

LOCAL REVIEW BODY

29<sup>th</sup> February 2024

Application No: 23/01173/P

**6A The Vennel, Dunbar EH42 1HF**

Appointed Officer's Submission



## **23/01173/P – REVIEW AGAINST DECISION – PLANNING OFFICER’S SUBMISSION**

Planning application review against decision (refusal by condition): Alterations to flat at 6A The Vennel, Dunbar.

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# OFFICER REPORT

**27th November 2023**

App No. **23/01173/P**

Application registered on **11th October 2023**

Target Date **10th December 2023**

Proposal	<b>Alterations to flat</b>	SDELL	N
		CDEL	N
Location	<b>6A The Vennel Dunbar EH42 1HF</b>	Bad Neighbour Development	N

APPLICANT: **Mr J Brown**

Is this application to be approved as a departure from structure/local plan? N

**c/o John A Fyall Bsc(Hons)Bld.Eng. C.Build.E, FCABE  
12 Beaumont Court  
Dunbar  
EH42 1YF**

DECISION TYPE: **Granted Permission**

## PLANNING ASSESSMENT

The property to which this application relates is a first floor flat set within a two storey flatted building located on the north side of The Vennel, Dunbar. It is located within a predominantly residential area as defined by Policy RCA1 of the adopted East Lothian Local Development Plan 2018. It is also located within the Dunbar Conservation Area.

The property is bounded to the north by an access road, to the east and west by neighbouring residential properties and to the south by the public road of The Vennel.

## PLANNING HISTORY

On 21 June 2013 planning application 13/00327/P was refused for the replacement of all the existing timber framed windows and the doors of the ground floor flat within 6 The Vennel, the flat below the flat the subject of this application, with UPVC framed windows and UPVC doors, as they would be harmful to the character and appearance of this part of the Dunbar Conservation area.

In July 2013 the applicant sought a review of the decision to refuse planning permission for the installation of UPVC framed replacement windows and doors. At a meeting of the East

Lothian Local Review Body (ELLRB) of 26 September 2013 the ELLRB upheld the decision to refuse planning permission 13/00327/P.

In November 2013 planning permission 13/00809/P was granted for the replacement of all the windows and the front and rear doors of the ground floor flat of 6 The Vennel with timber framed windows and doors.

In February 2021 planning permission 20/01053/P was refused retrospectively for the painting of the external walls of the flat the subject of this application and for the installation of uPVC framed windows within the building as they would be harmful to the character and appearance of this part of the Dunbar Conservation area.

## PROPOSAL

Planning permission is now sought for:

- i)The replacement of the existing uPVC windows of the flat with timber framed replacement windows;
- ii)The installation of 4 roof lights onto the rear south elevation roof slope of the flatted building ;
- iii)The installation of 3 roof lights onto the north elevation roof slope of the flatted building;
- iv)The installation of two extract outlets and waste pipes onto the side (west) elevation of the flatted building;
- v)The installation of an extract vent to the north elevation roof slope; and
- vi)The re-location of the existing svp on the south elevation roof slope of the flatted building.

The proposed waste pipes and connections would be of cast iron construction, to match existing.

The proposed extract outlets would be of uPVC construction.

When the application was first submitted, it was proposed to install 4 cabrio style roof lights on the south elevation roof slope of the building. However, subsequent to its registration, the application has been amended. Two of the cabrio roof lights that were previously proposed to be installed on the south elevation roof slope have been replaced with conservation style roof lights. However, it is still proposed to install a double cabrio roof light between those two conservation roof lights within the south elevation roof slope of the flatted building.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is National Planning Framework 4 (NPF4) and the adopted East Lothian Local Development Plan 2018.

Material to the determination of the application is Section 64 of the Planning (Listed Buildings

and Conservation Areas) (Scotland) Act 1997.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 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.

Policy 7 (Historic Assets and Places) of NPF4 is relevant to the determination of this application. Policies CH2 (Development Affecting Conservation Areas) and DP5 (Extensions and Alterations to Existing Buildings) of the adopted East Lothian Local Development Plan 2018 are also relevant to the determination of this application.

Also material to the determination of the application is supplementary Planning Guidance (SPG) on 'Cultural Heritage and the Built Environment' adopted by the Council on 30th October 2018. The SPG expands on policies that are set out in the East Lothian Local Development Plan 2018 and provides policy guidance on replacement windows in buildings which are in a conservation area.

