

REVIEW DECISION NOTICE

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

Application for Review by Mr Dennis Walton c/o APT Planning & Development, 6 High Street, East Linton EH30 3AB for refusal of Planning Permission for the erection of two (2) detached houses with integral garages and associated works at 16 Carberry Road, Musselburgh EH21 7TN.

Site Address: 16 Carberry Road, Musselburgh EH21 7TN

Application Ref: 17/00996/P

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

Date of Review Decision Notice: 17 August 2021

Decision

The ELLRB unanimously agreed that the Review should be 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, 10 September 2020. The Review Body was constituted by Councillor N Gilbert (Chair), Councillor K Mackie, and Councillor F O'Donnell. 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 for refusal of Planning Permission for erection of two (2) detached houses with integral garages and associated works at 16 Carberry Road, Musselburgh.
- 2.2. The planning application was registered on 7 December 2017 and the decision notice refusing the application is dated 17 April 2020.
- 2.3. The reason for refusal of the Planning application is more particularly set out in full in the said Decision Notice dated 17 April 2020. The reason for refusal is summarised as follows:

2.3.1. By their disproportionately narrow proportions and scale, the proposed two detached houses would be wholly out of keeping with the architectural character and appearance, and generous proportions of the buildings of Carberry Road and Delta Place and thus would be incongruous additions to the pattern and density of the built form of this part of the Inveresk Conservation Area. As such they would be an overdevelopment of the site that would not enhance the streetscape of Delta Place and would not be appropriate to their place. Accordingly, the proposed development is contrary to Policies DP1, DP2 and DP7 of the adopted East Lothian Local Development Plan 2018 and Planning Advice Note 67: Housing Quality.

2.3.2. By their disproportionately narrow proportions and scale, the proposed two detached houses would be wholly out of keeping with the architectural character and appearance, and generous proportions of the buildings of Carberry Road and Delta Place. As unsympathetic and incongruous additions to the streetscape and to the pattern and density of built form of the area, the proposed two detached houses would not preserve or enhance the character and appearance of this part of the Inveresk Conservation Area. Accordingly, the proposed development is contrary to Policy CH2 of the adopted East Lothian Local Development Plan 2018, Scottish Planning Policy: June 2014 and Planning Advice Note 67: Housing Quality.

2.4. The notice for review is dated 16 July 2020.

3. Preliminaries

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

i.	<p>The drawings prepared by Hackland Dore Architects are named/numbered as follows:</p> <ul style="list-style-type: none"> - Window Details - 1020A(PL)93 - HD1020A(PL)091 - 1020A(PL)90 Rev C - HD1020A(PL)701 - HD1020A(PL)702 - HD1020A(PL)703 - HD1020A(PL)011 Rev B - HD1020A(PL)010 Rev E - HD1020A(PL)100 Rev E - 1020A(PL)101 Rev E - 1020A(PL)002 rev E - HD1020A(PL)005 Rev C
ii.	The Application for planning permission registered on 7 December 2017
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"> - RCA1 (Residential Character and Amenity) - CH2 (Development Affecting Conservation Areas) - CH4 (Scheduled Monuments and Archaeological Sites) - CH5 (Battlefields) - DP1 (Landscape Character) - DP2 (Design) - NH8 (Trees and Development) - T1: Development Location and Accessibility - T2: General Transport Impact
v.	<p>Notice of Review dated 16 July 2020 together with Applicant's Submission with supporting statement and associated documents.</p>

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 outlined the background and detail of the proposals indicating that previous consents had demonstrated that the site could accommodate 1 large detached house or two semi-detached 2.5 storey houses but that this application was for two 2.5 storey detached houses with attached garages, as well as the formation of hardstanding fences walls and gates. He reminded Members that Section 25 of the Town and Country Planning (Scotland) Act 1997 required that the application be determined in accordance with the development plan, unless material considerations indicated otherwise. He further commented that the Council as Planning Authority also had a duty under Scottish Planning Policy and s64 of the Planning (Listed Buildings and Conservation Areas) Scotland Act 1997 to have regard to the desirability of preserving or enhancing the character and appearance of a conservation area in determining an application within the conservation area. Proposals that do not harm that character and appearance should be treated as preserving it but permission should be refused for development that fails to preserve or enhance its character or appearance. Scottish Ministers' guidance on these and other matters was reflected in the Council's LDP policies. The Planning Adviser then summarised the responses from consultees and interested parties noting that five representations were received objecting to the proposed development and raising a number of concerns including that the proposed form of the houses would not be in keeping with the character of development of the local area, the houses were too thin and would occupy too much of the site, loss of open aspect and effect on privacy and amenity, parking and the external materials proposed for the building. He advised Members that the main determining issue for this application was whether the two detached houses proposed would preserve or enhance the character of the Inveresk Conservation Area in line with LDP policies CH2 (development affecting Conservation Areas); DP1 (landscape character), DP2 (design) and DP7 (infill back land and garden

