



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

**THURSDAY 19 AUGUST 2021  
VIA THE DIGITAL MEETINGS SYSTEM**

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**Committee Members Present:**

Councillor N Hampshire (Chair)  
Councillor L Bruce  
Councillor K McLeod

**Advisers to the Local Review Body:**

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

**Clerk:**

Ms F Currie, Committees Officer

**Apologies:**

None

**Declarations of Interest**

None

## **Introductory Statement by the Legal Adviser**

The Legal Adviser outlined the procedure for the meeting and the options available to the Local Review Body in reaching a decision on the planning applications before it.

The Legal Adviser then invited nominations to chair the meeting. Councillors Bruce and McLeod indicated that they would be content for Councillor Hampshire to chair the Local Review Body (LRB) on this occasion.

### **1. PLANNING APPLICATION NO. 21/00258/P: ALTERATIONS TO HOUSE AND FORMATION OF A THIRD FLOOR ROOF TERRACE WITH DECKING, BALUSTRADING AND HANDRAILS AT 59 FORTH STREET, NORTH BERWICK EH39 4JJ**

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 outlined in detail the proposals contained in planning application no. 21/00258/P at 59 Forth Street, North Berwick for alterations to the house and formation of a third floor roof terrace with decking, balustrading and handrails. The application was registered on 10<sup>th</sup> March 2021 and determined on 14<sup>th</sup> May 2021. The property was a traditional, stone built 3 storey detached house with garden ground on Forth Street adjacent to the Abbey Church and grounds. Although not listed, the property sits within the designated North Berwick Conservation Area.

He noted that the decision reached on the application was mixed: consent was granted for the replacement of windows but Condition 1 did not grant consent for the formation of the third floor roof terrace with associated decking, balustrade and handrails on the roof of the house. The review was therefore in respect of the Condition 1.

Two letters of objection were received to the application - one from a neighbouring property and the other from the Architectural Heritage Society of Scotland East Lothian Cases Panel - and the Planning Adviser summarised the relevant matters raised in these letters. He further noted that one letter of support had also been received.

The Planning Adviser then reminded Members that applications should be determined in accordance with the development plan for the area unless material considerations indicated otherwise. He advised that the most relevant policies of the East Lothian Local Development Plan 2018 (LDP) were listed in the case officer report and had been considered in the determination of the application. These were Policy CH2 and Policy DP5. Scottish Planning Policy was also a material consideration in respect of guidance on determining applications that affect the character and appearance of a conservation area.

The Planning Adviser summarised the case officer's assessment of the application which made particular reference to the architectural and historic character of Forth Street, its contribution to the character of the North Berwick conservation area, the absence of other roof terraces in Forth Street, the visibility of the proposed glazed balustrade and handrails (along with any furniture or structures that may be placed on the terrace) along Forth Street, and from a gap between buildings from a public position in High Street. The officer concluded that the roof terrace would be an incongruous addition to the roof of the house, out of keeping with other roofs in the

street. This assessment formed the basis for the wording of the Condition 1 which did not grant permission for the roof terrace and associated decking, balustrading and handrails. Furthermore, it was noted that it could set a precedent for the addition of rooftop terraces on flat rooftops of roofs of neighbouring buildings which cumulatively would be harmful to the character and appearance of the North Berwick Conservation Area contrary to policies DP5 and CH2 of the LDP.

The Planning Adviser then considered the grounds for review put forward by the agent for the applicant. These included the reasons for making the application; that the assessment of whether a proposal harms the architectural or historic character of a conservation area was largely subjective; there have been many contemporary changes and alterations to traditional buildings which could be viewed from a public place; and that Forth Street had an eclectic character which would imply that more contemporary forms of change might be appropriate. In addition, 4 photos of the building from various public places and 6 photos showing examples seen from Beach Road, west beach and Melbourne Terrace were submitted. In summary, the applicant contended that the detail of the proposal would have minimal impact on the house, would not be harmfully obtrusive or dominant and should not have been regarded as contrary to planning policy.

The Chair thanked the Planning Adviser for his summary.

The Planning Adviser responded to a question from the Chair. He confirmed that while the other balconies or roof terraces in the area were of similar make-up they were positioned at the side or to the rear of the properties rather than on top of the property, as proposed in this application.

The Chair asked his colleagues to confirm if they had attended a site visit and if they were satisfied that they had sufficient information before them to determine the application. They confirmed this to be the case.

The Chair then invited Members to give their opinions.

Councillor Bruce said it had been useful to see the type of terraces already present in the area and to compare these with what was proposed here. He considered that the proposed roof terrace would change the profile of the building, increasing its height and that it would be clearly visible from the street and as part of the wider panoramic view of the area. As a result he saw no reason to change the original decision and he supported the planning officer's recommendation to refuse permission for the roof terrace.

Councillor McLeod agreed with his colleague and concluded that, having viewed the other examples in the area, he would be supporting the planning officer's recommendation.

