

## **REVIEW DECISION NOTICE**

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

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Application for Review by Karele Equine of Sunnyside Farm, East Linton, for refusal of Planning Permission for the Change of use of agricultural land for the keeping of horses, erection of stable block, horse shelters and associated outbuildings, formation of riding arena and associated works (part retrospective).

Site Address: Sunnyside Farm, East Linton EH41 4PZ

Application Ref: 17/00727/P

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

Date of Review Decision Notice: 14 October 2020

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### **Decision**

The ELLRB unanimously agreed to uphold the decision of the Planning Officer and that the grant of planning permission 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, 10 September 2020. The Review Body was constituted by Councillor N Gilbert (Chair), Councillor K Mackie, and Councillor F O'Donnell. 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 P Zochowski, 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 review of decision to refuse Planning Permission for the change of use of agricultural land for the keeping of horses, erection of stable block, horse shelters and associated outbuildings, formation of riding arena and associated works (part retrospective), Sunnyside Farm, East Linton, Haddington EH41 4PZ
- 2.2. The planning application was registered on 20 March 2018 and the decision notice refusing the application is dated 27 March 2020.
- 2.3. The reason for refusal of the Planning application is more particularly set out in full in the said Decision Notice dated 27 March 2020. The reason for refusal is summarised as follows:
- 2.3.1. It has not been demonstrated that the activities and operation of the equine charity business operating from the site does not and would not have a detrimental impact on the amenity of the neighbouring residential properties of nos 4-6, 7, 8, and 10 Sunnyside Cottages, accordingly, on these matters of privacy and amenity the proposed and retrospective development the subject of this application conflicts with policies DP1 Landscape Character and DP2 Design of the East Lothian Local Development Plan 2018
- 2.3.2. It has not been demonstrated that the equine charity business could be provided with a safe means of vehicular access and a satisfactory provision of on-site parking and turning the proposed and retrospective development the subject of this application conflicts with Policies T1 Development Location and Accessibility and T2 General Transport Impact of the adopted East Lothian Local Development Plan 2018.
- 2.4. The notice for review is dated 23 June 2020.

## 3. Preliminaries

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

i.	<p>The drawings accompanying this application are named/numbered as follows:</p> <ul style="list-style-type: none"> <li>- LOCATION PLAN</li> <li>- DWG 2 OF 7</li> <li>- DWG 3 OF 7</li> <li>- DWG 4 OF 7</li> <li>- DWG 5 OF 7</li> <li>- DWG 6 OF 7</li> <li>- DWG 7 OF 7</li> <li>- SITE PLAN</li> <li>- REV D</li> </ul>
ii.	The Application for planning permission registered on 20 March 2018
iii.	The Appointed Officer's Submission

iv.	<p>The following policies relevant to the application:</p> <ul style="list-style-type: none"> <li>- Policies of the adopted East Lothian Local Development Plan 2018 relevant to the determination of the application: <ul style="list-style-type: none"> <li>• DC1 (Rural Diversification),</li> <li>• DC9 (Special Landscape Areas),</li> <li>• CH1 (Listed Buildings),</li> <li>• CH4 (Scheduled Monuments and Archaeological Sites),</li> <li>• DP1 (Landscape Character),</li> <li>• DP2 (Design),</li> <li>• NH3 (Protection of Local Sites and Areas),</li> <li>• T1 (Development Location and Accessibility), and</li> <li>• T2 (General Transport Impact)</li> </ul> </li> <li>- Local Development Plan Special Landscape Areas Supplementary Planning Guidance 2018 (Part 2 – Traprain and Tyne Valley SLA 15 Statement of Importance)</li> </ul>
v.	<p>Notice of Review dated 23 June 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 summarised the planning case officer's assessment of the application. He indicated that 10 representations had been received objecting to the application, mainly raising issues that the development would adversely affect amenity and setting of the Sunnyside Cottages. Of the internal consultees Road Services officers had expressed concerns that the application did not demonstrate that adequate visibility splays were achievable at the access with the public road; that the first 10m of the access would be hard formed; that a turning circle should be provided; that adequate on-site parking be provided at a rate of 1 space per 2 customers or staff and that all of the parking demand should be capable of being provided on the site. No response was received to the concerns raised by Road Services, thereby conflicting with LDP Policies T1 and T2. Taking all matters into account, the case officer concluded that the proposal was an acceptable type of business for a countryside location and that in the form proposed it would not harm the landscape setting of the local area and of the Sunnyside Cottages nor would it adversely affect the Special Landscape Character of the area. However, on the matter of the impact the proposed development would have on the amenity of the Sunnyside Cottages, the officer concluded that this was affected by the activities and operations of the development and the intensity of the use of the site. Insufficiently clear information was submitted to enable it to be demonstrated that there

would not be a detrimental impact on the amenity of the neighbouring cottages, thereby conflicting with LDP policies DP1 and DP2.

- 4.3. The Planning Adviser then summarised the applicant's case and drew attention to their submission that raised a number of issues with the process of the application and referred to a number of communication breakdowns with letters and meetings etc. The applicant had made an offer to remove one structure to free up additional parking space and stated that there was clear visibility at the road junction splay and referred to additional information and layouts they would have submitted. They also provided their response to planning policies DP1, DP2 and T1 being three of the four policies against which the application was refused.
- 4.4. The Members then raised questions pertinent to the application which the planning advisor responded to by providing further detail on matters relating to safe vehicular and pedestrian access to the site and facilities nearby, the length of time allowed for the applicant to provide the required information, the types of conditions which might be attached to any planning permission and alternative locations for the riding arena on the site. He also provided advice on what could constitute material considerations in determining the application and how these might be weighed against considerations of planning policy.
- 4.5. 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.
- 4.6. Councillor Mackie said that having read the information that was provided and having visited the site, she was in agreement with the planning case officer. She felt that the proximity of the riding arena to the neighbouring cottages and the consequent noise, etc., would impact on the amenity of the residents. She was also concerned about road safety and the safety of pedestrians crossing the road. For these reasons, she would be supporting the recommendation of the planning case officer.
- 4.7. Councillor O'Donnell said she found this a difficult decision as she was well aware of the positive impact this type of therapy could offer for its clients. She also had concerns about road safety and the siting of the arena close to neighbouring homes. She was concerned about the ability of the service to continue to operate safely in its current location. She agreed with Councillor Mackie and the planning case officer that the impact on the amenity of neighbouring residents was too great and, consequently, she could not uphold the appeal.
- 4.8. The Chair said that he agreed with his colleagues' assessment and acknowledged that this was a difficult decision. He added that he had seen nothing during the site visit which would indicate that the planning case officer's original decision was incorrect and he was of the opinion that the application should be refused.

Accordingly, the ELLRB unanimously agreed to refuse planning permission for the reasons set out by the Planning Officer in the Decision Notice dated 27 March 2020.

Planning Permission is accordingly refused and the Planning Authority shall take forward appropriate enforcement action.



**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.