

## REVIEW DECISION NOTICE

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Decision by East Lothian Local Review Body (the ELLRB)

Site Address: 26 Westgate, North Berwick, EH39 4AH

Application for Review by Mrs Evelyn Leigh against decision by an appointed officer of East Lothian Council.

Application Ref: 14/00120/P

Application Drawings: DWG001, DWG002 and DWG003

Date of Review Decision Notice – 1<sup>st</sup> September 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 28<sup>th</sup> August 2014. The Review Body was constituted by Councillor Tim Day (Chair), Councillor John Williamson and Councillor John McMillan. All three members of the ELLRB had attended an unaccompanied site visit in respect of this application on 28<sup>th</sup> August 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 Currie, Clerk.

### **2** Proposal

2.1 The application site is at 26 Westgate in North Berwick, which is a ground floor flat in a two-storey detached villa. The application seeks permission for alterations to the front boundary wall and removal of an existing pedestrian gate to allow formation of a 4m wide vehicular access, the relocation of an existing timber fence and gate within the garden and the creation of a hard standing within the garden area for car parking and turning. The planning application was validated on 26<sup>th</sup> February 2014 and was refused under delegated powers on 25<sup>th</sup> April 2014. The notice of review is dated 26<sup>th</sup> May 2014. A related application for Conservation Area Consent for the demolition works was also refused by the appointed officer but this is not before the LRB.

The reasons for refusal are set out in full in the Decision Notice and are, in summary, that, the proposed vehicle access and hardstanding would be intrusive and incongruous changes to the character and appearance of the streetscape of Westgate and to the Conservation Area and thus would be harmful to the character and appearance of the Conservation Area; that, in the absence of an effective turning area, a vehicle would have to reverse from or onto the adjacent road creating a road safety hazard; and that the applicant has failed to demonstrate that the

required visibility splay can be achieved and the lack of such visibility splay would create a road safety hazard .

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 and accompanying supporting statement
3	The Appointed Officer's Report of Handling
4	A copy of the Decision Notice dated 25 <sup>th</sup> April 2014
5	Copy Letters of Objection and Representation
6	Copies of Policies ENV4, DP2 and T2 of the Adopted East Lothian Local Plan 2008
7	Copy of Policy 1B of the approved South East Scotland Strategic Development Plan
8	Copy of Consultation response from East Lothian Council's Transportation division
9	Photographs of the site and surrounding area
10	Notice of Review dated 26 <sup>th</sup> May 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 alterations to the front boundary wall and removal of an existing pedestrian gate to allow formation of a 4m wide vehicular access, the relocation of an existing timber fence and gate within the garden, and the creation of a hard standing within the garden area for car parking and turning.

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 North Berwick town centre, designated under Local Plan policy ENV2, and within the North Berwick Conservation Area. He summarised the main policy considerations relevant to the application, being design, impacts on the Conservation Area, and road safety. He reminded Members that development plan policy seeks to preserve or enhance the character of Conservation Areas, and generally to promote a high quality of design in all development. The key policies in relation to these matters are Strategic Development Plan policy 1B and Local Plan policies ENV4 and DP2. In relation to road safety, he highlighted Local Plan policy T2, which seeks to ensure new development has no adverse consequences for road safety. Also relevant to the application is national policy, in particular Scottish Planning Policy. He reminded Members that copies of the relevant policies are with the Review Papers

He reminded the LRB that the application was refused by the appointed officer for the three reasons set out in the Decision Notice and summarised above. The proposed development was considered by the appointed officer to be contrary to relevant development plan policies in relation to design, impact on the Conservation Area, and road safety. The reasoning for this decision is set out in full in the officer's report. He noted that the case officer had received consultation responses from the Council's Transportation Division, which recommended refusal on the basis that there would not be an acceptable turning arrangement within the site and also

notes that on-street parking would be reduced by at least once space, and that a minimum 2 x 20m visibility splay would be required.

He noted that objections were also received from North Berwick Community Council and five members of the public; these are within the papers and also are summarised in the case officer's report.

He summarised the applicant's request for a review, namely that there are no adverse road safety implications as there is sufficient space in the garden for an effective turning area, and there would be no net loss of car parking spaces as the loss of an on-street space would be compensated for by the new space to be provided within the application site. The applicant also considers that the actual visibility splay for this site is to be around 48m and states that different visibility requirements have been applied to other applications in the area. In terms of impacts on the Conservation Area, the applicant argues that the work would be carried out to a high standard and the resulting changes would not appear out of place. Thus the applicant contends that the proposals comply with the relevant development plan policies. The applicant considers that other refused applications at 24 and 57 Westgate, referred to in the case officer's report, are of limited relevance as the circumstances were different, whereas an approved application at the rear of 28 Westgate is argued to set a precedent for this proposal. A number of photographs have also been supplied in support of the case.

The Planning Adviser noted that further representations have been received from two interested parties in response to the notice of review and advised Members that these are within the review papers. They support the original refusal on the ground of impacts on the Conservation Area and road safety. The issue of impacts on the amenity of 17 Beach Road is also raised, as is the potential to set a precedent for further applications for similar proposals on Westgate. He noted that the applicant has responded to these further representations and has provided further photographs in response to some of the points made, also provided with the review documents.

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, impacts on the Conservation Area and road safety, 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.

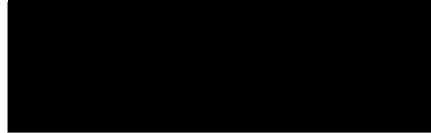
The Chair asked the members to consider whether they had sufficient information to enable them to proceed to make a decision in respect of this matter. All members considered that they did have sufficient information. Accordingly, the decision of the ELLRB was that they would proceed to reach a decision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

- 4.2 Councillor McMillan advised that he had found the site visit to be particularly helpful in this case, particularly in assessing the streetscape and the character and appearance of the Conservation Area in this locality. He considered that the assessment of the proposals as intrusive and incongruous was accurate and that the resulting development would be out of keeping with the remaining streetscape. Thus, on balance, he was minded to refuse planning permission. Councillor Williamson also considered that the site visit had been useful, particularly when viewing the current parking situation in the area. He considered that any vehicular access to this site would be difficult to access and exit safely and thus he was also minded to uphold the original decision to refuse planning permission.
- 4.3 Councillor Day felt that the road safety issue was key in this matter, particularly the lack of a sufficient visibility splay. He also considered that the character of the Conservation Area would not be enhanced by this development and agreed with the assessment of it as intrusive and

incongruous. He also noted that there would be a loss of a public parking space should this development go ahead. Taking all factors into account, 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 25<sup>th</sup> April 2014.

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.