



**MINUTES OF THE MEETING OF THE
LOCAL REVIEW BODY**

**THURSDAY 15 NOVEMBER 2018
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Committee Members Present:

Councillor W Innes (Chair)
Councillor J Findlay
Councillor N Gilbert

Advisers to the Local Review Body:

Mr L Taylor, Planning Adviser to the LRB
Mr C Grilli, Legal Adviser to the LRB

Committee Clerk:

Mrs F Stewart

Declarations of Interest

None

Apologies

None

Councillor Innes, elected to chair the meeting by his colleagues, welcomed everyone to the meeting of the East Lothian Local Review Body (ELLRB).

A site visit had been carried out for each of the four planning applications on the agenda prior to the meeting.

1. PLANNING APPLICATION 18/00355/P – REVIEW AGAINST CONDITION ERECTION OF GARAGE, WALLS, GATE, INSTALLATION OF OIL TANK, BOILER AND FORMATION OF HARDSTANDING AREAS AT 10 GLEBE CRESCENT, ATHELSTANEFORD

The Chair invited the Planning Adviser, who had had no involvement in the original decision, to present a summary of the planning policy considerations in this case.

Leigh Taylor, Planning Adviser, stated that the subject of this application was a two storey semi-detached house located in the Athelstaneford Conservation Area. Planning permission had been originally sought for the erection of a single storey pitched roof garage and installation of a tank and boiler in the rear garden, the erection of 1 metre high gates and 1 metre high sections of wall to the front boundary, and the formation of hard standing driveway in the rear, side and front garden area. Consent was subsequently granted for all works except for the erection of the new front boundary walls and gates. This aspect of the proposal was viewed by the Planning Case Officer to be contrary to Local Plan 2008 policies ENV4 and DP2, as the prominence of the wall and gates would be an incongruous feature in the Conservation Area. A precedent would also be set whereby other boundary walls could be erected, incrementally changing the streetscape of this part of the Conservation Area. Also of relevance were policies CH2 and DP2 of the proposed Local Development Plan (LDP) which became the adopted plan for East Lothian on 27 September 2018.

The Planning Adviser stated that consultation with East Lothian Council's (ELC) Roads Division had raised no objections and he advised that the Decision Notice for this application had been issued on 4 June 2018.

The Chair thanked the Planning Adviser for his presentation and invited questions. Councillor Findlay enquired if the wall already constructed would have to be restored to its original form if consent was not granted and the Planning Adviser confirmed that enforcement action would be recommended. The Planning Adviser was also asked if the Planning Department had any control over the appearance of the wall and he advised that a condition (s) could be applied to the consent in this respect.

The Chair asked his colleagues if they now had sufficient information to proceed to determine the application today and they unanimously agreed to proceed. Comments on the application followed.

Councillor Findlay stated that the types of boundary in Glebe Crescent were diverse. He was therefore minded to overturn the decision of the Planning Officer provided that the Planning Authority approved the types of materials used in the construction of the wall.

Councillor Gilbert noted that this was the first such development in Glebe Crescent and he considered that it would set an undesirable precedent. He was therefore minded to uphold the decision of the Case Officer to refuse consent for the new front boundary walls and gates.

The Chair shared the view of Councillor Findlay. He had observed, what was in his view, a similar boundary to a nearby property and was therefore minded to uphold the appeal, subject to the same condition requested by Councillor Findlay.

Decision

The ELLRB agreed by a majority vote to overturn the original decision of the Appointed Officer and granted planning permission for the new front boundary walls and gates subject to the condition below:

1. The colour of the render to be applied to the new lengths of walls hereby approved shall be submitted to and approved by the Planning Authority prior to the commencement of the rendering of the walls. The colour of the render to be used shall accord with the sample so approved.

Reason:

To safeguard the character and appearance of the house and the character and appearance of the Athelstaneford Conservation Area.

2. PLANNING APPLICATION 18/00591/P – REVIEW AGAINST REFUSAL PROPOSED NEW DWELLING IN GARDEN GROUND TOGETHER WITH NEW VEHICULAR ACCESS TO EXISTING HOUSE AT CRAIGOUR, BROADGAIT, GULLANE

The Chair invited the Planning Adviser, who had had no involvement in the original decision, to present a summary of the planning policy considerations in this case.

