

REPORT TO: Planning Committee

MEETING DATE: Tuesday 2 September 2014

BY: Depute Chief Executive
(Partnerships and Community Services)

SUBJECT: Application for Planning Permission for Consideration

Note - this application was called off the Scheme of Delegation List by Councillor Veitch for the following reasons: Councillors would benefit from a site visit.

Application No. **13/00975/PP**

Proposal Planning permission in principle for the erection of 1 house

Location **Former Dairy Cottage
14 South Belton
Dunbar
East Lothian
EH42 1RG**

Applicant DV Rennie and Co

Per Ironside Farrar

RECOMMENDATION Application Refused

PLANNING ASSESSMENT

The application site is in a countryside location to the southwest of Thistly Cross roundabout. It is positioned on the southeast side of the Biel Water and to the northwest of the B6370 public road.

The site is bounded to the northeast and southeast by agricultural land, to the southwest by a track and woodland and to the northwest by the Biel Water with woodland and agricultural land beyond.

Belton Dovecot is located some 95 metres to the southwest of the site. The residential property of Lower Belton Lodge is located some 200 metres to the southeast of the site and the residential properties of Stables Cottage and Gardeners Cottage are, respectively, some 260 and 320 metres to the south of it. Otherwise the surroundings are agricultural land.

Belton Dovecot, Lower Belton Lodge and Gardeners Cottage are all listed (Category B) as being of special architectural or historic interest.

The central part of the site is occupied by the stone walls of what was Dairy Cottage with, attached to the southeast wall, the walls of an agricultural or storage building. There is a small stone outbuilding on the southern corner of the site. The site is otherwise laid to grass with mature trees and partially overgrown with shrubs.

The north-western part of the site including the river bank is within the Scottish Environment Protection Agency's (SEPA) fluvial flooding zone for the Biel Water.

The site is accessed by a private access road leading from the B6370 public road shared with the residential property of Lower Belton Lodge. The access road also links to Stables Cottage and Gardeners Cottage.

There have been two recent planning applications relating to this site.

Through previous application 07/001218/FUL, planning permission was sought by Fiona Rennie & Derek Farquharson for the erection of a new build house on the site as a replacement for Dairy Cottage. The submissions made with that application stated that Dairy Cottage was damaged by fire during renovation and that due to the structural instability of its remaining walls it could not be restored and that instead a new build house should be allowed in its place.

Through their determination of application 07/001218/FUL the Council's Planning Committee refused to grant planning permission for the proposed new build house for the following reasons:

1 No case has been made for the building of the proposed new house in the countryside to meet an agriculture, horticulture or forestry need. No other operational need has been advanced to justify the erection of the proposed new house. Consequently and because the proposed new house would therefore constitute isolated, sporadic development in the countryside this proposal is contrary to Policy ENV3 of the approved Edinburgh and the Lothians Structure Plan 2015 and Policy DC1 of the adopted East Lothian Local Plan 2008.

2 If approved the proposal 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 of the open countryside of East Lothian.

3 By its design and appearance the proposed new build house would be an intrusive and incongruous form of development harmful to the rural character and appearance of this countryside location within East Lothian. It would not maintain a sense of place or support local identity. Consequently it is contrary to Policies ENV3 and ENV1G of the approved Edinburgh and the Lothians Structure Plan 2015 and Policies DC1 (Part5) and DP2 of the adopted East Lothian Local Plan 2008.

Planning permission in principle (12/00196/PP) was thereafter sought by D.V. Rennie & Co. for the erection of a new build house on the application site.

Through that application D.V. Rennie & Co. sought to justify the principle of a new house being built on the site on the grounds that:

(i) it is required for housing agricultural workers of South Belton Farm; and

(ii) it is required for the Manager (Fiona Rennie) of the nearby Belhaven Trout Farm who needs a residence close to the Biel Water to monitor water levels and thereby manage flood risk at the Trout Farm.

