

LOCAL REVIEW BODY

30 May 2024

Application No: 23/01237/P

44 Gardiner Road, Prestonpans EH32 9QE

Appointed Officer's Submission

23/01237/P – REVIEW AGAINST DECISION – PLANNING OFFICER’S SUBMISSION

Planning Application Review Against Decision (Refusal): Extension to house at 44 Gardiner Road, Prestonpans.

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22nd April 2024

Scott Robertson
Assistant Planner (Planning Delivery)

OFFICER REPORT

23rd February 2024

App No. **23/01237/P**

Application registered on **3rd November 2023**

Target Date **2nd January 2024**

Proposal	Extension to house	SDELL	N
		CDEL	N
Location	44 Gardiner Road Prestonpans EH32 9QE	Bad Neighbour Development	N

APPLICANT: **Mr Mark Bradford**

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

**c/o Chris Rhodes Architect
Per Chris Rhodes
1 Lauderside Studio
Lauder Place
East Linton
EH40 3DB**

DECISION TYPE:

Application Refused

PLANNING ASSESSMENT

The property to which this application relates to is a two storey, semi-detached house with associated 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 north by the public road of Hawthorn Road and to the east, south and west by neighbouring residential properties.

Planning permission is sought for the addition of a single storey, flat roof extension which would attach to both the side (northeast) and rear(southeast) elevations of the house.

The extension is comprised of two component parts. The component that would attach to the rear (south east) elevation of the house would provide additional living accommodation for the house, and the other component which would attach to the side (north east) elevation of the house would be used as a garage and workshop space for the applicant. The two component parts would share a flat roof but would be separated internally by an internal wall.

The proposed rear component of the extension would extend along the full length of the rear

(south east) elevation of the house; project out some 2.7 metres and would measure some 3.4 metres in height at its tallest point. The rear (south east) elevation of this component part of the extension would feature fully glazed sliding doors and the roof would feature three roof windows.

The proposed garage/workshop component of the extension would extend along the side (north east) elevation of the house some 6.2 metres and would project out some 5.6 metres at its furthest point to the eastern boundary of the applicant's garden. The extension would extend some 14.0 metres along the eastern boundary to attach to the existing outbuilding located at the southern boundary of the applicant's garden. The front (north west) elevation would feature four glazed openings, the side (south west) elevation would contain fully glazed sliding doors and the roof would feature three roof windows.

The proposed extension would be finished predominantly in off white, roughcast render and larch timber vertical cladding. The roof of the proposed extension would be comprised of a single ply rubber roofing membrane, coloured dark grey.

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 adopted National Planning Framework 4 (NPF4) and the adopted East Lothian Local Development Plan 2018.

Policies 14 (Design, Quality and Place) and 16 (Quality Homes) of NPF4 and Policy DP5 (Extensions and Alterations to Existing Buildings) of the adopted East Lothian Local Development Plan are relevant to the determination of this application.

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

This application is for an extension to be used for domestic purposes, in part as residential accommodation and in part as a workshop/garage for the applicant. It is of a size and scale that could be used for business or commercial purposes. Therefore, if planning permission were to be granted for the extension, then to safeguard the residential character of the area a condition could reasonably be imposed that would ensure that the extension should only be used for purposes incidental to the residential use and enjoyment of the residential property that is 44 Gardiner Road and shall at no time be used for any business, trade or other commercial use. Subject to the imposition of that planning control the predominantly residential character of the area would be safeguarded.

In assessing whether or not a proposed new development would result in harmful overlooking and therefore loss of privacy to existing neighbouring residential properties it is practice of the Council, as Planning Authority to apply the general rule of a 9 metres separation distance between the windows of a proposed new development and the garden boundaries of neighbouring residential properties and an 18 metres separation distance between directly facing windows of the proposed new development and the windows of existing neighbouring residential properties.

In relation to the above, the glazed openings to be formed in the front (north west) elevation of the extension would look over the applicant's driveway and beyond to the public road of

Hawthorn Road. Therefore, the glazed openings within the north elevation would not allow for any overlooking of any neighbouring properties.