Leigh Taylor, Planning Adviser, advised that the application proposed to construct a two storey detached house accessible via the existing entrance from Broadgait. The application site was located within a predominantly residential area of Gullane and contained a number of trees protected by Tree Preservation Order 135. The planning history of this site showed that, on three separate occasions (December 2014, March 2017 and June 2017), applications for planning permission had been submitted seeking consent for a new dwelling. Each application had been subsequently withdrawn before being determined.

The Planning Adviser advised that the Council had previously consented to the felling of trees on the site. It was, however, a condition that replanting was carried out and the locations of the replacement trees had not been agreed with the Council.

Consultation with the Council's Landscape Division had resulted in an objection to the proposal. They did not consider the removal of T622 to be acceptable in order to accommodate the new house, being contrary to policy DP14 which sets out the reasons when tree removal may be acceptable. Landscape Officers also raised general concerns over the cumulative loss of trees on the site both as a result of the

current proposal and from previous felling of four protected trees covered by TPO 135. They were also concerned that trees could be damaged during the construction process.

The Planning Adviser stated that the Planning Case Officer had concluded that, whilst the proposed dwelling would not have a detrimental impact on the amenity of neighbouring properties, the placing of a house in this location would have a significant impact on a group of trees within this site which made a significant contribution to the landscape and visual amenity of this part of Gullane. The Case Officer also considered that it had not been demonstrated through adequate technical details that the proposed development could be carried out without damage to, or loss of, protected trees which are required to be retained on the site.

Relevant to the determination of this application were Local Plan 2008 policies DP2, DP7, DP14, NH5 and T2. Also relevant were proposed LDP policies RCA1, DP2, DP7, NH8 and T2. Planning permission was refused on the 26 July 2018.

The Chair thanked the Planning Adviser for his presentation and invited questions. Councillor Findlay enquired if there was an equivalent policy to DP14 in the new adopted Local Plan and the Planning Adviser replied that policy NH8 would be a near equivalent. He added that there were also references to trees in policy DP2. Councillor Gilbert asked if all the trees felled on the site had been replaced and the Planning Adviser circulated an image showing the site before the trees had been removed. The Legal Adviser advised that a condition could be applied to planning consent to the effect that trees would have to be planted in certain areas. The Chair sought confirmation that the trees felled on the site had been felled with the approval of the Council and the Planning Adviser confirmed that approval had been given. He also advised that, in some cases, the trees had been felled as they were damaged.

The Chair asked his colleagues if they now had sufficient information to proceed to determine the application today and they unanimously agreed to proceed. Comments on the application followed.

Councillor Gilbert had noted that the replacement trees had not been planted in a similar place to the original trees, as required by the legislation. Also, as two more trees would need to be removed and other trees could be damaged during the construction process, he was minded to uphold the decision of the Case Officer to refuse the application.

Councillor Findlay considered that the only tree of significance on the site was a Himalayan birch tree which was not indigenous to the Gullane area. Provided another tree was planted to replace this tree, he could see no reason to refuse consent for the applicant's proposals.

The Chair was similarly minded. While he considered that trees were important, he did not consider that the Himalayan birch tree was of significant importance to refuse the application. He was therefore minded to uphold the appeal.

Decision

The ELLRB agreed by a majority vote to uphold the appeal subject to the following conditions:

1. No development shall take place on site unless and until final site setting out details have been submitted to and approved by the Planning Authority.

The above mentioned details shall include a final site setting-out drawing to a scale of not less than 1:200, giving:

- a. the position within the application site of all elements of the proposed development and position of adjoining land and buildings;
- b. finished ground and floor levels of the development relative to existing ground levels of the site and of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and
- c. the ridge height of the proposed house shown in relation to the finished ground and floor levels on the site.

Reason: To enable the Planning Authority to control the development of the site in the interests of the amenity of the area.

