

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

20/08/13

APP NO 13/00129/P

EAST LOTHIAN COUNCIL  
SUPPORT SERVICES

21 AUG 2013

RECEIVED

GERALD O'HARA  
117 MILLHILL  
MUSSELBURGH  
EH21 7RP

## 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 no 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 5<sup>th</sup> 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