



**MINUTES OF THE MEETING OF THE
LOCAL REVIEW BODY**

**THURSDAY 25 SEPTEMBER 2014
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Committee Members Present:

Councillor N Hampshire (Chair)
Councillor J Goodfellow
Councillor W Innes

Advisers to the Local Review Body:

Mr P McLean, Planning Adviser to the LRB
Mrs M Ferguson, Legal Adviser/Clerk to the LRB

Others Present

Ms S Greaves, Planner
Mr E Bean, Graduate Planner
Ms C Duffy, Graduate Planner

Committee Clerk:

Mrs F Stewart

Declarations of Interest

None

Apologies

Councillor D Grant
Councillor S Currie

Councillor Hampshire, who had been elected to chair today's East Lothian Local Review Body (ELLRB), welcomed everyone to the meeting. He also advised that the Case Officer for this application and two observers from the Council were present.

**1. REVIEW AGAINST DECISION (REFUSAL)
PLANNING APPLICATION No: 14/00137/P – ALTERATIONS,
EXTENSION TO FORMER CHURCH TO FORM ONE HOUSE, AND
ASSOCIATED WORKS AT ABBEY CHURCH, ABBEY ROAD, DUNBAR**

The Legal Adviser stated that the ELLRB was meeting today to review the above application which had been refused by the Appointed Officer. A site visit had been carried out prior to the meeting and Members had been provided with written papers, including a submission from the Case Officer and review documents from the applicant. After hearing a statement from the Planning Adviser summarising the planning policy issues, Members would decide if they had sufficient information to reach a decision today. If they did not, the matter would be adjourned for further written representations or for a hearing session. Should Members decide they had sufficient information before them, the matter would be discussed and a decision reached on whether to uphold or overturn the decision of the Appointed Officer. It was open to Members to grant the application in its entirety, grant it subject to conditions or to refuse it.

The Chair invited the Planning Adviser to present a summary of the planning policy considerations in this case.

The Planning Adviser stated that the application site was a listed former church building at the south end of Dunbar High Street, within the Dunbar Conservation Area. The proposals involved removal of the entire roof of the building, parts of the walls and the majority of the interior, alterations and extensions at the rear, and the formation of a 2-storey 1-bedroomed house. Garden ground would be formed within what would remain of the external walls of the former church. A detailed description of the proposed works was contained within the Case Officer's report, and the application drawings had also been circulated. The Planning Adviser pointed out that some of the works – specifically downtakings – were described in the Officer's report as not requiring planning permission, only listed building consent. However, in his view, these works were structural alterations that are development and therefore would require planning permission. He therefore advised that the proposed downtakings should form part of the assessment of the application.

The Planning Adviser reminded Members that the Planning Act required decisions on planning applications to be taken in accordance with development plan policy unless material considerations indicated otherwise. The development plan consisted of the approved Strategic Development Plan for Edinburgh and South East Scotland, known as SESplan, and the adopted East Lothian Local Plan 2008. The Listed Buildings and Conservation Areas Act further required that, in considering whether to grant permission affecting a listed building or its setting, a planning authority should have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. He advised that listed building consent would also be required for the proposed works, however this was a separate consent process and was not before the ELLRB today. A listed building consent application had also been submitted by the applicant and was

refused by the Council. The Planning Adviser advised that the applicant had a right to appeal to Scottish Ministers against that decision rather than to the Local Review Body.

In respect of development plan policy, the Planning Adviser stated that the application site was within the defined Town Centre of Dunbar, where Local Plan policy ENV2 supports uses appropriate to such areas. Changes of use to residential will only be allowed where the Council is satisfied that the premises had been suitably marketed for all other uses acceptable in principle within a town centre area and no reasonable offers had been received. The key policies in relation to preserving or enhancing the character of Conservation Areas and to promoting a high quality of design were SESplan policy 1B and Local Plan policies ENV4, DP1 and DP2. The building was listed at category B and Development Plan policy states that development which would harm the character, appearance or setting of listed buildings will be resisted. A number of other Local Plan policies in relation to other issues were outlined. Also relevant to the application were national policy documents, including Scottish Planning Policy, which states that the historic environment should be safeguarded through planning decisions.

The Planning Adviser advised that the Appointed Officer had refused the application for two reasons; firstly, the proposals would be harmful to the special architectural or historic interest of the listed building and secondly, they would be harmful to the character and appearance of the Conservation Area. She therefore considered the proposals contrary to the development policies designed to safeguard these interests, and to relevant national policy. The applicant's agent, in his submission, had argued that inadequate consultation was carried out by the Case Officer and Historic Scotland, that no reference was made to a survey from 2007 and that the building was already derelict. The agent also argued that the well-being of the building and the High Street had not been fully considered and claimed that Scottish Planning Policy and the Scottish Historic Environment Policy were in support of the proposals. He had also claimed that restoration of the building to its original state was not financially viable and that the impact of the proposals would not be harmful.

