

The Clerk, Local Review Body  
Committee Team, Communications and Democratic Services  
John Muir House  
Haddington  
East Lothian  
EH31 3HA

30th June 2016

**Application No. 15/00400/P**

Dear Sir/Madam

In relation to the above application and its subsequent refusal, I require the Council, as planning authority, to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997.

I believe the following points have not been given sufficient regard by the Council in the assessment of the application:

- In accordance with s.1 of Policy DP2 of the East Lothian Local Plan 2008, to be appropriate to its location in terms of its positioning, size, form, massing, proportion and scale, the fence extends from the wall at the footpath at around 1m in height for a length of approximately 5.7m. The Officer's Report is factually incorrect, describing this length as 3.7m. This tranche of the fence is not visually intrusive nor incongruous to any view from the footpath of Dunbar Road. The length of fencing which is above 1m in height is sufficiently set back from the footpath (5.7m) such that it does not intrude on any person's reasonable right of view into another individual's private dwelling.

The front elevation of 14 Dunbar road (and the neighbouring properties of 12 and 16 Dunbar Road) are disproportionately set back from the footpath in comparison to the properties of 10 and 18 Dunbar Road. There is fencing in excess of 1m height on the borders of each of these properties which are not being challenged by the Council despite being significantly closer to the footpath than the length of fencing in this application which is being challenged by the Council. The blanket application of the 1m fencing rule to the forward elevation of the properties is producing an unjust and unequal outcome in comparison to previous fencing applications in this locality.

- In accordance with s.1 of Policy DP2 of the East Lothian Local Plan 2008, the use of a limited palette of materials and colours that complement its surroundings, the fence is constructed of only a single hardwood material which is of a single natural colour. The wood has naturally aged to a light grey colour which is perfectly in keeping with the low stone wall on the boundary of the front garden which was cited as being incongruous in the Council's refusal.

- To provide this property with a degree of privacy, as permitted by s.7 of Policy DP2 of the East Lothian Local Plan 2008, and to protect the young children resident at 12 Dunbar Road from the pond on the land of 14 Dunbar Road , the fence increases in height to approximately 1.8m for the remaining 18.1m length of the border to the entrance of the communal vennel between the two properties, where a gated area of the same height and materials provides secure access to the rear of both properties via the vennel. A fence of only 1m beside the pond would present a significant health and safety danger to these children. In March 2016, two young children drowned in Dalgety Bay because a fish pond was not suitably fenced.
- I reject the Council's position that a successful application would set a harmful precedent for similar forms of fencing to be erected in relation to the low stone walls that enclose the west roadside boundaries of other properties within the locality. As mentioned above, the property is set back disproportionately from other properties on the road and hence a similar situation could not occur. In addition, the need for fencing around the pond is a unique consideration which is unlikely to be replicated in other applications. To exercise its duty responsibly as the planning authority, it is surely a requirement that the Council assesses each individual application's circumstances and merits to achieve a just outcome rather than blindly applying rules and regulations.
- The Council has generally referenced Policy DP2 of the adopted East Lothian Local Plan 2008, but has in no way related this application specifically to the separate provisions of that Policy sufficient to explain the refusal .

Throughout the planning process I have at no time felt that the Council has considered the above points, which were raised previously, and ask that in this review you take the time to do so.

Yours faithfully

Adam Graves  
14 Dunbar Road