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East Lothian Council
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2 April 2019

Dear Sirs

Planning Application Number 18/00624/P
Erection of 3 houses, 12 holiday cabins, 2 holiday lodges, store, cinema/function building (class 11) extension to spa building and associated works - Archerfield Dirleton

The Gullane Area Community Council submits the following objections the above application for planning permission, all the properties to which it relates being situated within our community council area:-

1. Conservation area and listed buildings

The proposed development of the two housing plots adjacent to the East Lodge of Archerfield estate, on the western fringe of the village of Dirleton included in the application, would conflict with the nature, setting and characteristics of the Dirleton Conservation Area, in terms of Policy CH2 of the East Lothian Local Development Plan 2018 ("the LDP"). As the East Lodge is listed as being of architectural or historic interest, category B, the development would also conflict with Policy CH1, relating to development affecting listed buildings.

2. Newbuild housing in the countryside

The proposed development of these houses conflicts with Policy DC4 of the LDP, relating to newbuild housing in the countryside.

3. Housing as enabling development

The proposed development of these houses conflicts with Policy DC5 of the LDP, relating to housing as enabling development.

4. Countryside Around Towns policy

The proposed houses conflict with Policy DC8 of the LDP - Countryside Around Towns.

We comment on each of these objections more fully below and then add some general comments, as follows:-

1. Conservation area and listed buildings

The proposed development of the two housing plots in Dirleton would conflict with the nature, setting and characteristics of the Dirleton Conservation Area.

There are the following general statements regarding development affecting conservation areas at page 141 of the LDP:-

6.43 Conservation Area designation is used to identify areas of special architectural or historic interest. Planning decisions must ensure that the character or appearance of a Conservation Area is preserved or enhanced.

6.45 Design Statements can be used to describe and illustrate the design principles and design concepts of development proposals, including how these have been informed by relevant Conservation Area character statements or appraisals, and how the proposal would preserve or enhance the character or appearance of the Conservation Area.

Policy CH2: Development Affecting Conservation Areas states as follows:-

All development proposals within or affecting a Conservation Area or its setting must be located and designed to preserve or enhance the special architectural or historic character or appearance of the Conservation Area.

The LDP then states:-

6.44 Supplementary planning guidance will be published when this Plan is operative that will contain the Conservation Area Character Statements for 29 Conservation Areas and the more comprehensive Conservation Area Character Appraisal for Inveresk Conservation Area. The guidance will be a material consideration in planning decisions. In due course Character Statements will be replaced by more comprehensive Conservation Area Character Appraisals and Management Plans.

We understand that such guidance has not yet been published. There is however an existing Dirleton Conservation Area Statement and we consider that the following excerpts from it are relevant to this application:-

1.1 Dirleton conservation area comprises the whole of the very picturesque village with its buildings grouped around a series of open greens. Dirleton is set on and around the rocky outcrops of Dirleton Castle and Chapelhill within open generally flat arable land. Its setting includes Archerfield, its home farm and associated buildings and the planned landscape around the house. Development impinging on either the greens or the open countryside or woodland at the approaches to the village would adversely affect the Conservation Area.

1.5 Most buildings are low density and small scale, although there are exceptions which are landmark buildings - the church and the castle, Oatfield House, Dirleton House and the Red House, built to house Estate workers. A feature of the cottages grouped to the north of the green is the extensive mature trees and gardens that allow only glimpses in to the buildings.....

1.8 Trees are an important part of the setting within the village particularly in the gardens to the north and west of the village. The setting to the west is dominated by the plantation woodland within Archerfield and to the east woodland at the entrance is also an important landscape feature. Throughout the village, there are mature trees many of which are protected by a Tree Preservation Order. This well landscaped character, coupled with the open greens provides a feel to the village that is both open and intimate.

The applicant's site plan for the housing shows "removals" within broken circular red lines. These include at least 20 mature trees, which would be felled. Such wholesale felling of trees would have a devastating effect on the views northwards and westwards from the village green. The extent of the existing trees on the housing plots and the relationship of the existing East Lodge to the plots are clearly shown on the drawing entitled "site elevations as existing" included in the application.



Above – looking north west across Dirleton Village Green; Archerfield East Lodge is the low stone building in the trees. The heavily wooded area of Plots 1 and 2 lie behind it. Photo taken 24/8/18

The architects' supplementary design statement included in the application documents seeks to draw parallels with the adjoining East Lodge building and Denis Duncan House, lying to the north of the plots. It states as follows:-

The boundary treatments are a continuation of the existing treatments, of the East Lodge building and plot for low level timber post fences. The existing low-level stone wall which faces Manse Road will be retained however a new opening is proposed to be formed for Plot 2. There is a precedent of openings formed in this stone wall further to the north for Denis Duncan House.

