

REVIEW DECISION NOTICE

Decision by East Lothian Local Review Body (the “**ELLRB**”)

Application for Review by Mr and Mrs Christopher Sharman c/o Claredon Planning & Development Limited, 5A Castle Terrace, Edinburgh EH1 2DP, for refusal of Planning Permission for the erection of one (1) house for partial use as a part bed and breakfast and associated works at The Barns House, Letham Mains Holdings, Letham, Haddington.

Site Address: The Barns House, Letham Mains Holdings, Letham, Haddington

Application Ref: 19/01259/P

Application Drawing: Please refer to the Drawings/Plans detailed at 3.1 (i)

Date of Review Decision Notice: 22 September 2020

Decision

The ELLRB decided by a majority of two for and one against that the Review should be refused for the reasons set out below.

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

The above application for planning permission was considered by the ELLRB, at a meeting held on Thursday, 20 August 2020. The Review Body was constituted by Councillor N Hampshire (Chair), Councillor K MacLeod, and Councillor J Williamson. All three members of the ELLRB had attended an unaccompanied site visit in respect of this application prior to the meeting.

1.1. The following persons were also present at the meeting of the ELLRB:-

Mr M Mackowiak, Planning Adviser to the LRB
Mr C Grilli, Legal Adviser/Clerk to the LRB
Ms F. Currie, Clerk.

2. Proposal

- 2.1. The planning application is for refusal of Planning Permission for the erection of one (1) house for partial use as a part bed and breakfast and associated works at The Barns House, Letham Mains Holdings, Letham, Haddington.
- 2.2. The planning application was registered on 24 December 2019 and the decision notice refusing the application is dated 28 February 2020.
- 2.3. The reason for refusal of the Planning application is more particularly set out in full in the

said Decision Notice dated 31 March 2020. The reason for refusal is summarised as follows:

- 2.3.1 The proposal to erect a house on the site with no operational requirement for a countryside location is contrary to Policies DC1 and DC4 of the adopted East Lothian Local Development Plan 2018, and Scottish Government policy guidance regarding the control of new housing development in the countryside given in Scottish Planning Policy: June 2014.
- 2.3.2 The addition of the large 2 storey house with its formal access drive and large garden to the Letham Mains Smallholdings area would be disruptive to the distinctive settlement pattern of the area. The proposed house would appear large and prominent sitting further north than the other buildings and in full view from the core path 109 to the north and from the access road contrary to Policies DP1, DP2 and DC8 of the ELLDP 2018 and contrary to the advice given in the Countryside and Coast SPG of the ELLDP 2108.
- 2.3.3 The impact of the proposed development on the wider landscape setting of Letham House and the open and long lines of trees on the eastern and western boundaries of the application site significantly harm elements justifying the designation of the site as being of local or regional importance and included in historic gardens and designed landscape records. Consequently the proposed development is contrary to policies CH1 and CH6 of the adopted East Lothian Local Development Plan 2018.
- 2.3.4 The proposed access does not meet the requirements of the Council's Road Services therefore the proposal is not consistent with Policy T2 of the ELLDP 2018.
- 2.4. The notice for review is dated 20 May 2020.

3. Preliminaries

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

i.	<p>The drawings prepared by Allan Corfield Architects and accompanying this application are numbered as follows:</p> <ul style="list-style-type: none"> - 296-PL-202 - 296-PL-300 - 296-PL-301 - 296-PL-400 - 296-PL-700 - 296-PL-701 - 296-PL-702 - 296-PL-712 - 296-PL-100 Rev A - 296-PL-101 Rev A - 296-PL-102 Rev A - 296-PL-200 Rev A - 296-PL-201 Rev A
ii.	The Application for planning permission registered on 24 December 2019
iii.	The Appointed Officer's Submission

iv.	<p>Policies of the adopted East Lothian Local Development Plan 2018 relevant to the determination of the application:</p> <ul style="list-style-type: none"> - CH6: Gardens and Designed Landscapes - DC8: Countryside Around Towns - DP1: Landscape Character - DP2: Design - CH1: Listed Buildings - DC1: Rural Diversification in the Countryside - DC4: New Build Housing in the Countryside - T1: Development Location and Accessibility - T2: General Transport Impact
v.	<p>Notice of Review dated 20 May 2020 together with Applicant's Submission with supporting statement and associated documents.</p>

