



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

**THURSDAY 16 NOVEMBER 2017
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Committee Members Present:

Councillor N Hampshire (Chair)
Councillor S Currie
Councillor J Findlay
Councillor S Kempson

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

Ms L Fisher, EMA Architecture + Design Limited (Item 2)

Committee Clerk:

Mrs F Stewart

Declarations of Interest

None

Apologies

None

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

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

**1. PLANNING APPLICATION 17/00244/P – NON-DETERMINATION
PROPOSED CHANGE OF USE FROM FORMER ANNEX BUILDINGS TO 67
HIGH STREET, DUNBAR, FAIRBAIRN'S FURNITURE STORES, TO FORM
DWELLING HOUSE ACCESSED FROM COSSARS WYND, DUNBAR**

The Planning Adviser, stated that the application site was within a Conservation Area and advised that the proposed buildings to be demolished were considered Listed Buildings by virtue of being attached to Listed Buildings. He referred to the Case Officer's planning assessment and stated that the application site was located on the south side of Cossars Wynd and comprised two components: the northern part on which are located a series of linked former storage buildings, and the southern part which comprised an area of rough, unmade land associated with those buildings.

The Planning Adviser advised that the site was essentially landlocked and that the closest public road was Cossars Wynd. The applicant had been granted Listed Building Consent by the Department of Planning and Environmental Appeals (DPEA) on 8 November 2017 and today's application was for the planning application only. He also explained that the applicant's proposals had changed. Originally, the plans had been only for the downtakings of the upper part of the coach house. The Case Officer had requested a report from a structural engineer and the report stated that the building was of poor quality and more downtakings were required. The Council's structural engineer had agreed with this assessment. The applicant subsequently submitted revised drawings with additional downtakings. The Case Officer requested the applicant to submit a revised application to reflect the material change to the proposals but the applicant did not comply with this request.

The Planning Adviser stated that the Case Officer had considered that the proposals would have an impact on the Conservation Area but the effects were expected to be largely neutral.

Questions from Members followed.

The Chair understood from the papers that the original application was for the reduction of the walls to a certain height and that the revised application was for the walls to be reduced to a lower height, a height which the Case Officer considered to be demolition and erection of a new house. He asked the Planning Adviser if his understanding was correct and the Planning Adviser confirmed that it was. Councillor Findlay noted from the papers that Historic Scotland had recommended that the stone from the down-takings on the site should be retained and re-used elsewhere on the site and enquired how viable this would be. The Planning Adviser advised that it would be possible to re-use much of the stone and, if Members were minded to grant planning permission, a condition could be applied to this effect.

Councillor Currie enquired if the Case Officer's assessment within the papers was based on the original application. He noted that this assessment was recommended

for approval subject to conditions. The Planning Adviser confirmed that it was, and agreed with Councillor Currie that the key issue with this planning application was the technicality over the description on the application form. Councillor Currie enquired if a revised application form from the applicant was a requirement or if Members could exercise judgement. The Legal Adviser replied that it was the Case Officer's opinion that the application needed a new planning assessment, but in terms of the building, Members might decide that the changes were insufficiently material to warrant a revised application form. The Chair asked if the application form was acceptable in building terms and the Planning Adviser confirmed that it was.

The Chair stated that the change in description was that the walls would be further reduced in height by one metre. That was classed as demolition, but he noted that the historical arches would be retained. His concern was whether a full assessment had been carried out by the Case Officer. The Planning Adviser replied that the Case Officer's view was that she considered the extent of the demolition to be the effective removal of the building and the erection of a new building. The Chair stated that he would understand demolition as being the removal of the entire building but it was clear some of the original building would be retained. The Chair asked if the walls could be reduced in height from the original planning application by submitting a Variation of Planning Consent. The Planning Adviser replied that a new planning application might be required.

For clarification, the Legal Adviser stated that the application before Members today is for the revised proposals and it was for Members to decide if the description on the application form was a material issue. If Members were to approve the application, conditions could be applied to reflect what had been approved.

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

Councillor Currie stated that the site visit had been helpful, allowing him to see the dilapidated condition of the building and to learn what was to be retained and why. The key issue was the description on the planning application form and Members had been re-assured that they could make a legal decision based on the original application form. In his view, the revised proposals would bring about a significant improvement to the site and he considered that the present condition of the buildings was a matter of concern. He was therefore minded to approve the application.

