

REVIEW DECISION NOTICE

Decision by East Lothian Local Review Body (the ELLRB)

Site Address: The Old Barn, Village Green Road, Stenton,

Application for Review by CR Smith against decision by an appointed officer of East Lothian Council.

Application Ref: 15/00878/P

Application Drawings: DWG001 and DWG002 and DWG003

Date of Review Decision Notice – 30th March 2016

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 17th March 2016. The Review Body was constituted by Councillor Norman Hampshire (Chair), Councillor John McNeil Councillor Donald Grant, Councillor John Caldwell and Councillor John Williamson. All five members of the ELLRB had attended an unaccompanied site visit in respect of this application on 17th March 2016.
- 1.2 The following persons were also present at the meeting of the ELLRB:-

Emma Taylor, Planning Adviser (in attendance on Site Visit)
Catherine Molloy, Legal Adviser
Fiona Stewart, Clerk.

2 Proposal

- 2.1 The application property is a single storey semi-detached house with accommodation in its roofspace and its garden, located predominantly residential area as defined by Policy ENV1 of the adopted East Lothian Local Plan 2008 and within Stenton Conservation Area. The application property is bounded to the north by neighbouring residential property of "Joiners Yard" to the east by an area of open green space, to the south by Stenton Village Hall and to the west by the neighbouring residential property of "The Horse Mill".

Planning permission was sought for the erection of a conservatory on the side (south west) elevation of the application property. The proposed conservatory would have a width of some 4.2 metres, a length of some 4.3 metres and a maximum height of 3.5 metres, with a bell ended style roof. The proposed conservatory would be constructed of white uPVC with double glazing with a high stone wall forming the North West elevation and a stone base course.

The planning application was originally validated on 26th October 2015 and was refused under delegated powers on 21st December 2015. The notice of review is dated 6th January 2016.

The reason for refusal is set out in full in the Decision Notice and is, in summary, that, by virtue of its bell ended roof form, external uPVC finish and visibility from the Conservation Area, the proposed conservatory would be a prominent and incongruous physical feature on the side elevation of the house. It would not be in keeping with the pitched form and materials of the roof or the natural stone external walls of the house, of the collection of houses to which it forms a part of or the streetscape or of the Stenton Conservation area as a whole and is therefore contrary to Policy 1 B of the approved South East Scotland Strategic Development Plan (SES Plan) and Policies ENV4 and DP6 of the adopted east Lothian Local Plan 2008.

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
3	The Appointed Officer's Report of Handling
4	A copy of the Decision Notice dated 21 st December 2015
5	Copy Letter of Objection from AHSS
6	Copies of Policy 1B of the approved South East Scotland Strategic Development Plan and Policies, ENV4 and DP6 of the Adopted East Lothian Local Plan 2008
7	Copy of email correspondence between the Case Officer and the applicant's agent
8	Photographs of the applicant's property and its surroundings
9	Notice of Review dated 6 th January 2016 and supporting review statement and photographs

4 Findings and Conclusions

4.1 The legal advisor to 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 legal advisor also summarised the procedure.

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 erection of a conservatory on the side (south west) elevation of the application property.

She noted that the Planning Act requires decisions on planning applications to be taken in accordance with development plan policy unless material considerations indicate otherwise. She also pointed out that 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.

She also advised that the site is within a residential area of Stenton, designated under local plan policy ENV1, and within the Stenton Conservation Area. She pointed out that the main policy considerations relevant to the application are design and impacts on the Conservation Area.

She advised 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. In summary, the key policies in relation to these matters are Strategic Development Plan policy 1B and Local Plan policy ENV4.

She further advised that also relevant to the application are national policy documents, including Scottish Planning Policy and the Scottish Historic Environment Policy. It is stated within Scottish Planning Policy that proposals that do not harm the character or appearance of a Conservation Area should be treated as preserving that character or appearance.

She pointed out that the ELLRB will have noted that the application was refused by the appointed officer on the basis that due to its roof form and uPVC external finish, the conservatory would be architecturally different from the house and would be a prominent and incongruous physical feature on the side elevation of the house. Contrary to Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies ENV4 and DP6 of the adopted East Lothian Local Plan 2008.

She also confirmed that there were no consultations carried out on the application by the case officer and only one letter of representation was received.

The Planning Officer summarised that the main questions for the ELLRB to consider in reviewing the case, were:-

- Whether the proposed development would comply with the policies of the development plan in respect of design, impact on the conservation area and amenity?
- 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?

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 Grant confirmed that the site visit had helped him to ascertain how the proposal would or would not interfere with the conservation area consent. Councillor Grant was of the view that the white UPVC finishing was not in keeping with the area and as such he would not support the appeal. Councillor Caldwell echoed this by advising that he was of the view that the proposal would be harmful to the Conservation Area. Councillor Williamson advised that he felt that the existing conservatory was already located at a prominent position of the application property. Councillor Williamson therefore took the view that the proposal would not detract from the conservation area as it was fundamentally made of glass. Councillor McNeill confirmed that the site visit was helpful to identify the landscape. Councillor McNeill also commented that he was surprised that no neighbours had notified of having any issues with the proposed location of the conservatory. However, Councillor McNeill was of the view that the finishing being the white UPVC was not in keeping with the conservation area. Councillor Hampshire commented that Stenton was a village with significant investment and was identified as an attractive conservation area village. He further commented that whilst there are modern structures within conservation areas the question for the members is whether they enhance or detract from the conservation area. Councillor Hampshire observed that the proposal is not visible from the public area and was hidden by the wall and that the proposed bell ended roof would not be visible from public areas. Councillor Hampshire was of the view that the conservatory would not detract from the conservation area.
- 4.3 Accordingly, the ELLRB agreed, by a majority of three votes to two, that the Review should be dismissed and the original decision to refuse this application should be upheld, for the reason set out in the original Decision Letter of 21st December 2015.

The Review Application was accordingly dismissed.



Catherine Molloy
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.