setting of the Sunnyside Cottages. Dunsper Community Council also objected to the application. Of the internal consultees, there were no objections from the Biodiversity Officer or Environmental Health Officer. However, Road Services officers had expressed concerns that the application did not demonstrate that adequate visibility splays were achievable at the access with the public road; that the first 10m of the access would be hard formed; that a turning circle should be provided; that adequate on-site parking be provided at a rate of 1 space per 2 customers or staff and that all of the parking demand should be capable of being provided on the site. No response was received to the concerns raised by Road Services, thereby conflicting with LDP Policies T1 and T2.

Taking all matters into account, the case officer concluded that the proposal was an acceptable type of business for a countryside location and that in the form proposed it would not harm the landscape setting of the local area and of the Sunnyside Cottages nor would it adversely affect the Special Landscape Character of the area. However, on the matter of the impact the proposed development would have on the amenity of the Sunnyside Cottages, the officer concluded that this was affected by the activities and operations of the development and the intensity of the use of the site. Insufficiently clear information was submitted to enable it to be demonstrated that there would not be a detrimental impact on the amenity of the neighbouring cottages, thereby conflicting with LDP policies DP1 and DP2.

The application was refused for the reasons outlined in the Decision Notice dated 27th March 2020.

The Planning Adviser then summarised the applicant's review submission which included a supporting letter from Karele. He confirmed that interested parties were given the opportunity to comment on the appeal and further letters were received from Dunpender Community Council and five representations from or on behalf of residents of Sunnyside Cottages. All supported the original decision to refuse the application.

The applicant also raised a number of issues with the process of the application and referred to a number of communication breakdowns with letters and meetings etc. They also made an offer to remove one structure to free up more parking space and stated that there was clear visibility at the road junction splay and referred to additional information and layouts they would have submitted. They also provided a response to planning policies DP1, DP2 and T1 being three of the four policies against which the application was refused.

The Planning Adviser concluded his summary of the application by referring to an additional statement by the planning case officer pointing out an error in the original report and responding to the applicant's reference to a cancelled meeting.

The Chair thanked the Planning Adviser for his summary.

The Planning Adviser responded to questions from Members providing further detail on matters relating to safe vehicular and pedestrian access to the site and facilities nearby, the length of time allowed for the applicant to provide the required information, the types of conditions which might be attached to any planning permission and alternative locations for the riding arena on the site. He also provided advice on what could constitute material considerations in determining the application and how these might be weighed against considerations of planning policy.

The Chair asked his colleagues to confirm if they had attended the site visit and if they were satisfied that they had sufficient information before them to determine the application. They confirmed this to be the case.

The Chair then invited Members to give their opinions.

Councillor Mackie said it was unfortunate that the applicant had not provided the information requested by the planning case officer. However, having read the information that was provided and having visited the site, she was in agreement with the planning case officer. She felt that the proximity of the riding arena to the neighbouring cottages and the consequent noise, etc., would impact on the amenity of the residents. She was also concerned about road safety and the safety of pedestrians

crossing the road. For these reasons, she would be supporting the recommendation of the planning case officer.

Councillor O'Donnell said she found this a difficult decision as she was well aware of the positive impact this type of therapy could offer for its clients. She also had concerns about road safety and the siting of the arena close to neighbouring homes, and she noted the unfortunate breakdown in relations between the applicants and local residents. While she was happy to see that no accidents had occurred, she was concerned about the ability of the service to continue to operate safely in its current location. She urged the applicants to engage with planning officers and to consider an alternative location for the riding arena on the site. She agreed with Councillor Mackie and the planning case officer that the impact on the amenity of neighbouring residents was too great and, consequently, she could not uphold the appeal.

The Chair agreed with his colleagues' assessment and acknowledged that this was a difficult decision. He added that he had seen nothing during the site visit which would indicate that the planning case officer's original decision was incorrect, and he was of the opinion that the application should be refused.

Decision

The ELLRB agreed unanimously to uphold the decision of the Planning Case Officer and to refuse planning permission for the following reasons:

1. It has not been demonstrated that the activities and operation of the equine charity business operating from the site does not and would not have a detrimental impact on the amenity of the neighbouring residential properties of nos 4-6, 7, 8, and 10 Sunnyside Cottages, accordingly, on these matters of privacy and amenity the proposed and retrospective development the subject of this application conflicts with policies DP1 Landscape Character and DP2 Design of the East Lothian Local Development Plan 2018
2. It has not been demonstrated that the equine charity business could be provide with a safe means of vehicular access and a satisfactory provision of on-site parking and turning the proposed and retrospective development the subject of this application conflicts with Policies T1 Development Location and Accessibility and T2 General Transport Impact of the adopted East Lothian Local Development Plan 2018.

