

Consulting Civil, Structural, Transportation and Infrastructure Engineers

The Planning Department
East Lothian Council
John Muir House
Haddington, East Lothian
EH41 3HA

LTR/EJD/SR/

31 January 2023

Dear Sirs

**Application for Retrospective Planning Permission
Numbers 13, 17, 19 & 29 Pithead Heights, Prestonpans, EH32 9FW ("the joint applicants")**

We refer to a letter from your department dated 7th December 2022 (ref: 22/0360/COM) regarding the above, which relates to (a) an alleged material change of use of land designated as open space, and (b) an alleged unauthorised development consisting of hardstanding and erection of a bin store.

This application for retrospective planning permission is made jointly by the owners of numbers 13, 17, 19 and 29 Pithead Heights, Prestonpans. The primary applicant is 29 Pithead Heights, Prestonpans. We have been asked to provide this Supporting Statement by the joint applicants to address the concerns raised by East Lothian Council.

(a) Material Change of Use of Land Designated as Open Space.

- The bin storage areas were formed by the developer and housebuilder, Barrett Homes, prior to occupation. None of the applicants were made aware that planning permission had not been obtained by the developer. The applicants acted in good faith by using the bin storage areas that were provided to them.
- Planning Advice Note (PAN) 65 defines 'open space' as "*vegetated land or structure*" and "*other paved or hard landscaped areas with a civic function*". We would reason that the placement of paving spaces and a small timber bin store within the landscaped strip does not constitute a material change of use, in that the finished appearance still falls within the description of 'open space' given in PAN 65.
- As regards the placement of bins in the 'open space', we would further note that the landscaped strip is used extensively for the storage and placement of bins, as is evident in the photographs overleaf. It is unclear, therefore, why only four residents have been criticised for the placement of bins in the landscaped strip.

(b) Development Consisting of Hardstanding & Erection of a Bin Store.

- We would reason that the minor nature of the paving slab and timber bin store are insignificant within the context of the completed housing development. As noted above, the development that has taken place (hardstanding and structure) still falls within what is considered acceptable under PAN 65.
- Moreover, bins for the joint applicants are placed neatly and do not oversail footpaths. Elsewhere, bins are either placed directly on the footpath or partly overlap the footpath, as is evident in the photographs provided. This is considered obstructive to the safe passage of pedestrians, cyclists and wheelchairs.



- In many instances, bins have been placed directly onto the landscape strip without any hardstanding. This is damaging to topsoil, causes ruts in the landscaping and drags soil onto a public footpath.
- The hardstandings consist of concrete paving slabs placed on granular subbase that area set flush with the footpath.
- The bin structure consists of a small timber housing (un-gated) which has been sympathetically planted across the top face to create a pleasing finish.

In consideration of the above, we would respectfully request that East Lothian Council grants retrospective planning permission to the joint applicants for the bon storage compounds.

Yours sincerely



Euan Dale
Director

Enc – selection of photographs

cc Ms Susan Ralston & Other Applicants, Pithead Heights, Prstonpans

Selection of Photos for Supporting Statement



Typical arrangement of bins overflowing onto footpath



Typical arrangement of bins sitting atop open space (without consent)



Typical arrangement of bins placed informally on open space (without consent)



Typical arrangement of bins placed informally on open space (without consent) and overflowing onto footpath



Typical arrangement of bins placed informally on open space (without consent) and overflowing onto footpath



Properly and neatly placed bins on a hardstanding area, typical of what has been provided for the joint applicants



OFFICER REPORT

10th October 2023

App No. **23/00864/P**

Application registered on **28th August 2023**
Target Date **27th October 2023**

| | | | |
|----------|--|------------------------------|---|
| Proposal | Change of use of public open space to domestic garden ground (Retrospective) | SDELL | Y |
| | | CDEL | N |
| Location | 17 And 29 Pithead Heights Dolphingstone Prestonpans East Lothian EH32 9FW | Bad Neighbour Development | N |

APPLICANT: **Miss Susan Ralston**

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

**29 Pithead Heights
Prestonpans
EH32 9FW**

DECISION TYPE:

Application Refused

REPORT OF HANDLING

PROPOSAL

This application relates 2 small areas of formerly landscaped open space adjacent to the rear gardens of the properties of 17 and 29 Pithead Heights. They are located within a predominately residential area as defined by Policy RCA1 of the adopted East Lothian Local Development Plan 2018.

The 2 areas of landscaped openspace are between the fences enclosing the rear gardens of the houses and the adjacent access road for the development. The two areas were formerly part of the landscaping of part of a wider landscape and drainage area of the whole development site.

