

REVIEW DECISION NOTICE

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

Application for Review by Mr J D Crow for replacement windows at 18 Marine Parade, North Berwick EH39 4LD.

Site Address: 18 Marine Parade, North Berwick EH39 4LD

Application Ref: 21/00529/P

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

Date of Review Decision Notice: 29 November 2021

Decision

The ELLRB agreed by a majority of two to one that the Review should be upheld and planning permission granted 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, 18 November 2021. The Review Body was constituted by Councillor A Forrest (Chair), Councillor N Gilbert, and Councillor J Findlay. 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:-

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

2. Proposal

2.1. The planning application is for review of decision to refuse Planning Permission for replacement windows at 18 Marine Parade, North Berwick, East Lothian EH39 4LD

2.2. The Planning Application was registered on 29 April 2021 and the Decision Notice refusing the application is dated 28 June 2021.

2.3. The reasons for refusal are more particularly set out in full in the said Decision Notice dated 28 June 2021 and are also set out as follows:

Reason:

1. *The white coloured uPVC frame windows would, by their different construction material of framing, be a significant change to the windows they would replace. This difference would not preserve the positive contribution the traditional timber framed sash and case windows make to the character and appearance of the house and to the special architectural or historic interest of the North Berwick Conservation Area. Consequently the proposed replacement windows would neither preserve nor enhance, but would be harmful to, the character and appearance of the house and to the character and appearance of this part of the North Berwick Conservation Area contrary to Policies CH2 and DP5 of the adopted East Lothian Local Development Plan, The Cultural Heritage and the Built Environment SPG adopted by the Council in October 2018 and with Scottish Planning Policy: Revised December 2020.*
2. *If approved the windows would set an undesirable precedent for the installation of similarly designed UPVC framed windows within the publicly visible elevations of other properties within this part of the streetscape. Over time such change would be collectively out of keeping with, and detrimental to, the special character and appearance of the North Berwick Conservation Area.*

2.4. The notice of review is dated 27 August 2021.

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: <table border="1"> <thead> <tr> <th><u>Drawing No.</u></th> <th><u>Revision No.</u></th> <th><u>Date Received</u></th> </tr> </thead> <tbody> <tr> <td>DWG 1</td> <td>-</td> <td>28.04.2021</td> </tr> <tr> <td>DWG 2</td> <td>-</td> <td>28.04.2021</td> </tr> <tr> <td>DWG 3</td> <td>-</td> <td>28.04.2021</td> </tr> <tr> <td>DWG 4</td> <td>-</td> <td>28.04.2021</td> </tr> <tr> <td>DWG 5</td> <td>-</td> <td>28.04.2021</td> </tr> <tr> <td>MANU LITERATURE 1</td> <td>-</td> <td>28.04.2021</td> </tr> <tr> <td>MANU LITERATURE 2</td> <td>-</td> <td>28.04.2021</td> </tr> <tr> <td>MANU LITERATURE 3</td> <td>-</td> <td>29.04.2021</td> </tr> </tbody> </table>	<u>Drawing No.</u>	<u>Revision No.</u>	<u>Date Received</u>	DWG 1	-	28.04.2021	DWG 2	-	28.04.2021	DWG 3	-	28.04.2021	DWG 4	-	28.04.2021	DWG 5	-	28.04.2021	MANU LITERATURE 1	-	28.04.2021	MANU LITERATURE 2	-	28.04.2021	MANU LITERATURE 3	-	29.04.2021
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ii.	The Application for planning permission registered on																											
iii.	The Appointed Officer's Submission																											
iv.	Policies of the adopted East Lothian Local Development Plan 2018 relevant to the determination of the application: <ul style="list-style-type: none"> - CH2: Development Affecting Conservation Areas - DP5: Extensions and Alterations to Existing Buildings <p>In addition the following provisions are also relevant to the determination of the application, namely:-</p> <ul style="list-style-type: none"> - Scottish Government's policy on development within a conservation area given in Scottish Planning Policy: June 2014. - Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 																											
v.	Notice of Review dated 27 August 2021 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 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 was for replacement of 13 timber framed windows with uPVC windows on the front (which is the North) and east side elevations of the building. The existing windows are white painted timber framed sash and case windows. The proposed replacements are white coloured

quick slide windows. They would be different in that they would have uPVC frames and astragals.

The proposal is located within a residential area of North Berwick Conservation Area, with a public footpath to the east and south, and an area of public open space to the north. The site is also within the North Berwick to Seton Sands Coast Special Landscape Area and within an area designated as developed Coast in the East Lothian Local Development Plan. The building is not listed.

