

## **REVIEW DECISION NOTICE**

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

---

Application for Review by Lanpro Services on behalf of Mr and Mrs Bain of Letham Acredales, Letham Acredales, Haddington EH41 4NW decision to refuse Planning Permission for the erection of 1 replacement house and associated works at Trabroun Farmhouse, Huntingdon, Macmerry.

Site Address: Trabroun Farmhouse, Huntingdon, Macmerry

Application Ref: 23/00373/P

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

Date of Review Decision Notice: 6 March 2024

---

### **Decision**

The ELLRB unanimously agreed to support the appeal and grant planning permission subject to conditions for the erection of 1 replacement house and associated works at Trabroun Farmhouse, Huntingdon, Macmerry 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 January 2024. The Review Body was constituted by Councillor C Yorkson (Chair), Councillor D Collins and Councillor L Allen. All three members of the ELLRB had attended a 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 to the LRB  
Ms F Currie, Clerk

### **2. Proposal**

- 2.1. The planning application is for review of decision to refuse Planning Permission for the erection of 1 replacement house and associated works at Trabroun Farmhouse, Huntingdon, Macmerry
- 2.2. The planning application was registered on 11 April 2023 and the Decision Notice refusing the application is dated 13 June 2023.
- 2.3. The reasons for refusal are more particularly set out in full in the said Decision Notice dated 13 June 2023. The reasons for refusal are set out as follows:

- 1 *The erection of a house on the application site would be new build housing development in the countryside of East Lothian on land which is not allocated for housing development, is not brownfield land where a return to a natural state will not happen without intervention, does not reuse a redundant or unused building, and for which a need to meet the requirements of the operation of an agricultural, horticultural, forestry, countryside recreation, or other business, leisure or tourism use has not been demonstrated, and which is not proposed as affordable housing development of an existing rural settlement. The proposal is therefore contrary to Policy 17 of NPF4 and Policies DC1 and DC4 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.*
  
- 2 *The proposed house would not: i) be a like for like replacement of a dwelling recently rendered uninhabitable by unforeseen circumstances; ii) replace an existing dwelling with lawful use rights as such (not the plot of a previous, now demolished house) that the Council accepts that due to the construction of the building it is incapable of retention for habitation and that all reasonable efforts have been made to maintain the building; or iii) be similar in size, scale and massing to the original. Therefore, the proposal does not comply with either criteria (i) or (ii) of Policy DC3 of the adopted East Lothian Local Development Plan 2018.*
  
- 3 *The erection of a house on the application site would be new build housing development in the countryside of East Lothian for which a desirable primary use supported in principle by criterion b of Policy DC1 and with benefits that outweigh the normal presumption against new build housing in the countryside has not been demonstrated; and which is not an appropriate use of a historic environment asset or promoted to fund the restoration of a listed building, building of recognised heritage value or significant designated feature of the built or natural environment, the retention of which is desirable. The proposal is therefore contrary to Policy DC5 of the adopted East Lothian Local Development Plan 2018. 10*
  
- 4 *The proposed replacement house would of a form, size and scale that would compete with and draw focus from the category B-listed Trabroun Steading and be harmful to its setting contrary to Policy 7 of NPF4 and Policy CH1 of the adopted East Lothian Local Development Plan 2018.*
  
- 5 *The proposed house would be seen as a harmfully dominant, discordant and incongruous feature within its rural landscape setting and adjacent to the Elvingston Local Garden and Designed Landscape. Therefore the proposed house would not be suitably sited, scaled or designed to be in keeping with the character of the area contrary to Policies 7, 17 and 29 of NPF4 and Policies CH6, DP1 and DP2 of the adopted East Lothian Local Development Plan 2018.*

