



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

**THURSDAY 15 DECEMBER 2022
VIA THE DIGITAL MEETINGS SYSTEM**

Committee Members Present:

Councillor J Findlay (Chair)
Councillor C Cassini
Councillor A Forrest

Advisers to the Local Review Body:

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

Other attendees:

Ms P Gray, Communications Adviser

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 Local Review Body to reach a decision on the planning application before it. He also asked the Members to confirm that they had viewed all of the documentation which had been available to the planning case officer during his consideration of the application. All members did so.

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

1. PLANNING APPLICATION NO. 22/00750/P: REPLACEMENT WINDOWS AND DOOR, 22 HOPETOUN TERRACE, GULLANE EH31 2DE

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 advised Members that the first case related to a review against refusal of planning permission for application no. 22/00750/P for replacement windows and door at 22 Hopetoun Terrace, Gullane. He set out in detail the proposals contained within the application and provided information on the site and surroundings. He confirmed that, while not a listed building, 22 Hopetoun Terrace lay within the Gullane Conservation Area as part of a short terrace of late Victorian two storey houses with two storey bay windows. Hopetoun Terrace had several such short terraces each being uniform in appearance although quite different from other terraces in the street.

The Planning Adviser outlined the proposed changes to the windows and door; contrasting the existing style and materials with those proposed in the application and highlighting the key differences. He noted that the applicant was willing to agree the details of the door handle and letterbox, along with the final colour of the door, with the Planning Service.

He reminded Members that applications should be determined in accordance with the development plan for the area unless material considerations indicate otherwise. Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and Scottish Planning Policy required that a planning authority must have regard to the desirability of preserving or enhancing the character or appearance of a conservation area in the determination of any application for development affecting a conservation area. Relevant to the determination of this application was East Lothian Local Development Plan 2018 (LDP) policy CH2 (Development Affecting Conservation Areas). Also material to the determination of this application was Supplementary Planning Guidance on Cultural Heritage and the Built Environment approved by Council in 2018.

Turning to the consultation process, the Planning Adviser noted that one letter of objection had been received from the Architectural Heritage Society of Scotland who had opposed the application as the proposed windows and door would be of different material and would neither preserve nor enhance the special architectural or historical character of the area.

The Planning Adviser summarised the case officer's assessment of the application which had concluded that the proposed changes to the windows and door on a prominent front elevation of a building which the officer considered to be an intrinsic part of the character of that building and which contributed positively to the character of the conservation area, would be harmful to the character and appearance of the Gullane Conservation Area. This was because the change in construction material of the window frames, the profiles of elements of the design and the 'plant on' astragals would be significant, as would the replacement of the timber door with a composite material and both would be harmful to the character and appearance of the house, the terrace of houses of which it was part and to this part of the conservation area. The Planning Adviser agreed with the officer's conclusions, adding that the change in the appearance of the door panels would also be significant. He noted that planning permission had been refused with the reasons for refusal being contrary to Policy CH2 Development Affecting Conservation Areas and Policy DP5 Extensions and Alterations to Existing Buildings.

The Planning Adviser then turned to the applicant's appeal submission which had listed the following reasons for appeal:

- The proposed changes would result in significant energy efficiency benefits to the householder
- That uPVC was a good material to use for replacement windows and, in the applicant's experience, offered benefits above and beyond those of timber windows
- That there was no discernible difference in the proposed changes as viewed from a public place; the proposed design would not be widely visible in the appearance of the windows and door such that would harm the character of the house
- It was understood that other owners adjoining the site had commented that they would wish to do exactly the same replacements as the applicant.

The Planning Adviser concluded his presentation by reminding Members that, should they be minded to grant planning permission, the planning case officer had provided a suggested condition.

The Planning Adviser responded to questions from Members on the vents within the proposed uPVC windows and the panelling on the replacement door.

In response to a question from the Chair, the Legal Adviser confirmed that, if so minded, the Members could grant planning permission in part, i.e. for the windows but not for the door.