2. Prior to the new house hereby approved being brought into use, the vehicle access, turning and parking arrangements for the new house and the formation of the new vehicular access and parking arrangements for the existing house of Craigour shall have been formed in their entirety and made available for use as shown on drawing no. AL(0)100 Rev A docketed to this grant of planning permission on, and thereafter the access, turning and parking areas for the existing and proposed houses shall be retained for such uses and kept free from obstruction.

Prior to any use being made of the existing vehicular access and the proposed vehicular access hereby approved a visibility splay of at least 2.5 metres by 70 metres in both directions as defined by: a) a line 2.5 metres long measured along the access road from the nearside edge of the main road carriageway; b) a line 70 metres long measured along the nearside edge of the main road carriageway from the centre of the access road in both directions and c) a straight line joining the termination of the above two lines, shall be provided for each of the two vehicular accesses and thereafter the visibility splay at each of the two vehicular accesses shall be maintained. No obstruction shall lie within each of the visibility splays above a height of 1.05 metres measured from the level of the carriageway of the adjacent public road.

Prior to any use being made of the existing vehicular access and the proposed vehicular access hereby approved the first 2 metres of land measured from the back edge of the adjacent carriageway of the public road and of the full width of each of the two accesses shall be hardsurfaced and thereafter retained as such.

No use shall be made of the driveways for the new house hereby approved or the driveway for the house of Craigour if any gates erected across the junction of those driveways with the public road are installed so as to open outwards towards the adjacent public road.

Reason: To ensure a safe means of access and a satisfactory level of car parking and turning provision to serve the house hereby approved and the existing house of Craigour in the interests of road safety.

3. A schedule of materials and finishes, including the colour(s) of such finishes, for the roof, walls, windows and external doors of the house has been submitted to and approved in advance in writing by the Planning Authority prior to the use of such materials and finishes

in the development hereby approved, and thereafter the materials and finishes used shall accord with the details so approved.

Reason: To enable the Planning Authority to control the materials, finishes and colour to be used to achieve a development of good quality and appearance in the interest of the visual amenity of the area.

- 4 Details and a sample(s) of the surface materials of the hardstanding areas in the form of the driveway and footpaths of the new house hereby approved and the new driveway of the existing house of Craighour also hereby approved shall be submitted to and approved in advance in writing by the Planning Authority prior to their use in the development hereby approved. Thereafter, the surfacing materials used to surface the driveways and footpaths shall accord with the details and sample(s) so approved.

Reason: In the interests of safeguarding the character and visual amenity of the area.

- 5 Prior to the occupation of the house hereby approved a 1.8 metres high close boarded timber fence shall be erected on the north boundary of the site, extending from the east boundary of the site to the east side of the two on-site parking spaces, in accordance with details shown for it on drawing no. AL(0)100 Rev A docketed to this grant of planning permission. Thereafter, that length of 1.8 metres high close boarded timber fencing shall be retained in situ at that height, unless replaced with an alternative means of boundary enclosure (i.e. fence, wall, hedge) that would be of equal height, length and as solid or dense in form as the fence it has replaced. Such alternative boundary enclosure shall be erected or maintained in place in accordance with details of it to be submitted for the prior inspection and approval of the Planning Authority. That alternative means of enclosure shall thereafter remain in place in accordance with such details approved unless otherwise approved in writing by the Planning Authority. If the alternative means of enclosure is hedging, then in the event that such hedging dies, is removed, or becomes seriously damaged or diseased within a period of 10 years following its approval it shall be replaced in the next planting season with new hedging of similar size and species unless otherwise approved in writing by the Planning Authority.

Reason: In the interests of preserving the amenity of the neighbouring property of Craighour to the north.

- 6 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended by The Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011, or any subsequent Order amending, revoking or re-enacting that Order, no windows or other glazed openings including roof windows shall be formed at first floor or attic level within the northwest elevation wall of the house hereby approved other than those already shown for that elevation.

Reason: In the interests of safeguarding the privacy and amenity of the neighbouring residential property of Craighour to the north.

