

REVIEW DECISION NOTICE

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

Application for Review by Mr John Stuart of 56 Galt Avenue, Musselburgh, for refusal of Planning Permission for change of use from open space to domestic garden ground and erection of domestic workshop (part retrospective), at 56 Galt Avenue, Musselburgh

Site Address: 56 Galt Avenue, Musselburgh

Application Ref: 20/00092/P

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

Date of Review Decision Notice: 10 September 2020

Decision

The ELLRB unanimously agreed that the Review should be upheld and to grant planning permission.

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, 20 August 2020. The Review Body was constituted by Councillor N Hampshire (Chair), Councillor K MacLeod, and Councillor J Williamson. 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 M Mackowiak, 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 for refusal of Planning Permission for change of use from open space to domestic garden ground and erection of domestic workshop (part retrospective), at 56 Galt Avenue, Musselburgh.

2.2. The planning application was registered on 29 January 2020 and the decision notice refusing the application is dated 31 March 2020.

2.3. The reason for refusal of the Planning application is more particularly set out in full in the said Decision Notice dated 31 March 2020. The reason for refusal is summarised as follows:

“By virtue of its architectural form, size, scale, and position the proposed workshop would be harmful to the streetscape of this part of Gault Avenue contrary to Policy DP2 of the adopted East Lothian Local Development Plan 2018.”

2.4. The notice for review is dated 1 June 2020.

3. Preliminaries

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

i.	The drawings prepared by Architects Office and accompanying this application are as follows: LOCATION PLAN DWG001
ii.	The Application for planning permission registered on 17 February 2020
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 CH5: (Battlefields) - Policy DP2: (Design) - Policy OS2: (Chance of Use to Garden Ground)
v.	Notice of Review dated 1 June 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 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 advised that the application relates to a two storey, end terrace house with associated garden. It is located within a predominantly residential area as defined by Policy RCA1 of the adopted East Lothian Local Development Plan 2018 and is also situated within the Battle of Pinkie Historic Battlefield Site Planning permission is sought retrospectively for the change of use of a rectangular area of open space adjacent to the south boundary of the applicant's house to domestic garden ground. The proposed workshop would be a flat roofed building with a rectangular footprint some 5 metres in length, some 5.9m in width and some 3 metres in height. It would be positioned to the south side of the applicant's house with the building line of its front elevation protruding some 1.8m forward of the building line of the front elevation of the applicant's house. The proposed workshop would be predominantly finished in render, to match the

applicant's house. The roof of the proposed workshop would be clad in a singly ply membrane. 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 Planning Advisor then advised that the area of land that is the subject of the retrospective change of use is located to the south of the applicant's house. It is rectangular in shape and measures some 9.5 metres by some 4.2 metres. The area of land is bounded to the north by the applicant's house, to the east and south by a high fence and to the west by a brick wall boundary treatment. The case officer's report notes that due to its relatively small size, scale and positioning the change of use of the area of open space to domestic garden ground does not appear incongruous within its landscape setting. Neither has it resulted in an unacceptable loss of visual or recreational amenity or harmed the integrity of a landscaping scheme. On those counts the change of use of the open space to garden ground is not contrary to Policy OS2 of the adopted East Lothian Local Development Plan 2018. The proposed change of use would not harm the integrity of the Battle of Pinkie Battlefield Site consistent with Policy CH5 of the adopted East Lothian Local Development Plan 2018.

The Planning Advisor further advised that the officer report confirms that the proposed workshop building would not give rise to a loss of amenity to any neighbouring residential properties through overlooking or overshadowing. The applicant's house is located at the southern end of a row of terraced houses that are at the western end of Galt Avenue. This is a short length of Galt Avenue that runs perpendicular (north to south) to the main length of Galt Avenue that runs from east to west. It is the first house on this part of Galt Avenue which continues on to curve round to meet with Delta Drive. The officer noted that the terrace of houses form a strong and uniform frontage onto Galt Avenue and are readily visible from Galt Avenue. There are no outbuildings within any of the front gardens of the terrace of houses. Therefore the building line created by the front elevations of the terrace of houses is a strong characteristic of this part of the Galt Avenue. The proposed domestic workshop building in its proposed position would project some 1.8 metres beyond the principle elevation of the applicants' house and the other houses of the terrace. The officer's assessment is that in such a prominent location it would be clearly visible from public view from Galt Avenue. In that position and with its flat roofed form it would appear incongruous alongside the pitched roof terrace of houses of which the applicant's house is part. The officer also stated that the proposed workshop would be harmful to both the setting of the applicant's house and to the terrace of houses on this part of Galt Avenue. Consequently the proposed building would be inappropriate to its setting and out of keeping with its surroundings. By virtue of its architectural form, size, scale and position the proposed workshop would be harmful to the streetscape of this part of Galt Avenue contrary to Policy DP2 of the adopted East Lothian Local Development Plan 2018.

- 4.3. The Members then raised a few questions pertinent to the application which the planning advisor responded to. In particular the Chair asked if a precedent had been set by approval of various extensions to houses within the area. The Planning Officer confirmed that in this case there was no precedent set and all applications need to be considered on their own merit.
- 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 McLeod stated that he had no issue with the applicant's application. He noted that the applicant cannot build further back and in line with the building line. Accordingly he was minded to support the applicant and to go against the Planning Officer's recommendation.
- 4.6. Councillor Williamson stated that there was physically nowhere else for this property to have any further buildings or extensions save for building to the front, as proposed. Looking at the surrounding area there are various types of extensions in various shapes, locations and sizes. He did not agree with the Planning Officer's recommendation and was minded to uphold the appeal.
- 4.7. The Chair said that he had a similar opinion to his colleagues. He thought that the row was attractive but the proposal was for an extension to be situated only 1.8 metres forward and with trees to the west side of the house he was of the opinion that this would not cause disruption to the view and setting of the area. Further he also noted the other extensions in the area. Accordingly he was minded to support application and uphold the appeal.

Accordingly, the ELLRB decided unanimously that the Review should be upheld and Planning Permission granted

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.