



## ***Local Review Body***

West Lothian Civic Centre  
Howden South Road  
LIVINGSTON  
EH54 6FF

30 October 2019

A meeting of the **Local Review Body** of West Lothian Council will be held within the **Council Chambers, West Lothian Civic Centre, Livingston** on **Wednesday 6 November 2019** at **10:00am**.

For Chief Executive

### **BUSINESS**

#### **Public Session**

1. Apologies for Absence
2. Declarations of Interest - Members should declare any financial and non-financial interests they have in the items of business for consideration at the meeting, identifying the relevant agenda item and the nature of their interest
3. Order of Business, including notice of urgent business and declarations of interest in any urgent business
4. Confirm Draft Minutes of Meeting of Local Review Body held on Wednesday 09 October 2019 (herewith).

#### **Public Items for Decision**

5. Notice of Review Application No.0775/FUL/19 - Change of use of public open space to private garden ground and erection of fence at 67 Rowan Drive, Blackburn (herewith)

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NOTE      **For further information please contact Val Johnston, tel No.01506 281604 or email [val.johnston@westlothian.gov.uk](mailto:val.johnston@westlothian.gov.uk)**



## CODE OF CONDUCT AND DECLARATIONS OF INTEREST

This form is to help members. It is not a substitute for declaring interests at the meeting.

Members should look at every item and consider if they have an interest. If members have an interest they must consider if they have to declare it. If members declare an interest they must consider if they have to withdraw.

| NAME | MEETING | DATE |
|------|---------|------|
|      |         |      |

| AGENDA<br>ITEM NO. | FINANCIAL (F) OR NON-<br>FINANCIAL INTEREST (NF) | DETAIL ON THE REASON FOR YOUR DECLARATION<br>(e.g. I am Chairperson of the Association) | REMAIN OR WITHDRAW |
|--------------------|--|---|--------------------|
|                    |  |   |                    |
|                    |  |   |                    |
|                    |  |   |                    |

The objective test is whether a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your discussion or decision making in your role as a councillor.

Other key terminology appears on the reverse.

If you require assistance, please ask as early as possible. Contact Julie Whitelaw, Monitoring Officer, 01506 281626, [julie.whitelaw@westlothian.gov.uk](mailto:julie.whitelaw@westlothian.gov.uk), James Millar, Governance Manager, 01506 281695, [james.millar@westlothian.gov.uk](mailto:james.millar@westlothian.gov.uk), Carol Johnston, Chief Solicitor, 01506 281626, [carol.johnston@westlothian.gov.uk](mailto:carol.johnston@westlothian.gov.uk), Committee Services Team, 01506 281604, 01506 281621, [committee.services@westlothian.gov.uk](mailto:committee.services@westlothian.gov.uk)

## **SUMMARY OF KEY TERMINOLOGY FROM REVISED CODE**

### **The objective test**

“...whether a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your discussion or decision making in your role as a councillor”

### **The General Exclusions**

- As a council tax payer or rate payer or in relation to the council's public services which are offered to the public generally, as a recipient or non-recipient of those services
- In relation to setting the council tax.
- In relation to matters affecting councillors' remuneration, allowances, expenses, support services and pension.
- As a council house tenant, unless the matter is solely or mainly about your own tenancy, or you are in arrears of rent.

### **Particular Dispensations**

- As a member of an outside body, either appointed by the council or later approved by the council
- Specific dispensation granted by Standards Commission
- Applies to positions on certain other public bodies (IJB, SEStran, City Region Deal)
- Allows participation, usually requires declaration but not always
- Does not apply to quasi-judicial or regulatory business

### **The Specific Exclusions**

- As a member of an outside body, either appointed by the council or later approved by the council
- The position must be registered by you
- Not all outside bodies are covered and you should take advice if you are in any doubt.
- Allows participation, always requires declaration
- Does not apply to quasi-judicial or regulatory business

### **Categories of “other persons” for financial and non-financial interests of other people**

- Spouse, a civil partner or a cohabitee
- Close relative, close friend or close associate
- Employer or a partner in a firm
- A body (or subsidiary or parent of a body) in which you are a remunerated member or director
- Someone from whom you have received a registrable gift or registrable hospitality
- Someone from whom you have received registrable election expenses

MINUTE of MEETING of the LOCAL REVIEW BODY held within COUNCIL CHAMBERS, WEST LOTHIAN CIVIC CENTRE, LIVINGSTON, on 9 OCTOBER 2019.

Present – Councillors George Paul (Chair), Lawrence Fitzpatrick, Stuart Borrowman, William Boyle, Pauline Clark and Charles Kennedy

Apologies – Councillors David Dodds, Tom Kerr and David Tait

1. DECLARATIONS OF INTEREST

No declarations of interest were made.

2. MINUTE

The committee approved the Minute of its meeting held on 11 September 2019. The Minute was thereafter signed by the Chair.

