



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

**THURSDAY 21 SEPTEMBER 2017
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Committee Members Present:

Councillor J McMillan (Chair)
Councillor L Bruce
Councillor J Findlay

Advisers to the Local Review Body:

Mr P Zochowski, Planning Adviser to the LRB
Mr C Grilli, Legal Adviser/Clerk to the LRB

Others Present

Mr K McLennan, Agent (Item 2)
Mr and Mrs C Chatham, Applicants (Item 2)
Ms K Towler (Item 2)

Committee Clerk:

Mrs F Stewart

Declarations of Interest

None

Apologies

Councillor Trotter
Councillor Findlay

Councillor McMillan, elected to chair the meeting by his colleagues, welcomed everyone to the meeting. He also advised that Members would today consider two planning applications refused by planning officers and outlined the procedure for the East Lothian Local Review Body (ELLRB) meetings.

A site visit for both applications had been carried out prior to the meeting.

**1. PLANNING APPLICATION 17/00483/P – REVIEW AGAINST DECISION (REFUSAL)
REPLACEMENT WINDOWS AT 9 FORTH STREET, NORTH BERWICK, EH39 4HX**

Paul Zochowski, Planning Adviser, stated that this application was for replacement windows on the front and side elevation of a 2-storey house which he described as a building of character in a Conservation Area. The proposed double glazed sash and case style windows with white coloured uPVC woodgrain effect frames would replace vertically sliding timber framed sash and case type windows. The Planning Adviser stated that Members would be aware that proposals had to comply with policies ENV4 and DP8 of the adopted East Lothian Local Plan 2008. A number of exceptions were provided for in policy DP8 but the Case Officer considered that the exceptions did not apply in this case. The Local Authority Planning Department also had to give due regard to statutory regulations and the desirability of enhancing and preserving the character and appearance of the property. The Planning Adviser advised Members that the applicant had received planning permission to install uPVC windows to the rear of the property in March 2017. One objection had been received in relation to today's application and the reason for refusal of the application was that the proposed windows would be harmful to the character and appearance of the property and the character and appearance of the North Berwick Conservation Area.

The Chair invited questions from Members. Councillor Findlay enquired, should the decision to refuse the application be overturned, if windows would have to be installed exactly as per the planning application and was advised by the Planning Adviser that they would. In response to questions from other Members, the Planning Adviser explained technical differences between the present windows and the proposed windows and advised that he was not aware of any non-timber window products acceptable to the Planning Authority for a quality building of this character. On energy efficiency, the Planning Adviser stated that he could not quote figures on the difference in heat loss which could be expected between the present windows and the proposed uPVC windows.

The Chair asked his colleagues if they had sufficient information to proceed to determine the application today and they confirmed that they had. Comments from Members followed.

Councillor Findlay stated that the proposed new windows had merit and would open in the same way as sash and case style windows. He also considered that the addition of the sash horn gave the impression of wood. In addition, he had observed on the site visit that a number of other properties in the area had uPVC windows and it could be argued that the streetscape had already been harmed. He would therefore vote to overturn the decision of the Case Officer.

Councillor Bruce agreed with the comments of his colleague but stated that the planning guidelines were quite clear. He stated that it was questionable whether other properties had gained appropriate planning permissions, and in his view, planning policies should be observed. He would therefore vote to uphold the decision of the Case Officer to refuse the application.

The Chair, Councillor McMillan, acknowledged that there were a number of different window styles in the vicinity but stated that it was important to remember that the property was in a Conservation Area. He had found the site visit helpful and had been given an opportunity to see an example of the proposed uPVC windows. However, he considered that the front of the property was highly visible and to allow the proposed windows would set a precedent. He would therefore vote to uphold the decision of the Case Officer on the grounds that a change to the present design of windows would have an impact on the Character of the Conservation Area.

Decision

The ELLRB agreed by a majority of 2:1 to uphold the original decision of the Planning Officer for the reasons given in the Decision Notice dated 19 July 2017.

A Decision Notice would be issued within 21 days.