2.4. The notice of review is dated 12 September 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="384 394 544 427"><u>Drawing No.</u></th> <th data-bbox="683 394 842 427"><u>Revision No.</u></th> <th data-bbox="1023 394 1203 427"><u>Date Received</u></th> </tr> </thead> <tbody> <tr><td>DWG01</td><td>-</td><td>11.04.2023</td></tr> <tr><td>DWG02</td><td>-</td><td>11.04.2023</td></tr> <tr><td>R532 PL01</td><td>-</td><td>11.04.2023</td></tr> <tr><td>R532 PL02</td><td>-</td><td>11.04.2023</td></tr> <tr><td>R532 PL03</td><td>-</td><td>11.04.2023</td></tr> <tr><td>R532 PL04</td><td>-</td><td>11.04.2023</td></tr> <tr><td>R532 PL05</td><td>A</td><td>11.04.2023</td></tr> <tr><td>R532 PL06</td><td>-</td><td>11.04.2023</td></tr> <tr><td>R532 PL07</td><td>-</td><td>11.04.2023</td></tr> <tr><td>R532 PL08</td><td>A</td><td>11.04.2023</td></tr> <tr><td>R532 PL09</td><td>-</td><td>11.04.2023</td></tr> </tbody> </table>	<u>Drawing No.</u>	<u>Revision No.</u>	<u>Date Received</u>	DWG01	-	11.04.2023	DWG02	-	11.04.2023	R532 PL01	-	11.04.2023	R532 PL02	-	11.04.2023	R532 PL03	-	11.04.2023	R532 PL04	-	11.04.2023	R532 PL05	A	11.04.2023	R532 PL06	-	11.04.2023	R532 PL07	-	11.04.2023	R532 PL08	A	11.04.2023	R532 PL09	-	11.04.2023
<u>Drawing No.</u>	<u>Revision No.</u>	<u>Date Received</u>																																			
DWG01	-	11.04.2023																																			
DWG02	-	11.04.2023																																			
R532 PL01	-	11.04.2023																																			
R532 PL02	-	11.04.2023																																			
R532 PL03	-	11.04.2023																																			
R532 PL04	-	11.04.2023																																			
R532 PL05	A	11.04.2023																																			
R532 PL06	-	11.04.2023																																			
R532 PL07	-	11.04.2023																																			
R532 PL08	A	11.04.2023																																			
R532 PL09	-	11.04.2023																																			
ii.	The Application for planning permission registered on 11 April 2023																																				
iii.	The Appointed Officer's Submission																																				
iv.	<p>Policies relevant to the determination of the application:</p> <p>National Planning Framework 4 –</p> <ul style="list-style-type: none"> <li>- Policy 7 (Historic Assets and Places)</li> <li>- Policy 29 (Rural development)</li> </ul> <p>The adopted East Lothian Local Development Plan 2018:</p> <ul style="list-style-type: none"> <li>- DC1 (Rural Diversification);</li> <li>- DC3 (Replacement Dwellings in the Countryside)</li> <li>- DC5 (Housing as Enabling Development)</li> <li>- DP1 (Landscape Character)</li> <li>- DP2 (Design)</li> <li>- CH1 (Listed Buildings)</li> <li>- CH6 (Gardens and Designed Landscapes)</li> <li>- T1 (Development Location and Accessibility)</li> <li>- T2 (General Transport Impact)</li> </ul>																																				
v.	Notice of Review dated 12 September 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 the detached single storey house and garden ground of Trabroun Farmhouse that is located some 1.6 miles to the northwest of Haddington and some 1.0 mile to the northeast of the village of Gladsmuir. It is within the countryside as defined by Policy DC1 of the adopted East Lothian Local Development Plan 2018. The application site is some 0.48 hectares in size. The existing house occupies a roughly central position in its curtilage and is of a simple architectural style featuring a pitched roof clad in tiles and external walls finished in render. An integral garage is attached to its north elevation.

The Planning Adviser advised that the case office accurately described the application site and its immediate surroundings including landscape and historic features within his report. The report highlighted that Trabroun Steading with Doocot is a category B listed building and is located some 7.5 metres to the north of the application site. The Steading dates from circa 1830 and is predominantly single storey in height with the exception of the tower above the entrance (entrance pend). Immediately to the rear of the listed steading buildings, and further to the east of those buildings, and to the northeast of the application site are modern agricultural buildings, including large grain storage and drying buildings. Some 14 metres to the west of the application site on the opposite side of the public road is the eastern extent of the Elvingston Local Garden and Designed Landscape.

The Planning Adviser then advised that in November 2022 planning permission (ref: 21/00438/P) was sought for the erection of a house and garage on the current application site. That application was withdrawn prior to determination. In August 2021 planning permission (ref: 20/01457/P) was granted for the erection of 1 house, garage and associated works on Land North Of Trabroun Farm some 60 meters to the north of the site of this application. It was noted that this house was accepted as living accommodation in association with the operation of the existing agricultural business of A and K Bain that operates from the agricultural unit at Trabroun Farm.

