

DIRLETON VILLAGE ASSOCIATION

11 December 2019

Environment
East Lothian Council
John Muir House
Brewery Park
Haddington
EH41 3HA

Email environment@eastlothian.gov.uk

Dear Sirs

Application no 19/00895/P - Change of use of agricultural land to domestic garden ground and extension to house, erection of 1 house, conversion, extensions to agricultural buildings to form 2 houses, erection of triple domestic garage/store, greenhouse and associated works - Broad Sands House Dirleton

Application no 19/00903/LBC - Alterations, extensions to buildings, formation of hardstanding areas, erection of walls, fencing, gates, bin store and demolition of buildings - New Mains North And West Ranges With Engine House And Stalk Now Forming Part of Broad Sands House Dirleton

Preliminary comments

The Dirleton Village Association (“the DVA”) makes the following observations on, and objections to, the above applications for planning permission and listed building consent. Although there are two separate applications, there is significant overlap between them both and we ask you to treat our comments as applying to both.

Subject to your being satisfied that the proposals contained in the application for listed building consent comply in all respects with the provisions of paragraph 5.4 of the Local Development Plan 2018 (“the LDP”) and with the Council’s supplementary design guidance on farm steadings published in October 2018, we do not object to the proposals regarding houses 1 or 3 referred to in the applications, except in relation to (1) the claimed existing right of way through the overall site and (2) the proposed garage block for house 3, on each of which we comment below. We also have significant concerns about houses 2 and 4, the latter to be erected within the woodland area that forms the western part of the overall site.

Development in the countryside

The whole of the area to which the applications relate is designated as Countryside within the current LDP – see the relative Inset Map 22 – Dirleton. The site proposed for house 2 at

present contains redundant agricultural buildings. The site proposed for house 4, although containing two small semi-derelict agricultural buildings, is predominantly mature woodland, is identified as such on the Inset Map and is understood never to have formed part of the steading area as an operational farming unit. The proposals regarding houses 2 and 4 do not comply with Policy DC1 of the LDP, Rural Diversification, the relevant part of which states:-

Development in the countryside, including changes of use or conversions of existing buildings, will be supported in principle where it is for:

- a) agriculture, horticulture, forestry, infrastructure or countryside recreation; or*
- b) other businesses that have an operational requirement for a countryside location, including tourism and leisure uses*

Further, the proposals for these two houses do not comply with Policy DC2 of the LDP, Conversion of Rural Buildings to Housing, the relevant part of which states as follows:-

Conversion of appropriate buildings in the countryside to residential use will be supported where:

- (i) The existing building is worthy of retention by virtue of its architectural or historic character;*
- (ii) The building is physically suitable for the proposed use and any extensions or alterations are compatible with and do not harm any significant architectural or historic features of the building and are in keeping with its size, form, scale, proportion, massing and architectural character; and*
- (iii) The building stands substantially intact (normally to at least wallhead height) and requires no significant demolition. To be satisfied that the existing structure is suitable for the conversion without significant demolition the Council must be provided with credible evidence of the building's structural stability at the time of the planning application.*

New build housing in the countryside

Further still, the proposals for houses 2 and 4 do not comply with Policy DC4 of the LDP – New Build Housing in the Countryside which states as follows:-

New build housing development will only be supported in the countryside outwith the constrained coast where there is no existing house or no appropriate existing building suitable for conversion to a house is available in the locality and:

- (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. The Council will obtain independent advice from an Agricultural and Rural Advisor on whether there is a direct operational requirement for an associated house; 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.

(iii) The proposal satisfies the terms of Policy NH1.

With reference to this policy, it should be noted that the site does not form part of the constrained coast and that Policy NH1 relates to RAMSAR internationally designated sites and does not apply in this instance.

