

REVIEW DECISION NOTICE

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

Application for Review of Planning Permission by Eskquire c/o Irvine Design Services per Ross Irvine, 16 West Loan, Prestonpans for Installation of shutter security, lighting and CCTV cameras (Part Retrospective) for at 147 High Street, Prestonpans.

Site Address: 147 High Street, Prestonpans

Application Ref: 20/00892/P

Application Drawing: Please refer to the Drawings/Plans detailed at 3.1 (i)

Date of Review Decision Notice: 30 March 2021

Decision

The ELLRB unanimously agreed that the Review should be upheld for the reasons set out 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 Wednesday, 10 March 2021. The Review Body was constituted by Councillor N Hampshire (Chair), Councillor N Gilbert, and Councillor J Findlay. All three members of the ELLRB had attended a site visit accompanied by the Planning Advisor in respect of this application prior to the meeting.

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

Ms J Squires, Planning Adviser to the LRB
Mr C Grilli, Legal Adviser/Clerk to the LRB
Ms F Currie, Clerk

2. Proposal

- 2.1. The planning application is for review of condition 1 of Planning Permission, the terms of which are set out as follows:
- 2.2. The planning application was registered on 1 October 2020 and the decision notice granting permission subject to conditions is dated 12 November 2020.
- 2.3. The condition and the reason for the condition is more particularly set out in full in the said Decision Notice dated 12 November 2020. The condition and reason for the condition are set out as follows:

The solid steel roller shutter when shut completely screens the glazed frontage of the ground floor frontage of the premises. When closed it does not respect the architectural or historic features of the listed building but is instead is harmful to it. Consequently it is not in keeping with other part of the listed building and does not harmonise with the other parts of the listed building. It is visually incongruous and inappropriate for use on the front elevation of a listed building. By being is harmful to the special architectural or historic character of the listed building the roller shutter is contrary to Policies CH1 and DP5 of the adopted East Lothian Local Development Plan 2018 and to the policy guidance set out in the Council's Cultural Heritage and the Built Environment Supplementary Planning Guidance adopted by the Council in October 2018 and with Scottish Planning Policy: June 2014.

2.4. The notice of review is dated 16 December 2020.

3. Preliminaries

3.1. The ELLRB members were provided with copies of the following:-

i.	The drawings accompanying this application are referenced and numbered as follows: - DWG OS - SPECIFICATION 1 - PHOTO 1 - PHOTO 2 - SPECIFICATION 2 - PHOTO 3 - DWG 001 A
ii.	The Application for planning permission registered on 1 October 2020
iii.	The Appointed Officer's Submission
iv.	Policies of the adopted East Lothian Local Development Plan 2018 relevant to the determination of the application: - DP5: Extensions and Alterations to Existing Buildings - CH1: Listed Buildings
v.	Notice of Review dated 16 December 2020 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 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 conditions, including all drawings in respect of the original application. They also confirmed they had received and reviewed the Applicant's Submission in connection within this appeal before the ELLRB today.

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 original planning application was for retrospective permission for the installation of security shutter, lighting and CCTV cameras at 147 High Street Prestonpans. No public letters of objection to the proposal were received. The application was granted with a condition to the effect that permission be refused for the security shutter. The Review Body must therefore review the application and consider whether it or not it agrees with the conditional grant of permission. What is not for review is consent for those parts of the application that were granted, namely the lighting and CCTV cameras.

The shop front in question is part of a Category C Listed Building 147-155 High Street, Prestonpans. The listing notes that there are 3 shopfronts to ground floor, 2 shopfronts largely original with stallrisers and stone fascias, painted, and a corner shopfront without fascia but with lugged hoodmould.

Planning applications should be determined in accordance with the development plan for the area unless material considerations indicate otherwise. The Development Plan for our Area is the South East Scotland Strategic Development Plan (known as SESPLAN) and the adopted East Lothian Local Development Plan 2018. Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 is also relevant. Section 59 requires that in considering whether to grant planning permission for development which affects a listed building a planning authority shall have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest it possesses. LDP Policy DP5 requires that alterations and extensions to existing buildings are in keeping with the original building or complement its character and appearance. Policy CH1 requires that alterations or extensions to a listed building do not harm the architectural or historic character of the building. The Cultural Heritage SPG gives further specific guidance on security shutters including recommending the use of security glass alone for listed buildings, although internal open latticed security grilles or removable external grilles may be acceptable. Applicants will require to demonstrate a particular security problem or need which cannot be satisfied by these measures, before any alternative security means would be considered. The reason for refusal was that when closed, the shutter was considered harmful to the architectural or historic features of the listed building, not in keeping with the other parts of the listed building and out of harmony with it. The officer considered the shutter visually incongruous and inappropriate for the front elevation of the listed building and therefore contrary to Local Development Plan Policies DP5 and CH1 of the LDP, as well as guidance in the Cultural Heritage and the Built Environment SPG, Scottish Planning Policy and guidance from Historic Environment Scotland.

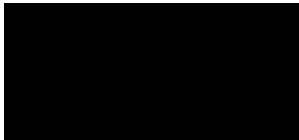
The appellant in his statement notes that the guidance in the Cultural Heritage and the Built Environment SPG does not say that roller shutters can never be acceptable. He notes the guidance states that such measures can be considered where the applicant can demonstrate a particular security problem that cannot be satisfied by these measures. He has included a letter from the Police detailing targeted vandalism and giving their opinion that roller shutters are needed. The appellant further considers that no unnecessary damage has been caused to the historic features by the installation, and that the proposals are in keeping with other parts of the building and harmonise with the streetscape, so meeting the terms of guidance in the SPG. He notes that many buildings at High Street, Prestonpans, have external solid steel security shutters.

- 4.3. The Members then raised the questions pertinent to the application which the planning advisor responded to.

- 4.4. 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.
- 4.5. Councillor Gilbert commented that he notes the applicant has suffered from vandalism and the police have suggested shutters. He acknowledged the premises was a listed building and note nearby premises have similar shutters but are out with the conservation area. In this case he was minded to support the appeal and remove the condition in the planning permission.
- 4.6. Councillor Findlay agreed with Councillor Gilbert's comments and was also minded to uphold the review.
- 4.7. The Chair stated that this was a listed building and it is the planning authority's responsibility to do what it can to protect the nature of these buildings. He noted that in this case he was of the view that this shutter does not interfere with the integrity of the building and on this occasion was minded to support the applicant and uphold the review.

Accordingly, the ELLRB unanimously decided that the Review should be upheld and Condition 1 of the Planning Permission shall be removed.

Planning Permission is accordingly amended by removal of Condition 1.



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.