

REVIEW DECISION NOTICE

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

Application for Review by Mr Scott Pollock c/o psas per Peter Stanton, 14 Aubigny Row, Haddington EH41 3TG decision to refuse Planning Permission for extension to house at South Lodge, Prestongrange Road, Prestonpans, EH32 9RR.

Site Address: South Lodge, Prestongrange Road, Prestonpans, EH32 9RR

Application Ref: 21/01510/P

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

Date of Review Decision Notice: 10 October 2024

Decision

The ELLRB unanimously agreed to support the planning officer's decision and refuse planning permission for extension to house at South Lodge, Prestongrange Road, Prestonpans, EH32 9RR 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, 22 August 2024. The Review Body was constituted by Councillor N Hampshire (Chair), Councillor D Collins and Councillor C Cassini. All three members of the ELLRB had attended a site visit accompanied by the Planning Adviser 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 extension to house at South Lodge, Prestongrange Road, Prestonpans, EH32 9RR.

2.2. The planning application was registered on 26 January 2022 and the Decision Notice refusing the application is dated 4 March 2024.

2.3. The reasons for refusal are more particularly set out in full in the said Decision Notice dated 4

March 2024. The reasons for refusal are set out as follows:

- 1 *Due to its large size and scale and of its modern architectural form and finish the proposed extension would not be a subservient addition to the listed building and would not be in keeping with its character and appearance. As such the proposed extension would be harmful to the special architectural or historic interest of the listed building contrary to Policies 7 and 16 of NPF4 and Policies CH1 and DP5 of the adopted East Lothian Local Development Plan 2018.*

- 2 *It has not been demonstrated through the applicants' submission that the proposed extension would not encroach onto or cause damage to any of the root protection areas of any of the TPO'd trees that are within the garden of the house. Therefore the proposal does not comply with Policy 6 of NPF4 or Policy NH8 of the adopted East Lothian Local Development Plan 2018.*

2.4. The notice of review is dated 28 May 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" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;"><u>Drawing No.</u></th> <th style="text-align: left;"><u>Revision No.</u></th> <th style="text-align: left;"><u>Date Received</u></th> </tr> </thead> <tbody> <tr> <td>001</td> <td style="text-align: center;">-</td> <td>16.12.2021</td> </tr> <tr> <td>003</td> <td style="text-align: center;">-</td> <td>16.12.2021</td> </tr> <tr> <td>2021-003 OS</td> <td style="text-align: center;">-</td> <td>16.12.2021</td> </tr> <tr> <td>002</td> <td style="text-align: center;">A</td> <td>26.01.2022</td> </tr> </tbody> </table>	<u>Drawing No.</u>	<u>Revision No.</u>	<u>Date Received</u>	001	-	16.12.2021	003	-	16.12.2021	2021-003 OS	-	16.12.2021	002	A	26.01.2022
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002	A	26.01.2022														
ii.	The Application for planning permission registered on 26 January 2022															
iii.	The Appointed Officer's Submission															
iv.	Policies relevant to the determination of the application: National Planning Framework 4 – Policies 6 (Forestry, woodland and trees), 7 (Historic Assets and Places), 8 (Green Belts) and 16 (Quality Homes) The adopted East Lothian Local Development Plan 2018: - Policies CH1 (Listed Buildings), CH5 (Battlefields), CH6 (Gardens and Designed Landscapes), DP5 (Extensions and Alterations to Existing Buildings) and NH8 (Trees and Development)															
v.	Notice of Review dated 28 May 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 the property to which the planning application relates to a single storey, detached house with associated garden ground. The existing house has been previously extended to its rear (east) elevation. It is situated within the countryside and within the Green Belt as defined by Policies DC1 and DC7 of the adopted East Lothian Local Development Plan 2018. It is also located within the Battle of Pinkie Historic Battlefield Site and a Local Gardens and Designed Landscape Area. The building itself is listed as being of special architectural or historic interest (Category C). However, it is also included as part of a group of buildings with Prestongrange House, Prestongrange House Boundary Walls, Prestongrange House East and North Lodge that are listed as a group Category B. There are a number of mature trees in the garden of the applicants' property that are within a grouping of trees at Prestongrange that are protected by a Tree Preservation Order (TPO) - TPO No. 1 Prestongrange.

The Planning Adviser stated that the Planning permission is sought for the addition of a single storey, flat roof extension onto the rear (east) elevation of the house. The proposed extension would have a length of some 12.8 metres; would project out from the rear elevation for some 6.3 metres and would have a height of some 2.8 metres. The extension would be finished predominantly in vertical untreated timber cladding and would feature a rubble/stonework base course. The roof would be clad in a green felt. The proposed window and door frames would be of timber frame construction and would feature grey colour frames. In order to build the extension it is proposed to remove the existing single storey, flat roof extension that is attached to the rear elevation of the house and remove the existing garage within the applicants' rear garden.

