

## **REVIEW DECISION NOTICE**

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

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Application for Review by Mr Simon Grieve of 11 Glebe Crescent, Athelstaneford, for review of condition 1 of Planning Permission for the erection of sheds, gates and fencing (part retrospective), at 11 Glebe Crescent, Athelstaneford

Site Address: 11 Glebe Crescent, Athelstaneford

Application Ref: 19/00759/P

Application Drawing: Please refer to the Drawings/Plans detailed at 3.1 (i)

Date of Review Decision Notice: 17 June 2020

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### **Decision**

The ELLRB unanimously agreed to vary Condition 1 of the Planning Permission 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**

The above application for planning permission was considered by the ELLRB, at a meeting held on Thursday, 21 May 2020. The Review Body was constituted by Councillor N Hampshire (Chair), Councillor K McLeod, 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.

1.1. 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  
Ms F. Currie, Clerk.

#### **2. Proposal**

2.1. The planning application is an appeal against the terms of condition 1 contained within the Planning Permission for the erection of sheds, gates and fencing (part retrospective), at 11 Glebe Crescent, Athelstaneford. The applicant is seeking to vary the height of the fencing by lowering this to 0.9 metres.

2.2. The original planning application was registered on 3 October 2019 and the decision notice

granting the application with conditions is dated 25 October 2019.

2.3. The notice for review is dated 10 February 2020.

### 3. Preliminaries

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

i. The drawings specified as follows:

Drawing No:	Revision No:	Date Received
Photo 1		22/07/19
Photo 2		22/07/19
Photo 3		22/07/19
Photo 4		22/07/19
Photo 5		22/07/19
Photo 6		22/07/19
Photo 7		24/07/19
Photo 8		24/07/19
Photo 9		24/07/19
Photo 10		24/07/19
DWG1		24/07/19
DWG2		24/07/19
Photo 11		24/07/19
Photo 12		24/07/19
Photo 13		24/07/19
Photo 14		24/07/19
Photo 15		24/07/19
Photo 16		24/07/19
Photo 17		24/07/19
Photo 18		24/07/19
Street Plan		24/07/19

Photo 19	27/08/19
Photo 20	27/08/19
Photo 21	27/08/19
Gate Details	30/09/19
Photo 22	30/09/19
Fence Section A	30/09/19
Fence Section C	30/09/19
Fence Section E	30/09/19
Gate Replacement F	30/09/19
Fence/Gate Detail D	30/09/19
Location Plan	03/10/19
Site Plan	03/10/19

- ii. The Application for planning permission registered on 3 October 2019
- iii. The Appointed Officer's Submission
- iv. Policies of the adopted East Lothian Local Development Plan 2018 relevant to the determination of the application:
  - Policy CH2: Development Affecting a Conservation Area
  - Policy DP2: Design
- v. Notice of Review dated 10 February 2020 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 planning application permitted them to consider the condition afresh and it was open to them to retain it, amend the terms of the condition or to remove the condition from the Planning Permission. 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 outlined the background and detail of planning application no. 19/00759/P. The application was granted but with a condition that planning permission was not granted for the erection of the proposed fencing to be situated along the eastern and western boundaries of the existing driveway of the house at 11 Glebe Crescent. The Planning Adviser stated that the fencing that had not been granted permission was that which had been proposed to be situated along the eastern and

western boundaries of the existing driveway of 11 Glebe Crescent, in the case of the eastern boundary the fencing was to have replaced the existing high hedge. The applicant had submitted a photo of the driveway that was electronically adjusted to give an impression of what the drive would look like with the driveway gates and the 2m high timber fencing at either side, which would have a solid appearance.

He further confirmed that the Transportation Planning Officer had not supported the erection of the proposed fencing as it would compromise visibility for drivers emerging from the driveway from both no 11 and no 13 Glebe Crescent. The Council's Road Services would normally require that any such fence should be lower than drivers eye and under 1m in height for a distance of at least 2.5m along the length of the driveway.

The Planning Adviser reported that one objection had been received to the original application which had expressed concerns regarding the height and material of the fence to be situated on the driveway, on the basis of limited visibility exiting the driveway and of any oncoming traffic in the narrow road.

The Planning Adviser drew Members' attention to the most relevant policies of the adopted East Lothian LDP in relation to the application: these were Policy CH2 - Development Affecting Conservation Areas and Policy DP2 – Design. Both policies sought to ensure that any proposed development should be appropriate to its location, particularly in respect of a conservation area.

The Planning Adviser then summarised the applicant's submission noting that, in his statement seeking the review, he asked if he could lower the proposed left side fence – the boundary with the neighbouring drive – to a height of 0.9m and in the same style and materials as previously proposed.

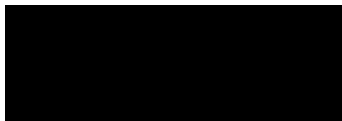
- 4.3. The Members then questioned the planning advisor in response to questions from the Members, the Planning Adviser provided further clarity over the location and height of the proposed fencing.
- 4.4. The Chair asked his colleagues if they had sufficient information to proceed to determine the application today and they unanimously agreed to proceed. Comments on the application followed.
- 4.5. Councillor Kempson stated that that if the fencing on both sides of the driveway were to be erected no higher than 0.9m this would be acceptable. She supported the comments of the Roads Officer and agreed that the fencing on both sides of the driveway should be the same.
- 4.6. Councillor McLeod referred to the applicant's Notice of Review and his e-mail clarifying the focus of his review request. He noted that the applicant appeared to have taken on board the reasons for refusal of the fencing and had shown his willingness to change the height to 0.9m. Councillor McLeod agreed with his colleague's views that both side of the driveway should be the same.
- 4.7. The Chair stated that he also agreed with his colleagues that lowering the proposed fencing on both sides of the driveway to 0.9m would be acceptable and would be in line with the comments from the planning case officer and the Roads Officer. He noted Members' support for the review of the condition and that the original condition of the planning permission should be revised or replaced.

Accordingly, the ELLRB agreed unanimously agreed to strike condition 1 from the original planning permission and to replace with the following:

1. The driveway fences are approved on condition that they be lowered in height to 0.9m on both sides of the driveway and for a minimum length of 2.5m from the inner edge of the footway along the length of the driveway and that they are fully installed within a period of two months of the date of this decision.

Reason: To ensure adequate visibility to comply with the Roads Departments requirements for visibility for safe access and egress to the driveway.

Planning Permission is accordingly granted.



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.