

# LOCAL REVIEW BODY

25<sup>th</sup> April 2024

Application No: 23/00503/P

83A High Street, Haddington

## **Applicant's Supporting Information**

### **Part 1**



**TOWN AND COUNTRY PLANNING ACT 1997 (AS AMENDED)**

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

**GROUNDS FOR APPEAL AGAINST AN PLANNING  
PERMISSION DECISION NOTICE**

**FLAT AT 83A HIGH STREET, HADDINGTON, EAST LOTHIAN**

**23/00503/P**

**STATEMENT OF APPEAL**

**SUBMITTED BY MR ANTONIO IGLESIAS AND MS YUYAO LI  
("APPELLANTS")**

**FEBRUARY 2024**

## Contents

1. Introduction.....	3
2. Grounds of Appeal.....	4
3. Conclusions.....	

## Appendices

The following documents have been referred to within this Grounds for Appeal and have been submitted along with this Appeal:

### PICTURES

PIC00 - [REDACTED] - the USE of patio does NOT need ANY FORM of permission.

PIC01 – Falling rocks on our patio – pergola protects us.

PIC02 – Evidence gutter fell into our roof terrace - pergola protected us.

PIC03 - Evidence where Gutter is supposed to be and where it fell.

PIC04 - Fallen slate in our patio.

PIC05 - Fallen slates from 84 on roof next to ours.

PIC06 - Slate about to fall.

PIC07 - Slate about to fall fell - 0 - part of it stuck in wood from force coming down.

PIC08 - Slate about to fall fell – 1.

PIC09 - Slate about to fall fell – 2.

PIC10 - Fallen Slate -January 2024.

PIC11 - January 2024 2nd picture - Fallen Slate.

PIC12 - Housing Health and Safety Rating System - 29 Hazards.

PIC13 - Email sent to council regarding roof and we never received a response.

PIC14 – Bird food on top of pergola thrown to us by neighbours.

PIC15 - WhatsApp conversation 10.12.2021 with 83C regarding roof - we gave them our keys so they could have access.

PIC16 - WhatsApp conversation with 83C with what needs to be repaired in roof.

PIC17 - WhatsApp conversation June 2 2022 - Proof that neighbour lied about decking.

PIC18 - WhatsApp Image - Day neighbour took care of our dog Orca in our flat and decking.

PIC19 - WhatsApp Image - Cat from 83C under the decking – proof of false claim.

**VIDEOS - UNABLE TO ACCEPT AS PART OF APPELLANT SUBMISSION**

VID00 - Slate about to fall – video.

VID01 - Washing Machine Noise - Evidence Decibels.

VID02 - Patio snowing 2021.

VID03 - High Street Decibels Morning Busy.

VID04 - High Street Decibels Afternoon Quiet.

VID05 - Average Decibels under pergola.

VID06 - Podcast playing under pergola - Decibels recorded.

VID07 - Podcast playing - Decibels checked ON TOP and UNDER pergola.

**DOCUMENTS**

DOC00 – Decision Notice 23/00503/P

DOC01 - Emails with [REDACTED] - Tenant [REDACTED] regarding their roof - Nov 28.2021 to May 01.2022.

DOC02 - [REDACTED] signed declaration for roof terrace.

DOC03 - Noise Level Permitted in Scotland with Decibels.

DOC04 - Hazards - number 29.

DOC05 - Complaint of change of use - Dog grooming business.

DOC06 - COMPLAINT PATIO UNAUTHORIZED 5.4.2023 - 2300093COM.

DOC07 - Email proof we have tried to get the roof fixed.

DOC08 - Internal alterations to building permission granted 21.01470.LBC.

DOC09 - 23\_00503\_P-OFFICERS-3392520

DOC10 - 2300502LBC

## Introduction

1.1 The submission of this Statement of Appeal in support of this appeal to local planning body to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997, against the condition in the Grant Planning Permission Decision Notice issued (**DOC00**) by East Lothian Council dated the 3<sup>rd</sup> November 2023 regarding the appeal site.

