



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

**THURSDAY 22 AUGUST 2019
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Committee Members Present:

Councillor N Hampshire (Chair)
Councillor N Gilbert
Councillor S Kempson
Councillor J Williamson

Advisers to the Local Review Body:

Mr C Grilli, Legal Adviser to the LRB
Mr M Mackowiak, Planning Adviser to the LRB

Other Council Officers Present:

Mr P Zochowski, Principal Planner (Policy and Projects)
Ms R Crichton, Committees Officer

Clerk:

Ms F Currie, Committees Officer

Apologies:

None

Declarations of Interest

None

Councillor Hampshire, elected to chair the meeting, welcomed everyone to the East Lothian Local Review Body (ELLRB).

Site visits had been carried out for the planning applications on the agenda prior to the meeting.

1. PLANNING APPLICATION 17/00157PP – PLANNING PERMISSION IN PRINCIPLE FOR HOUSING DEVELOPMENT AT LAND AT MEADOWMILL, 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.

The Planning Adviser stated that the appellant in this case had sought planning permission in principle for a housing development on a roughly rectangular shaped area of land measuring some 2,650 m² that forms part of a field occupying a countryside location at Meadowmill between Tranent and Prestonpans. This in principle application was supported by an indicative illustrative drawing showing how a development of nine houses with residential gardens and car parking provision could be accommodated on the site. The site plan also indicated that a new vehicular access might be taken from the unclassified road to the west of the site. The site plan did not indicate the orientation of the houses nor did it include any details on their height, number of storeys, design or materials.

The Planning Adviser referred to the four written objections received from local residents and summarised the responses received from Consultees. He highlighted that the Coal Authority had objected to the application, as no Coal Mining Risk Assessment report had been submitted, and the proposal fell within a defined Development High Risk Area where there were coal mining features and hazards which needed to be considered. Therefore it was considered that the applicant had failed to demonstrate that the proposed development was acceptable with regard to risk to users of the proposed development. The applicant was advised that unless a Coal Mining Risk Assessment Report for the application site was submitted the Coal Authority's objection would remain unresolved. The applicant had failed to submit such a report.

The Planning Adviser informed Members that the review against refusal required to be determined in accordance with the relevant policies of the Strategic Development Plan for Edinburgh and South East Scotland (SESPlan) and the East Lothian Local Development Plan 2018 (LDP). The relevant SESPlan policies were policy 5 (Housing Land) and policy 7 (Maintaining a Five Year Housing Land Supply). The main LDP policy considerations relevant to the determination of the planning application were Policy DC1: Rural Diversification; Policy DC4: New Build Housing in the Countryside; and Policy DC8: Countryside Around Towns. Also relevant was Scottish Planning Policy 2014: which sought to direct housing development towards existing settlements.

The Planning Officer's Report noted that there was no agricultural or other employment use to justify the need for any new houses on the application site. It also noted that the applicant had not advanced any such case of justification of need for the principle of the proposed housing development.

The Planning Adviser outlined the reasons for refusal of the planning application: that the development of the site for housing was, in principle, contrary to Policies DC1, DC4

and DC8 of the adopted LDP and Scottish Planning Policy (June 2014); if approved the proposed development would set a precedent for the development of new houses elsewhere in the East Lothian countryside and would narrow the gap between the settlements of Prestonpans and Tranent contrary to Policy DC8; and the site was within a Coal Authority Development High Risk Area and a Coal Mining Risk Assessment Report had not been submitted by the applicant.

He then outlined the key points of the applicant's submission: that the site lay within a wider area allocated as countryside by Policy DC1 and immediately to the west of an existing grouping of houses and buildings of Meadowmill; and that a new detached house was built at the east side of the application site which the applicant considered had now set a precedent for further housing. The applicant also stated that a Coal Mining Risk Assessment Report had subsequently been submitted.

The Planning Adviser confirmed that outline planning permission was granted in 2005 for the erection of a detached house next to the current application site. However, this was within a predominantly residential area of Meadowmill defined by Policy ENV1 of the 2000 East Lothian Local Plan and consequently the principle of its residential use was consistent with the Development Plan at that time.