The Planning Adviser then stated that through this current application permission was sought for the erection of a new house with 2 floors of accommodation and associated works on the application site. To facilitate the erection of the new house it is proposed to demolish the existing house. The proposed new house would extend over the footprint of the demolished house. The case officer's report accurately described the proposed house. Its plans, elevation drawings and further information regarding its design is included in your information packs. It is worth noting that the existing house is a single-storey detached bungalow with a footprint of some 195 square meters and is some 5.3 meters in height at its highest point whilst the proposed new house would have a ground floor footprint of some 360 square meters and a first floor footprint of some 115 square meters.

The Planning Adviser then confirmed that the case officer had summarised the main points in a Supporting Statement included with the application. This statement sets out a contextual analysis explaining that the existing dwellinghouse is of no architectural or historic value and has poor insulation and structural defects. The Proposal is for its replacement with a modern highly insulated house appropriate for the site and to its setting and incorporating modern methods to minimise energy consumption. It informs that the

proposals consider all of the energy involved in the manufacture of the proposed building's components and the resultant emissions as well as the future energy consumption of the building and its likely carbon footprint. It states that the existing house would require to be demolished and rebuilt in order to achieve current Building Regulation U-value requirements. It further purports that the form, massing, proportion scale and siting of the proposed house provides a positive response to the listed steading to the north and its setting. Also included with the application was a Structural Engineers Report. The report suggests that the introduction of required wall insulation would involve the removal of all existing external wall linings. It concludes that identified structural defects and energy inefficiencies would be resolved through the replacement of the existing house with a new house. No cost analysis has been submitted with the application in terms of repair of defects to the existing house relative to the construction costs of the proposed new house.

The Planning Adviser then summarised the relevant policy and legislative considerations material to this application such are summarised at 3.1(iii) of this Decision Notice. It was noted that no public objections were received against the application and one representation in support of the application was received. Further, there were no objections to the proposal from the Council's internal consultees.

The Planning Adviser then advised that notwithstanding all of the above the case officer in his report confirmed that the application site is located in a countryside location within East Lothian that is characterised by a low density dispersed built form within an agricultural landscape. The application site is not identified in the adopted East Lothian Local Plan 2018 as being within a settlement and the Local Plan does not allocate the land of the site for housing development. Consequently, the principle and detail of the erection of one house on the application site must be assessed against national, strategic and local planning policy relating to the control of new housing development in the countryside. Thereafter it must be established whether the proposed house would be of an architectural form, size, scale and positioning appropriate for its setting. Paragraph 5.10 of the adopted East Lothian Local Development Plan 2018 states that the LDP has a general presumption against new housing in the countryside but exceptionally a new house may be justified on the basis of an operational requirement of a rural business.

The Planning Adviser stated that it must be noted that the proposed house was not promoted to support an existing business or leisure use the principle of which would be supported by Policy DC1, therefore the proposal is contrary to Policy DC1 of the adopted East Lothian Local Development Plan 2018.

The Planning Adviser then stated that Policy DC3 (Replacement Dwellings in the Countryside) of the adopted East Lothian Local Development Plan 2018, states that the principle of providing replacement dwellings in the countryside is considered acceptable when one of the below criteria are met. Those criteria require that a proposed new house would:

- be a like for like replacement of a dwelling recently rendered uninhabitable by unforeseen circumstances, such as a demonstrable and accidental fire, provided there is compelling evidence that the loss of the original habitable dwelling was recent and that it benefited from lawful use as a dwelling immediately prior to the loss; or
- replace an existing dwelling with lawful use rights as such (not the plot of a previous, now demolished house) that the Council accepts that due to the construction of the building it is incapable of retention for habitation and that all reasonable efforts have been made to maintain the building. Applicants must submit credible evidence at the

time of the planning application to demonstrate compliance with this policy as relevant. Any replacement dwelling must be similar in size, scale and massing to the original and would be of an appropriate character for its location.

