

REVIEW DECISION NOTICE

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

Application for Review by Mr D Skinner c/o GH Johnston, Willow House, Stoneyfield Business Park, Inverness IV2 7PA of decision to refuse Planning Permission for the erection of 1 house with integral garage and associated works at land to rear of Speedwell House, Main Road, Dirleton

Site Address: Land to rear of Speedwell House, Main Road, Dirleton

Application Ref: 21/01364/P

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

Date of Review Decision Notice: 1 November 2022

Decision

The ELLRB unanimously agreed to refuse the appeal and to uphold the decision of the Planning Officer for the reasons 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, 6 October 2022. The Review Body was constituted by Councillor J Findlay, Councillor, K McLeod and Councillor C Yorkston. 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 L Taylor, Planning Adviser to the LRB
Mr C Grilli, Legal Adviser/Clerk to the LRB
Ms B Crichton, Clerk

2. Proposal

- 2.1. The planning application is for review of decision to refuse Planning Permission for the erection of 1 house with integral garage and associated works at land to rear of Speedwell House, Main Road, Dirleton (Planning Reference Number 21/01364/P).
- 2.2. The planning application was registered on 8 November 2021 and the Decision Notice refusing the application is dated 29 April 2022.
- 2.3. The reason for refusal is more particularly set out in full in the said Decision Notice dated 29 April 2022 and reasons for refusal are set out as follows:

1. *The proposed development would be a conspicuous and incongruous outward extension of Dirleton, harmful to the form, character and appearance of the Village and of the Conservation Area and would not preserve or enhance the special architectural or historic character or appearance of the Dirleton Conservation area contrary to Policies CH2 and DP7 of the adopted East Lothian Local Development Plan 2018 and to Scottish Planning Policy: June 2014.*

2.4. The notice of review is dated 28 July 2022.

3. **Preliminaries**

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

i.	<p>The drawings accompanying this application are referenced and numbered as follows:</p> <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>MANU LITERATURE 01</td> <td>-</td> <td>05.11.2021</td> </tr> <tr> <td>MANU LITERATURE 02</td> <td>-</td> <td>05.11.2021</td> </tr> <tr> <td>MANU LITERATURE 03</td> <td>-</td> <td>05.11.2021</td> </tr> <tr> <td>2533/PL001_A</td> <td>-</td> <td>05.11.2021</td> </tr> <tr> <td>2533/PL002_A</td> <td>-</td> <td>05.11.2021</td> </tr> <tr> <td>2533/PL100_A</td> <td>-</td> <td>05.11.2021</td> </tr> <tr> <td>2533/PL300_A</td> <td>-</td> <td>05.11.2021</td> </tr> <tr> <td>2533/PL301_A</td> <td>-</td> <td>05.11.2021</td> </tr> <tr> <td>2533/PL303</td> <td>-</td> <td>05.11.2021</td> </tr> <tr> <td>2533/PL003</td> <td>-</td> <td>08.11.2021</td> </tr> <tr> <td>2533/PL302_A</td> <td>-</td> <td>08.11.2021</td> </tr> </tbody> </table>	<u>Drawing No.</u>	<u>Revision No.</u>	<u>Date Received</u>	MANU LITERATURE 01	-	05.11.2021	MANU LITERATURE 02	-	05.11.2021	MANU LITERATURE 03	-	05.11.2021	2533/PL001_A	-	05.11.2021	2533/PL002_A	-	05.11.2021	2533/PL100_A	-	05.11.2021	2533/PL300_A	-	05.11.2021	2533/PL301_A	-	05.11.2021	2533/PL303	-	05.11.2021	2533/PL003	-	08.11.2021	2533/PL302_A	-	08.11.2021
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ii.	The Application for planning permission registered on 8 November 2021																																				
iii.	The Appointed Officer's Submission																																				
iv.	<p>Policies of the adopted East Lothian Local Development Plan 2018 relevant to the determination of the application:</p> <ul style="list-style-type: none"> - Policy RCA1: Residential Character and Amenity; - Policy CH2: Development Affecting Conservation Areas; - Policy DC8: Countryside around Towns - Policy DP2: Design - Policy DP7: Infill, Backland and Garden Ground Development; and - Policy T2: General Transport Impact <p>In addition the following provisions are also relevant to the determination of the application, namely:-</p> <ul style="list-style-type: none"> - East Lothian Local Development Plan 2018 Supplementary Planning Guidance Cultural Heritage and the Built Environment – Conservation Area Character Statement Dirleton Conservation Area; - Scottish Government Policy Statement Designing Streets; and - Planning Advice Note 67: Housing Quality 																																				