Planning permission is sought retrospectively for:

- (i) the change of use of the 2 areas of landscaped public open space to be incorporated as additional garden ground for those properties on which to store bins; and
- (ii) the erection of a timber clad bin store onto each of the areas of openspace.

The bin store adjacent to 17 Pithead Heights measures some 1.4-metre in height, 1.8m in length and 0.8m in depth. The bin store adjacent to 29 Pithead Heights, measures some 1.5m in height, 1.6m in length and 0.8m in depth. It has a green roof.

DEVELOPMENT PLAN

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 National Planning Framework 4 (NPF4) which was adopted by The Scottish Government on the 13th February 2023 and the adopted East Lothian Local Development Plan 2018.

The relevant policy contained within NPF4 consist of policy 14 (Design, Quality and Place). Policies OS2 (Change of use to Garden Ground) and DP2 (Design) of the ELLDP are relevant to the determination of the application.

REPRESENTATIONS

A single objection has been received in relation to this application. The main grounds of objection are:

- Communal/shared open space with landscape planting throughout.
- Cost of maintenance is paid by all residents through a factor.
- Units are not visually attractive and takes away from the appearance of the street.
- Allowing people to erect will set an unwanted precedent for the street with already a number of unauthorised erections and changes of uses and combined would look awful.
- Removal of plans and shrubs.
- Do not understand how anyone can extend garden using land they do not own.
- A small number of houses were consulted, whereas all houses on the estate should be consulted.

All planning matters are assessed within the assessment of this application, non-planning matters are addressed where applicable below.

In terms of the cost/money paid to factor to maintain, this is not a planning matter and is not a material consideration in the determination of this planning application.

Land ownership is not a planning matter and thus, not considered as part of this application.

In relation to the above representation relating to consultations to neighbours, East Lothian Council as Planning Authority only consult neighbours within a 20m radius of the application site, in this case of both sites.

PLANNING ASSESSMENT

The change of use of the areas of landscaped open space and the erection of the bin stores does not harm the residential amenity of any neighbouring residential properties.

Policy OS2 of the adopted East Lothian Local Development Plan states that the change of use of open space to garden ground will be supported if it would not result in unacceptable loss of visual or recreational amenity or harm the integrity of a landscaping scheme, or set a precedent that if followed would do so.

The change of use of the areas of landscaped open space has been to facilitate the formation of hardsurfaced bin stores on those areas of land. Whilst the existing timber fence and gate between the areas of landscaped open space and the rear garden of the applicant's house have been retained, those areas are used to store the bins as alternatives to the bins being stored within the rear gardens of the applicant's properties.

The applicant's properties and the small areas of landscaping comprising the application site are part of a recently built housing development. The landscaped areas of openspace are part of the wider landscaping across the development and form part of the drainage of the wider development site. These areas of landscaped open space were provided to soften the impact of, and therefore to enhance, the visual amenity of the development. The change of use of the small areas of open space and the formation of hardsurfaced bin stores on them, individually and cumulatively undermines the integrity of the scheme of landscaping implemented within the development and harms the character and the visual amenity of the larger residential development. By being located outwith the gardens of the properties the formation of the bin storage areas and the erection of bin stores on them is inappropriate to their setting. They are therefore harmful to the character and visual amenity of this part of the residential area and would if approved set a harmful precedent that would result in visual harm that would further harm the integrity of the landscaped open space.

The change of use of the landscaped areas of open space and the retention of the bin stores on them by being harmful to the character and visual amenity of this part of the residential area are contrary to Policy 14 of the NPF4 and Policies OS2 and DP2 of the adopted East Lothian Local Development Plan 2018.

It is noted that there are other areas of landscaped openspace that have undergone an unauthorised change of use and have erected a bin store of similar on them, or have removed the intended landscaping and placed slab work down to place bins on them. No planning application for these other areas at Pit Head heights has been received and therefore these remain unauthorised and do not form a precedent or material consideration relevant to the determination of this planning application.

The proposals do not accord with the development plan and there are no material considerations that outweigh their discordance with the development plan.

The change of use and erection of bin stores and their associated base at 17 and 29 Pithead Heights are unauthorised and a breach of planning control. The timber bin stores and associated slab base shall be removed and the area returned to its former landscaped form within 2 months of the date of this decision. Should this action not be taken then enforcement action will be taken to secure their removal with the period for compliance with the enforcement notice being 2 months.

REASON FOR REFUSAL:

- 1 The loss of the area of landscaped open space and the erection of the bin stores is harmful to the character, appearance and visual amenity of this part of the residential area and would if approved set a harmful precedent that would result in visual harm that would further harm the integrity of the landscaped amenity open space. For this reason the change of use of the area, bin store and slab base are contrary to Policy 14 of NPF4 and Policies OS2 and DP2 of the adopted East Lothian Local Development Plan 2018.

