

## **REVIEW DECISION NOTICE**

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

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Application for Review by Miss Gillian Anderson of 15 Davids Way Haddington EH41 3DY of decision to refuse Planning Permission for the erection of fencing and gate (Retrospective) at 15 Davids Way, Haddington, EH41 3DY

Site Address: 15 Davids Way, Haddington, EH41 3DY

Application Ref: 24/00479/P

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

Date of Review Decision Notice: 17 November 2025

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### **Decision**

The ELLRB by a majority of three (3) to one (1) decided to dismiss the appeal and refuse planning permission for erection of fencing and gate (Retrospective) at 15 Davids Way, Haddington, EH41 3DY 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, 23 October 2025. The Review Body was constituted by Councillor A Forrest (Chair), Councillor D Collins, Councillor K McLeod and Councillor S McIntosh. All four members of the ELLRB had attended a site visit 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 M Scott, Clerk

### **2. Proposal**

2.1. The planning application is for review of decision to refuse Planning Permission erection of fencing and gate (Retrospective) at 15 Davids Way, Haddington, EH41 3DY

2.2. The planning application was registered on 22 May 2025 and the Decision Notice refusing the application is dated 17 July 2025.

2.3. The condition and the reason for the condition is more particularly set out in full in the said Decision Notice. The reason for refusal are/is set out as follows:

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.*

2.4. The notice of review is dated 8 August 2025.

### **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:		
	<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
ii.	The Application for planning permission registered on		
iii.	The Appointed Officer's Submission		
iv.	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.		
v.	Notice of Review dated 8 August 2025 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 planning application relates to a review of the decision on application that sought retrospective planning permission for a 1.8m high fence and a gate that have been erected to enclose part of the roadside boundary of the front garden of the house at no 15 Davids Way, Letham Mains. The property to which this application relates to is a two storey, semi-detached house with associated garden ground. 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 front elevation of 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.

The Planning Adviser advised the members of the policies material and relevant to the determination of this application as set out in paragraph 3(iv) of this Decision Notice.

The Planning Adviser then confirmed that no public representation has been received in relation to the application. The case officer conducted a planning assessment of this retrospective application. The report noted that 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 case officer highlighted the fact that 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 mentioned earlier this part of a new housing development in Letham Mains is characterised by houses with roadside boundary treatments comprising low stone walls and hedging of a variety of heights. The officer acknowledged that 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.

The Planning Adviser stated that both the fencing and gate project beyond the principle elevation of the house and due to their height and positioning appear 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 in Letham Mains. The case officer concluded that 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.

The officer stated that the fence and the gate are contrary to Policies 14 and 16 of NPF4 and Policy DP2 of the adopted East Lothian Local Development Plan 2018 and if approved this 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. In his report the case officer said that 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. In addition the report confirmed that there are no material planning considerations that outweigh the fact that the fence and the gate do not accord with the development plan. For the above reasons the application was refused.

The Planning Adviser then moved to the submission from the appellant and identified the following points:

- The fence enhances the practical use and safety of the applicant's garden
- It is in keeping with similar fences in the estate
- It is positioned appropriately and does not adversely affect the visual amenity of the area
- The applicant suggests that the fence is located on the side, not the traditional front, of the property and that it aligns with the gable of the house and does not project excessively or dominate the street scene.

- 4.3. 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.
- 4.4. Councillor McIntosh stated the fence did intrude on the street line as everything else was set back with open gardens. She added it acted to the detriment of the streetscape and she would be voting to uphold the officers recommendations.
- 4.5. Councillor Collins said she found the site visit helpful to see what the other buildings were like. She expressed her sympathies to the applicant as they had contacted Taylor Wimpey and Ross and Liddell with photographs of the fence and neither objected to it so there was no indication to them that they could be in breach of planning permission. She added that the way the fence was done made it look like part of the scheme as there is the same fencing all the way around the back of the properties in that section and has been tastefully done and therefore she would be supporting the applicant.
- 4.6. Councillor McLeod shared Councillor McIntosh's views on the application and therefore would be supporting officers recommendations.
- 4.7. The Chair said he was of a similar view to Councillor McIntosh and McLeod. He commented that the fence was tastefully done but he would be supporting the officers decision.

Accordingly, the ELLRB by majority of three (3) to one (1) decided to decided to dismiss the appeal and refuse planning permission for the reasons set out within the Planning 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.