

## REVIEW DECISION NOTICE

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Decision by East Lothian Local Review Body (the ELLRB)

Site Address: Green Craig, Aberlady, EH32 0PY

Application for Review by Wemyss and March Estate against decision by an appointed officer of East Lothian Council.

Application Ref: 12/00810/P

Application Drawings: DWG001, DWG002, DWG003, (PL)02 and (PL)03.

Date of Review Decision Notice – 3<sup>rd</sup> July 2013

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### **Decision**

The ELLRB reverses the decision to refuse this application and grants Planning Permission for the change of use of hotel/guest house and land (class 7) to form 1 house with ancillary residential accommodation and domestic garden ground at Green Craig, Aberlady, East Lothian.

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**

1.1 The above application for planning permission was considered by the ELLRB, at a meeting held on 20<sup>th</sup> June 2013. The Review Body was constituted by Councillor John McMillan (Chair), Councillor Willie Innes, Councillor Jim Gillies and Councillor David Berry. All four members of the ELLRB had attended an accompanied site visit in respect of this application on the morning of 20<sup>th</sup> June 2013.

1.2 The following persons were also present at the meeting of the ELLRB:-

Phil McLean, Planning Adviser (in attendance on Site Visit)  
Morag Ferguson, Legal Adviser  
Fiona Stewart, Clerk.

### **2 Proposal**

2.1 The application site is in a countryside location around a mile west of Aberlady. The planning application sought approval for a change of use of Green Craig from class 7 hotel or guest house use to use as a dwellinghouse with ancillary residential accommodation. No physical alterations or works in the grounds were proposed. The planning application was registered on 13<sup>th</sup> November 2012 and was refused under delegated powers on 11<sup>th</sup> January 2013. The notice of review is dated 11<sup>th</sup> April. The reason for refusal is set out in full in the Decision Notice and is, in summary, that it has not been demonstrated that all reasonable efforts have been made to retain this

property in use as a hotel or guest house and thus the proposed change of use if contrary to policy TOUR4 of the adopted East Lothian Local Plan 2008. The Applicant has applied to the ELLRB to review the decision to refuse planning consent.

### **3 Preliminaries**

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

1	The drawings specified above
2	The application for planning permission with supporting statement
3	The Appointed Officer's Report of Handling
4	A copy of the Decision Notice dated 11 <sup>th</sup> January 2013
5	Copy of the Consultation Response from ELC's Transportation Services
6	Copies of Policy TOUR4 of the Adopted East Lothian Local Plan 2008
7	Notice of Review dated 11 <sup>th</sup> April 2013 and supporting review statement with Appendices

### **4 Findings and Conclusions**

4.1 The ELLRB confirmed that the application for a review of the original decision 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.

The Members asked the Planning Adviser to summarise the planning policy position in respect of this matter. The Planning Adviser gave a brief presentation to Members confirming that the site is within an area designated as countryside under Local Plan policy DC1. He advised that the broad policy context for development in the countryside is provided by that policy and structure plan policy ENV3 and that these policies seek to restrict development in the countryside to protect its character, while allowing some limited forms of appropriate development. Change of use of a building to housing is acceptable where the existing building is worthy of retention by virtue of its architectural or historic character.

He advised that the Local Plan contains a policy specifically addressing the loss of hotel accommodation, namely policy TOUR4, which policy seeks to avoid the loss of hotel accommodation, unless it has been demonstrated that reasonable efforts have been made to retain the property in use as a hotel. He advised that the Local Plan policies on transport and parking are also relevant, specifically policies T2 and DP22, which seek to ensure new development does not have adverse consequences for road safety, and is served by sufficient private parking. He confirmed that the site is also within a designated Area of Great Landscape Value and a listed wildlife site and close to a Special Protection Area and Site of Special Scientific Interest and was happy to detail relevant policies if required.

He outlined the relevant planning history of the site, noting that two previous applications for a change of use of the property to a house were refused in 2003 and 2005.

He reminded the LRB that the application was refused by the appointed officer on the basis that it had not been demonstrated that reasonable efforts had been made to retain the property in use as a hotel and therefore the proposals were considered to be contrary to local plan policy TOUR4. The officer considered the proposals acceptable in others respects and the full details of this assessment are in the handling report.

He summarised the applicant's case for a review, namely, that reasonable efforts have been made to retain the building in use as a hotel but that this is not practical or sustainable, information submitted in support of this case indicates the financial position of the business which has been making a loss and that the applicant is a significant contributor to local economic and tourism initiatives, including the development of a new hotel facility at Craighielaw golf club. He noted that the applicant states there is no desire to sell the property and has argued that it is unreasonable to interpret policy TOUR4 as requiring marketing of the site for sale. In addition, the applicant states that the building was originally built as a house and its design is most suited to that use. The Planning Adviser summarised the applicant's argument that the proposals will have no impact on East Lothian's overall competitiveness as a tourist destination. However, the Council's Economic Development Manager objected to the application on the basis of the importance of tourism and golf to the local economy and the lack of marketing of the site.

The Planning Adviser confirmed that no public representations were received.

He summarises the main questions for the ELLRB to consider in reviewing the case as:

- Whether the proposed development would comply with the policies of the development plan, including in respect of loss of hotel accommodation;
- Whether there are any other material considerations that should be taken into account, and whether any of these outweigh the provisions of the development plan in this case.

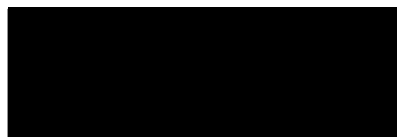
Finally, he reminded Members that they have the option of seeking further information if necessary, either by means of further written representations or through the holding of a hearing session.

The Chair asked the members to consider whether they had sufficient information to enable them to proceed to make a decision in respect of this matter. All members considered that they did have sufficient information. Accordingly, the decision of the ELLRB was that they would proceed to reach a decision at this meeting.

- 4.2 Councillor Berry commented that he had sympathy with the difficulties in maintaining this hotel business in the long term but he had seen many hotels close in East Lothian over recent years and considered that this was contrary to the tourism strategy of retaining visitors in the area for more than just day trips. He had seen no evidence of any efforts to market the property as a going concern and felt that the unique location and character of the site made this an important site for a hotel in the area. In all the circumstances he was minded to uphold the original decision to refuse this application.
- 4.3 Councillor Innes took the opposite view; he considered that the applicant had demonstrated a commitment to East Lothian and to the business by continuing to run it at a loss for several years. Whilst he agreed that it was regrettable that East Lothian was losing another hotel, he understood that visitor expectations had changed and that the design and size of this property limited the ability to adapt to modern requirements. Having considered all the facts of the case he was minded to overturn the original decision to refuse planning permission and support this application. Councillor Gillies agreed with the comments of Councillor Innes, particularly regarding the change in visitor expectations and confirmed that he would also support this application and vote to overturn the original decision to refuse planning permission. Finally, Councillor McMillan confirmed that he considered the application to have merit. He considered that the applicant had adequately demonstrated that the continued use of the property

as a hotel was not viable and thus he was prepared to support the application and overturn the original decision to refuse planning permission for the change of use.

- 4.4 Accordingly, the ELLRB members, by a majority of three to one, concluded that the original decision to refuse planning permission should be overturned and that planning permission should be granted for the change of use of hotel/guest house and land (class 7) to form 1 house with ancillary residential accommodation and domestic garden ground at Green Craig, Aberlady, East Lothian.



**Morag Ferguson**  
**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.