

of Dirleton village and because those proposals at those times constituted inappropriate development in the countryside.

The application site is within an area defined by Policy RCA1: Residential Character and Amenity of the adopted East Lothian Local Development Plan 2018 and is within the Dirleton Conservation Area.

PLANNING HISTORY

In 2009 planning application Ref: 06/00945/FUL was refused by Planning Committee, against officer recommendation, for the erection of two detached houses, two detached garages and associated works on the application site. The proposed houses were proposed to be positioned roughly centrally within the site and were to be single storey in height with accommodation in their roof space and would be traditional in their design. The pitched and gabled roof of each house would include two pitched roofed dormer windows to their front and rear elevations serving accommodation in the roof space. The proposed house would be served by an access road running from the existing private access road which serves the house which lies between the site and the main road. The reason for refusal of planning application 06/00945/FUL was;

"The proposed development would be a conspicuous and incongruous outward extension of Dirleton, harmful to the form, character and appearance of the Village and of the Conservation Area."

That decision to refuse planning permission was appealed to the DPEA ref: 09/00028/P/1 and that appeal was subsequently dismissed in 2010. The for the dismissal of that appeal was:

"Since the site is surrounded on three sides by agricultural land it is self-evident that development of the site would be out of keeping with these agricultural surroundings. In view of the forgoing the site cannot be properly described as an infill site. Therefore, there is no support for the proposal in DP7; and

The proposed development would not integrate well into its surroundings and would simply extend the northern edge of the village into the undeveloped surrounding countryside in a conspicuous and incongruous manner which would conflict with the important objective of preserving or enhancing the character and appearance of the conservation area. The development would represent an intrusion out of character with the surrounding agricultural land."

Subsequent to the refusal of that planning permission, planning applications Ref's 14/00696/P, 15/00208/P and 19/00564/P, were submitted seeking planning permission for the erection of one house on the application site. Each of those planning applications was subsequently withdrawn before being determined.

In April 2022 planning application Ref: 21/01364/P was refused under delegated powers, for the erection of one house with integral garage and associated works on the application site. The house was proposed to be positioned towards the northern end of the site and was to be single storey in height, formed from two pitched roofed components each some 6.3m in height and connected by a lower link element. The two main components would largely have white rendered walls and slate clad roofs. The proposed house would have been served by an access road running from the existing private access road which serves the house which lies between the site and the main road. The reason for refusal of planning application 21/01364/P was;

"The proposed development would be a conspicuous and incongruous outward extension of Dirleton, harmful to the form, character and appearance of the Village and of the Conservation Area and would not preserve or enhance the special architectural or historic character or appearance of the Dirleton Conservation area contrary to Policies CH2 and DP7 of the adopted East Lothian Local Development Plan 2018 and to Scottish Planning Policy: June 2014."

That decision to refuse planning permission was appealed to the East Lothian Local Review Body (ELLRB) in October 2022 and was subsequently dismissed. The ELLRB agreed unanimously to dismiss the appeal and to refuse planning permission for this application, for the reasons set out by the Planning Officer in the original decision notice.

In October 2024 application 24/00003/HHN approved the service of a High Hedge Notice on the application site which required the hedge owner to:

a. Initial Actions:

The first 23m of Hedge A from the southwest corner should be reduced incrementally over a phased period of time to no higher than 3.2m in height from ground level.

Period for Compliance: two-year period (from the date in which the notice takes effect).

b. Preventative Action:

o The first 23m of Hedge A from the southwest corner shall not exceed 3.2m in height and shall be maintained such that it does not exceed this height in perpetuity.

PROPOSAL

Planning permission is again sought for the erection of one house on the same application site as the previously refused applications Ref: 21/01364/P and 06/00945/FUL, and for associated works.

The house proposed through this application would be positioned towards the southern end of the site and would have a roughly 'L' shaped footprint. The proposed house would again be single storey in height - some 6.3m to the ridge of its roof - with some accommodation within part of its roof space. The pitched roof would feature gabled and hipped forms. The walls of the proposed house would be finished in a traditional Scottish wet render and would be finished in an off-white colour. The roof would be finished in interlocking concrete tiles in a terracotta colour and would be fitted with roof lights to serve the accommodation within the roof space. Windows would have timber frames that would be painted in a brown/dark brown colour while doors would be timber composite and finished in a conservation green colour.