The Planning Authority were instructed to take forward the appropriate enforcement as this application included works which were part retrospective.

2. PLANNING APPLICATION NO. 19/00886/P: EXTENSION TO BUILDING AND ASSOCIATED WORKS, THE LIVINGROOM, 30 SALTERS ROAD, WALLYFORD EH21 8AA

The Chair invited the Planning Adviser, who had had no involvement in the original decision, to present a summary of the planning policy considerations in this case.

The Planning Adviser outlined the background and detailed proposals contained in planning application no. 19/00886/P which related to an extension to an existing church that occupies a former residential property at 30 Salter's Road Wallyford. The proposed extension was considered acceptable by the planning case officer subject to a minor

landscape condition. However, the determining issue in respect of the application was the matter of parking.

He advised Members that information on the parking usage of the church was given both in the submitted Traffic Management Plan and in the applicant's supporting statement for the review. At busy periods for the church, on Sunday mornings, it was reported that around 28 cars could be expected but it was also used for community activities during the week. While the church had very few parking places on its site, there were locations nearby where it was possible to park a car and these included the Wallyford Miners' Club (28 spaces); the Wallyford Community Centre; Wallyford Station; and the Wallyford Park and Ride facility approximately 400m away (300 spaces). The church was also very well served by public transport.

The Planning Adviser indicated that the Council's Road Services department had asked for a legal agreement for the church to use a nearby car park to ensure that it would always be available in future for the church to use. This was not forthcoming. Accordingly, the application was refused for the reason that there was insufficient space to provide the 10 parking spaces required by Road Services to meet parking standards and without any means of securing the consistent provision of the required parking spaces in any nearby car parks the proposal would cause parking and congestion problems on Salters Road and elsewhere in the locality contrary to policy T2 of the LDP.

The Planning Adviser then summarised the applicant's case. He drew attention to a statement submitted by the agent indicating that the Miners' Welfare Club could not provide the required legal agreement as it would place an unacceptable constraint on the club in perpetuity. The agent also advised that the Church had begun to use the new primary school as a base on a Sunday morning and that, in practical terms, it was considered that there was little or no risk of the parking and congestion problems envisaged by Road Services.

Members were advised that no objections were received to the application and a letter of support from Wallyford Community Council was provided as part of the applicant's review submission.

The Chair thanked the Planning Adviser for his summary.

The Planning Adviser responded to questions from Members regarding parking restrictions on Salters Road, the number of parking spaces currently available on site, the informal agreement in place for use of the Miners' Welfare Club car park and the availability of other parking facilities nearby. He also confirmed that the case officer had had no issue with the proposed extension, that there had been no objections to the proposals and a letter of support had been provided by the community council.

The Chair asked his colleagues to confirm if they had attended the site visit and if they were satisfied that they had sufficient information before them to determine the application. They confirmed this to be the case.

The Chair then invited Members to give their opinions.

Councillor O'Donnell commented that from the site visit it was clear there were a number of parking options available near the church. She also noted the longstanding, informal agreement with the Miners' Welfare Club to use their car park and that there was no reason to expect this to change in the future. She observed that both these organisations were committed to the local community and to improving lives and that

numerous large events had been held with no issues or concerns raised about parking. Having considered the case, she said she did not share officers' concerns about parking and could not support the planning case officer's recommendation. She would be voting to approve the application.

Councillor Mackie agreed with her colleague. She noted that the church had been operating for several years with a successful, albeit informal, agreement in place regarding parking. She also noted the availability of an additional 300+ spaces nearby and that Sundays - the peak time for the church would be the time when the Miners' Welfare Club and station car parks would be at their quietest. She would not be supporting the planning case officer's recommendation.

The Chair also agreed with his colleagues. He commented on the success of the informal arrangement with the Miners' Welfare Club and that there was no reason to expect this to change. He also referred to the numerous additional spaces available nearby and the support for the proposals expressed by the local community council. For these reasons, he was minded to uphold the appeal.