1.2 The conditions in the Grant Planning Permission noted within the Notice is:

*'Planning permission is not hereby granted for the pergola attached to the west elevation of the applicants' flatted property.'*

1.3 The reasons for the issuing of the Notice are:

*'The pergola is a covered, permanent structure that allows for the intensification of the use of the external terrace,*

*which is harmful to the residential amenity of the neighbouring residential properties of 83 High Street,*

*contrary to Policy 14 of NPF4 and DP5 of adopted East Lothian Local Development Plan 2018.'*

1.4 The Notice states the requirement to comply/secure compliance with the Notice by taking the following:

*'The timber pergola is unauthorised and therefore a breach of planning control.'*

*'If, within two months of the date to grant planning permission for the other components of this application, no steps have been taken by the applicant to have the pergola removed then enforcement action will be taken to secure the removal of it, with the period for compliance with the enforcement notice being a further period of two months.'*

## 2.0 Grounds of Appeal

2.1 The Appellant would like six points to be taken into consideration, namely:

1. History of the development on the terraced area;
2. Health and Safety;
3. Architectural merits of the pergola;
4. Noise
5. Arguments on Policy DP5: Extensions and Alterations to Existing Buildings
6. Arguments on Policy 14 of NPF4

### ***History of the development on the terraced area***

2.2 The roof terrace, positioned at the rear elevation of the structure, has undergone alterations and extensions over two decades ago. This terrace has been utilised by the prior owner of the property and the inhabitants of neighbouring flats for the purpose of building maintenance. As indicated in **DOC 02**, the former landlord of Property 83A has verified and declared that the development of the deck on the terrace area was completed preceding his ownership.

2.3 The rooftop terrace has fostered amicable relations amongst neighbours by offering a neat and orderly open-air space, particularly benefiting the adjoining rooftop areas that are devoid of requisite maintenance (Refer to **Appeal Document PIC18, PIC19**, demonstrating its promotion of sustainable development associated with leisure). We have given access to the occupant of ■■■ to the rooftop terrace for the installation and completion of the heating system. Additionally, we have permitted the neighbour at ■■■ access for roof repairs, wherein we bore 50% of the total cost (**Refer to PIC15, PIC16**).

2.4 Nonetheless, we have been subjected to harassment from the neighbour residing at ■■■, which has manifested in the form of malicious reporting with unfounded allegations devoid of substantiating evidence. For example, the WhatsApp dialogues (**refer to PIC15, PIC16, PIC17, PIC18, PIC19**) serve as proof that the neighbours were not only aware of our rooftop terrace but had also frequented it on numerous occasions in the preceding years. Consequently, we vehemently contest their objection lodged in the complaint, which asserts that the rooftop terrace was recently erected (**refer to DOC06**).

- There was an instance when the aforementioned neighbours erroneously presumed that our renovations were intended to establish a dog grooming business within our flat, leading them to lodge a report against us on the 13<sup>th</sup> of April 2022 (**refer to DOC05**). Rather than initiating a dialogue or inquiry with us prior to their actions, they opted to report us immediately, once again without any supporting evidence. This occurred after our explicit clarification

regarding our intentions for the flat, which did not encompass the conversion of the space into a dog grooming business.

- They have persistently lodged complaints against us to various authorities, citing trivial matters that are unfounded. At this juncture, these actions appear to be more indicative of harassment rather than the fulfilment of civic duties.

## **Health and Safety**

2.5 Over the course of numerous instances spanning the past three years since our ownership commenced, we have engaged in dialogues with the neighbours and the council (**PIC13**) pertaining to the necessity of roof repairs for [REDACTED] as well as the collective responsibility of all residents of [REDACTED] to address the maintenance of our building's roof. Regrettably, our efforts have either been overlooked or met with responses that merely serve to prolong the timeline without any tangible progress towards the resolution of the issue. It appears that the financial implications supersede concerns about potential hazards arising from falling slates, stones, and gutters, which pose a risk of injury to individuals (**refer to DOC01, DOC07**).

