

**REPORT TO:** Planning Committee

**MEETING DATE:** Tuesday 21 August 2018

**BY:** Depute Chief Executive  
(Partnerships and Community Services)

**SUBJECT:** Application for Planning Permission for Consideration

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*Note - this application was called off the Scheme of Delegation List by Councillor McMillan for the following reasons: DC1 mentions an 'operational requirement' or "other direct operational requirement". In this case, the "requirement" is based on the occupant's need for care and support to stay in his home, provided by having family on hand. I believe this application highlights an issue in terms of demographics, care and wellbeing, which may be a gap in policy and rural development strategy which ought to be addressed by Committee. If such cases show a need for care and were to be supported by appropriate evidence, I believe this should be a factor in determining similar and this application.*

Application No.       **18/00636/P**

Proposal               Erection of house and garage and associated works

Location               **Garden Ground of Kiloran  
Ormiston  
Tranent  
East Lothian  
EH34 5DH**

Applicant             Mr and Mrs Allan and Janet Jemmett

Per                      Architectural Building & Design Consultants Ltd

RECOMMENDATION       Application Refused

#### PLANNING ASSESSMENT

This application relates to the western part of the property curtilage of the single storey detached house of 'Kiloran', set within its own large garden, located within an area of countryside to the east of Ormiston. The application site is bound to the east by the garden ground of 'Kiloran', to the north by agricultural land, to the west by the residential property of 'Landour' and its garden ground and to the south by the A6093 public road on the opposite side which lies agricultural land.

Planning permission was previously refused through application 91/00887/HIS\_P in June 1992 for the erection of a single storey house with living accommodation in the roofspace and garage on the current application site.

Through this current application planning permission is now sought for the erection of a house and garage and associated works on the west part of the curtilage of 'Kiloran' which is currently in use as a paddock ancillary to the domestic use of 'Kiloran'. The application site would be accessed off the A6093 public road. The application site which is the subject of this current application is the same as the application site which was the subject of planning application 91/00887/HIS\_P.

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 (SESplan) and the adopted East Lothian Local Plan 2008.

Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan) and Policy DC1 (Countryside and Undeveloped Coast) and T2 (General Transport Impact) of the adopted East Lothian Local Plan are relevant to the determination of this application.

The proposed East Lothian Local Development Plan (PELLDP) was submitted to Scottish Ministers for examination in 2017 and the Reporters' Examination Report was issued on 14 March 2018. The PELLDP reflects the most recent planning view of the Council and is a material consideration in the determination of applications. Relevant Policies, DC1 (Rural Diversification) and T2 (General Transport Impact) of the PELLDP do not represent any significant alteration to the current relevant policies.

Also material to the determination of the application is Scottish Government guidance given in Scottish Planning Policy: June 2014.

In Paragraph 76 of Scottish Planning Policy: June 2014 it is stated that Local Development Plans should make provision for most new urban development to take place within or in planned extension to existing settlements. Paragraph 81 states 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.

By being within the countryside the application site is covered by Policy DC1 of the adopted East Lothian Local Plan 2008.

Policy DC1 sets out specific criteria for new build housing development in the 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. Applications must be accompanied by a statement justifying the direct operational requirement for the house.

Policy T2 states that new development must have no significant adverse consequences for road safety.

One letter of objection has been received to the application. The main grounds of objection are:

- i) there has been a previous application for an almost identical proposal refused on the application site and the reasons for that application being turned down are still valid;
- ii) the proposed development does not comply with Policy DC1;

- iii) unsuitable access, resulting in loss of residential amenity and real risk to life;
- iv) cesspit located towards the rear part of the garden of the proposed house and the existing outflow pipe would not be able to take the outflow from another cesspit;
- v) highly unlikely that existing water and electricity supplies would be adequate for a third house;
- vi) detrimental impact on residential amenity of neighbouring property;
- vii) visual impact through loss of trees.

The applicant's agent has submitted a supporting statement with the application explaining that "the applicants have lived at 'Kiloran' for twenty five years and wish to continue living there. Mr Jemmett unfortunately has a degenerative disease and as his illness progresses he will require additional care. With the onset of time, Mrs Jemmett requires additional help from her family to provide sufficient round the clock care for her husband. To allow for the applicants to continue living in their own home, this additional help with care comes from their daughter and son in law, however they currently live in Pencaitland and to provide an appropriate level of care need to be in the immediate vicinity. It is therefore proposed that the site to the west of 'Kiloran' be developed to provide a single dwelling for family members to be in close proximity to the applicants. It should also be noted that the applicant's daughter and son in law currently live in a house which was bought from East Lothian Council where the opportunity arose. This is a 4 bedroom house which the applicant's son in law has lived in for 51 years. Should planning permission be granted for the proposed new house, the family would be willing to sell this house back to the Council to allow for an affordable house to become available."