Through their determination of application 12/00196/PP the Council refused to grant planning permission in principle for the erection of 1 house on the site for the following reasons:

1 It is not demonstrated that the building of a new house on the application site is required to meet an agriculture, horticulture or forestry need or other established employment use in the countryside of East Lothian and neither is it demonstrated that there is a justifiable operational need for the house to enable monitoring of water levels of the Biel Water relative to the operation of the Dunbar Trout Farm. Consequently, and because the proposed new house would constitute isolated, sporadic development in the countryside of East Lothian this proposal is contrary to Part 1(B) of Policy DC1 of the adopted East Lothian Local Plan 2008 and Policy ENV3 of the Approved Edinburgh and the Lothians Structure Plan 2015.

2 If approved the proposal 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 of the open countryside of East Lothian.

Through this current application D.V. Rennie & Co. again seek planning permission in principle for the erection of a new build house on the application site. D.V. Rennie & Co. again seek to justify the principle of a new house being built on the site, this time on the grounds that:

1 Primarily the proposed house would be a direct replacement for the Dairy Cottage which was badly damaged by fire in 2007. The Dairy Cottage was an important asset for the farm in terms of supplementing income and providing additional housing capacity for residents linked to the farm when the need arose.

2 The replacement house would function as a residence for one of the owners of the Bellhaven Trout Farm and Smokery enabling the continued 24 hour monitoring of the level of the Biel Water.

As the application is for planning permission in principle, no details of the design of the proposed house have been submitted. However, in the Supporting Statements accompanying the application it is stated that the detailed design would include a house of a similar form and scale to the original dairy cottage reflecting the local vernacular and constructed using traditional materials sensitive to the surrounding area.

The existing access arrangements for the site would remain unaltered.

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 the approved South East Scotland Strategic Development Plan and the adopted East Lothian Local Plan 2008.

Relevant to the determination of the application is Policy 1B of the approved South East Scotland Strategic Development Plan and Policies DC1 (Development in the Countryside and Undeveloped Coast), ENV3 (Listed Buildings), DP22 (Private Parking) and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008.

Also material to the determination of the application is Scottish Planning Policy: June 2014.

Scottish Planning Policy echoes the statutory requirements of Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that in considering whether to grant planning permission for development which affects a listed building or its setting a planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

In paragraph 76 of Scottish Planning Policy it is stated that in the pressurised areas easily accessible from Scotland's cities and main towns, where ongoing development pressures are likely to continue, it is important to protect against unsustainable growth in car-based commuting and the suburbanisation of the countryside, particularly where there are environmental assets such as sensitive landscapes or good quality agricultural land. Plans should make provision for most new urban development to take place within, or in planned extensions to, existing settlements.

In paragraph 78 it is stated that in areas of intermediate accessibility and pressure for development, Plans should be tailored to local circumstances, seeking to provide a sustainable network of settlements and a range of policies that provide additional housing requirements, economic development and the varying proposals that may come forward while taking account of the overarching objectives and the other elements of the plan.

In paragraph 81 it is stated that in accessible or pressured rural areas, where there is a danger of unsustainable growth in long-distance car-based commuting or suburbanisation of the countryside, a more restrictive approach to new housing development is appropriate, and plans and decision making should generally guide most new development to locations within or adjacent to settlements; and set out the circumstances in which new housing out with settlements may be appropriate, avoiding use of occupancy restrictions.

As is stated in paragraphs 2.10 and 2.11 of the adopted East Lothian Local Plan 2008 "East Lothian's countryside and undeveloped coast exhibits little need for regeneration, renewal or action to redress population decline. It is not a remote rural area where a more permissive planning policy approach to new housing in the countryside might be appropriate on these grounds. Rather it is an area where few, if any, locations are more than 1 hours travel time of Edinburgh and, on the whole, is characterised by increasing population and economic growth and a continuing pressure for housing development both within and out with its towns and villages. Characteristic of the countryside is its wide range of types and sizes of attractive vernacular buildings that contribute greatly to its character." "For these reasons, new development, particularly housing, is directed to existing settlements. New development in the countryside is permitted only in the specific circumstances defined in Policy DC1."

10 written representations have been received. Of those 9 are supportive of the proposal and 1 raises objection to the proposal on the grounds that the site is part of an area of natural beauty that is used for horse riding off the public road and any building work on the site will scare horses and restrict where horse riding can take place.

