

## **REVIEW DECISION NOTICE**

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

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Application for Review by John Campbell on behalf of Mrs Patricia Sharp of 8 Moray Place Edinburgh EH3 6DS for refusal of Planning Permission for alterations, extension, change of use of bank building to form 1 house, erection of commercial building, widening of vehicular access and associated works at 12 Westgate, North Berwick EH39 4AF.

Site Address: 12 Westgate, North Berwick EH39 4AF

Application Ref: 20/00594/P

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

Date of Review Decision Notice: 30 August 2021

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### **Decision**

The ELLRB unanimously agreed that the Review should be dismissed and planning permission refused 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 Thursday, 19 November 2020. The Review Body was constituted by Councillor N Hampshire (Chair), Councillor S Kempson, and Councillor J Williamson. 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 L Taylor, 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 decision for refusal of Planning Permission for alterations, extension, change of use of bank building to form 1 house, erection of commercial building, widening of vehicular access and associated works at 12 Westgate, North Berwick EH39 4AF.
- 2.2. The planning application was registered on 18 June 2020 and the decision notice refusing the application is dated 14 August 2020.
- 2.3. The reason for refusal of the Planning application is more particularly set out in full in the said Decision Notice dated 14 August 2020. The reasons for refusal are set out as follows:
  - 2.3.1. The proposed scheme of development would result in the loss of a ground floor Class 2 commercial premises within North Berwick Town Centre where there is no evidence that the premises is no longer viable as a town or local centre use, contrary to Policy TC2 of the adopted East Lothian Local Development Plan 2018.
  - 2.3.2. The proposed extension would by virtue of its size, scale, and alignment 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.
  - 2.3.3. The proposed widening of the vehicular access and the formation of the associated hardstanding area, with vehicle turntable, in the front garden ground of the former bank building 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.
  - 2.3.4. 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.
  - 2.3.5. 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.
- 2.4. The notice of review is dated 20 August 2020.

### 3. Preliminaries

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

i.	<p>The drawings accompanying this application are referenced and numbered as follows:</p> <ul style="list-style-type: none"> <li>- PHOTO 1</li> <li>- LOCATION PLAN</li> <li>- SITE PLAN</li> <li>- 18/683/01 Revision No. A</li> <li>- 18/683/02 Revision No. A</li> <li>- 18/683/02 Revision No. B</li> <li>- 18/683/03</li> <li>- MANU LITERATURE 1</li> <li>- MANU LITERATURE 2</li> <li>- MANU LITERATURE 3</li> <li>- MANU LITERATURE 4</li> <li>- MANU LITERATURE 5</li> <li>- MANU LITERATURE 6</li> <li>- 1141-PL-03 Revision No. A</li> <li>- 1141-PL-04 Revision No. A</li> <li>- 1141-PL-05 Revision No. A</li> <li>- 1141-PL-06</li> <li>- 1141-PL-01 Revision No. B</li> <li>- 1141-PL-02 Revision No. B</li> <li>- 1141-PL-07 Revision No. A</li> </ul>
ii.	The Application for planning permission registered on 18 June 2020
iii.	The Appointed Officer's Submission
iv.	<p>Policies of the adopted East Lothian Local Development Plan 2018 relevant to the determination of the application:</p> <ul style="list-style-type: none"> <li>- TC2: Town and Local Centres</li> <li>- CH1: Listed Buildings</li> <li>- CH2: Development Affecting Conservation Areas</li> <li>- DP2: Design</li> <li>- DP5: Extensions and Alterations to Existing Buildings</li> <li>- DP7: Infill, Backland and Garden Ground Development</li> <li>- T1: Development, Location and Accessibility</li> <li>- T2: General Transport Impact</li> </ul>
v.	Notice of Review dated 20 August 2020 together with Applicant's Submission with supporting statement and associated documents and additional representations.