Their supporting statement, also lodged with the application, states at page 17:-

Our proposal would be to retain as much of the existing wall, where possible however allow for a new vehicle driveway.

It should be noted that the East Lodge is a low single storey stone building and is listed as being of architectural or historic interest, category B, such buildings being stated to be "buildings of regional

or more than local importance , or major examples of some particular period, style or building type which may have been altered". The East Lodge will be dwarfed and seriously overshadowed by the houses to be built on the two plots, particularly on Plot 1. Thus these houses will conflict with Policy CH1 of the LDP, relating to listed buildings. So far as Denis Duncan House is concerned, it is a holiday house for disabled persons built by the charity Lin Berwick Trust and situated in the woods immediately to the north of the two plots. It was built under two planning permissions granted in 2003 and 2005 respectively (reference numbers 01/00997/FUL and 04/0083/FUL). In both cases these permissions were granted subject to prior completion of Section 75 planning agreements restricting the use of the house to short stay holiday accommodation for disabled persons and their carers. This was stated to be because otherwise the then current Local Development Plan provisions against development in the countryside, etc, would have been breached. We therefore suggest that it is clear that the development of Denis Duncan House was a special case to which neither the proposed houses nor their settings would bear comparison and that it should not be taken as a precedent.



Above – Dirleton Lower Green. Looking south past the war memorial. The heavily wooded area of Plot 2 lies behind. Vehicular entrance to Plot 2 would be about opposite the central lamp post, to the left of the memorial. Photo taken 24/8/18

2. Newbuild housing in the countryside

The proposed houses conflict with Policy DC4: Newbuild housing in the countryside. It is stated at paragraph 5.10 on page 126 of the LDP *inter alia*:-

The Plan has a general presumption against new housing in the countryside, but exceptionally a new house may be justified on the basis of an operational requirement of a rural business. Appropriate evidence clearly demonstrating the need for a new dwelling on the particular site in association with the business will be required. This will include evidence

that no suitable existing dwelling has been recently made unavailable for that purpose and that there is no existing building that could be converted to a house.

Policy DC4 is stated on page 127 of the LDP as follows:-

New build housing development will only be supported in the countryside outwith the constrained coast where there is no existing house or no appropriate existing building suitable for conversion to a house is available in the locality and:

(i) In the case of a single house, the Council is satisfied that it is a direct operational requirement of a viable agricultural, horticultural, forestry, countryside recreation or other business, leisure or tourism use supported in principle by Policy DC1. The Council will obtain independent advice from an Agricultural and Rural Advisor on whether there is a direct operational requirement for an associated house; or

(ii) In the case of other small scale housing proposals, it is for affordable housing and evidence of need is provided, and the registered affordable housing provider will ensure that the dwellings will remain affordable for the longer term. Proposals should be very small scale and form a logical addition to an existing small-scale rural settlement identified by this plan.

(iii) The proposal satisfies the terms of Policy NH1.

Subclause (i) above relates only to single house sites and is therefore not applicable in the present instance. In any event the applicant does not claim that housing on the two plots is a direct operational requirement of a viable countryside, recreation or tourism use. As stated later in this letter, it is clear that it is proposed as a means of enhancing the value of the financial security provided by the applicant to its funders. Equally the applicant does not claim that development of the sites would be for affordable housing and so subclause (ii) is not applicable.

Policy NH1 relates to the protection of internationally designated sites and is clearly not relevant in the context of this application.

3. Housing as enabling development

The proposed houses conflict with Policy DC5: Housing as Enabling Development. This policy allows housing as enabling development in certain limited circumstances. It is stated at paragraph 5.12 of the LDP as follows:-

5.12 The Council may exceptionally be willing to support an element of new build housing as enabling development to help deliver another form of development (other than for residential development or infrastructure) that is supported in principle in a countryside location under policy DC1, or where it would fund the restoration of a listed building or one that has recognised heritage value including being recorded on the national Buildings at Risk Register or other significant feature of the built or natural environment, the retention of which is desirable. Proposals must also protect or enhance the setting of such features. Such an approach would only be supported if the wider benefits of the main proposal outweigh the normal policy presumption against new build housing in the countryside. Any such enabling development must be essential, the minimum necessary to achieve the primary use, and not a substitute for normal development funding, including borrowing. Additionally, such proposals would not be expected to provide affordable housing for this reason.

