

## **REVIEW DECISION NOTICE**

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

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Application for Review by APT PLANNING & DEVELOPMENT on behalf of Mr Scott Fraser and Mrs Louise Fraser c/o APT Planning & Development, 6 High Street, East Linton EH40 3AB of decision to refuse Planning Permission for extensions to house and alterations to domestic garage/workshop to form ancillary residential accommodation at 7 Ballencrieff Mains Farm Cottages, Ballencrieff, Aberlady, Longniddry.

Site Address: 7 Ballencrieff Mains Farm Cottages, Ballencrieff, Aberlady, Longniddry

Application Ref: 22/01296/P

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

Date of Review Decision Notice: 19 May 2023

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### **Decision**

The ELLRB unanimously agreed to uphold the appeal and to grant planning permission for extensions to house and alterations to domestic garage/workshop to form ancillary residential accommodation at 7 Ballencrieff Mains Farm Cottages, Ballencrieff, Aberlady, Longniddry for the reasons more particularly 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, 18 May 2023. The Review Body was constituted by Councillor N Gilbert (Chair), Councillor C Yorkston, and Councillor D Collins. All three members of the ELLRB had attended a site visit accompanied by the Planning Adviser 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 review of decision to refuse Planning Permission for extensions to house and alterations to domestic garage/workshop to form ancillary residential accommodation at 7 Ballencrieff Mains Farm Cottages, Ballencrieff, Aberlady, Longniddry.

2.2. The planning application was registered on 5 December 2022 and the Decision Notice refusing

the application is dated 31 January 2023.

2.3. The reason for refusal is more particularly set out in full in the said Decision Notice dated 31 January 2023. The reasons for refusal are set out as follows:

1. *The proposed extensions and roof alterations would, by their greater size, massing and floor area, be dominant and incompatible additions to the built form of the existing house. They would not appear as an integral part of the original house but instead would be an addition to it that would significantly overwhelm it. Therefore due to their form, size, scale, massing and proportions, the proposed extensions and roof alterations 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 appearance and visual impact such as to make the resultant built form more prominent and intrusive in the rural landscape and give 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 works are tantamount to the creation of a new house in the countryside, therefore the proposal is contrary to Policies DC1 (Rural Diversification) and DC4 (New Build Housing in the Countryside) 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: June 2014.*
3. *If approved the proposed development would set an undesirable precedent for the development of new houses in the countryside of East Lothian, the cumulative effect of which would be the suburbanisation of the countryside to the detriment of its character and amenity.*

2.4. The notice of review is dated 11 March 2023

### **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 data-bbox="392 253 544 282"><u>Drawing No.</u></th> <th data-bbox="687 253 839 282"><u>Revision No.</u></th> <th data-bbox="1031 253 1198 282"><u>Date Received</u></th> </tr> </thead> <tbody> <tr><td>DWG 01</td><td>-</td><td>22.11.2022</td></tr> <tr><td>DWG 10</td><td>A</td><td>22.11.2022</td></tr> <tr><td>DWG 11</td><td>A</td><td>22.11.2022</td></tr> <tr><td>DWG 2</td><td>H</td><td>22.11.2022</td></tr> <tr><td>DWG 3</td><td>H</td><td>22.11.2022</td></tr> <tr><td>DWG 4</td><td>H</td><td>22.11.2022</td></tr> <tr><td>DWG5</td><td>H</td><td>22.11.2022</td></tr> <tr><td>DWG6</td><td>H</td><td>22.11.2022</td></tr> <tr><td>DWG7</td><td>H</td><td>22.11.2022</td></tr> <tr><td>DWG8</td><td>H</td><td>22.11.2022</td></tr> <tr><td>DEM/1</td><td>-</td><td>22.11.2022</td></tr> <tr><td>LOCBLOK</td><td>I</td><td>22.11.2022</td></tr> <tr><td>LOCBLOK</td><td>I</td><td>22.11.2022</td></tr> <tr><td>DWG1</td><td>J</td><td>05.12.2022</td></tr> <tr><td>DWG12</td><td>-</td><td>16.12.2022</td></tr> </tbody> </table>	<u>Drawing No.</u>	<u>Revision No.</u>	<u>Date Received</u>	DWG 01	-	22.11.2022	DWG 10	A	22.11.2022	DWG 11	A	22.11.2022	DWG 2	H	22.11.2022	DWG 3	H	22.11.2022	DWG 4	H	22.11.2022	DWG5	H	22.11.2022	DWG6	H	22.11.2022	DWG7	H	22.11.2022	DWG8	H	22.11.2022	DEM/1	-	22.11.2022	LOCBLOK	I	22.11.2022	LOCBLOK	I	22.11.2022	DWG1	J	05.12.2022	DWG12	-	16.12.2022
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ii.	The Application for planning permission registered on 5 December 2022																																																
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"> <li>- DC1 (Rural Diversification);</li> <li>- DC4 (New Build Housing in the Countryside);</li> <li>- DP5 (</li> </ul> <p>In addition the following provisions are also relevant to the determination of the application, namely:-</p> <ul style="list-style-type: none"> <li>- Scottish Planning Policy (June 2014)</li> <li>- National Planning Framework 4 (NPF4).</li> </ul>																																																
v.	Notice of Review dated 11 March 2023 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 planning application relates to a detached single storey house at 7 Ballencrieff Mains in the countryside south east of Aberlady. Its site comprises a south facing pitched roof bungalow with a single storey garage/workshop to the northwest and areas of garden ground and parking. A private access road connects it to the A6137 from Aberlady to Haddington.