LETTERS FROM

[REDACTED]

10th October 2023

17, Pithead Heights, Dolphingstone, Prestonpans, East Lothian, EH32 9FW



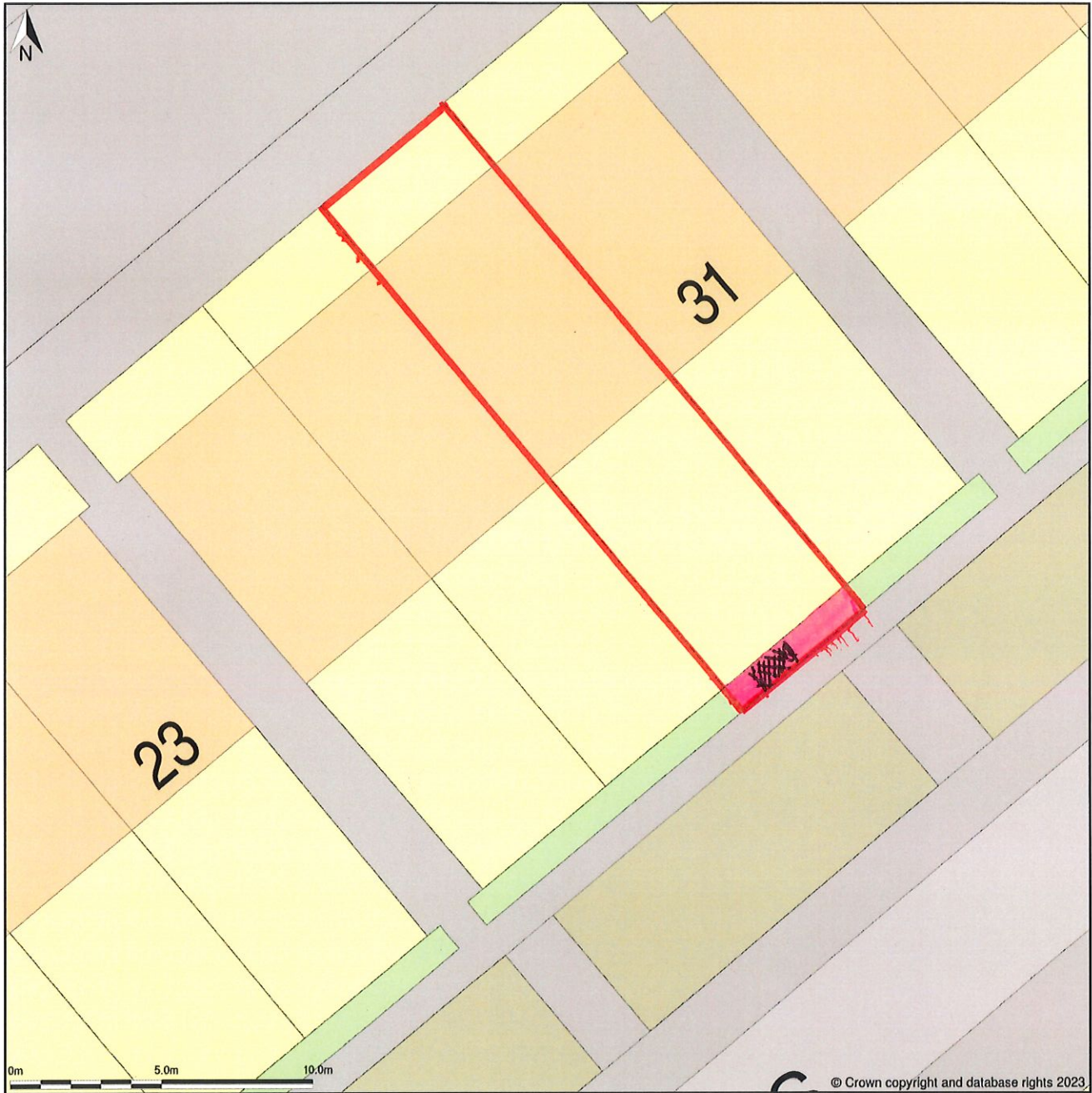
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Highlighted area - change of usage
Hatched area - bin store area plus
hard standing / slabs