Councillor Findlay agreed with his colleague. He was concerned that if the proposals were not approved, the buildings would be at risk. He too was therefore minded to approve the application.

Councillor Kempson shared the view of her colleagues. She considered that the buildings, in their present state, were not attractive and, in the event of stormy weather, could be at risk.

The Chair was similarly minded and considered that the proposals would not have a detrimental impact on the community. He had witnessed how quickly buildings can deteriorate and welcomed proposals which would restore the buildings on this site.

Decision

The ELLRB unanimously agreed to grant planning permission to the application, subject to the following conditions:

- 1 No development shall take place on site unless and until final site setting out details have been submitted to and approved by the Planning Authority.
The above mentioned details shall include a final site setting-out drawing to a scale of not less than 1:200, giving:
 - a. the position within the application site of all elements of the proposed development and position of adjoining land and buildings;
 - b. finished ground and floor levels of the development relative to existing ground levels of the site and of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and
 - c. the ridge height of the proposed house shown in relation to the finished ground and floor levels on the site.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the amenity of the area.

- 2 No development shall take place on the site until the developer, has through the employment of an archaeologist or historic buildings specialist, secured the implementation of a programme of archaeological work (Enhanced level Historic Building Recording) on the former 'coach house' building to be demolished, in accordance with a written scheme of investigation which the applicant shall submit to and have approved in advance by the Planning Authority.

Reason:

To record upstanding historical archaeological remains.

- 3 The support columns and arches of the east elevation of the existing former 'coach house' building and the lower part of its north (roadside) elevation wall shall be retained in situ in accordance with the details shown for their retention on the application drawings docketed to this grant of planning permission, unless otherwise agreed in writing by the Planning Authority.

Reason:

In the interest of safeguarding the special architectural or historic interest of the listed building and the character and appearance of the Conservation Area.

- 4 Other than for the lowering in height of parts of the north (roadside) boundary wall and of the length of wall between the southwest corner of the former 'coach house' building and the west boundary of the site, as detailed for them on the drawings docketed to this grant of planning permission, the boundary walls of the site shall be retained in situ at their present height unless otherwise agreed in writing by the Planning Authority.

Reason:

In the interest of safeguarding the special architectural or historic interest of the listed building and the character and appearance of the Conservation Area.

- 5 Details and a sample of the natural red clay pantiles to be used to clad the roof of the house hereby approved shall be submitted to and approved in writing by the Planning Authority prior to their use in the development, and thereafter the natural red clay pantiles used to clad the roof of the house shall accord with the details and sample so approved.

Reason:

In the interest of securing an appropriate external finish for the house hereby approved in order to safeguard the character and appearance of the Conservation Area.

- 6 Details, including its colour, and a sample of the lime render to be used for the finish of the external walls of the house hereby approved shall be submitted to and approved in writing by the Planning Authority prior to its use in the development, and thereafter the lime rendered finish of the external walls of the house shall accord with the details and sample so approved.

Reason:

In the interest of securing an appropriate external finish for the house hereby approved in order to safeguard the character and appearance of the Conservation Area.

- 7 Notwithstanding that which is shown on the application drawings docketed to this grant of planning permission, the glazing units of the windows and external doors of the house hereby approved, including those of the lean-to addition on its east side, shall be slim-lite glazing units in accordance with details of such glazing to be submitted to and approved in advance in writing by the Planning Authority and thereafter the slim-lite glazing units used for the windows and external doors of the house shall accord with the details so approved unless otherwise agreed in writing with the Planning Authority.

Reason:

In the interest of safeguarding the character and appearance of the Conservation Area.

- 8 Details, including its colour, of the paint, stain or timber preservative to be applied to the outer surface of the frames of the windows and external doors of the house and the timber parts of the external doors shall be submitted to and approved in advance in writing by the Planning Authority prior to its use in the development, and thereafter the paint, stain or timber preservative used shall accord with the details so approved.

Reason:

In the interest of safeguarding the character and appearance of the Conservation Area.