The glazed openings to be formed in both the rear (south east) elevation and the side (south west) elevations would both look onto the applicant's rear garden and beyond to a tall boundary fence and as such would not allow for harmful overlooking of any neighbouring properties.

There are no proposals to form windows or other glazed openings within the side (north east) elevation of the proposed extension. Windows or other glazed openings could be formed within this elevation wall at a later date with permitted development rights and thus without the need for planning permission. If formed within this elevation, the glazed openings would look directly on to the garden ground of the neighbouring residential property to the east and would allow for harmful overlooking. Therefore, in order to protect the privacy and amenity of the neighbouring residential property to the east it would be prudent to remove the permitted development rights for the side (east) elevation wall of the proposed extension. This can reasonably be achieved by attaching any condition to any grant of planning permission.

Due to their height above floor level, the proposed roof windows within the extension would not allow for harmful overlooking of any neighbouring properties.

Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice by P.J. Littlefair gives guidance on the impact of a proposed development on the daylight and sunlight received by neighbouring properties.

Application of the sunlight test demonstrates that there would be a gradual increase in overshadowing of the front and rear garden on 2 Hawthorn Road between the hours of 12:00 and 16:00. Therefore, in accordance with the Guide, the shadow cast would not be for such an extent or such a length of time to harmfully impact on the amenity of the neighbouring residential properties through overshadowing of the rear garden.

Owing to its size, form and positioning the garden room does not give rise to a harmful loss of daylight to any neighbouring residential properties.

On those matters of amenity, the proposed extension would not be contrary to Policy DP5 of the adopted East Lothian Local Development Plan 2018.

Notwithstanding all of the above the proposed extension must be assessed against national, strategic and local planning policy relating to the design of new extensions and assess whether its architectural form, size, scale and positioning is appropriate for its attachment to the house.

Policy 14 of NPF4 states that development proposals that are poorly designed, detrimental to the amenity of the surrounding area will not be supported.

Policy 16 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 surrounding area in terms of size, design and materials and do not have a detrimental effect on neighbouring properties in terms of physical impact, overshadowing or overlooking.

Policy DP5 states that an extension must be of size, form, proportion and scale appropriate to the existing house, and must be subservient to and either in keeping with or complementary to

the existing house; The preamble to Policy DP5 also states that the amount of accommodation must be relative to plot size, including the area of garden ground remaining.

Policy 16 of NPF4 states that householder development will be supported where they do not have a detrimental impact on the character of the house in terms of size, design and materials.

The applicant's house occupies a generously sized corner plot at the junction of Hawthorn Road with Gardiner Road. It has a front garden area, which in part is used for the parking of vehicles, a large side garden with a smaller rear garden.

The proposed extension would largely fill the garden area to the side (northeast) elevation of the house and would also extend along the northeast boundary and into the rear garden. The combined footprint of both components of the proposed extension together with the existing outbuilding that is located in the rear garden would result in the loss of the majority of the side and rear gardens of the house and they would no longer be available for use as amenity space, for the occupants of the house. Moreover, the proposed extension would have a footprint that would be disproportionately large compared to the footprint of the applicant's house and to neighbouring houses in Gardiner Road. Consequently the proposed extension would not be of a size or scale that would be appropriate to or in keeping with the existing house and instead would be an overdevelopment of the house. This would have a detrimental impact on the character and environmental quality of the home and surrounding area contrary to Policies 14 and 16 of NPF4 and Policy DP5 of the adopted East Lothian Local Development Plan 2018.

In conclusion, the proposed extension is not considered to be in accordance with the provisions of the stated relevant Development Plan policies and there are no material considerations which outweigh the proposal's discordance with the Development Plan.

REASON FOR REFUSAL:

- 1 The proposed extension would have a footprint that would be disproportionately large compared to the footprint of the applicant's house and to neighbouring houses in Gardiner Road. Consequently the proposed extension would not be of a size or scale that would be appropriate to or in keeping with the existing house and instead would be an overdevelopment of the house. This would have a detrimental impact on the character and environmental quality of the home and surrounding area contrary to Policies 14 and 16 of NPF4 and Policy DP5 of the adopted East Lothian Local Development Plan 2018.