3. NOTICE OF REVIEW APPLICATION NO. 0514/FUL/19 - CHANGE OF USE FROM PUBLIC OPEN SPACE TO PRIVATE GARDEN GROUND AND ERECTION OF A FENCE IN RETROSPECT AT 45 LONGPARK PLACE, ELIBURN, LIVINGSTON

The committee considered a report (copies of which had been circulated) by the Clerk and Legal Adviser to the Local Review Body regarding an application to review a decision by the council's Appointed Person to refuse planning permission for a change of use from public open space to private garden ground and erection of a fence (in retrospect) at 45 Longpark Place, Eliburn, Livingston.

Attached to the report were the Notice of Review and other relevant documents. The report identified the policies in the development plan and the relevant guidance that had been referred to in the review documents.

The committee decided that the review documents in conjunction with the site visit conducted before the meeting provided sufficient information to enable the review to be determined without any further procedure.

The committee determined the review application in terms of the statutory test, to have regards to the development plan unless material considerations indicated otherwise

The Local Review Body also took account of the views expressed in the Notice of Review documents.

Decision

To uphold the decision of the Appointed Person and refuse the review application.





## **LOCAL REVIEW BODY**

### **APPLICATION NO.0775/FUL/19 – CHANGE OF USE OF PUBLIC OPEN SPACE TO PRIVATE GARDEN GROUND AND ERECTION OF FENCE AT 67 ROWAN DRIVE, BLACKBURN**

## **REPORT BY CLERK AND LEGAL ADVISER TO THE LOCAL REVIEW BODY**

### **A PURPOSE OF REPORT**

This report describes the documents and other matters relevant to consideration by the Local Review Body of an application for review of a decision by the council's Appointed Person to refuse planning for a change of use of public open space to private garden ground and erection of fence at 67 Rowan Drive, Blackburn.

### **B REVIEW DOCUMENTS**

The following documents form the Review Documents for consideration by the Local Review Body and are circulated to members with this report:-

1. The Notice of Review submitted by the applicant, dated 11 October 2019. This also includes the following documents:-
  - A location plan of the proposals
  - A selection of photographs of the surrounding areas.
2. The Handling Report, prepared by the Planning Case Officer, dated 23 September 2019.
3. The Decision Notice, issued by the Appointed Person, dated 24 September 2019

One representation was made to the application by Roads and Transportation Services which is attached to the report.

The applicant has stated in the review application that they consider that the Local Review Body could decide the review case by an assessment of the review documents or a hearing session.

### **C DEVELOPMENT PLAN POLICIES AND PLANNING GUIDANCE**

The application for planning permission was assessed in terms of Local Development Plan Policy DES 1 (Design Principles) and ENV21 (Protection of Formal and Informal Open Space). The Appointed Person considered that the proposed change of use would result in an area of informal open space being lost and would have an adverse impact on visual amenity through the loss of an area of open space that was part of the visual character of the surrounding area.

**D PLANNING CONDITIONS, LEGAL AGREEMENTS AND GOOD NEIGHBOUR AGREEMENTS**

Without prejudice to the outcome of this review, to assist the Local Review Body in its deliberations and to assist the applicant and interested persons in securing a prompt resolution of the review, the Planning Adviser has drafted planning conditions which the Local Review Body may wish to consider imposing should it be minded to grant planning permission. A copy is circulated with this report.

Winston Roberts, Solicitor, West Lothian Civic Centre

Tel No. 01506 283524, [winston.roberts@westlothian.gov.uk](mailto:winston.roberts@westlothian.gov.uk)

Date: 6 November 2019





**APPLICATION NO.0775/FUL/19 – CHANGE OF USE OF PUBLIC OPEN SPACE TO PRIVATE GARDEN GROUND AND ERECTION OF FENCE AT 67 ROWAN DRIVE, BLACKBURN**

**DRAFT CONDITIONS**

- 1 Unless otherwise agreed with the planning authority in writing, the fence shall be stained dark brown within 2 weeks of it being erected.

*Reason: In the interests of visual amenity.*

Advisory note: The land which is the subject of this permission may form part of the road verge and may contain services. Separate statutory consents may be required.



## NOTICE OF REVIEW

### (LOCAL DEVELOPMENT – DECISION BY APPOINTED PERSON)

This Form is for a review by the West Lothian Council Local Review Body under Section 43A(8) of the Town and Country Planning (Scotland) Act 1997 in respect of decisions by the appointed person on local development applications.

The review will be conducted under the Town and Country Planning (Schemes of Delegation and local Review Procedure) (Scotland) Regulations 2008.

Please read and follow the accompanying West Lothian Council Local Review Body Guidance Notes when completing this form. Failure to supply all the relevant information or to lodge the form on time could invalidate your notice of review.