The Planning Adviser also notes that the proposed house is not a like for like replacement of a dwelling recently rendered uninhabitable. Also the proposed house would be significantly larger than the house that currently exists and for that reason the case officer concluded that the proposal fails to meet that aspect of criteria (i) of Policy DC3. Further, the submitted Structural Engineers Report identified structural defects and energy inefficiencies. However, no evidence was submitted to confirm that the house cannot either be retained for habitation or refurbished as required. Notwithstanding information submitted, the case officer concluded that the proposal fails to meet that aspect of criteria (ii) of Policy DC3 of the ELLDP.

The Planning Adviser then commented that the case officer moved to assess the proposal against Policy DC4 of the LDP which sets out specific criteria for the erection of new build housing in the countryside, and allows for new build housing development in the countryside where the Council is satisfied that a new house is a direct operational requirement of an agricultural, horticultural, forestry or other employment use. Policy DC4 also allows for other small scale housing proposals that form a logical addition to an existing small scale rural settlement where they are promoted for affordable housing and evidence of need is provided and the registered affordable housing provider will ensure that the dwelling(s) will remain affordable for the longer term. In this instance the proposed house is not a direct operational requirement of an existing agricultural, horticultural, forestry or other employment use. The case officer concluded that the proposal does not meet any of the criteria of Policy DC4 and therefore is contrary to Policy DC4 of the adopted LDP.

The case officer report referred to Section 24(3) of the Town and Country Planning (Scotland) Act 1997, which states that in the event of any policy incompatibility between NPF4 and the adopted East Lothian Local Development Plan 2018, whichever of them is the later in date is to prevail. In this case, the policies of NPF4 would prevail. The Planning Adviser then commented that material to the determination of this application is Policy 17 (Rural Homes) of NPF4 if this policy is most applicable to the current proposal. The most relevant part states that "development proposals for new homes in rural areas will be supported where the development is suitably scaled, sited and designed to be in keeping with the character of the area and the development reinstates a former dwelling house or is a one-for-one replacement of an existing permanent house". The Planning Adviser noted that the case officer in his report accepted that in this instance the proposal is a replacement house and therefore the principle of it is not inconsistent with Policy 17. However, Policy 17 (a) also requires that development proposals for new homes in rural areas will be supported where the development is suitably scaled, sited and designed to be in keeping with the character of the area. Policy 29 (Rural Development) point (b) of NPF4 reiterates this requirement. The East Lothian LDP states that designs for new development must evolve from and respond to an analysis of the proposed development site and its wider context. Furthermore it states that the designs, materials and finishes proposed must complement those of existing buildings in the local area. The case officer in his report noted that the neighbouring residential properties to the south are a row of single storey traditional terraced cottages featuring pitched roofs clad in slates and original walls of natural stone with small modern extensions. The buildings comprising Trabroun Steading to the north that are predominantly single storey in height with the exception of the Central Tower. They are typical of rural residential properties and historical buildings which are well established features within the East Lothian countryside. The existing house