The proposed house would be served by an access road running from the existing private access road which serves the house which lies between the site and the main road. The access road would run into the site at the southeast corner and from there it would meet a turning area to the east of the proposed dwelling. The existing Leylandii hedge surrounding the site would be retained.

A supporting statement has been submitted by the applicant as well as a further supplementary supporting statement. These documents state that the site is located within the settlement boundary of Dirleton conservation village. It is also stated that the site can be safely accessed and being within the defined settlement boundary, it will not set a damaging precedent to encourage the further northward spread of Dirleton. It is noted that other buildings already extend further northwards and are closer to the village core whilst Orchard Cottage to the east provides an almost identical example of what is being proposed in this instance. It is also stated that there are other examples of the village extending to the north in narrow fingers of development (and reflected in the settlement boundary). It is argued therefore that this would simply be a further example of such

development and far less visible than other examples at The Glebe and Orchard Cottage. It is also argued that site is practically invisible from any public place.

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.

Relevant to the determination of the application are Policies 1 (Tackling the climate and nature crises), 2 (Climate mitigation and adaptation), 3 (Biodiversity), 6 (Forestry, Woodland and Trees), 7 (Heritage Assets), 13 (Sustainable Transport), 14 (Design Quality and Place), 16 (Quality Homes) and Policies RCA1 (Residential Character), CH2 (Development Affecting Conservation Areas), Policy DP7: Infill, Backland and Garden Ground Development and T2 (General Transport Impact) of the East Lothian Local Development Plan 2018 are relevant to the determination of the application.

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

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires that a planning authority must pay special attention to the desirability of preserving or enhancing the character or appearance of the area in which the building is located.

Also, material to the determination of the application is the planning history of the site and the decisions to

- i) refuse planning application 06/00945/FUL for the erection of two houses on the site and the subsequent decision by the DPEA to dismiss an appeal ref: 09/00028/P01 for those two houses, and
- ii) refuse planning application Ref: 21/01364/P and the subsequent decision of the East Lothian Local Review Body to uphold the refusal of the planning application for the house.

REPRESENTATIONS

Four letters of objection to the application have been received. The main grounds of objections are summarised as follows;

- i) Traffic generation from the development itself;
- ii) Road access - concerns about access for emergency vehicles and increase in demand for parking at access to the site impacts on safe access;
- iii) Obstructions of driveways;
- iv) Disabled persons' access - ongoing issues with cars parking on pavements causing hazards to children, pushchairs, wheelchairs and people with impaired vision;
- v) Noise and disturbance resulting from use and impact on privacy of adjacent dwellings;
- vi) Design, appearance and materials - are the proposed homes built from materials that are sympathetic to the local landscape and area and other houses in the area;

- vii) Planning history and previous unsuccessful applications on the site;
- viii) Proposed development directly and negatively impacts the layout of the conservational aspect of the village and listed buildings;
- ix) Protection of rural setting is more beneficial to environment than provision of a dwelling;
- x) Placement of the proposed dwelling allows for further development to north of the site;
- xi) Market garden not viable for commercial use;
- xii) Site is greenfield and not brownfield and is opportunity to preserve a greenfield area within the village;
- xiii) Impact on wildlife such as badgers, owls, bats, birds, deer foxes and insects and need to remove Japanese knotweed;
- xiv) Impact on trees and their importance in the village;
- xv) Ongoing upkeep of the gravelled drive and impact on services such as gas, water and electricity beneath the drive. These services are also insufficient to support additional dwelling;
- xvi) Site not zoned for housing and its siting within RCA1 policy area in the LDP does not imply that a proposed new residential development will be acceptable on the site.
- xvii) View of Landscape Policy Officer should be sought on reduction of height of Leyland Cypress hedge and if approved, controls should be imposed on any grant of planning permission on timings of tree works, replacement planting and maintaining the height of the hedge;
- xviii) Design of dwelling should be in keeping with Dirleton Community Associations, Dirleton Design Guide; and
- xix) Use of hipped roof feature, fenestration, doors and guttering not in keeping with local vernacular.

With regards to impacts upon wildlife, the site is not located within any area of local or national importance.

