



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

**THURSDAY 27 AUGUST 2015  
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

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**Committee Members Present:**

Councillor T Day (Chair)  
Councillor J McNeil  
Councillor J Gillies

**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**

None

**Committee Clerk:**

Mrs F Stewart

**Declarations of Interest**

None

**Apologies**

Councillor J McMillan  
Councillor N Hampshire

Councillor Day was elected to Chair today's meeting by Councillor Gillies and Councillor McNeil. Duly elected, Councillor Day welcomed everyone to the meeting.

Morag Ferguson, Legal Adviser, stated that all three planning applications were being presented today in the form of written submissions and that site visits had been carried out prior to the meeting today. She also advised that a Planning Adviser, who had had no involvement with the determination of the original applications, would provide information on the planning context and background of each application.

**1. REVIEW AGAINST DECISION (REFUSAL)  
PLANNING APPLICATION No: 15/00135/P – PLANNING PERMISSION  
FOR THE ERECTION OF ONE FENCE (RETROSPECTIVE) AT 6  
BALFOUR SQUARE, TRANENT**

The Legal Adviser stated that the ELLRB was meeting today to review the above application which had been refused by the Appointed Officer. 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 a 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 and Members would have to specify what new information was needed to enable them to proceed with the determination of the application. 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.

Phil McLean, Planning Adviser, stated that the property was a single storey detached house and that the application was seeking retrospective permission for a 2.5m high timber fence adjacent to the rear garden boundary. He advised that the Planning Act requires decisions on planning applications to be taken in accordance with development plan policy unless material considerations indicate otherwise. The development plan consisted of the approved Strategic Development Plan for Edinburgh and South East Scotland, known as SESplan, and the adopted Local Plan 2008.

The Planning Adviser stated that the site was within a residential area of Tranent, designated under local plan policy ENV1. The main policy considerations relevant to the application were design and amenity, both in terms of character and appearance, and in terms of safety and security and the key development plan policies in relation to these matters were Strategic Development Plan policy 1B and Local Plan policy DP2. The application had been refused by the Appointed Officer on the basis that the fence enclosed a relatively open part of the lane to the rear of the property and therefore had a negative impact on its character and amenity and reduced the passive surveillance of the lane. It would also set a precedent for other fences, which would cumulatively have a harmful effect. The application was therefore considered to be contrary to relevant development plan policies.

The Planning Adviser stated that the applicant's request for a review argued that the fence was needed to provide security and privacy to the house, detailing examples of anti-social behaviour that had occurred at the rear of the property and providing photographic evidence. The lane was argued not to create a sense of welcome, safety and security at present, and the fence more clearly distinguished public and private space. A hedge was not believed to be a viable alternative given the time taken to grow one and the potential for damage. The applicant proposed to adjust the height of the fence to a maximum of 1.8m and argued that this would not reduce passive surveillance of the lane and would not have a harmful impact on its openness and sense of security. The applicant also supplied a letter from a neighbour and another from the local community warden in support of her case. There were no consultations carried out on the application by the case officer, nor any representations received.

The Chair asked his fellow Members if they now had sufficient information to proceed to determine this application today and they unanimously agreed to proceed.

Councillor Gillies had noted on the site visit that the garden was located away from the main street and that the existing wire fence was in a poor condition. He did not object to the height of the wooden fence but suggested that it could be painted green to reduce its visual impact. He was not concerned that the granting of this application could create a precedent as there was already a variety of fences in the area. In view of this, he was minded to overturn the original decision of the Appointed Officer to refuse this application.

Councillor McNeil sympathised with the applicant who had erected the fence to protect her privacy and to make her property more secure after being the target of anti-social behaviour. He also referred to photograph 2 of the Applicant's original submission which showed that the wire fence enclosing the garden along the length of the public pathway was a few inches higher than the wooden fence erected by the applicant. He was also in favour of the fence being painted green and indicated that he was willing to grant permission to the retrospective application.

Councillor Day was in support of the views of his colleagues. He noted the history of anti-social behaviour at the property and had observed on the site visit that the garden was not visible from the public road. He did not consider that the suggestion that a hedge could be grown in place of the fence was a practical one. He would therefore vote to overturn the decision to refuse the original application subject to the condition that it was painted green.

### **Decision**

The ELLRB unanimously agreed to overturn the decision of the Appointed Officer to refuse the application, subject to the following condition:

1. The fence hereby approved shall be painted or stained in a dark green colour in accordance with a sample paint or stain to be submitted to and approved in writing by the Planning Authority. Details of the proposed paint or stain shall be submitted to the Planning Authority within 1 month of the date of the Decision Notice. The fence shall be painted or stained in accordance with the approved details within 3 months following the written approval of the Planning Authority.

The Legal Adviser stated that the Decision Notice would be issued within 21 days.

**2. REVIEW AGAINST DECISION (REFUSAL)  
PLANNING APPLICATION No: 15/00292/P – PLANNING PERMISSION  
FOR REPLACEMENT WINDOWS AT FLAT 1 WAVERLEY SOUTH, EAST  
LINKS ROAD, GULLANE**

The Legal Adviser introduced the above application which had been refused by the Appointed Officer. She advised that a site visit had been carried out prior to the meeting and Members had received 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.

Phil McLean, Planning Adviser, advised that the application site was a ground floor flat in a two storey flatted building and that the application was seeking permission for the replacement of four of the flat's windows. The existing windows that were to be replaced were doubled-glazed timber windows and the proposed replacements would have the same glazing pattern but would be made from PVC.

