

LOCAL REVIEW BODY

20th July 2023

Application No: 22/01273/P

Viewfield, Huntlaw Road, Pencaitland

Appointed Officer's Submission

22/01273/P – REVIEW AGAINST DECISION – PLANNING OFFICER’S SUBMISSION

Planning Application Review Against Decision (Refusal): Erection of fence (Retrospective) at Viewfield, Huntlaw Road, Pencaitland.

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2. Copy of the Decision Notice and reasons for refusal relating to planning application 22/01273/P.
3. Copy of Road Services consultation response.
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5. Additional submission relating to NPF4 Policy 16 (Quality Places).

5th July 2023

Scott Robertson
Assistant Planner (Planning Delivery)

OFFICER REPORT

26th January 2023

App No. **22/01273/P**

Application registered on **15th December 2022**

Target Date **14th February 2023**

Proposal	Erection of fence (Retrospective)	SDELL	N
		CDEL	N
Location	Viewfield Huntlaw Road Pencaitland Tranent East Lothian EH34 5AG	Bad Neighbour Development	N

APPLICANT: **Mr Ronald Anderson**

Is this application to be approved as a departure from structure/local plan? N

**Viewfield
Huntlaw Road
Pencaitland
Tranent
East Lothian
EH34 5AG**

DECISION TYPE:

Application Refused

PLANNING ASSESSMENT

The property to which this application relates is a two storey, detached house and its garden ground. The property is located within a predominantly residential area as defined by Policy RCA1 of the adopted East Lothian Local Development Plan 2018.

The property is bounded to the northwest by the public road of Huntlaw Road and to the northeast, southwest and southeast by neighbouring residential properties.

Planning permission is retrospectively sought for the 1.8m high close boarded fencing that has been erected along part of the front (northwest) and side (northeast) garden boundaries of the house. The fencing that has been erected extends from the northwest corner of the application site, some 10 metres along the front (northwest) boundary of the front garden. Whilst the fence that has been erected along the side (northeast) boundary is some 9.4 metres in length, only the part of that fence that extends 2.7m beyond the principal front (northwest) elevation of the house requires planning permission as the remainder of that fence is permitted development.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan unless material considerations indicate otherwise.

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Development Plan 2018.

There are no relevant policies of the approved South East Scotland Strategic Development Plan (SESplan). Policy DP2 (Design) of the adopted East Lothian Local Development Plan 2018 is relevant to the determination of the application.

The Scottish Government approved National Planning Framework 4 ("NPF4") on 11th January 2023. NPF4 is a material consideration at this time. Having considered the relevant policies in NPF4, there are none that would conflict with the policies of the Development Plan, which apply to this proposal. NPF4 raises no additional material considerations in relation to this application.

No public letters of objection have been received in relation to the application.

The fencing, due to its height, size, and positioning, does not result in a harmful loss of sunlight or daylight to any neighbouring residential property.

Huntlaw Road is characterised by houses with front gardens that generally have low boundary treatments. Where boundary enclosures are present, these are mostly below 1m in height, or consist of planting and hedging. Prior to the erection of the fences the subject of this application the applicant's front garden was enclosed with a high hedge that has been removed. Hedges regardless of height do not require planning permission.

The applicant's house occupies a prominent roadside position on Huntlaw Road. In that prominent position the front elevation of the house and its front garden are readily visible from Huntlaw Road to the northwest and also from Lempockwells Road to the northeast. Consequently, the fencing as it is positioned enclosing part of the front garden of this house is readily visible from public views.

By its 1.8m high, close boarded form, roadside positioning and sitting forward of the front elevation of the house the fencing is more much more prominent and imposing in character than the enclosures of other front gardens in this part of Huntlaw Road. Consequently, in the context of Huntlaw Road, the fencing due to its height and close boarded form is not appropriate to its setting and appears out of keeping with the largely low front roadside boundary enclosures of other houses within this part of Pencaitland. Therefore, the fencing is not appropriate to its setting and is not well integrated into its setting. Rather by its height and close boarded form the fences are harmful to the setting of the house and harmful to the character and appearance of the area contrary to Policy DP2 of the adopted East Lothian Local Development Plan 2018.

