



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

**THURSDAY 19 MAY 2016
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Committee Members Present:

Councillor L Broun-Lindsay (Chair)
Councillor S Currie
Councillor J McNeil

Advisers to the Local Review Body:

Mr D Irving, Planning Adviser to the LRB
Mrs M Ferguson, Legal Adviser/Clerk to the LRB

Others Present

Mr N Miller, Planner
Mr R Holder, Agent for the application

Committee Clerk:

Mrs F Stewart

Declarations of Interest

None

Apologies

Councillor J Caldwell
Councillor D Grant

Councillor Broun-Lindsay was elected to chair today's meeting by Councillors Currie and McNeil. Duly elected, Councillor Broun-Lindsay welcomed everyone to the meeting and introduced the Members of the East Lothian Local Review Body (ELLRB) and Council Officers present. He also outlined the procedure for the meeting and advised that a site visit had been carried out.

**1. REVIEW AGAINST DECISION (REFUSAL)
PLANNING APPLICATION No: 15/00886/P – VARIATION OF CONDITION
3 OF PLANNING PERMISSION 15/00387/P TO PROVIDE GUEST (FAMILY
AND FRIENDS) ACCOMMODATION AT RIVERSIDE HOUSE, 4 STATION
ROAD, EAST LINTON**

The Legal Adviser advised that Members had been provided with written papers, including a submission from the Case Officer and review documents from the applicant. She advised that the Planning Adviser would summarise the planning policy issues in relation to the application and 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, they would proceed to discuss the application and a vote would be taken on whether to uphold or overturn the decision of the Appointed Officer.

The Chair invited the Planning Adviser, who had had no involvement in the original decision, to present a summary of the planning policy considerations in this case.

Daryth Irving, Planning Adviser, stated that the application site comprised the single storey detached house and garden of Riverside House. In August 2015, planning permission (Ref: 15/00387/P) had been granted for: the change of use of the area of open space to the east side of the house to domestic garden ground; the erection of a single storey pitched roofed building intended for use as accommodation ancillary to the house; and the erection of a 2 metres high chain link fence that would be positioned between the southern end of the east side elevation of the building and the east boundary of the area of open space, the subject of the proposed change of use. Condition 3 of planning permission 15/00387/P stated that *'The building hereby approved shall only be used for ancillary purposes, (not including resident or guest accommodation), incidental to the use and enjoyment of the dwellinghouse that is 'Riverside House', 4 Station Road, East Linton and shall not be used as residential accommodation, a separate dwellinghouse or for any business, trade or other commercial use.'* The reason for the imposition of the condition was to enable the Planning Authority to control the use of the development in the interests of safeguarding the character and residential amenity of the area in accordance with advice on flood risk given by the Scottish Environment Protection Agency.

The Planning Adviser stated that the application was seeking planning permission for a variation of condition 3 of planning permission 15/00387/P to provide occasional guest (family and friends) accommodation within the building approved for ancillary purposes. 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 consisted of the approved Strategic Development Plan for Edinburgh and South East Scotland (SESplan), and

the adopted East Lothian Local Plan 2008. The site was within a residential area of East Linton, designated under local plan policy ENV1 and was also within East Linton Conservation Area. The main policy consideration relevant to the application was the matter of flood risk and the key development plan policy in relation to this matter was Local Plan policy DP16 on flooding. The application had been refused by the Appointed Officer on the basis that no information or details had been provided to demonstrate that the building would be free from flood risk so as to be safe for use as occasional guest accommodation. A variation of Condition 3 of planning permission 15/00387/P to allow for such use would therefore be contrary to planning policy and to advice on flood risk given by the Scottish Environment Protection Agency (SEPA).

The Planning Adviser stated that the applicant's request for a review had argued that it was appropriate and valid for SEPA to resist residential development in floodplains, for obvious reasons. However, his proposed variation to the condition was seeking occasional guest and family use for no more than 30 days per year and, in the unlikely event of a potential flood, could be stopped from using the accommodation. With regard to consultations, SEPA had objected to the proposed variation of condition 3 of planning permission 15/00387/P on the grounds that it may place buildings and persons at flood risk contrary to Scottish Planning Policy (June 2014).

Finally, the Planning Adviser advised that, under the provisions of The Town and Country Planning (Notification of Applications) (Scotland) Direction 2009, due to the objection from SEPA, a government agency, Scottish Ministers had to be notified if the ELLRB was minded to grant planning permission prior to any decision being issued.

The Chair thanked the Planning Adviser for his presentation and asked his fellow Members if they had sufficient information to proceed to determine this application today and they unanimously agreed to proceed.

The Chair stated that Members needed to consider today whether the objection from SEPA had sufficient merit to overturn the Officer's decision. On the basis of the information before him, and having had the benefit of the site visit, the Chair stated that he was minded to overturn the original decision of the Planning Officer.

Councillor McNeil was inclined to agree and vote to allow occasional use of the ancillary accommodation in the grounds of Riverside House for family and friends. He was satisfied that the location and positioning of the ancillary accommodation would not pose a significant risk of flooding and was therefore not unsuitable for its proposed use.

Councillor Currie stated that the main question to be answered was whether SEPA's objection was reasonable. He considered that it was possible SEPA had not considered the specific circumstances of this application, while Members had the benefit of basing their decision on local knowledge. He pointed out that Riverside House was clearly in a residential area and the objection therefore appeared to him to be unreasonable. He understood that the condition was intended to control the use of development in residential areas but the key point was that the condition expressly limited the use of the ancillary accommodation. He would therefore vote to overturn the decision of the Planning Officer.

Decision

The ELLRB unanimously agreed to overturn the original decision of the Planning Officer and approved an amendment to Condition 3 of planning permission 15/00387/P as follows:

‘The building hereby approved shall only be used for ancillary purposes incidental to the use and enjoyment of the dwellinghouse that is Riverside House, 4 Station Road, East Linton and shall not be used as separate dwellinghouse or for any business, trade or other commercial use. For the avoidance of doubt, occasional overnight use by non-paying guests is permitted, so long as it does not exceed a total of 30 days in any calendar year.’

The Legal Adviser advised that Scottish Ministers would be notified of the decision and they would have a period of 28 days to decide whether or not to call in the application. Assuming Scottish Ministers decided not to call in the application, a Decision Notice would be issued as soon as possible following their decision.