is a fairly modern, single storey bungalow with a footprint of some 195 square meters that sits between a terrace of cottages to the south and the Trabroun farm steading to the north. The proposed house, whilst largely single storey in height, would increase the development footprint of the existing house by some 165 square meters. Consequently, it would occupy a much larger proportion of the plot than the existing house. The case officer noted that the proposed house would be of a modern contemporary design providing living accommodation on two floors with a ridge height at its highest point some 2.7 metres higher than that of the existing house. Furthermore, the proposed house would be some 2.5 meters higher than the neighbouring row of terraced cottages located to the south and have a significantly larger footprint than those cottages. The officer concluded that the proposed house would not reflect nor be in keeping with the size, scale or architectural form of those existing cottages. It would not be suitably scaled, sited and designed to be in keeping with the character of the houses in the area. Furthermore, the Category B listed Trabroun Steading is a stone-built steading complex with a traditional architectural form and character. The case officer accepted that the existing house is not of the same traditional form and character as that steading, but due to its size and scale it does not impose itself on or draw focus from that listed building. In his assessment of the proposed house the case officer said that in its position to the south of the Category B listed buildings of Trabroun Steading the proposed house would, by virtue of its height, size, scale, architectural form, and external finishes, draw focus away from the principal west elevation of the Category B listed buildings of Trabroun Steading. Consequently, the proposed house would be harmful to the setting of the Category B listed buildings of Trabroun Steading. Therefore, whilst Policy 17 of NPF4 lends support to a one-for-one replacement of an existing dwellinghouse in a rural location, the replacement house as proposed would not be suitably scaled, sited and designed to be in keeping with the character of the area. It would be inappropriate to its setting and would be out of keeping with its surroundings. It would be harmful to the special architectural or historic interest of the Category B listed Trabroun Steading. Moreover, the application site is some 20 metres (minimum) to the east of the Elvingston Local Garden and Designed Landscape. The proposed house by its presence within the landscape would impact on the setting of the local garden and designed landscape, including the relationship of it with the nearby B-listed Trabroun Steading. In views northwards and southwards from the public road to the west of the application site the proposed new house, by its form, height and scale would be dominantly imposing on the landscape of the Elvingston Local Garden and Designed Landscape. It would be seen as a harmfully dominant, discordant and incongruous feature within its landscape setting adjacent to the Elvingston Local Garden and Designed Landscape therefore contrary to Policy 7 of NPF4 and Policy DP6 of the East Lothian LDP. Furthermore the case officer report pointed out that the site is not allocated for housing development in the LDP, nor is it a brownfield, vacant or derelict site as it is in use as a habitable dwellinghouse. The proposed replacement house does not reuse a redundant or unused building. The proposed house is not an appropriate use of a historic environment asset. There is no agricultural or other employment use presently in operation to justify the need for a new house on the application site. Neither has the applicant advanced any such case of justification of need for the principle of the proposed new house. No case has been put forward that the proposed house has an operational requirement for its countryside location or that it would be required to support a use which in principle requires a countryside location. In the absence of any such direct operational requirement or justified supporting case for the erection of a new house on the application site, the principle of such proposed development on the site is inconsistent with national, strategic and local planning policy and guidance concerning the control of development of new build houses in the countryside. Therefore, the proposed scheme of development for a replacement house on this rural site located within the East Lothian countryside does not meet the

circumstances specified in Policies 7, 17 and 29 of NPF4 and Policies CH1, DC1, DC3, Dc4, DC5, DP1 and DP2 of the adopted ELLDP 2018. The case officer concluded that the proposal is not in accordance with the Development Plan and there are no material planning considerations that outweigh the fact that the proposed scheme of development is not in accordance with the Development Plan.

The Planning Adviser then summarised the appellant's submission. The application subjects comprise an existing 1970's detached farmhouse with garage and associated garden grounds. The house is not listed and does not fall within a conservation area. The property, within the ownership of the applicants, is an early form of 'kit home' and is subject to a number of serious structural and energy efficiency defects corroborated by an independent Engineer who has recommended demotion and replacement. The recent approval of National Planning Policy Framework 4 supports one-for-one replacement. Moreover, the existing plot benefits from an established landscape structure within which the proposal has been carefully designed to assimilate and respect the adjoining building group including the original steading. This proposal would not be a new encroachment into the countryside and comprises an energy efficient and sustainable approach for a replacement dwelling. The proposal is compliant with criteria (vii) of Policy 17 of NFF4 the Case officer has also mistakenly referenced that the proposal is some 20m from the edge of a Local Garden and Designed Landscape (Elvingston) when in fact this garden was removed from Historic Environment's Inventory in 2016 as no longer meeting criteria for inclusion. Contrary to the Case Officer's personal assessment, significant to this appeal to the Local Review Body, the Council's own Landscape Officer has raised no concerns or objection in terms of impact upon the listed steading or wider landscape setting.

The appellant's submission states that when considering Policy 17 of NPF4 and the principle of development, the proposal does relate to a long-established farming enterprise, A & K Bain. The Bain family have farmed in East Lothian since 1928 and the farming operations and grain store are centred at Trabroun. Mr & Mrs Bain are Partners in this business with their Son, Fraser Bain, becoming a Partner in 2018. In terms of succession, Mr & Mrs Bain are increasingly taking a step back from the day to day running of the farming enterprise and the proposed house at Trabroun forms part of their forthcoming plans to fully retire from the business. The submission highlights that the existing house is within the applicants' separate ownership and that, the Case Officer omitted to consider the farming enterprise and succession context and that, in this respect alone, Mr & Mrs Bain's proposal does accord with criteria (vi) of NPF4 Policy 17.

