

REVIEW DECISION NOTICE

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

Application for Review by Mr James Dow, c/o apt Planning & Development Ltd, 6 High Street, East Linton EH40 3AB for refusal of Planning Permission for Extension to house, heightening part of roof, formation of raised platform with steps, handrails, erection of double garage and gate at Nouster Cottage, Garleton, Haddington.

Site Address: Nouster Cottage, Garleton, Haddington

Application Ref: 20/01284/P

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

Date of Review Decision Notice: 16 June 2021

Decision

The ELLRB unanimously agreed that the Review should be upheld subject to conditions for the reasons set out 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, 20 May 2021. The Review Body was constituted by Councillor J McMillan (Chair), Councillor J Williamson, and Councillor J Findlay. All three members of the ELLRB had attended a site visit accompanied by the Planning Advisor in respect of this application prior to the meeting.

1.1. The following persons were also present at the meeting of the ELLRB:-

Ms J Squires, 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 appeal for refusal of Planning Permission for Extension to house, heightening part of roof, formation of raised platform with steps, handrails, erection of double garage and gate at Nouster Cottage, Garleton, Haddington

- 2.2. The planning application was registered on 4 December 2020 and the decision notice refusing the application is dated 20 January 2021.
- 2.3. The reasons for refusal are more particularly set out in full in the said Decision Notice dated 20 January 2021 and are also set out below.

REASONS FOR REFUSAL

1. *The proposed extension would, by its greater size, massing and floor area, be a dominant and incompatible addition to the built form of the existing house. By being bigger than the existing footprint of the house, the proposed extension would not appear as an integral part of the original cottage but instead would be an addition to it that would significantly overwhelm it. Therefore due to its much larger form, size, scale, massing and proportions, the proposed extension would not be of a size, form, proportion and scale appropriate to the existing house, would not be subservient to it and therefore would not be either in keeping with or complementary to it contrary to Policy DP5 (Extensions and Alterations to Existing Buildings) of the adopted East Lothian Local Development Plan 2018.*
 2. *The effect of the proposed extension is tantamount to the creation of a new house in the countryside. No case has been made for this to meet an agriculture, horticulture or forestry need. No other operational need has been advanced to justify the transformation of the existing house by the addition to it of the proposed extension. Changing the existing building in the manner and to the degree proposed would radically alter its character and appearance giving greater emphasis to it being isolated, sporadic development in the countryside. Assessed on the basis that through the resultant radical transformation of the size, form, character and appearance of the existing house the proposed extension is tantamount to the creation of a new house in the countryside, contrary to Policy DC1 of the adopted East Lothian Local Development Plan 2018 and Government policy guidance regarding the control of new housing development in the countryside expounded in Scottish Planning Policy: Revised December 2020.*
 3. *If approved the proposal would set an undesirable precedent for the development of new houses in the countryside, the cumulative effect of which would result in a detrimental impact on the rural character of the open countryside of East Lothian.*
- 2.4. The notice of review is dated 13 March 2021.

3. Preliminaries

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

i.	<p>The drawings accompanying this application are referenced and numbered as follows:</p> <ul style="list-style-type: none"> - 216-GA-001 - 216-GA-002 - 216-GA-003 - 216-GA-004 - 216-GA-005 - 216-GA-012 A - 216-GA-016 - 216-GA-011 B - 216-GA-014 A - 216-GA-015 B - 216-GA-017 - 216-GA-010 C - 216-GA-013 C
ii.	The Application for planning permission registered on 4 December 2020
iii.	The Appointed Officer's Submission
iv.	<p>Policies of the adopted East Lothian Local Development Plan 2018 relevant to the determination of the application:</p> <ul style="list-style-type: none"> Policy DC1: Rural Diversification Policy DC9: Special Landscape Areas Policy CH6: Gardens and Designated Landscapes Policy DP2: Design Policy DP5: Extensions and Alterations to Existing Buildings
v.	Notice of Review dated 13 March 2021 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 conditions, including all drawings and copies of all representations and objections received in respect of the original application. They also confirmed they had received and reviewed the Applicant's Submission and further representations made in connection within this appeal before the ELLRB today.
- 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 review relates to planning application

