

REVIEW DECISION NOTICE

Decision by East Lothian Local Review Body (the ELLRB)

Site Address: 11 Stoneybank Grove, Musselburgh, EH21 6HF

Application for Review by Mrs Wilma Menzies against decision by an appointed officer of East Lothian Council.

Application Ref: 13/00207/P

Application Drawings: 134-01, 132-03, 132-02 and 132-04.

Date of Review Decision Notice – 18th September 2013

Decision

The ELLRB reverses the decision to refuse this application and grants Planning Permission.

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 29th August 2013. The Review Body was constituted by Councillor Jim Goodfellow (Chair), Councillor John McMillan, Councillor John McNeil and Councillor John Williamson. All four members of the ELLRB had attended an unaccompanied site visit in respect of this application on 28th August 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 at 11 Stoneybank Grove in Musselburgh, which is an upper floor flat in a two-storey "four-in-a-block" style building. The proposal is for an extension to the hipped and pitched roof of the property to form a gable end and the formation of dormer windows to front and back. Permission is also sought for infilling and rendering part of a window opening on the rear elevation. The application was registered by East Lothian Council's planning service on 12th March 2013 and was refused planning consent by virtue of a Decision Notice dated 7th May 2013. The reasons for refusal were set out in full in that Decision Notice and are, in summary, that, the features of the proposed extension would be disproportionate, dominant and incongruous features harmful to the character and appearance of the flatted building, of the streetscape of Stoneybank Grove and of the area and that the development would set a harmful precedent for similar extensions to the hipped end roof slopes of the other flatted buildings in the locality to the greater detriment of the streetscape of Stoneybank Grove and the character and appearance of the area, all contrary to the provisions of the development plan. 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
3	The Appointed Officer's Report of Handling
4	A copy of the Decision Notice dated 7 th May 2013
5	Copies of Policy ENV1G of the Approved Edinburgh and the Lothians Structure Plan 2015
6	Copies of Policies ENV1 and DP6 of the Adopted East Lothian Local Plan 2008
7	Copy of Appointed Officer's supporting statement
8	Copy photographs of the application site
9	Notice of Review dated 23 rd May 2013 and supporting review statement

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 advising that there had been a change to the Development Plan since the original delegated decision was taken in respect of this application: the Strategic Development Plan for South East Scotland (SESplan) was approved on 27th June 2013 and replaced the Edinburgh and the Lothians Structure Plan 2015. He confirmed that there are no policies within SESplan of direct relevance to this application although Policy 1B states that Local Development Plans should have regard to the need for high quality design.

He advised that the site is within a predominantly residential area, designated under Local Plan Policy ENV1, which seeks to safeguard residential character and amenity and that the main policy consideration is design. Local Plan Policy DP6 addresses extensions and alterations to existing buildings and requires these to be well integrated into their surrounding and in keeping with the original building. He reminded Members that the full text of these policies is within the Review Documents.

He reiterated that the application was refused by the Appointed Officer on the basis that the roof extension and dormers would be harmful to the character and appearance of the building, the surrounding streetscape and the local area. The reasoning for this is set out in full in the officer's report; essentially it argues that the hipped end form is a distinctive characteristic of the two-storey flatted buildings in the area and the proposals would radically alter this. The proposals were therefore considered contrary to relevant Development Plan policy. It was also considered that approval would set a precedent for similar extensions, which would have further cumulative impacts.

However, he confirmed that the Appointed Officer considered the proposed infilling of part of the window opening on the rear elevation to be acceptable and that the proposed development was acceptable in terms of privacy and amenity impacts.

He summarised the applicant's request for a review, which states that there are only two similar buildings in the cul-de-sac with the other buildings having gable ends already. The proposed design is argued not to be harmful to the appearance of the building and attention is drawn to other examples of extensions that are said to be similar, with photographs of these being supplied in the Review Statement. In terms of precedent, it is argued that any precedent would not be a harmful one. Finally it is stated that the existing home is too small to meet the household's growing needs.

He advised that the Appointed Officer submitted an additional statement in response to the applicant's Review Statement, in which he states that the photographs supplied by the applicant did not include addresses and therefore it could not be determined whether or not planning

permission had been granted for these examples. He also gives details of two planning applications for a dormer window at an address on Monktonhall Terrace, where an original design was refused and he argues that this is similar to the current application site.

The Planning Adviser confirmed that there were no consultations carried out on the application by the Appointed Officer and no representations were received on the original application nor in response to the Notice of Review.

Finally, the Planning Officer summarised the main questions for the ELLRB to consider in reviewing the case, namely:

- Whether the proposals comply with development plan policy in respect of design; and
- 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.

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 McMillan stated that he found the reasoning in the Report of Handling to be sound and he agreed with the conclusion reached by the Appointed Officer. Following the site visit, he considered that the other examples provided by the applicant were not sufficiently similar to this site to persuade him that the original decision to refuse planning permission was unreasonable and, in the circumstances, he was minded to uphold the original decision to refuse this application.

4.3 Councillor Williamson confirmed that, having reviewed this application, he was minded to overturn the original decision to refuse planning permission and support this application. He considered that the importance of the streetscape may have been overstated as this was a cul-de-sac and there were no significant public views of it. He did not consider that the features to be added by this proposed alteration would be dominant or obtrusive and thus had no concerns about possible precedent.

Councillor McNeil concurred with the views of Councillor Williamson and confirmed that he was also minded to overturn the original decision to refuse planning permission. He considered that the streetscape had already been subject to change as a consequence of other extensions and alterations in the area and did not, in any event, consider that the proposed alteration would have a significant impact on the building, the streetscape or the wider area. He considered that the other examples provided by the applicant demonstrate that a precedent has already been set and could find no reason to refuse this application.

Summing up, Councillor Goodfellow noted that there are only two buildings with hipped roofs in this street and that the dominant feature is non-hipped roofs. He didn't consider that a change to a gable end justified the use of the terms disproportionate, dominant or incongruous. He considered that the dormer windows to the back were not in general public view and those to the front were relatively small and unobtrusive. On balance, he was swayed by the views of the two local Members, Councillors Williamson and McNeil, when they advised that the proposal would not be incongruous in the area and thus he was minded to overturn the original decision to refuse planning permission.

The Legal Adviser advised that the Appointed Officer had no suggested conditions to be attached to the grant of planning permission and the Members agreed that the permission should be granted with no conditions.

- 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 alterations.



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.