

REVIEW DECISION NOTICE

Decision by East Lothian Local Review Body (the ELLRB)

Site Address: 14 Dunbar Road, Haddington, EH41 3PW

Application for Review by Mr Adam Graves against decision by an appointed officer of East Lothian Council.

Application Ref: 15/00400/P

Application Drawings: DWG01, DWG02 and DWG03

Date of Review Decision Notice – 22nd September 2016

Decision

The ELLRB dismisses the decision to refuse planning permission for the reasons given below and upholds the review, subject to the condition set out herein.

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 15th September 2016. The Review Body was constituted by Councillor Norman Hampshire (Chair), Councillor John McNeil, Councillor Jim Goodfellow and Councillor David Berry. All four members of the ELLRB had attended an unaccompanied site visit in respect of this application on 15th September 2016.

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

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

2 Proposal

2.1 The application site is a house and its garden ground located within a residential area of Haddington defined by Policy ENV1 of the Adopted East Lothian Local Plan 2008.

The application seeks retrospective planning permission for a fence and gate that have been erected along the south boundary of the site.

The planning application was validated on 26th February 2016 and was refused planning permission on 25th April 2016. The notice of review is dated 22nd June 2016.

The reasons for refusal are set out in full in the Decision Notice and are, in summary, that, due to its markedly different form in relation to the low boundary walls in the rest of the streetscape, the 1.8m section of the fence and gate ahead of the front building line of the house is visually intrusive and incongruous feature to the detriment of the character and amenity of the residential area and that the approval of planning permission for this fence and gate would set a harmful

precedent for similar forms of fencing in the locality, all to the detriment of the streetscape and the character and appearance of the area, all contrary to the provisions of the development plan.

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 4 th April 2016
5	Copies of Policy 1B of the approved South East Scotland Strategic Development Plan and Policies ENV4 and DP2 of the Adopted East Lothian Local Plan 2008
6	Photographs of the applicant's property and its surroundings
7	Notice of Review dated 3 rd July 2016 and 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 application seeks retrospective permission for the erection of a timber fence and gate that has been erected to the front or south of the house in the application site. She advised that the fence is a timber fence of 1.8m in height and some 18.1m in length.

She 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.

She advised that the site is within a residential area of Haddington designated under Local Plan Policy ENV1. It is not within a Conservation Area and the building is not listed. She confirmed that the main policy considerations relevant to this matter are design and amenity, both in terms of character and appearance, and in terms of safety and security. The key development plan policies in relation to these matters are Strategic Development Plan policy 1B and Local Plan policy DP2.

She reminded the LRB that the application was refused by the appointed officer on the basis that the fence and gate are not in keeping with their surroundings and are harmful to the character and appearance of the streetscape of the area and that, if approved, the fence and gate would set a harmful precedent for allowing similar fencing to be erected on neighbouring properties.

She noted that the applicant argues that the fence and gate are not visually intrusive or incongruous to any public views and that the fence is required to provide privacy and security to protect young children in the family.

She confirmed that there no consultations were carried out on the application by the case officer and no letters of representation were received.

The Planning Officer 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 in respect of design, 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, 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 Goodfellow advised that, having seen the fence and the streetscape on the site visit, it was clear that the houses had exceptionally long front gardens. He felt that it would be appropriate to take some account of this and would be supportive of permitting a fence of 1.8m in height up to the building line of the block of houses to the north. Councillor McNeil considered that the fence as currently erected is out of character for this area of Haddington but would be agreeable to some compromise along the lines proposed by Councillor Goodfellow. Councillor Berry considered that an overall review of the fencing in the vicinity was required but accepted that this application required to be determined on its own merits.
- 4.3 Councillor Hampshire agreed that a fence of 1.8m in height up to the front building line of the adjoining block would be visually acceptable but that a fence of that height in front of this line is intrusive and out of keeping with the character and appearance of the area.
- 4.4 Accordingly, the ELLRB agreed unanimously that the Review should be upheld and planning permission should be granted for the fence and gate subject to the following condition:

Within 28 days of the date of this Decision Notice the 1.8m high section of fence hereby approved shall be modified so that its western edge shall not protrude beyond the building line of the west elevations of the neighbouring terrace of houses of nos. 2-8 Dunbar Road, Haddington lying to the south of the application site.

The ELLRB also agreed that, should the fence not be so modified within 28 days of the date of this Decision Notice, enforcement action should be initiated to effect its modification.

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.