The application must be determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan consists of the East Lothian Local Development Plan 2018 together with National Planning Framework 4 which was approved by Scottish Government after the determination of this application and which replaced Scottish Planning Policy. The planning officer has separately identified NPF4 policies appropriate to the determination of the application, as has the applicant's agent, but you should note that NPF4 has to be read as a whole.

As set out in the Report of Handling, relevant to the determination of this planning application is LDP policy DP5: Extensions and Alterations to Existing Buildings. Among the relevant NPF4 policies are Policies 14 Design Quality and Place, Policy 16 Quality Homes and Policy 17 Rural Homes. Generally NPF4 is supportive of reusing empty homes, derelict, vacant or previously developed land including in appropriate rural areas. Policy 17 Rural Homes mentions support for development proposals in rural areas where the development is suitably scaled, sited and designed to be in keeping with the character of the area. Policy 16 Quality Homes supports householder development proposals where they do not have a detrimental impact on the character or environmental quality of the home and the surrounding area in terms of size, design and materials. Policy 14 seeks to ensure development proposals are designed to improve the quality of an area whether in an urban or rural location and regardless of scale. Development must be consistent with the six qualities of successful places namely that they are Healthy, Pleasant, Connected, Distinctive, Sustainable and Adaptable.

This needs to be considered along with the detailed Policy DP5 Extensions and Alterations of the LDP which requires extensions and alterations to be well integrated with their surroundings and to be either in keeping with the original building or be complementary to its character and appearance. In terms of size and scale Policy DP5 requires an extension to be of a size, form, proportion and scale appropriate to the existing house and to be subservient to and either in keeping with or complementary to the existing house.

The house is proposed to be significantly altered with a main extension to the west but also other extensions to its footprint and upwards to form living space within its roof space. The main extension to the house would be to the west measuring 4m x 9.8m where a new one and a half

storey extension, slightly lower than the main roof as proposed. The house would have a frontage facing north with a new porch and a one and a half storey forward extension on its east side that provides a full height utility and entrance hall space. New ground floor window and door openings would be formed in the original north and extended south elevation walls of the house. A new pitched roof would be provided at the same height as the high part of the existing roof that would feature four new pitched roof dormer windows, three on its north slope and one on its south slope. The existing separate garage/ workshop building is proposed to be converted to form ancillary residential accommodation with the suggestion that this would be suitable for elderly parents.

The Planning Adviser noted that there were no public objection to this proposal nor did any consultees object.

In addition the Planning Adviser stated that the conversion of the garage/workshop to ancillary accommodation would be in accordance with planning policies on the basis that it is not a separate dwelling and to ensure that it does not become used as a separate dwelling a condition could reasonably be imposed restricting the use of the proposed ancillary residential accommodation to a use incidental to the use and enjoyment of the house and not to be used as a separate dwelling or for any business trade or commercial use.

In his report of handling the planning officer considered the proposed materials to determine whether it was in keeping with the house and area. The elevation walls of the existing house are in white render with the elevation walls of the proposed altered house in a mix of natural stone and render to match. The roof would be in clay tiles similar to the existing with stone copings. Considering the architectural character of the existing house the planning officer found that it was derived from its distinctly small size and scale. Considering the proposed alterations and extension the planning officer found these would significantly alter the shape and size and footprint of the existing house to the extent that it was considered that it would be essentially new build with a new roof, new windows and door openings, new dormers, new external wall finishes and a new entrance feature. Taken together, they would not appear as an integral part of the original cottage but instead would be additions that would significantly overwhelm it. Due to their form, size, scale, massing and proportions the proposal would not be subservient to it and therefore would not be in keeping with or complementary to it contrary to LDP Policy DP5. The planning officer therefore concluded this was tantamount to a new house in the countryside which in the manner proposed would give a greater emphasis to it being isolated sporadic development in the countryside and that if assessed on that basis it would conflict with LDP policies DC1 Rural Diversification and DC4 New Build Housing in the countryside. This 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 in East Lothian. This justified the reasons for refusal.