One of the letters of support has been submitted by one of the operators of the trout farm to which this application relates. The operator advises he has been running the trout farm since he joined Belhaven Trout Company in 2007 and as he does not live near the

trout farm he has two computerised alarm systems to help him monitor water level and water flow through the screens. He gives examples in his letter of occasions when due to the alarm failing when he has been out of the area, or him having no mobile phone contact and hence no contact with the alarm, the applicant, Fiona Rennie, and her partner, due to them living near the burn, have been able to monitor the water levels or provide other assistance to save the fish stocks at the trout farm.

The other 9 representations are supportive of the proposal on the following grounds:

- Dairy Cottage is currently an eyesore in a beautiful part of the countryside and a nice well kept cottage would suit the area a lot better;
- A new house would allow for the occupants to keep an eye on the river in order to help monitor river levels;
- Rebuilding a house on the site will have a positive impact on the area;
- The replacement house would not be isolated and would very much form a part of South Belton Farm and a part of our small but very important local community;
- Rebuilding the house will be in line with SESplan objectives for East Lothian Council and will ensure our historic farmtouns and estates are lived in, preserved and enjoyed;
- To rebuild a house on a historically existing site makes more sense than opening up agricultural land to housing development.
- It is difficult to comprehend why previous planning applications for a replacement house on the site have been refused;
- Walkers in the area would feel much safer if the ruin on the site was replaced by a house with occupants.

There is no evidence to suggest that any building works involved in the building of a single house on this site would have a significant or long term impact on recreational users of this part of the countryside, including horses and their riders.

In respect of SESplan, its Policy 5 identifies the housing requirement across the SESplan area but not by each Council area. Instead it requires the production of Supplementary Planning Guidance to set out how much of that overall requirement will be met in each Council area through the relevant Local Development Plan. The Council has agreed that East Lothian has a shortfall in its effective housing land supply. However, until such time as the SESplan Supplementary Planning Guidance is approved the Council does not have a definitive housing requirement against which to measure the effectiveness of its five year housing land supply. On this basis the Council approved its Housing Land Supply: Interim Planning Guidance against which planning applications for housing on land not allocated for that purpose will be assessed. The Council's Housing Land Supply: Interim Planning Guidance only applies to housing applications that form an appropriate extension to an existing settlement defined in the adopted East Lothian Local Plan 2008. It does not apply to otherwise isolated development in the countryside, to which the terms of Policy DC1 of the adopted East Lothian Local Plan 2008 will continue to apply.

The land of the application site is defined by Policy DC1 of the adopted East Lothian Local Plan 2008 as being part of the countryside of East Lothian, characterised by a low density dispersed built form within an agricultural landscape. The adopted Local Plan does not allocate the land of the application site or any other land at Belton for residential development. Neither does the Local Plan define any part of Belton as being a settlement. As the land of the application site does not lie adjacent to an existing settlement defined in the adopted East Lothian Local Plan 2008, the Council's Housing Land Supply: Interim Planning Guidance (December 2013) is not a material consideration in the determination of this application for planning permission. The

principle of a new build house on the application site must therefore be assessed against national, strategic and local planning policy relating to the control of new build housing development in the countryside.

The Council's planning policy for development in the countryside of East Lothian, Policy DC1, does not make any provision for the replacement of an existing house (whether it be in a derelict or fully intact state) with a new house. Replacement houses therefore have to be considered and assessed in the same way as new houses in the East Lothian Countryside. Part 1(b) of Policy DC1 only allows for new build housing development in the countryside where the Council is satisfied that a new house is a direct operational requirement of an agricultural, horticultural, forestry or other employment use.

The applicants (in supporting statements dated November 2013 and May 2014) set out their case for what they consider to be a direct operational requirement for a house to be built on the site of the former Dairy Cottage in order to provide a dwelling in a suitable location to monitor river levels for the Trout Farm. The case made by the applicants through this current planning application is similar to the case made by them in their previous, refused, planning application (12/00196/PP) with the main differences being that (i) additional information, including a report prepared by the Scottish Agricultural College (SAC) and a letter from the Chief Executive of the British Trout Association, both of which are supportive of the applicant's case, have been submitted along with the application and, (ii) the applicant is no longer seeking to justify the principle of a new house on the grounds that it is required for housing agricultural workers of South Belton Farm.