ground development) and with Scottish Planning Policy. In addition, the SPG on cultural heritage and the built environment approved in 2018 contained the detailed Inveresk Conservation Area Character Appraisal which explained the special architectural and historic character of Inveresk identifying this part of Inveresk as the Victorian Suburb reflecting its main period of construction. The case officer concluded that notwithstanding certain characteristics of the proposed development being acceptable these did not outweigh that the houses by their disproportionately narrow proportions and scale would be wholly out of keeping with the architectural character and appearance and generous proportions of the buildings of Carberry Road and Delta Place and thus would be incongruous additions to the area.

The Planning Adviser then summarised the applicant's detailed case against the refusal of the application, including the Design Statement and supplementary information with plans and indicative views of the streetscape. The case made for the applicant was that the proposal did comply with all policy tests of the LDP, that it was designed by a renowned architectural practice and that there was no objection from Historic Environment Scotland. The submission also noted that the site was an established plot for residential development and that the proposals would at least preserve and may enhance the Inveresk Conservation Area. It was noted that there was already an eclectic mix and range of residential dwellings in Inveresk Conservation Area which added to its character and it was considered that this proposal would add to that character as a high quality addition that responded positively and appropriately to the site's context and relevant planning policy. The two reasons for refusal were challenged as it was considered that they significantly overstated concerns regarding the development of the site.

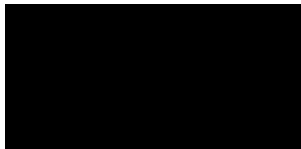
- 4.3. The Members then raised a few questions pertinent to the application which the Planning Advisor responded to. The Planning Advisor confirmed that each application was considered on its own merits and that it was in the nature of conservation areas to change over time and include a mixture of building styles. He provided clarification regarding the consultation response from Historic Environment Scotland and confirmed that no concerns were raised by the Council's Road Services officers regarding on-street parking. He also outlined the general view that where trees had to be removed during construction, planning officers would usually expect replacement planting to form part of the proposed development. Responding to a question on the removal of the existing wall, he said the proposal was to replace this with a low wall and railings, and driveway gates.
- 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 O'Donnell said that the site visit had been invaluable in providing context to the application. She had noted a number of new builds incorporating sandstone which did not seem out of keeping with the area. She said that her concern with the application was not with the materials or potential loss of trees but with the width of the properties. In her view the application being reviewed today would have a detrimental impact on the street and would constitute an over-development of the site. The 2.5 storey, narrow houses would not be in keeping with the surrounding houses and would not enhance the conservation area. She was of the view that the appeal should be rejected and the application refused.
- 4.6. Councillor Mackie agreed with the remarks made by Councillor O'Donnell. She appreciated the eclectic mix of housing on Delta Place but felt that the proposed development would not enhance the street or surrounding area. She considered the proposals for semi-detached

houses to be a much better fit and that this proposal for detached houses would be an over-development of the site. She agreed with the planning case officer's recommendation that the application be refused.

- 4.7. The Chair observed that the reason for refusal of the application was the narrow frontage of the proposed houses and that these were considered to be narrower than existing houses and not in keeping with the area. He noted that other new builds in the area were in proportion both in terms of size and scale and he highlighted the objections raised by local residents. For these reasons, he would be upholding the planning case officer's recommendation to refuse the application.

Accordingly, the ELLRB unanimously decided that the Review should be refused for the reasons more particularly set out in the Planning Officer's report.

Planning Permission 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.