Use **BLOCK CAPITALS** if you are completing the form by hand.

|   |                                    |                   |                          |
|---|------------------------------------|-------------------|--------------------------|
| <b>PART A</b>   | <b>APPLICANT'S DETAILS</b>         | Name              | Jackie mcfarlane         |
|   |                                    | Address           | 67 rowan drive           |
|   |                                    |                   | Blackburn , West lothian |
|   |                                    | Postcode          | Eh477pd                  |
|   |                                    | Telephone No. (1) | [REDACTED]               |
|   |                                    | Telephone No. (2) |                          |
|   |                                    | Fax :             | [REDACTED]               |
|   | E-mail :                           | [REDACTED]        |                          |
|   | <b>REPRESENTATIVE<br/>(If any)</b> | Name              |                          |
|   |                                    | Address           |                          |
|   |                                    |                   |                          |
|   |                                    | Postcode          |                          |
|   |                                    | Telephone No. (1) |                          |
|   |                                    | Telephone No. (2) |                          |
|   |                                    | Fax :             |                          |
|   | E-mail :                           |                   |                          |
| Please tick this box if you wish all contact to be through your representative.     |                                    |                   |                          |
| Do you agree to correspondence regarding your review being sent by e-mail? * YES/NO |                                    |                   | Yes                      |

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|               |  |   |
|---------------|--|---|
| <b>PART B</b> | <b>APPLICANT REF. NO.</b>                  | 0775/FUL/19   |
|               | <b>SITE ADDRESS</b>                        | 67 rowan drive ,Blackburn<br>West lothian<br>Eh477pd  |
|               | <b>DESCRIPTION OF PROPOSED DEVELOPMENT</b> | Purchase of land adjacent to side of house<br>To extend garden and enable us to<br>Then extend to the rear of the hous for extra living Space |
|               | <b>DATE OF APPLICATION</b>                 | June 2019<br>20/9/19  |
|               | <b>DATE OF DECISION NOTICE (IF ANY)</b>    |   |

**Note:-** This notice must be served on the planning authority within three months beginning with the date of the decision notice or, if no decision notice was issued, from the date of expiry of the period allowed for determining the application.

**Type of Application** (please tick the appropriate box)

|   |                                     |
|---|-------------------------------------|
| Application for planning permission (Including householder application)   | <input checked="" type="checkbox"/> |
| Application for planning permission in principle  |                                     |
| Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition) |                                     |
| Application for approval of matters specified in conditions   |                                     |

✓  
100173869-  
DOI - APPLIC MUNG

|               |   |                                     |
|---------------|---|-------------------------------------|
| <b>PART C</b> | <b>TYPE OF REVIEW CASE</b>  |                                     |
|               | Refusal of application by appointed officer   | <input checked="" type="checkbox"/> |
|               | Failure by appointed officer to determine the application within the period allowed |                                     |
|               | Conditions imposed on consent by appointed officer                                  |                                     |

If yes, you should now explain why you are raising new material, why it was not raised with the appointed officer before, and why you consider it should now be considered in your review.

|  |  |
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|  |  |

#### List of documents and evidence

Please provide a list of all documents, materials and evidence which you wish to submit and rely on in your review. **Ten (10)** copies of these documents, materials and evidence must be lodged with this notice. If necessary, this can be continued or provided in full in a separate document.

|     |   |
|-----|---|
| 1.  | Pictures of green space to front and sides of the house |
| 2.  |   |
| 3.  |   |
| 4.  |   |
| 5.  |   |
| 6.  |   |
| 7.  |   |
| 8.  |   |
| 9.  |   |
| 10. |   |
| 11. |   |
| 12. |   |
| 13. |   |
| 14. |   |

|   |                         |
|---|-------------------------|
| <p><b>Statement of reasons and matters to be raised</b></p> <p>You must state, in full, the reasons for requiring a review of your case. You must also set out and include with your application all the matters you consider require to be taken into account and which you intend to raise in the review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.</p>   |                         |
| <p>State here the reasons for requiring the review and all the matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. <u>You may also submit additional documentation with this form of which ten copies must be provided.</u></p>  |                         |
| <p><b>Purchase land to extend &amp; Improve garden space front &amp; rear</b></p> <p><b>Land required to be extended to enable an extension To the rear</b></p> <p><b>Of the property</b></p> <p><b>Extend living space and prevent house /area move</b></p> <p><b>There are several other green spaces to the front ,left side</b></p> <p><b>And right side of the house one being a child's playpark</b></p> <p><b>Many others have purchased land or were given it to extend</b></p> <p><b>Gardens over The years we have lived here, neighbours direct</b></p> <p><b>To the rear of us purchased a strip of land And extended</b></p> <p><b>Their garden right out to path as well as creating a driveway</b></p> <p><b>We would erect a fence sympathetically in keeping with the</b></p> <p><b>the surrounding area ,and also a lower fence as already in situ</b></p> <p><b>at the front</b></p> <p><b>We feel it is a wish to improve our living space that is Important</b></p> <p><b>To us and enables our family and grandkids more space when</b></p> <p><b>Hence encouraging family commitment to the area my husband</b></p> <p><b>And I wish to remain living in we would have thought the council</b></p> <p><b>Would welcome and encourage this not discourage the family</b></p> <p><b>Home and environment from continuing to be developed in</b></p> <p><b>The longer term.</b></p> |                         |
| <p>Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?</p>  | <p>* YES/NO      No</p> |

## PART D

### REVIEW PROCEDURE

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process ask for further information or representations. The procedure adopted will be one or a combination of meetings; adjourned meetings; written submissions; hearing sessions and inspecting the land which is the subject of the review.

