

REVIEW DECISION NOTICE

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

Application for Review by Mr Mark Bradford c/o Chris Rhodes Architect Per Chris Rhodes 1 Lauderside Studio Lauder Place East Linton EH40 3DB decision to refuse Planning Permission for extension to house at 44 Gardiner Road, Prestonpans EH32 9QE.

Site Address: 44 Gardiner Road, Prestonpans EH32 9QE

Application Ref: 23/01237/P

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

Date of Review Decision Notice: 25 June 2024

Decision

The ELLRB unanimously agreed to dismiss the appeal and refuse Planning Permission for extension to house at 44 Gardiner Road, Prestonpans EH32 9QE 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 23/01237/P for extension to house at 44 Gardiner Road, Prestonpans EH32 9QE was considered by the ELLRB, at a meeting held on Thursday, 30 May 2024. The Review Body was constituted by Councillor L Allen (Chair), Councillor D Collins and Councillor A Forrest. 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 M Scott, Clerk

2. Proposal

2.1. The planning application is for extension to house at 44 Gardiner Road, Prestonpans EH32 9QE. and was registered on 3 November 2023.

2.2. The Decision Notice refusing the application was dated 4 March 2024.

2.3. The reason for refusal more particularly set out in full in the said Decision Notice and set out as follows:

“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.

2.4. The notice of review is dated 30 March 2024.

3. **Preliminaries**

3.1. The ELLRB members were provided with copies of the following: -

i.	The drawings accompanying this application are referenced and numbered as follows:																								
	<table border="1"> <thead> <tr> <th><u>Drawing No.</u></th> <th><u>Revision No.</u></th> <th><u>Date Received</u></th> </tr> </thead> <tbody> <tr> <td>2023-086-001</td> <td>-</td> <td>18.10.2023</td> </tr> <tr> <td>2023-086-002</td> <td>A</td> <td>03.11.2023</td> </tr> <tr> <td>2023-086-020</td> <td>A</td> <td>03.11.2023</td> </tr> <tr> <td>2023-086-021</td> <td>A</td> <td>03.11.2023</td> </tr> <tr> <td>2023-086-022</td> <td>A</td> <td>03.11.2023</td> </tr> <tr> <td>2023-086-010</td> <td>C</td> <td>20.02.2024</td> </tr> <tr> <td>2023-086-011</td> <td>C</td> <td>20.02.2024</td> </tr> </tbody> </table>	<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
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ii.	The Application for planning permission registered on 3 November 2023																								
iii.	The Appointed Officer's Submission																								
iv.	<p>Policies relevant to the determination of the application:</p> <p>Policies 14 (Design, Quality and Place) and 16 (Quality Homes) of National Planning Framework 4</p> <p>Policy DP5 (Extensions and Alterations to Existing Buildings) of the adopted East Lothian Local Development Plan 2018</p>																								
v.	Notice of Review dated 30 March 2024 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 this application seeks planning permission for the addition of a single storey, flat roof extension which would attach to both the side (northeast) and rear (southeast) elevations of the existing house at no 44 Gardiner Road, Prestonpans. The property is located within a predominantly residential area as

defined by Policy RCA1 of the adopted East Lothian Local Development Plan 2018. The proposed extension which would comprise 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 Planning Adviser then summarised the legal and policies which were relevant to the determination of this application and more particularly set out in 3(iv) of this notice and confirmed that no public letters of objection have been received in relation to this application.

The Planning Adviser then summarised the case officer's assessment of the application. The case officer looked at the size, position of the proposed windows and confirmed that the proposal would not allow for harmful overlooking of any neighbouring properties. Also, the case officer confirmed that 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. Then the case officer assessed if the proposal due to 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 of the East Lothian LDP 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. It should be noted that the applicant's house occupies a generously sized corner plot, and 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 case officer concluded that 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 case officer rightly noted that 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 Planning Adviser then summarised the applicant's submission which included the following:

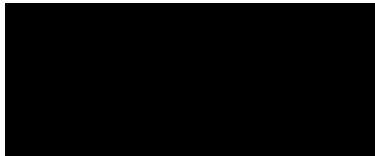
- i. The reasons given for refusal are completely different from the concerns raised with us during the process of the Planning Application. In fact, it is fair to say that the reasons for refusal had never been mentioned to us at all, otherwise we would have made attempts to liaise further and try to reach an acceptable compromise. The applicant tried to quantify the extent/percentage of the existing rear garden space compared to the proposed and asked for advice/guidance as to what percentage the Planning Dept. might find acceptable. The Planning Dept provided a response which said that they would be 'unable to give a specific number or measurable target as to how much garden ground should remain.
 - ii. Not once during the Application process the applicant was ever advised that there was an issue with the size of the footprint and its comparison with neighbouring houses. In fact, due to the Planning Dept focus on the rear garden space the applicant understood that the case officer was happy with the proposals to the front of the site.
 - iii. The applicant believes that the actual reasoning provided for refusal is flawed and inconsistent with approvals of similar but more significant and onerous developments within the nearby area.
 - iv. The agent suggests that the Local Development Plan has been interpreted incorrectly, certainly from the concerns raised during the Planning Application process. The agent states that the proposal allows for the majority of the 'amenity' and indeed 'private' amenity space to be contained in, the front and side gardens (due to the unique site format with a small/constrained overlooked rear and private large open front), and that the proposal sought to simply make the available rear garden space more private, accessible, useable and therefore more of an amenity that it currently was.
 - v. The agent believes that greater cognisance should have been given to the unique size, shape and orientation of the application site, as well as to the specific circumstances of the Application. The applicant believes that despite the reduction in size of the rear outdoor area, the proposal offers an improvement as it creates 'useable space' where currently there is none.
- 4.3. The Chair asked her colleagues if they had sufficient information to proceed to determine the application today and they unanimously agreed to proceed. Comments on the application followed.
- 4.4. Councillor Forrest said he found the site visit really helpful for perspective. He agreed with the planners that it would be an overdevelopment of the site. Accordingly he was minded to refuse the appeal.

4.5. Councillor Collins agreed that the site visit was helpful and could see why the applicant wants the extension but that it would be an overdevelopment of the building. Accordingly she was minded to refuse the appeal.

4.6. The Chair was in agreement with fellow Members that the plans would be an overdevelopment of the site. She explained she had sympathy for the applicant and understood trying to make use of the space, but it needed to be reassessed as it was far too large. Accordingly she was minded to refuse the appeal.

Accordingly, the ELLRB unanimously agreed to dismiss the appeal and refuse Planning Permission for the reasons more particularly set out in the case officer's report of handling.

Planning Permission is hereby refused.



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.