- 4.3. The Members then raised the questions pertinent to the application which the planning advisor responded to.
- 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 Williamson commented that the site visit assisted in coming to his decision. Reviewing the Officer Report there appears to be no loss of light or effect of overlooking. The only issue was whether or not the extension was subservient to the property. What is proposed is not significant to what is there already. In his view he would see this as the existing property being extended. He was therefore minded to uphold the appeal subject to conditions.
- 4.6. Councillor Findlay commented that he considered DP5 and the proposed development was in keeping with the original building. He noted that the original building had already been added to and while what is proposed to be added in addition is large in proportion to the original building it was not significant in scale to what is there already. Accordingly he was minded to uphold the appeal subject to conditions.
- 4.7. The Chair commented that on review of the papers he had concerns around DC1 although this was not the case after the site visit. He was of the view that there was not material conflict with the proposed development and DC9 and CH6. Further he was of the view that there was a significant loss of amenity and the site was of suitable scale and character to be in keeping with DP5. Therefore on review and mindful of the policies he was minded to also uphold the appeal subject to conditions

Accordingly, the ELLRB unanimously decided that the Review should be upheld subject to the conditions set out below:

Conditions:

1. Archaeological survey

No development shall take place on the proposed site until the applicant has undertaken and reported upon a programme of archaeological work (Archaeologically monitored strip of all groundworks) in accordance with a written scheme of investigation which has been submitted by the applicant (or their agent) and approved by the planning authority

Reason

To facilitate an acceptable archaeological investigation of the site’.

2. Tree Retention and Protection

Only the five trees and two sections of hedgerow indicated in red on the drawing titled ‘Proposed Site Plan’ numbered 216-GA-010 rev C shall be removed during the course of development. All remaining trees and hedges shall be retained, and protected during development. No development shall take place on site until temporary protective fencing in accordance with Figure 2 of British Standard 5837_2012 “Trees in relation to design, demolition and construction” has been installed,

approved and confirmed in writing by the Planning Authority. The fencing must be fixed in to the ground to withstand accidental impact from machinery, erected prior to site start and retained on site and intact through to completion of development. The position of this fencing shall be positioned outwith the Root Protection Area (RPA) as defined by BS5837:2012 for all trees and approved in writing by the Planning Authority.

All weather notices should be erected on said fencing with words such as "Construction exclusion zone - Keep out". Within the fenced off areas creating the Construction Exclusion Zones the following prohibitions must apply:-

- No vehicular or plant access
- No raising or lowering of the existing ground level
- No mechanical digging or scraping
- No storage of temporary buildings, plant, equipment, materials or soil
- No hand digging
- No lighting of fires
- No handling discharge or spillage of any chemical substance, including cement washings

Planning of site operations should take sufficient account of wide loads, tall loads and plant with booms, jibs and counterweights (including drilling rigs), in order that they can operate without coming into contact with retained trees.

Reason

In order to form Construction Exclusion Zones around retained trees and protect retained trees from damage.

Planting Plan, Timescale and Replacement planting

No development shall take place unless a scheme of landscaping has been submitted to and approved in writing by the Planning Authority, and is implemented thereafter as approved. The scheme shall provide details of replacement tree and hedge planting including plant sizes, species, habitat, siting, planting distances and a programme of planting. The scheme shall include indications of all existing trees and hedgerows on the land, details of any to be retained, and measures for their protection in the course of development.

All planting comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the commencement of the development. Any trees or plants which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar species and final size, unless the Planning Authority gives written consent to any variation. No trees or shrubs, detailed in the approved landscaping plans to be retained on the site, with the exception of pruning of hedges and fruit trees in line with good tree management, shall be damaged or uprooted, felled, topped, lopped or interfered with in any manner without the previous written consent of the Planning Authority.

Reason:

To ensure the retention and replacement of trees and hedging in the interests of biodiversity and landscape amenity

3. Replacement Planting

No development shall take place until a scheme of replacement planting of the five trees and length of hedging shown in red on the drawing numbered 216-GA-010 docketed hereto has been submitted to, and approved in writing by, the Planning Authority. The scheme shall provide details of the tree sizes, species, siting, planting distances and a programme of planting.

All planting comprised in the approved details of landscaping shall be carried out in the first planting season following the completion commencement of the development and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

Reason:

To ensure the replacement of trees and hedging in the interests of the biodiversity and landscape interest of the area

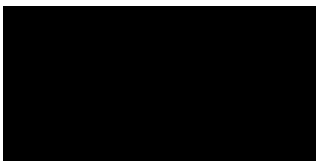
4. Lighting

No external light shall be installed at the property unless prior to its installation, details of the siting and design of the proposed light have been submitted to and approved by the planning authority in writing.

Reason:

To safeguard the amenity of the occupants of nearby residential properties from light pollution.

Planning Permission is accordingly approved.



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.