Policy DC5 provides that any enabling development must be on the same site as, and part of, the main proposal and that if it is proposed off site it must be clearly justified with strong evidence to demonstrate why the enabling development could not take place on the site. It also provides that in all cases, the benefits of the proposed development must outweigh the normal presumption against new build housing development in the countryside and that the Council will obtain independent advice on the extent of enabling development to ensure that it is the minimum necessary to achieve the primary use and it is not a substitute for normal development funding including borrowing. It is apparent that the proposed housing sites are not on the same site as, nor part of, the applicant's main operation. The woodland area in which they are located is shown on Inset Map 22 – Dirleton, published with the LDP, as countryside, whereas the applicant's main area of operation is shown separately on that map by horizontal red lining. Also, as stated above in relation to Policy DC4, it is clear that the development of the sites is proposed as part of the applicant's funding arrangements, with a view to enhancing the value of the financial security provided by the applicant to its funders. Further, we suggest that it is clear that the applicant's main area of operation already contains significant housing elements and that if further housing were required as enabling development it could be accommodated within that area.

4. Countryside Around Towns policy

The proposed houses conflict with Policy DC8 of the LDP - Countryside Around Towns. It is stated at paragraph 5.20 on page 129 of the LDP as follows:-

There are a number of areas beyond the Edinburgh Green Belt that are also subject to development pressure but should be retained as open or undeveloped. Countryside Around Towns designations will apply and their objectives are:

- *to conserve the landscape setting, character or identity of the particular settlement; and/or*
- *to prevent the coalescence of settlements; and/or*
- *where it can provide opportunity for green network and recreation purposes.*

The area taken up by the two house plots is shown on Inset Map 22 – Dirleton, published with the LDP, as an area affected by this designation.

Policy DC8 is stated in the LDP as follows:-

Development that would harm the objectives of the specific Countryside Around Town area, as defined in supplementary planning guidance, will not be permitted.

New development within areas designated as Countryside Around Towns will be supported in principle only where:

- i) it is required to implement part of the green network strategy as defined by that strategy;*
- ii) it is required for community uses;*
- iii) it is required for rural business, tourism or leisure related use;*
- iv) it is essential infrastructure that has a clear operational requirement for that particular location and there is no other suitable site available; or*

Any new development must not harm the landscape setting of the countryside location and must be of a scale, size and form that would not harm the objectives for the countryside around towns designation.

It is clear from statements contained within the applicant's architect's supporting statement lodged with their application that planning permission for the two proposed houses is not required for rural business, tourism or leisure related use, that the proposed houses do not comprise essential infrastructure that has a clear operational requirement for their particular location or that there is no other suitable site available. The plots are shown on the context site plan on page 6 of the supporting statement as lying wholly outwith all other areas comprised in the Archerfield masterplans shown on pages 4 and 5 of the statement. We suggest that it is apparent that they have only been included in the proposals because, if the application is granted, they will comprise a windfall, the value of which will enhance the applicants' financial arrangements with the Bank of Scotland. This will directly conflict with the proviso relating to Policy DC5 referred to above relating to enabling development, to the effect that any such development must be essential, the minimum necessary to achieve the primary use, and not be a substitute for normal development funding, including borrowing.

Appendix 1 of the supporting statement, starting on page 18 of the document, contains comments at page 19 which appear to seek to justify each element of the proposed development except the two proposed houses. There then follows a paragraph headed "Financing":-

The Bank of Scotland has been funding the previous expansion of Archerfield and in addition we have been contributing part of the monies raised from selling the plots at Archerfield. As you will appreciate, it has been quite challenging financing Archerfield up to this point and it has been most beneficial that the plots at Kings Cairn are now managing to pay back some of the financial support given to us by the Bank of Scotland. To enable the proposed increase in the number of hotel bedrooms (cabins), extensions to the Spa and laundry facilities etc, we need to give the Bank further comfort to continue supporting our ambition to build Archerfield into Scotland's premier hotel accommodation with a top of the range Spa, golf courses, conference facilities, cinema etc. The Bank has security over all the property and land at Archerfield but we now need them to extend our facility to allow us to finance the £8,000,000 projected costs of creating the above. We have land on the border of the Archerfield Estate adjoining Dirleton Village and we are looking for planning permission to be granted for two housing plots on this land at the East Lodge perimeter. We would also ask for a relaxation of the restrictions on the planning permission for the lookout building at Marine Villa so that it becomes a residential dwelling. This would bring it in line with the other three houses at Marine Villa which are all used, as this [ie Marine Villa] will be, as part of the hotel accommodation.

