

## **REVIEW DECISION NOTICE**

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

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Application for Review of decision to refuse planning permission by Dr Sharp and Mrs Sharp in relation to Planning Permission for alterations, extension and change of use of bank building to form 1 house, erection of office (class 2), formation of vehicular access and associated works at 12 Westgate, North Berwick.

Site Address: 12 Westgate, North Berwick

Application Ref: 19/00472/P

Application Drawing: DWG001; DWG002; 1141-PL-04; 1141-PL-04-01; 18/683/01A; 18/683/02A; 18/683/02B; 18/683/03; 1141-PL-08; 1141-PL-01; 1141-PL-02; 1141-PL-02-1; 1141-PL-03; 1141-PL-06; 1141-PL-07; 1141-PL-08

Date of Review Decision Notice: 12 February 2019

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### **Decision**

The ELLRB by majority agreed to refuse the application for the reasons given below.

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**

The above application for planning permission was considered by the ELLRB, at a meeting held on Thursday, 16 January 2020. The Review Body was constituted by Councillor J Findlay (Chair); Councillor K McLeod; and Councillor J McMillan. All three members of the ELLRB had attended an unaccompanied site visit in respect of this application prior to the meeting.

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

Mr M Mackowiak, Planning Adviser to the LRB  
Mr C Grilli, Legal Adviser/Clerk to the LRB  
Fiona Currie, Clerk.

### **2. Proposal**

2.1. The planning application is to review the Planning Officer's decision to refuse Planning Permission for alterations, extension and change of use of bank building to form 1 house, erection of office (class 2), formation of vehicular access and associated works at 12 Westgate, North Berwick. In summary the reasons for refusal are:

- 2.1.1. The proposed scheme would result in the loss of a ground floor Class 2 commercial premises within North Berwick Town Centre where there was no evidence that the premises were no longer viable as a town or local centre use, contrary to Policy TC2 of the adopted East Lothian Local Development Plan 2018.
- 2.1.2. The proposed extension would by virtue of its size, scale, alignment and height not be subservient to the existing listed building and as such would be harmful to the architectural and historic character of the listed building and the character and appearance of the North Berwick Conservation Area contrary to Policies CH1 and CH2 of the adopted East Lothian Local Development Plan 2018 and Scottish Planning Policy: June 2014.
- 2.1.3. The proposed vehicular access and hardstanding area would be intrusive and incongruous changes to the character and appearance of the streetscape of Westgate and of the North Berwick Conservation Area. Therefore the proposals would neither preserve nor enhance but would be harmful to the character and appearance of the Conservation Area, contrary to Policy CH2 of the adopted East Lothian Local Development Plan 2018 and Scottish Planning Policy: June 2014.
- 2.1.4. The proposed development would not be subservient to or complement the existing building and would result in an unacceptable loss of residential amenity to the occupiers of neighbouring residential properties by virtue of direct overlooking and loss of daylight. Therefore the proposal is contrary to Policy DP5 of the adopted East Lothian Local Development Plan 2018.
- 2.1.5. The occupants of the proposed house would not be afforded an acceptable level of privacy and amenity. Therefore the proposal is contrary to Policy DP7 of the adopted East Lothian Local Development Plan 2018.
- 2.2. The planning application was registered on 16 May 2019. The Decision Notice refusing the Planning Application was issued on 12 July 2019. The notice of review is dated 1 October 2019.