- 7 Other than those trees to be removed from the application site as denoted on drawing no. 18521/2 of the Tree Survey and Arboricultural Implication Assessment report (dated June 2018) docketed to this grant of planning permission, no trees or bushes, which are to be retained on the site, shall be damaged or uprooted, felled, lopped or topped without the prior written consent of the Planning Authority.

Reason: To ensure the retention of vegetation important to the appearance and environment of the development.

- 8 No development shall take place on site until temporary protective fencing in accordance with Figure 2 of British Standard 5837: 2012 “Trees in relation to design, demolition and construction” has been installed, approved by a suitably qualified and experienced Arboriculturist and confirmed in writing by the Planning Authority. The temporary protective fencing shall be erected in the positions shown for it on drawing no. 18521/2 of the Tree Survey and Arboricultural Implication Assessment report (dated June 2018) docketed to this grant of planning permission, and thereafter the temporary protective fencing shall be retained in situ until completion of development. All weather notices shall be erected on said fencing with words such as “Construction Exclusion Zone – keep out”. Within the fenced off areas creating the Construction Exclusion Zones the following prohibitions must apply: (i) no vehicular or plant access; (ii) No raising or lowering of the existing ground level; (iii) No mechanical digging or scraping; (iv) No storage of temporary buildings, plant, equipment, materials or soil; (v) No hand digging; (vi) No lighting of fires; (vii) No handling discharge or spillage of any chemical substance, including cement washings. Planning of site operations should take sufficient account of wide loads, tall loads and plant with booms, jibs and counterweights (including drilling rigs), in order that they can operate without coming into contact with retained trees

Reason: To ensure the retention of vegetation important to the landscape character and appearance and environment of the development and their protection in the interests of safeguarding the landscape character of the area.

- 9 A landscape planting scheme for the planting of replacement trees and hedges on the site to mitigate for the loss of trees from the site shall be submitted for the prior written approval of the Planning Authority prior to the commencement of development on the site. Any replacement tree and hedge planting shall be carried out in the first planting and seeding season following the occupation of the house or the completion of the development, whichever is the sooner, and in the event that any such new trees and hedges die, are removed or become seriously damaged or diseased they shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority give written consent to any variation.

Reason: To ensure appropriate replacement tree planting on the site in the interests of the landscape character of the area.

- 10 No development shall take place on site until a person who, through relevant education, training and experience, has gained recognised qualifications and expertise in the field of trees in relation to construction, has been employed by the developer to inspect and monitor any work in close proximity of trees on the site, in accordance with section 4.9 (Arboricultural Supervision) of the Tree Survey and Arboricultural Implication Assessment report (dated June 2018) docketed to this grant of planning permission, and including, but not exclusively, the installation of the tree protection fencing and the construction of the driveways, parking and turning areas, hardstanding areas and the installation of services. All tree work shall be carried out in accordance with BS3998: 1989 ‘Recommendations for Tree Work’ and must be approved in writing by the Planning Authority before work is carried out.

Reason: To ensure the retention of vegetation important to the landscape character and appearance and environment of the development and their protection in the interests of safeguarding the landscape character of the area.

- 11 Prior to the commencement of development on the site, details for the construction, including the use of a cellweb material, of the parking/turning area within the root protection areas of trees T611 and T612, the new driveway to serve the existing house of Craighour, and the hardstanding areas across the width of the existing vehicular access and the proposed vehicular access, as required by condition 2, shall be submitted to and approved in writing in advance by the Planning Authority, and thereafter the construction of the parking/turning area, driveway and the hardstanding areas at the existing and proposed vehicular accesses shall accord with the details so approved.

Reason: To ensure the retention of vegetation important to the landscape character and appearance and environment of the development and their protection in the interests of safeguarding the landscape character of the area.

- 12 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended by The Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011, or any subsequent Order amending, revoking or re-enacting that Order, no development of the types specified in Part 1 of Schedule 1 of the Order or in any statutory instrument revoking and/or re-enacting that Part of the Order shall be undertaken on the new house hereby approved, or on any part of the application site, other than the development shown on the drawings docketed to this planning permission, unless with the prior approval of the Planning Authority.

Reason: In the interests of the retention of vegetation important to the landscape character and appearance and environment of the development and their protection in the interests of safeguarding the landscape character of the area.