The policy guidance set out in the SPG states that the replacement of a window in a building in a conservation area must preserve or enhance the area's special architectural or historic character. This will normally mean that the proportions of the window opening, the opening method, colour, construction material of frames and glazing pattern should be retained. The only exceptions to this will be:

- i) Multiple glazing where there is no visible difference between that proposed and the original style of window;
- ii) If the building itself does not contribute positively to the character of the Conservation Area and where a change in window design would have no impact on the character of the Conservation Area; and
- iii) If the windows cannot be seen from a public place.

Also material to the determination of this planning application is the planning history for the ground floor flat within the building of 6 The Vennel.

No public letters of objection have been received in relation to the application.

The existing windows that are installed within the front (north) and rear (south) elevations of the applicants' flatted property are of white uPVC frame construction and were the subject of the refusal of planning application 20/01053/P, in February 2021. Whilst the proposed replacement windows would feature 'plant-on' astragals the material of the proposed sash and case window frames would be timber and they would feature a 4 over 4 glazing style which would be consistent with the windows installed within the lower flat, 6 The Vennel under planning permission 13/00809/P. Therefore, when viewed in the context of these approved replacement windows which feature white painted timber frames with a 4 over 4 glazing style and 'plant-on' astragals the proposed replacement windows would not appear as a visibly different to those window. Therefore the proposed replacement windows would not be harmful to the character or appearance of the applicants' flat, the flatted building of which it forms part of, or harmful to the character and appearance of this part of the Dunbar Conservation Area.

The proposals to (i) install two extract outlets and waste pipes to the side (west) elevation; (ii)

install an extract vent to the rear (north) elevation roof slope; and (iii) re-locate the existing syp on the front (south) elevation roof slope are all relatively minor alterations to the applicants' flatted property. They would not appear as overly prominent or incongruous alterations and as such they would not be harmful to the character or appearance of the applicants' flat, the flatted building of which it forms part of, the surrounding area or to the Dunbar Conservation Area.

The roof lights to be installed within the north elevation roof slope of the flatted building would be well contained from public views due to the location and orientation of the applicants' flatted property. Therefore the proposed roof lights to be installed onto the north elevation of the flatted building would not appear as harmful or incongruous. By virtue of their form, size, material and positioning the proposed roof lights to be installed onto the north elevation roof slope would not be harmful to the character or appearance of the applicants' flat, the flatted building of which it forms part of, or harmful to the character and appearance of this part of the Dunbar Conservation Area.

The proposed replacement windows, the roof lights to be installed on the north elevation roof slope of the flatted building, the extract outlets, extract vent and waste pipe are consistent with Policy 7 of NPF4, with Policies CH2 and DP5 of the adopted East Lothian Local Development Plan 2018 and with its Cultural Heritage and the Built Environment Supplementary Planning Guidance.

The flatted building is located in a very prominent location within the historic core of Dunbar Conservation Area at point where Sliver Street, Church Street, Colvin Street and Lamer Street converge. Therefore the south elevation of the flatted building is readily visible not only from the Vennel and the adjacent public play park, but also from those surrounding streets.

The flatted building currently has 3 roof lights on its south elevation., which are to be replaced with the proposed 4 roof lights. Two of the proposed replacement roof lights would be conservation style roof lights that would be of a traditional form and appearance and thus would not appear as overly harmful or incongruous additions to the roof of the flatted building. They would be appropriate to their location and would not be out of keeping with their surroundings. Consequently they would not be harmful to the character and appearance of this part of the Dunbar Conservation Area.

However, the double cabrio roof lights proposed to be installed between those 2 conservation roof windows would be of a modern form, appearance and opening mechanism and would be of a size and scale that would not be appropriate for this location on a prominent roof slope within the historic core of the Dunbar Conservation Area. Therefore, the proposed double cabrio roof lights due to their moder form, size, scale and positioning would be harmful to the character and appearance of the flatted building, the streetscape of The Vennel and harmful to the character and appearance of this part of the historic core of the Dunbar Conservation Area contrary to Policy 7 of NPF4 and Policies CH2 and DP5 of the adopted East Lothian Local Development Plan 2018.

As the cabrio roof lights would be harmful to the character and appearance of the flatted building, the streetscape of The Vennel and harmful to the character and appearance of this part of the historic core of the Dunbar Conservation Area, it should be made a condition of any grant of planning permission for the other components of the application - namely the proposed replacement windows, the roof lights to be installed on the north elevation roof slope of the flatted building, the extract outlets, extract vent and waste pipe - that the cabrio roof lights are

refused planning permission.