2.6 The installation of the pergola was undertaken as a measure to safeguard our health and well-being from potential hazards such as falling gutters, stones, or slates, or objects thrown by neighbours. It is not purposed as a workshop but serves as a protective mechanism against falling hazards. This mitigation was implemented subsequent to the refusal of essential roof repairs.

2.7 We have been subjected to harassment on multiple instances from the resident of [REDACTED]. Objects have been hurled from an elevated position out of their living room (**refer to PIC00** for evidence of one such occurrence among many). These incidents, along with other instances of physical and verbal harassment and aggression, have been duly reported to the police.

2.8 The resolution to dismantle the pergola introduces an elevated risk to the health and safety of the neighbouring residents, as delineated under Category 1 hazards in the Housing Act. This category encompasses instances where the most severe harm outcomes are identified, such as fatality, permanent paralysis, permanent loss of consciousness, loss of a limb or serious fractures. As provided in **Document DOC04** and **Document PIC12**, the Housing Health and Safety Rating System (HHSRS) acknowledges structural collapse and falling elements as a Category One Hazard.



2.9 The reason stated on the officer report that it allows intensification of the use of external terrace is harmful to the residential property 83 High Street and its residents, lacks empirical substantiation. We acknowledge the significance of harmonious relations within the neighbourhood community. However, if objections are predicated on unfounded allegations, it constitutes an unjust practice that adversely impacts the physical and mental well-being of the applicants. The resolution to remove the pergola, based on such a claim that emanates from a form of harassment, has the potential to undermine the sense of community.

### **Architectural merit of pergola**

2.10 Appropriate guttering systems are installed to capture rainwater as it cascades down the roof of the pergola, subsequently directing the water towards the downspouts. In instances of severe weather conditions (**VID02**), the pergola serves as an additional protective layer for the roof, channelling rainwater and melted snow directly into the gutter. It furnishes crucial elements for the southern elevation on Kilpair Street of Commercial Property ■■■, where the roof exhibits a hole, and the gutter is absent from half of the roof's expanse.

### **Noise**

2.11 This perspective is not corroborated, expounded upon, or justified (**refer to DOC03**). The noise emanating from the power tools, as reported by the neighbours, occurred during the renovation phase, which was executed under the auspices of approved planning permission by professional builders (**refer to DOC08**). The power tools were only operated during work hours (8.30 am – 5 pm).

2.12 The noise can be mitigated by the structure of the timber pergola and its felted roof. Regrettably, the removal of the pergola will not result in a reduction of noise. On the contrary, our noise tests have revealed that the absence of the pergola would facilitate a faster propagation of noise, unconfined by the boundaries of the pergola (**refer to VID07**). Thus, the pergola functions as a sound barrier for any potential noises. We vehemently dispute the assertion that the pergola contributes to an intensified harmful use, as the basis for the noise reporting lacks factual evidence and constitutes harassment. We have conducted decibel tests with and without the protection of the pergola under various settings. The testing with the washing machine (**VID01**) substantiates that the noise level of the washing machine is quieter compared to a conversation between my wife and myself, and it falls within the permissible decibel limits in Scotland (**refer to DOC03**). The audio tests, which were conducted at decibel levels mimicking a normal social setting, are documented in **VID03, VID04, VID05, and VID06**.

## **Arguments on Policy 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;**

The grounds for the rejection of the pergola are not affected by Point #1. The pergola, in terms of its dimensions and scale, does not exert an excessive dominance. Consequently, in relation to design considerations, it does not impose an unacceptable impact on the visual amenity of the residents of adjacent flats.

