

LOCAL REVIEW BODY

23 October 2025

Application No: 25/00479/P

15 Davids Way, Haddington EH41 3DY

Appointed Officer's Submission

25/00439/P – REVIEW AGAINST DECISION – PLANNING OFFICER’S SUBMISSION

Planning Application Review Against Decision (Refusal): Erection of fencing and gate (Retrospective) at 15 Davids Way, Haddington.

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14th August 2025

Scott Robertson

Assistant Planner (Planning Delivery)

OFFICER REPORT

16th July 2025

App No. **25/00479/P**

Application registered on **22nd May 2025**
Target Date **21st July 2025**

Proposal	Erection of fencing and gate (Retrospective)	SDELL	N
		CDEL	N
Location	15 Davids Way Haddington EH41 3DY	Bad Neighbour Development	N

APPLICANT: **Miss Gillian Anderson**

Is this application to be approved as a
departure from structure/local plan? N

**15 Davids Way
Haddington
EH41 3DY**

DECISION TYPE: **Application Refused**

PLANNING ASSESSMENT

The property to which this application relates to is a two storey, semi-detached house with associated garden ground. The property is located within a new modern housing development and as such is located within a predominantly residential area.

The house is part of a modern housing development approved by planning permission (Ref:13/00519/PM) at Letham, Haddington. That housing development comprised 385 houses and 48 flats and was the subject of a Development Framework and Masterplan. A further planning permission (Ref:19/00702/P) was approved to allow changes to the scheme of development of the previous planning approval and this approval included low front roadside boundary treatments including walls and hedges.

The property faces onto a footpath and the public road of Hays Walk to the north. Between the footpath and the applicant's house is an area of garden ground. The front (roadside) boundary of the garden was approved to be enclosed with a low stone wall and hedging.

The main area of garden ground of the house is located to the east side of the house and through planning permission 19/00702/PM its north boundary was approved to be enclosed

by a 1.8 metre high timber fence which was approved to be aligned with the building line of the principal (north) elevation of the house.

However, the fencing which enclosed the northern side of the applicant's rear garden has been repositioned from its alignment with the building line of the principal (north) elevation of the house to its current position behind the low roadside boundary wall that encloses the garden to the front of the house. The fencing and gate are vertical timber boarded and measure some 1.8 metres in height.

Planning permission is therefore sought retrospectively for the 1.8m high fencing and a gate that have been erected to enclose part of the roadside boundary of the front garden of the house.

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

Policies 14 (Design, Quality and Place) and 16 (Quality Homes) of NPF4 and policy DP5 (Extensions and Alterations to Existing Buildings) of the East Lothian Local Development Plan 2018 are relevant to the determination of this application.

No public representation has been received in relation to the application.

The lengths of fencing and gate, due to their height, size, and positioning, do not result in a harmful loss of sunlight or daylight to any neighbouring residential property.

Policy 14 of NPF4 states that development proposals will be designed to improve the quality of an area. Policy 16 of NPF4 states that householder proposals will be supported where they do not have a detrimental impact on the character of the home or the surrounding area.

The applicant's house occupies a prominent roadside position on the corner of David's Way and Hay's Walk. In their positions enclosing part of the front garden of the house the fencing and gate are readily visible from public views.

As part of a new housing development in Haddington, David's Way and Hay's Walk are characterised by houses with roadside boundary treatments comprising low stone walls and hedging of a variety of heights. Whilst there are 1.8 meters high fences approved as rear and side garden enclosures that are visible from public views across the development, there are no approved 1.8 meters high timber fences that sit forward of the principle elevation of a house and on the roadside frontage of the development of which the applicant's house is a part.

In the context of Hay's Walk, the 1.8 metre high fencing and gate that have been erected along the roadside boundary of the front garden of the applicant's house are, by sitting forward of the principle elevation of the house and of their 1.8m height, dominant and imposing in character. In their relationship with the principle elevation of the house, the fencing and gate do not reflect the positioning of 1.8m high timber fences of the larger development at Letham Mains. They do not by their height, form and appearance reflect the

form, appearance and character of the other front roadside garden boundary treatments of the houses of Hay's Way. Therefore the 1.8m high fences and gate are not appropriate for erection in the front garden of the house, and instead appear alien and out of keeping with the largely low front roadside boundary enclosures of other houses of the development. They do not reflect the roadside boundary treatments for the houses approved by planning permission 19/00702/PM and compromise the integrity of that approved scheme of development. Consequently, by virtue of their 1.8m height, their close boarded form and their roadside positioning protruding forward of the principle elevation of the house, the fences and gate by appearing alien and incongruous are harmful to the setting of the house and to the character and appearance of the area contrary to Policies 14 and 16 of NPF4 and Policy DP2 of the adopted East Lothian Local Development Plan 2018.