The Planning Adviser stated that members would need to consider whether the house meets the terms of NPF4 in terms of Policy 16 Quality Homes and Policy DP5 of the LDP in terms of the suitability of its design and the size and scale of the extension and alterations. If the considered view is that it overwhelms the property to the point where the intentions of planning policy are breached then policies DC1 and DC4 of the LDP can be applied, but if it is considered that it does not, then it was his view that DC1 and DC4 do not apply as the house is an existing house. He also advised that the members need to consider whether the house with the proposed alterations would be in keeping with the general character of the area in which it is located.

The Planning Adviser then summarised the case presented by the appellant as follows:

- The existing house was constructed in the 1930s and later extended to form a single storey 3 bedroom bungalow with a higher centrally pitched roof with long views over its large plot originally provided for self-sufficient food production
- The house and outbuildings are in poor condition requiring considerable expenditure to upgrade to an acceptable standard
- The proposals will proportionately suit the size of plot while retaining 80% of the existing external walls and undertaking only minor extensions to the fabric of the existing house while converting the presently dilapidated store to provide habitable accommodation suitable for ancillary use of the main house.
- The design maintains the characteristic design of the local architecture and though the roof is larger covering a greater area it does not increase the ridge height which is balanced by the surrounding foliage and tree line.
- The appeal site contains a house and a garage/store building that are proposed to be altered therefore it does not represent a new house in the countryside and the second reason for refusal should not have applied
- Permissions have been granted elsewhere in East Lothian in similar circumstances
- The design evolved to try to ensure that elements of the existing house were retained for example the bay window, and that much of the floorplate of the house is retained along with the majority of the external walls, the roof height is not exceeded and other key design themes are incorporated
- Not all planning policies referred to can apply to all circumstances and proposals should be supported where the outcome is better than the existing situation
- The individual characteristics of the site should be considered as well as the proposals and a balanced view taken in the context of all influencing factors
- The officer report contains an assessment highlighting how the proposal complies with all key policies protecting neighbouring properties and it is an ideal site for these proposals
- The three reasons for refusal are challenged as they overstate concerns regarding the proposals as follows – 1) The design is appropriate for its site and setting and the quality of the proposed finish should be the focus; 2) policies DC1 and DC4 do not apply to this application and it is not a new home in the countryside; and 3) a development that is both attractive and appropriate cannot set an undesirable precedent.

The Planning Adviser recommended that if members were minded to approve this condition they considered applying a condition to the effect that the development shall begin within 3 years together with a condition to ensure that the ancillary building was not to be used as a separate dwelling house.

4.3. The Chair then invited questions for the Planning Officer. Some questions were raised and in particular, a question regarding the increase in size compared to the original building. The Planning Adviser confirmed that the footprint of the property was to increase from 110 square meter to 180 square meters. It was also noted that the total increase in area should also account for the roof space which increased by a further 44 meters.

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 Yorkston commented that works arising from the proposed permission were on the fine edge of subservience. He noted the increase in footprint together with the additional roof space meant the living space more than doubled in size but this does not look that way. He then considered the position for New Builds and while he was sympathetic to the Planning Officer's opinion was minded to agree with the applicant that this did not constitute a new build. Accordingly, he was minded to grant the Planning Permission.
- 4.6. Councillor Collins was of the view that the proposed building materials would be sympathetic to the area and the application was consistent with NPF4 as this improved the environment. Accordingly, she was minded to support this application.
- 4.7. The Chair agreed with his colleagues. He was of the view that the proposed development would not overwhelm the existing property and therefore was minded to grant the application.

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

- 1 *The development hereby approved shall begin before the expiration of 3 years from the date of this permission*

*Reason:*

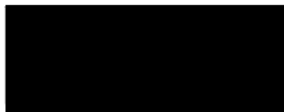
*Pursuant to Section 58 of the Town and Country Planning (Scotland) Act 1997 as amended*

2. *The outbuilding hereby approved shall only be used for purposes incidental to the residential use and enjoyment of the dwellinghouse of 7 Ballencrieff Mains Farm Cottages and shall at no time form a separate residential unit or be used for any business, trade or other commercial use.*

*Reason:*

*To enable the Planning Authority to control the use of the development in the interests of safeguarding the character and residential amenity of the area and that of the dwellinghouse of 7 Ballencrieff Mains Farm Cottages.*

Planning Permission is hereby 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.