**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;**

The grounds for the disapproval of the pergola are not influenced by Point #2. The pergola, in relation to its size, is comparatively smaller than the remainder of the flat and our building, and it complements both the building and our flat. The pergola is not situated at the front of the listed building, which holds special architectural and historic significance; it is not visible from anywhere on the street.

**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;**

The reason why the pergola has been rejected is not affected by point #3.

*'A timber pergola covers the area of the terrace that has stone paving covering it. The timber store has been installed on the paving and is positioned against the west elevation wall of the applicants' flatted property and the timber planter has been placed at the western edge of the decking. Additionally, a wall mounted timber shelf has been attached to the south elevation of the building and bollard lighting has been installed to light the terrace. Due to their location to the rear of the listed building the external terrace the decking, paving, pergola, associated bollard lighting timber store, shelf and planter are not visible from public views. They cannot not be seen in relation to the front elevation of the building and are well contained to the rear of the building. Therefore, on the matter of design they do not harm the special architectural*

*or historic interest of the listed building and do not harm the character and appearance of the Haddington Conservation Area.'* (Written on Officer report **DOC09**).

**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.**

Pergolas are architecturally conceived for utilization in exterior spaces within residential zones, facilitating the residents' enjoyment of the outdoor environment. This aligns with the town's planning strategy for the high street residential area. A pergola, devoid of walls, is not designed to function as a workshop nor intended for the intensive employment of electrical tools. However, it does provide us, the proprietors, with the opportunity to safely utilize the outdoor space.

#### **Policy 14 of NPF4**

**a) Development proposals will be designed to improve the quality of an area whether in urban or rural locations and regardless of scale.**

The pergola enhances the quality of this urban locale in numerous respects, including but not limited to health and safety considerations and serving as a noise barrier.

**b) Development proposals will be supported where they are consistent with the six qualities of successful places:**

**Healthy:** Supporting the prioritisation of women's safety and improving physical and mental health.

Designing for:

- lifelong wellbeing through ensuring spaces, routes and buildings feel safe and welcoming e.g. through passive surveillance and use of physical safety measures.
- environmentally positive places with improved air quality, reactivating derelict and brownfield land, removing known hazards and good use of green and blue infrastructure.

The pergola supports this quality by prioritising the safety of my spouse, Yuyao Li, when she is present on the rooftop terrace. It enhances our physical and mental well-being by facilitating our ability to spend time outdoors, a practice that has been empirically demonstrated to confer benefits to individuals with Attention Deficit Hyperactivity Disorder (ADHD), such as myself. This includes aiding in the alleviation of anxiety, stress, and depression, enhancing Vitamin D levels, among numerous other advantages. The removal of the pergola would impose Category One Hazards (**refer to DOC04**), where the most severe harm outcomes are identified, including but not limited to death, permanent paralysis,

enduring loss of consciousness, amputation, or significant fractures (**refer to VID00, PIC07, PIC08, PIC09, PIC10, PIC11**). The pergola serves as a protective measure against accidents, a benefit that outweighs the impact of the intensified use of outdoor space.

**Pleasant:** Supporting attractive natural and built spaces.

Designing for:

- **protection** from the elements to create attractive and welcoming surroundings, including provision for shade and shelter, mitigating against noise, air, light pollution and undesirable features, as well as ensuring climate resilience, including flood prevention and mitigation against rising sea levels.
- variety and quality of play and recreation spaces for people of all ages and abilities
- enjoyment, enabling people to feel at ease, spend more time outdoors and take inspiration from their surroundings.

The pergola bolsters this quality by providing a safeguard against falling objects, offering shade and shelter, and serving as a noise barrier for both the neighbours and us. Furthermore, it facilitates our tranquil utilisation of the outdoor space for activities such as gardening and reading.

**Connected:** Supporting well connected networks that make moving around easy and reduce car dependency.

Not applicable.