4. Findings and Conclusions

- 4.1. The ELLRB confirmed that the application for a review of the planning application permitted them to consider the application afresh and it was open to them to grant it in its entirety, grant it subject to conditions or to refuse it. They confirmed that they had access to the planning file in respect of this matter and to all the information that the Appointed Officer had available when reaching the original decision to grant planning permission subject to the condition, including all drawings and copies of all representations and objections received in respect of the original application.
- 4.2. The Members then asked the Planning Adviser to summarise the planning policy position in respect of this matter. The Planning Adviser advised that in his report the case officer described the application site as located within an area of agricultural land in the countryside at Letham Mains Holdings to the west of Haddington. This area is defined by Policies DC1 (Rural Diversification) and DC8 (Countryside Around Towns) of the adopted East Lothian Local Development Plan 2018. The site is within the Letham House Local Garden and Designed Landscape as defined by Policy CH6 (Gardens and Designed Landscapes) of the ELLDP 2018. Letham House which is located some 290m to the north of the application site is listed as being of special architectural or historic interest (Category B). The officer's report described the proposal as a large 2-storey house that in part would be used to provide Bed and Breakfast accommodation. At its widest the proposed house would be some 32m in length (east to west) and some 18.5m in width (north to south). This part the officer's report includes a detailed and factual description of the proposed building. Amongst other things, it notes that western wing of the proposed house would comprise a two storey pitched roof component with a ridge height of some 9 meters whilst the eastern wing would be some 8 meters in ridge height. The report also notes that the house would be accessed from a 4.5m wide gravel driveway which would extend some 83.5m in length from the access road northwards.

The Planning Advisor then confirmed that there were 11 public representations to the application and of those 5 raised objections to the proposals and 6 were in support of the proposed development. The Planning Advisor then summarised the consultation responses received which included responses from East Lothian Council's Economic Development Service Manager, Policy and Strategy Manager, Landscape Officer, Roads Services.

Finally the Planning Advisor summarised the applicant's statements which were contained in the applicant's submission. In particular the Planning Advisor highlighted that (i) the applicants currently operate an established private hotel at Letham House. They have run this business for approximately 10 years achieving a nationally awarded Visit Scotland 5star gold rating. The current business supports 2 full-time and 4 part-time and seasonal employees; (ii) The Letham accommodation brand is an established model which is proposed for relocation. The proposal is therefore not a business 'start-up' but a genuine opportunity for continuity of their existing business; (iii) The applicants are now of an age at which they wish to downsize and partially reduce their working commitments and thereby dispose of Letham House and its associated upkeep which is significant given its listed status, period and structure accordingly the Planning Officer's assessment has overlooked the applicants' intention to transfer and retain within East Lothian a tourism related business offering high quality accommodation. It is suggested that the success of the current business is not wholly premised upon the 'historic' character of Letham House, but customer service and the high quality of accommodation on offer; (iv) Letham House will revert to a private dwelling use in any case and if the applicants are not permitted to progress with the current application proposal to relocate their business there will be a loss of letting rooms and impact on the local economy; (v) the applicants accept a generic presumption against new housing in the Countryside. However, they stress the proposal is not for a new house but a Bed and Breakfast; (vi) the Policy Officer erroneously assessed the proposal as comprising of a largely new built development in the countryside with a small element of business use. However, the proposal is for a 5 bedroom house of which only one bedroom suite is allocated for private use (for the applicants) with the remaining 4 bedrooms allocated for B&B use. The proposal is for a new build dwelling predominantly for business (tourism) use to allow the relocation of an established business. The applicants conclude that this confirms the operational requirement for the location of the proposed development; (vii) the Holdings are evidently an irregular collection of buildings and plots. The irregular northern build line of the building group would not be breached by the Barns House; (viii) the application site is not part of 'open countryside' since at this location, the designation is visually and physically interrupted by built form comprising some 30 or more residential dwellings of varying scale, form and density as well as rural businesses; (ix) this area is characterised by a random and irregular built form and that the proposal complies with policy DC8 and the applicants disagree with the officers' assessment that the proposal would not comply with Policy T2 of the LDP. It's been argued that Roads Services generic view that proposed sightlines should be increased, has not taken into account the character and nature of the unclassified road. The agent highlights that Road Services did not apply the same exaggerated visibility splay requirements of 2.4 x 160m for application Ref. 15/00730/P at 18 Letham Mains Holdings (immediately to the south of the appeal subjects) for intensification of business use – a cattery with 27no cat chalets.

- 4.3. The Members then raised a few questions pertinent to the application which the planning advisor responded to.
- 4.4. The Chair asked his colleagues if they had sufficient information to proceed to determine the application today and they unanimously agreed to proceed. Comments on the application followed.
- 4.5. Councillor Williamson stated that the only part of the Officer's report that he did not agree with was the overshadowing. On this occasion he did not see any reason to go against the Officer's recommendation and therefore was minded to support the Planning Officer and refuse the appeal.

- 4.6. Councillor McLeod stated that he did not have any major concerns regarding this application. The building would not be overlooked or overlooking another property. The applicants have already proved they have a successful business and while economic development have commented on lack of information to support viability of the business he was confident that due to the track record of the applicant this would work. Councillor McLeod was therefore minded to go against the Officer Recommendation and was minded to support the appeal subject to imposing condition that the property could only be operated as a bed and breakfast.
- 4.7. The Chair said that he while he had no doubt that this venture would be a success his main concern was the proposed location and the precedent this may create by opposing policy DC1. The Chair was of the view that there were other locations within East Lothian which could provide a suitable location for a bed and breakfast without opposing planning policies. Accordingly he was minded to refuse the appeal.

Accordingly, the ELLRB decided by majority of two for and one against that the Review should be refused for the reasons more particularly set out in the Planning Officer's report.

Planning Permission is accordingly refused.



Carlo Grilli
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.