29, Pithead Heights, Dolphingstone, Prestonpans, East Lothian, EH32 9FW

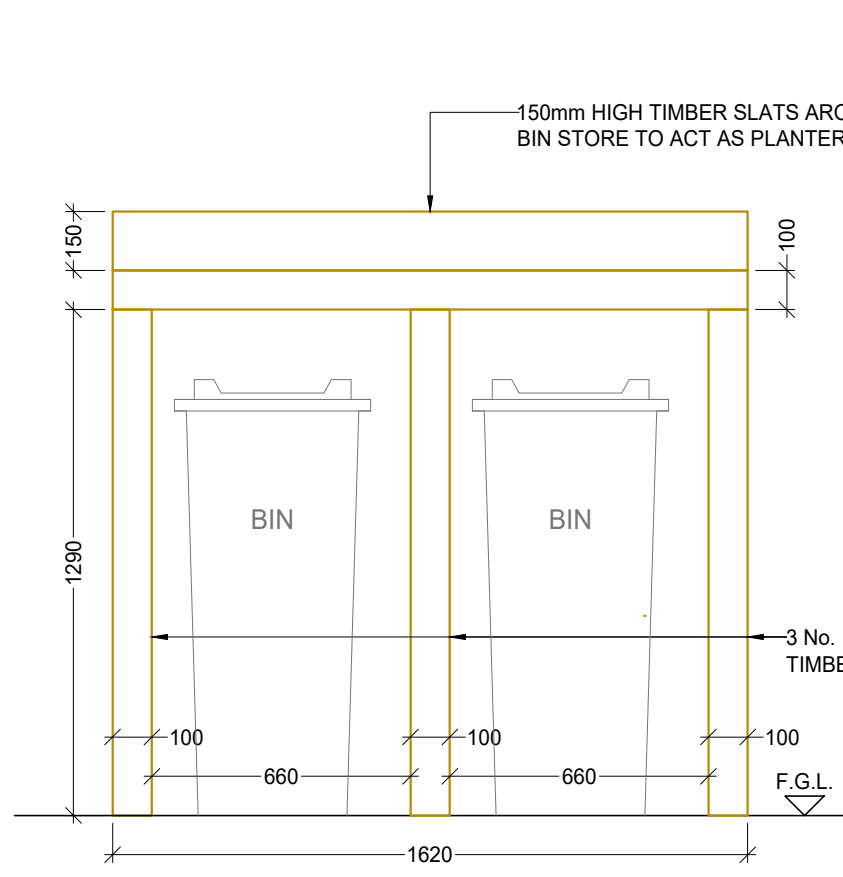


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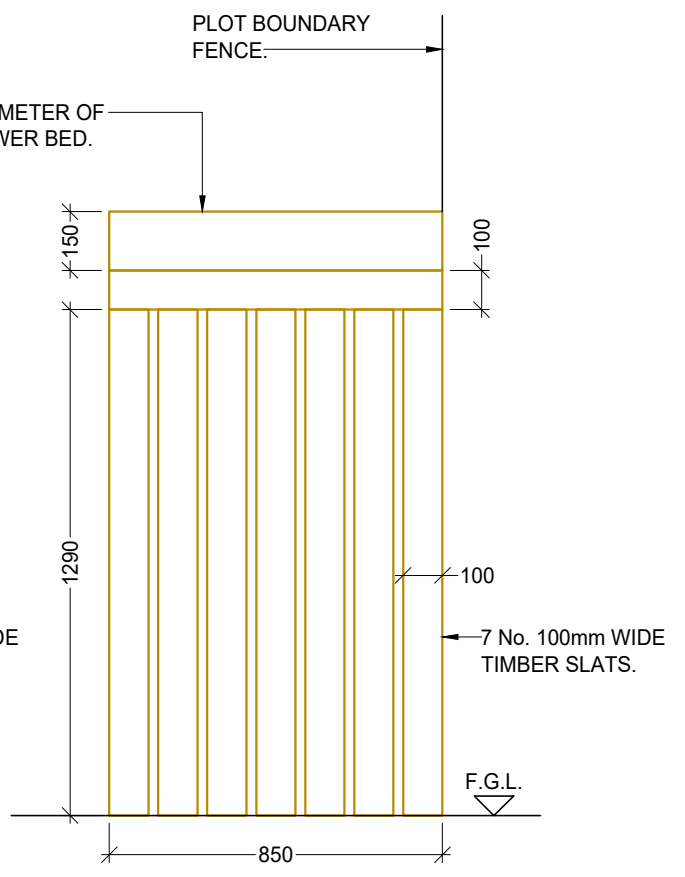
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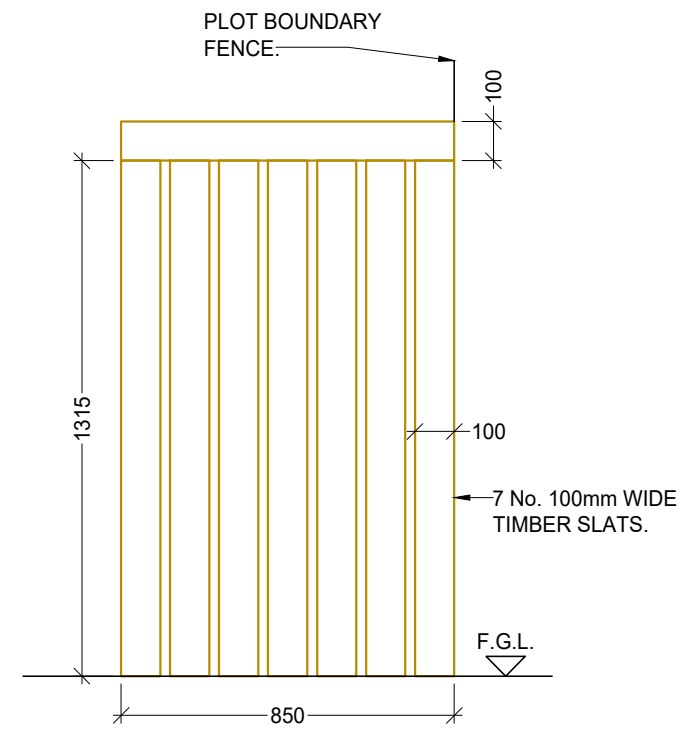