The **Council's Landscape Policy Officer** has been consulted on this planning application with regards to the impact on trees and the Leyland Cypress hedge. As such, this shall be addressed further in the report below.

With regards to site access and parking, no objection has been raised by the **Council's Road Services** and no concerns were raised about access for emergency vehicle.

The matter of the use of the private road to serve the proposed development is a legal matter for those parties who have an ownership or right of access interest in the road. As such this is not a material planning consideration relevant to the determination of a planning application.

The potential for future development on the site is not a planning consideration and officers can only consider the application as currently set out before them. Any future planning

application submitted would be determined on its merits.

The matter of impact on demand for services and utilities of the proposal is not a material planning consideration relevant to the determination of this planning application.

COMMUNITY COUNCIL COMMENTS

None

PLANNING ASSESSMENT

With regards the vehicular access to the proposed house, the gravel drive is an existing drive that already gives access to several properties. The **Council's Road Services** has been consulted on the application and are satisfied with the proposed access arrangements shown on the proposed site plan for the house which shows a double driveway and turning space within its grounds, with access via a shared access private drive that, in turn, takes access from the B1345 Main Road. They confirm that the access has satisfactory visibility at its junction for such limited residential use and on this basis, the parking and access arrangements are acceptable in the context of the Council's adopted car parking standards and access design criteria as set out in our Transport Infrastructure in New Developments guidance.

The Council's Road Services also acknowledge the provision of an electric vehicle charging point on the site. Overall, they confirm that in general terms, the proposal is therefore considered to be acceptable from a roads and transportation impact perspective and they would not have any objections to the planning application.

It can therefore be reasonably concluded that pending compliance with such a condition with regards to the provision of an electric vehicle charging point, the proposal would not be a road safety hazard consistent with Policy T2 of the adopted East Lothian Local Development Plan 2018.

Given the positioning of the house and its a distance away from Speedwell House and other houses to the south of the application site it would not result in harmful overlooking or overshadowing of any neighbouring residential properties. The future occupants of the proposed house would also benefit from a sufficient level of privacy and amenity.

The **Council's Senior Environmental Protection Officer** has been consulted on the application. They have responded to confirm that they have no comments to make on the application. Accordingly, no objection has been raised.

Notwithstanding all of the above, it is now necessary to consider whether or not, with regard to national, strategic and local planning policy and other material considerations, the erection of the house and associated development on the application site is acceptable, with due regard to its impact on the character and appearance of the Dirleton Conservation Area and, if not, whether there are any other material planning considerations that outweigh this conflict with the development plan.

The application site is within the settlement of Dirleton as defined by Policy RCA1 of the adopted East Lothian Local Development Plan 2018. However, Policy RCA1 does not actively promote the development of land for new build residential development and proposals for new development need to be assessed against appropriate development plan policies. As the site is located within the Dirleton Conservation Area then in accordance with Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 any new development must preserve or enhance the character or

appearance of a conservation area and therefore the proposal has to be assessed against Policy 7 (Heritage Assets) and 14 (Design Quality and Place) of NPF4 and Policies CH2: Development Affecting a Conservation Area and DP7: Infill and Ground Development of the East Lothian Local Development Plan 2018.

Like the most recently refused application REF: 21/01364/P, this proposal is for one house to be erected on the site with vehicular access similar to the previously refused proposal. The difference between this application and the previously refused planning application Ref: 21/01364/P is that the proposed house would be sited towards the southern part of the site and it would be of a different design, with an L shaped footprint. The Leylandii trees around the site are also proposed to be lowered to a height of 3.2 metres.

On the matter of trees, the **Council's Landscape Policy Officer** has been consulted on this proposal. They have responded to state that the provision of the house on the south area of the site may be possible without significantly impacting on existing trees. But they state that the tree survey for the site does not include the trees adjacent to the shared driveway access and while the categories and condition of the trees are mentioned and root protection areas identified, an arboricultural impact assessment has not been submitted. Also, trees proposed to be removed have not been mitigated for.