Please indicate what procedure (or combination of procedures) you think is most appropriate. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

Further written submissions

Hearing sessions(s)

Site inspection

Assessment of review documents only, with no further procedure

|   |
|---|
|   |
| ✓ |
| ✓ |
|   |

If you have selected "further written submissions" or "hearing session(s)", please explain which of the matters you have included in your statement of reasons you believe ought to be subject of those procedures, and why.

Neither as I have given a written submission I feel is adequate

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### SITE INSPECTION

The Local Review Body may decide to inspect the land which is subject to the review.

Can the site be viewed entirely from public land?

Yes  
\* YES/NO

Is it possible for the site to be accessed safely, and without barriers to entry?

Yes  
\* YES/NO

If you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain why that may be the case.

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**PART E**

**CHECKLIST**

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review. Failure to supply all the relevant information or to lodge the form on time could invalidate your notice of review.

Full completion of all parts of this form

✓

Statement of your reasons for requiring a review and matters to be raised

✓

Statement of your preferred procedure

✓

All documents, materials and evidence INCLUDING LOCATION PLANS AND/OR DRAWINGS which you intend to rely on. Copies must accompany this notice.

Where your case relates to another application (e.g. it is a renewal of planning permission or a modification, variation or removal of a planning condition, or an application for approval of matters specified in conditions), it is advisable to provide that other application reference number, approved plans and decision notice from that earlier consent.

**\*\*\*DECLARATION\*\*\***

I, the applicant/agent\*, hereby require West Lothian Council to review the case as set out in this form and in the supporting documents, materials and evidence lodged with it and which includes those plans/drawings that were used by the Appointed Person when determining the original planning application.

I have been provided with a copy of the West Lothian Council Local Review Body Guidance Notes before lodging this notice.

Signed

[Redacted Signature]

