

REVIEW DECISION NOTICE

Decision by East Lothian Local Review Body (the ELLRB)

Site Address: Land at Millers Court, Elphinstone Road, Tranent, East Lothian.

Application for Review by Mr and Mrs D Higgins against decision by an appointed officer of East Lothian Council.

Application Ref: 15/00580/P

Application Drawing: PL007, PL003(A), PL004(A) and PL006(A)

Date of Review Decision Notice – 9th May 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 21st April 2016. The Review Body was constituted by Councillor John McMillan (Chair), Councillor Willie Innes, Councillor Peter MacKenzie and Councillor Jim Gillies. All four members of the ELLRB had attended an unaccompanied site visit in respect of this application on 21st April 2016.

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 an irregular shaped area of land planted with trees that forms the northern landscape boundary of the 64 house development at Castle Road, Tranent. The planning application is for the erection of one house with associated garden ground and for the formation of a vehicular access and areas of hardstanding in the form of a driveway and patio on the area of land.

The planning application was registered on 29th September 2015 and was refused under delegated powers on 27th November 2015. The notice of review is dated 3rd February 2016

The two reasons for refusal are set out in full in the Decision Notice and are, in summary, that the proposed house, by virtue of its orientation and positioning, would be an intrusive and inharmonious form of infill development and would be harmful to the pattern and character of the layout of the development at Castle Road and the wider Millers Court and Somner Park area, all contrary to policy 1B of the approved South East Scotland Strategic Development Plan and policies DP2 and DP7 of the adopted East Lothian Local Plan 2008; and that the proposed

development would take away an area of public amenity open space to the detriment of the amenity of the area and would set a precedent for the use of other areas of vacant land for a similar purpose, all contrary to Policies DP7 and C5 of the said adopted East Lothian Local Plan 2008.

The Applicants have 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 27 th November 2015
5	Copies of Policies C5, DP2, DP7, DP14, DP22 and T2 of the Adopted East Lothian Local Plan 2008 and Policy 1B of SESplan June 2013
6	Copy of Consultation Responses
7	Copy Written Objections and Representations
8	Conditions to be attached to any grant of planning permission
9	Notice of Review dated 3 rd February 2016 with supporting statement

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 site is within a residential area of Tranent designated under Local Plan policy ENV1. The site of the application is an area of public open space forming part of the landscaping scheme of the adjacent housing developments. Consequently, she advised that one of the main policy considerations for the ELLRB is the impact of the loss of this area of public open space. T

She identified the other main policy considerations relevant to the application as being design, amenity, and road safety. She reminded Members that the key development plan policies in relation to these matters are Strategic Development Plan policy 1B and Local Plan policies ENV1, C5, DP7, DP22, and T2.

She informed the ELLRB that consultation responses had been received from East Lothian Council's Principal Amenity Officer, Landscape Officer, Roads Services and Environmental Services and that eighteen representations to the application were received, copies of which are with the Review Papers.

In summary, she advised that the main questions for the ELLRB to consider in reviewing the case are 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.

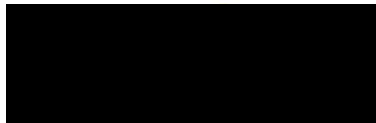
Finally, she reminded Members that they have the option of seeking further information if necessary before making a decision, either through further written submissions, a hearing session, a further site visit, or a combination of these procedures.

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 MacKenzie considered that the Review Papers and the site visit had given a useful context for what was being proposed. His view was that the site presented as a piece of natural habitat providing an element of separation between the two adjacent housing estates. He considered that it served a valuable function as an area of public open space and its loss would be to the detriment of the amenity of the wider area. He did not consider that this application justified that loss and according he considered it to be contrary to Policy C5. For this reason, he could not support the application. Councillor Innes advised that, while he sympathised with the position of the applicants and noted that the area of ground in question had clearly not been properly managed, he agreed that the area had clearly been designed as a landscape buffer between the housing areas. There had been a significant level of public objection to the loss of this area of land which demonstrated that it does have an amenity value to local residents. Accordingly, he could not support the loss of this land contrary to Policy C5. Councillor Gillies agreed with the views of Councillor Innes and considered that the site is clearly a buffer strip that has amenity value, as per Policy C5. 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 site visit had been important in demonstrating that the land adds to the character and amenity of the area. Policy DP7 permits infill development where the occupants of existing neighbouring properties will experience no significant loss of privacy and amenity and there will be no material loss of open space important to the character or amenity of the area. He did not consider that this application would comply with these requirements and thus could not support this application.
- 4.4 Accordingly, the ELLRB decided unanimously 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 27th November 2015.

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.