

REVIEW DECISION NOTICE

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

Application for Review by Mr David Genco c/o APT Planning, 6 High Street East Linton EH40 3AB of the decision to refuse Planning Permission for extension to house, installation of septic tank and associated works for at Pressmennan Lake House, Stenton, Dunbar EH42 1TF.

Site Address: Pressmennan Lake House, Stenton, Dunbar EH42 1TF

Application Ref: 21/00879/P

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

Date of Review Decision Notice: 9 May 2022

Decision

The ELLRB unanimously agreed to uphold the appeal and to grant planning permission 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, 27 January 2022. The Review Body was constituted by Councillor L Bruce (Chair), Councillor N Gilbert, and Councillor J McMillan. 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 review of decision to refuse Planning Permission for extension to house, installation of septic tank and associated works for at Pressmennan Lake House, Stenton, Dunbar EH42 1TF.
- 2.2. The planning application was registered on 5 July 2021 and the Decision Notice refusing the application is dated 14 September 2021.
- 2.3. The condition and the reason for the condition is more particularly set out in full in the said Decision Notice dated 14 September 2021. The condition and reasons for refusal are set out

as follows:

1. *In its combined form, the component parts of the proposed extension would be excessively large in terms of its size, scale and footprint such that it would radically alter, and harmfully disrupt, the architectural form, character and setting of the house. It would dominate and overwhelm the side (west) elevation of the house and would compete with the built form of the house as the primary architectural element. In all of this the proposed extension would be a dominant and harmful addition to the listed building that would harmfully compete with and draw focus from its principle elevation. It would not be of a character, appearance or architectural form that would preserve or enhance the listed building. Instead it would be an addition to the listed building that would be harmful to its special architectural and historic character, integrity and appearance contrary to Policies CH1 and DP5 of the adopted East Lothian Local Development Plan 2018 and with Scottish Planning Policy: June 2014.*

2.4. The notice of review is dated 4 November 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> <table border="1"> <thead> <tr> <th>Drawing No.</th> <th>Revision No.</th> <th>Date Received</th> </tr> </thead> <tbody> <tr><td>PH_AR_01</td><td>A</td><td>05.07.2021</td></tr> <tr><td>PH_EL_01</td><td>B</td><td>05.07.2021</td></tr> <tr><td>PH_EL_02</td><td>B</td><td>05.07.2021</td></tr> <tr><td>PH_EL_03</td><td>A</td><td>05.07.2021</td></tr> <tr><td>PH_EL_04</td><td>A</td><td>05.07.2021</td></tr> <tr><td>PH_EL_05</td><td>A</td><td>05.07.2021</td></tr> <tr><td>PH_PL_01</td><td>B</td><td>05.07.2021</td></tr> <tr><td>PH_PL_02</td><td>B</td><td>05.07.2021</td></tr> <tr><td>PH_PL_03</td><td>B</td><td>05.07.2021</td></tr> <tr><td>PH_PL_04</td><td>B</td><td>05.07.2021</td></tr> <tr><td>PH_PL_100</td><td>A</td><td>05.07.2021</td></tr> <tr><td>PH_PL_101</td><td>A</td><td>05.07.2021</td></tr> <tr><td>MANU LITERATURE 1</td><td>-</td><td>16.07.2021</td></tr> <tr><td>PH_EL_06</td><td>C</td><td>16.08.2021</td></tr> <tr><td>PH_EL_07</td><td>C</td><td>16.08.2021</td></tr> <tr><td>PH_EL_08</td><td>C</td><td>16.08.2021</td></tr> <tr><td>PH_EL_09</td><td>C</td><td>16.08.2021</td></tr> <tr><td>PH_PL_05</td><td>C</td><td>16.08.2021</td></tr> <tr><td>PH_PL_06</td><td>C</td><td>06.08.2021</td></tr> <tr><td>PH_PL_07</td><td>C</td><td>16.08.2021</td></tr> <tr><td>PH_PL_08</td><td>B</td><td>16.08.2021</td></tr> <tr><td>PH_PL_102</td><td>B</td><td>16.08.2021</td></tr> </tbody> </table>	Drawing No.	Revision No.	Date Received	PH_AR_01	A	05.07.2021	PH_EL_01	B	05.07.2021	PH_EL_02	B	05.07.2021	PH_EL_03	A	05.07.2021	PH_EL_04	A	05.07.2021	PH_EL_05	A	05.07.2021	PH_PL_01	B	05.07.2021	PH_PL_02	B	05.07.2021	PH_PL_03	B	05.07.2021	PH_PL_04	B	05.07.2021	PH_PL_100	A	05.07.2021	PH_PL_101	A	05.07.2021	MANU LITERATURE 1	-	16.07.2021	PH_EL_06	C	16.08.2021	PH_EL_07	C	16.08.2021	PH_EL_08	C	16.08.2021	PH_EL_09	C	16.08.2021	PH_PL_05	C	16.08.2021	PH_PL_06	C	06.08.2021	PH_PL_07	C	16.08.2021	PH_PL_08	B	16.08.2021	PH_PL_102	B	16.08.2021
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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"> - CH1: Listed Buildings - CH6: Gardens and Designed Landscapes - NH3: Protection of Local Sites and Areas - DC9: Special Landscape Areas - DP2: Design - DP5: Extensions and Alterations to Existing Buildings <p>In addition the following provisions are also relevant to the determination of the application, namely:-</p> <ul style="list-style-type: none"> - Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997; - section 594 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 - the Scottish Government's policy on development affecting a listed building given in the Historic Environment Policy for Scotland (April 2019) and - Scottish Planning Policy (June 2014).
v.	<p>Notice of Review dated 4 November 2021 together with Applicant's Submission with supporting statement and associated documents including further representation and the applicant's response to these,.</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 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 outlined the background, location and detailed proposals contained in planning application no. 21/00879/P at Pressmennan Lake House, Stenton for an extension to a house and installation of a septic tank and associated works. He also provided details of the planning history for the house dating from 2002 to 2021 including past planning permissions both lapsed and extant.