In conclusion, other than the cabrio roof lights, the proposals are considered to be in accordance with the provisions of the stated relevant Development Plan policies and there are no material considerations which outweigh the proposals accordance with the Development Plan.

#### CONDITIONS:

- 1 The development hereby approved shall begin before the expiration of 3 years from the date of this permission.

Reason:

Pursuant to Section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.

- 2 Planning permission is refused for the double cabrio roof lights proposed to be installed on the south elevation roof slope of the flatted building.

Reason:

By virtue of their modern form, appearance and opening mechanism, and of their size, scale and positioning the proposed double cabrio roof lights would not be appropriate for this prominent location within the historic core of Dunbar Conservation Area. They would be harmful to the character and appearance of the flatted property, the streetscape of The Vennel and harmful to the character and appearance of this part of the Dunbar Conservation Area contrary to Policy 7 of NPF4 and Policies CH2 and DP5 of the adopted East Lothian Local Development Plan 2018.

#### LETTERS FROM

27th November 2023



**App No. 23/01173/P**

**EAST LoTHIAN COUNCIL**

**DECISION NOTICE**

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

**TOWN AND COUNTRY PLANNING  
(DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATIONS 2013**

**Mr J Brown**  
**c/o John A Fyall Bsc(Hons)Bld.Eng. C.Build.E, FCABE**  
**12 Beachmont Court**  
Dunbar  
EH42 1YF

APPLICANT: Mr J Brown

With reference to your application registered on **11th October 2023** for planning permission under the above mentioned Acts and Regulations for the following development, viz:-

**Alterations to flat**  
**at**  
**6A The Vennel**  
**Dunbar**  
**EH42 1HF**

East Lothian Council as the Planning Authority in exercise of their powers under the above-mentioned Acts and Regulations hereby **GRANT PLANNING PERMISSION** for the said development in accordance with the particulars given in the application, the plan(s) docketed as relative hereto and the conditions set out below:-

CONDITIONS:

- 1 The development hereby approved shall begin before the expiration of 3 years from the date of this permission.

Reason:

Pursuant to Section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.

- 2 Planning permission is refused for the double cabrio roof lights proposed to be installed on the south elevation roof slope of the flatted building.

Reason:

By virtue of their modern form, appearance and opening mechanism, and of their size, scale and positioning the proposed double cabrio roof lights would not be appropriate for this prominent location within the historic core of Dunbar Conservation Area. They would be harmful to the character and appearance of the flatted property, the streetscape of The Vennel and harmful to the character and appearance of this part of the Dunbar

Conservation Area contrary to Policy 7 of NPF4 and Policies CH2 and DP5 of the adopted East Lothian Local Development Plan 2018.

The report on this application is attached to this Decision Notice and its terms shall be deemed to be incorporated in full in this Decision Notice.

Details of the following are given in the application report:

- the terms on which the Planning Authority based this decision;
- any variations made to the application in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997; and
- where applicable the summary of the terms of any agreement entered into under Section 75 of the Town and Country Planning (Scotland) Act 1997.

A copy of the Section 75 Agreement can be inspected in the application file on the Council's website.

The docketed plans to which this decision relate are as follows:

<u>Drawing No.</u>	<u>Revision No.</u>	<u>Date Received</u>
25/22/P/BW/02	-	03.10.2023
25/22/P/BW/01	-	03.10.2023
25/22/P/BW/03	-	03.10.2023
25/22/P/BW/04	-	03.10.2023
25/22/P/BW/06	-	03.10.2023
25/22/P/BW/07	-	03.10.2023
25/22/P/BW/08	-	03.10.2023
25/22/P/BW/09	-	03.10.2023
25/22/P/BW/015	-	03.10.2023
25/22/P/BW/05	A	09.10.2023
25/22/P/BW/09	A	09.10.2023
25/22/P/BW/09	B	11.10.2023
25/22/P/BW/11	B	11.10.2023
25/22/P/BW/12	B	11.10.2023
25/22/P/BW/17	A	11.10.2023
MANU LITERATURE 01	-	22.11.2023

25/22/P/BW/10

C

22.11.2023

25/22/P/BW/13

C

22.11.2023

### **ADVISORY NOTES**

It should be understood that this permission does not carry with it any necessary consent or approval for the proposed development under other statutory enactments.

