



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

**THURSDAY 20 JUNE 2019
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Committee Members Present:

Councillor N Hampshire (Chair)
Councillor L Bruce
Councillor N Gilbert
Councillor S Kempson

Advisers to the Local Review Body:

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

Others Present

Mr I Forbes, Agent (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 of the East Lothian Local Review Body (ELLRB).

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

1. PLANNING APPLICATION 19/00116/P – REVIEW AGAINST REFUSAL ERECTION OF ONE HOUSE AND ASSOCIATED WORKS AT LAND TO THE SOUTH OF 33 SOUTH CRESCENT, PRESTONPANS

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.

The Planning Adviser stated that the application site was approximately 264 square metres of land located to the south of the house and garden of 33 South Crescent and to the west of the house and garden at 1 Polwarth Crescent Prestonpans. Consent was sought for a single storey house to be positioned centrally on the site, with its west elevation aligned with the front west elevation of the existing house at 33 South Crescent. The site was within an area of housing originally constructed as local authority housing in the 1930s with later additions in the 1950s, and many of the corner locations within the surrounding area had small areas, often triangular in shape, that were still provided as public open space. The site itself was formerly part of a larger garden belonging to 33 South Crescent that was sold into separate ownership in 2006.

The Planning Adviser advised Members that the present review against refusal requires to be considered against the revised policies of the adopted Local Development Plan (LDP), as there are no relevant policies in the South East Scotland strategic development plan. The relevant LDP policies were policies DP2 (Design), DP7 (Infill, Backland and Garden Ground Development), RCA 1 (Residential Character and Amenity), NH8 (Trees and Development) and T1 and T2 (General Transport Impact). Three objections to the development had been received from local residents on grounds including an increase in parking demand in the area, a reduction in visibility on the street for vehicle movements and setting an undesirable precedent for similar infill garden ground development. In addition there was an objection by the Coal Authority on grounds that no Coal Mining Risk Assessment Report had been submitted.

The Planning Adviser stated that the main determining issue was whether the proposed house would fit well into the surrounding townscape. The site was an infill site and to satisfy policy DP2 it had to be well designed and integrated into its surroundings, and to satisfy DP7, must, by its scale, design and density be sympathetic to its surroundings and not an overdevelopment of the site. The Case Officer had considered issues of overlooking to and from neighbouring properties and concluded that the proposal was satisfactory in terms of overlooking to its south (front) west (side) and east (side) but that the proposed north elevation would face the house at 33 South Crescent causing harmful overlooking. However this could be mitigated by raising the existing 1.8m fence or by provision of obscure glass in the kitchen window.

The Planning Adviser summarised the responses received from Consultees and highlighted that the Coal Authority had objected to the application, as no Coal Mining Risk Assessment report had been submitted, and the proposal fell within a defined

Development High Risk Area where there were coal mining features and hazards which needed to be considered. The applicant advised that he was not asked to submit this as supplementary information and has stated that he was willing to provide such a report if required. The Case Officer did not draw this to the attention of the applicant because he considered that there was a clear refusal on other grounds.

The Planning Adviser advised Members that, even if they were minded to disregard the first reason for refusal, it would still be competent to require the applicant to submit another application and address the mining situation.

The Case Officer's report states that the proposed house would be inharmonious with the surrounding area because it would project significantly beyond the building line of the house on the north side of Polwarth Crescent to the east of the site. In addition, a house on the corner plot would be prominent in public views from South crescent, Polwarth Crescent and Polwarth Terrace and a detached house would be different from other forms of housing in the surrounding area. The applicant, in his review documents, stated that the plot was a vacant piece of land adjacent to two private dwellings and densely overgrown. He also stated that the proposal would provide a much needed new small single storey two bedroom starter home in the area. Off street parking and the provision to utilise an existing dropped kerb and access gate would be provided.

The Chair thanked the Planning Adviser for his presentation and invited questions. The Chair began by enquiring if Members approved the proposal in principle, subject to a satisfactory Coal Authority Report being in place, it would allow the applicant to know that his proposals were acceptable and the Planning Adviser replied that such a decision would enable the applicant to know that it would be safe to build on this site. The Planning Adviser also confirmed for members the definition of the word 'inharmonious' in planning terms and advised in which circumstances a Coal Authority Report is required for planning applications. The Legal Adviser advised Members that they could not grant planning permission for the application subject to a Coal Authority Report; if it is known that building could not take place, consent cannot be granted.

The Chair asked his colleagues if they had sufficient information to proceed to determine the application today and they agreed they had. Comments on the application followed.

Councillor Gilbert did not find the proposed development inharmonious in character and he considered it waste land which would deteriorate in appearance over time. He was also satisfied there would be adequate on road parking available. His only concern was that the proposals could not proceed without a Coal Authority Report confirming that it was safe to build on this land.

Councillor Kempson took the view that the proposals would be a large footprint on a small piece of land which would be out of keeping in the area. She suggested that the plot could in the future be cultivated as a garden or allotment. She therefore supported the original decision of the Case Officer to refuse the application.

Councillor Bruce agreed with Councillor Kempson. He considered that the proposals would be prominent in its setting and, in context, other garden corners appear to have been preserved. He too was minded to refuse the application.