The Planning Adviser reminded Members that planning applications should be determined in accordance with the development plans for the area unless material considerations indicate otherwise.

The Planning Adviser summarised the case officer's assessment of the application which had confirmed that there had been no objections to the proposals but one representation relating to site noise and hours of working which had been considered in the case officer's assessment. Comments had also been received from the Council's Biodiversity Officer which had included a number of recommendations regarding bats, breeding birds

and a nearby badger sett which could be addressed through planning conditions. No objections had been raised by Council services. The Planning Adviser summarised the case officer's assessment of the application against relevant planning policies which had concluded that proposals would be contrary to policies CH1 and DP5 and SPP 2014. That the extension would not be of a character, appearance or architectural form that would preserve or enhance the listed building but rather it would be an addition that would be harmful to the listed building's special architectural and historic character, integrity and appearance.

The Planning Adviser then summarised the applicant's appeal submission which made a number of points relating to the history and character of the existing extension and the intended character and impact of the new proposal. It referred to the secluded nature of the site and argued that the proposed extension would be compliant with policies CH1 and DP5 and would be compatible and subservient in that it would maintain its residential use while being visually smaller and distinct from the original. It concluded that the renovation and extension of the existing building would bring about a significant design benefit, significant restoration and investment in the building and ensure that it was fit for purpose as a substantial family home and place of recreation.

The Planning Adviser concluded his presentation reminding Members that the case officer had provided suggested conditions, should they be minded to grant permission for the application.

- 4.3. The Planning Adviser replied to a question from Councillor Gilbert on the increase in floor area resulting from this and previously proposed extensions.
- 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 Gilbert commented that the location was discreet and the house was not visible from public land. The proposed extension was at basement level and would be largely hidden and therefore not detrimental to the character and landscape of the area. While larger than the current extension, it was smaller than previous proposals which had been granted planning permission. It would also be in keeping with the character and existing look of the listed building. He said that the decision could not rely solely on appearance as the proposals would adapt and improve the whole building for its occupants and make it fit for purpose. On this occasion, and for these reasons, he was minded to uphold the appeal.
- 4.6. Councillor McMillan agreed with Councillor Gilbert's comments. He also commented on the location of the site and the fact that it was isolated and not overlooked. While he had some concerns that upholding the appeal would result in the demolition of the existing extension, he accepted that it did not fit the current family's needs and it was a modern pastiche which was not in keeping with the original building. He referred to the changing needs of the family and the impact of COVID on the need for additional space and working from home. He believed that the new proposals would address these needs and that the design would add value and would be a modern and impressive addition to a unique site. Accordingly, he was minded to uphold the appeal.
- 4.7. The Chair agreed with his colleagues and had noted in particular the surrounding landscape and topography. He noted that site was not overlooked and that the proposed

extension would not harm the listed building. For these reasons, he was minded to uphold the appeal.

Accordingly, the ELLRB unanimously decided to uphold the appeal and to grant planning permission subject to the following conditions:

Conditions

1. Within 1 month of its erection the solid timber gate to be formed within the north end of the east boundary wall hereby approved shall be painted or stained in a colour to be submitted and approved in advance by the Planning Authority prior to the painting or staining of it. The paint or stain colour of the gate shall accord with the colour sample so approved.

Reason: To safeguard the special architectural or historic interest of the listed stone wall.

2. Samples of the external finishes of the extension hereby approved shall be submitted to and approved in advance by the Planning Authority prior to their use in the development. The materials used shall accord with the samples so approved.

Reason: In the interests of safeguarding the special architectural and historic interest of the listed building and its setting.

3. Prior to the commencement of development hereby approved, a Species Protection Plan (for bats) and a timetable for the implementation of mitigation and protection measures, shall be submitted to and approved in writing by the Planning Authority. The mitigation and protection measures shall thereafter be implemented in strict accordance with the timetable so approved. In addition, a copy of the relevant European Protected Species licence and a copy of a written statement from NatureScot (confirming that a licence is not necessary for the proposed development) shall be submitted prior to the commencement of development.

Reason: In the interests of biodiversity and the conservation of a European Protected Species.

4. Prior to the commencement of development hereby approved, a Species Protection Plan (for badgers) and a timetable for the implementation of mitigation and protection measures, shall be submitted to and approved in writing by the Planning Authority. The mitigation and protection measures shall thereafter be implemented in strict accordance with the timetable so approved. In addition, a copy of the relevant Species licence and a copy of a written statement from NatureScot (confirming that a licence is not necessary for the proposed development) shall be submitted prior to the commencement of development.

Reason: In the interests of nature conservation.

5. A Construction Method Statement to minimise the impact of construction activity on the amenity of the area should be submitted to and approved by the Planning Authority prior to the commencement of development. The Construction Method Statement should recommend mitigation measures to control noise, dust, construction traffic, surface water during construction, and should include hours of construction work and delivery routes. Thereafter, the Construction Method Statement shall be implemented and complied with in accordance with the approved details for the period of construction of the development hereby approved.

Reason: To retain control of the operation of construction in the interest of environmental and residential amenity.

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.