

REVIEW DECISION NOTICE

Decision by East Lothian Local Review Body (the ELLRB)

Site Address: 6 Elcho Road, Longniddry,

Application for Review by @Architecturejftd (c/o Julian Frostwick) against decision by an appointed officer of East Lothian Council.

Application Ref: 15/00475/P

Application Drawings: AL(0)100/, AL(0)01Rev A, AC (2)01/Rev A and streetview photograph.

Date of Review Decision Notice – 30th March 2016

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 17th March 2016. The Review Body was constituted by Councillor Norman Hampshire (Chair), Councillor John McNeil Councillor Donald Grant, Councillor John Caldwell and Councillor John Williamson. All five members of the ELLRB had attended an unaccompanied site visit in respect of this application on 17th March 2016.

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

Emma Taylor, Planning Adviser (in attendance on Site Visit)
Catherine Molloy, Legal Adviser
Fiona Stewart, Clerk.

2 Proposal

2.1 The application property is located at the southeast part of the garden of the house at 6 Elcho Road Longniddry. The proposal is for the erection of one house and for the formation of a new vehicular access and driveway and for the erection of a garage to serve the existing house of 6 Elcho Road.

The planning application was originally validated on 29th July 2015 and was refused under delegated powers on 25th September 2015. The notice of review is dated 16th December 2015.

The reason for refusal is set out in full in the Decision Notice and is, in summary, that,

- (1) The siting of the proposed house on the southeast part of the application property would amount to a crammed form of infill development which would make the application property appear crammed and over developed in a manner detrimental to the characteristic layout, density of development and appearance of this part of Longniddry. Consequently the

proposed development is contrary to policies DP2 and DP7 of the adopted East Lothian Local Plan 2008 and

- (2) The existing residential amenity of the properties of 4 and 6 Elcho Road would be harmed and the occupants of the proposed house would also not be afforded sufficient residential amenity. Consequently the proposed development is contrary to Policies DP2 and DP 7 of the adopted East Lothian Local Plan 2008.

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 25 th September 2015
5	Copy of consultation responses from (i) Roads Services (ii) the Principal Environmental Protection Officer and (iii) Landscape Officer (Policy and Projects)
6	Copies of Policy 1B of the approved South East Scotland Strategic Development Plan and Policies, ENV41 and DP2 and DP7 and DP14 and DP 22 and T2 of the Adopted East Lothian Local Plan 2008
7	Copy of email correspondence between the Case Officer and the applicant's agent
8	Copies of the 4 public representations received
9	Notice of Review dated 16 th December 2015 and supporting review statement and photographs

4 Findings and Conclusions

- 4.1 The legal advisor had advised the ELLRB 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 legal advisor had also summarised the procedure and asked Members to note that there was an error in the Applicant's Notice of Review. The Applicant had confirmed that the application was a planning permission in principle. The legal advisor confirmed, with the acknowledgement of the planning advisor, that it was an application for planning permission.

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. The Planning Adviser asked the ELLRB to note that 2 previous applications for the erection of a house on the plot have been refused planning permission. The reason for refusal of those previous applications were that

- (1) the proposed house would be a crammed form of infill development which would make the site appear over developed, in a manner detrimental to the characteristic layout, density of development and appearance of the area and with the likelihood that the occupants of the house would not be afforded sufficient residential amenity and
- (2) that the existing residential amenity of the properties of 4 and 6 Elcho Road would be harmed.

She also asked the ELLRB to note that the Case Officer has refused this application for the same two reasons as the 2 previous applications.

She confirmed that the Planning Act requires decisions on planning applications to be taken in accordance with development plan policy unless material considerations indicate otherwise. The development plan consists of the approved Strategic Development Plan for Edinburgh and South East Scotland, known as SESplan, and the adopted Local Plan 2008.

She also advised that the site is within a residential area of Longniddry, designated under local plan policy ENV1. She pointed out that the main policy considerations relevant to the application are design, amenity, and road safety. She also advised that the key development plan policies in relation to these matters are Strategic Development Plan policy 1B and Local Plan policies ENV1, DP7, DP22, and T2.

She asked the ELLRB to note that consultation responses were received from the Council's Roads Services and Environmental Services and that four representations to the application were received. She advised that the details are contained in the Officers Report.

The planning convenor summarised, the main questions for the ELLRB to consider in reviewing the case were:

- Whether the proposed development would comply with the policies of the development plan in respect of infill development, design and amenity?
- 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?

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 McNeil observed that this was the third application before the ELLRB. Councillor McNeil further observed that the proposed structure was long and narrow and he was of the view that the planning officials made the proper assessment in refusing the planning application. Councillor Grant confirmed that the site visit was useful. He further commented that whilst infill developments do have great potential these must be carried out in the proper manner having regard to the amenity of the area. Councillor Grant was of the view that, drawing on the site visits, the plans and officer report in front of him, that he considered the proposal would be "shoe horned". He was also of the view that the neighbouring property's amenity would suffer as a result. Councillor Williamson also observed that the site visit was helpful in providing context to the proposed application. Councillor Williamson was of the view that the land in which the proposed site was to be built upon was too small. Councillor Caldwell then observed that infill is always a possibility but this was what he considered "over development". He also observed that he was of the view that the proposal would be intrusive to the neighbour. Councillor Hampshire confirmed that he would not support the appeals for reasons already given.
- 4.4 Accordingly, the ELLRB agreed, by a unanimous vote, that the Review should be dismissed and the original decision to refuse this application should be upheld, for the reason set out in the original Decision Letter of 25th September 2015.

The Review Application was accordingly dismissed.



Catherine Molloy
Legal Adviser to ELLRB

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.