**27th November 2023**



Keith Dingwall  
Service Manager - Planning

## **NOTES ABOUT REVIEW OF DECISION**

If the applicant is aggrieved by the decision of the Planning Authority to grant permission for the proposed development subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this decision notice. The notice of review should be addressed to the Clerk to the Local Review Body, Committee Team, Communications and Democratic Services, John Muir House, Haddington, East Lothian EH41 3HA.

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 5 of the Town and Country Planning (Scotland) Act 1997.

### **Notes to Applicant**

The applicant/developer is strongly advised to check the status of utility apparatus for Scotland Gas Networks before progressing with any development on site. Scotland Gas Networks are currently referring prospective applicants/developers to [www.linesearchbeforeudig.co.uk](http://www.linesearchbeforeudig.co.uk) to review any apparatus that might be affected by the proposed works. If apparatus is located that would be affected then Scotland Gas Networks should be contacted on <https://www.sgn.co.uk/>

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**  
**TOWN AND COUNTRY PLANNING**  
**(DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATIONS 2013**

Section 27A (1) of the above-mentioned Act requires that this notice must be served to the Council **prior** to the start of work. Failure to do so is a breach of planning control under section 123(1) of the above Act and may result in the Council taking enforcement action.

**NOTICE OF INITIATION OF DEVELOPMENT**

Notice is hereby given that the under-mentioned scheme of development is expected to commence on ...../...../20....

Planning authority reference: **23/01173/P**

Date of decision notice: **27th November 2023**

Address/Location of site:

**6A The Vennel  
Dunbar  
EH42 1HF**

Name and address of developer:

Name and contact details of site agent:

Owner of land (if not as above):

**Signed:**

**Date:**

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**  
**TOWN AND COUNTRY PLANNING**  
**(DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATIONS 2013**

Section 27B (1) of the above-mentioned Act requires that this notice must be served to the Council on completion of the approved scheme of development.

**NOTICE OF COMPLETION OF DEVELOPMENT**

Notice is hereby given that the under-mentioned scheme of development was completed on ...../...../20....

Planning authority reference: **23/01173/P**

Date of decision notice: **27th November 2023**

Address/Location of site:

**6A The Vennel**  
**Dunbar**  
**EH42 1HF**

Name and address of developer:

Owner of land (if not as above):

**Signed:**

**Date:**

## National Planning Framework 4

### Policy 7 (Historic assets and places)

(a) Development proposals with a potentially significant impact on historic assets or places will be accompanied by an assessment which is based on an understanding of the cultural significance of the historic asset and/or place. The assessment should identify the likely visual or physical impact of any proposals for change, including cumulative effects and provide a sound basis for managing the impacts of change. Proposals should also be informed by national policy and guidance on managing change in the historic environment, and information held within Historic Environment Records.

(b) Development proposals for the demolition of listed buildings will not be supported unless it has been demonstrated that there are exceptional circumstances and that all reasonable efforts have been made to retain, reuse and/or adapt the listed building. Considerations include whether the: i. building is no longer of special interest; ii. building is incapable of physical repair and re-use as verified through a detailed structural condition survey report; iii. repair of the building is not economically viable and there has been adequate marketing for existing and/or new uses at a price reflecting its location and condition for a reasonable period to attract interest from potential restoring purchasers; or iv. demolition of the building is essential to delivering significant benefits to economic growth or the wider community.

(c) Development proposals for the reuse, alteration or extension of a listed building will only be supported where they will preserve its character, special architectural or historic interest and setting. Development proposals affecting the setting of a listed building should preserve its character, and its special architectural or historic interest.

(d) Development proposals in or affecting conservation areas will only be supported where the character and appearance of the conservation area and its setting is preserved or enhanced. Relevant considerations include the: i. architectural and historic character of the area; ii. existing density, built form and layout; and iii. context and siting, quality of design and suitable materials.

(e) Development proposals in conservation areas will ensure that existing natural and built features which contribute to the character of the conservation area and its setting, including structures, boundary walls, railings, trees and hedges, are retained.

(f) Demolition of buildings in a conservation area which make a positive contribution to its character will only be supported where it has been demonstrated that: i. reasonable efforts have been made to retain, repair and reuse the building; ii. the building is of little townscape value; iii. the structural condition of the building prevents its retention at a reasonable cost; or iv. the form or location of the building makes its reuse extremely difficult.

(g) Where demolition within a conservation area is to be followed by redevelopment, consent to demolish will only be supported when an acceptable design, layout and materials are being used for the replacement development.