If approved the fencing would set a harmful precedent for allowing the addition of similar forms of fencing to be erected on the front roadside boundaries of the front gardens of other residential properties within the locality. Such change would be individually and cumulatively out of keeping with the character and appearance of the residential properties in the

development, to the greater detriment of the streetscape of Huntlaw Road and the character and appearance of the area contrary to Policy DP2 of the adopted East Lothian Local Development Plan 2018. NFP4 raises no additional material considerations in relation to this application.

In conclusion there are no material planning consideration, including Policies of NPF4 that outweigh the fact that the fencing is contrary to the Development Plan.

The fence is unauthorised and a breach of planning control. If within 2 months of the date of the refusal to grant planning permission for the fence, steps have not been take to remove the fence or to reduce its height to no more than 1m, enforcement action will be taken to secure its removal with the period for compliance with the enforcement notice being 2 months.

REASON FOR REFUSAL:

- 1 In the context of Huntlaw Road, the fencing is not appropriate to its setting and appears out of keeping with the largely low front roadside boundary enclosures of other houses within this part of Pencaitland. Consequently by virtue of its height, close boarded form, roadside positioning and by protruding forward of the principle elevation of the house, the fencing is harmful to the setting of the house and harmful to the character and appearance of the area contrary to Policy DP2 of the adopted East Lothian Local Development Plan 2018.
- 2 If approved the fencing would set a harmful precedent for allowing the addition of similar forms of fencing to be erected to enclose the front roadside boundaries of the gardens of other residential properties within the locality. Such change would be individually and cumulatively out of keeping with the character and appearance of the residential properties in the locality, to the greater detriment of the streetscape of Huntlaw Road and the character and appearance of the area contrary to Policy DP2 of the adopted East Lothian Local Development Plan

LETTERS FROM

26th January 2023

App No. 22/01273/P

**EAST LoTHIAN COUNCIL
DECISION NOTICE**

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
TOWN AND COUNTRY PLANNING
(DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATIONS 2013**

**Mr Ronald Anderson
Viewfield
Huntlaw Road
Pencaitland
Tranent
East Lothian
EH34 5AG**

APPLICANT: Mr Ronald Anderson

With reference to your application registered on 15th December 2022 for planning permission under the above mentioned Acts and Regulations for the following development, viz:-

Erection of fence (Retrospective)

**at
Viewfield
Huntlaw Road
Pencaitland
Tranent**

East Lothian Council as the Planning Authority in exercise of their powers under the above-mentioned Acts and Regulations hereby **REFUSE PLANNING PERMISSION** for the said development.

The reasons for the Council's refusal of planning permission are:-

- 1 In the context of Huntlaw Road, the fencing is not appropriate to its setting and appears out of keeping with the largely low front roadside boundary enclosures of other houses within this part of Pencaitland. Consequently by virtue of its height, close boarded form, roadside positioning and by protruding forward of the principle elevation of the house, the fencing is harmful to the setting of the house and harmful to the character and appearance of the area contrary to Policy DP2 of the adopted East Lothian Local Development Plan 2018.

- 2 If approved the fencing would set a harmful precedent for allowing the addition of similar forms of fencing to be erected to enclose the front roadside boundaries of the gardens of other residential properties within the locality. Such change would be individually and cumulatively out of keeping with the character and appearance of the residential properties in the locality, to the greater detriment of the streetscape of Huntlaw Road and the character and appearance of the area contrary to Policy DP2 of the adopted East Lothian Local Development Plan

The report on this application is attached to this Decision Notice and its terms shall be deemed to be incorporated in full in this Decision Notice.

Details of the following are given in the application report:

- the terms on which the Planning Authority based this decision;
- details of any variations made to the application in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997.

The plans to which this decision relate are as follows:

<u>Drawing No.</u>	<u>Revision No.</u>	<u>Date Received</u>
DWG 01	-	06.12.2022
DWG 02	-	15.12.2022
PHOTO 01	-	15.12.2022
PHOTO 02	-	15.12.2022
PHOTO 03	-	15.12.2022
PHOTO 04	-	15.12.2022
DWG 03	-	15.12.2022
REPORT 01	-	15.12.2022

27th January 2023



Keith Dingwall
Service Manager - Planning

NOTES

If the applicant is aggrieved by the decision to refuse permission for the proposed development, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to the Clerk to the Local Review Body, Committee Team, Communications and Democratic Services, John Muir House, Haddington, East Lothian EH41 3HA.