Decision

The ELLRB agreed unanimously to uphold the appeal and to grant planning permission subject to conditions:

1. Parking

Parking shall be provided in the form of 2 spaces in the position shown on the docketed drawing '2791 PLA 01' Proposed Site Plan. Such areas of land shall not thereafter be used other than for those specific purposes.

Reason:

In the interests of road safety.

2. Construction and Tree Protection

No development shall take place on site until temporary ground protection and a construction methodology has been agreed and confirmed in writing by the Planning Authority.

Planning of site operations should take sufficient account of wide loads, tall loads and plant with booms, jibs and counterweights (including drilling rigs), in order that they can operate without coming into contact with retained trees.

Reason:

In order to form Construction Exclusion Zones around retained trees and protect retained trees from damage, in the interests of the landscape character and appearance of the area.

3. PLANNING APPLICATION NO. 17/00996/P: ERECTION OF 2 DETACHED HOUSES WITH INTEGRAL GARAGES AND ASSOCIATED WORKS, 16 CARBERRY ROAD, MUSSELBURGH EH21 7TN

The Chair invited the Planning Adviser, who had had no involvement in the original decision, to present a summary of the planning policy considerations in this case.

The proposals contained in planning application no. 17/00996/P which related to the erection of 2 detached houses with integral garages and associated works at 16 Carberry Road Inveresk. This application was registered on 7th December 2017 and determined on 17th April 2020. He advised Members that a second, wholly separate planning application (17/01023/P) was also submitted for the site for two semi-detached houses with garages and this was granted planning permission in April 2020. He confirmed that it was possible to have more than one application submitted for a site and for more than one application to be approved for a site.

The Planning Adviser outlined the background and detail of the proposals indicating that previous consents had demonstrated that the site could accommodate 1 large detached house or two semi-detached 2.5 storey houses but that this application was for two 2.5 storey detached houses with attached garages, as well as the formation of hardstanding fences walls and gates. He reminded Members that Section 25 of the Town and Country Planning (Scotland) Act 1997 required that the application be determined in accordance with the development plan, unless material considerations indicated otherwise. The relevant policies of the East Lothian Local Development Plan 2018 were listed in the planning case officer's review submission.

The Council as Planning Authority also had a duty under Scottish Planning Policy and s64 of the Planning (Listed Buildings and Conservation Areas) Scotland Act 1997 to have regard to the desirability of preserving or enhancing the character and appearance of a conservation area in determining an application within the conservation area. Proposals that do not harm that character and appearance should be treated as preserving it but permission should be refused for development that fails to preserve or enhance its character or appearance. Scottish Ministers' guidance on these and other matters was reflected in the Council's LDP policies.

The Planning Adviser summarised the responses from consultees and interested parties. He noted that five representations were received objecting to the proposed development and raising a number of concerns including that the proposed form of the houses would not be in keeping with the character of development of the local area, the houses were too thin and would occupy too much of the site, loss of open aspect and effect on privacy and amenity, parking and the external materials proposed for the building.

He advised Members that the main determining issue for this application was whether the two detached houses proposed would preserve or enhance the character of the Inveresk Conservation Area in line with LDP policies CH2 (development affecting Conservation Areas); DP1 (landscape character), DP2 (design) and DP7 (infill back land and garden ground development) and with Scottish Planning Policy. In addition, the SPG on cultural heritage and the built environment approved in 2018 contained the detailed Inveresk Conservation Area Character Appraisal which explained the special architectural and historic character of Inveresk identifying this part of Inveresk as the Victorian Suburb reflecting its main period of construction.

The case officer concluded that notwithstanding certain characteristics of the proposed development being acceptable these did not outweigh that the houses by their disproportionately narrow proportions and scale would be wholly out of keeping with the architectural character and appearance and generous proportions of the buildings of Carberry Road and Delta Place and thus would be incongruous additions to the area.

Accordingly, the application was refused for the details reasons set out in the Decision Notice. Essentially, that the houses would not be in keeping with this part of the

conservation area, would be an overdevelopment of the site, that their disproportionately narrow proportions and scale would not preserve or enhance the conservation area and were contrary to LDP policies DP1, DP2 and DP7 and Planning Advice Note 67 Housing Quality and Scottish Planning Policy.