The Council's Landscape Policy Officer also advises that the site plan states that the existing leylandii hedge to the west and east sides of the site is to be cut to 3.2m in height and retained at that height. They previously advised that the removal of the Leylandii hedge and replacement with a native hedge and trees would be more in keeping with the character of the Conservation Area. Retaining the trees as a lower managed hedge would be less incongruous in the Conservation Area. However, they also have concerns that topping the hedges to any height would leave an unattractive open top to the hedge. Therefore, they have suggested that should the application be granted conditions are attached that requires the management of the hedge at a height of no greater than 3.2m (and should any tree within the hedgerow fail it should be replaced with native planting. They have also requested that mitigation should be included for any trees to be removed as well as tree protection measures to be carried out.

Notwithstanding the above, the potential resolution of the trees and landscaping issues on the site does not provide sufficient weight to take a different decision on this application.

This application is similar in character to the two houses proposed through application Ref: 06/00945/FUL and the single house proposed through application Ref: 21/01364/P. Therefore the primary material consideration in the determination of this planning application is whether the fundamental reasons for the refusal of those planning applications have been addressed.

The Planning Committee refused planning application 06/00945/FUL in November 2009 for the reasons that, "The proposed development would be a conspicuous and incongruous outward extension of Dirleton, harmful to the form, character and appearance of the Village and of the Conservation Area."

The Reporter in his decision on appeal ref: 09/00028/P01 agreed with the Council that the proposal would not integrate well into its surroundings and would simply extend the northern edge of the village into the undeveloped surrounding countryside in a conspicuous and incongruous manner. They stated that the development would represent an intrusion out of character with the surrounding agricultural land and would conflict with the important objective of preserving or enhancing the character and appearance of the conservation area. He also stated that since the site is surrounded on 3 sides by agricultural land and it is self-evident that development of the site would be out of keeping

with these agricultural surroundings. In view of the forgoing the site cannot be properly described as an infill site. Therefore, there is no support for the proposal in DP7.

The refusal of planning application Ref: 21/01364/P further concluded that the proposed development would be a conspicuous and incongruous outward extension of Dirleton, harmful to the form, character and appearance of the Village and of the Conservation Area and would not preserve or enhance the special architectural or historic character or appearance of the Dirleton Conservation Area. This view was furthermore unanimously supported by member at the subsequent appeal to the East Lothian Local Review Body.

Since the decision to refuse planning application Ref: 06/00945/FUL in 2009 and Ref 21/01364/P in 2022, other than the Leylandii trees around the site growing taller, there has been no significant change to the application site or to the part of the Dirleton Conservation Area in which the site is located.

However, since the decision to refuse planning application Ref: 21/01364/P was taken, NPF4 has become part of the Development Plan. Policy 7 of NPF4 echoes the requirements of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and requires that any new development must preserve or enhance the character or appearance of a conservation area. This requirement is also required by Policy CH2 of the adopted East Lothian Local Development Plan. Therefore development plan policies on development in a conservation area have been strengthened.

Consequently, as the proposal is so similar in character to the previously refused planning applications - Ref: 06/00945/FUL and 21/01364/P - and as the Development Plan Policy on development in the conservation area has been strengthened by the introduction of Policy 7 of NPF4 then the fundamental reasons for the refusal of those applications that "the proposed development would be a conspicuous and incongruous outward extension of Dirleton, harmful to the form, character and appearance of the Village and of the Conservation Area and would not preserve or enhance the special architectural or historic character or appearance of the Dirleton Conservation area" have not been addressed.

Therefore, there is no good reason to take a different decision on this application to that of planning ref: 06/00945/FUL and planning application Ref: 21/01364/P. Accordingly, as the proposed development would not preserve or enhance the special architectural or historic character or appearance of the Dirleton Conservation area it is contrary to Policies 7 and 14 of NPF4 and Policies CH2 and DP7 of the adopted East Lothian Local Development Plan 2018.

In conclusion, the proposals are considered not to be in accordance with the provisions of the stated relevant Development Plan policies and there are no material planning considerations with sufficient weight to outweigh the fact that the proposal is contrary to the Development Plan.

REASONS FOR REFUSAL:

- 1 The proposed development would be a conspicuous and incongruous outward extension of Dirleton, harmful to the form, character and appearance of the Village and of the Conservation Area and would not preserve or enhance the special architectural or historic character or appearance of the Dirleton Conservation area contrary to Policies 7 and 14 of NPF4 and Policies CH2 and DP7 of the adopted East Lothian Local Development Plan 2018.