

REVIEW DECISION NOTICE

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

Application for Review by Mr Richard Brown against condition refusing the erection of the length of walls and gate

Site Address: 10 Glebe Crescent, Athelstaneford

Application Ref: 18/00355/P

Application Drawing(s): PHOTO-DRIVEWAY ; PHOTO-BRICKWORK; MAN-GARAGE;
PHOTO-GARAGE RENDER; MAN-BOILER; MAN-OIL TANK;
10GA-PL01; 10GA-PL01; 10GA-PL02; and 10GA-PL04

Date of Review Decision Notice: 7 December 2018

Decision

The ELLRB following a vote made the decision to uphold the review and approve planning permission subject to conditions for the reasons given below.

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, 15 November 2018. The Review Body was constituted by Councillor W Innes (Chair); Councillor J Findlay, 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 L Taylor, 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 erection of garage, walls, gate installation of oil tank boiler and formation of hard-standing areas.
- 2.2. The planning application was registered on 18 April 2018 and was approved subject to conditions under delegated powers on 4 June May 2018. The Condition appealed against is Condition 1 of the Planning Permission. The notice of review is dated 9 August 2018.
- 2.3. The reasons for the condition are set out in full in the Decision Notice and are, in summary, that:

Planning permission is not hereby granted for the erection of the lengths of walls and gate.

Reason:

In their positions the proposed lengths of walls would be prominent and incongruous physical features, harmful to the character and appearance of this part of the Athelstaneford Conservation Area. Consequently, the proposed walls, with gate, are contrary to Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan), Policies ENV4 and DP2 of the adopted East Lothian Local Plan 2008 and with Scottish Planning Policy: June 2014. Moreover, if approved the proposed walls with gate would set a harmful precedent for allowing the addition of other walls to be erected along the roadside boundaries of other residential properties within the locality and also within the front gardens of them. Such change would be to the greater detriment of the streetscape of Glebe Crescent and the character and appearance of this part of the Athelstaneford Conservation Area.

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 registered on 18 April 2018
3	The Appointed Officer's Report of Handling
4	A copy of the Decision Notice dated 4 June 2018
5	Strategic Development Plan for Edinburgh and South East Scotland June 2014 Policy 1B (The Spatial Strategy: Development Principles) Local Plan 2008 policies: ENV4 (Development Within Conservation Areas) DP2 (Design) Proposed Local Development Plan policies: CH2 (Development Affecting Conservation Areas) DP2 (Design)
6	Notice of Review dated 9 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 first item on today's agenda is a review against a condition attached to planning permission 18/00355/P. The application relates to a two storey semi-detached house located in the Athelstaneford Conservation Area. Planning permission was 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 approx. 1m high gates and 1m high sections of wall to the front boundary, and the formation of hard standing driveway in the rear, side and front garden area. Relevant to the determination of this application was Strategic Development Plan policy 1B and, at that time, the adopted Local Plan 2008 policies ENV4 and DP2. Also of relevance were (at that time) proposed Local Development Plan policies CH2 and DP2. The LDP 2018 became the adopted plan for East Lothian on 27th September 2018. In considering the application, Officers concluded that:

- the proposed garage due to its scale, positioning and appearance would have no detrimental impact on neighbour amenity or the character and appearance of the Athelstaneford Conservation Area
- the proposed hard standing due to its form, material and relationship with the proposed garage would not have a detrimental impact on neighbour amenity or the character and appearance of the Athelstaneford Conservation Area
- the proposed tank and boiler would, whilst being visible from the public road of Glebe Crescent, be small scale and would not be harmful to the character and appearance of the Athelstaneford Conservation Area
- the proposed boundary wall and gates would be readily visible from Glebe Crescent and, due to the height and materials, be at odds with the established boundary treatments which are typically low metal chain link fences and/or hedges, and would have a harmful effect on the character and appearance of the Athelstaneford Conservation Area.

Consultation with ELC Roads raised no objections. 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 considered to be contrary to Local Plan 2008 policies ENV4 and DP2 due to the prominence of the wall and gates, and that they would be an incongruous feature in the conservation area, and would set the set a precedent whereby other boundary walls could be erected therefore incrementally changing the streetscape of this part of the conservation area. The decision notice was issued on the 4th June 2018

4.3. Councillor Findlay commented that there was diversity in the boundaries of surrounding properties in the street and therefore if there were a condition requiring the approval of the Planning Authority to the type of material used in the building of the wall will uphold the appeal.

- 4.4. Councillor Gilbert commented that this in his opinion would set a precedent as the first wall of this type in this area and therefore would not wish to set a precedent therefore would refuse the appeal.
- 4.5. The Chair agreed with Councillor Findlay and noted that in his opinion there was a similar boundary in the area and would support the application with the same condition requested by Councillor Findlay.

Accordingly, following a vote with two members for the application and one against the ELLRB decided that the appeal should be upheld and planning permission approved subject to the condition set out below:

Condition:

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.



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.