2 PLANNING APPLICATION 16/00973/PP – REVIEW AGAINST DECISION (REFUSAL) PLANNING PERMISSION IN PRINCIPLE FOR THE ERECTION OF ONE HOUSE AT 6 THE HAWTHORNS, GULLANE

Paul Zochowski, Planning Adviser, stated that the application was for planning permission in principle for the erection of a house at 6 The Hawthorns. At this stage, no details were available, only the location of the house. He advised that a grouping of trees in the garden ground of this property were protected by Tree Preservation Order (TPO) 42 and in the course of determining the planning application, the Case Officer had consulted the Council's Landscape Projects Officer. A tree survey was also included in the papers. The Planning Adviser stated that this was the second planning application from the applicant for a house in the garden ground of his property. An earlier application submitted in July 2016 had been withdrawn. He advised that Section 25 of the Town and Country Planning (Scotland) Act 1997 required that the application was determined in accordance with the development plan unless material considerations indicated otherwise. Observing this, the Case Officer had considered that the principle of development on the site for the erection of one house conflicted with policies DP7, DP14 and NH5 of the adopted East Lothian Local Plan 2008. Copies of the relevant policies were included in the papers for Members' information.

The Planning Adviser advised that the Case Officer stated in his report that the application site was part of the curtilage of the residential property of 6 The Hawthorns, Gullane and development of the site would be urban infill housing development, the principle of which was supported by the Scottish Government. The principle determining factors, therefore, of this application, was fitting the proposed house into the application site, the impact on neighbouring properties and the adverse impact on trees (TPO 42). The Case Officer had concluded that it was possible to design a house, providing it complied with planning policies. The Planning Adviser stated that the main determining issue was the trees, and the Landscape Project Officer had considered that the loss of this group of trees would result in a detrimental visual impact on the landscape character and appearance of the area. The Case Officer's reason for refusal was that the application conflicted with planning policies DP7, DP14 and NH5. Three representations had been received in relation to the planning application.

The Chair invited questions from Members. Councillor Bruce referred to the applicant's appeal statement where it stated that, in 1992, a landscape officer had looked at the trees and had commented that replanting was not necessary. Councillor Bruce enquired if it was possible to have a different view of the group of trees after 25 years and the Planning Adviser replied that planning officers consider the passage of time since assessments were made when they visit a site. Councillor Bruce asked if the Council needed to give permission for trees protected by a TPO to be taken down and the Planning Adviser confirmed that, when a TPO was in force, permission was required to remove trees. It was, however, not necessary to replace them. He added that the TPO did not 'fall' if a tree was expected to die. It was the amenity effect of the group of trees on this site which was important and some trees might need to be replaced to maintain that effect.

Councillor Findlay asked, if under a group TPO, trees needed to be replaced on the original site or if they could be planted elsewhere on the site and the Planning Adviser advised that replacement trees would have to be planted within the original group.

The Chair asked if a new TPO had been issued and the Planning Adviser advised that TPO138 had been proposed and this Order would go before the Planning Committee on 3 October 2017 for approval. The Chair asked if the Council would enforce a TPO if trees were in a bad condition. The Planning Adviser replied that the Council would still have a TPO in place and could enforce it. The Chair noted from the applicant's statement that policy NH5 did not require the retention of trees regardless of condition or lifespan and allowed for the removal of trees 'in the interests of good tree management'. The Planning Adviser replied that all trees on this site were subject to a TPO. The Chair consulted planning policy DP7 which defined that infill could be accommodated, where 'the scale, design and density of the proposed development would be sympathetic to its surroundings...' He therefore considered that while the policy was supportive of some development, it was 'constrained'.

The Chair asked his colleagues if they had sufficient information to proceed to determine the application today and they confirmed that they had. Comments from Members followed.

The Chair described the site visit as very worthwhile. He had been impressed by the visual impact of the property and garden and could understand why the applicant would wish to build a house in the garden. He had read carefully the statement by the tree expert and, on the balance of evidence, was minded to agree with the Case Officer's decision.

Councillor Bruce stated that he had reached the same conclusion. Paragraph 4 of planning policy DP7 stated that development would only be supported where there was no material loss of features. He considered the group of trees was an important physical and natural feature and would therefore support the Case Officer's decision to refuse the application.

Councillor Findlay stated that a view on the group of trees on this site was subjective. In his view, the removal of the trees would not have a significant impact on the area because other trees would remain and be seen. Further, he considered that a house on this site would improve the amenity of the area. He would therefore vote to overturn the Case Officer's decision to refuse the application.

Decision

The ELLRB agreed by a majority of 2:1 to uphold the original decision of the Planning Officer for the reasons given in the Decision Notice dated 2 June 2017.

Signed

Provost J McMillan
Convener of Local Review Body (Planning)