Woodland

We are particularly concerned about the impact of development upon the woodland area forming the western section of the overall site, in which house 4 is to be erected and in which the proposed garage block of house 2 is located. As stated above, it is understood never to have formed part of the steading area as an operational farming unit. It contains a number of mature hardwood trees, as described in detail in the applicant's tree report dated 2 September 2019 lodged with the planning application. It is the only group of large trees lying between the conservation area, whose northern boundary is the Eel Burn (which runs immediately to the south of the application site) and the open agricultural land to the north of the site (between it and the Archerfield common strip of woodland to the north). As such, it forms an important and strategic visual and ecological landscape feature and we suggest that any developments within it will conflict with Policy Guidance 9.2 set out in the LDP Supplementary Planning Guidance, which states that proposals leading to the loss of trees that would be detrimental to the character and appearance of a conservation area will not be supported.

In the introduction to the above noted tree report it is stated at page 4 that the investigations on which the report was based were carried out on 24 June 2019. Paragraph 3.3 of the report states that "of particular arboricultural note is the presence of trees in the open ground to the west of the steading.....A number of mature and large trees were dangerously defective (some partially windblown and leaning heavily) these were removed prior to this assessment". This is misleading. The felling was carried out in February 2019, four months before the assessment was carried out. This is supported by an email of 25 February from the tenant of the cottage that will form house 1 to the Council headed "Destruction of woodland at Dirleton New Mains". It states that "A property developer who bought the old farm buildings at New Mains Dirleton from Archerfield Estates in December cut down a large number of mature trees in the adjacent woodland over the weekend.....The newly cleared patch in the woodland would accommodate another large house, Several mature trees were cut down, including a perfectly healthy oak, which must have been over 100 years old. It looks like the new owners wanted to create facts before they submit a new planning application". The tenant provided several photographs of the felled trees taken at the time and two of these are as follows:-



We suggest that the tree consultants were not correctly briefed on this aspect prior to the preparation of their report. It can be seen from these photos that the trees were in good condition, and they would not have been close to the housing area permitted by the previous (2010) planning application. It would be an extremely significant and worrying development if landowners were able to fell trees in this way in advance of making planning applications.

We understand that there is a pending prosecution to be brought by the Forestry Commission concerning this illegal felling of mature trees. Whether or not the applications are granted, we would ask the planning authority to insist that the western part of the site should be retained as woodland with no development within it, and that the area should be replanted with native broadleaf trees, including semi-mature specimens to replace those felled in advance of the application. The public has lost both the visual amenity of the trees and their climate change benefits, and the replacement of such large trees with small ones would not compensate.

Further as regards the woodland area, in the supporting planning policy statement by Pritchett Planning Consultancy lodged with both applications ("the Pritchett report") it is stated at paragraph 3.12 on page 14 that "the development site has a number of trees within the curtilage of the proposed dwellings and these will be retained as far as practicable. No felling is proposed to make way for built development. A tree survey is included within the application submission which identifies the quality of the trees within the site. The siting and layout of the dwellings has been carefully devised to work within the topography and tree coverage within the site in accordance with policy NH8" [of the LDP]". However, the drawing on page 3.1 of the design and access statement submitted with both applications shows extensive tree cover close to house 4 and close to, and indeed overhanging, the building which is to form the garage block for house 2. The drawings at the end of the tree report also clearly illustrate the extent of the tree cover. Although it is claimed in the summary at the end of page 4 of that report that "the impact on trees across the site is negligible", we suggest that is not the case and that the development of house 4 and the garage block for house 2 could not be carried out without the loss of further trees.

Housing as enabling development

We have noted the comments in paragraphs 3.10 and 3.11 of the Pritchett report relating to housing as enabling development. It refers to Policy DC5 and paragraph 5.12 of the LDP. That paragraph is in the following terms:-

5.12 The Council may exceptionally be willing to support an element of new build housing as enabling development to help deliver another form of development (other than for residential development or infrastructure) that is supported in principle in a countryside location under policy DC1, or where it would fund the restoration of a listed building or one 5.12 The Council may exceptionally be willing to support an element of new build housing as that has recognised heritage value including being recorded on the national Buildings at Risk Register or other significant feature of the built or natural environment, the retention of which is desirable. Proposals must also protect or enhance the setting of such features. Such an approach would only be supported if the wider benefits of the main proposal outweigh the normal policy presumption against new build housing in the countryside. Any such enabling development must be essential, the minimum necessary to achieve the primary use, and not a substitute for normal development funding, including borrowing. Additionally, such proposals would not be expected to provide affordable housing for this reason.