The Planning Adviser concluded that the main questions for the LRB to consider in reviewing the case were: whether the proposed development would comply with Policies DC1, DC4 and DC8 of the adopted LDP and Scottish Planning Policy (June 2014); and whether the proposed development would place buildings or persons at risk from past mining related activities. He also advised Members that the case officer had supplied suggested conditions in the event that the LRB was minded to approve the application.

In response to a question from the Chair, the Planning Adviser confirmed that the applicant had previously submitted the site for inclusion in the 2018 LDP but it had been rejected at an early stage. This decision was upheld by the Reporter at Examination. Councillor Neil Gilbert asked about the industry previously on the site and the infill of the land. The Planning Adviser explained that although there was no information available on the infill material, in order to legally infill the land the company would have had to seek permission from SEPA. He added that below a certain threshold there was no requirement on the landowner to provide details of the infill materials but SEPA were aware of the site. Replying to a final question from Councillor John Williamson, he stated that the Coal Authority report submitted by the applicant had been provided after the determination of the application and could not be considered as part of this review.

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

Councillor Sue Kempson had noted the proximity of other developments during the site visit but considered it very important to preserve the countryside adjacent to towns; to avoid one merging into another and to preserve the individual identities of each settlement and allow green corridors to connect. She therefore supported the original decision of the Case Officer to refuse the application.

Councillor Gilbert concurred with Councillor Kempson. In his view the land was part of the countryside and there was no justification for the proposed development. He also supported the Case Officer's recommendation to refuse the application.

Councillor Williamson agreed with his colleagues and stated that policies DC1, DC4 and DC8 were against any development in the area. He was therefore minded to refuse the application.

The Chair concurred with all of the previous remarks. He could see no reason for development on a site which had been rejected from the LDP and which was designated countryside. He would also be rejecting the application.

Decision

The ELLRB unanimously upheld the decision of the Case Officer to refuse the application for the following reasons:

1. The development of the site for housing is, in principle, contrary to Policies DC1, DC4 and DC8 of the adopted East Lothian Local Development Plan 2018, and Scottish Government policy guidance regarding the control of new housing development in the countryside given in Scottish Planning Policy: June 2014
2. If approved the proposed development would set an undesirable precedent for the development of new houses elsewhere in the East Lothian countryside. Moreover, it would narrow the gap between the area of land that remains in a countryside designation between the settlements of Prestonpans and Tranent. The cumulative effects of which would result in a detrimental impact on the rural character and amenity of the countryside of East Lothian.
3. The site is within a Coal Authority Development High Risk Area and a Coal Mining Risk Assessment Report has not been submitted by the applicant. Consequently the applicant has failed to demonstrate that the proposed development would not place buildings or persons at risk from past mining related activities.

2. PLANNING APPLICATION 18/00615/PP – PLANNING PERMISSION IN PRINCIPLE FOR THE ERECTION OF 2 HOUSES AND ASSOCIATED WORKS, TENTERFIELD DRIVE, HADDINGTON

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.

The Planning Adviser stated that this application related to an area of land on the south side of Tenterfield Drive in Haddington and planning permission in principle was being sought for the erection of 2 houses and associated works. The site was within a residential area of Haddington and within the Haddington Conservation Area. It was bounded to the north by Tenterfield Drive, beyond which was Category B listed Tenterfield House and its grounds; and to the south by a section of the old Haddington Town Wall (Category C listed). There were a number of mature trees both on and adjacent to the site protected by a Tree Preservation Order (TPO). He noted that the application site and the proposed houses on it, would be positioned on ground higher than the land to the south and east. In this elevated position any houses would be visible from Dunbar Road as well as from Tenterfield Drive.

The Planning Adviser provided a summary of previous planning applications in the area that were relevant to the current application, including the 7 houses now built and occupied at Tenterfield Drive. He indicated that these houses were permitted on the basis that they were largely concealed from public view by Tenterfield House and existing trees and because of their less visible location to the rear of Tenterfield House.