The appellant's submission states that the wording of NPF4 Policy 17 criteria (viii) supercedes LDP Policy DC3 criteria (i) in that, in terms of the development plan provisions, it is now acceptable for a replacement rural dwelling to be larger than the existing house. Unfortunately, the case officer has relied upon the wording of LDP Policy DC3 and advanced assessment of the proposal on that basis without cognisance to the foregoing inconsistency and, therefore, prevailing NPF4 wording. Furthermore, as noted above, NPF4 Policy embraces succession planning for farming businesses. Mr & Mrs Bain's application therefore offers two-fold compliance with Policy 17.

The appellant's submission states that whilst acknowledging the larger footprint of the proposed house, the appellant stated that the existing house and that proposed are both 4 bedroom dwellings. The proposed house would be largely single storey and would remain subservient to the adjacent steading of a similar massing to the existing 1970's dwelling. The appellant also highlighted that, under Permitted Development Rights, the existing house could be extended by 4m in a southerly direction or to east in any case albeit the



applicants have chosen to pursue an environmentally efficient redevelopment of the large and generous plot.

The Planning Adviser then confirmed that in the course of the appeal preparation, the Applicant's Engineers have provided an addendum to the original report for the LRB's consideration (Appendix 8 of their submission). This indicates that an estimated cost of over £162k to rectify defects previously highlighted to the Case Officer before even considering any other improvements to the 1970's property to bring it up to current day standards. The applicant noted that these likely cumulative costs are deemed unviable when set against the property's market value and present architectural appeal.

The Planning Adviser then stated that the appellant's submission confirms that proposed replacement house incorporates material such as stone and slate that are appropriate for this context. The design of the proposed replacement house is intended to respond to that character, without mimicking historic design features or trying to mislead as to its age. To that end, the design incorporates traditional features such as substantial stone lintels, large stone sills and rubble coursing, especially on the west facing elevation as visible from the public road. The proposed building will be viewed in conjunction with the Steading from the road, and the sensitivity of this elevation has been recognised within the design. The design also incorporates characteristic modern features such as large, glazed elements, however, they have been located on less visible elevations. The proposed building has been designed to respect the mass and scale of the Steading. The northern portion of the proposed house is designed with a shallow pitched roof including a hipped gable end, consistent with the listed building. In addition, the ridge line of the northern portion of the proposed house reflects the height of the listed building, so as not to challenge its prominence in views from the road. Although the proposed house steps up by an additional half-storey to the south, this variation in height has purposefully been sited away from the listed building. As such, Trabroun Steading will retain its dominance in views from the road, with the central tower of the range remaining the focal point. The significance of the listed building derives from its prominence in views from the road which will be sustained by the proposal and, indeed complimented, given the removal of the adjacent incongruous 1970's dwelling. It is the applicants' contention that the existing house is a discordant and incongruous feature and that the proposed sympathetically designed alternative offers an opportunity to significantly enhance landscape setting.

In addition the Planning Adviser confirmed that the appellant's submission refers to recent planning approvals which are relevant to this Review. Firstly, in terms of scale and massing within proximity to the Listed Steading, approval for the erection of 1 house, garage and associated works in August 2021 (Ref 20/01457/P) to the north of the farm complex demonstrated the Council's view as to the introduction of a new build dwelling adjacent to the steading. In this case, the land was not previously developed and whilst the principle was acceptable given it was tied to the farming enterprise (to provide a home for the applicants' Son), the design and scale was deemed as not detracting from the setting of the Listed Steading (please see Figure 3 where the tower of the Steading is visible). Secondly, in terms of both setting of the listed steading, and demonstrative of the scale of the farming complex at Trabroun, as seen within the wider landscape, reference is also drawn to the recently constructed Grain Store located immediately to the north east of the listed building (Ref. 18/01296/P) which was granted in May 2019 (Figures 4, 5 & 6 below). It remains the Applicants' contention that the proposed replacement house subject of this review shall form a subserviently scaled insertion to the complex of buildings at Trabroun at the heart of which the Listed Steading remains the focal point from the public road.

