

REVIEW DECISION NOTICE

Decision by East Lothian Local Review Body (the “ELLRB”)

Application for Review by Ms Dorothy Danks of 15 Creel Court, North Berwick EH39 4LJ against decision (refusal) by an appointed officer of East Lothian Council

Site Address: 15 Creel Court, North Berwick

Application Ref: 17/00490/P

Application Drawing: Drawing No: ES-01;

Drawing No. ES-02;

Drawing No. ES-03 Rev A;

Drawing No. ES-04 Rev A; and

Drawing No. DWG01

Date of Review Decision Notice: 21 December 2017

Decision

The ELLRB upholds the application for review for the reasons given below and hereby grants Planning Permission.

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 Thursday, 16 November 2017. The Review Body was constituted by Councillor N Hampshire (Chair); Councillor S Currie, Councillor J Findlay and Councillor S Kempson, All four members of the ELLRB had attended an unaccompanied site visit in respect of this application prior to the meeting.

1.2. The following persons were also present at the meeting of the ELLRB:-

Mr Paul Zochowski, Planning Adviser
 Mr Carlo Grilli, Legal Adviser
 Mrs Fiona Stewart, Clerk.

2. Proposal

- 2.1. The planning application is for the replacement of two windows on the rear (west and south) elevations of the property at first floor level and three (3) windows on the front (east) elevation of the property at first floor level, all of which are vertically sliding sash and case type windows. The proposed replacement windows would be double glazed sash and case style white coloured UPVC frames and the same glazing pattern as the existing windows.
- 2.2. The planning application was registered on 25 June 2017 and was refused under delegated powers on 2 August 2017. The notice of review is dated 18 August 2017.
- 2.3. The reasons for refusal are set out in full in the Decision Notice and are, in summary, that the proposed windows to be installed in the prominent east elevation of the property, due to their framing material would neither preserve nor enhance, but would be harmful to the character and appearance of the flatted property, the block of flats and row of terraced properties of which it is part, and the character and appearance of the Conservation Area, contrary to Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SES Plan) and Policies ENV4 and DP8 of the adopted East Lothian Local Plan 2008 and Scottish Planning Policy: June 2014.

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 2 August 2017
5.	Copies of Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SES Plan) and Policies ENV4 and DP8 of the adopted East Lothian Local Plan 2008.
6.	Notice of Review dated 25 June 2017 together with Applicant's Submission with supporting statement and associated documents.

4. Findings and Conclusions

- 4.1. 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. They confirmed that they had access to the planning file in respect of this matter and to all the information that the Appointed Officer had available when reaching the original decision to refuse planning permission, including all drawings and copies of all representations and objections received in respect of the original application.
- 4.2. The Members then asked the Planning Adviser to summarise the planning policy position in respect of this matter. 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.
- 4.3. 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 Planning Officer to refuse the application and to grant consent to the application.
- 4.4. Councillor Kempson agreed with Councillor Currie. She considered that the proposed replacement windows were not in public view and would not have a detrimental impact on the Conservation Area. She was therefore minded to overturn the decision of the Planning Officer and to grant consent to the application.
- 4.5. Councillor Findlay was satisfied that the replacement windows could not be seen by the general public and had observed many other examples of uPVC windows and doors in properties nearby. He was therefore minded to overturn the decision of the Planning Officer and to grant consent to the application.
- 4.6. The Chair considered that the public could only have a very limited view of the replacement windows and was minded to overturn the decision of the Planning Officer and to grant consent to the application.

Accordingly, the ELLRB decided unanimously that the decision should be overturned and that Planning Permission is granted.

The review application was accordingly upheld

21 December 2017



Carlo Grilli
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.