LETTERS FROM

23rd February 2024

From: [REDACTED]
To: [Environment Reception; Robertson, Scott](#)
Cc: [REDACTED]
Subject: TRANSPORT PLANNING RESPONSE: 23/01237/P-Scott Robertson - Planning Consultation
Date: 11 December 2023 15:00:04

EAST LoTHIAN COUNCIL ROAD SERVICES

From: Asset & Regulatory Manager

To: Service Manager, Planning

Proposal: Extensions to house, 44 Gardiner Road Prestonpans

The planning application is partially for internal modifications – I have no objection to these.

The application also shows an extension that would be used as workshop.

However, the workshop area proposed appears substantial in relation to the house.

I would have concerns if the workshop were to be used as a business, as this would involve additional vehicle and parking movements to the property and the driveway, which I would not support.

I therefore recommend that a condition is placed on any consent granted that the workshop use shall be restricted to domestic/private use and not for any commercial use.

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

If telephoning, please ask for:

-----Original Message-----

From: environment@eastlothian.gov.uk <environment@eastlothian.gov.uk>

Sent: 06 November 2023 09:06

To: [REDACTED]
[REDACTED]

Subject: 23/01237/P-Scott Robertson - Planning Consultation

Please see attached document in relation to the following application: Extensions to house at 44 Gardiner Road Prestonpans
EH32 9QE

App No. 23/01237/P

**EAST LoTHIAN COUNCIL
DECISION NOTICE**

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

**Mr Mark Bradford
c/o Chris Rhodes Architect
Per Chris Rhodes
1 Lauderside Studio
Lauder Place
East Linton
EH40 3DB**

APPLICANT: Mr Mark Bradford

With reference to your application registered on 3rd November 2023 for planning permission under the above mentioned Acts and Regulations for the following development, viz:-

**Extension to house
at
44 Gardiner Road
Prestonpans
EH32 9QE**

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 The proposed extension would have a footprint that would be disproportionately large compared to the footprint of the applicant's house and to neighbouring houses in Gardiner Road. Consequently the proposed extension would not be of a size or scale that would be appropriate to or in keeping with the existing house and instead would be an overdevelopment of the house. This would have a detrimental impact on the character and

environmental quality of the home and surrounding area contrary to Policies 14 and 16 of NPF4 and Policy DP5 of the adopted East Lothian Local Development Plan 2018.

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>
2023-086-001	-	18.10.2023
2023-086-002	A	03.11.2023
2023-086-020	A	03.11.2023
2023-086-021	A	03.11.2023
2023-086-022	A	03.11.2023
2023-086-010	C	20.02.2024
2023-086-011	C	20.02.2024

4th March 2024



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.

National Planning Framework 4

Policy 14: Design, Quality and Place

a) Development proposals will be designed to improve the quality of an area whether in urban or rural locations and regardless of scale.

b) Development proposals will be supported where they are consistent with the six qualities of successful places: Healthy: Supporting the prioritisation of women's safety and improving physical and mental health. Pleasant: Supporting attractive natural and built spaces. Connected: Supporting well connected networks that make moving around easy and reduce car dependency Distinctive: Supporting attention to detail of local architectural styles and natural landscapes to be interpreted, literally or creatively, into designs to reinforce identity. Sustainable: Supporting the efficient use of resources that will allow people to live, play, work and stay in their area, ensuring climate resilience, and integrating nature positive, biodiversity solutions. Adaptable: Supporting commitment to investing in the long-term value of buildings, streets and spaces by allowing for flexibility so that they can be changed quickly to accommodate different uses as well as maintained over time. Further details on delivering the six qualities of successful places are set out in Annex D.

c) Development proposals that are poorly designed, detrimental to the amenity of the surrounding area or inconsistent with the six qualities of successful places, will not be supported.