3. PLANNING APPLICATION 18/00410/P – REVIEW AGAINST REFUSAL EXTENSION TO HOUSE AND CONVERSION OF THE EXISTING GARAGE TO FORM ANCILLARY ACCOMMODATION AT 7 SPRINGFIELD COTTAGES, WHITECRAIG

The Chair invited the Planning Adviser, who had had no involvement in the original decision, to present a summary of the planning policy considerations in this case.

Leigh Taylor, Planning Adviser, stated that the property was a single storey cottage located within a collection of properties to the south east of Whitecraig, adjacent to the A6124. The application proposed to extend the property in a single storey linear manner by erecting an approximately 33.6m long extension in a south westerly direction, attached by an extended hallway to the north west elevation of the existing property. The extension would comprise of a garage, games room, sitting area, gym and swimming pool (with a room in the roof above the swimming pool) and the extension would be finished with areas of facing brickwork and wet dash render to match the existing house, with a slate roof to match. He advised that relevant to the determination of this application was Strategic Development Plan (SDP) policy 1B and Local Plan 2008 policies DC1, DC2 and DP6.

The Planning Adviser stated that, in considering the application, the Case Officer had noted that the size and scale of the proposed extension would significantly increase the overall floor space and would be partially visible from the A6124 public road. He had also noted the planning history of the site. The Case Officer's conclusion was that, although there would be no detrimental impact on the amenity of neighbouring properties by the proposed extension, and the conversion of the garage to form ancillary accommodation would not impact upon visual amenity or neighbour amenity, the extension itself would be a dominant addition to the existing house and would not be subservient to the original, already extended house, contrary to Local Plan policy DP6.

Consultations with the Council's Landscape and Roads Divisions had resulted in no objections. However conditions were requested by Landscape relating to the protection of trees during construction.

The Chair thanked the Planning Officer for his presentation and invited questions. Councillor Findlay enquired if any public objections to the application had been received and was advised by the Planning Adviser that none had been received.

The Chair asked his colleagues if they now had sufficient information to proceed to determine the application today and they unanimously agreed to proceed. Comments on the application followed.

Councillor Findlay stated that, in his view, the proposals were acceptable. He considered that the extension would be in keeping with the original building and would not be especially visible from the road. He also noted that neighbours had not objected to the proposals. He was therefore minded to uphold the appeal.

Councillor Gilbert concurred with his colleague. As the proposed extension would only have one storey and there was a considerable area of land around the original property, he was also minded to uphold the appeal, since there had been no objections from neighbours.

The Chair noted that the cottage had been extended a number of times in the past, and he had no concerns over the present proposals. In his view, they would have no detrimental impact on the surrounding landscape or on neighbouring properties. He too was therefore minded to uphold the appeal.

Decision

The ELLRB unanimously agreed to overturn the original decision to refuse planning permission and granted consent for planning application 18/00410/P, subject to the following conditions:

1. No development shall take place on site until temporary protective fencing has been installed in accordance with Figure 3 of British Standard 5837_2012 "Trees in relation to design, demolition and construction", comprising of 1.8 metres high Heras fencing with weldmesh panels and ground fixings positioned parallel to the front garden boundary with the A1624 to the west side of the entrance driveway offset by 6 metres and returned and tied into the driveway gatepost to the east and the neighbouring boundary to the west; and positioned parallel to the neighbouring property (6 Springfield Cottages) to the west and offset by 3 metres and returned and tied back to the property boundaries.

All weather notices shall be erected on said fencing with words such as "Construction Exclusion Zone - Keep Out" and the fencing shall remain on site and intact through to completion of the development.

The area within the temporary protective fencing is sacrosanct and the following prohibitions must apply:-

- No vehicular or plant access
- No raising or lowering of the existing ground level
- No mechanical digging or scraping
- No storage of temporary buildings, plant, equipment, materials or soil
- No excavations

- No lighting of fires
- No handling discharge or spillage of any chemical substance, including cement washings

Planning of site operations should take sufficient account of wide loads, tall loads and plant with booms, jibs and counterweights (including drilling rigs), in order that they can operate without coming into contact with retained trees.