The Planning Adviser then summarised the applicant's detailed case against the refusal of the application, including the Design Statement and supplementary information with plans and indicative views of the streetscape. The case made for the applicant was that the proposal did comply with all policy tests of the LDP, that it was designed by a renowned architectural practice and that there was no objection from Historic Environment Scotland or the Council Heritage Officer. *[Point of clarification: the Council's Heritage Officer is an archaeologist and responds to matters of archaeological importance only and not on the historic built environment which is for planners to comment on at East Lothian Council.]*

The submission also noted that the site was an established plot for residential development and that the proposals would at least preserve and may enhance the Inveresk Conservation Area. It was noted that there was already an eclectic mix and range of residential dwellings in Inveresk Conservation Area which added to its character and it was considered that this proposal would add to that character as a high quality addition that responded positively and appropriately to the site's context and relevant planning policy. The two reasons for refusal were challenged as it was considered that they significantly overstated concerns regarding the development of the site.

The Planning Adviser concluded his summary of the case and invited questions from Members.

The Chair thanked the Planning Adviser for his summary.

The Planning Adviser responded to questions from Members. He confirmed that each application was considered on its own merits and that it was in the nature of conservation areas to change over time and include a mixture of building styles. He provided clarification regarding the consultation response from Historic Environment Scotland and confirmed that no concerns were raised by the Council's Road Services officers regarding on-street parking. He also outlined the general view that where trees had to be removed during construction, planning officers would usually expect replacement planting to form part of the proposed development. Responding to a question on the removal of the existing wall, he said the proposal was to replace this with a low wall and railings, and driveway gates.

The Chair asked his colleagues to confirm if they had attended the site visit and if they were satisfied that they had sufficient information before them to determine the application. They confirmed this to be the case.

The Chair then invited Members to give their opinions.

Councillor O'Donnell said that the site visit had been invaluable in providing context to the application. She had noted a number of new builds incorporating sandstone which did not seem out of keeping with the area. She said that her concern with the application was not with the materials or potential loss of trees but with the width of the properties. She referred to previous proposals and to the most recent application for semi-detached homes which had been granted planning permission. In her view the application being reviewed today would have a detrimental impact on the street and would constitute an over-development of the site. The 2.5 storey, narrow houses would

not be in keeping with the surrounding houses and would not enhance the conservation area. She was of the view that the appeal should be rejected and the application refused.

Councillor Mackie echoed the remarks made by Councillor O'Donnell. She appreciated the eclectic mix of housing on Delta Place but felt that the proposed development would not enhance the street or surrounding area. She considered the proposals for semi-detached houses to be a much better fit and that this proposal for detached houses would be an over-development of the site. She commented that Inveresk was a charming place and should be preserved. She agreed with the planning case officer's recommendation that the application be refused.

The Chair observed that the reason for refusal of the application lay with the narrow frontage of the proposed houses and that these were considered to be narrower than existing houses and not in keeping with the area. He noted that other new builds in the area were in proportion both in terms of size and scale and he highlighted the objections raised by local residents. For these reasons, he would be upholding the planning case officer's recommendation to refuse the application.

Decision

The ELLRB agreed unanimously to uphold the decision of the Planning Case Officer and to refuse planning permission for the following reasons:

1. By their disproportionately narrow proportions and scale, the proposed two detached houses would be wholly out of keeping with the architectural character and appearance, and generous proportions of the buildings of Carberry Road and Delta Place and thus would be incongruous additions to the pattern and density of the built form of this part of the Inveresk Conservation Area. As such they would be an overdevelopment of the site that would not enhance the streetscape of Delta Place and would not be appropriate to their place. Accordingly, the proposed development is contrary to Policies DP1, DP2 and DP7 of the adopted East Lothian Local Development Plan 2018 and Planning Advice Note 67: Housing Quality.
2. By their disproportionately narrow proportions and scale, the proposed two detached houses would be wholly out of keeping with the architectural character and appearance, and generous proportions of the buildings of Carberry Road and Delta Place. As unsympathetic and incongruous additions to the streetscape and to the pattern and density of built form of the area, the proposed two detached houses would not preserve or enhance the character and appearance of this part of the Inveresk Conservation Area. Accordingly, the proposed development is contrary to Policy CH2 of the adopted East Lothian Local Development Plan 2018, Scottish Planning Policy: June 2014 and Planning Advice Note 67: Housing Quality.

Signed

Councillor N Gilbert
Chair of Local Review Body (Planning)