Policy 16: Quality Homes

a) Development proposals for new homes on land allocated for housing in LDPs will be supported.

b) Development proposals that include 50 or more homes, and smaller developments if required by local policy or guidance, should be accompanied by a Statement of Community Benefit. The statement will explain the contribution of the proposed development to: i. meeting local housing requirements, including affordable homes; ii. providing or enhancing local infrastructure, facilities and services; and iii. improving the residential amenity of the surrounding area. Part 2 – National Planning Policy National Planning Framework 4 63

c) Development proposals for new homes that improve affordability and choice by being adaptable to changing and diverse needs, and which address identified gaps in provision, will be supported. This could include: i. self-provided homes; accessible, adaptable and wheelchair accessible homes; build to rent; iv. affordable homes; v. a range of size of homes such as those for larger families; vi. homes for older people, including supported accommodation, care homes and sheltered housing; vii. homes for people undertaking further and higher education; and viii. homes for other specialist groups such as service personnel.

d) Development proposals for public or private, permanent or temporary, Gypsy/Travellers sites and family yards and Travelling Showpeople yards, including on land not specifically allocated for this use in the LDP, should be supported where a need is identified and the proposal is otherwise consistent with the plan spatial strategy and other relevant policies, including human rights and equality.

e) Development proposals for new homes will be supported where they make provision for affordable homes to meet an identified need. Proposals for market homes will only be supported where the contribution to the provision of affordable homes on a site will be at least 25% of the total number of homes, unless the LDP sets out locations or circumstances where: i. a higher contribution is justified by evidence of need, or ii. a lower contribution is justified, for example, by evidence of impact on viability, where proposals are small in scale, or to incentivise particular types of homes that are needed to diversify the supply, such as self-build or wheelchair accessible homes. The contribution is to be provided in accordance with local policy or guidance.

f) Development proposals for new homes on land not allocated for housing in the LDP will only be supported in limited circumstances where: i. the proposal is supported by an agreed timescale for build-out; and ii. the proposal is otherwise consistent with the plan spatial strategy and other relevant policies including local living and 20 minute neighbourhoods; iii. and either: delivery of sites is happening earlier than identified in the deliverable housing land pipeline. This will be determined by reference to two consecutive years of the Housing Land Audit evidencing substantial delivery earlier than pipeline timescales and that general trend being sustained; or the proposal is consistent with policy on rural homes; or the proposal is for smaller scale opportunities within an existing settlement boundary; or the proposal is for the delivery of less than 50 affordable homes as part of a local authority supported affordable housing plan.

g) Householder development proposals will be supported where they: i. 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; and ii. do not have a detrimental effect on the neighbouring properties in terms of physical impact, overshadowing or overlooking.

h) Householder development proposals that provide adaptations in response to risks from a changing climate, or relating to people with health conditions that lead to particular accommodation needs will be supported.

East Lothian Local Development Plan 2018

Policy DP5: Alterations and Extensions to Existing Buildings

All alterations and extensions to existing buildings must be well integrated into their surroundings, and must be in keeping with the original building or complementary to its character and appearance. Accordingly such development must satisfy all of the following criteria:

1. It must not result in a loss of amenity with neighbouring uses or be harmful to existing residential amenity through loss of privacy from overlooking, or from loss of sunlight or daylight;
2. For an extension or alteration to a house, it must be of a size, form, proportion and scale appropriate to the existing house, and must be subservient to and either in keeping with or complementary to the existing house;
3. For an extension or alteration to all other buildings, it must be of a size, form, proportion and scale appropriate to its surroundings and, where the existing building has architectural merit be in keeping with or complement that existing building;

Development that does not comply with any of the above criteria will only be permitted where other positive planning and design benefits can be demonstrated.

Schedule of conditions for 23/01237/P if appeal is upheld:

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. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended by Part 1 of the Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011), or of any subsequent Order amending, revoking or re-enacting the 1992 Order, no other windows or other glazed openings shall be formed in the side (east) elevation of the proposed extension hereby approved, unless otherwise approved by the Planning Authority.

Reason:

To safeguard the privacy and residential amenity of the neighbouring residential property to the east.

3. The proposed extension hereby approved shall only be used for purposes incidental to the residential use and enjoyment of the dwelling house that is 44 Gardiner Road, Prestonpans and shall at no time 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 dwelling house of 44 Gardiner Road, Prestonpans.