The supporting statements inform that DV Rennie & Co is a family business which runs a series of successful farming enterprises at South Belton Farm, a farm which constitutes an exemplar form of rural diversification retaining a highly productive farm whilst supporting a range of successful diversification enterprises. The farm business is at the forefront of rural development in Scotland and is a robust major contributor to the local economy and a significant rural employer. In addition to the production of a range of crops including winter wheat, winter barley, winter oilseed rape, potatoes and field peas the diversification enterprises include: (i) Belhaven Smokehouse Ltd/Belhaven Trout Company; (ii) Belhaven Fruit Farm Ltd; (iii) Thistly Cross Cider Ltd; and (iv) the letting of holiday cottages. Furthermore the farm is a member of the National Farmers Union of Scotland, the Scottish Quality Cereals Association and the supermarkets' own quality assurance schemes.

In relation specifically to The Belhaven Trout Company and Belhaven Smokehouse the supporting statements inform that this part of the overall South Belton Farm Business employs 10 people locally. The trout farm contains 19 ponds that produce 20 tonnes of fish per annum. The Smokehouse produces a wide range of smoked fish and cheese products and fish are also used for restocking of private lochs/ponds; commercial fisheries and fish farms throughout Scotland.

It is stated that key to the successful running of the trout farm, the continued employment of current staffing levels and the protection of livelihoods, is the proper care and management of fish stock and the continued water side monitoring of the Biel Water. The importance of water monitoring is explained in the applicant's supporting submissions. They state that high water levels on the Biel Water can lead to the blocking of filter screens at the fish farm. If these screens are not cleared regularly during high water levels the fish can be starved of oxygen and significant stock can be lost. Therefore, key to the continued success of the business is the application of a robust approach to the monitoring of the level of the Biel Water.

At present it is explained that the fish farm management employs an industry standard and proven robust dual approach to water level monitoring which involves (a) a riverside presence which enables the 24 hour monitoring of the river level; and (b) the use of electronic water level monitoring tied to a mobile phone system. The supporting statements inform that on a number of occasions a 24 hour presence at West Barns has proven critical to the safeguarding of fish stocks. A 24 hour presence by the waterside is considered a critical means of appropriately monitoring the Biel Water.

It is explained that for the last 35 years West Barns House, which is in close proximity to the Biel Water, has functioned as the designated 24 hour water monitoring location. In recent years Ms Fiona Rennie, who is a core partner in the wider farming enterprise, one of the owners of the trout farm and now the dedicated water level monitoring manager, has resided at that house and monitored the level of the water from that location. Previously Ms Rennie's father monitored water levels from West Barns House. The house is due to be taken back in hand by its owner and will soon no longer be available for the purpose of water monitoring. A new location for her to monitor water levels is considered essential. In terms of where such a waterside presence should be, it is considered by the applicant that a replacement of the fire damaged Dairy Cottage would be the most appropriate location locally and would be stated make use of a brownfield site.

In addition to the above, the application is accompanied by supporting statements by the Scottish Agricultural College and by the Chief Executive of the British Trout Association who notes in his letter submitted in support of the planning application that: "Interruptions in flow, or pollution of water, can have devastating and near immediate impact upon fish stocks. Within a matter of hours, an entire site can be destroyed due to lack of oxygen supply or chemical pollution. Whilst there is relatively sophisticated, and depending on system, expensive, automated monitoring equipment that can be installed, virtually all sites rely on visual checks....it is extremely important for fish farm sites to have on site and near site monitoring points for water flow rates and water quality".

The Council has employed its Agricultural & Rural Development Consultant to assess the business case put forward by the applicant.