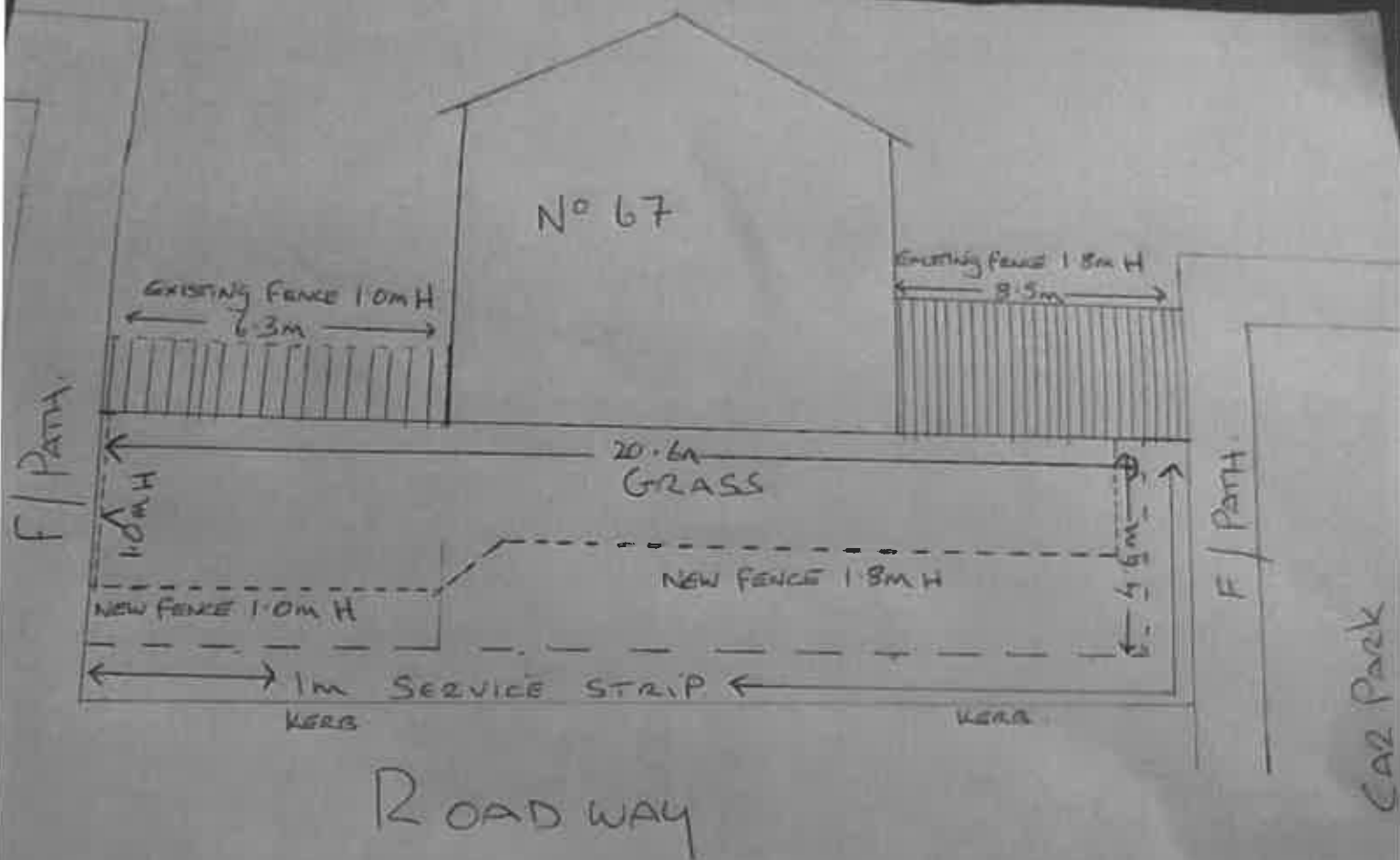
Date 11/10/19

\* Delete as appropriate

Please return this completed form to :-

Val Johnston  
Committee Services  
West Lothian Council  
West Lothian Civic Centre  
Howden South Road  
Livingston  
EH54 6FF







- VIEW OF GROUND WE WISH TO PURCHASE AT THE SIDE OF OUR HOUSE



- This is grassland to the left & across the road from our house  
evidencing some of the large amount of grassland around  
our area



— SOME OF THE GRASSY AREA AT FRONT OF OUR HOUSE



THIS IS AN EXAMPLE OF SOME ONE ELSE WHO HAS BOUGHT SPACE FOR GARDEN  
SIMILAR TO WHERE OURS IS.

THIS IS AT THE OPPOSITE END OF OUR STREET.





GREEN SPACE TO THE LEFT OF OUR HOUSE ADJACENT TO THE ROAD AT SIDE OF HOUSE  
LEADING TO THE CAR PARK AT REAR OF OUR HOUSE



- GREEN SPACE TO FRONT & RIGHT OF OUR HOUSE

IN THE DISTANCE ACROSS & ON LEFT SIDE OF ROAD ARE HOUSES WHERE  
LAND WAS GIVEN TO RESIDENTS AT THE FRONT OF THEIR HOMES FOR EXTENDED  
GARDEN / DRIVEWAY USE.



GROUND GIVEN TO RESIDENTS FOR RETAINED GARDEN / DRIVE WAY USE.



GRASS SPACE DIRECTLY IN FRONT OF OUR HOUSE - WHERE THE CHILDREN'S PLAY PARK HAS RECENTLY BEEN REINSTALLED.

## **DECISION NOTICE REFUSAL OF PLANNING PERMISSION**

Town and Country Planning (Scotland) Act 1997, as amended

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West Lothian Council, in exercise of its powers under the Town & Country Planning (Scotland) Act 1997 (as amended), **refuses full planning permission for the development described below**, and in the planning application and docquetted plan(s).

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**APPLICATION REFERENCE 0775/FUL/19**

|                  |   |
|------------------|---|
| <b>PROPOSAL</b>  | Change of use of public open space to private garden ground and erection of a fence     |
| <b>LOCATION</b>  | 67 Rowan Drive, Blackburn, Bathgate, West Lothian, EH47 7PD, (GRID REF: 298974, 666199) |
| <b>APPLICANT</b> | Mrs Jackie Mcfarlane, 67 Rowan Drive, Blackburn, Bathgate, West Lothian, EH47 7PD       |

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The above **local application was determined by an officer appointed by the council in accordance with its scheme of delegation**. Please see the advisory notes for further information, including how to request a review of any conditions.

Docquetted plans relative to this decision are identified in Annex 1, Schedule of Plans.

**Dated:  
24.09.2019**

**Craig McCorriston  
Head of Planning, Economic Development and Regeneration**

**West Lothian Council  
West Lothian Civic Centre  
Howden South Road  
Livingston  
EH54 6FF**

**Signature:**



DATA LABEL: PUBLIC



**The council in exercise of its powers under the Town and Country Planning (Scotland) Act 1997 (as amended) refuses planning permission for planning application 0775/FUL/19, for the reason(s) set out as follows:**

- 1 The proposed change of use from public open space to private garden will have an adverse impact on visual amenity through the loss of an area of open space that is part of the visual character of the surrounding area.

The proposal is contrary to Policies DES 1 (Design principles) and ENV 21 (Protection of formal and informal open space) of the West Lothian Local Development Plan (2018).