The Planning Adviser informed Members that the review against refusal required to be determined in accordance with the relevant policies of the Strategic Development Plan for Edinburgh and South East Scotland (SESPlan) and the East Lothian Local Development Plan 2018 (LDP). The relevant SESPlan policy was Policy 1B (The Spatial Strategy: Development Principles) and the main LDP policy considerations were policies RCA1 (Residential Character and Amenity), DP7 (Infill, Backland and Garden Ground Development), OS1 (Protection of Open Space), DP1 (Landscape Character), DP2 (Design), CH1 (Listed Buildings), CH2 (Development Affecting Conservation Areas), CH4 (Scheduled Monuments and Archaeological Sites), CH6 (Garden and Designed Landscapes), NH4 (Protected Species), NH5 (Biodiversity and Geodiversity Interests, including Nationally Protected Species), NH8 (Trees and Development), T1 (Development Location and Accessibility) and T2 (General Transport Impact).

Also material to the determination of the application were section 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, the Scottish Government's policy on development affecting listed buildings given in Scottish Planning Policy: June 2014, Historic Environment Scotland (HES) Policy Statement June 2016, national guidance 'Managing Change in the Historic Environment – Setting' and LDP Supplementary Planning Guidance: Cultural Heritage and the Built Environment Supplementary Planning Guidance adopted in October 2018 which contains the Haddington Conservation Area Character Statement.

The Planning Adviser referred to the 19 written objections received, of which Members had received copies, and he summarised the consultation responses. He referred to objections raised due to the proposal's potential significant and adverse impact upon the setting of the B listed Tenterfield House, the character of that part of Haddington Conservation area and the Tenterfield House designed landscape of local or regional importance. There were also concerns about the permanent change and loss of the view of the parkland, historic listed town walls and mature TPO trees. It was noted that the Tree Survey and Arboriculture Report was dated 2016, had not been updated and did not adequately assess the impact of the development on the trees or whether bats may currently use the trees for foraging or roosting.

The Officers Report considered Policy DP7 of the adopted LDP and the applicant's view is that the site, 'does not form part of any recreational amenity for the area' and 'that as a result of the development there will be no material loss of open space important to the character of the area'. The report concluded that there would clearly be a loss of open space within the site boundary through the development of any house and its associated private garden ground and parking spaces. However, the proposed development would not allow for harmful overlooking or loss of privacy and in this respect would comply with Policies DP2 and DP7.

The Planning Adviser summarised the reasons for refusal as set out in the Officer's Report. The proposal would be an intrusive and inharmonious form of infill development harmful to the character and surroundings of Tenterfield Drive, and that it would be a disruptive feature that would not preserve or enhance the parkland setting of Tenterfield House and the wider features of Haddington Conservation Area. The applicant had not properly assessed the impact of the proposed development on protected trees close to and within the application site and the application had not fully addressed the potential for bats to be present in the trees that were likely to be damaged by the proposed development.

However, the applicant had argued that the proposal would not have a significant adverse impact on the integrity of the adjacent listed buildings or their settings. It was

the applicant's view that Tenterfield House now only relates to its immediate grounds and its setting and character were not significantly influenced by the landscaping of the application land. The proposal had been appropriately located to preserve both the historic and contemporary character of the conservation area. The proposals embodied a harmonious form of infill development that would enhance the character of the setting and satisfy the conditions set out in Policy DP7. The proposal would accord with Policy DP1 - the proposed development establishes a harmonious relationship with its natural setting and is respectful of the trees on and around the site. The future welfare of the adjacent trees would benefit from the proposal with the implementation of an appropriate Tree Management Plan. With regard to the issue of the potential effect on bats within the trees the applicant requested that if the LRB was minded to grant planning permission in principle this could be addressed by a planning condition.

The Planning Adviser summarised the main questions for the LRB to consider in reviewing the case: whether the proposed development would comply with the policies of the development plan in respect of infill development and in particular on the impact it would have on the Haddington Conservation Area, on the setting of the nearby listed buildings and on the TPO trees; and whether there were any other material considerations that should be taken into account. The Case Officer had supplied suggested conditions in the event that the LRB was minded to approve the application.

In response to questions from the Chair and Councillor Gilbert, the Planning Adviser provided clarification on the positioning of the proposed houses, the impact on the nearby trees and on access for the existing development.