### 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 refuse planning permission, including all drawings and copies of all representations and objections received in respect of the original application. They also confirmed they had received and reviewed the Applicant's

Submission and further representations made 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 planning application related to the building at no.12 Westgate North Berwick and sought a change of use of the ground floor former bank building to a residential dwelling, together with demolition of the single storey extension to the side, erection of a two storey side extension with basement, and alterations to widen the access from Westgate. There was also a commercial office or studio space proposed on the ground floor. Number 12 Westgate is a category B listed building situated within the North Berwick Conservation Area and the Town Centre, part of a grouping of listed buildings at Numbers 10-12 Westgate. Members have already been advised at the site visit that since the decision on the planning application was made, part of the building (the 1980s side extension) has been excluded from the listing of 10-12 Westgate following a recent decision by Historic Environment Scotland. He then set out the relevant policies relating to this application and highlighted that also of relevance was Scottish Planning Policy including guidance on development affecting listed buildings and conservation areas, and the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

In making their assessment of the planning application, the planning officer noted the planning history of the site including a previously refused planning application for change of use to residential, and a previously refused listed building consent application. Further, in relation to other material considerations, the planning officer discussed in their report of handling, policy TC2. This policy supports some changes of use in town centres, and in relation to residential use, only where it can be demonstrated that commercial buildings are no longer viable for a range of commercial uses. The proposal was noted as being a change of use from commercial (class 2) to residential with a small office/studio space provided to the side. The planning officer considered the proposal to be contrary to policy TC2 as it would result in the loss of commercial space in the town centre, with no evidence to demonstrate that it had been marketed as required or that it was no longer viable as a commercial town centre use. The Planning Officer noted the need to have special regard to preserving and enhancing the character and appearance of listed buildings and concluded that the proposed extension to the side would result in detrimental impact in relation to the setting of the category B listed building itself and to the North Berwick conservation area. The planning officer concluded that the alterations to the access to provide in curtilage vehicular parking would be detrimental to the streetscape and the character of the conservation area. They also concluded that the proposed alterations would result in occupants not having sufficient level of amenity including privacy, daylight or sunlight, together with impacts on the amenity of neighbouring properties at no.12b Westgate and Blenheim House. He confirmed that planning permission was subsequently refused and set out the reasons set out in the Decision Notice.

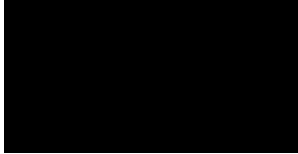
- 4.3. The Members then raised the questions pertinent to the application which the planning advisor responded to. The questions included:

- 4.3.1. whether or not there would be anything preventing the neighbour at the rear of the property erecting a fence or trees to protect privacy? The Planning Adviser responded by confirming that the neighbour would be able to put these screening measures in place however he also referred to the Planning Officer's report which confirmed that there were a number of windows to the rear of the property and it was deemed a loss of privacy.

- 4.3.2. What evidence of marketing as commercial premises would be required before there would be deemed to not be viable and for how long should this marketing take place for. The Planning Adviser confirmed that in terms of policy T2 of the Local Development Plan the premises would need to be marketed for at least six months. In addition the applicant would need to provide the marketing particulars and exhibit any notes of interest or offers received.
- 4.3.3. It was noted that the Planning Adviser had confirmed that the side of the building has recently been declassified as listed since the decision notice was issued for the original application. Given this what impact would that have on a decision. The Planning Advisor responded that while the application would now differ due to the delisting there would remain a requirement to consider the effect of the changes to the other parts of the building which remained listed.
- 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 Kempson commented that site visit this morning was most valuable at putting this application in context. There are tall buildings on the other side of the road but with large airy, light filled gaps between them. This proposal will block the light and air and change the street scape on the north side of the road dramatically in a conservation area. Its effect on the amenity of the neighbouring properties would be severe. The entrance from Westgate is very narrow even with the proposed changes, making it very difficult to get large family vehicles into the property and with little chance of being able to turn the vehicle round. Further, the lack of garden ground to the rear would result in a lack of amenities for any residents of such a property. There would be no outside washing lines or a shed for bicycles, prams, garden tools and other accoutrements of modern living. In conclusion Councillor Kempson fully supported the Planning Officer's recommendation to refuse planning permission. This property, in her opinion, is not suitable for development as a residence but could be developed as a commercial enterprise.
- 4.6. Councillor Williamson agreed with Councillor Kempson's comments. He then commented that the applicant had not provided evidence that the property was not viable as a commercial business. Accordingly, he was minded to support the Planning Officer's recommendation and refuse this appeal.
- 4.7. The Chair commented that his views were similar to those set out by his colleagues. It was his view that there was a need to preserve office space and the applicant has not demonstrated that a commercial property is not viable. Accordingly, he was minded to support the Planning Officer's recommendation and refuse this appeal.

Accordingly, the ELLRB unanimously decided that the Review should be dismissed and Planning Permission refused for the reasons more particularly set out in the Planning Officer's Report.

Planning Permission is accordingly refused.



**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.