- 9 The natural stone to be used in the repair, infill and copes of the existing boundary walls and in the new lengths of wall hereby approved shall be a natural stone that shall match as closely as possible the natural stone of the existing boundary walls in its coursing, texture, and colour in accordance with details and a sample of the new stone to be used that shall be submitted to and approved in advance in writing by the Planning Authority prior to its use in the development hereby approved, and thereafter the natural stone used shall accord with the details and sample so approved.

The mortar to be used to repoint the existing boundary walls and to point the new lengths of boundary wall hereby approved shall be a lime mortar unless otherwise approved in writing by the Planning Authority.

Reason:

In the interest of safeguarding the special architectural or historic interest of the listed building and the character and appearance of the Conservation Area.

- 10 Details and a sample of the paving to be used for the surface finish of the hardstanding areas hereby approved shall be submitted to and approved in advance in writing by the Planning Authority prior to its use in the development and thereafter the paving used shall accord with the details so approved.

Reason:

In the interest of safeguarding the special architectural or historic interest of the listed building and the character and appearance of the Conservation Area.

- 11 Roof and wall vents/flues are to be installed in accordance with details of them to be submitted to and approved in advance in writing by the Planning Authority prior to their installation in the development and thereafter the roof and wall vents/flues shall accord with the details so approved.

Reason:

In the interest of safeguarding the character and appearance of the Conservation Area.

- 12 Prior to the occupation of the house hereby approved the windows of the north elevation of single storey lean-to component of its east elevation shall be obscurely glazed in accordance with a sample of the obscure glazing to be submitted to and approved in advance in writing by the Planning Authority prior to its use on the house. The obscure glazing of the windows shall accord with the sample so approved. Thereafter the windows of the north elevation of single storey lean-to component of the east elevation of the house shall continue to be obscurely glazed unless otherwise approved by the Planning Authority.

Reason:

To safeguard the privacy and amenity of the neighbouring residential property of 1 to 4 Church Place to the north.

- 13 Prior to the occupation of the house hereby approved, on-site secure cycle parking / storage shall be provided in accordance with details of such cycle parking / storage to be submitted to and approved in writing in advance by the Planning Authority prior to its provision on the site, and thereafter the cycle parking / storage facilities shall accord with the details so approved and shall be retained for such use unless otherwise agreed in writing by the Planning Authority.

Reason:

To ensure provision of adequate on-site cycle parking / storage.

A Decision Notice would be issued within 21 days.

2 PLANNING APPLICATION 17/00292/P- REVIEW AGAINST DECISION (REFUSAL) ERECTION OF SCULPTURE, FORMATION OF FOOTPATH, MOUND AND ASSOCIATED WORKS AT LAND NORTH EAST OF SPOTT ROUNDABOUT, DUNBAR

The Planning Adviser stated that permission was being sought for the erection of an artwork on an area of land to the north off the A1 Trunk Road. The proposed steel sculpture was a 5-metre high bear symbolising Dunbar's association with the environmentalist John Muir who was born in in Dunbar. It was also proposed to form two pedestrian connections from the footpath of the northern side of the A1 trunk road to provide pedestrian access to the proposed sculpture.

The Chair opened a session of questions for the Legal Adviser and Planning Adviser. He noted that the principle reason for refusal was Transport Scotland's advice that the location of the proposed sculpture could result in inappropriate parking which would interfere with the safety and free flow of traffic on the trunk road. The Chair enquired if the application could be continued and the Legal Adviser informed Members that they had two options; they could either refuse the application or agree to hold a Hearing and request further information. The applicant had requested the second option.

The Planning Adviser stated that this planning application had been submitted to satisfy a condition attached to planning permission for the erection of 525 houses on land at Halhill, Dunbar. He also advised that two objections had been received in relation to the bear structure application and Dunbar Community Council had expressed concerns. The application had been refused by the Case Officer as he considered that the proposed development would have a detrimental impact on highway safety in the area, contrary to policy T2 of the adopted East Lothian Local Plan 2008.

The Legal Adviser stated that, should Members be minded to overturn the decision of the Case Officer to refuse the application, it was open to them to propose a change to the proposals. The application would then go through a further Transport Scotland consultation process.

The Chair asked Members 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 he had at first been surprised that the application had been refused, but on further scrutiny, when he noted the pedestrian paths on the A1, he had changed his view. He was in favour of having the sculpture erected but on the condition that the connecting footpaths were re-routed through the adjacent field for safety reasons.

