



**MINUTES OF THE MEETING OF THE
LOCAL REVIEW BODY**

**THURSDAY 23 JANUARY 2025
COUNCIL CHAMBER, TOWNHOUSE, HADDINGTON
AND DIGITAL HYBRID SYSTEM**

Committee Members Present:

Councillor D Collins
Councillor A Forrest (Chair)
Councillor N Gilbert
Councillor K McLeod

Advisers to the Local Review Body:

Mr C Grilli, Legal Adviser to the LRB
Mr L Taylor, Planning Adviser to the LRB

Clerk:

Ms F Currie, Committees Officer

Other Officers Present:

Ms E Barclay, Committees Assistant (meeting administrator)

Apologies:

N/A

Declarations of Interest

None

The clerk confirmed attendance by taking a roll call of Elected Members present.

The clerk advised that this meeting was being held as a hybrid meeting and would be webcast live via the Council's website in order to allow the public access to the democratic process in East Lothian. East Lothian Council was the data controller under the Data Protection Act 2018. Data collected as part of the recording would be retained in accordance with the Council's policy on record retention, and the webcast of this meeting would be publicly available for up to six months.

Introductory Statement by the Legal Adviser

The Legal Adviser outlined the procedure for the Local Review Body to reach a decision on the planning application before it and reminded them that further advice would be provided on procedure, should they conclude they did not have enough information to determine the application today.

On this occasion it was agreed that Councillor Forrest would chair the Local Review Body (LRB).

1. PLANNING APPLICATION NO. 24/00782/P: ERECTION OF FENCING, LAND EAST OF 7 SPRINGFIELD COTTAGE, WHITECRAIG, MUSSELBURGH EH21 8PZ

The Chair invited the Planning Adviser, who had not been involved in the original decision, to present a summary of the planning policy considerations in this case.

The Planning Adviser provided details of the application property and location and outlined details of the proposed work.

The development plan consisted of the East Lothian Local Development Plan (LDP) 2018, together with National Planning Framework 4 (NPF4). He indicated that the following planning policies were relevant to the determination of the application: Policy 6 (Forestry, Woodland and Trees), Policy 7 (Historic Assets and Places), Policy 8 (Green Belts) and Policy 14 (Design, Quality and Place) of NPF4 and Policy DC7 (Development in the Edinburgh Green belt), Policy NH8 (Trees and Development), Policy CH5 (Battlefields) and Policy DP2 (Design) of the adopted LDP 2018.

The Planning Adviser summarised the comments raised by internal and external consultees to the original application, and the case officer's assessment of the application against planning policy.

He also outlined the submission made by the applicant in support of the appeal, highlighting its key arguments.

The Planning Adviser responded to a question from Councillor McLeod. He stated that the suggestion of a lower post and wire fence had come from the Landscape Officer. He could not say for sure, from the information provided in the planning officer's submission, whether this alternative had been put to the applicant.

Councillor Gilbert asked who would cover the cost of relocating of road signs, should this be necessary. The Planning Adviser suggested that it may be possible to control this through planning conditions. The Legal Adviser confirmed that a condition could be added in general terms relating to all road signs affected by the work. This would place an obligation on the applicant to work with road services officers to arrange suitable relocation of any affected signs.

Replying to questions from Councillor Collins, the Planning Adviser could not confirm the proposed means of anchorage for the fence posts. While he did confirm that a lower height fence would have been acceptable, he said that the type of fence – closed board timber – and its impact on its surroundings must also be considered. The Legal Adviser added that any proposal for a lower fence would have to be appropriately assessed through the planning process, as it differed from the proposal contained in the original application.

The Chair asked about the potential impact on access and the right to roam. The Planning Adviser said the right to roam was general principle and he was not aware of any restrictions associated with the land specified in this application, but it may be necessary to consult the title deeds. He acknowledged that the erection of a fence could impact access. The Legal Adviser explained that the right to roam would be unlikely to be documented in title deeds and that the right was gained from actual usage. While there was potential for restriction on access if the fence was erected, he would require further information to determine whether the right to roam existed on this area of land.

The Chair asked his colleagues to confirm that they had attended the site visit and if they were satisfied that they had sufficient information before them to determine the application. They confirmed this to be the case.

The Chair then invited Members to give their views on the application.

Councillor McLeod said he found the site visit useful and noted that there had been a suggested alternative to the proposed fence but, as far as he was aware, this had not been accepted. He said that he had looked at the line of sight through the trees for cars coming down the hill. He and his colleagues had also looked at other properties in the area and had observed that the majority of these had fencing to the front but not the sides of the houses. He had also noted that there had been an attempt to plant conifers but that this had not been very successful. Based on this information, he said he could not accept this application and would be supporting the original decision of the planning case officer.

Councillor Collins agreed that the site visit had been helpful. In her view, the method for putting in the posts was important due to the ground condition and the risk of damage from adverse weather should the posts not be anchored properly. She considered that the lights would have little impact on the house due to the tree screening, with infill increasing during the summer, and she had also noted that the alternative proposed had not been accepted. For these reasons, she would be supporting the decision of the planning case officer.

Councillor Gilbert was of the opinion that, due to its height and construction, the fence would be a dominant and intrusive feature in the landscape. It would change the entrance to the village from that direction, entirely, and would be harmful to the landscape, character and visual amenity of the woodland. He would be supporting the decision of the planning case officer.

