

REVIEW DECISION NOTICE

Decision by East Lothian Local Review Body (the ELLRB)

Site Address: Land at Meadowmill, Tranent, EH33 1LZ

Application for Review by Mr Andrew King against decision by an appointed officer of East Lothian Council.

Application Ref: 14/00390/P

Application Drawing: MMT/PL50

Date of Review Decision Notice – 28th February 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 19th February 2015. The Review Body was constituted by Councillor Tim Day (Chair), Councillor Jim Goodfellow and Councillor Jim Gillies. All three members of the ELLRB had attended an unaccompanied site visit in respect of this application on 19th February 2015.

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

Phil McLean, Planning Adviser (in attendance on Site Visit)
Morag Ferguson, Legal Adviser
Fiona Stewart, Clerk.

2 Proposal

2.1 The application site is an area of vacant ground at Meadowmill, near Prestonpans. The application seeks permission for a change of use to a used car sales area, with associated works including siting of a sales cabin, the formation of an access and hardstanding, and the erection of fencing and gates. The application drawings are included within the Review Papers.

The planning application was originally registered on 28th May 2014 and was refused under delegated powers on 5th September 2014. The notice of review is dated 3rd December 2014.

The reasons for refusal are set out in full in the Decision Notice and are, in summary, that the proposed development would be an unjustified and inappropriate form of development in the countryside, and that the size, scale and physical appearance of the development would be harmful to the landscape character and appearance of the area.

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 drawing specified above
2	The application for planning permission
3	The Appointed Officer's Report of Handling
4	A copy of the Decision Notice dated 5 th September 2014
5	Copy Letters of Objection and Representation
6	Copies of Policies DC1, DP2, DP22 and T2 of the Adopted East Lothian Local Plan 2008
7	Copy of Policy 1B of the approved South East Scotland Strategic Development Plan
8	Copy of Consultation Responses
9	Photographs of the Site
10	Statement regarding status of Main Issues Report
11	Notice of Review dated 3 rd December 2014 and supporting review statement and photographs

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 the application seeks permission for a change of use to a used car sales area, with associated works including siting of a sales cabin, the formation of an access and hardstanding, and the erection of fencing and gates.

He reminded members that the planning legislation requires decisions on planning applications to be taken in accordance with development plan policy unless material considerations indicate otherwise.

He noted that the site is located in an area outwith an existing settlement and which is designated as countryside in the Adopted East Lothian Local Plan under policy DC1. He reminded Members that, in such designated areas, policy DC1 generally seeks to restrict development to protect countryside character, while allowing some limited forms of appropriate development and that business use may be acceptable where it is of an appropriate scale and character for its location. He also noted that a copy of policy DC1 is with the Review Papers.

He advised that a number of other development plan policies are also relevant to the application, including those in relation to design, transport and road safety, and copies of these policies are also with the Review Papers. The site is also within the designated area of the Battle of Prestonpans.

He reminded the ELLRB that the application was refused by the appointed officer for two reasons. Firstly, on the basis that the proposed development would be an unjustified and inappropriate form of development in the countryside, and secondly that the size, scale and physical appearance of the development would be harmful to the landscape character and appearance of the area. On both counts the application was considered by the case officer to be contrary to relevant development plan policies controlling development in the countryside although the case officer considered the proposals acceptable in other respects, including privacy and amenity, sunlight and daylight, traffic, and road safety, noting that conditions could be imposed to control such detailed matters. He reminded Members that the full details of the case officer's assessment are in the report on handling.

He noted that the applicant's request for a review argues that the site does not have a 'countryside' character and that it is brownfield land with a derelict appearance. It is stated that

the site formerly contained glass houses associated with a previous garden nursery business. The applicant also argues that the impact of the proposed development will be less than that of the previous business, which operated successfully on the site without adverse impact. He also states that other planning permissions at Meadowmill for business uses set a precedent for this particular proposal. The visual impact of the development is stated to be minimal by virtue of its location and screening. In summary, the applicant argues that the proposal represents an appropriate business that will maintain the character of the countryside and therefore complies with relevant development plan policies.

With regard to consultation responses, he noted that East Lothian Council's Roads Services department raised no objections but recommended conditions regarding access and parking. The Council's Environmental Protection Manager raised no objection subject to a condition controlling noise levels. Historic Scotland and the Council's Archaeology Officer both raised no objections in relation to the designated battlefield and archaeological interests. Network Rail raised no objections but provided detailed comments that might appropriately form the basis of a planning condition. Scottish Water was consulted by the case officer but made no response.

He noted that a number of objections were received, which are copied in full within the Review Papers and which are also summarised in the case officer's report. Issues raised related particularly to impact on residents at Meadowmill in terms of privacy, amenity, parking and road safety, and infrastructure.

The Planning Adviser summarised the main questions for the ELLRB to consider in reviewing the case, namely, whether the proposed development would comply with the policies of the development plan, with or without any conditions, whether there are any other material considerations that should be taken into account, and whether any of these outweigh the provisions of the development plan in this case?

Finally, he 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 Goodfellow considered that the Review Papers and the site visit had given a full picture of what was being proposed and the nature of the site at present. He considered that the site is of a similar nature to a neighbouring site to the east where a small business is operating but that the key difference is the scale of what is being proposed in this application. Whilst the neighbouring business is of a very small scale and operates without any harmful impact on either the character or appearance of the area, this application is proposing a much larger scale operation that, in his view, would be harmful to the landscape and character of the area. He considered that the site is correctly allocated under policy DC1 and found no reason to depart from that policy and thus he was minded to refuse planning permission. Councillor Gillies agreed with the views of Councillor Goodfellow on this issue and was also minded to uphold the original decision to refuse planning permission.

4.3 Councillor Day considered that policy DC1 rightly set a high bar for applications as the proposed scale and appearance of development in East Lothian's countryside merit careful consideration. Whilst he had some sympathy with the applicant's view that the site should not have a policy DC1 allocation, this is the current position and it must be assessed accordingly. In the circumstances, he found no reason to overturn the reasonable conclusion that the proposal would be an inappropriate form of development for this site and would have a harmful impact. Taking these factors into account, he was minded to uphold the original decision to refuse planning permission.

- 4.4 Accordingly, the ELLRB unanimously agreed 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 5th September 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.