

## REVIEW DECISION NOTICE

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Decision by East Lothian Local Review Body (the ELLRB)

Site Address: 6 The Vennel, Dunbar, EH42 1HF

Application for Review by Mr and Mrs Ashley against decision by an appointed officer of East Lothian Council.

Application Ref: 13/00327/P

Application Drawings: DWG001, DWG002, DWG003 and DWG004

Date of Review Decision Notice – 15<sup>th</sup> October 2013

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### **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 26<sup>th</sup> 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 23<sup>rd</sup> 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 ground floor flat in a two storey building within the Dunbar Conservation Area. The application seeks permission for the installation of five new PVCu windows, replacing existing timber sash and case windows and two new doors, one timber and one PVCu, replacing two existing timber doors. The application was registered by East Lothian Council's planning service on 26<sup>th</sup> April 2013 and was refused under delegated powers on 21<sup>st</sup> June 2013. The notice of review is dated 11<sup>th</sup> July 2013. The reason for refusal was set out in full in the Decision Notice and is, in summary, that, four of the five windows proposed, by virtue of their PVCu material and visual appearance, and the proposed door to the rear, by virtue of its PVCu frame, would be harmful to the character and appearance of the property and 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 <sup>th</sup> April 2013
5	Copy Letter of Objection from AHSS
6	Copies of Policies ENV1D of the Edinburgh and the Lothians Structure Plan 2015 and ENV4 and DP8 of the Adopted East Lothian Local Plan 2008
7	Note regarding adoption of SESplan and copy of new policy 1B
8	Notice of Review dated 11 <sup>th</sup> July 2013 and supporting review statement and photographs

#### **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 five windows at the property; two on the front elevation, one on the side and two on the rear elevation. The original windows were all timber-framed single-glazed sash and case windows, while the replacements would be sliding sash PVCu windows to the front and casement PVCu windows to the side and rear. In addition, the application seeks permission for the replacement of two timber doors with a PVCu door to the rear and a timber door to the front.

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 Dunbar 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 material and the appearance of the proposed windows for all but one of the windows would adversely affect the building and conservation area, and that the PVCu door proposed for the rear of the property would, by virtue of its material, also be harmful, all contrary to the Local Development Plan policy. He advised Members to note that appointed officer was of the view that one window to the rear of the property, which was not readily visible to public view, and the proposed timber door to the front of the property would be acceptable in planning terms. However, given that these formed a small part of the overall application, he had been of the view that the application should be refused and a new application required for these elements should the applicants wish to install these. He advised Members that the reasoning for the original decision is set out in full in the appointed officer's report.

The Planning Adviser summarised the applicant's request for a review, which stated that the existing windows are inefficient and have a poor visual appearance. It is stated that windows in the adjacent building and many other properties in the area contain PVCu in a variety of styles and that the effect of the proposals on the conservation area would be neutral at worst, with the only change of note stated to be the material itself. The plant-on astragal are stated to be the only manner of manufacturing PVC windows with astragals and the proposed windows will include an internal spacer bar. It is also argued that timber windows are more expensive than PVCu, not draught proof, and achieve lower thermal performance. Further, in terms of the rear windows and door, the applicant's agent argues that any visibility from a public place is highly obscured as the residents' car park to the rear is private. Finally, it is stated that there were no objections from local residents and the one objection received is argued to be based on a general dislike of PVC rather detailed knowledge of the 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.

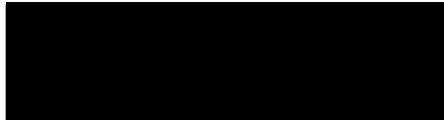
The Chair asked the members to consider whether they had sufficient information to enable them to proceed to make a decision in respect of this matter. All members considered that they did have sufficient information. Accordingly, the decision of the ELLRB was that they would proceed to reach a decision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

- 4.2 Councillor Grant advised that he had found this a difficult case as the site visit had shown that there are a number of PVCu windows in the immediate vicinity, including a conservatory next door to this property. However, on balance he considered that he had to attach due weight to the Local Development Plan policy on replacement windows and he would reluctantly agree with the original decision to refuse planning permission. Councillor Day agreed that this was a difficult case but considered that the site visit had been useful as it had confirmed to him that the use of PVCu in this case would not have a particularly negative impact on the character and appearance of this part of the conservation area as there were many other instances of its use in the immediate vicinity. Accordingly, he was minded to overturn the original decision to refuse

and to grant planning permission. Councillor McNeil considered that the nature of the area had changed over time and now had many more modern buildings and a modern play park. PVCu was much in evidence and he could see the attraction of this as a material, particularly in a coastal location. He considered that the Local Development Plan policy should perhaps be reviewed to reflect this but, in respect of this current application, he was minded to apply the policy in its current terms and refuse planning permission.

- 4.3 Councillor Goodfellow was also sympathetic to the applicant but felt that the terms of Policy DP8 had to take precedence. He considered that this was an iconic building and would not be enhanced by PVCu buildings, particularly to the front elevation. Accordingly he too was minded to uphold the original decision to refuse planning permission. He noted that reference should now be made to SESplan.
- 4.4 Accordingly, the ELLRB agreed, by a majority vote, 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 11<sup>th</sup> 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.