

REVIEW DECISION NOTICE

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

Application for Review by Mr Paul Gray of 5 Sheriffhall Mains Cottage, Midlothian EH22 1RX against refusal of Planning Permission in Principle for Housing Development at Land at Meadowmill, Tranent

Site Address: Land at Meadowmill, Tranent

Application Ref: 17/00157/PP

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

Date of Review Decision Notice: 7 July 2021

Decision

The ELLRB unanimously agreed that the Review should be dismissed and Planning Permission in Principle Refused 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, 22 August 2019. The Review Body was constituted by Councillor N Hampshire (Chair), Councillor N Gilbert, Councillor S Kempson, and Councillor J Williamson. All four 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 Mackowaik, 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 review against decision to refuse Planning Permission in Principle for housing development at land at Meadowmill, Tranent.

2.2. The planning application was registered on 28 March 2017 and the decision notice refusing the application is dated 1 March 2019.

2.3. The reasons for refusal are set out in full in the said Decision Notice dated 1 March 2019 and are summarized below:

2.3.1. 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.

2.3.2. If approved the proposed development would set an undesirable precedent for the development of new houses elsewhere in 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 effect of which would result in a detrimental impact on the rural character and amenity of the countryside of East Lothian.

2.3.3. The site is within a Coal Authority Development High Risk Area and a Coal Mining Risk Assessment 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.

2.4. The notice of review is dated 31 May 2019.

3. Preliminaries

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

i.	The drawings accompanying this application are referenced and numbered as follows: - DWG1 - DWG 2 - DWG 3
ii.	The Application for planning permission registered on 28 March 2017
iii.	The Appointed Officer's Submission
iv.	Notice of Review dated 31 May 2019 together with Applicant's Submission with supporting statements.

v.	<p>Policies relevant to the determination of the application as follows:</p> <p>Policies 5 (Housing Land) and 7 (Maintaining a Five Year Housing Land Supply) of the approved South East Scotland Strategic Development Plan (SESplan)</p> <p>Policies of the adopted East Lothian Local Development Plan 2018</p> <ul style="list-style-type: none"> - DP1: Landscape and Character - DP2: Design - DP3: Housing Density - DP8: Design Standards for New Housing Areas - DC1: Rural Diversity - DC4: New Build Housing in the Countryside - DC8: Countryside around Towns - NH8: Trees and Development - NH13: Noise - CH5 Battlefields - DEL1: Infrastructure and Facilities Provision - Hou2 Maintaining an Adequate 5 Year Effective Housing Land Supply - Hou3 Affordable housing Quota - T1: Development Location and Accessibility - T2: General Transport Impact and - T32 Transport Infrastructure Delivery Fund <p>Scottish Government's policy on development within a conservation area given in Scottish Planning Policy: June 2014.</p>
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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 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 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 (SESPan) and the East Lothian Local Development Plan 2018 (LDP). 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. 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.

- 4.3. The Members then asked questions pertinent to the application which the Planning Advisor responded to. This included clarification that as the Coal Authority report submitted by the applicant had been provided after the determination of the application it therefore could not be considered as part of this review.
- 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 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.

- 4.6. 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.
- 4.7. 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.
- 4.8. 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.

Accordingly, the ELLRB unanimously decided to uphold the decision of the Planning Officer and dismiss the Review on the basis of the reasons more particularly set out in the Planning Officer's Report.

Planning Permission in Principle is accordingly refused.



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.