### 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 registered on 16 May 2019 together with the Decision Notice dated 12 July 2019
3	The Appointed Officer's Submission
4	Policies: TC2 (Town and Local Centre); CH1 (Listed Buildings); CH2 (Development Affecting Conservation Areas); DP2 (Design), DP5 (Extensions and Alterations to Existing Buildings); DP7 (Infill, Backland and Garden Ground development); T1 (Development locations and accessibility); and T2 (General Transport Impact) of the adopted LDP 2018. Also material to the determination of the application were sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Scottish Government's policy on development affecting the setting of a listed building and development within a conservation area given in Scottish Planning Policy: June 2014.
5	Notice of Review dated 1 October 2019 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 due to non-determination of the planning application 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 grant planning permission subject to the condition, 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 gave a brief presentation to Members advising that this was a review against the refusal of planning permission 19/00472/P for the alterations, extension and change of use of the bank building to form one (1) house, the erection of an office (class 2) and the formation of a vehicular access and associated works. The site was within North Berwick Town Centre and the alterations and extension to the building would comprise: (i) the change of use of the ground floor part of the original stone listed building from a bank (class 2) to residential; (ii) the demolition of the existing single storey flat roofed part of the bank building (class 2); (iii) the erection of a two storey extension, with a lower basement level as a replacement for the existing single storey extension which is to be removed. The basement and first floor of the proposed extension are both to be entirely for residential use, while the ground floor of the proposed extension is to be predominantly in residential use with a commercial office being provided within the front part of the ground floor of the extension; and (iv) the widening of an existing access to enable the formation of a vehicular access off Westgate.

He informed Members that a separate application for listed building consent had been sought for the part demolition, alterations and extension to the building, alterations to the boundary wall and associated works. This application was also refused in July 2019 and an appeal against this refusal was lodged to the Planning and Environmental Appeals Division (DPEA). The appeal was dismissed in December 2019 and the Reporter concluded that the proposal would remove a subservient extension that was part of a listed building with special architectural features that reflected those of the adjoining listed building. It would be replaced by an overly dominant building with varying and distinctly different features to those of the adjoining listed building. This would detract from the special architectural and historic interest of the listed building. It would also adversely affect the setting of the adjacent listed building. The proposed replacement building would make for a tight fitting, overly dominant and awkward addition to this part of the conservation area.

He advised Members that the planning officer's report had assessed the proposals and concluded that there were no material planning considerations that outweighed the fact that the proposed scheme of development was contrary to Policies CH1 (Listed Buildings), CH2 (Development Conservation Areas), TC2 (Town and Local Centre), DP5 (Extensions and Alterations to Existing Buildings) and DP7 (Infill, Backland and Garden Ground Development) of the adopted LDP 2018 and Scottish Planning Policy: June 2014 and accordingly the application had been refused.

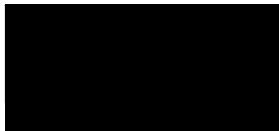
The Planning Adviser indicated that a further submission had been received from the applicant's agent which had included: A Brief History and Analysis of the site, Design and Access Statement, Daylight and Sunlight Report, Heritage Impact Assessment and Commercial Viability report. He highlighted that the last two documents - Heritage Impact

Assessment and Commercial Viability report - were not before East Lothian Council when planning application 19/00472/P was originally determined. The agent's submission had also clarified that the proposals achieved full compliance with the BRE guide in respect of protecting the sunlight amenity of both neighbouring properties on either side of the application site. Also, the agent had confirmed that his client was not seeking to 'delist' the property.

- 4.3. The Chair asked his colleagues if they had sufficient information to proceed to determine the application today and they unanimously agreed to proceed. Comments on the application followed.
- 4.4. The Chair stated that by building the extension so close to neighbouring Blenheim House it would have an adverse impact by restricting daylight to the properties on that side. He noted that 12 Westgate was a listed building. In relation to the garden to the north of the property, he noted that the windows at the rear would look directly into garden and would therefore result in a loss of amenity. In addition, he did not think that the development proposals were in keeping with the locality and he believed that the proposed extension would not be subservient to the existing building. For these reasons, he was minded to refuse planning permission.
- 4.5. Councillor McMillan stated that he agreed with all of the Chair's comments. In particular that the proposals would result in unacceptable loss of residential amenity for neighbouring residents. Accordingly he was minded to agree with officer's recommendation to refuse planning permission.
- 4.6. Councillor McLeod said that after very careful consideration he intended to go against the recommendation of the planning officer. He believed that the proposals would be attractive and would enhance the property and the surrounding area, and he was of the view that 12 Westgate was out with the boundary of the High Street. He was therefore minded to grant planning permission.

Accordingly, the ELLRB agreed by a majority to uphold the decision of the planning officer and refuse the application for the reasons more particularly set out in the Decision Notice dated 12 July 2019..

The Review Application was accordingly dismissed.



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.