Three public representations had been received on the application: one objection, one in support, and one neither supporting nor objecting. The Planning Adviser outlined the contents of those representations and advised that one further representation had been submitted in response to the Notice of Review.

In respect of consultee comments, Historic Scotland had advised that it considered the proposals to be significantly at odds with the Scottish Historic Environment Policy in terms of respecting the character and significance of the listed building. The Council's Structural Engineer had advised that a section of stonework had recently fallen to the ground, and removal of the roof would be likely to cause further deterioration. There were no objections from the Council's Transportation Division subject to conditions regarding access and parking, and no comments from the Office for Nuclear Regulation or from the Council's Environmental Protection Manager.

Members asked a number of questions and points of clarification of the Planning Adviser, including whether a planning condition could be used to secure the structural integrity of the remaining walls of the church following removal of the roof. The Planning Adviser stated that information of this nature would normally be sought prior to the determination of an application so that the proposed works could be taken into account, and any such works may themselves require consent. The Legal

Adviser advised that the draft schedule of conditions provided by the Case Officer did include a potential condition on this matter. The Planning Adviser advised Members that they should decide whether such a condition was sufficient to overcome any concerns they had on this point.

The Chair advised that it was now for Members to decide if they had sufficient information to determine the application and the Members agreed unanimously that they had sufficient information to proceed with the application today.

Councillor Hampshire stated that he had been involved in a number of proposals for Abbey Church in recent years and, on a previous site visit, he had considered that although the building was in a poor condition, there were still opportunities for renovation. However, on the site visit today, he had been shocked at the marked deterioration to the building and saw evidence of water penetration as a result of the roof being open to the weather. His concern, therefore, was that if imminent action was not taken, there was a risk of not only losing the roof but other parts of the building. He noted the lack of financial evidence from the applicant but considered that if it was viable to restore the building this would have been delivered by now. He noted that the decision of the Case Officer had been to refuse this application as she considered that the proposals would not preserve or enhance the character and appearance of the Conservation Area. However, due to the current condition of the building, he considered that leaving it would be detrimental to the Conservation Area and listed building, and would therefore support this application.

Councillor Innes stated that the question for him was whether the Conservation Area would be compromised by these proposals. Having been able to appreciate the size and scale of the building on the site visit and having looked at the plans for the alterations, he did not consider that the proposals would necessarily be unattractive. He therefore did not agree that the proposals would be detrimental to the Conservation Area. He considered that the residential element of the application was very modest and little of it would be seen by the general public. He considered that the most important part of the structure was the frontage and walls and those elements would still contribute to the Conservation Area and would be in an improved condition. He considered management of the foliage and landscaping would also be an improvement and he agreed with the views of the Landscape officer. He stated that, while he understood why the Case Officer had refused the application, he was taking a different view and would support the proposals. He would, however, wish to see a condition on the structural integrity of the walls to ensure the safety of the public and the residents within.

Councillor Goodfellow agreed with the comments made by his colleagues and confirmed that he would also support this application, providing that the walls were made structurally sound. He also noted from the Case Officer's reason for refusal that there would be a limited view of the new structure from the High Street and proposed a condition that relevant windows within the walls of the former church should be fitted with obscure glazing to restrict the public view of the alterations within the walls.

The Legal Adviser circulated a list of suggested conditions to be attached to the grant of planning permission and Members agreed to grant permission subject to these conditions and the additional condition proposed by Councillor Goodfellow.

Decision

The ELLRB unanimously agreed to overturn the original decision to refuse planning permission for the alterations subject to the following conditions:

- 1 No development shall take place on site unless and until final site setting out details have been submitted to and approved by the Planning Authority.

The above mentioned details shall include a final site setting-out drawing to a scale of not less than 1:200, giving:

- a. the position within the application site of all elements of the proposed development and position of adjoining land and buildings;
- b. finished ground and floor levels of the development relative to existing ground levels of the site and of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and
- c. the ridge height of the proposed house shown in relation to the finished ground and floor levels on the site.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the amenity of the area.

- 2 Notwithstanding that which is shown on the docketed drawing titled 'Proposed Plans' the vehicular access to the two on-site car parking spaces that is located towards the southeast corner of the site shall be increased to 5 metres in width, and details of the widened access shall be submitted for the prior written approval of the Planning Authority prior to such works being carried out on the site. Thereafter the vehicular access to the two on-site car parking spaces shall be formed in accordance with the details so approved.

Reason:

To ensure a safe means of pedestrian access and a satisfactory level of off-street parking in the interests of road safety.