It is apparent that the first part of this paragraph does not apply in this case, as it states that new build housing cannot be construed to support residential development. While on the face of it the next part of the paragraph might be interpreted as justifying the development of houses 1, 2 and 4 as enabling the restoration of the a Category B listed steading building, we note that such a concession is only permitted in exceptional circumstances. In assessing whether such circumstances would apply in this case, we suggest that a test of reasonableness needs to be applied. We do not think it would be reasonable to permit the development of as many as three houses, two of which would essentially be new-build houses in the countryside, to enable the restoration of the steading.

Public access

The Pritchett report contains extensive comments about access to and through the site at paragraphs 3.22 and 3.23, on page 17. In particular it is stated in paragraph 3.23 that there are no rights of way or core paths in the surrounding area or on the site; that the plan within the access statement is an extract from the Council's core paths plan and that "the path" (which is not in fact identified) is now indicated as being around the perimeter of the land owned by the applicant, which will follow the edge of existing farmland. There is no such plan contained within the access statement, the plans on page 2.8 thereof being described as "historical maps". The above comments suggest to us that the author of the report had only a vague and confused understanding of the position on the ground and may not have been correctly briefed about it by the applicants. It will be seen from the Council's core path map, downloadable at

https://www.eastlothian.gov.uk/downloads/file/23137/map_b_north_berwick_and_surrounding_area

that the path (coloured light blue on the map) from Ware Road (a public highway) to the John Muir Way (a core path) north of Dirleton, ran through the steading area and is shown as being in the category of "other paths (part of the wider path network)". For many

decades this has been used by the public without challenge as a route for walking, cycling and riding on horseback. In February 2019 the applicants erected heavy duty industrial fencing round the whole of the steading area, effectively closing off the route and preventing the public from using it. They also removed long established Scottish Rights of Way & Access Society (Scotways) signs at each end of the path which showed it as being a public footpath from Dirleton to Ware Road and *vice versa*. The DVA has subsequently obtained questionnaires signed by nearly 70 people certifying their unchallenged use of it as a walking, cycling and riding route over varying periods of years, 40 of the signatories certifying use for periods of more than 20 years, which is the prescriptive period for establishing a public right of way. The DVA's action on this has been undertaken with the support of the Council's access officer, Nick Morgan, who has advised us that he has alerted the planning officer to the situation and has passed the evidence to the Council's legal department, who are still considering it.

The DVA would be content to agree a diversion of the right of way via the north side of the steading and woodland areas, which could be on land already within the applicants' ownership but outwith the development site, so long as it was properly formed as a suitable path and fenced off from the adjacent farmland. As the applicants have, however, demonstrated significant aggression towards local people accessing, or seeking to access, the area no approach about this has been made to them. If you are minded to grant either or both of the applications we would ask you to make it a condition that such access is provided, and that the Scotways notices at each end of the route are restored, at the applicants' expense, prior to the commencement of development.

Planning Gain

The overhead electricity cables which serve the proposed development are unsightly. The section of these to the west of the application site is in the conservation area, and the section to the east has an adverse impact on the approach to Yellowcraig beach. Both sections have an adverse impact on the views of the steading from the John Muir Way and Ware Road and on the entrances and approaches into the site. We suggest that the proposed development is sufficiently large to justify the undergrounding of these cables, with the priority being the section to the west which is in the conservation area and which affects the appearance of the important northern edge of the village. If you are minded to grant either or both of the applications, please consider a Section 75 planning agreement requiring the applicants to undertake this.

Please take all of these comments into account in considering both applications.

Yours faithfully

Rob Aberdein
Chairman
for Dirleton Village Association