The Chair asked his colleagues to confirm that they had attended the 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 views on the application.

Councillor Forrest commented that the site visit had been helpful and noted that the street appeared to have a unified form; and while the materials in buildings looked different the overall look of the area was the same. He said to grant this appeal could result in other homeowners seeking to make their own changes to their properties and the result would be harmful to the conservation area. He was therefore minded to support the Planning Officer's decision and to refuse the appeal.

Councillor Cassini had noted that there appeared to be another property in the street that had altered windows although this was not within this particular terrace. In respect of the door, she felt that to change the materials would go against the design and be harmful to the character of the area. However, she had less objection to the uPVC windows. She concluded that, subject to confirmation of the options by the Legal Adviser, she would be minded to refuse the application in part: supporting the Planning Officer's decision in relation to the replacement door but overturning the officer's decision in relation to the replacement windows.

The Chair noted that there were several options available to the applicant for materials and design but replacing like with like could be expensive. He felt that the uPVC windows would be similar in look and style to the existing timber windows but he was less sympathetic to the proposed replacement door. The Chair agreed with the position taken by Councillor Cassini. Accordingly, he was also minded to support the application in part: supporting the Planning Officer's decision in relation to the replacement door but overturning the officer's decision in relation to the replacement windows.

The proposals within the application – for replacement windows and a replacement door – were considered separately and decisions reached via roll call votes.

Decision

The ELLRB agreed by, majority, to grant planning permission in part: that is to grant planning permission for the replacement windows.

Additionally, the ELLRB agreed, unanimously, to refuse planning permission for the replacement door for the reasons set out above and in the original decision notice.

2. PLANNING APPLICATION NO. 22/00587/P: ERECTION OF 1 HOUSE AND ASSOCIATED WORKS, LAND AT THE HEUGH, NORTH BERWICK, EAST LOTHIAN

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 advised Members that the second case related to a review against refusal of planning permission for application no. 22/00587/P for erection of 1 house and associated works on land at the Heugh, North Berwick. He set out in detail the proposals contained within the application and provided details of the site and surroundings.

He reminded Members that applications should be determined in accordance with the development plan for the area unless material considerations indicate otherwise: in this case the South East Scotland Development Plan (SESplan) and the adopted East Lothian Local Development Plan 2018 (LDP). He outlined the most relevant policies of the LDP, which were: DC1 (Rural Diversification); DC3 (Replacement Dwellings in the Countryside); DC4 (New Build Housing in the Countryside); DC5 (Housing as Enabling Development); DC8 (Countryside Around Towns); DC9 (Special Landscape Areas); DP1 (Landscape Character); DP2 (Design); CH1 (Listed Buildings); CH4 (Scheduled Monuments and Archaeological Sites); T1 (Development Location and Accessibility); and T2 (General Transport Impact).

The Planning Adviser commented that, in his view, policies DC3 and DC5 were not appropriate for consideration in the determination of this application (the proposal was not for a replacement dwelling or enabling development) and could be disregarded. However, despite argument from the applicant, he considered that policy DC1, while not directly relevant, was useful in the determination of this application.

As set out by the planning case officer, Scottish Planning Policy was also relevant and other material considerations taken into account were: PAN 72 Housing in the Countryside; LDP Supplementary Planning Guidance Countryside and Coast; LDP Supplementary Planning Guidance Special Landscape Areas; and sustainability in terms of the design of the house and its site.

Turning to the consultation process, the Planning Adviser noted that a total of 16 objections had been received and that these were summarised in the case officer's report. In addition, the following consultees had raised no objections: East Lothian Council Access Officer, Waste Services Officer, Environmental Health Officer, Biodiversity Officer, Contaminated Land Officer, Road Services Officer (subject to conditions), Archaeology Officer (subject to conditions) and Scottish Water.

