

## REVIEW DECISION NOTICE

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Decision by East Lothian Local Review Body (the ELLRB)

Site Address: 47 Bridge Street, Tranent, EH33 1AH

Application for Review by Mr Phil Thornton against decision by an appointed officer of East Lothian Council.

Application Ref: 13/00880/P

Application Drawings: DWGP01 and DWGP02

Date of Review Decision Notice – 30<sup>th</sup> June 2014

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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> June 2014. The Review Body was constituted by Councillor Jim Goodfellow (Chair), Councillor Willie Innes and Councillor John McMillan. All three members of the ELLRB had attended an unaccompanied site visit in respect of this application on 26<sup>th</sup> June 2014.

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 47 Bridge Street in Tranent, which is a two storey semi-detached house situated in the Tranent Conservation Area. The application seeks permission for the replacement of the seven windows on the front elevation of the house. The existing windows are single-glazed timber sliding sash and case windows and the proposed replacements are double-glazed PVCu sliding sash and case windows. The glazing pattern is proposed to remain the same. The planning application was validated on 4<sup>th</sup> November 2013 and was refused under delegated powers on 20<sup>th</sup> December 2013. The notice of review is dated 19<sup>th</sup> March 2014.

The reason for refusal is set out in full in the Decision Notice and is, in summary, that, the windows proposed, by virtue of their PVCu material, would be significantly different from the existing windows that they would replace when seen in relation to the timber windows in the semi-detached property, 45 Bridge Street. This difference would not preserve the positive contribution that the timber framed windows bring to the house, the pair of buildings and to the architectural or historic interest of 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 20 <sup>th</sup> December 2013
5	Copy Letter of Objection from AHSS
6	Copies of Policies ENV4 and DP8 of the Adopted East Lothian Local Plan 2008
7	Copy Officer's Report of Handling and Decision Notice in respect of Planning Application 13/00138/P
8	Notice of Review dated 19 <sup>th</sup> March 2014 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 seven windows to the front or south elevation of the property. 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.

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.

He advised that the site is within the boundary of Tranent town centre, designated under Local Plan Policy ENV2, and within the Tranent Conservation Area. It is also within the designated Battle of Prestonpans site. The building is not listed. He confirmed that the main policy considerations relevant to this matter are design and impacts on the Conservation Area. In particular, 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. He noted that the key policies in relation to these matters are Strategic Development Plan policy 1B and Local Plan policy ENV4.

In addition, he confirmed 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. He explained that 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. Three exceptions are provided for: 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 planning system should promote the care and protection of the historic environment, and the Scottish Historic Environment Policy, which provides further guidance on the historic environment. It is stated within Scottish Planning Policy that proposals that do not harm the character or appearance of a Conservation Area should be treated as preserving that character or appearance.

He reminded the LRB that the application was refused by the appointed officer on the basis that the proposed replacement windows would appear significantly different to those of the adjoining building due to their PVCu frames. This was considered to fail to preserve the positive contribution that the existing windows make to the house, the pair of buildings, and to the Conservation Area. The proposals were therefore considered to be contrary to the relevant development plan policies. The reasoning for this decision is set out in full in the officer's report.

He noted that the request for a review argues that the proposed new windows would not appear significantly different to the existing windows and the appearance of the Conservation Area would be preserved. The proposals are therefore argued to comply with relevant development plan policies. It is stated that many properties in the Tranent conservation area and on Bridge Street already have PVCu double-glazing. It is also stated that the proposed windows are A-rated for energy efficiency and would be made from recycled PVCu windows and they are therefore a sustainable material, and reference is made to duties to reduce greenhouse gas emissions. It is also argued that refusal of the application was unfair as other properties on Bridge Street within the Conservation Area have installed non sash and case brown PVCu windows. A number of photos are supplied in support of the case.

He confirmed that no consultations were carried out on the application by the case officer. Representations were received from the Architectural Heritage Society of Scotland, which objected on the basis that the proposed windows would appear visibly different to the existing ones, they would be out of place in a Conservation Area, and that double-glazing could be fitted to the existing windows, with repairs carried out as necessary.

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 Innes advised that he had to attach due weight to the Local Development Plan policy on replacement windows and he had seen nothing that persuaded him to depart from policy in this case. The construction material was different from that of the original windows and, particularly taking account of the striking frontage of the two semi-detached properties when viewed together, he considered that the difference would be readily visible. Accordingly, he would agree with the original decision to refuse planning permission. With regard to other properties in the vicinity with PVCu windows, he noted that these had not been granted planning permission and recommended that appropriate enforcement action be taken in respect of these properties. Councillor McMillan considered that the site visit had been useful as it had confirmed to him that the pair of buildings at numbers 45 and 47 contributed to the area as a matching pair. He noted that 'construction material' was a factor to be considered in terms of policy DP8 and could not agree that the use of PVCu in this case would preserve or enhance the area's character. Accordingly, he was minded to apply the policy and refuse planning permission.
- 4.3 Councillor Goodfellow felt that the terms of Policy DP8 were clear regarding construction material. He considered that the Conservation Area was worthy of protection and preservation and thus he was minded to uphold the original decision to refuse planning permission.

- 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 20<sup>th</sup> December 2013.

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.