The Chair agreed that the site visit had been useful, and that construction of the fence would make the road more closed in. He also felt that there was a risk of the fence collapsing in adverse weather. He would be supporting the planning case officer.

The LRB members confirmed their decision via roll call vote. They agreed, unanimously, to confirm the original decision of the planning case officer to refuse planning permission for the reasons set out in the original decision notice.

Decision

The ELLRB agreed, unanimously, to confirm the original decision of the planning case officer to refuse planning permission for the reasons set out in the original decision notice.

2. PLANNING APPLICATION NO. 24/00837/P: SIDE, FRONT AND FIRST FLOOR EXTENSIONS TO HOUSE AND ERECTION OF GARAGE, COUR COTTAGE, CONGALTON, NORTH BERWICK EH39 5JP

The Chair invited the Planning Adviser, who had not been involved in the original decision, to present a summary of the planning policy considerations in this case.

The Planning Adviser provided details of the application property and location and outlined details of the proposed work.

The development plan consisted of the East Lothian Local Development Plan (LDP) 2018, together with National Planning Framework 4 (NPF4). He indicated that the following planning policies were relevant to the determination of the application: Policy 14 (Design, Quality and Place), Policy 16 (Quality Homes), Policy 17 (Rural Homes) of NPF4 and Policy DC3 (Replacement Dwellings in the Countryside), Policy DC4 (New Build housing in the Countryside), Policy DP2 (Design), Policy DP5 (Extension and Alterations to Existing Buildings) and Policy T2 (General Transport Impact) of the adopted LDP 2018.

The Planning Adviser confirmed that no representations had been received from members of the public. He summarised the case officer's original assessment of the application against planning policy and whether there were any material planning considerations that would outweigh the development plan.

The Planning Adviser outlined the submission made by the applicant in support of the appeal, highlighting its key arguments and assessment of the proposals against planning policy.

The Planning Adviser replied to a question from Councillor McLeod. He confirmed that the case officer had made his assessment on the basis of the proposals submitted, which had been presented as an extension, meaning that the original house would remain. However, the case officer had taken the view that the extent of the proposed changes was similar to building a new house and that was why he applied Policy DC4 when assessing the application.

The Chair asked his colleagues to confirm that they had attended the site visit and if they were satisfied that they had sufficient information before them to determine the application. They confirmed this to be the case.

The Chair then invited Members to give their views on the application.

Councillor Gilbert said that having seen what was proposed on the plans and at site visit, he felt that the debate hinged on the size of proposed new property. He stated that, in his opinion, the current 2-bedroom property was no longer fit for purpose and the proposed design and alignment of the development plans seemed perfectly acceptable. He would therefore be going against the original decision of the planning case officer.

Councillor McLeod agreed that the existing house was not fit for purpose, and that the proposals would enhance area with no concerns about impact as there were no near neighbours. He was also in favour of the L-shaped design and its alignment within the application site. As he now understood that part of the existing house would remain, he felt

that the proposals would enhance the property. He would also be voting against the officer's original decision.

Councillor Collins noted that this 1920s house and surrounding buildings were in a poor state of repair and needed to move with the times. She did, however, want to ensure that the proposals represented an extension to the existing property and that the original building would be kept. She noted that there were no near neighbours and that the development would not be obtrusive to anyone nearby. She said she would be supporting the appeal as the proposals would enhance the area and, if no action was taken, the condition of the house would deteriorate.

The Chair asked about the implications for planning permission should the existing house not be retained, and the extension became a new build house. The Legal Adviser confirmed that if the application incorporated the current building, it could constitute a material change if that building were to fall down. In those circumstances, there would have to be a conversation with the planning officer on potential options, whether a further application needed to come forward and the content of any alternative proposals.

The Planning Adviser added that the opinion of a structural engineer would be required to determine whether original parts of the house would be retained. The planning case officer had looked at the plans and the original walls appeared to be in the same position in the proposed new extension. Should the Members be minded to overturn the case officer's decision there was a suggested condition (No. 3) which required structural details to be submitted on these proposals, although mainly in relation to fencing. However, this additional information would allow officers to put appropriate planning controls in place to ensure that the proposals complied with the planning consent.

The Chair agreed that site visit had been helpful, that the house was in a poor state of repair and that something should be done. However, he was of the view that the extension was too big and not subservient to the original house. He felt that the applicant could have provided proposals more in keeping with the area and, for these reasons, he would be supporting the decision of the planning case officer.

The LRB members confirmed their decision via roll call vote:

To uphold the appeal:	Councillors Collins, Gilbert and McLeod
To uphold the original decision:	Councillor Forrest

The Members agreed, unanimously, to accept the conditions proposed by the planning case officer.

The Planning Adviser reminded the Members that Condition 3 related more to fencing on the site rather than construction of the extension, and he asked the Legal Adviser to provide advice on whether an additional condition should be added. The Legal Adviser confirmed that, to address the concerns raised and should Members be minded, the conditions could be revised or added to.

Following a further vote, Members agreed, unanimously, to the revision or addition to the conditions and for these to be finalised in discussion with Members and officers following the meeting.

Decision

The ELLRB agreed, by a majority, to uphold the appeal and grant planning permission subject to conditions.

Signed

Councillor Andrew Forrest
Chair of Local Review Body (Planning)