**ADVISORY NOTES TO DEVELOPER**

***How to challenge the council's Decision***

*If your application was determined under delegated powers as a local application by an officer appointed by the council and you disagree with the council's decision on your application, or one or more of the conditions attached to the decision, you can apply for a review by the council's Local Review Body. If the application was heard at a committee and in any other case you can seek an appeal of that decision to the Government's Directorate for Planning and Environmental Appeals. You can find information on these processes and how to apply for a review, or to appeal, here: <http://www.westlothian.gov.uk/article/2078/Decisions-Reviews-and-Appeals>*

***If the decision of the council is overturned by the Local Review Body or the Directorate for Planning and Environmental Appeals, the developer of the land should be made aware of the following notes.***

***Notification of the start of development***

*It is a legal requirement that the person carrying out this development must notify the planning authority prior to work starting on site. The notification must include full details of the name and address of the person carrying out the development as well as the owner of the land and must include the reference number of the planning permission and the date it was granted. If someone is to oversee the work, the name and contact details of that person must be supplied. The relevant form is available online on the council web site under Planning and Building Standards. Please ensure this form is completed and returned accordingly.*

***Notification of completion of development***

*The person who completes this development must, as soon as practicable after doing so, give notice of completion to the planning authority. The relevant form is available online on the council web site under Planning and Building Standards. Please ensure this form is completed and returned accordingly.*

***Contaminated land procedures***

*In the event that contamination is found at any time when carrying out the approved development that was not previously identified, work on site shall cease and the issue shall be reported in writing to the planning authority immediately. The developer is required to follow the councils Supplementary Planning Guidance Development of land potentially affected by contamination. This document provides developers and their consultants with information on dealing with the planning process in West Lothian when development is proposed on land which is suspected of being affected by contamination. This document and further guidance is provided via the Councils web pages at <http://www.westlothian.gov.uk/article/2220/Contaminated-Land>*



### ***Liaison with the Coal Authority***

*As the proposed development is within an area which could be subject to hazards from current or past coal mining activity, the applicant is advised to liaise with the Coal Authority before work begins on site, to ensure that the ground is suitable for development.*

*Any activities which affect any coal seams, mine workings or coal mine entries (shafts) require the written permission of the Coal Authority. Failure to obtain such permission constitutes trespass, with the potential for court action. The Coal Authority is concerned, in the interest of public safety, to ensure that any risks associated with existing or proposed coal mine workings are identified and mitigated.*

*To contact the Coal Authority to obtain specific information on past, current and proposed coal mining activity you should contact the Coal Authority's Property Search Service on 0845 762 6848 or at **www.groundstability.com**.*

### ***Advisory note to developer - General***

*Please note that it is the developer's responsibility to ensure that all relevant consents and certificates are in place prior to starting work on site and that it is the developer's responsibility to speak with service authorities to ensure safe connection is possible to allow the development to proceed.*

### **Annex 1, Schedule of Plans - 0775/FUL/19**

| Docquetted Number | Drawing Description      | Drawing Number |
|-------------------|--------------------------|----------------|
| 1                 | Location Plan            | -              |
| 2                 | Site Plan and Elevations | -              |



## HANDLING REPORT

|                      |                      |                 |  |
|----------------------|----------------------|-----------------|--|
| <b>Ref. No.:</b>     | 0775/FUL/19          | <b>Email:</b>   | matthew.watson@westlothian.gov.uk                                  |
| <b>Case Officer:</b> | Matthew Watson       | <b>Tel No.:</b> | 01506 283536   |
| <b>Ward:</b>         | Whitburn & Blackburn | <b>Member:</b>  | Bruce Fairbairn<br>Kirsteen Sullivan<br>Jim Dickson<br>George Paul |

|                               |  |
|-------------------------------|--|
| <b>Title</b>                  | Change of use of public open space to private garden ground and erection of a fence (Grid Ref: 298974,666199) at 67 Rowan Drive, Blackburn, Bathgate, West Lothian, EH47 7PD |
| <b>Application Type</b>       | Local Application  |
| <b>Decision Level</b>         | Delegated List   |
| <b>Site Visit</b>             | 29.08.2019   |
| <b>Recommendation</b>         | Refuse Permission  |
| <b>Decision</b>               |  |
| <b>Neighbour Notification</b> | Neighbour notification procedures have been carried out correctly - case officer verification. YES   |
| <b>Advertisement</b>          |  |

## Description of Proposals

Change of use of public open space to private garden ground and erection of a fence

## Site History

No previous planning history.

## Representations

This is a summary of the representations received. The full documents are contained in the application file.

No representations received.

