

REVIEW DECISION NOTICE

Decision by East Lothian Local Review Body (the ELLRB)

Site Address: 32-38 Millhill, Musselburgh, EH21 7RF

Application for Review by Loretto School against decision by an appointed officer of East Lothian Council.

Application Ref: 14/00713/P

Application Drawings: LS/035, LSW/03 and LSW/04

Date of Review Decision Notice – 28th February 2015

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 19th February 2015. The Review Body was constituted by Councillor Tim Day (Chair), Councillor Jim Goodfellow and Councillor Jim Gillies. All three members of the ELLRB had attended an unaccompanied site visit in respect of this application on 19th February 2015.

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 32-38 Millhill in Musselburgh. The property was previously used as the plant room for the adjacent Loretto School swimming pool, which is being converted into an indoor 'golf academy'. The application seeks permission for the replacement of the pantiled roof with a new profiled metal sheet roof. The application drawings were included within the Review Papers.

The planning application was validated on 27th August 2014 and was refused under delegated powers on 24th October 2014. The notice of review is dated 12th December 2014.

The reason for refusal is set out in full in the Decision Notice and is, in summary, that, the loss of the pantiles and the replacement with the proposed profiled metal sheeting would radically alter the character and appearance of the building, and that this change would be harmful to the character and appearance of the Conservation Area in which it is situated.

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 supporting statement and photographs
3	The Appointed Officer's Report of Handling
4	A copy of the Decision Notice dated 24 th October 2014
5	Copy Letters of Objection and Representation
6	Copies of Policies ENV4 and DP6 of the Adopted East Lothian Local Plan 2008
7	Copy of Policy 1B of the approved South East Scotland Strategic Development Plan
8	Notice of Review dated 12 th December 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 permission for the replacement of the pantiled roof with a new profiled metal sheet roof.

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 noted 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 site is also within the nationally designated area of the Battle of Pinkie. He advised Members that the main policy considerations relevant to the application are design and impacts on the Conservation Area and 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, copies of which are in the Review Papers.

In addition, he noted that Local Plan policy DP6 is relevant as this relates to alterations and extensions to existing buildings and states that alterations and extensions should be well integrated to their surroundings and in keeping with the original building. Textures and colours of materials should complement the original building.

He advised that national policy documents, including Scottish Planning Policy and the Scottish Historic Environment Policy are also relevant considerations for the ELLRB and reminded Members that Scottish Planning Policy provides that proposals that do not harm the character or appearance of a Conservation Area should be treated as preserving that character or appearance.

The Planning Adviser reminded Members that the application was refused by the appointed officer on the basis that the proposed profiled metal sheeting would radically alter the character and appearance of the building, and that this change would be harmful to the character and appearance of the Conservation Area. The application was therefore considered to be contrary to the relevant development plan policies. He noted that the reasoning for this decision is set out in full in the officer's report, which is with the Review Papers

He noted that the request for a review argues that the building is not listed and consent has been granted for other alterations to the building, including removal of timber louvers at first floor level and rendering of the walls, which will alter the character and appearance of the building. It is also argued that, while removing the existing pantiles will alter the character of the building, there would be no requirement for planning permission for a like-for-like replacement with new pantiles and this would also alter the appearance of the building. It is argued that new pantiles would not look significantly different from a profiled metal sheet roof and several photographs are supplied in support of this argument and are with the Review Papers.

He noted that there were no consultations carried out on the application by the case officer. Objections were received from the Architectural Heritage Society of Scotland and from Musselburgh Conservation Society, both of which objected to the proposals on the basis of harm to the Conservation Area. Copies of these are in the Review Papers.

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 impact 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 Goodfellow considered that the decision turned on whether or not there was a significant difference between the appearance of new pantiles and a metal sheet roof. Having viewed the Review Papers and the photographs submitted with the Notice of Review, he was not persuaded that any difference would be insignificant. He considered that the difference would be of sufficient magnitude to have a negative impact on the Conservation Area and thus he was minded to refuse planning permission. Councillor Gillies agreed with the views of Councillor Goodfellow on this issue and was also minded to uphold the original decision to refuse planning permission.
- 4.3 Councillor Day 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 it was a reasonable conclusion that the proposed metal sheet roof would fundamentally change the character of the building and hence would have a negative impact on the Conservation Area. Whilst he accepted that new pantiles would not immediately replicate the existing roof in appearance, he considered that the impact would be less than with the metal sheet roof and would reduce in time as the pantiles weathered. Taking these 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 24th October 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.