(h) Development proposals affecting scheduled monuments will only be supported where: i. direct impacts on the scheduled monument are avoided; ii. significant adverse impacts on the integrity of the setting of a scheduled monument are avoided; or iii. exceptional circumstances have been demonstrated to justify the impact on a scheduled monument and its setting and impacts on the monument or its setting have been minimised.

(i) Development proposals affecting nationally important Gardens and Designed Landscapes will be supported where they protect, preserve or enhance their cultural significance, character and integrity and where proposals will not significantly impact on important views to, from and within the site, or its setting.

(j) Development proposals affecting nationally important Historic Battlefields will only be supported where they protect and, where appropriate, enhance their cultural significance, key landscape characteristics, physical remains and special qualities.

(k) Development proposals at the coast edge or that extend offshore will only be supported where proposals do not significantly hinder the preservation objectives of Historic Marine Protected Areas.

(l) Development proposals affecting a World Heritage Site or its setting will only be supported where their Outstanding Universal Value is protected and preserved.

(m) Development proposals which sensitively repair, enhance and bring historic buildings, as identified as being at risk locally or on the national Buildings at Risk Register, back into beneficial use will be supported.

(n) Enabling development for historic environment assets or places that would otherwise be unacceptable in planning terms, will only be supported when it has been demonstrated that the enabling development proposed is: i. essential to secure the future of an historic environment asset or place which is at risk of serious deterioration or loss; and ii. the minimum necessary to secure the restoration, adaptation and long-term future of the historic environment asset or place. The beneficial outcomes for the historic environment asset or place should be secured early in the phasing of the development, and will be ensured through the use of conditions and/or legal agreements.

(o) Non-designated historic environment assets, places and their setting should be protected and preserved in situ wherever feasible. Where there is potential for non-designated buried archaeological remains to exist below a site, developers will provide an evaluation of the archaeological resource at an early stage so that planning authorities can assess impacts. Historic buildings may also have archaeological significance which is not understood and may require assessment.

Where impacts cannot be avoided they should be minimised. Where it has been demonstrated that avoidance or retention is not possible, excavation, recording, analysis, archiving, publication and activities to provide public benefit may be required through the use of conditions or legal/planning obligations.

When new archaeological discoveries are made during the course of development works, they must be reported to the planning authority to enable agreement on appropriate inspection, recording and mitigation measures.



## **Adopted East Lothian Local Development Plan 2018**

### **CH2 (Development Affecting Conservation Areas)**

All development proposals within or affecting a Conservation Area or its setting must be located and designed to preserve or enhance the special architectural or historic character or appearance of the Conservation Area. Proposals for new development should accord with the size, proportions, orientation, alignment, density, materials, and boundary treatment of nearby buildings and public and private spaces. Parking requirements of new developments must accord with the Council's adopted parking standards unless it can be demonstrated that a reduced level of parking (which in exceptional circumstances could be no parking provision) will achieve positive townscape benefits without compromising road safety.

The Council will set out in supplementary planning guidance more detailed policies on the circumstances in which it would support proposals for alterations to shop fronts, external security, external wall treatment and the display or installation of advertisements in Conservation Areas.

### **DP5 (Extensions and Alterations to Existing Buildings)**

All alterations and extensions to existing buildings must be well integrated into their surroundings, and must be in keeping with the original building or complementary to its character and appearance. Accordingly such development must satisfy all of the following criteria:

1. It must not result in a loss of amenity with neighbouring uses or be harmful to existing residential amenity through loss of privacy from overlooking, or from loss of sunlight or daylight;
2. For an extension or alteration to a house, it must be of a size, form, proportion and scale appropriate to the existing house, and must be subservient to and either in keeping with or complementary to the existing house;
3. For an extension or alteration to all other buildings, it must be of a size, form, proportion and scale appropriate to its surroundings and, where the existing building has architectural merit be in keeping with or complement that existing building;

Development that does not comply with any of the above criteria will only be permitted where other positive planning and design benefits can be demonstrated.

**SUGGESTED SCHEDULE OF CONDITIONS – REVIEW AGAINST REFUSAL BY CONDITION OF PLANNING APPLICATION BY THE LOCAL REVIEW BODY – 23/01173/P**

Should the Local Review Body be minded to uphold the review it is respectfully requested that the following condition be imposed:

The double cabrio roof lights hereby approved to the south elevation roof slope shall be installed in a manner that ensures that their upper surfaces are as near flush as possible with the upper surfaces of the roof slopes into which they will be installed and with minimum flashing.

Reason:

To safeguard the character and appearance of the Dunbar Conservation Area.