## Consultations

This is a summary of the consultations received. The full documents are contained in the application file.

| Consultee                                | Objection? | Comments  | Planning Response |
|--|------------|---|-------------------|
| West Lothian Council Open Space          | N/A        | No comments received.   | N/A               |
| West Lothian Council Grounds Maintenance | N/A        | No comments received.   | N/A               |
| Transportation                           | No         | No objection but a service strip is required along the roadway. | Noted.            |

## Policies Considered

| Policy Title   | Policy Text   |
|--|---|
| ENV21 - Protection of Formal and Informal Open Space | Proposals which will result in the loss of open space will not be supported unless it can be demonstrated that: a. there is a specific locational justification for the development which outweighs the need to retain the open space; b. there is no significant adverse effect on the overall recreational amenity of the local area, taking account of the council's Open Space Strategy; c. the area is not of significant ecological value and disturbance and loss of trees, woodlands and wildlife habitats or green corridors is minimised; d. comparable open space or enhancement of existing open space can be provided and/or paid for by the developer at an appropriate alternative location where this will provide adequate and acceptable replacement for the open space lost as a result of the development; and e. connectivity within, and functionality of, the wider green network is not threatened and public access routes in or adjacent to the open space will be safeguarded. |
| DES1 - Design Principles                             | All development proposals will require to take account of and be integrated with the local context and built form. Development proposals should have no significant adverse impacts on the local community and where appropriate, should include measures to enhance the environment and be high quality in their design. Development proposals which are poorly designed will not be supported. When assessing development proposals, the developer will be required to ensure that: a. there is no significant adverse impact on adjacent buildings or streetscape in terms of layout, scale, massing, design, external materials or amenity; b. there is no significant adverse impact on landscape character, built heritage, habitats or species including European sites,   |

|  |   |
|--|---|
|  | <p>biodiversity and Protected Species nor on amenity as a result of light, noise, odours, dust or particulates; c. the proposed development is accessible for all, provides suitable access and parking, encourages active travel and has no adverse implications for public safety; d. the proposal includes appropriate integrated and accessible infrastructure, open space, green infrastructure and landscaping; e. sustainability issues are addressed through energy efficient design, layout, site orientation and building practices; f. the development does not result in any significant adverse impact on the water environment as required by the Water Framework Directive and related regulations and as appropriate, mitigation to minimise any adverse effects is provided; g. there are no significant adverse effects on air quality (particularly in and around Air Quality Management Areas), or on water or soil quality and, as appropriate, mitigation to minimise any adverse effects is provided; and h. risks to new development from unstable land resulting from past mining activities are fully assessed and, where necessary, mitigated prior to development. Where appropriate, developers will be required to produce masterplans, design statements and design guides in support of their proposals. Development proposals must also accord with other relevant policies and proposals in the development plan and with appropriate supplementary guidance.</p> |
|--|---|

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## **Policy Assessment**

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See below.

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## **Officer Assessment**

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The application proposes the change of use of an area of informal open space to the east of 67 Rowan Drive.

Policy ENV 21 criterion (a) of the West Lothian LDP states that where open space would be lost (this includes change of use to garden ground) there needs to be a locational justification.

Policy DES 1 (Design principles) of the LDP states that development must integrate with its local context and built form.

The proposed change of use will result in an area of informal open space being lost. These areas of open space to the sides of boundary walls are a part of the character of the area and have been purposely integrated into the layouts of the housing developments in the area; they are considered to be, an integral part of the visual character of the area.

Although the area of open space has no recreational value and will not result in a disturbance of wildlife species or a loss of trees, the change of use will result in an adverse

impact on visual amenity by virtue of the loss of a feature that is part of the character of the area. There is no locational justification for its loss. The proposal is contrary to policies ENV 21 and DES 1.

Consequently, and in view of the above, it is recommended that planning permission is refused.

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**Other Considerations**

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N/A

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**Conclusions and Reasons for Decision**

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In summary, there is no justification for the loss of areas of open space that are part of the visual character of the area. The proposal is contrary to policies ENV 21 and DES 1.

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**List of Review Documents**

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Drawings schedule:

| Docquetted Number | Drawing Description      | Drawing Number |
|-------------------|--------------------------|----------------|
| 1                 | Location Plan            | -              |
| 2                 | Site Plan and Elevations | -              |

Other relevant documents:

West Lothian Local Development;

Case Officer .....MATTHEW WATSON.....

Date.....23/09/2019.....



OPERATIONAL SERVICES  
ROADS & TRANSPORTATION  
DEVELOPMENT MANAGEMENT & TRANSPORTATION PLANNING

## ROADS & TRANSPORTATION CONSULTATION RESPONSE TO PLANNING APPLICATION

| This proposal is (tick as appropriate)  |                                     | Signing Off   |                  |
|---|-------------------------------------|---|------------------|
| Acceptable without conditions   | <input type="checkbox"/>            | DM & TP Officer<br>Roads & Transportation           | Chris Nicol      |
| Acceptable with conditions noted below  | <input checked="" type="checkbox"/> | DM & TP Manager<br>Roads & Transportation           |                  |
| Not acceptable & should be refused  | <input type="checkbox"/>            | Date Issued to<br>Development Management<br>Officer | 5 September 2019 |
| HOLDING OBJECTION – The application is not acceptable in current format and applicant requires to submit additional information to enable the proposals to be fully assessed. |                                     |   |                  |