Her findings are based on an assessment of the applicants 'Supporting Statement, Rebuilding Dairy Cottage, South Belton Farm, Dunbar' dated November 2013; a paper of the applicant's comments of rebuttal of commentary contained in the Refusal of Planning Permission in Principle 12/00196/PP plus full updated financial information concerning all aspects of the holistic business conducted from the South Belton estate, and a site visit to South Belton during which she interviewed Mr Fiona Rennie and her lifestyle and business partner, Mr Derek Farquaharson and Ms Rennie's brother, Mr Ian Rennie, also a partner of DV Rennie & Co, the main business conducted from South Belton and West Barns Farms. Further to her site visit, the Agricultural & Rural Development Consultant consulted various parties including SEPA and the British Trout Association (BTA) for their opinions on the working operations of management of water supply to trout farms and in particular to the South Belton unit.

The Agricultural & Rural Development Consultant informs that the business of D.V. Rennie & Co is structured as a partnership with the five partners being Ian Rennie, his brother Michael, sister Fiona (the applicant), the new partner, Mark, son of Ian Rennie and the DV & J Rennie Trust which party is comprised of Ian Rennie's late parents. She advises that accounts for the business demonstrate the holistic business success and wish to compete and survive in rural development, whilst the fish enterprises are robust and profitable taken separately.

The Agricultural & Rural Development Consultant has taken the same view as she did in

her assessment of the previous planning application for a house on the site, which is that there is a need for a manager's presence in connection with the Trout Farm to monitor water levels and quality over a 24 hour period in close proximity to the Biel Water.

On the matter of the existence and suitability of other existing houses within the South Belton Farm unit for the purposes of water monitoring she advises that the applicant continues to rent West Barns Cottage which is owned by her brother, who has no direct interest in the business but who still wishes to take the cottage back-in-hand and has expressed some frustration at the ongoing delay to his plans. The main farmhouse at South Belton is occupied by Ian Rennie, Ms Rennie's other brother. Gardener's Cottage is now occupied by the new partner of the farm firm, Mr Mark Rennie and his lifestyle partner and eleven other cottages at South Belton are mainly let out with four being occupied by farm workers and others being occupied by students. She advises that there is no suitable existing accommodation for a principle partner of the farm firm.

The conclusion of the Council's Agricultural & Rural Development Consultant is, as it was with her conclusion on the previous planning application, that there is a rural, specifically a piscicultural and aquacultural justification for a new build house on the application site as:

- (i) the current riverside dwelling of West Barns House is not sustainably available to the water monitoring manager of the fish farm business;
- (ii) the application site commands a position within the applicant's means and resources to effect water management;
- (iii) the proposal has been stoutly supported by the respected rural organisation of the British Trout Association;
- (iv) the whole farm business is robust, a major contributor to the local economy, a significant rural employer worthy of support and is at the forefront of rural development in Scotland.

There may have been some benefit of a person resident in West Barns House being in a position to visually monitor water levels of the Biel Water in conjunction with the use of an automatic monitoring system at the Trout Farm. However, no evidence is presented to confirm that the undertaking of such visual monitoring has been carried out constantly through a 24 hours a day presence of a person resident in West Barns House. Notwithstanding the case put forward by the applicant and the support given to this from The British Trout Association, the SAC and the Council's Agricultural & Rural Development Consultant, there is no presented evidence that the visual monitoring of water levels of the Biel Water in conjunction with the use of an automatic monitoring system at the Trout Farm is essential to the safeguarding of fish stocks of the Trout Farm.

The Scottish Environment Protection Agency (SEPA) were consulted on this, and on the previous planning application (12/00196/PP) as part of the application site lies within the functional floodplain of the Biel Water. They advise, as they did in their comments on the previous application, that they would object to the principle of a house being erected on the site unless the finished floor level of any new dwelling would be 350mm above the current floor level of the former Dairy Cottage, in which case they would withdraw their objection. Therefore, if planning permission were to be granted for this proposal it should be subject to a condition that the finished floor level of the new house be 350mm above the floor level of Dairy Cottage.