The Chair indicated that he was of a similar view. He observed that had some of the other examples of balconies and roof terraces been on the top of the buildings they would have destroyed the character of the conservation area. As a result, he would be upholding the planning officer's recommendation to refuse permission for the roof terrace.

## **Decision**

The ELLRB agreed unanimously to dismiss the appeal and to retain Condition 1 of the planning permission for the reasons set out in the planning officer's report.

**2. PLANNING APPLICATION NO. 21/00425/P: FORMATION OF DECKING AND HARDSTANDING AREAS, ERECTION OF FENCING AND PERGOLA AT THE CLIFF, 3 BAYSWELL PARK, DUNBAR, EH42 1AE**

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 outlined the background, location and detailed proposals contained in planning application no. 21/00245/P at 3 Bayswell Park, Dunbar for the formation of decking and hardstanding areas, erection of fencing and pergola. The application was registered on 30<sup>th</sup> April 2021 and determined on 25<sup>th</sup> June 2021. The property lay within the designated Dunbar Conservation Area although the property was not a listed building. The proposed works were all to the rear garden.

The decision reached on the application was a mixed decision. The proposal to erect a pergola and the formation of a timber deck in the northeast corner of the garden and the proposal for an area of hardstanding were deemed appropriate to their surroundings, would have no harmful effect on the conservation area and were granted planning permission. However, the proposed batten fence to be attached to the interior of the existing high walls enclosing the south, east and west boundaries of the rear garden was not granted permission and this formed Condition 1 of the overall approval. This Review is therefore in relation to Condition 1.

The Planning Adviser reminded Members that planning applications should be determined in accordance with the development plan for the area unless material considerations indicated otherwise. The relevant policies of the East Lothian Local Development Plan 2018 (LDP) were contained in the officer's report. These were Policy CH2 and Policy DP2. Both considered the effect of any proposed development on the area in which the property was located and in the case of policy CH2 that was the effect on the special architectural or historic character or appearance of this part of the Dunbar Conservation Area. Scottish Planning Policy was also a material consideration in respect of guidance on determining applications that affect the character and appearance of a conservation area.

The Planning Adviser summarised the planning case officer's assessment of the application which had noted that the rear garden walls of the properties on Bayswell Park were prominent and attractive features that contributed positively to the character and appearance of this part of the conservation area. It was also noted that there were no houses in the vicinity of the applicant's house that had timber fences enclosing their roadside boundaries. As a result of the protrusion above the wall of 0.46m, the fences would be readily visible in a prominent location and would be visibly different in form and character to the walls. The planning case officer considered this would be a disruption to the uniformity of the walls that would harm the character and appearance of the walls and the contribution they made to the character and appearance of the conservation area. It was also noted that a second reason for the Condition was given as that, if approved, the batten fencing would set a harmful precedent for allowing similar forms of fencing in the locality to the greater detriment of the streetscape and to the character and appearance of the conservation area.

There were no representations received to the application. The Planning Adviser then summarised the letter submitted by the applicant in support of the review. In it he drew attention to the quality timber to be used which, he said, would age and silver in time

blending in to its landscape, tying in with timber used in an existing extension to the house and at the back of the garage. He had also stated that planting could soften its appearance further and that an increase in height to the east and west boundary walls would increase privacy for those on both sides. The applicant had concluded that each case should be considered on its merits.

The Chair thanked the Planning Adviser for his summary.

The Planning Adviser replied to a question from the Chair. He confirmed that although there were structures in other gardens nearby which could be seen from the street, the planning officer was concerned about the impact of this proposed structure due to its proximity to the wall, its fixed nature and its effect on the streetscape.

The Chair asked his colleagues to confirm if they had attended a site visit and if they were satisfied that they had sufficient information before them to determine the application. They confirmed this to be the case.

The Chair then invited Members to give their opinions.

Councillor McLeod noted that there were various huts in other back gardens nearby and that there were no properties overlooking the back garden of No.3 which was adjacent to a park and a main road. He commented on the slope from the rear of the property down to the location of the proposed fencing, noting that it would still be possible to see over the wall. Councillor McLeod concluded that he found it difficult to object to the application and was therefore minded to go against the planning officer's decision and to support the application.

Councillor Bruce agreed with his colleague and referred to the various structures visible in other gardens nearby. He commented that the applicant was entitled to privacy in his back garden, and noted that the slope of the garden was significant and that the wood type to be used would blend into the landscape over time. While he accepted that the proposed fencing would have an impact, he considered this to be minor and not harmful to the wider conservation area. On this occasion, he would be going against the recommendation of the planning officer.

The Chair agreed with the other LRB members. He acknowledged that the fencing would have an impact; however, in his view, any structure in a garden would have an impact in a conservation area. He commented that the fencing would screen some of the other structures in the garden from view and would provide an improved level of privacy for the applicant. He considered the height of the fence to be acceptable and he would be going against the recommendation of the planning officer.

**Decision**

The ELLRB agreed unanimously to uphold the appeal and to remove Condition 1 of the planning permission.

Signed .....

Councillor Norman Hampshire  
Chair of Local Review Body (Planning)