

NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) IN RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2008

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2008

IMPORTANT: Please read and follow the guidance notes provided when completing this form. Failure to supply all the relevant information could invalidate your notice of review.

Use **BLOCK CAPITALS** if completing in manuscript

Applicant(s)

Name

Address

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail*

Agent (if any)

Name

Address

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail*

Mark this box to confirm all contact should be through this representative:

Yes No

* Do you agree to correspondence regarding your review being sent by e-mail?

Planning authority

Planning authority's application reference number

Site address

Description of proposed development

Date of application

Date of decision (if any)

Note. This notice must be served on the planning authority within three months of the date of the decision notice or from the date of expiry of the period allowed for determining the application.

Nature of application

- 1. Application for planning permission (including householder application)
- 2. Application for planning permission in principle
- 3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition)
- 4. Application for approval of matters specified in conditions

Reasons for seeking review

- 1. Refusal of application by appointed officer
- 2. Failure by appointed officer to determine the application within the period allowed for determination of the application
- 3. Conditions imposed on consent by appointed officer

Review procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

- 1. Further written submissions
- 2. One or more hearing sessions
- 3. Site inspection
- 4. Assessment of review documents only, with no further procedure

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

SEE MY LETTER OF 20/8/13

Site inspection

In the event that the Local Review Body decides to inspect the review site, in your opinion:

- | | Yes | No |
|--|-------------------------------------|--------------------------|
| 1. Can the site be viewed entirely from public land? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

N/A

Statement

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

SEE LETTER OF 20/8/13

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?

Yes No

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

HE NEVER CONTACTED ME OR ASKED.

List of documents and evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review.

Letter DATED 20/8/13

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

Checklist

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

- Full completion of all parts of this form
- Statement of your reasons for requiring a review
- All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

Note. Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

Declaration

I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed

[Handwritten Signature]

Date

11/10/13

CLERK TO THE LOCAL REVIEW BODY
COMMITTEE TEAM
JOHN MUIR HOUSE
HADDINGTON
EH41 3HA

GERALD O'HARA
117 MILLHILL
MUSSELBURGH
EH21 7RP

20/08/13

APP NO 13/00129/P

NOTICE OF APPEAL AGAINST DECISION TO REFUSE APPLICATION TO ERECT FENCING

Dear Sir,

I am formally appealing against the decision to refuse retrospective planning permission for the erection of a fence attached to existing railings in my back garden. I have outlined the written decisions given (in italics) and will address each one of them in turn.

- 1. In its position and due to its physical form the 1.8 metres high timber lap panel fence has a prominent and intrusive physical presence and appearance that draws focus from and partially obscures the northern elevation of the listed building of Redhouse. As such it is harmful to the setting of the building listed as being of special architectural or historic interest. The fence is therefore contrary to Policy 1B of the approved South East Scotland Strategic Development Plan (SES plan), Policy ENV3 of the adopted East Lothian Council Local Plan 2008 and Scottish Planning Policy: February 2010.*

RESPONSE

The listed building was completely refurbished in 1989, having been unoccupied since 1981. The rear of the building was demolished and a two storey extension was built by the developers and this is what is partially obscured by the fence, not the original listed building. This is to give us privacy in our back garden from a public footpath. We know this as we purchased our property off plan and saw the development throughout 1989.

- 2. By virtue of its markedly different and compromising form in relation to the historic stone wall and railings it adjoins, the fence is a visibly and incongruous feature harmful to the character and appearance of the wall and railings. It neither preserves or enhances, but is harmful to the special architectural and historic character of the Conservation Area. Therefore the fence is contrary to Policy 1B of the approved South East Scotland Strategic Development Plan (SES plan), Policy ENV4 and DP2 of the adopted East Lothian Council Local Plan 2008 and Scottish Planning Policy: February 2010.*

RESPONSE

The, so called, historic wall was fully in place at a higher level than the fence when we purchased the property off plan. The developers knocked it down, much to our disappointment, and partially rebuilt it at no more than slightly three feet then added the railings, an entirely new feature. Thus the wall and railings are not historic.

We stated that we would stain or paint the fence in keeping with the foliage. This is neither noted nor commented upon when the subjective description of the fence as " harmful " (etc) is recorded.

3. *If approved the fence would set a harmful precedent for allowing the addition of a similar forms of fencing to be erected within the rear gardens of other houses within this prominent part of Musselburgh Conservation Area. Such cumulative change would be harmful to the special architectural and historic character of this part of the Conservation Area*

RESPONSE

The only other rear garden this applies to is our next door neighbour, who objected, and the same facts apply to her wall and railing. Furthermore a prominent double oak door has been built at the edge of our development in the same conservation area alongside the wall.

SUMMARY

In summary the facts behind the decision are ill informed and inaccurate. Firstly, the statement that the fence partly obscures the northern elevation of the historic Red House is completely inaccurate. It does not do such thing. It partially obscures a modern extension to give us privacy.

Secondly the reference to the historic wall and railings is also inaccurate. It was constructed, as we saw, in 1989.

Thirdly the subjective and pejorative statement that the fence is “ harmful “ is based on an inaccurate understanding of the facts outlined above and ignores our intention to stain or paint the fence in sympathy with the foliage.

We have a right to privacy, from a public footpath, in our rear garden when, in winter, with no foliage we are routinely looked into.

PROCESS

Had the planning officer, who made this judgement, called on us we would have made these points clear. He made no attempt to contact us. Did he contact objectors? If so, why did he not contact us?

Finally the same planning officer emailed us on 5th July stating that it was his view the fence was “harmful” and that it is “our intention to refuse permission”. Please explain his authority to do so at that stage?

Yours Sincerely

Gerald O’Hara