**Distinctive:** Supporting attention to detail of local architectural styles and natural landscapes to be interpreted, literally or creatively, into designs to reinforce identity.

The pergola supports this quality, this was specified on the Listed Building Consent and Officer Report (**DOC10, DOC09**) that was approved.

**Sustainable:** Supporting the efficient use of resources that will allow people to live, play, work and stay in their area, ensuring climate resilience, and integrating nature positive, biodiversity solutions.

The pergola bolsters this quality by facilitating our safe utilisation of the rooftop terrace, even under windy climatic conditions. It provides a safeguard against potential hazards such as falling objects, which occurs due to negligence from neighbouring properties, in the absence of the pergola.

**Adaptable:** Supporting commitment to investing in the long-term value of buildings, streets and spaces by allowing for flexibility so that they can be changed quickly to accommodate different uses as well as maintained over time.

The pergola, herein referred to as “the Structure”, serves a protective function by safeguarding the roof terrace and the roof of the property designated as [REDACTED] herein referred to as “the Property”, from the potential impact of falling objects. These objects may include,

but are not limited to, stones, slates, gutters, and other similar materials. The Structure's role in maintaining the integrity of the Property is hereby acknowledged.

**c) Development proposals that are poorly designed, detrimental to the amenity of the surrounding area or inconsistent with the six qualities of successful places, will not be supported.**

The pergola, herein referred to as "the Structure", is of a merit design, beneficial to the amenities, and aligns with the qualities of successful places. The Structure is strategically positioned at the rear elevation of the listed building.

Consequently, it remains out of sight from public viewpoints: the Structure's placement at the back of the building ensures that it remains concealed when observing the building's front elevation and is well contained within the approved roof terrace. Therefore, in terms of design, the Structure does not diminish the unique architectural or historical significance of the listed building. Furthermore, it does not adversely affect the aesthetic appeal or character of the Haddington Conservation Area.

### **3.0 Conclusions**

3.1 In conclusion, the roof terrace, located at the rear elevation of the structure, has a history of alterations and extensions dating back over two decades. It has been used by previous owners and neighbouring residents for building maintenance purposes. The terrace has fostered positive relations among neighbours, providing a well-maintained open-air space that benefits adjoining rooftop areas. However, despite these benefits and the provision of access to neighbours for various purposes, we have faced harassment from the resident of 83C in the form of unfounded allegations and malicious reporting. These actions, which include erroneous assumptions about our intentions for the flat and persistent complaints on trivial matters, appear to be more indicative of harassment than the fulfilment of civic duties. Therefore, we contest the objection lodged in the complaint asserting that the rooftop terrace was recently erected, as it lacks substantiating evidence and contradicts the historical use and development of the terrace.

3.2 Furthermore, the pergola, referred to as "the Structure", plays a critical role in ensuring health and safety. Despite numerous dialogues with neighbours and the council regarding the necessity of roof repairs for Property [REDACTED], the efforts have been overlooked, with financial implications seemingly taking precedence over potential hazards. The Structure was installed as a protective measure against such hazards, including falling gutters (**PIC02, PIC03**), stones (**PIC01**), slates (**PIC04, PIC05, PIC06**), and objects thrown by neighbours (**PIC14**).

Instances of harassment from the resident of [REDACTED], including hurling objects from an elevated position, have been reported to the police. The proposed dismantling of the Structure introduces an elevated risk to the health and safety of neighbouring residents, as outlined under Category 1 hazards in the Housing Act.

The officer report's claim that the intensification of the use of the external terrace is harmful lacks empirical substantiation. If objections are based on unfounded allegations, it adversely impacts the physical and mental well-being of the applicants and undermines the sense of community.

The Structure also has architectural merit, with appropriate guttering systems installed to manage rainwater. In severe weather conditions, it serves as an additional protective layer for the roof. Therefore, the Structure is not only a necessary safety measure but also contributes to the architectural integrity of the property.