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

Councillor Gilbert said he understood why the application had been refused by officers. The site was small, north-facing and heavily shaded and the trees nearby would be heavily trimmed. For those reasons he would be supporting refusal of the application.

Councillor Kempson said it was important to preserve green space and the proposed development was a risk to some of the mature trees as the roots were likely to extend much further into the proposed site than had been initially thought. She added that the value of mature trees should not be underestimated and with so many being lost to disease it was more important than ever to preserve others from damage. She was therefore minded to refuse the application.

Councillor Williamson agreed with the previous comments. It was a small site which was overshadowed by large mature trees. He saw no reason to disagree with the reasons for refusal and he would be upholding the original decision by the Case Officer.

The Chair concurred with his colleagues. The site at present was very attractive, it enhanced the conservation area and it should be protected. He said it was almost impossible to build on this site and not damage the tree roots, and if those mature trees were lost it would have a huge impact on the area. He would be supporting the recommendation to refuse the application.

Decision

The ELLRB unanimously upheld the decision of the Case Officer to refuse the application for the following reasons:

1. Two houses, by virtue of their position, would be an intrusive and inharmonious form of infill development harmful to the character of layout of development of the streetscape of Tenterfield Drive and would not be in keeping with their surroundings or appropriate to their location. The development would result in a loss of valuable open space which contributes positively to the parkland setting of the area. Consequently the proposed houses are contrary to Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policies OS1, CH2, CH6, DP2 and DP7 of the adopted East Lothian Local Development Plan 2018 and the advice on designing for place given in Planning Advice Note 67: Housing Quality.
2. The proposed development would be a disruptive feature that would encroach on the parkland setting of Tenterfield House Garden and Designed Landscape and the listed buildings of Tenterfield House and Haddington Town wall which is an intrinsic part of the wider setting of Haddington Conservation Area. The proposed development does not preserve the setting of Tenterfield House or Haddington Town Wall nor does it preserve or enhance the character and appearance of the Conservation Area, but is instead harmful to the setting of Tenterfield House and Haddington Town Wall and the character and appearance of Haddington Conservation Area. Consequently it is contrary to Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policies CH1, CH2, CH6, DP2 and DP7 of the adopted East Lothian Local Development Plan 2018 and the advice on designing for place given in Planning Advice Note 67: Housing Quality
3. The applicant has not properly assessed the impact of the proposed development on protected trees close to and with the application site. The development would harmfully impact on the root protection area of a number of trees which are covered by a Tree Preservation Order and would be likely to result in their removal. The change of the site to residential use is also likely to result in pressure to remove trees in the future due to amenity concerns. The loss of trees as a result of the development would have a detrimental impact on the parkland setting of the setting of Tenterfield House, the Garden and Designed Landscape, Haddington Town Wall and the character and visual amenity of the Conservation Area contrary to Policies, CH1, CH2, CH6, DP2, DP7 and NH8 of the adopted East Lothian Local Plan 2018 and the advice on designing for place given in Planning Advice Note 67: Housing Quality.
4. The application has not fully addressed the potential for bats to be present in the trees that are likely to be damaged by the proposed development. The application has not demonstrated compliance with Policies NH4 and NH5 of the East Lothian Local Development Plan 2018.

3. PLANNING APPLICATION 18/00616/PP – PLANNING PERMISSION IN PRINCIPLE FOR THE ERECTION OF 1 HOUSE AND ASSOCIATED WORKS, TENTERFIELD DRIVE, HADDINGTON

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. The Chair noted that much of the summary provided in relation to Item 2 also applied to Item 3 and he asked the Planning Adviser to comment only on the information pertinent to this application.

The Planning Adviser said he would not restate the relevant policies as they were the same as those quoted in Item 2. However, this was a different application and proposal and he would provide a summary of the key considerations.

The application related to an area of land to the south of Tenterfield Drive, and immediately west of the site for 18/00615/PP, and planning permission was sought for

one house and associated works. The site was bounded to the north by Tenterfield Drive and the existing properties for Nos 1 – 7. The site was also bounded by the Old Haddington Town Wall and of mature trees on or close to the site all but one were covered by a TPO.