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 5 of the Town and Country Planning (Scotland) Act 1997.

Currie, Fiona

From: Canty, Jon
Sent: 20 December 2022 15:34
To: Law, Amy
Cc: Environment Reception; Lennox, Ian
Subject: TRANSPORT PLANNING RESPONSE: 22/01273/P- Planning Consultation

EAST LoTHIAN COUNCIL ROAD SERVICES

From: Asset & Regulatory Manager

To: Service Manager, Planning

Proposal: Erection of fence (Retrospective) at Viewfield Huntlaw Road Pencaitland Tranent East Lothian EH34 5AG

Given the alignment of Huntlaw Road at this location and the width of the footway along the frontage of the site being in excess of 2.0m, visibility for drivers along the road would not be impacted and visibility for vehicles exiting the adjacent driveway would also remain at an acceptable level. On this basis, and in the context of the lower level stone wall in front of the fence being an existing feature, we do not have any concerns regarding the impact of the fence and therefore have no objections to this planning application.

Please advise the applicant that all works within or affecting the public road including works on the footway or verge must be authorised in advance by this Council as Roads Authority.

Sent on behalf of IAN LENNOCK
ROAD SERVICES, ASSET & REGULATORY MANAGER

please ask for:
Jon Canty
Transportation Planning Officer
East Lothian Council
01620 827285
jcanty@eastlothian.gov.uk
NHS Coronavirus Information

[https://intranet.eastlothian.gov.uk/multimedia/1624/1624_250x83.jpg]

Policy DP2: Design

The design of all new development, with the exception of changes of use and alterations and extensions to existing buildings, must:

1. Be appropriate to its location in terms of its positioning, size, form, massing, proportion and scale and use of a limited palette of materials and colours that complement its surroundings;
2. By its siting, density and design create a coherent structure of streets, public spaces and buildings that respect and complement the site's context, and create a sense of identity within the development;
3. Position and orientate buildings to articulate, overlook, properly enclose and provide active frontages to public spaces or, where this is not possible, have appropriate high quality architectural or landscape treatment to create a sense of welcome, safety and security;
4. Provide a well connected network of paths and roads within the site that are direct and will connect with existing networks, including green networks, in the wider area ensuring access for all in the community, favouring, where appropriate, active travel and public transport then cars as forms of movement;
5. Clearly distinguish public space from private space using appropriate boundary treatments;
6. Ensure privacy and amenity, with particular regard to levels of sunlight, daylight and overlooking, including for the occupants of neighbouring properties;
7. Retain physical or natural features that are important to the amenity of the area or provide adequate replacements where appropriate;
8. Be able to be suitably serviced and accessed with no significant traffic or other environmental impacts.

22/01273/P – REVIEW AGAINST DECISION – PLANNING OFFICER’S FURTHER SUBMISSION IN RESPECT OF POLICY 16 OF NATIONAL PLANNING FRAMEWORK 4

When planning application 22/01273/P was determined on 26th January 2023 it was assessed against Section 25 of the Town and Country Planning (Scotland) Act 1997 which requires the application be determined in accordance with the development plan unless material considerations indicate otherwise.

However, since the determination of planning application 22/01273/P, National Planning Framework 4 (NPF4) was approved by the Scottish Government on 11th January 2023 and adopted on 13th February 2023. NPF4 is now part of the development plan and is a material consideration in the assessment of this planning application. In light of the above, I have assessed planning application 22/01273/P against Policy 16 (Quality Places) of NPF4.

Part g) (i) of Policy 16 (Quality Places) of NPF4 states that:

‘Householder development proposals will be supported 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’.

A material consideration in the determination of this application is whether or not the erected fencing has a detrimental impact on the character or environmental quality of the home and surrounding area. In terms of size, design and materials the fencing appears out of keeping with the low boundary treatments within the streetscape it is a part of. It therefore detrimentally affects the character of the house and surrounding area it is a part of and would not comply with Policy 16 of NPF4.

