

REVIEW DECISION NOTICE

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

Application for Review by Caroline Samuel, 11A Letham Mains Holdings, Haddington against against Condition 9 of planning consent 16/01035/P

Site Address: 11A Letham Mains Holdings, Haddington EH414NW

Application Ref: 16/01035/P

Application Drawing: GA(PL)001; GL(PL)002; GL(PL)003; GL(PL)004; GL(PL)005;

Date of Review Decision Notice: 10 July 2018

Decision

The ELLRB unanimously agreed to uphold the decision of the Planning Officer to include Condition 9 in planning consent 16/01035/P and rejected the appeal.

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

1.1. The above application for planning permission was considered by the ELLRB, at a meeting held on Thursday, 15 February 2018. The Review Body was constituted by Councillor N Hampshire (Chair); Councillor L Bruce, Councillor S Kempson and Councillor S Currie. All four members of the ELLRB had attended an unaccompanied site visit in respect of this application prior to the meeting.

1.2. The following persons were also present at the meeting of the ELLRB:-

Mr L Taylor, Planning Adviser to the LRB
Mr C Grilli, Legal Adviser/Clerk to the LRB
Mrs F. Stewart Committee Clerk

2. Proposal

- 2.1. The planning application had been submitted for the erection of a single storey detached dwelling house of contemporary architectural style within the land owned by the applicant and in use as a Plant Nursery Business.
- 2.2. The planning application was registered on 11 January 2017 and was granted subject to conditions on 23 August 2017. The notice of review was dated 16 November 2017.
- 2.3. Condition 9 states "Notwithstanding the provision of the Town and County Planning (General Permitted Development) (Scotland) Order 1992, as amended by the Town and County Planning (General Permitted Development) (Scotland) Amendment Order 2011, no development of the types specified in Part 1 of Schedule 1 of the Order or any Statutory Instrument revoking and/or re-enacting that Part of the Order shall be undertaken on the new house hereby approved, or on any part of the application site, other than development shown on the drawings docketed to the planning permission, unless with the prior approval of the Planning Authority
- 2.4. The reason for this condition was in the interest of safeguarding the character integrity and appearance of the development and the visual amenity of the landscape of the area.

3. Preliminaries

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

1	The drawings specified above
2	The Application for planning permission registered on 11 January 2017
3	The Appointed Officer's Report of Handling
4	A copy of the Decision Notice dated 23 August 2017
5	Copies of Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SES Plan) and Policies DC1, DP2, DP22, T2 of the adopted East Lothian Local Plan 2008.
6	Notice of Review dated 16 November 2017 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 original decision 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 refuse planning permission, including all drawings and copies of all representations and objections received in respect of the original application.
- 4.2. The Members then asked the Planning Adviser to summarise the planning policy position in respect of this matter. The Planning Adviser gave a brief presentation to Members advising that, in considering the application, the Case Officer had determined that the building height and positioning within the site, away from the eastern boundary, were acceptable for the site and countryside surroundings. The proposal was considered to contrast in a complimentary manner with existing, more traditional dwellings to the south and compliant with Strategic Development Plan Policy 1b and with Local Plan 2008 Policy DC1. The Case Officer had made his decision based on evidence submitted in support of

the need for the dwelling, in association with the existing business. However, the permission was subject to a number of conditions including sample materials and external finishing. A condition to remove permitted development rights was also added, to which this review relates.

- 4.3. Councillor Currie asked the planning adviser whether, any future plans of the applicant would still be subject to building control and building warrants, if restrictions were removed. He asked the Planning Adviser if the only difference between having Condition 9 attached to the consent and not having the condition was that in one instance a planning application would need to be submitted, and for the other, no application would be required. The Planning Adviser confirmed that Councillor Currie's understanding was correct and advised that the reason the Case Officer had included Condition 9 was likely to be because new dwellings in the countryside were subject to tighter controls. Councillor Currie considered that Condition 9 had been included in the planning consent for a purpose and had not been convinced that it should be removed. He added that development in the countryside was a sensitive issue and the guidance to Councillors was to exercise control in this area.
- 4.4. The Chair asked if the applicant could apply for planning permission if she wished to extend the building and the Planning Adviser confirmed that the applicant could submit another planning application if she wished.
- 4.5. The Chair asked Members if they had sufficient information to proceed to determine the application today and they confirmed that they had.
- 4.6. Councillor Bruce confirmed that he would not support the applicant's application and would be minded to support the planning officer's decision and refuse the appeal.
- 4.7. Councillor Kempson confirmed that she would not support the applicant's application and would be minded to support the officers decision and refuse the appeal.
- 4.8. The Chair confirmed he was of the same mind and was minded to support the planning officer's decision and refuse the appeal.

Accordingly, the ELLRB unanimously agreed to uphold the original decision of the Planning Officer to include Condition 9 in planning consent 16/01035/P and rejected the appeal.

The Review Application was accordingly dismissed.



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.