v.	Notice of Review dated 28 July 2022 together with Applicant's Submission with supporting statement and associated documents.
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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 outlined the proposals contained in planning application no. 21/01364/P. He set out in detail the proposals contained within the application and provided details of the site and surroundings. There had been six objections to the proposals, including one from the Dirleton Village Association.
- 4.3. The Planning Adviser reminded Members that applications should be determined in accordance with the development plan for the area unless material considerations indicated otherwise: in this case the South East Scotland Development Plan (SESplan); the adopted East Lothian Local Development Plan 2018 (LDP); and the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. Also material to the determination was the site history including an earlier application seeking permission for two detached dwellings. This was refused in 2009 and dismissed at appeal by the DPEA in 2010. The Planning Adviser outlined the most relevant policies of the LDP, which were CH2, RCA1, and DP7.

The Planning Adviser advised that the Planning Officer assessed that the proposal would not have a detrimental effect on the neighbouring properties in relation to privacy and overlooking, and the dwelling itself would benefit from sufficient privacy and amenity. There were also no objections from council services in relation to transport impact and access and contaminated land, with any matters able to be addressed through conditions.

The Planning Officer's assessment reiterated comments from the appeal that was dismissed for an earlier application for two dwellings, including observations that the proposals would not integrate well with its surroundings and would extend the northern edge of the village into undeveloped countryside. The previous proposal was deemed to represent an intrusion that would have been out of character with the surrounding agricultural land and would conflict with the objective of preserving and enhancing Dirleton Conservation Area. The case officer concluded that there was no reason to take a different view on the application before them; there had been no significant change in relation to applicable policies since the determination of the earlier application for two dwellings, and no other material considerations that would outweigh the conflict with the LDP. The Planning Adviser then summarised the stated reason for refusal within the Decision Notice for the current application.

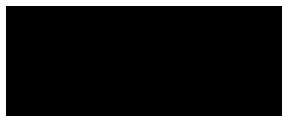
The Planning Adviser then turned to the applicant's appeal submission, which focused on the application of policies RCA1, DP7, and CH2. It also discussed the sustainability of the proposal, the DPEA appeal decision on the previous application for two dwellings, and the fact that there were no objections from the council services consulted.

The Planning Adviser advised that Policy RCA1 was challenged on the basis that it actively encouraged development in designated areas, thereby supporting the principle of the development. Policy CH2 was challenged in relation to the overall impact of the conservation area, discussing the Dirleton Conservation Area Character Statement, and providing evidence in the form of historic maps and photos of the site showing buildings situated on it. Differences from the earlier application were also highlighted, including a comparison of building footprints and floor space, as well as differences in relation to works on trees on the site boundary.

- 4.4. Councillor McLeod enquired as to the previous use of the neighbouring ground, prior to it being wasteland. The Planning Adviser confirmed the use previously was as a market garden.
- 4.5. 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.
- 4.6. Councillor Yorkson confirmed he supported the Planning Officer's original decision and would be refusing this application.
- 4.7. Councillor McLeod confirmed he was also supporting the Planning Officer's original decision and would be refusing this application.
- 4.8. The Chair concurred with his colleagues and was minded to refuse this application for the reasons set out in the Planning Officer's report.

Accordingly, the ELLRB agreed unanimously to dismiss the appeal and to refuse planning permission for this application, for the reasons set out by the Planning Officer in the original decision notice.

Planning Permission is accordingly 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.