

REVIEW DECISION NOTICE

Decision by East Lothian Local Review Body (the ELLRB)

Site Address: 24 The Paddock, Goose Green, Musselburgh, EH21 7SP

Application for Review by Miss G McNaughton against decision by an appointed officer of East Lothian Council.

Application Ref: 14/00265/P

Application Drawing: DWG01

Date of Review Decision Notice – 8th December 2014

Decision

The ELLRB reverses the decision to refuse this application and grants Planning Permission for replacement windows at 24 The Paddock, Goose Green, Musselburgh subject to the condition set out below.

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 20th November 2014. The Review Body was constituted by Councillor Norman Hampshire (Chair), Councillor Willie Innes and Councillor Jim Gillies. All three members of the ELLRB had attended an unaccompanied site visit in respect of this application on 20th November 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 24 The Paddock, Musselburgh, which is a first floor flat in a three storey, flatted building situated within the Musselburgh Conservation Area. The application seeks permission for the replacement of the flat's windows; three on the front and two on the rear. The existing windows are double-glazed timber windows and the proposed replacements would be brown coloured PVCu windows with the same glazing pattern. The planning application was originally validated on 7th April 2014 and was refused under delegated powers on 30th May 2014. The notice of review is dated 26th August 2014.

The reason for refusal is set out in full in the Decision Notice and is, in summary, that, the windows proposed on the front elevation, by virtue of their PVCu material, would be harmful to the character and appearance of the building, the streetscape and this part of the Musselburgh 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 drawing specified above
2	The application for planning permission
3	The Appointed Officer's Report of Handling
4	A copy of the Decision Notice dated 30 th May 2014
5	Copy Letter of Objection from Musselburgh Conservation Society
6	Copies of Policies ENV4 and DP8 of the Adopted East Lothian Local Plan 2008 and Policy 1B of SESPlan
7	Copy Officer's Report of Handling and Decision Notice in respect of Planning Application 13/00138/P
8	Notice of Review dated 26 th August 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 the current timber framed windows at the property; three on the front elevation and two on the rear elevation. The proposed replacements would be brown coloured PVCu windows with the same glazing pattern as the original windows.

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

He confirmed that the site is within a residential area of Musselburgh, designated under local plan policy ENV1, and within the Musselburgh Conservation Area. The building is not listed. The main policy considerations relevant to the application are design and impacts on the Conservation Area.

He noted 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 identified the key policies in relation to these matters as Strategic

Development Plan policy 1B and Local Plan policy ENV4. In addition, he reminded Members 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. 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. Finally, he confirmed that, also relevant to the application are national policy documents, including Scottish Planning Policy, which states that proposals that do not harm the character or appearance of a Conservation Area should be treated as preserving that character or appearance, and the Scottish Historic Environment Policy.

He reminded Members that the application was refused by the appointed officer on the basis that the proposed replacement windows on the front elevation would be harmful to the character and appearance of the building, streetscape, and the Conservation Area and the application was 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. The officer considered that the proposed replacement windows on the rear elevation would not in themselves have a harmful effect on the building or the Conservation Area.

He noted that the request for a review argued that the building is a modern design that does not make a contribution to the Conservation Area and the change in window material would not have an impact on the Conservation Area's character. The proposals are therefore argued to comply with relevant development plan policies, falling within the second exemption contained in Policy DP8. It is also stated that other properties in the area have PVCu windows and a number of photographs have been provided to evidence this. It is also argued that the proposed windows would be more sustainable and cost effective.

He advised that there were no consultations carried out on the application by the case officer. One objection was received from the Musselburgh Conservation Society, which objected to the use of PVCu on the basis that it would harm the character and appearance of the building and its surroundings.

The Planning Adviser 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 considered the Local Development Plan policy on replacement windows but, having been on the site visit, he was not satisfied that the

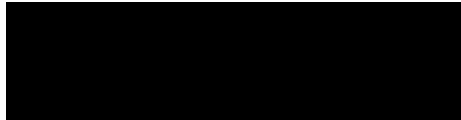
building concerned currently made a contribution to the Conservation Area. Taking account of its location, style and modern form, he considered that the exemption (2) in the Local Plan Policy DP8 applied and thus he disagreed with the original decision to refuse planning permission and was minded to approve the proposed replacement windows. Councillor Gillies agreed with these views.

4.3 Councillor Hampshire also felt that the modern fittings on the building, guttering and rhones, were persuasive that the building made a limited contribution to the Conservation Area. As such, he was also minded to overturn the original decision to refuse planning permission. All three Members wished to ensure that the replacement windows would be of the same colour as the original windows in the block and asked that a condition to this effect be imposed.

4.4 Accordingly, the ELLRB unanimously agreed that the Review should be upheld and that planning permission be granted for the seven replacement windows subject to the condition undernoted:-

Development shall not begin until full details of the proposed window colour, including a colour swatch, have been submitted to and approved in writing by the planning authority. The colour shall be dark brown to match the existing windows within the building. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be agreed in writing with the planning authority.

Reason: To ensure that the replacement windows match the external appearance of the existing building and thereby maintain the visual quality of the area.



**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.

