

REVIEW DECISION NOTICE

Decision by East Lothian Local Review Body (the ELLRB)

Site Address: 51 The Village, Archerfield Estate, Dirleton, East Lothian, EH39 5HT

Application for Review by Mr John Lindsay against decision by an appointed officer of East Lothian Council.

Application Ref: 13/00851/PP

Application Drawings: 1328/04

Date of Review Decision Notice – 5th March 2014

Decision

The ELLRB upholds the decision to refuse planning permission for the reasons given below and dismisses the review.

This Notice constitutes the formal decision notice of the Local Review Body as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.

1 Introduction

1.1 The above application for planning permission was considered by the ELLRB, at a meeting held on 27th February 2014. The Review Body was constituted by Councillor Tim Day (Chair), Councillor John McMillan, Councillor Steven Brown and Councillor Jim Goodfellow. All four members of the ELLRB had attended an unaccompanied site visit in respect of this application on the morning of 27th February 2014.

1.2 The following persons were also present at the Review Body:-

Phil McLean, Planning Adviser
Morag Ferguson, Legal Adviser
Fiona Stewart, Clerk.

The Applicant and his Agent were present as observers.

2 Proposal

2.1 The proposal is to construct a house on a site that is currently the garden ground of the detached property owned by the applicant. The site is in residential development the Archerfield Estate, Dirleton. The planning application was registered on 30th October 2013 and was refused by the

Appointed Officer under delegated powers on 5th December 2013 on the basis that (a) no operational requirement had been advanced to justify the building of a house on the site, which house would be sporadic new build housing development in the countryside, all contrary to Policy DC1 of the East Lothian Local Plan 2008; and (b) if approved, the proposed development would set an undesirable precedent for development in the countryside at Archerfield, the cumulative effect of which would be to the detriment of the character and amenity of The Village and to this part of the East Lothian countryside. The Notice of Review is dated 9th January 2014.

3 Preliminaries

3.1 The ELLRB members were provided with copies of the following:-

1	The drawings specified above
2	The application for planning permission and supporting documents
3	The Appointed Officer's Report of Handling
4	A copy of the Decision Notice dated 5 th December 2013
5	Copies of Policy 1B of the Approved Strategic Development Plan (SESplan) of 2013
6	Copies of Policies DC1, NH4, NH5, TOUR1, DP14, T1, T2, DP22, DP1 and DP2 of the Adopted East Lothian Local Plan 2008
7	Copy Consultation response from East Lothian Council's Transportation department in respect of the Application
8	Copy of Representations and Objections received in respect of Application
9	Notice of Review dated 9 th January 2014
10	Applicant's Statement of Grounds of Review
11	Set of Conditions

3.2 The Planning Adviser advised Members that planning legislation requires decisions on planning applications to be taken in accordance with Development Plan policy unless material considerations indicate otherwise. The Development Plan in this case is the approved Strategic Development Plan for Edinburgh and South East Scotland (SESplan) and the adopted East Lothian Local Plan 2008. He advised that Local Plan policy TOUR1 relates specifically to the Archerfield Estate and supports the principle of high quality golf based hotel, leisure and recreation development. The Local Plan states that any new development proposed within the Estate must be consistent with policies controlling development in the countryside. He reminded Members that the key policy in this regard is Local Plan policy DC1, which generally seeks to restrict development in the countryside to protect its character, while allowing some limited forms of appropriate development. Members were advised that new build housing is normally only permitted under this policy where there is an agricultural or other operational requirement for it or where it is enabling development.

The Planning Adviser also confirmed that the site is within a designated Area of Great Landscape Value and includes protected trees. He advised Members that the relevant Development Plan policies in this regard are SESplan policy 1B and Local Plan policies NH4, NH5, and DP14. He also advised that policies on transport and parking are also relevant to this proposal, specifically Local Plan policies T1, T2 and DP22, along with design policies DP1 and DP2. He confirmed that Scottish Planning Policy is also relevant and that this contains national policy on a wide range of matters including housing and rural development.

He reminded Members of the planning history of developments at Archerfield, including the housing now known as The Village, which was originally permitted in 2002 as enabling development to fund the restoration of Archerfield House and its designed landscape. He advised that the planning history is also summarised in the case officer's report and in the Applicant's planning statement.

The Planning Adviser reminded the LRB that the application was refused by the Appointed Officer for two reasons; firstly, on the basis that there is no operational need for the proposed house and it is therefore contrary to Local Plan policy DC1 and secondly, that approval would set a precedent for further development of new houses at Archerfield, the cumulative effect of which would be detrimental to the character of The Village and the surrounding countryside. He confirmed that the case officer considered the proposal acceptable in other respects, including privacy and amenity, impact on protected trees, traffic, and road safety, noting that conditions could be imposed to control detailed matters. He confirmed that the full details of the case officer's assessment are in the report.