The Planning Adviser summarised the case officer's assessment of the application which had considered issues of potential overlooking, loss of daylight and privacy and overshadowing and had concluded there was no conflict with Policy DP2 Design. The officer had then assessed the application against national, strategic and local policy for development in the countryside as the application site was out with the settlement of North Berwick in an area where LDP countryside policies apply. It was concluded that it was contrary to policies DC1, DC4 and DC5 and SPP. The application site lay within an area of countryside that was designated under Policy DC8 as Countryside around Towns and Policy DC9 as part of the North Berwick Special Landscape Area. The ELC Landscape Officer considered that the proposals were contrary to these policies. She also commented on the submitted Landscape and Visual Impact Assessment which showed the wide and nearly complete visibility of the site within the 1km study area.

The case officer had then considered the potential benefits of the low carbon technology proposed in the new house and the retention of material on the site and concluded that environmental benefits associated with these did not outweigh the adverse impact of the proposal on the landscape character and appearance of the area, concluding that there were no material considerations which would justify the grant of planning permission. Planning permission was subsequently refused for the reasons set out in the case officer's report.

The Planning Adviser then turned to the applicant's appeal submission which had provided a considerable number of documents assessing the impact of the proposals against relevant planning policies and other factors. He advised that applicant's case could be summarised as:

- The Council's adopted LDP is not in keeping with national guidance nor other adjacent council areas planning policies for the countryside
- The Council's approach to housing in the countryside is to place unnecessary restrictions contrary to both national policy and guidance; limited weight should therefore be given to Policy DC4
- There would be no adverse impact on the North Berwick Law SLA or on the setting of the B listed water tank
- There had been insufficient consideration of material considerations which were considered to outweigh any perceived non-compliance with the adopted LDP

- The proposed development was sustainable development in line with SPP

The Planning Adviser indicated that it was a matter for the Council to interpret the characteristics of its rural area and to apply appropriate planning policies that met its circumstances in line with the broad guidance in SPP. In this respect the Council had set out where development was permitted in the countryside through policies DC1 and DC4. It was for other Councils to assess their own areas and develop their own planning policies to suit the particular characteristics of their rural areas, therefore the only relevant plan policies for the LRB to consider in this case were those of the East Lothian Local Development Plan 2018.

The Planning Adviser concluded his presentation by reminding Members that it was for them to look at the application afresh and to refuse the application, either for the reasons previously made or for other planning reasons; to grant the application or to grant the application with conditions. If the LRB was minded to refuse the application, the Planning Adviser recommended the omission of reason for refusal 2 that referred to policy DC5. Should the LRB decide to approve the application, a suggested list of planning conditions had been provided by the case officer.

The Planning Adviser responded to a question from the Chair regarding the potential to attach a condition to any grant of planning permission preventing HGVs from using the access road. He indicated that the LRB was required to act reasonably and, to apply this type of condition, there would have to be an alternative route of access to the site for HGVs.

The Chair asked his colleagues to confirm that they had attended the 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 views on the application.

Councillor Forrest commented that the site visit had been very helpful. He raised concerns about the current access road being able to take construction vehicles to the site in the event this application was approved. He commented that there were times where he would support building in the countryside where there was justification but he could not support a new build in the countryside where there was no other purpose than simply to build a house. Accordingly, he confirmed he was minded to support the Planning Officer's decision and to refuse this appeal.

Councillor Cassini agreed with Councillor Forrest's comments. She added that as the main effect of this application was to construct a new build house she was of the view this would be harmful to the character of the area as this would stand out on its own. Accordingly, she could not support the appeal.

The Chair agreed with the position taken by his colleagues and was minded to support the officer's decision on this occasion.

A decision was taken by roll call vote.

Decision

The ELLRB agreed unanimously to dismiss the appeal and to refuse planning permission for the reasons set out in the original decision notice but with the omission of Reason 2 relating to policy DC5.

Signed

Councillor Jeremy Findlay
Chair of Local Review Body (Planning)