The Scottish Environment Protection Agency (SEPA) do not comment or give advice on the need or otherwise of a riverside presence as a direct operational requirement of the fish farm business. Their remit as a statutory consultee on this application is to give advice on flooding matters. In this respect, SEPA advised in their response to the

previous planning application (12/00196/PP) that should the operator of the fish farm wish to monitor water levels of the Biel Water, this could be done by installing telemetry instrumentation on the Biel Water capable of recording water levels and triggering an alarm at pre-set thresholds to a mobile phone. SEPA advised that such telemetry instrumentation should ideally be installed approximately 2-3 miles upstream of the Trout Farm to allow for a suitable lead time. They noted that this would require permission from the relevant landowner.

The partnership of D.V. Rennie & Co. does not control land 2-3 miles upstream of the Trout Farm, though their South Belton Estate does extend some 0.5 of mile further upstream from the site of Dairy Cottage. There is no reason why a telemetry instrumentation water level monitoring point in that further upstream position, capable of providing 24 hours a day monitoring and rising water level alerts, with any associated back-up systems considered necessary in the event of electronic failure of the primary system, would not be effective in order to monitor water levels to ensure the safeguarding of fish stocks on the fish farm. Moreover, it would seem to be a more reliable means of monitoring than otherwise relying on a person being beside the Biel Water to purposefully and effectively monitor rising water levels.

With appropriate systems in place, the monitoring of water levels of the Biel Water could be effectively done by placing telemetry instrumentation as far as possible upstream within the land of D.V. Rennie & Co. in order to give a longer warning period and thus an enhanced response time to rising water levels. In this the Trout Farm manager and/or her partner, when not on site at the Trout Farm would have adequate warning time to visually check rising water levels, if necessary without having an operational need to reside in a countryside location beside the Biel Water.

Giving due consideration to the case put forward by the applicant and supporters and the advice of consultees, the conclusion is that there is no direct operational requirement for the proposed house on the countryside site of Dairy Cottage and thus the principle of such new build development is contrary to Part 1(b) of Policy DC1 of the adopted East Lothian Local Plan 2008 and with Government policy guidance regarding the control of new housing development in the countryside given in Scottish Planning Policy: June 2014.

The land of the application site is at a lower level than the land on which the nearby listed buildings of Belton Dovecot, Lower Belton Lodge and Gardeners Cottage are located. As the application is for planning permission in principle, no details of the design of the proposed house have been submitted. However, due to the location of the site, it should be possible to design a house for the site which would not be visible in any significant view of any of those buildings. If carefully designed the proposed house would not be harmful to the settings of those Category B listed buildings. On this consideration the proposed development of a new house on the application site does not conflict with Policy 1B of the approved South East Scotland Strategic Development Plan or Policy ENV3 of the adopted East Lothian Local Plan 2008.

The existing private vehicular access would, subject to it being upgraded to a pothole free route and having its junction with the public road re-surfaced to prevent loose materials entering the public road, provide the proposed new build house with an acceptable means of vehicular access. The Council's Road Services is satisfied that there is sufficient space within the garden area of the proposed house to accommodate sufficient car parking and turning areas.

Neither of these two latter considerations are sufficient in their terms to outweigh the earlier considerations in this report that the principle of the proposed new build house is

contrary to the development plan by being contrary to Part 1(b) of Policy DC1 of the adopted East Lothian Local Plan 2008 and with Government policy guidance regarding the control of new housing development in the countryside given in Scottish Planning Policy: June 2014.

REASONS FOR REFUSAL:

- 1 It is not demonstrated that the building of a new house on the application site is required to meet an agriculture, horticulture or forestry need or other established employment use in the countryside of East Lothian and neither is it demonstrated that there is a justifiable operational need for the house to enable monitoring of water levels of The Biel Water relative to the operation of the Dunbar Trout Farm. Consequently, and because the proposed new house would constitute isolated, sporadic development in the countryside of East Lothian this proposal is contrary to Part 1(B) of Policy DC1 of the adopted East Lothian Local Plan 2008 and with Government policy guidance regarding the control of new housing development in the countryside given in Scottish Planning Policy: June 2014.
- 2 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 character and amenity of the open countryside of East Lothian.

Please note that the remainder of pages relating to this item have been removed as they contain personal information (for example - names and addresses of people that have made representation)