Reason:

To ensure the retention of trees which are important to the landscape character of the area.

2. The ancillary residential accommodation hereby approved shall only be used for purposes incidental to the residential use and enjoyment of the dwellinghouse of Station House, 7 Springfield Cottages, Carberry, Musselburgh and shall at no time form a separate residential unit or be used for any business, trade or other commercial use.

Reason:

To enable the Planning Authority to control the use of the development in the interests of safeguarding the character and residential amenity of the area and that of the dwellinghouse of Station House, 7 Springfield Cottages, Carberry,

4. PLANNING APPLICATION 18/00463/P – REVIEW AGAINST CONDITION ALTERATION TO HOUSE AND FORMATION OF RAMP AT ROSE COTTAGE, 121 CHURCH STREET, TRANENT

The Chair invited the Planning Adviser, who had had no involvement in the original decision, to present a summary of the planning policy considerations in this case.

Leigh Taylor, Planning Adviser, stated that the application concerned a review against condition 1 attached to planning permission 18/00463/P which sought consent for alterations to the house including the formation of an access ramp to the front elevation, installation of one large rooflight to rear elevation, three tile vents to the front and five to the rear, and a new duct grill to the rear. The property was a Category C Listed Building within the Tranent Conservation Area. Relevant to the determination of this application was Strategic Development Planning (SDP) policy 1B and Local Plan 2008 policies ENV4, DP6 and T2.

The Planning Adviser advised that the Planning Case Officer had concluded that the proposed ramp, tile vents and duct grill would not have a significant detrimental impact on the architectural merit of the Listed Building or to the character and appearance of the Tranent Conservation Area. He had, however, considered that the proposed large rooflight to the rear of the building would be harmful to the architectural merit of the Listed Building and to the character and appearance of the Conservation Area. Consent had been subsequently granted for all works with the exception of the large rear rooflight as it would be contrary to Local Plan 2008 policies ENV4 and DP6. The Decision Notice was issued on the 4 September 2018.

The Chair thanked the Planning Officer for his presentation and invited questions. Councillor Findlay sought clarification on the options for the rooflight and was advised by the Planning Adviser that the applicant was prepared to consider one long rooflight or three separate rooflights. They did not wish to install two rooflights. The Adviser stated that the applicant had submitted samples of rooflights and, should the appeal

be upheld, the details of the rooflights would need to be agreed with the Planning Authority. The Legal Adviser advised that Listed Building consent had already been refused and if approval for the rooflights was granted, the applicant would need to seek Listed Building consent before proceeding. Councillor Findlay asked if Members were required to recommend which style of rooflight should be installed and was advised by the Legal Adviser that they could stipulate a type of roof light or attach conditions to planning permission.

The Chair asked his colleagues if they now had sufficient information to proceed to determine the application today and they unanimously agreed to proceed. Comments on the application followed.

Councillor Gilbert was content to allow the applicant to install a roof light (or lights) and was therefore minded to uphold the appeal.

Councillor Findlay was also minded to uphold the appeal and to allow the Planning Authority to attach appropriate conditions.

The Chair stated that additional light was needed in the roof space and he was therefore minded to uphold the appeal and grant consent for the rooflight(s) in accordance with specifications and details agreed with the Planning Authority.

Decision

The ELLRB unanimously agreed to uphold the appeal and planning permission was approved, subject to the following planning condition:

1. Details of the rooflight window/ rooflight windows to be installed within the rear roof slope of the single storey part of the dwelling shall be submitted to and approved in writing by the Planning Authority prior to their use in the development. The submitted details shall show that the rooflight window/rooflight windows shall be installed in a manner that ensures that their upper surface is as near flush as possible with the upper surface of the roof into which it will be installed and with minimum flashing.

The rooflight window/rooflight windows shall thereafter be installed with the details so approved.

Reason:

In the interest of safeguarding the architectural or historic character of the listed building and the character and appearance of the Tranent Conservation Area.

Signed

Councillor W Innes
Convener of Local Review Body (Planning)