The Planning Adviser noted that through separate application 21/01511/LBC listed building consent was sought for alterations and extension to the building.

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

Material to the determination of the application are Section 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 that in considering whether to grant planning permission for development which affects a listed building or its setting a planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Also material to the determination of the application is Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states that a planning authority must have regard to the desirability of preserving or enhancing the character or appearance of a conservation area in exercising its responsibilities in the

determination of any application for planning permission for development affecting a conservation area.

The Planning Adviser stated that no objection has been received in relation to the application.

The Planning Adviser confirmed that the case officer carried out a planning assessment of the proposed scheme and its main points can be summarised as follows:

- The proposed development would not result in harmful overlooking and therefore loss of privacy to any neighbouring residential properties.
- Owing to its size, form and positioning the proposed extension would not give rise to a harmful loss of sunlight or daylight to neighbouring residential properties
- The proposed development would not have a significant adverse effect on the Greenbelt, the Local Gardens and Designed Landscape Area or the Battle of Pinkie Cleugh Historic Battlefield Site
- the application relates to a house that is a building listed as being of special architectural or historic interest and there are trees protected by a Tree Preservation Order within its garden. Consequently, the proposed extension must be assessed against national, strategic and local planning policy relating to the design of new extensions and assessed whether the architectural form, size, scale and positioning is appropriate for its attachment to a listed building and whether it would have an adverse impact on nearby protected trees.

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 home and the surrounding area in terms of size, design and materials.

Policy DP5 of the adopted East Lothian Local Development Plan states that 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.

Policy 7 of NPF4 and Policy CH1 of the Local Development Plan states that internal or external alterations or extensions to listed buildings will only be permitted where they do not harm the architectural or historic character of the building.

The applicant's property by being a lodge house it is of an architectural form typical of lodge houses and is of a relatively modest size and scale. It is a building of special architectural or historic interest in its own right and as part of the group of listed buildings associated with Prestongrange House.

The Planning Adviser then noted that the case officer stated in his report that the proposed extension would be a modern addition to the rear of the house. With its flat roof and timber clad external finishes it would be visibly different to the form and finish of the existing lodge house. Furthermore, it would have a footprint that would be wider than the existing house with the building lines of its north and south elevations projecting beyond the north and south elevations of the house.

The case officer concluded that the proposed extension due to its large size and scale and of its modern architectural form and finish would not be a subservient addition to the listed building and would not be in keeping with its character and appearance. As such it would be harmful to the special architectural or historic interest of the listed building contrary to Policies 7 and 16 of NPF4 and Policies CH1 and DP5 of the adopted East Lothian Local

Development Plan 2018.

By being harmful to the special architectural or historic interest of the listed building the proposed extension would be harmful to the character and appearance of the area.

Policy 6 of NPF4 and Policy NH8 of the adopted Local Development Plan states that development proposals will not be supported where they will result in any loss of ancient and veteran trees.

Policy NH8 of the Local Development Plan states that there is a strong presumption in favour of protecting East Lothian's woodland resources.

The Planning Adviser then noted that the rear garden of the house has a number of mature trees located within it. Those trees are included within the Tree Preservation Order No. 1 for Prestongrange.

The planning Adviser then stated that Council's Landscape Officer was consulted on the application and advised he had concerns regarding the positioning of the proposed extension in relation to the TPO trees within the applicants' garden. The Council's Landscape Officer noted that the submitted drawings did not show the tree stem diameters at 1.5 metres above ground level, and do not show the tree root protection areas, in accordance with LDP Policy NH8, nor is the extent of the tree crowns shown on the plans. The Council's Landscape Officer noted trees 1 and 4 are of particular concern as they both appear too close to the proposed extension.

He noted that the case officer report confirms that this information was forwarded to the applicant's agent who was advised that ELC Planning cannot support the application without evidence that the extension could be constructed without harm to the TPO'd trees. However, the agent has not submitted an amended scheme of development or submitted any information to address the concerns raised by the Council's Landscape Policy Officer. Further the case officer stated that the applicant did not demonstrate the proposed extension has been designed and positioned to safeguard the adjacent TPO'd trees and therefore he considered the proposal to be contrary to Policy 6 of NPF4 and Policy NH8 of the adopted East Lothian Local Development Plan 2018.