If approved the fences and gate would set a harmful precedent for allowing the addition of similar forms of fencing to be erected on the front roadside boundaries of the front gardens of other residential properties within the locality. Such change would be individually and cumulatively out of keeping with the character and appearance of the residential properties in the development, to the greater detriment of the streetscape of Hay's Walk and the character and appearance of the area contrary to Policies 14 and 16 of NPF4 and Policy DP2 of the adopted East Lothian Local Development Plan 2018.

The proposed fence and gate do not accord with the development plan and there are no material planning considerations that outweigh the fact that they do not accord with the development plan.

The fencing and gate are unauthorised and a breach of planning control. If within 3 months of the date of the refusal to grant planning permission for the fences and gate, steps have not been taken to remove the fences and gate, enforcement action will be taken to secure their removal with the period for compliance with the enforcement notice being 3 months.

REASON FOR REFUSAL:

- 1 The 1.8m high fence and gate are not appropriate for erection in the front garden of the house, and instead appear alien and out of keeping with the largely low front roadside boundary enclosures of other houses of the development. They do not reflect the roadside boundary treatments for the houses approved by planning permission 19/00702/PM and compromise the integrity of that approved scheme of development. Consequently, by virtue of their 1.8m height, their close boarded form and their roadside positioning protruding forward of the principle elevation of the house, the fence and gate are harmful to the setting of the house and to the character and appearance of the area contrary to Policies 14 and 16 of NPF4 and Policy DP2 of the adopted East Lothian Local Development Plan 2018.

LETTERS FROM

16th July 2025

[REDACTED]
To: Robertson, Scott

[REDACTED]
Subject: TRANSPORT PLANNING RESPONSE: 25/00479/P-Scott Robertson - Planning Consultation

Date: 27 May 2025 12:20:27

EAST LoTHIAN COUNCIL ROAD SERVICES

From: Asset & Regulatory Manager

To: Service Manager, Planning

Proposal: Erection of fencing and gate (Retrospective) at 15 Davids Way Haddington EH41 3DY

The fence and gate that have been installed are considered to be acceptable on road safety grounds based on the fact that both the minimum required 2m by 20m visibility splay from the parking court access onto Hays Walk, as well as the required 2m by 2m pedestrian visibility splay, will both still be achievable - on this basis we have no objections to this planning application.

Please advise the applicant that all works within or affecting the public road including works on the footway or verge must be authorised in advance by this Council as Roads Authority.

Sent on behalf of IAN KING

ROAD SERVICES, ASSET & REGULATORY MANAGER

please ask for:

Jon Canty

Transportation Planning Officer

East Lothian Council

01620 827285

jcanty@eastlothian.gov.uk

App No. 25/00479/P

**EAST LoTHIAN COUNCIL
DECISION NOTICE**

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
TOWN AND COUNTRY PLANNING
(DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATIONS 2013**

**Miss Gillian Anderson
15 Davids Way
Haddington
EH41 3DY**

APPLICANT: Miss Gillian Anderson

With reference to your application registered on 22nd May 2025 for planning permission under the above mentioned Acts and Regulations for the following development, viz:-

**Erection of fencing and gate (Retrospective)
at
15 Davids Way
Haddington
EH41 3DY**

East Lothian Council as the Planning Authority in exercise of their powers under the above-mentioned Acts and Regulations hereby **REFUSE PLANNING PERMISSION** for the said development.

The reasons for the Council's refusal of planning permission are:-

- 1 The 1.8m high fence and gate are not appropriate for erection in the front garden of the house, and instead appear alien and out of keeping with the largely low front roadside boundary enclosures of other houses of the development. They do not reflect the roadside boundary treatments for the houses approved by planning permission 19/00702/PM and compromise the integrity of that approved scheme of development. Consequently by virtue of their 1.8m height, their close boarded form and their roadside positioning protruding forward of the principle elevation of the house, the fence and gate are harmful to the setting of the house and to the character and appearance of the area contrary to Policies 14 and 16

of NPF4 and Policy DP2 of the adopted East Lothian Local Development Plan 2018.

The report on this application is attached to this Decision Notice and its terms shall be deemed to be incorporated in full in this Decision Notice.

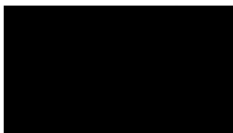
Details of the following are given in the application report:

- the terms on which the Planning Authority based this decision;
- details of any variations made to the application in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997.

The plans to which this decision relate are as follows:

<u>Drawing No.</u>	<u>Revision No.</u>	<u>Date Received</u>
PHOTO 1	-	19.05.2025
PHOTO 2	-	19.05.2025
PHOTO 3	-	19.05.2025
DRG 1	-	22.05.2025
DRG 2	-	22.05.2025

17th July 2025



Keith Dingwall
Chief Planning Officer

NOTES

If the applicant is aggrieved by the decision of the Planning Authority to grant permission for the proposed development subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this decision notice. The notice of review, with the correct appropriate fee, should be submitted online at <https://www.edevelopment.scot/eDevelopmentClient/> or sent to the Clerk to the Local Review Body, Committee Team, Communications and Democratic Services, John Muir House, Haddington, East Lothian EH41 3HA.