The Planning Adviser reminded members that decisions should be taken in accordance with relevant policies unless material considerations determine otherwise. The relevant policies were as stated for application 18/00615/PP. He referred to 19 representations received and summarised the consultation responses. The main objections related to this being a green field site and that development would directly impact the archaeological remains and indirectly impact on the landscape of the local area. However, these impacts could be managed by way of conditions. The risk to some of the mature trees on or near the site was a greater concern, as was the impact any felling may have on the conservation area and the local landscape of Tenterfield House. It was also noted that no assessment had been done to ascertain if the trees were used by bats for roosting or foraging and the potential impact of any development. Lastly, policy DC7 had been considered and the conclusions were the same as for application 18/00615/PP.

The applicant had argued that the site was not part of any recreational amenity and, as a result, there would be no material loss. The Officer Report concluded there would be a loss of amenity but nonetheless accepted that the proposals did comply with policies DC2 and 7. However, it noted that Tenterfield House was clearly visible from the site and the development on site, the loss of green space and the loss of trees would have a detrimental impact.

The Planning Adviser concluded that the reasons for refusal were the same as those for application 18/00615/PP and the reasons stated in the applicant's request for review were also the same as previously stated.

The Members had no questions for the Planning Adviser.

Councillor Kempson said her thoughts were the same as those expressed on the previous application. However, she noted that the loss of privacy and impact on the amenity of Tenterfield House would be greater on this site. She would be supporting refusal of the application.

Councillor Gilbert agreed and indicated that his comments were also the same as those on the previous application. Referring to the detrimental effect on the trees and the Haddington Conservation Area, he said he would be supporting the Case Officer's recommendation for refusal.

Councillor Williamson also referred to his previous remarks. He noted that this site was higher than the other and said he was minded to refuse the application.

The Chair agreed that the application would result in a change of character in the area of open parkland, would impact on the conservation area and risk the removal of some of the trees. For these reasons, he supported the Case Officer's recommendation for refusal.

Decision

The ELLRB unanimously upheld the decision of the Case Officer to refuse the application for the following reasons:

1. A proposed house by virtue of its position would be an intrusive and inharmonious form of infill development harmful to the character of layout of development of the streetscape of Tenterfield Drive and would not be in keeping with the surroundings or appropriate to the location. The development would result in a loss of valuable open space which contributes positively to the parkland setting of the area. Consequently the proposed houses are contrary to Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policies OS1, CH2, DP2 and DP7 of the adopted East Lothian Local Development Plan 2018 and the advice on designing for place given in Planning Advice Note 67: Housing Quality
2. The proposed development would be a disruptive feature that would encroach on the parkland setting of Tenterfield House and Haddington Town wall which is an intrinsic part of the wider setting of Haddington Conservation Area. The proposed development does not preserve the setting of Tenterfield House or Haddington Town Wall nor does it preserve or enhance the character and appearance of the Conservation Area, but is instead harmful to the setting of Tenterfield House and Haddington Town Wall and the character and appearance of Haddington Conservation Area. Consequently it is contrary to Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policies CH1, CH2, DP2 and DP7 of the adopted East Lothian Local Development Plan 2018 and the advice on designing for place given in Planning Advice Note 67: Housing Quality
3. The applicant has not properly assessed the impact of the proposed development on protected trees close to and with the application site. The development would harmfully impact on the root protection area of a number of trees which are covered by a Tree Preservation Order and would be likely to result in their removal. The change of the site to residential use is also likely to result in pressure to remove trees in the future due to amenity concerns. The loss of trees as a result of the development would have a detrimental impact on the parkland setting of the setting of Tenterfield House, the Garden and Designed Landscape, Haddington Town Wall and the character and visual amenity of the Conservation Area contrary to Policies, CH1, CH2, CH6, DP2, DP7 and NH8 of the adopted East Lothian Local Plan 2018 and the advice on designing for place given in Planning Advice Note 67: Housing Quality
4. The application has not fully addressed the potential for bats to be present in the trees that are likely to be damaged by the proposed development. The application has not demonstrated compliance with Policies NH4 and NH5 of the East Lothian Local Development Plan 2018

Signed

Councillor N Hampshire
Chair of Local Review Body (Planning)