- 4.3. Members then asked questions of the Planning Adviser and in response to questions the Planning Adviser confirmed that there was no policy in place for the replacement of property on sites and citing Policy 17 it would need to be considered in the context of the site and the surrounding area whether it was appropriate. He commented that the planning case officer had provided significant analysis in his report on this matter. He further advised that the hedge would stay in place save for an opening which would be created to access the property and that he was of the view that the upper parts of the building would remain visible over the hedge,
- 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 Collins stated that as regards construction of the new build it was her view that this would be more complimentary to the site and will look similar to part of the nearby refurbished barn. She noted that the proposed sandstone cladding would also be complimentary to the site. She noted that the proposed development would be a more efficient building and that the cost to refurbish and re-insulate would not be much different to proposal to demolish and rebuild. She was of the view that the hedge was large enough that the proposed building would not necessarily be seen over this. She also viewed this as a more carbon neutral proposal. Accordingly, she was minded to support the application.
- 4.6. The Chair stated that the size was a concern but the location and quality of the proposal would be an improvement on the current building. Given this improvement he was minded to support the application.
- 4.7. Councillor Allen noted after hearing comments from her colleagues was of the view that the current building would not be missed and what is proposed would improve the site. Accordingly, she was minded to support the application.

Accordingly, the ELLRB unanimously agreed to support the appeal for the reasons set out within this decision notice and grant planning permission subject to the following conditions:

1. Site Setting out No development shall take place on site unless and until final site setting out details have been submitted to and approved by the Planning Authority. The above mentioned details shall include a final site setting-out drawing to a scale of not less than 1:200, giving: a. the position within the application site of all elements of the proposed development and position of adjoining land and buildings; b. finished ground and floor levels of the development relative to existing ground levels of the site and of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and c. the ridge height of the proposed house and garage shown in relation to the finished ground and floor levels on the site.

Reason: To enable the Planning Authority to control the development of the site in the interests of the amenity of the area.

2. Schedule of materials A schedule and/or samples of all of the external finishing materials and finishing colours to be used in the external finishes of the house and garage hereby approved shall be submitted to and approved in writing by the Planning Authority prior to their use in the development. Thereafter, the external finishing materials and colours used shall accord with the schedule and samples so approved.

Reason: To ensure the satisfactory appearance of the development in the interest of safeguarding the character and appearance of the area.

3. Site Access, parking and turning Prior to the occupation of the house hereby approved the vehicular access, turning and parking arrangements shall be laid out and made available for use, as shown in docketed drawing no.R532 PL08A and thereafter the access, turning and parking areas shall be retained for such uses, unless otherwise approved in writing by the Planning Authority.

Reason: To ensure the provision of an acceptable standard of vehicular access, turning and parking in the interests of road safety.

4. Geo-Environmental Assessment Prior to any site development works a suitable Geo-Environmental Assessment must be carried out, with the Report(s) being submitted to the Planning Authority for approval. It should include details of the following:

- (i) A Preliminary Investigation incorporating a Phase I Desk Study (including site reconnaissance, development of a conceptual model and an initial risk assessment);
  - (ii) A Ground Investigation comprising a survey of the extent, scale and nature of contamination, and an updated conceptual model of the site. It is required if the Desk Study has indicated that the site is potentially contaminated and the degree and nature of the contamination warrants further investigation;
  - (iii) An appraisal of the remediation methods available and proposal of the preferred option(s).
- (a) Prior to any works beginning on site (and where risks have been identified), a detailed Remediation Statement should be produced that shows the site is to be brought to a condition suitable for the intended use by the removal of unacceptable risks to all relevant and statutory receptors. The Statement should detail all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. It should also ensure that the site will not qualify as contaminated land under Part2A of the Environmental Protection Act 1990 in relation to the intended use of the land following development. The Statement must be submitted to the Planning Authority for approval.
  - (b) Following completion of the measures identified in the approved Remediation Statement, a Validation Report should be submitted that demonstrates the effectiveness of the remediation carried out. It must be approved by the Planning Authority prior to commencement of the new use of the land.

Reason: To ensure that the site is clear of any contamination found to be present prior to the use of the building approved.

5. Carbon Emissions Prior to the commencement of development, a report on the actions to be taken to reduce the Carbon Emissions from the build and from the completed development shall be submitted to and approved in writing by the Planning Authority. This shall include the provision of renewable technology for all new buildings, where feasible and appropriate in design terms, and new car charging points and infrastructure for them, where feasible and appropriate in design terms. The details shall include a timetable for implementation. Development shall thereafter be carried out in accordance with the report so approved.

Reason: To minimise the environmental impact of the development.

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.