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 5 of the Town and Country Planning (Scotland) Act 1997.

Policy 14: Design, Quality and Place

a) Development proposals will be designed to improve the quality of an area whether in urban or rural locations and regardless of scale.

b) Development proposals will be supported where they are consistent with the six qualities of successful places: Healthy: Supporting the prioritisation of women's safety and improving physical and mental health. Pleasant: Supporting attractive natural and built spaces. Connected: Supporting well connected networks that make moving around easy and reduce car dependency. Distinctive: Supporting attention to detail of local architectural styles and natural landscapes to be interpreted, literally or creatively, into designs to reinforce identity. Sustainable: Supporting the efficient use of resources that will allow people to live, play, work and stay in their area, ensuring climate resilience, and integrating nature positive, biodiversity solutions. Adaptable: Supporting commitment to investing in the long-term value of buildings, streets and spaces by allowing for flexibility so that they can be changed quickly to accommodate different uses as well as maintained over time. Further details on delivering the six qualities of successful places are set out in Annex D.

c) Development proposals that are poorly designed, detrimental to the amenity of the surrounding area or inconsistent with the six qualities of successful places, will not be supported.

Policy 16: Quality Homes

a) Development proposals for new homes on land allocated for housing in LDPs will be supported.

b) Development proposals that include 50 or more homes, and smaller developments if required by local policy or guidance, should be accompanied by a Statement of Community Benefit. The statement will explain the contribution of the proposed development to: i. meeting local housing requirements, including affordable homes; ii. providing or enhancing local infrastructure, facilities and services; and iii. improving the residential amenity of the surrounding area. Part 2 – National Planning Policy Framework 4 63

c) Development proposals for new homes that improve affordability and choice by being adaptable to changing and diverse needs, and which address identified gaps in provision, will be supported. This could include: i. self-provided homes; accessible, adaptable and wheelchair accessible homes; build to rent; iv. affordable homes; v. a range of size of homes such as those for larger families; vi. homes for older people, including supported accommodation, care homes and sheltered housing; vii. homes for people undertaking further and higher education; and viii. homes for other specialist groups such as service personnel.

d) Development proposals for public or private, permanent or temporary, Gypsy/Travellers sites and family yards and Travelling Showpeople yards, including on land not specifically allocated for this use in the LDP, should be supported where a need is identified and the proposal is otherwise consistent with the plan spatial strategy and other relevant policies, including human rights and equality.

e) Development proposals for new homes will be supported where they make provision for affordable homes to meet an identified need. Proposals for market homes will only be supported where the contribution to the provision of affordable homes on a site will be at least 25% of the total number of homes, unless the LDP sets out locations or circumstances where: i. a higher contribution is justified by evidence of need, or ii. a lower contribution is justified, for example, by evidence of impact on viability, where proposals are small in scale, or to incentivise particular types of homes that are needed to diversify the supply, such as self-build or wheelchair accessible homes. The contribution is to be provided in accordance with local policy or guidance.

f) Development proposals for new homes on land not allocated for housing in the LDP will only be supported in limited circumstances where: i. the proposal is supported by an agreed timescale for build-out; and ii. the proposal is otherwise consistent with the plan spatial strategy and other relevant policies including local living and 20 minute neighbourhoods; iii. and

either: delivery of sites is happening earlier than identified in the deliverable housing land pipeline. This will be determined by reference to two consecutive years of the Housing Land Audit evidencing substantial delivery earlier than pipeline timescales and that general trend being sustained; or the proposal is consistent with policy on rural homes; or the proposal is for smaller scale opportunities within an existing settlement boundary; or the proposal is for the delivery of less than 50 affordable homes as part of a local authority supported affordable housing plan.

g) Householder development proposals will be supported where they: i. 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; and ii. do not have a detrimental effect on the neighbouring properties in terms of physical impact, overshadowing or overlooking.

h) Householder development proposals that provide adaptations in response to risks from a changing climate, or relating to people with health conditions that lead to particular accommodation needs will be supported.

Policy DP5: Alterations and Extensions to Existing Buildings

All alterations and extensions to existing buildings must be well integrated into their surroundings,

and must be in keeping with the original building or complementary to its character and appearance. Accordingly such development must satisfy all of the following criteria:

1. It must not result in a loss of amenity with neighbouring uses or be harmful to existing residential amenity through loss of privacy from overlooking, or from loss of sunlight or daylight;

2. 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;

3. For an extension or alteration to all other buildings, it must be of a size, form, proportion and scale appropriate to its surroundings and, where the existing building has architectural merit be in keeping with or complement that existing building;

Development that does not comply with any of the above criteria will only be permitted where other

positive planning and design benefits can be demonstrated.

Schedule of conditions for 25/00439/P if appeal is upheld:

1. The development hereby approved shall begin before the expiration of 3 years from the date of this permission.

Reason:

Pursuant to Section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.