

REVIEW DECISION NOTICE

Decision by East Lothian Local Review Body (the ELLRB)

Site Address: 18 Hopetoun Terrace, Gullane, EH31 2DE

Application for Review by Mr Stuart Lindsay against decision by an appointed officer of East Lothian Council.

Application Ref: 13/00124/P

Application Drawings: DWG01

Date of Review Decision Notice – 15th October 2013

Decision

The ELLRB upholds the decision to refuse planning permission for the reasons given below and dismisses the review.

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 26th September 2013. The Review Body was constituted by Councillor Jim Goodfellow McMillan (Chair), Councillor Donald Grant, Councillor John McNeil and Councillor Tim Day. All four members of the ELLRB had attended an unaccompanied site visit in respect of this application on 23rd September 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 a two storey mid-terraced house. The application seeks permission for the installation of eight new sliding sash PVCu windows, replacing existing timber sash and case windows. The application was registered by East Lothian Council's planning service on 14th February 2013 and was refused under delegated powers on 19th April 2013. The notice of review is dated 8th July 2013. The reason for refusal was set out in full in the Decision Notice and is, in summary, that, the seven windows proposed for the front (west) elevation of the property would not, by virtue of their PVCu material and the changes in glazing patterns proposed for three of the windows, preserve the positive contribution that the previous timber windows make to the character and appearance of the house, the terrace of which it is part or the Conservation 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 19 th April 2013
5	Copy Letter of Objection from AHSS
6	Copies of Policies ENV1D of the Edinburgh and the Lothians Structure Plan 2015 and DP8 of the Adopted East Lothian Local Plan 2008
7	Notice of Review dated 8 th July 2013 and supporting review statement and photographs
8	Copy Product Information Brochure

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 the application seeks permission for the replacement of eight windows at the property; seven on the front (west) elevation and one on the rear (east) elevation. The original windows were all timber-framed single-glazed sash and case windows, while the replacements would be sliding sash PVCu windows.

He reminded members that the planning legislation requires decisions on planning applications to be taken in accordance with development plan policy unless material considerations indicate otherwise. The Listed Buildings and Conservation Areas legislation further requires that, when exercising planning functions within Conservation Areas, special attention should be paid to the desirability of preserving or enhancing the character or appearance of the area.

The Planning Adviser confirmed that the site is within a predominantly residential area, designated under local plan policy ENV1, and within the Gullane Conservation Area. The building is not listed. He advised that the main policy considerations are design and impact on the Conservation Area.

He reminded members that the development plan seeks to preserve or enhance the character of Conservation Areas, and generally to promote a high quality of design in all development and pointed them to the key policies in relation to these matters, namely Structure Plan policy ENV1D and Local Plan policy ENV4. He reminded Members that the Structure Plan had recently been superseded by the new SESplan but that there are no policies within that plan of direct relevance to this application, although Policy 1B states that Local Development Plans should have regard to conserving and enhancing the built environment.

In addition, he advised that Local Plan policy DP8 relates specifically to replacement windows and states that replacement windows in Conservation Areas must preserve or enhance the area's special architectural or historic character. This will normally mean that they should retain the proportions of the window opening, the opening method, colour, construction material of frames, and glazing pattern. He drew members' attention to the three exceptions provided for in the policy: firstly multiple glazing where there is no visible difference, secondly where a building does not positively contribute to the area's character, and thirdly where the window cannot be seen from a public place.

He advised that also relevant to the application are national policy documents, including Scottish Planning Policy, which states that the historic environment should be safeguarded through planning decisions, and the Scottish Historic Environment Policy, which provides further guidance on the historic environment. It is stated within Scottish Planning Policy that development that would have a neutral effect on the character and appearance of a

Conservation Area (i.e. would do no harm) should be treated as one that preserves that character or appearance.

He confirmed that the application was refused by the appointed officer on the basis that the use of PVCu as a window material on the front elevation would adversely affect the building and conservation area, and further that the change in glazing pattern proposed for some of the windows would also be harmful, all contrary to the Local Development Plan policy. He advised Members to note that the change to the glazing pattern affects three of the windows and not four as stated in the Decision Notice. Whilst the reasoning for this decision is set out in full in the appointed officer's report, which states that the majority of properties in the terrace and that opposite have timber framed sash and case windows, he confirmed that planning permission had been granted in 2005 at number 12 Hopetoun Terrace for PVCu windows to replace aluminium windows. He had found no record of permission being granted for two other examples of PVCu windows in the immediate vicinity of the application site and observed by the Members on the site visit. He clarified that the appointed officer considered that the double glazing would not in itself be readily appreciable and that this aspect of the proposals would not cause harm to the conservation area and that the one proposed new window for the rear elevation was also considered to be acceptable in itself as it would not be readily visible in public view.

The Planning Adviser summarised the applicant's request for a review, which states that the new windows are more energy efficient, that they have a better appearance than some timber windows and that other properties in the surrounding area already have PVCu windows installed. It is also argued that PVCu is a sustainable material and that these proposals would not compromise the character of the building or the conservation area.

There were no consultations carried out on the application by the case officer. One letter of objection was received from the Architectural Heritage Society of Scotland, which objected on the basis that PVCu windows would be out of place in a Conservation Area, and it highlighted a number of negative aspects of PVCu as a material.

The Planning Officer summarised the main questions for the ELLRB to consider in reviewing the case, namely, whether the proposed development would comply with the policies of the development plan in respect of design and impacts on the Conservation Area, with or without any conditions, 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 before making a decision, either through further written submissions, a hearing session, a further site visit, or a combination of these procedures.

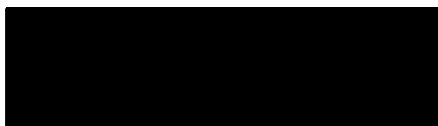
The Chair asked the members to consider whether they had sufficient information to enable them to proceed to make a decision in respect of this matter. All members considered that they did have sufficient information. Accordingly, the decision of the ELLRB was that they would proceed to reach a decision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

- 4.2 Councillor McNeil advised that he had found the site visit useful as it had confirmed the positive character and appearance of the terrace and the conservation area. Whilst it was clear that there were a number of PVCu windows in the immediate vicinity, it appeared that these are unauthorised. However, he was of the view that the fact that certain owners have breached the planning rules does not justify further breaches. He was less concerned about the rear elevation of this property as he considered it was not readily visible but agreed with the appointed officer that the front elevation was an important elevation and should be preserved to maintain the character of this particular part of Gullane. Councillor Grant confirmed that he had noted on the site visit that the majority of windows in the vicinity were still timber sash and case and he considered that these did make a positive contribution to the character and appearance of the area. He considered that installing PVCu windows would be an incongruous addition and, in light of this, he was minded to refuse permission for the replacement windows to the front of the

property. Councillor Day, while expressing some sympathy for the applicant's position, agreed with the appointed officer's assessment that the installation of PVCu windows would have a negative impact on the building, the terrace and the conservation area and thus he was minded to refuse planning permission in this case.

- 4.3 Councillor Goodfellow was also sympathetic to the applicant but felt that the terms of Policy DP8 had to take precedence. He noted the reference to the reason for refusal relating to the glazing pattern in the original decision notice should be to three windows and not four, as stated, and that reference should now be made to SESplan.
- 4.4 Accordingly, the ELLRB unanimously agreed that the Review should be dismissed and the original decision to refuse this application should be upheld, for the reasons set out in the original Decision Letter of 8th July 2013, as amended in accordance with paragraph 4.3 above.

The Review Application was accordingly dismissed.



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.