The Planning Adviser then summarised the case officer's conclusion, which was that the proposal was considered not to be in accordance with Development Plan Policies 6, 7 and 16 of NPF4 and Policies CH1, DP5, NH8 of the adopted East Lothian Local Development Plan 2018 and there are no material considerations which outweigh the fact that the proposals do not accord with the Development Plan.

The Planning Adviser then sought to summarise the appellant's submission including:

- On Policy CH1 of the adopted East Lothian Local Development Plan it can be reasonably argued that the proposed extension unequivocally aligns with the principles outlined in Policy CH1, which emphasises the preservation of architectural and historic character while ensuring that any alterations are complementary and of high quality in terms of design and materials.
- the applicant and their agent proactively engaged with the planning authority through the pre-application enquiry procedure, seeking guidance and feedback to ensure compliance with planning policies and regulations. Subsequent to this pre-application engagement, amendments were made to the proposed plans
- The proposed extension would not only compliment the architectural and historic character of the listed building but will compliment and blend with the natural surrounding environment. The choice of vertical ScotLarch timber cladding, for

instance, harmonises with the natural materials prevalent in the surrounding environment while offering a contemporary twist.

- Existing Extension to the rear of the property is in a state of serious disrepair, presents a stark contrast to the historical integrity and architectural elegance of South Lodge.
- The Agent says that the poor condition of the existing extension not only detracts from the overall visual appeal of the property but also undermines its heritage value and character.
- The proposed extension offers a unique opportunity to mitigate the visual impact of the existing extension by replacing it with a thoughtfully designed addition that respects the historical context and architectural legacy of the listed building.

On Policy 16 of NPF4 - the proposed extension does not conflict with the objectives outlined in Policy 16.

- The extension is designed to minimise its footprint on the surrounding landscape, utilising the available land efficiently without encroaching on green spaces or natural habitats.
- The proposed development maximises the use of space while preserving the character of the surrounding area.
- the proposal for the extension does 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. With regards to surrounding area - the applicant has meticulously considered the character of the surrounding area, particularly in light of the more modern houses directly opposite the applicant's site. The proposed extension, while sympathetic to the listed building's heritage, incorporates contemporary design elements that harmonise with the surrounding built environment

On Policy 6 of NPF4 and Policy NH8 of the LDP relating to trees and woodland the proposal demonstrates a sincere commitment to compliance with NPF4 Policy 6 by prioritising the protection and preservation of woodland and trees. Through thorough site assessments, proactive engagement with planning officers, and the implementation of robust tree protection measures, the proposals exemplify a responsible approach to development that respects and enhances the natural environment. Measures such as exclusion zones, protective fencing etc have been considered to safeguard the health and integrity of the trees, ensuring minimal disruption to their root systems and canopies during the construction process. The applicant has had no desire to remove or disturb any existing trees. A long-term management plan will be developed to monitor the condition of the trees, implement necessary mitigation measures, and foster their integration into the evolving landscape of the site.

The Planning Adviser then covered other environmental issues. A recent flooding event highlighted vulnerabilities in the current structure and setting. Approving the extension would allow the applicants to incorporate modern flood resilience measures, ensuring the property's long-term safety and viability. With extensive repairs required, it is prudent to finalise the extension plans before proceeding.

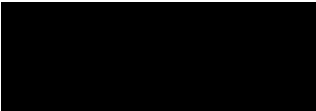
The Planning Adviser concluded his presentation.

- 4.3. Members then asked questions of the Planning Adviser. Councillor Cassini noted that while on the site they noticed tree roots within the application site and she wondered what size of root would be deemed to be negligible should it be encroached upon. The Planning Adviser commented that from looking into the trenches on site the size of the existing root was sizeable at circa three centimetres in diameter.

- 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 commented that the site visit was helpful and it was noted there were already dug foundation pits. These pits showed that the application as proposed would encroach on the trees protected by TPO. She further stated that the proposal would double the size of the house when the addition should be complementary to the site and existing building. Further she felt the cladding proposed was not in keeping with the building. Accordingly, she was minded to support the case officer's decision and refuse planning permission.
- 4.6. The Chair stated that he felt there could be an extension onto the existing building, but this would need to match the building. He further commented that his view was that key to success of any application on this site would be sufficiently protecting the tree roots and there would require to be an expert confirming that there would be no damage to trees. Further he commented that any damage to the trees could affect the existing building as well. Accordingly, he was minded to support the case officer's decision and refuse planning permission.
- 4.7. Councillor Cassini stated that for similar reasons as her colleagues and in particular the protecting the tree roots she was minded to support the case officer and refuse planning permission.

Accordingly, the ELLRB unanimously decided to refuse the appeal and refuse planning permission for the reasons set out more particularly within the case officer's report.

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.