The proposed house to be erected on the site would be a detached, single storey in height house with pitched roof with living accommodation within the roofspace. The proposed house would have a ridge height of some 3.3 metres and would measure, at most some 18 metres by 12 metres. A detached double garage is proposed to be located adjacent to the east boundary of the new house plot. The garage would measure, at most some 6 metres by 6 metres, it would have a pitched roof with a ridge height of some 5.4 metres. The proposed house would be finished in white render with the roof clad with grey interlocking rooftiles and the windows and doors would be UPVC framed. The front elevation (south) of the building would have a number of openings including a front door, 4 windows, 4 floor to ceiling windows, a glazed patio door, 6 roof windows and 12 solar panels on the roof slope. The house would have a glazed patio door, glazed bi-folding 4 pane door, 2 windows, 2 floor to ceiling windows and 6 roof windows within the roof slope on the rear elevation (north). The west elevation (side) would have 1 window, 3 floor to ceiling windows and 6 solar panels on the roof slope with the east elevation (side) having 2 floor to ceiling windows. The south (front) and west (side) elevations of the house would feature timber clad Siberian larch elements on the gables. It is proposed that a new 6 metre wide vehicular access be formed on the southern boundary of the application site off the A6093 public road to serve a new tarmac driveway which would provide vehicular access to a parking, turning area and detached double garage located within the site. It is proposed that two paved patio areas and a paved pedestrian access path from the tarmac drive to the front door of the house be formed. The boundaries of the proposed house plot would be enclosed along the west boundary by the existing close boarded timber fence, the north boundary being defined by an existing post and wire fence, the south boundary by the existing post and wire fence and hedge and with the east boundary between the proposed house plot and the existing house of 'Kiloran' being delineated by a new 1.2 metres high post and wire fence. The proposed house would comprise of an entrance hall, study/bedroom, bedroom, bathroom, large open plan kitchen/dining/living room and a sunroom at ground floor level with a further 2 bedrooms each with an en-suite being provided at first floor level.

The application site is currently an area of undeveloped paddock ground within the western part of the curtilage of the existing house 'Kiloran'. A large number of mature trees are currently situated on the application site which occupies a countryside location.

The site is within a Coal Authority Development High Risk Area. In such areas there are existing recorded risks to the ground stability which need to be assessed and mitigated as part of the new development proposals in the interests of public safety. The Coal Authority's Guidance for Scottish Planning Authorities: 2017 clearly states that any planning application for development which intersects the ground in the Development High Risk Area requires a desk based Coal Mining Risk Assessment and once this has been provided, consultation with the Coal Authority. The Coal Authority have been consulted on the application and advise that as a Coal Mining Risk Assessment Report has not been submitted with the application they object to the application as it has not been demonstrated that the site can be developed without risk posed by past coal mining activity.

The Council's Environmental Protection Manager has advised that the application site may be in a high risk to development area with respect to shallow coal mine workings.

The Council's Road Services object to the application on the grounds that the access from the private road onto the A6093 is not suitable for increased traffic.

The Council's Landscape Officer has advised that there are a number of significant trees within the site that are shown to be removed to accommodate the proposed house, garage, driveway and vehicular turning area. These trees are worthy of retention and the site layout could be rearranged such that five trees could be retained.

The applicant's agent has submitted a supporting statement with the application which seeks to justify the requirement for a new house on the grounds that the current owner/occupier of the property 'Kiloran' has a degenerative disease which could potentially lead to him requiring round the clock care. While the health condition of the applicant is unfortunate it is not a material planning consideration in the determination of this planning application.

No case has been made for the proposed house to meet an agriculture, horticulture or forestry need. No other operational need has been advanced to justify the erection of a house on the application site in this countryside location such that the proposal is contrary to Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan), Policy DC1 (Development in the Countryside and Undeveloped Coast) of the adopted East Lothian Local Plan 2008 and Government policy guidance regarding the control of new housing development in the countryside expounded in Scottish Planning Policy: June 2014.

Furthermore, 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 in East Lothian.

In conclusion there are no material planning considerations that outweigh the fact that the proposed development is contrary to Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan), Policy DC1 (Development in the Countryside and Undeveloped Coast) of the adopted East Lothian Local Plan 2008 and Government policy guidance regarding

the control of new housing development in the countryside expounded in Scottish Planning Policy: June 2014.

#### REASONS FOR REFUSAL:

- 1 No case has been made for the proposed house to meet an agriculture, horticulture or forestry need. Without such a justification the proposal is contrary to Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan), Policy DC1 (Development in the Countryside and Undeveloped Coast) of the adopted East Lothian Local Plan 2008 and Government policy guidance regarding the control of new housing development in the countryside expounded in Scottish Planning Policy: June 2014.
- 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 in East Lothian.
- 3 The proposed vehicle access to serve the proposed house from the private road onto the A6093 is not suitable for increased traffic and would be to the detriment of road safety contrary to Policy T2 of the adopted East Lothian Local Plan 2008..
- 4 The site is within a Coal Authority Development High Risk Area and a Coal Mining Risk Assessment Report has not been submitted by the applicant. Consequently the applicant has failed to demonstrate that the proposed house could be safely developed in what is a Coal Authority Development High Risk Area.