

REVIEW DECISION NOTICE

Decision by East Lothian Local Review Body (the ELLRB)

Site Address: 2 Eastfield Court, Marine Parade, North Berwick, EH39 4LD

Application for Review by Mr and Mrs Foster against decision by an appointed officer of East Lothian Council.

Application Ref: 15/00042/P

Application Drawings: DWG001, AL(0)PO1 and AC(3)01

Date of Review Decision Notice – 4th September 2015

Decision

The ELLRB overturns the decision to refuse planning permission for the reasons given below and grants the application.

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 27th August 2015. The Review Body was constituted by Councillor Tim Day (Chair), Councillor John McNeil and Councillor Jim Gillies. All three members of the ELLRB had attended an unaccompanied site visit in respect of this application on 27th August 2015.

1.2 The following persons were also present at the meeting of the ELLRB:-

Phil McLean, Planning Adviser
Morag Ferguson, Legal Adviser
Fiona Stewart, Clerk.

2 Proposal

2.1 The application site is at 2 Eastfield Court on Marine Parade in North Berwick. The property is a first floor flat in a two storey flatted building within the North Berwick Conservation Area. The application seeks permission for the formation of a window opening on the side elevation with a timber-clad aluminium-framed window

The planning application was originally validated on 28th January 2015. It was refused under delegated powers on 27th March 2015. The notice of review is dated 22nd June 2015.

The reason for refusal is set out in full in the Decision Notice and is, in summary, that, the proposed window would, due to its different form, neither preserve nor enhance the character and appearance of the building or of the Conservation Area, all contrary to Policy 1B of the approved South East Scotland Strategic Development Plan and Policies ENV4 and DP6 of the adopted East Lothian Local Plan 2008.

The Applicants have 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 27 th March 2015
5	Copy of Policy 1B of the approved South East Scotland Strategic Development Plan
6	Copies of Policies ENV4 and DP6 of the Adopted East Lothian Local Plan 2008
7	Notice of Review dated 22 nd June 2015 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 formation of a window opening on the side elevation of the property with a timber-clad aluminium-framed window being installed. He confirmed that the site is within a residential area of North Berwick, designated under local plan policy ENV1, and within the North Berwick Conservation Area. The main policy considerations relevant to the application are design and impacts on the Conservation Area.

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. The key policies in relation to these matters are Strategic Development Plan policy 1B and Local Plan policies ENV4 and DP6, copies of which are with the Review Papers. He also identified national policy documents, including Scottish Planning Policy and the Scottish Historic Environment Policy that are relevant to this application. He noted that Scottish Planning Policy states that proposals that do not harm the character or appearance of a Conservation Area should be treated as preserving that character or appearance.

He advised that the application was refused by the appointed officer on the basis that the different form of the proposed window would be harmful to the character and appearance of the building and of the Conservation Area and would therefore be contrary to relevant development plan policies. The officer's report details that this is due to the thicker transom and lack of setback of the lower glazing pane.

He also summarised the request for a review, which argues that the window would not noticeably change the external appearance of the building as it would re-open a previously blocked up opening. Due to fire regulations a traditional sash and case window is impossible but the proposed design would resemble one. The officer report is argued to be incorrect in stating that all the windows in the building are of a timber framed sash and case style as none of the windows of flat 4 are sash and case style and nor are those of the neighbouring building of 11 Quadrant. Overall there is argued to be an eclectic mix of window styles in the area and it is argued that the proposed window would not appear incongruous.

He confirmed that there were no consultations carried out on the application by the case officer, nor representations received.

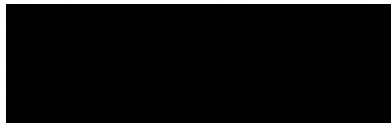
In summary, he advised that the main questions for the LRB to consider in reviewing the case are whether the proposed development would comply with the policies of the development plan, including in respect of design and impacts on the Conservation Area and whether there are any

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 Gillies noted that there were several different styles of windows in the immediate vicinity so he could not agree that a very slightly different form in this case would have a significant impact on the character or appearance of the building or the area. He considered that the opening up of the old window opening would enhance the building and was minded to allow the application. Councillor McNeil agreed with the views of Councillor Gillies on the variety of window styles in the immediately surrounding area. He considered that the construction of the proposed window with its timber cladding would result in no negative impact on either the building or the Conservation Area and thus he was also minded to overturn the original decision to refuse planning permission and to grant this application.
- 4.3 Councillor Day concurred with the views of his colleagues. He considered that the proposal has, at worst, a neutral effect on the Conservation Area and so, in terms of Scottish Planning Policy, was permissible. He agreed that the different styles of windows in the immediate area were such that this proposal would not be of detriment to the area or the building.
- 4.4 Accordingly, the ELLRB unanimously decided that the Review should be upheld and the original decision to refuse this application should be overturned. Planning permission for the window opening and the window is hereby granted.



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.