The Chair stated that, in his view, the development of a house on this site would be acceptable. He considered that the plot was big enough for the proposed

development and that it would not be unduly prominent in this location. However, he would be unable to support the application today due to there being no risk assessment carried out by the Coal Authority.

Decision

The ELLRB unanimously upheld the decision of the Case Officer to refuse the application for the following reason:

1. The site is within a Coal Authority Development High Risk Area and a Coal Mining Risk Assessment Report has not been submitted by the applicant. Consequently the applicant has failed to demonstrate that the proposed development would not place buildings or persons at risk from past mining related activities.

2. PLANNING APPLICATION 18/01280/P – REVIEW AGAINST REFUSAL REPLACEMENT GLAZING IN WONDOWS AND FORMATION DORMER AT 11 VICTORIA ROAD, NORTH BERWICK

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.

The Planning Adviser stated that this application was for a replacement glazing in windows and formation of contemporary dormer window to the rear of the property. In his application for a review, the agent had submitted a statement indicating an error on the original application form in relation to the type of windows proposed to be installed on the front elevation. The applicant was advised that submitting new material did not meet the criteria in section 43b of the 1997 Town and Country Planning Scotland Act 1997. The Review Body, therefore, had to consider the application on the basis on which it was submitted.

The Planning Adviser advised that the property at 11 Victoria Road, North Berwick was in a prominent location within the North Berwick Conservation Area and was also a listed building Category C. The proposed alterations and extension were for the replacement of the single glazed sash and case windows on the front elevation of the property with double glazed windows and the formation of a large box dormer with a balcony as a replacement for the two small dormers that currently exist on the rear elevation of the house. There was also a separate application for listed building consent for these alterations which had been appealed and will be dealt with by the Scottish Government's Planning and Environment Appeal Division (DPEA).

The Planning Adviser advised that a material consideration in the determination of this application was the Council's LDP Supplementary Planning Guidance on Cultural Heritage and the Built Environment which contains detailed guidance on replacement windows in a listed building. This states that original windows in a listed building should be retained and, where necessary repaired, and only where repair is shown to be impossible should replacement accepted. Permission should not be granted for a replacement window that is visibly different to an existing original window.

The Planning Adviser advised that one letter of objection had been received from the Architectural Heritage Society of Scotland (AHSS) objecting to both the replacement windows and the proposed box dormer which it considered would be an intrusive and

asymmetrical addition to the property. The relevant East Lothian Local Development Plan planning policies and Supplementary Planning Guidance against which this applications should be considered are Policy CH1 (Listed Buildings) which requires there to be no harm to the architectural or historic character of the building and policy CH2 (Development Affecting Conservation Areas) which requires all development to preserve or enhance the special architectural or historic character or appearance of the Conservation Area. The application was also refused against the precursor to Historic Environment Policy for Scotland 2019. Scottish Planning Policy also advises that change to a listed building should be managed to protect its special interest while enabling it to remain in active use and special regard must be given to the importance of preserving and enhancing the building, its setting and any features of special architectural or historic interest.

The applicant, in his review statement, drew attention to the previous work on the house to provide a contemporary ground floor extension to the rear and the original dormer reflected that look. They now felt that, while the two small dormers may emulate those in the area, they look out of place on top of the contemporary extension and that a timber clad contemporary dormer with glass balustrade would complement the look of the rear extension formed in 2009. They believe that a larger dormer in this location would not look out of place in context with the contemporary ground floor of the house and would not be dominant because it could be set back at the original line of the roof and look subservient to the ground floor.

The Chair thanked the Planning Adviser for his presentation and invited questions. He began by asking for clarification on the proposals and the Legal Adviser replied that it was open to Members to approve part of the application and refuse another part. The Planning Adviser also confirmed that the width of the slimline double glazing referred to in the applicant's submission was 12mm and not 20mm, as submitted in error in the applicant's review supporting documents.

The Chair asked his colleagues if they had sufficient information to proceed to determine the application today and they agreed they had. Comments on the application followed.

Councillor Bruce stated that he agreed with the Case Officer that the proposed dormer window would be harmful to the character and appearance of the building. However, he considered that 12mm width double glazing, replacing the single glazing in the front elevation windows would be acceptable.

Councillor Gilbert was of the view that the large dormer window, which would be in full public view, would be dominant in its setting and not an appropriate replacement for the present windows. He was, however, minded to approve the 12mm replacement double glazing on the front windows.

Councillor Kempson supported the decision of the Case Officer. She considered that the proposals would set an undesirable precedent and would not enhance the appearance of the property. She also suggested that secondary glazing to the front windows could be an acceptable alternative to the proposals in the application.

The Chair agreed with his colleagues on the proposals for the dormer window. In his view the proposed dormer would be harmful to the property as a whole and take over the whole of the roof space. With regard to the front windows, he stated that the

Council had a policy of reducing the carbon footprint, and he was content that the proposals would reduce heat loss from the property.

Decision

The ELLRB unanimously refused planning consent for the dormer window and agreed by a majority 3:1 to allow replacement glazing 12mm in width for the other windows.

Signed

Councillor N Hampshire
Convener of Local Review Body (Planning)