

## **REVIEW DECISION NOTICE**

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

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Application for Review by Mr Paul Thomson of Elcho Place Hall, High Street, Cockenzie, East Lothian decision to refuse Planning Permission for the replacement windows at Elcho Place Hall, 124 High Street, Cockenzie, East Lothian EH32 0DN.

Site Address: Elcho Place Hall, 124 High Street, Cockenzie, East Lothian EH32 0DN

Application Ref: 23/00124/P

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

Date of Review Decision Notice: 15 January 2024

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### **Decision**

The ELLRB by a majority of three (3) to one (1) decided to support the appeal and grant planning permission for replacement windows at Elcho Place Hall, 124 High Street, Cockenzie, East Lothian EH32 0DN for the reasons more particularly 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, 30 November 2023. The Review Body was constituted by Councillor A Forrest (Chair), Councillor K McLeod, Councillor D Collins and Councillor N Gilbert. All four members of the ELLRB had attended a site visit accompanied by the Planning Adviser in respect of this application prior to the meeting.

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

Mr P Zochowski, 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 to refuse Planning Permission for replacement windows at Elcho Place Hall, 124 High Street, Cockenzie, East Lothian EH32 0DN.

2.2. The planning application was registered on 22 February 2023 and the Decision Notice refusing the application is dated 21 April 2023.

2.3. The reason for refusal is more particularly set out in full in the said Decision Notice dated 21 April 2023. The reason for refusal is as follows:

- 1 *The proposed replacement uPVC framed windows to be installed in the south and east elevations of the building with their thicker frames and non-traditional astragals would be visibly different in appearance to the windows they would replace. Therefore, the loss of the existing windows and their replacement with uPVC framed windows would be harmful to the character and appearance of the building and to the character and appearance of this part of the Cockenzie and Port Seaton Conservation Area contrary to Policy 7 of NPF4, Policies CH2 and DP5 of the adopted local development plan 2018 and contrary to the Council's supplementary Planning Guidance on 'Cultural Heritage and the Built Environment'.*

2.4. The notice of review is dated 20 July 2023.

### 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> <table border="1"> <thead> <tr> <th data-bbox="384 920 539 954"><u>Drawing No.</u></th> <th data-bbox="683 920 837 954"><u>Revision No.</u></th> <th data-bbox="1023 920 1203 954"><u>Date Received</u></th> </tr> </thead> <tbody> <tr> <td data-bbox="384 981 416 1010">00</td> <td data-bbox="740 981 751 1010">-</td> <td data-bbox="1023 981 1161 1010">09.02.2023</td> </tr> <tr> <td data-bbox="384 1010 432 1039">SP1</td> <td data-bbox="740 1010 751 1039">-</td> <td data-bbox="1023 1010 1161 1039">09.02.2023</td> </tr> <tr> <td data-bbox="384 1039 464 1068">001-A</td> <td data-bbox="740 1039 751 1068">-</td> <td data-bbox="1023 1039 1161 1068">22.02.2023</td> </tr> <tr> <td data-bbox="384 1068 464 1097">002-A</td> <td data-bbox="740 1068 751 1097">-</td> <td data-bbox="1023 1068 1161 1097">22.02.2023</td> </tr> <tr> <td data-bbox="384 1097 432 1126">003</td> <td data-bbox="740 1097 751 1126">-</td> <td data-bbox="1023 1097 1161 1126">22.02.2023</td> </tr> <tr> <td data-bbox="384 1126 432 1155">004</td> <td data-bbox="740 1126 751 1155">-</td> <td data-bbox="1023 1126 1161 1155">22.02.2023</td> </tr> <tr> <td data-bbox="384 1155 432 1184">005</td> <td data-bbox="740 1155 751 1184">-</td> <td data-bbox="1023 1155 1161 1184">22.02.2023</td> </tr> <tr> <td data-bbox="384 1184 432 1214">006</td> <td data-bbox="740 1184 751 1214">-</td> <td data-bbox="1023 1184 1161 1214">22.02.2023</td> </tr> </tbody> </table>	<u>Drawing No.</u>	<u>Revision No.</u>	<u>Date Received</u>	00	-	09.02.2023	SP1	-	09.02.2023	001-A	-	22.02.2023	002-A	-	22.02.2023	003	-	22.02.2023	004	-	22.02.2023	005	-	22.02.2023	006	-	22.02.2023
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ii.	The Application for planning permission registered on																											
iii.	The Appointed Officer's Submission																											
iv.	<p>Policies relevant to the determination of the application:</p> <p>National Planning Framework 4 – Policy 7 (Historic Assets and Places)</p> <p>The adopted East Lothian Local Development Plan 2018:</p> <ul style="list-style-type: none"> <li>- CH2 (Development Affecting Conservation Areas);</li> <li>- DP5 (Extensions and Alterations to Existing Buildings).</li> </ul> <p>In addition the following are also relevant to the determination of the application, namely:-</p> <ul style="list-style-type: none"> <li>- section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997</li> <li>- supplementary Planning Guidance on 'Cultural Heritage and the Built Environment'</li> <li>- Cockenzie and Port Seaton Conservation Area</li> </ul>																											
v.	Notice of Review dated 20 July 2023 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 related to the replacement of front (south) facing and side (east and west) elevation windows at Elcho Place Hall, 124 High Street, Cockenzie. He provided details of the application site and the size, shape and features of the existing windows. He advised that a previous planning permission had been granted in 2019 for replacement doors and windows in the north, south and east elevations of the building. This planning permission was only partially implemented and remained extant.