Planning applications should be determined in accordance with the development plan for the area unless material considerations indicate otherwise. The development plan for the area is SESPLAN and the East Lothian Local Development Plan. The case officer considered there were no SESPLAN policies relevant to the determination of this planning application. The Planning Officer also considered that relevant policy of the East Lothian LDP were Policy CH2 – Development in Conservation Areas, and DP5 – Extensions and alterations to buildings.

The case officer also considered that material to the determination of the application are firstly Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. This requires that a planning authority must have regard to the desirability of preserving or enhancing the character or appearance of a conservation area in exercising its responsibilities in the determination of any application for planning permission for development affecting a conservation area. The case officer also considered that Scottish Government's policy expressed in Scottish Planning Policy 2018 on development within a conservation area was relevant. This echoes the statutory requirement to preserve or enhance the character and appearance of a Conservation Area. Proposals that do no harm should be treated as preserving the character and appearance.

East Lothian Council has adopted supplementary planning guidance on Cultural Heritage and the Built Environment. The SPG provides that the proportions and method of a window opening, colour, construction material of frames and glazing pattern should be retained. There are exceptions for where there is no visible difference between the proposed and original style of the window, or if the building itself doesn't contribute to the character of the Conservation Area and where a change would have no impact on its character. There is also an exception for where the windows can't be seen from a public place.

The case officer considered the house to make a positive contribution to North Berwick Conservation Area, with the timber framed windows being a significant component of the house. The case officer considered that the house is in a prominent position, with its windows visible from Marine Parade, the open space to the north and the public footpath. The case officer considered the use of uPVC would be a significant change to the existing windows which would harm the character and appearance of the house and consequently the Conservation Area. This would also set an undesirable precedent for similar proposals which would over time collectively harm the Conservation Area.

The application was therefore refused as the replacement windows would not preserve the character and appearance of the house nor preserve or enhance North Berwick Conservation Area, contrary to Policy DP5 and CH2 of the LDP, the Cultural heritage and Built Environment SPG and Scottish Planning Policy, and would set an undesirable precedent.

The applicant has submitted supporting information and manufacturer's photographs to

show that it is difficult to recognise the change of material due to the distance from public areas, angle of view and surrounding houses. The applicant states that it is reasonable that construction materials should:

1. Maintain the overall appearance of properties in the Conservation Area and help owners to keep their properties in good repair
2. Keep properties fit for occupation throughout the year when poor thermal performance can lead to prohibitive costs
3. Reduce fuel use for heating therefore reducing global warming, which they state fits with the Council's Climate Change Strategy.

The applicant states to achieve these aims the proposed windows are double glazed to high energy efficiency standard, are draught sealed, and match the existing size of opening, proportion of opening areas, frame section sizes, use of external astragals to upper sashes, and colour.

The applicant states the existing windows have poor thermal performance, are in a very exposed position and have rotted. The applicant considers that uPVC is a good material for windows as it retains its colour and does not require painting, among other things. The applicant states that due to the design of the proposed window it would be almost impossible to tell that it is uPVC. They state that a painted timber window in this location will flake within 2 to 3 years, and visibly deteriorate even with correct maintenance, having a negative impact on the appearance of the house. The Conservation Area is extensive and this house does not affect its overall appearance.

The applicant considers that the windows comply with policy in the SPG as the frame is the same size, proportions, opening method, colour and glazing pattern. Although the material is different, that is not recognisable from a public place.

The applicant states the windows will not set an undesirable precedent as they are of such design in their detail and construction that the difference between them and timber windows is not distinguishable.

The house is a modern conversion and windows would remain in keeping with other adjoining properties. To meet the aims of the Climate Change Strategy, barriers should not be placed in the way of progress. The clean, sharp lines of the new windows will enhance the house and its limited impact on North Berwick Conservation Area. The applicant maintains that the windows are not as readily visible as stated in the case officer's report and disallowing them prevents progress in other ways in particular energy efficiency.

- 4.3. The Members then raised 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 Findlay commented that because the proposed replacement windows were essentially a copy of the windows currently in place save for the material they are made of he was minded to go against the Planning Officer's decision and uphold this appeal.

- 4.6. Councillor Gilbert agreed with the comments raised by his colleague Councillor Findlay and in addition he also commented that this area is reasonably exposed and given there is a declared climate emergency he was minded to go against the officer's decision and uphold this appeal.
- 4.7. The Chair commented that he was not in agreement with his colleagues he noted that the windows are visible within the conservation area and it was important to retain and preserve the nature of a conservation area. Accordingly for these reasons he was minded to support the Planning Officer's decision and refuse this appeal.

Accordingly, the ELLRB decided by a majority of two to one that the Review should be upheld and Planning Permission shall be granted.

Planning Permission is accordingly granted.



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.