The Planning Adviser then summarised the Applicant's case, as set out in the Notice of Review, which argues that The Village at Archerfield should be treated as a small village settlement, with different Local Plan policies such as DP7 used to control its development. It is further argued that policy DC1 is out of date and in need of review and that Scottish Planning Policy supports the proposals and should be accorded significant weight. The Applicant states that there were no specific planning objections from neighbours or consultees. In terms of precedent, the Applicant argues that very few properties in The Village have the same scale of garden ground and this proposal is effectively an 'infill' site. Finally, the Applicant refers to the decision of the Council's Planning Committee in June 2013 to allow 40 houses and 20 flats within the Archerfield Estate and argues that this sets a much more significant precedent in support of allowing more housing in the area. The minute of the committee meeting is submitted in support of this, with attention being drawn to recorded comments about the applicability of policy DC1 to the Archerfield area. He confirmed that the full details of the Applicant's arguments are in the Review Documents.

The Planning Adviser confirmed that the Council's Transportation service raised no objections to the application but recommended conditions regarding access and parking. He advised that Gullane Community Council and the Dirleton Village Association both raised concerns about impact on the woodland known

as the Common Strip, the potential lack of vehicle turning space within the site, and whether the size and positioning of the proposed house would mean it was out of keeping with its surroundings. He confirmed that there had been no further representations received in response to the Notice of Review.

In conclusion, the Planning Adviser reminded Members that they should consider whether the proposed development would comply with the policies of the Development Plan and whether there are any other material considerations that should be taken into account, such as national policy, and whether any of these outweigh the provisions of the Development Plan in this case.

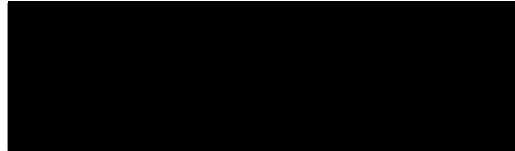
The Chair asked the Members to consider whether they had sufficient information to enable them to proceed to make a decision in respect of this matter. All members considered that they did have sufficient information. Accordingly, the decision of the ELLRB was that they would proceed to reach a decision at this meeting.

4 Findings and Conclusions

- 4.1 Councillor Goodfellow stated that he considered that the key test is whether this application complies with Policy DC1 of the Local Plan. He could not see that the applicant's wish to build a house on this site complied with the terms of Policy DC1 as there was no direct operational requirement for a house and it would not contribute to the cost of restoring Archerfield House, in the manner of the original development. Accordingly, he could see no grounds to overturn the original decision to refuse this Application. Councillor Brown concurred with the views of Councillor Goodfellow and advised that he would also support the original decision to refuse this Application as it does not comply with the terms of Policy DC1. Councillor McMillan stated that it was his view that a settlement had been established at The Village and that this now merited different treatment from the surrounding countryside. He also considered that Scottish Planning Policy, paragraph 94, states that development plans should support more opportunities for small scale housing development in all rural areas. He was therefore minded to overturn the Appointed Officer's decision on the grounds that the application site was a sizeable plot and should be considered as an exception to Policy DC1, given the settled nature of The Village.
- 4.2 Councillor Day advised that the current position is that Policy DC1 applies to this site. He advised that, in his view, Policy DC1 rightly sets a high bar as it is the means by which the countryside in East Lothian is protected from inappropriate development and he could see no mitigating factors or operational requirement to depart from that policy in this case. In respect of the Applicant's reference to the recent granting of planning permission at Archerfield for 40 houses and 20 flats, he advised that the minutes of this meeting note his support for all but one of the applications, 13/0006/P, which was on land covered by policy DC1, hence his decision today was consistent with his previous position. He also stated that Archerfield Village was conceived in a certain style and, by granting this application, the LRB would be setting an unwelcome precedent which could fundamentally change its character. Finally, he noted that the applicant stated in

his supporting documents that that this was the only property which was capable of accommodating a house, but having viewed the site today, he had to disagree with that assessment.

- 4.3 Accordingly, the ELLRB, by a majority of three votes to one, agreed that the Review should be dismissed and the original decision to refuse this application should be upheld, for the two reasons set out in the original Decision Letter of 5th December 2013. The Review Application was accordingly dismissed.



Morag Ferguson
Legal Adviser to ELLRB

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under section 43A(8)

Notice Under Regulation 21 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.

- 1 If the applicant is aggrieved by the decision of the planning authority to refuse permission or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.

- 2 If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