He believed the proposed windows in the most recent application would be visibly different from the existing windows. The case officer in his report had noted that this would be in respect of their thicker window frames and non-traditional 'plant-on' rather than through astragals. The Planning Adviser added that the curved windows to the front elevation would also have a visibly different glazing pattern with a wider central pane.

He reminded Members that section 25 of the Town and Country Planning (Scotland) Act 1997 required that the application be determined in accordance with the development plan unless material considerations indicate otherwise. The local development plan was National Planning Framework 4 (NPF4) and the adopted East Lothian Local Development Plan 2018 (LDP). He indicated that the following policies were relevant to this case: Policy 7 of NPF4 and Policies CH2 and DP5 of the LDP. Also material was section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Council's adopted Supplementary Guidance on Cultural Heritage and the Built Environment 2018.

The Planning Adviser noted that there had been one letter of objection from the Architectural Heritage Society of Scotland which considered uPVC 'an intrusive modern material which would damage the appearance of the building', expressed concern at the lack of traditional features in the replacement windows and the potential impact on the curve of the main window, and queried the absence of a window condition report or statement. The Planning Adviser explained that a window condition survey/report was only required where replacement windows were proposed to a listed building. The building the subject of this application was not listed.

He agreed with the case officer's conclusion that the proposed windows did not comply with NPF Policy 7 part d, where proposals affecting a conservation area would only be supported where the character and appearance of the conservation area and its setting was preserved or enhanced, with relevant considerations being the architectural and historic character of the area and the need to use suitable materials. He also agreed that it did not comply with LDP Policy CH2 which again stated that proposals should accord

with the size, proportions and materials of nearby buildings, in this case within a designated conservation area, and, where the building makes a positive contribution to the character of that area, that were the application to be approved it would set an undesirable precedent for the installation of similar windows. Similarly, there was no support from LDP Policy DP5 and the proposal did not comply with any of the three possible exceptions for window replacement outlined in the Supplementary Planning Guidance to the LDP.

The Planning Adviser noted that the applicant's review statement indicated that in their opinion the proposed windows did not have a visibly different appearance, that they could not afford timber windows, which the Planning Adviser advised was not a planning consideration, and noted that their inefficient current windows were not helping with energy costs.

- 4.3. Members then asked questions of the Planning Adviser and in response to questions from Councillor McLeod, the Planning Adviser confirmed that, to his knowledge, planning permission had not been sought for double-glazed windows in the extensions to the existing buildings.
- 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 noted that the property already had some uPVC windows and that the proposed windows would be more thermally efficient and lead to energy savings and costs savings for the applicant. He considered that they would also be more weather and climate resistant. In his view, this was a more modern building, not in keeping with other properties in street and, in addition, some other properties in the street had already been fitted with double glazed windows. For these reasons, he was minded to vote against the case officer's recommendation.
- 4.6. Councillor McLeod observed that with so much mixed glazing on different sides of the building, the proposed replacement windows would enhance building rather than detract from it. Furthermore, the current windows did not appear to be very environmentally friendly. While he noted the previous planning permission, he was of the view that to provide uniformity over the whole building and to bring the glazing up to good standard planning permission should be granted. Accordingly, he was minded to support the applicant and uphold the appeal.
- 4.7. Councillor Collins was of a similar opinion to her colleagues. She noted that the proposed replacement windows would vastly improve energy efficiency and uniformity, uPVC would last longer than wood in that location and this was not a listed building. For these reasons, she was minded to vote against the case officer's recommendation.
- 4.8. The Chair said it was always useful to view the site and he agreed that the building currently had a mix of glazing types. However, he did not consider that the existing uPVC enhanced the look of the building and he felt that the proposed replacement windows would detract further. According, he would be upholding the case officer's decision to refuse planning permission.

Accordingly, the ELLRB by majority of three (3) to one (1) decided to support the appeal and grant planning permission for the reasons set out within this decision notice.

Planning Permission is hereby 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.