

REVIEW DECISION NOTICE

Decision by East Lothian Local Review Body (the “**ELLRB**”)

Application for Review by Mr Alexander Clark against condition application for a driveway at 8 Council Houses, Humbie

Site Address: 8 Council Houses, Humbie

Application Ref: 18/00031/P

Application Drawing(s): DWG1, DWG2, DWG3, DWG4, DWG5, and DWG6

Date of Review Decision Notice: 18 January 2019

Decision

The ELLRB unanimously agreed to uphold the decision of the planning officer and to refuse the appeal.

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 Thursday, 11 October 2018. The Review Body was constituted by Councillor W Innes (Chair); Councillor S Kempson, and Councillor N Gilbert. All three members of the ELLRB had attended an unaccompanied site visit in respect of this application prior to the meeting.

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

Mr I McFarlane, Planning Adviser to the LRB
Mr C Grilli, Legal Adviser/Clerk to the LRB
Fiona Stewart, Clerk.

2. Proposal

- 2.1. The planning application is for the formation of vehicular access (Part Retrospective).
- 2.2. The planning application was registered on 1 February 2018 and was approved subject to conditions under delegated powers on 5 June 2018. The Condition appealed against is Condition 1 of the Planning Permission. The notice of review is dated 11 August 2018.
- 2.3. The reasons for the condition are set out in full in the Decision Notice and are, in summary, that Condition 1 of the Planning Permission is required in the interest of road safety and parking provision in the surrounding area, and in the interests of the visual amenity of the area.

3. Preliminaries

- 3.1. The ELLRB members were provided with copies of the following:-

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| 1 | The drawings specified above |
| 2 | The Application for planning permission registered on 1 February 2018 |
| 3 | The Appointed Officer's Report of Handling |
| 4 | A copy of the Decision Notice dated 5 June 2018 |
| 5 | <p>Strategic Development Plan for Edinburgh and South East Scotland June 2014</p> <ul style="list-style-type: none"> • Policy 1B (The Spatial Strategy: Development Principles) • Local Plan 2008 policies: • DP1 (Landscape and Streetscape Character) • DP2 (Design) • DP22 (Private Parking) • Policy T2 (General Transport Impact) <p>Proposed Local Development Plan policies:</p> <ul style="list-style-type: none"> • T1 (Development Location and Accessibility) • T2: General Transport Impact • PROP T3: Segregated Active Travel Corridor • Policy T4: Active Travel Routes and Core Paths as part of the Green Network Strategy • DP1: Landscape Character • DP2 (Design) |
| 6 | Notice of Review dated 11 August 2018 together with Applicant's Submission with supporting statement and associated documents. |

4. Findings and Conclusions

- 4.1. The ELLRB confirmed that the application for a review of the condition permitted them to consider the condition afresh and it was open to them to grant it in its entirety, grant it subject to conditions or to refuse it. They confirmed that they had access to the planning file in respect of this matter and to all the information that the Appointed Officer had available when reaching the original decision to grant planning permission subject to the condition, including all drawings and copies of all representations and objections received in respect of the original application.

- 4.2. The Members then 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 the subject of this application was a semi-detached house located on the northeast edge of Humbie. The applicant had sought planning permission (partly in retrospect) for the formation of a vehicular access in the front (east) garden of his property and to widen the access point, by removing a further length of the existing stone boundary wall which encloses the front garden. Planning consent had been granted on 6 June 2018, subject to one condition. This condition required alterations to be made to the plans in order that one parking space was retained within the parking bay to the front of the property. The condition also required the hardstanding area to be extended in order that vehicles could turn and leave the property without the need to reverse onto the B6368, the main road which runs through Humbie.

The Planning Adviser stated that the applicant's grounds of appeal were that it was not necessary to retain a parking space in front of his property. Roads Services Officers had objected to the planning application as it would remove two parking spaces in an area of relatively high demand. They also required that there was space within the curtilage of the property for a vehicle to turn and access the road in a forward gear.

The Planning Adviser stated that the Case Officer had considered that the application for a driveway was acceptable in principle, but shared the concerns of Roads Services Officers on the issues outlined above. The Planning Adviser also stated that a possible solution had been identified following discussions between the Planning Case Officer and Road Services Officers, which would enable them to support the application. This would require one of the two parking spaces in front of the property to be retained and for the hardstanding area to be of a sufficient size to allow vehicles to turn within the site and access the road in a forward gear.

- 4.3. Councillor Kempson considered, having visited the site, that it was important to retain one parking space in the parking bay in front of the property. It was also her view that the terms of the condition would allow the applicant to create a drive without losing two spaces in the parking bay.
- 4.4. Councillor Gilbert agreed that the terms of the condition were reasonable in the circumstances and would support the decision of the Case Officer.
- 4.5. The Chair was concerned that there was adequate space on the driveway to allow cars to manoeuvre and thereby not have to be reversed onto the main road. He also considered that it was important to retain one space in the parking bay in front of the property. In his view, the parking bay was different to on-street parking as it was an area created for public parking. He too, therefore, was minded to support the original decision of the Case Officer.

Accordingly, the ELLRB unanimously agreed that the appeal should be refused and planning permission condition 1 being retained as is restated below:

Condition:

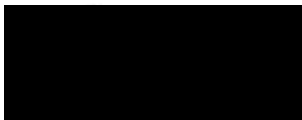
1. Within four months from the date on the Review Decision Notice, the following alterations shall be made to the vehicular access hereby approved and its associated area of hardstanding:
 - a) The existing stone roadside wall on the north side of the existing vehicular access shall be retained and also extended southwards for a further 1.2 metres. The extended section of wall shall be constructed of natural stone to match that of the existing wall; and
 - b) The area of hardstanding shall be extended such that it is nine metres wide and six metres deep.

Details of these proposed alterations to the vehicular access hereby approved and its associated hardstanding area shall be submitted to and approved by the Planning Authority in advance of any development commencing. The submitted details shall demonstrate that one parking space shall be retained within the parking layby immediately to the east of the application site. The submitted details shall also show how vehicles are able to access and egress the application site in a forward gear.

A sample of the natural stone to be used shall be submitted to and approved in advance by the Planning Authority. Development shall thereafter be carried out in accordance with the details and sample so approved.

Reason:

In the interest of road safety and parking provision in the surrounding area, and in the interests of the visual amenity of the area.



Carlo Grilli
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.