

REVIEW DECISION NOTICE

Decision by East Lothian Local Review Body (the ELLRB)

Site Address: Land adjacent to 15A Camptoun Holdings, East Lothian, EH39 5BA

Application for Review by Mr Steve Reynolds against decision by an appointed officer of East Lothian Council.

Application Ref: 14/00794/P

Application Drawing: AL(0)100, DWG001 and AL(0)101

Date of Review Decision Notice – 11th May 2015

Decision

The ELLRB upholds the decision to refuse planning permission for the reasons given below and dismisses the review.

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

1.1 The above application for planning permission was considered by the ELLRB, at a meeting held on 23rd April 2015. The Review Body was constituted by Councillor John McMillan (Chair), Councillor John Williamson and Councillor Jim Gillies. All three members of the ELLRB had attended an unaccompanied site visit in respect of this application on 23rd April 2015.

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

Emma Taylor, Planning Adviser
Morag Ferguson, Legal Adviser
Fiona Stewart, Clerk.

2 Proposal

2.1 The application site is located at Camptoun, which is in a countryside location around a mile south of Drem and two miles north of Haddington. The application seeks permission in principle for a single dwelling. No details have been submitted about the design of the proposed house or the layout of the site. The application drawings are included within the Review Papers

The application for planning permission was registered on the 9th October 2014 and was refused under delegated powers on 12th November 2014. The Notice of Review is dated 5th February 2015.

The two reasons for refusal are set out in full in the Decision Notice and are, in summary, that the proposal would be contrary to development plan policy on housing in the countryside, and that approval would set a precedent for further such permissions, which would cumulatively have a detrimental impact on the character and amenity of the countryside.

The Applicant has applied to the ELLRB to review the decision to refuse planning consent.

3 **Preliminaries**

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

1	The drawings specified above
2	The application for planning permission
3	The Appointed Officer's Report of Handling
4	A copy of the Decision Notice dated 12 th November 2014
5	Copies of Policies DC1, DP22 and T2 of the Adopted East Lothian Local Plan 2008
6	Copy of Consultation Responses
7	Photographs of the Site
8	Statement regarding status of Main Issues Report
9	Notice of Review dated 5 th February 2015

4 **Findings and Conclusions**

4.1 The ELLRB confirmed that the application for a review of the original decision 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.

The Members asked the Planning Adviser to summarise the planning policy position in respect of this matter. The Planning Adviser gave a brief presentation to Members advising that application site is located at Camptoun, a countryside location around a mile south of Drem and two miles north of Haddington. She noted that the site is on the north-west side of the access road leading to Camptoun Steading, which is currently being converted to housing, and is at the end of a row of detached dwellings located alongside this access road. She advised that the most recent use of the site is as an agricultural contractor's yard.

She briefly outlined the history to this application; an earlier application July 2011 also sought planning permission in principle for the erection of a new house on the site and was refused planning permission. The reasons for refusal of that application were that (1) the proposed new build house did not meet the terms of and was therefore contrary to Policy DC1 of the adopted East Lothian Local Plan 2008; and (2) If approved the proposed development would set an undesirable precedent for the development of new houses in the countryside of East Lothian. In September 2011 a Notice of Review of the decision to refuse planning permission in principle for the proposed house was lodged and in January 2012 the ELLRB dismissed the Review and the decision to refuse planning permission in principle for the proposed house was upheld.

She reminded Members that planning legislation requires decisions on planning applications to be taken in accordance with development plan policy unless material considerations indicate otherwise. She noted that there are no SESplan policies of direct relevance to this proposal, although Policy 1B states that Local Development Plans will conserve and enhance the natural and built environment.

She confirmed that the site is within an area designated as countryside under policy DC1 of the Adopted East Lothian Local Plan 2008 and advised that the broad policy context for development in the countryside is provided by that policy. In summary, she advised that it seeks to restrict development in the countryside to protect its character, while allowing some limited forms of appropriate development. New-build housing is only allowed where it is a direct operational requirement of an agricultural, horticultural, forestry or other employment use, and no appropriate existing building is available. Business use is acceptable in principle where it is of an appropriate scale and character. In all cases, a number of criteria must be satisfied in terms of visual and landscape impact, access and servicing, and impacts on nearby uses.

She advised that highway safety is another relevant policy consideration and that the relevant policy in the development plan seeks to ensure development does not have significant adverse consequences for road safety. The key policy is Local Plan policy T2.

She reminded Members that the Appointed Officer refused this application for same two reasons as the previous application and noted that the reasoning is set out in detail in the case officer's report.

She advised that the applicant's agent argues that there are material considerations that outweigh development plan policy. These are said to be the site's existing use, its unique characteristics, and the residential nature of its context. It is also argued that there would be visual and amenity benefits arising from the development, and that approval would not set a precedent for approving other applications.

She advised that there were no public representations made in respect of this application and that consultation responses were received from the Council's Roads Services and Environmental Services sections. Environmental Services had no comments to make. Roads Services advised that certain works required under the permission for the nearby steading conversion were still to be carried out, and therefore at this time the site does not have a safe access. She noted that the case officer noted in her report that the existence of the permission for the nearby steading conversion means it is likely that a safe means of access is achievable.

She summarised the main questions for the ELLRB to consider in reviewing the case as whether the proposed development would comply with the policies of the development plan, particularly in respect of development in the countryside and road safety, with or without conditions and whether there are any other material considerations that should be taken into account?

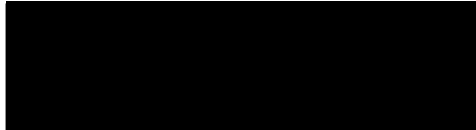
Finally, she reminded Members that they have the option of seeking further information if necessary before making a decision, either through further written submissions, a hearing session, a further site visit, or a combination of these procedures.

The Chair asked the members to consider whether they had sufficient information to enable them to proceed to make a decision in respect of this matter. All members considered that they did have sufficient information. Accordingly, the decision of the ELLRB was that they would proceed to reach a decision at this meeting.

- 4.2 Councillor Williamson considered that the Review Papers and the site visit had given a useful context for what was being proposed. He considered that, as there had been no changes to the terms of Policy DC1 since the previous application was refused and that the site is designated as being in the countryside at present he can see no reason to reach a different conclusion from that of the Appointed Officer. Councillor Gillies agreed with the views of Councillor Williamson and considered that the site is correctly allocated under policy DC1, which policy should be applied to this application. He found no reason to depart from that policy and thus he was minded to refuse planning permission.
- 4.3 Councillor McMillan considered that the definition of what constitutes a settlement and the application of policy DC1 may need to be reviewed by the Planning Authority in the next Local Development Plan. He considered that the nature of this particular site was such that a house located here would improve the amenity of the immediate area. Whilst he acknowledged the need to take account of policy considerations, he considered that, in this case, there were sufficient grounds to depart from the policy and he would support the grant of planning permission. Accordingly he was minded to overturn the original decision to refuse planning permission.

- 4.4 Accordingly, the ELLRB decided, by a majority of two votes to one, that the Review should be dismissed and the original decision to refuse this application should be upheld, for the reasons set out in the original Decision Letter of 12th November 2014.

The Review Application was accordingly dismissed.



**Morag Ferguson
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.