- 3 Taking account of requirements of Condition 2 above, prior to the occupation of the house hereby approved the proposed parking arrangements and the pedestrian access footpath from Abbey Road to the north of the site shall have been formed and made available for use as shown in docketed drawing titled 'Proposed Plans' and thereafter the parking area and pedestrian access footpath shall be retained for such uses unless otherwise approved in writing by the Planning Authority.

Reason:

To ensure a safe means of pedestrian access and a satisfactory level of off-street parking in the interests of road safety.

- 4 No development shall be carried out until a schedule of materials and finishes and samples of such finishes have been submitted to and approved in writing by the Planning Authority for the roof, external walls, window frames, door frames, external doors and terraces of the house hereby approved. Thereafter, only those materials and finishes approved by the Planning Authority shall be used as the external materials and finishes of the house hereby approved.

If the timber of the two timber terraces hereby approved is to be painted or stained a colour or finished in a timber preservative, a sample(s) of that paint, stain or timber preservative shall be submitted to and approved in advance in writing by the Planning Authority, and thereafter the colour of the paint, stain or timber preservative applied to the timber of the two timber terraces shall accord with the sample(s) so approved.

Samples of the materials to be used to surface the hardstanding areas to be used as paved patio, footpaths and vehicular parking and turning areas shall be submitted to and approved by the Planning Authority prior to their use in the development and thereafter the materials used shall accord with the samples so approved.

Reason:

To ensure that the external finishes are appropriate in the interest of safeguarding the character and appearance of the Conservation Area and the special architectural or historic interest of the listed building of the Abbey Church.

- 5 The southern most door of the west elevation wall of the house hereby approved shall be of solid timber construction unless otherwise approved in writing by the Planning Authority.

Reason:

In order to safeguard the privacy and amenity of the occupiers of the house of the former Abbey Church Hall to the southwest.

- 6 No development shall be carried out until details of any mitigating engineering works necessary to secure the structural stability of the external walls of the building and for the making good of the wall-heads of those external walls have been submitted for the prior written approval of the Planning Authority, and thereafter the engineering works undertaken shall accord with the details so approved.

Reason:

In the interest of safeguarding the special architectural or historic character and appearance of the listed building of Abbey Church and the character and appearance of the Conservation Area.

- 7 The two sycamore trees that are to the west of the church building between it and the west boundary wall shall be retained and shall not be damaged or uprooted, felled, lopped, or topped or interfered with in any manner without the prior written consent of the Planning Authority.

Reason:

To ensure the retention of trees important to the landscape character and appearance of the area.

- 8 No development shall take place on site until temporary protective fencing has been erected to protect the two sycamore trees and any other trees that are to be retained on the site. Details of the exact positioning of such temporary

protective fencing shall be submitted to and approved in advance in writing by the Planning Authority.

The temporary protective fencing shall comprise standard scaffold poles as uprights driven into the ground avoiding tree roots, with 3 standard scaffold poles as horizontal rails (top, middle and bottom), all with weld mesh wired to uprights and rails. It should be 2.3 metres in height, erected prior to works commencing and kept in good condition throughout the works, all in accordance with Figure 2 of British Standard 5837: 2005 'Trees in Relation to Construction'.

Once erected the temporary protective fencing shall be retained in place until works on the application site have been completed and all plant and machinery associated with those works have been removed from the site.

Within the fenced off areas the existing ground level shall neither be raised nor lowered, no materials, temporary buildings, plant, machinery or surface soil shall be placed or stored and no herbicides shall be used.

Care should be taken when planning site operations to ensure that wide or tall loads, or plant with booms, jib and counterweights can operate without coming into contact with any retained trees.

Material that will contaminate the soil e.g. concrete/mortar mixing, diesel oil, paints, solvents and vehicular washings, should not be discharged within 10 metres of any tree trunk. It is essential that allowance be made for the slope of the ground so that such damaging materials cannot run towards retained or new trees.

Fires should not be lit in a position where their flames can extend to within 5 metres of tree foliage, branches or trunk, and due cognisance must be taken of wind speed and direction prior to and during operations.

Details of any trenches or services in the fenced off areas shall be submitted to and approved in advance in writing by the Planning Authority, and all trenches shall be dug and backfilled by hand and any tree roots encountered with a diameter of 25mm or more shall be left unsevered.

Reason:

To ensure the retention of trees important to the landscape character and appearance of the area and their protection in the interests of safeguarding the landscape character of the area.

9. Prior to construction of the dwelling hereby permitted all windows on the north east and north west elevations of the former church building shall be fitted with obscured glazing and shall be permanently retained in that condition thereafter. Details of the proposed obscured glazing shall be submitted to and approved in writing by the planning authority prior to it being fitted.

Reason:

To preserve the character and appearance of the Conservation Area by restricting public views of the dwelling to be located within the walls of the former church.