No further explanation is given anywhere in the supporting statement as to why the two houses are necessary in the context of the other proposals contained in the application or of the existing operations at Archerfield.

Appendix 2 of the supporting statement comprises a copy of a letter from an unidentifiable author in the commercial banking section of the Bank of Scotland to the applicants dated 20 November 2017 in the following terms:-

I write in connection with our recent discussions in respect of the planning considerations concerning the Look-Out Tower and the two plots at the East Gate of the Archerfield estate.

As you know, the Archerfield estate provides a material proportion of the security provided to the Bank of Scotland that supports the provision of existing bank funding, being a Term Loan and Revolving Credit Facility, and will continue to be a significant component of security provided for any future debt structure entered into between the parties. In order to continue to meet the covenant obligations under its funding arrangements now and in the future, CHL [the applicants - Caledonian Heritable Ltd] will require to maintain, and where possible ameliorate, the value of its security. We understand, based on your representations to us, that the value of the security is maximised through the ability to realise the Look-Out Tower and the East Gate plots separately, as opposed to part of the Archerfield estate as a whole.

We suggest that it is abundantly clear from the statement at Appendix I quoted above and from the above letter, and particularly the last sentence of the letter, that the development of the two plots, or perhaps only the potential for development of them if residential planning permission can be obtained, is being used as a basis for strengthening the applicant's funding arrangements and not as a necessary element of their business operations at Archerfield.

Further, it is stated on page 3 of the supporting statement, in the third paragraph, as follows:-

The proposals are intended to facilitate growth and sustainability of an area of great value to the local economy. In order to secure funding, it is absolutely necessary to seek residential clarification for the Look Out Post and Dirleton Plots, and the council have encouraged the applicant to lodge a single application to cover the various components. This is referred to as a hybrid application and is an acceptable method of application recognised by a number of statutory authorities.

We accept that the Archerfield Links operation is of value to the local economy but otherwise we challenge the validity of these statements. There should be no need for "residential clarification" of the Dirleton plots, whatever that expression means. As explained above, they lie at the heart of the Dirleton conservation area, in an area covered by the Council's Countryside Around Towns policy and immediately adjacent to a Category B listed building. What is proposed is not "clarification" but a change of use outwith the ambit of the LDP.

5. General comments

We suggest that it is misleading to state that the Council have encouraged the applicant to lodge a single application to cover the various components of its proposals. Appendix 3 of the architects' supporting statement comprises a copy of an email headed "Subject: DEV 62031 ARCHERFIELD, from Iain McFarlane, the Council's Service Manager, Planning, to a Gail Newlands, copied to a David Sillence and apparently with one or more other names redacted on the copy, in the following terms:-

I can confirm that the site at the west end of Dirleton is designated as countryside, so any proposed houses with no agricultural, forestry or horticultural requirement would need to have some other justification. If this was to be enabling development for facilities for the estate then an application should include investment appraisal, costs, etc for assessment.

The planning condition on the unit at Marine Villa was ratified by Planning Committee, therefore officers wouldn't be able to recommend approval unless a justification is offered as above. It would then be for Members to take a view on this as appropriate.

GULLANE AREA COMMUNITY COUNCIL
(Representing Aberlady, Dirleton, Drem and Gullane)
www.gaddabout.org.uk

Subject to appropriate tree surveys, positioning and design work and landscape appraisal the other proposed lodges, the service unit and cinema building might be supported but without that information I can't say more than this; have you had discussions with David Sillence on this? I can arrange that if not.

As regards process, my thoughts were that this might be easier to deal with as a series of applications but given the interdependency there seems to be between the commercial aspects and the houses and proposed changed status of the unit at Marine Villa, they may be better wrapped up together – the distribution of the sites throughout the estate go against this to an extent though.

Happy to discuss further.

With reference to the first paragraph of this email, we refer to our comments on Policy DC5 of the LDP at pages 5 and 6 above. The penultimate paragraph of the email seems to have contained a clear warning that the matter might be dealt with more appropriately as a series of applications, a warning which the applicant seems not to have heeded.

Please take the foregoing comments into account when considering the application. It will be apparent from them that our concerns relate only to the two housing plots adjacent to the East Lodge in Dirleton. We do not object to the other elements of the application and stress that we are supportive of appropriate commercial development in our community council area. We would not object to the application if the two plots and all the implications relating to them were deleted from it.

In view of the number of fundamental points arising from the LDP which the application raises we would also ask that the application is considered at a meeting of the Planning Committee and not placed on the delegated list.

Yours faithfully



For and on behalf of Gullane Area Community Council