|                                      |   |
|--------------------------------------|---|
| Recommendation & Proposed Conditions | <p>From a Roads &amp; Transportation view, this application is approved subject to the following conditions:-</p> <p><b>A 2 metre wide service strip along the edge of the roadway is required.</b></p> |
|--------------------------------------|---|

|                 |   |             |                      |
|-----------------|---|-------------|----------------------|
| DM Case Officer | Matthew Watson  | Applicant   | Mrs Jackie Mcfarlane |
| Application Ref | 0775/FUL/19   | Date Issued | 16 August 2019       |
| Proposal        | Change of use of public open space to private garden ground and erection of a fence |             |                      |
| Location        | 67 Rowan Drive, Blackburn   |             |                      |

| Legislation & Guidance Applicable (tick as appropriate)         | Constraints (tick as appropriate)                        |
|---|--|
| Roads (Scotland) Act 1984 <input checked="" type="checkbox"/>   | Public Footpath / Rights of Way <input type="checkbox"/> |
| Designing Streets <input type="checkbox"/>                      | Core Path Plan <input type="checkbox"/>                  |
| SCOTS National Roads Development Guide <input type="checkbox"/> | <input type="checkbox"/>                                 |
| SUDS for Roads <input type="checkbox"/>                         | <input type="checkbox"/>                                 |
| Sewers for Scotland <input type="checkbox"/>                    | <input type="checkbox"/>                                 |
|   | Other (please specify) <input type="text"/>              |

|   |   |
|---|---|
| Site Description  | Open space along side of property in housing area |
| Quality Plan  | N/A   |
| Road Safety Audit   | N/A   |
| Transport Assessment or Statement   | N/A   |
| Does the red line boundary reach the adopted public road                                | Yes   |
| Is there a footway or footpath connecting the site to the existing adopted road network | N/A   |
| Drawings & documents assessed   | Site photos<br>Fence plan                         |
| Does Road Layout comply with WLC Standards  | Proposal to keep a 2m service strip               |
| Does Parking comply with WLC Standards (including disabled provision)                   | N/A   |
| Sightline   | N/A   |



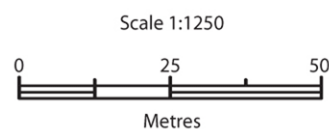
|  |    |
|--|----|
| Requirements   |    |
| Do the proposals affect any existing TRO's (e.g) waiting restrictions, speed limits) or bus stop locations | No |
| Do the proposals affect any Core Paths, NCR's or Rights of Way   | No |
| SUDS Details   |    |
| Site History including any previous planning applications  |    |

ROADS & TRANSPORTATION MANAGER  
Operational Services  
Whitehill Service Centre  
4 Inchmuir Road  
Whitehill Industrial Estate  
Bathgate  
West Lothian  
EH48 2EP





67, Rowan Drive, Blackburn, Bathgate



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The representation of a road, track or path is no evidence of a right of way.

The representation of features as lines is no evidence of a property boundary.

Date Of Issue: 24 July 2019  
Supplied By: Getmapping  
Supplier Plan Id: 220220\_1250  
OS License Number: 100030848  
Applicant: Jackie Mcfarlane  
Application Reference: 100173869-001





















**WEST LOTHIAN COUNCIL LOCAL REVIEW BODY**

**MEETING CHECKLIST**

**Questions to Committee**

|   |  |  |   |
|---|--|--|---|
| 1 | Are there any factual disputes to be resolved?   | Yes or No                              | If Yes handover to the Planning Adviser/Legal Adviser<br>If No proceed to next question |
| 2 | Do we have enough information to determine the application?                                    | Yes or No                              | If Yes move to Q5<br>If No proceed to next question                                     |
| 3 | If additional information is needed what is that and how do we get it?                         | Written Submissions or Hearing Session |   |
| 4 | How long do we need to continue the review to allow the additional information to be provided? | One or two cycles                      |   |
| 5 | Has any new material been provided by the applicant?   | Yes or No                              | If yes handover to the Planning Adviser/Legal Adviser                                   |

**Move to Questions from Committee**

**Move to Comments from Committee**

**DETERMINATION**

|    |   |                             |  |
|----|---|-----------------------------|--|
| 6  | Does the application conform with or breach any of the development plan policies?                                       | If so which policies apply  |  |
| 7  | Decide as per development plan unless justified by material considerations – what are the material considerations?      | Any material considerations |  |
| 8  | In applying the statutory test, what is the decision (each member decides leading to motion and possibly amendment(s))? |                             |  |
| 9  | Members must provide planning reasons for motion and any amendment as well as for decision letter and minute            |                             |  |
| 10 | Go to vote (if necessary) – this will be conducted by the Legal Adviser   |                             |  |