



**MINUTES OF THE MEETING OF THE
LOCAL REVIEW BODY**

**THURSDAY 21 MARCH 2013
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Committee Members Present:

Councillor N Hampshire (Convener)
Councillor J Gillies
Councillor L Broun-Lindsay

Advisers to the Local Review Body:

Mr P McLean, Planning Adviser to the LRB
Mrs M Ferguson, Legal Adviser/Clerk to the LRB

Committee Clerk:

Mrs F Stewart

Declarations of Interest

None

Apologies

Councillor P McLennan

**1. REVIEW AGAINST DECISION (REFUSAL)
PLANNING APPLICATION No: 12/00750/P – REMOVAL OF PLANNING
CONDITION (PP 11/00631/P) REFUSING PERMISSION FOR PVCu
WINDOWS TO FRONT ELEVATION OF PROPERTY AT 25 BALFOUR
STREET, NORTH BERWICK.**

The Clerk welcomed everyone to the meeting and introduced the Local Review Members, the Planning Adviser and the Legal Adviser. She also advised that a site visit, attended by all three Members, had been carried out prior to the meeting.

The Clerk outlined the procedure for today's meeting where Members would review the decision of the Planning Officer on one planning application. After hearing a statement from the Planning Adviser, Members would consider if they had sufficient information before them to reach a decision today. If they agreed that they had sufficient information, Members would proceed to consider the applicant's submission and the Case Officer's response. If they did not have sufficient information, the meeting would adjourn for further written representations or for a full Hearing. If Members decided that a Hearing was appropriate, they had to identify the specific issues they wished to address, giving advance notice to the parties involved.

The Planning Adviser presented a brief summary of the issues relevant to the application. He advised that the application site was a ground-floor mid-terrace flat within a three-storey building and that the applicant was seeking retrospective planning permission for the installation of three new PVCu windows on the front elevation, replacing timber windows. The form and glazing pattern of the new windows was similar to those they replaced; the key difference was in the framing material. The background to this application was that an earlier application in July 2011 sought planning permission for replacement windows to both front and rear of this property, with those to the rear being approved in September 2011 but those to the front being refused by a condition of the planning permission. This current application sought to remove this condition of the earlier permission and thereby grant consent for the replacement front windows.

The Planning Adviser stated that the Planning Act required decisions on planning applications to be taken in accordance with development plan policy unless material considerations indicated otherwise. The Listed Buildings and Conservation Areas Act further required that special attention was paid to the desirability of preserving or enhancing the character or appearance of the area. The site was within a predominantly residential area, designated under local plan policy ENV1, and within the North Berwick Conservation Area but the building was not listed. The main policy considerations were design and impacts on the Conservation Area and the key policies in this respect were Structure Plan policy ENV1D and Local Plan policy ENV4. In addition, Local Plan policy DP8 related specifically to replacement windows, stating that replacement windows in Conservation Areas had to preserve or enhance the area's special architectural or historic character. The Planning Adviser outlined the terms of this policy.

The application had been refused by the appointed officer on the basis that the PVC windows did not preserve the positive contribution that the traditional timber-framed sash and case windows made to the special architectural or historic interest of the Conservation Area. Consequently the application was considered contrary to relevant development plan policies and to Scottish Planning Policy. The officer's report had also noted that permission was granted in the 1980s for aluminium windows in several properties in this terrace under the policies applicable at that time, but there were no records of permissions for any PVCu windows on this

terrace; indeed permission was refused for PVCu windows at number 15 Balfour Street in 2002 and again in 2012. The latter application came before the LRB in December 2012 which refused permission for PVC windows on the front elevation but allowed them on the rear.

Finally, the Planning Adviser summarised the applicant's request for a review which argued that the previous timber windows allowed draughts and heat loss. The agent explained that it was advised that permission had been approved in 2011 and PVC windows were installed on both front and rear elevations, with the issue of a condition refusing permission for the front windows not having been raised. The agent argued that, although the examples of non-timber windows referred to in the officer's report pre-date the current Local Plan, they do set a precedent for non-timber windows to be acceptable in the area. It was also argued that the windows would not have any negative impact on the area or building as they matched the original windows in all respects other than material. They were therefore argued to have at worst a neutral effect on the building and the conservation area. There were no consultations carried out on the application by the case officer and no representations were received.

In summary, the main questions for the LRB to consider in reviewing the case were whether the proposed development would comply with the policies of the development plan in respect of design and impacts on the Conservation Area, and whether there were any other material considerations that should be taken into account which outweighed the provisions of the development plan in this case.

The Convener advised that it was now for Members to make an assessment of the case and to decide if they had sufficient information to determine the application. After discussion, Members agreed unanimously to proceed with the application today.

The Convener referred to the reason for refusal of the application given in the original Decision Notice and considered that the planning policies cited there were important and needed to be observed. He noted that the applicant had considered that consent had been given for the installation of the windows on the front elevation, but Condition 2 of the consent granted under reference 11/00631/P clearly stated that planning permission was not granted for the windows proposed for the front elevation. He also noted that the applicant argued that there were other PVCu windows in the street, however, planning permission for those windows pre-dated current planning policies. In his view, the windows installed on the front elevation were of good quality, but the framing material was different to the original timber and thus they were in contravention of Local Plan policy DP8. He therefore considered that the decision of the Planning Officer to refuse to vary the condition should be upheld.

Councillor Broun-Lindsay agreed that these planning policies relating to protection of the Conservation Area were important and should be adhered to in the absence of a compelling reason to depart from them. He acknowledged that the windows installed appear to be of a high quality but pointed out that PVCu deteriorates and degrades with age. Taking a longer term view, therefore, he would be supporting the decision of the Planning Officer.

Councillor Gillies concurred with the views of his colleagues and indicated that he would be supporting the decision of the Planning Officer.

Finally, the Convener referred to Page 2 of the Grounds of Appeal submitted by the applicant where it stated that the drawings showing PVCu windows to the front elevation were stamped approved. In response, the Planning Adviser stated that this was standard practice but the Condition imposed would still apply.

Decision

The ELLRB unanimously agreed to reject the review and uphold the decision of the Planning Officer for the reason set out in the original Decision Notice dated 13 November 2012. The Clerk advised that a formal Decision Notice would be issued within 21 days.