The Planning Adviser stated that the Planning Act requires 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 Local Plan 2008. The Planning Adviser advised that the site was within a residential area of Gullane, designated under local plan policy ENV1, and within the Gullane Conservation Area. The main policy considerations relevant to the application were design and impacts on the Conservation Area. The key policies in relation to these matters were Strategic Development Plan policy 1B and Local Plan policy ENV4. In addition, Local Plan policy DP8 relates specifically to replacement windows. It states that replacement windows in Conservation Areas must preserve or enhance the area's special architectural or historic character. This would 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. Also relevant to the application, were national policy documents, including Scottish Planning Policy and the Scottish Historic Environment Policy.

The Planning Adviser stated that the application had been refused by the Appointed Officer on the basis that the proposed replacement windows would be harmful to the character and appearance of the Conservation Area due to their PVC frames. The application was therefore considered to be contrary to the relevant development plan policies. The request for a review argues that the replacement windows are required for protection from the elements and for energy efficiency, that the site is some distance from public thoroughfares and the change would therefore not be

noticeable, and that new windows would be more attractive. Some windows in the complex had already been replaced.

No consultations had been carried out on the application by the case officer, nor representations received.

The Chair asked his fellow Members if they had sufficient information to proceed to determine this application today and they unanimously agreed to proceed.

Councillor McNeil, having visited the property and studied the photographs provided in the papers, considered that the appearance of the proposed UPVc windows would not be significantly different to the appearance of the present double glazed timber windows. He had also noticed on the site visit that neighbouring properties had already installed UPVc windows. In addition, as the property was screened by a wall and was not on a public thoroughfare, he did not consider that the proposed UPVc windows would be harmful to the character of the Conservation Area. He was therefore minded to overturn the original decision of the Planning Officer and grant permission for this application.

Councillor Gillies agreed with the views of Councillor McNeil on the restricted views of these windows and the UPVc windows installed in neighbouring homes. He too was therefore minded to overturn the original decision.

Councillor Day concurred with his colleagues. He stated that policy DP8 provides some latitude to allow replacement windows where the design and construction of the windows does not harm the character and appearance of the building or its surroundings. He believed that this applied in this case noting the building was only built in around 2002. He had also found it helpful to see the UPVc window in another part of the building and believed this was not obvious. He noted that the car park located to the front of the building was a private parking area for residents. He was therefore satisfied that the proposed windows would not have a negative impact on the Conservation area and would vote to uphold the appeal.

### **Decision**

The ELLRB agreed unanimously to overturn the original decision of the Appointed Officer and grant planning permission.

The Legal Adviser stated that a Decision Notice would be issued within 21 days.

### **3. REVIEW AGAINST DECISION (REFUSAL) PLANNING APPLICATION No: 15/00042/P – PLANNING PERMISSION FOR FORMATION OF WINDOW OPENING AT 2 EASTFIELD COURT, MARINE PARADE, NORTH BERWICK**

The Legal Adviser introduced the above application which had been refused by the Appointed Officer. She advised that a site visit had been carried out prior to the meeting and Members had received 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.

Phil McLean, Planning Adviser, stated that the application site was a first floor flat in a two storey flatted building and that the application was seeking permission for the formation of a window opening on the side elevation with a timber-clad aluminium-framed window. He advised that the Planning Act requires decisions on planning applications to be taken in accordance with development plan policy unless material considerations indicated otherwise. The development plan consists of the approved Strategic Development Plan for Edinburgh and South East Scotland, known as SESplan, and the adopted Local Plan 2008.

The Planning Adviser advised that the site was 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 were design and impacts on the Conservation Area. The key policies in relation to these matters were Strategic Development Plan policy 1B and Local Plan policies ENV4 and DP6. Also relevant to the application were national policy documents, including Scottish Planning Policy and the Scottish Historic Environment Policy.

The Planning Adviser stated that the application was refused by the Appointed Officer on the basis that the 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 request for a review 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 was 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. Overall there was argued to be an eclectic mix of window styles in the area and it was argued that the proposed window would not appear incongruous.

No consultations had been carried out on the application by the case officer and no representations had been received.

The Chair asked his fellow Members if they had sufficient information to proceed to determine this application today and they unanimously agreed to proceed.

Councillor Gillies had observed on the site visit that there was a wide variety of window styles in the area surrounding this property, including examples of PVCu framed windows. He considered that there was little significant difference in the appearance of those windows when compared to traditional timber framed windows and was therefore minded to overturn the original decision of the Planning Officer to refuse the application.

Councillor McNeil noted that the applicant was proposing to open a window which had been closed since the 1970s when the building was converted to a hotel. He welcomed the applicant's proposal to have this window in operation again and hoped that the Council could work with the applicant on an appropriate style of window. For clarification, the Planning Adviser advised that the applicant was proposing an

aluminium frame clad in timber and the issue was the thickness of the timber rather than the material. As Councillor McNeil did not consider that the applicant's proposal would be harmful to the Conservation Area, he was minded to agree with his colleague and vote to overturn the original decision to overturn the Planning Officer's decision to refuse the application.

Councillor Day referred to Scottish Planning Policy (based on Section 64 of the Planning Listed Buildings and Conservation Areas (Scotland) Act 1997) which states that a planning authority must have regard to the desirability of preserving or enhancing the character or appearance of a conservation area. He believed that this was a subjective matter and, in his view, the proposed window would have a neutral effect on the appearance of the building and would not have a harmful impact on the Conservation Area, noting the range of window styles on Marine Parade. He was therefore minded to support the applicant's appeal against the original decision.

**Decision**

The ELLRB unanimously agreed to overturn the original decision of the Appointed Officer to refuse this application.

The Legal stated that a Decision Notice would be issued within 21 days.