Councillor Kempson stated that she considered the link with John Muir a tenuous one and did not find the sculpture attractive. In her view, the sculpture could also present a distraction for motorists using the A1 and pose a danger. She was therefore minded to uphold the decision of the Case Officer to refuse the application.

Councillor Currie was in favour of the bear sculpture being erected but described the proposed footpaths for members of the public, linking the sculpture to the A1, as 'ridiculous'. In his view, the paths would also encourage motorists to park on the A1 which would be dangerous. He therefore considered that a new pathway would be a more viable option. Councillor Currie stated that the sculpture had merit from a tourism point of view and cited the successful Kelpies structure and the Angel of the North. He believed that the bear sculpture presented a great opportunity for Dunbar and could be a catalyst for other enterprises at this location. He was therefore minded to overturn the decision of the Case Officer to refuse the application. However, he stressed that approval would have to be on the condition that footpaths connecting the structure with the A1 would be re-routed under the railway line where there was an existing path.

The Chair stated that this proposal had elicited a range of opinions in the community and this was to be expected as all artwork provokes an opinion. He advised that the artist commissioned to deliver the sculpture was a well known Scottish artist who had designed the famous Kelpies. He was also mindful that the sculpture would provide Dunbar with a further connection to John Muir and would make more people aware of his achievements. However, he agreed with his colleagues that the proposed footpath was unacceptable. He was therefore minded to grant planning consent on the condition that the connecting path was routed through the retail park to allow safe access to the sculpture for the general public.

The Planning Adviser advised that a new application would be required to reflect the change to the footpaths.

Decision

The ELLRB agreed by a majority of 3:1 to overturn the original decision of the Case Officer and grant planning permission subject to the following conditions:

1. Prior to the commencement of development, full details of the treatment and colour of the steel finishing material of the sculpture shall be submitted to and approved in writing by the Council. Thereafter development shall be undertaken in accordance with the details so approved.

Reason:

In the interests of preserving the character and appearance of the area.

2. Notwithstanding that shown on the drawings docketed to this planning permission, the footpaths are not hereby approved.

Reason:
In the interests of road safety

**3. PLANNING APPLICATION 17/00490/P - REVIEW AGAINST DECISION (REFUSAL)
REPLACEMENT WINDOWS AT 15 CREEL COURT, NORTH BERWICK**

The Planning Adviser advised that this application applied to a two-storey flatted property located within the North Berwick Conservation Area. Permission was being sought for the replacement of 2 windows on the rear (west and south) elevations of the property at first floor level and 3 windows on the front (east) elevation of the property at first floor level, all of which were timber framed sash and case style windows. The proposed replacement windows would be double glazed uPVC sash and case style windows.

The Planning Adviser advised that the application had been refused as the proposals had been contrary to policy DP8 of the adopted East Lothian Local Plan 2008 which states that replacement windows in a Conservation Area must preserve or enhance the area's special architectural or historic character. The policy allowed only three exceptions; when there was no visible difference between the original window and the proposed window, the building did not contribute to the character of the area or the window could not be seen from a public place. The Planning Adviser advised that the uPVC windows to the rear of the property would not be visible to the public.

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

Councillor Currie stated that, in his view, the windows of this property could not be easily seen by members of the public and he had observed many examples of both uPVC doors and windows in the area. He also argued that good quality uPVC windows, as opposed to poor quality wooden framed windows, could enhance the character of the area. He understood why planning officers wished to protect Conservation Areas but was satisfied that, in this case, one of the exceptions to policy DP8 applied as the replacement windows were not in full view of the public. He was therefore minded to overturn the decision of the Case Officer to refuse the application.

Councillor Kempson agreed with her colleague. She considered that the proposed replacement windows were not in public view and would not have a detrimental impact on the Conservation Area. She too was therefore minded to overturn the decision of the Case Officer.

Councillor Findlay was satisfied that the replacement windows could not be seen by the general public and, like his colleagues had observed many other examples of uPVC windows and doors in properties nearby.

The Chair took a similar view. He considered that the public could only have a very limited view of the replacement windows and was minded to grant consent to the application.

Decision

The ELLRB unanimously agreed to overturn the decision of the Case Officer and grant planning consent to the application.

A Decision Notice would be issued within 21 days.

Signed

Councillor N Hampshire
Convener of Local Review Body (Planning)