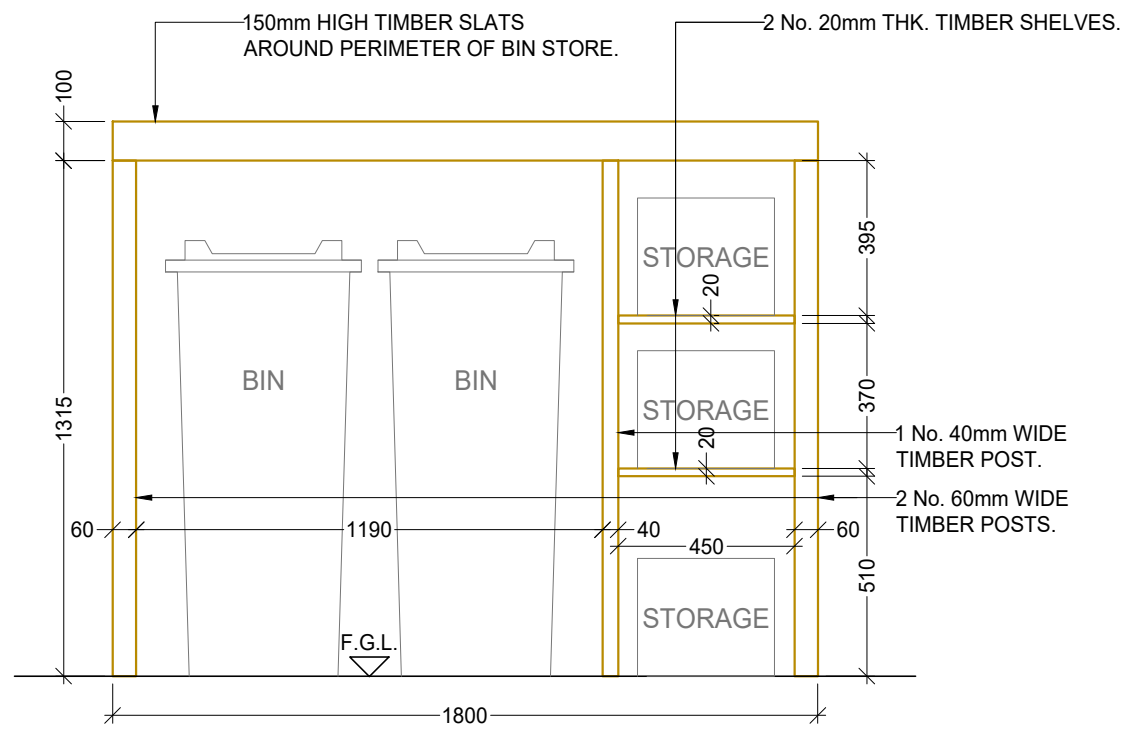
Highlighted area - change of usage.
Hatched area - bin store area plus hard standing / slabs.



FRONT ELEVATION
SCALE 1:20 @ A3



SIDE ELEVATION
SCALE 1:20 @ A3



FRONT ELEVATION
SCALE 1:20 @ A3

SIDE ELEVATION
SCALE 1:20 @ A3