

**REVIEW DECISION NOTICE**

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

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Application for Review by Mr Robert Auld and Mrs Jennifer Auld of Whim Lodge, Hill Road, Gullane for non-determination of Planning Permission for the erection of one (1) house and associated works.

Site Address: Land at Whim Lodge, Hill Road, Gullane

Application Ref: 18/01028/P

Application Drawing: DWG(s): AL(0)100; C5670 101 F; C567 102 D; C567 103 D; C567 104 C; C567 105 B; C567 106 B; C567 107 C; C567 302/A; C567 401; C567 101 F; C567/403/A; C567/404/A; C567/603/A; C567/604/F; C567//605; C567 607 A; C567/609/H; C567/801/D

Date of Review Decision Notice: 29 April 2019

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**Decision**

The ELLRB unanimously agreed to refuse the application 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, 21 February 2019. The Review Body was constituted by Councillor L Bruce (Chair); Councillor F O'Donnell, and Councillor S Kempson. 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 P Zochowski, 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 non-determination of Planning Permission for the erection of one (1) house and associated works.
- 2.2. The planning application was registered on 4 October 2018 and the notice of review for non-determination is dated 19 December 2018.

## 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 4 October 2018
3	The Appointed Officer's Submission
4	SESplan policy 1B The Spatial Strategy: Development Principles  East Lothian Local Development Plan 2018 policy RCA1: Residential Character and Amenity; policy T1: Development Location and Accessibility, policy NH8: Trees and Development, policy CH1: Listed Buildings, policy CH2: Development affecting Conservation Areas, policy DP2: design, policy DP7: Infill, Backland and Garden Ground Development
5	Notice of Review dated 19 December 2018 together with Applicant's Submission with supporting statement and associated documents.

## 4. Findings and Conclusions

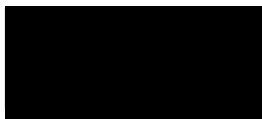
- 4.1. The ELLRB confirmed that the application for a review due to non-determination of the planning application permitted them to consider the application afresh and it was open to them to grant it in its entirety, grant it subject to conditions or to refuse it. They confirmed that they had access 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 application was for the erection of one house and associated works in the garden ground of a C-listed building dating from c1900, located in the Gullane Conservation Area. The Planning Adviser stated that Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise. The Development Plan was the approved Southeast Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Development Plan 2018. The following policies were relevant to the determination of the application: Policy 1B (Spatial Strategy: Development Principles); CH1 (Listed Buildings) and CH2 (Development Affecting Conservation Areas). Policy CH1 states that new development must not harm the architectural or historic character of a Listed Building and policy CH2 states that all development proposals within a Conservation Area must be located and designed to

preserve or enhance the special character or appearance of the Conservation Area. It also states that proposals for new development should accord with the size, proportion, density, materials and boundary treatment of nearby buildings. In addition, the Council's parking standards require that new developments do not compromise road safety. Also material to the determination of the application was Scottish Government guidance given in Scottish Planning Policy: June 2014.

- 4.3. The Chair asked his colleagues if they had sufficient information to proceed to determine the application today and they unanimously agreed to proceed. Comments on the application followed.
- 4.4. Councillor O'Donnell stated that she was very familiar with the Gullane area and, in her view, the proposed development would be harmful to the Gullane Hill area and would not contribute in a positive way to the Gullane Conservation Area. The proposals were also contrary to the Council's planning policy. She was therefore minded to refuse the application.
- 4.5. Councillor Kempson was also minded to refuse the application. She considered that the proposals would be harmful in the low density area of Gullane Hill. She also considered that it was important to preserve the number of homes with large gardens which she described as the heart and lungs of the community.
- 4.6. The Chair concurred with his colleagues. He stated that the application was contrary to SESplan, policies DP2 (Design) and DP7 (Infill, Backland and Garden Ground Development) as well as NH8 (Trees and Development). The application was also contrary to Scottish Planning Policy: 2014.

Accordingly, the ELLRB unanimously agreed to refuse the application due to the application being contrary to: (i) SESplan, policies DP2 (Design) and DP7 (Infill, Backland and Garden Ground Development) and NH8 (Trees and Development); and (ii) Scottish Planning Policy 2014.

The Review Application was accordingly dismissed.



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.