3.3 Additionally, the noise concerns raised are not substantiated or justified. The reported noise from power tools was limited to the renovation phase, conducted by professional builders within approved planning permission and during acceptable work hours. The timber pergola, with its felted roof, serves as a significant noise mitigator. Contrary to assumptions, the removal of the pergola would not reduce noise but rather facilitate faster noise propagation. The assertion that the pergola contributes to intensified harmful use lacks factual evidence and is considered harassment. Decibel tests conducted under various settings, with and without the pergola, confirm that noise levels fall within permissible limits in Scotland and are quieter than a conversation between two individuals. Therefore, the pergola serves a crucial role in noise reduction and maintains a peaceful environment.

3.4 What is more, the Structure adheres to the stipulated criteria for alterations and extensions to existing buildings. The Structure does not result in a loss of amenity with neighbouring uses or harm existing residential amenity. It is of a size, form, proportion, and scale appropriate to the existing house and its surroundings. The Structure is well integrated into its surroundings and is in keeping with the original building, complementing its character and appearance. Furthermore, the Structure does not harm the special architectural or historic interest of the listed building and does not harm the character and appearance of the Haddington Conservation Area. Therefore, the Structure aligns with the town's planning strategy for the high street residential area and provides the proprietors with the opportunity to safely utilize the outdoor space. Hence, the Structure demonstrates positive planning and design benefits and should be permitted as per the guidelines of development proposals.

3.5 Last but not least, the Structure aligns with the principles outlined in Policy 14 of NPF4. The Structure enhances the quality of the urban locale, prioritises safety, and contributes to physical and mental well-being. It provides protection from potential hazards, offers shade and shelter, and serves as a noise barrier. Although the Connected quality is not applicable, the Structure supports the Distinctive and Sustainable qualities by adhering to local architectural styles and promoting efficient use of resources.

The Structure's strategic positioning at the rear of the listed building ensures it remains concealed from public viewpoints, thereby preserving the aesthetic appeal and character of the Haddington Conservation Area.

Furthermore, the Structure is adaptable, supporting the long-term value of the building by allowing for flexibility and maintenance over time. Therefore, the Structure is a valuable addition to the property, contributing positively to the six qualities of successful places as outlined in Policy 14 of NPF4.

**App No. 23/00503/P**

**EAST LoTHIAN COUNCIL**

**DECISION NOTICE**

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

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

**Mr and Ms Antonio & Yuyao Iglesias & Li**  
**c/o Arctec Build Ltd**  
**Per Andrew Dodds**  
4 The Maltings  
Haddington  
East Lothian  
EH41 4EF

APPLICANT: Mr and Ms Antonio & Yuyao Iglesias & Li

With reference to your application registered on **30th June 2023** for planning permission under the above mentioned Acts and Regulations for the following development, viz:-

**Alterations to roof to provide terraced area, formation of door from window opening, erection of canopy, planter, timber store,shelf and installation of lighting (retrospective)**  
**at**  
**83A High Street**  
**Haddington**  
**East Lothian**  
**EH41 3ET**

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 Planning permission is not hereby granted for the pergola attached to the west elevation of the applicants' flatted property.

Reason:

The pergola is a covered, permanent structure that allows for the intensification of the use of the external terrace which is harmful to the residential amenity of the neighbouring residential properties of 83 High Street contrary to Policy 14 of NPF4 and Policy 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>
MANU LITERATURE 01	-	29.06.2023
DWG 01	-	29.06.2023
27021-10	B	29.06.2023
27021-11	A	30.06.2023

#### **ADVISORY NOTE**

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.

**3rd 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.

**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: **23/00503/P**

Date of decision notice: **3rd November 2023**

Address/Location of site:

**83A High Street  
Haddington  
East Lothian  
EH41 3ET**

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: **23/00503/P**

Date of decision notice: **3rd November 2023**

Address/Location of site:

**83A High Street**  
**Haddington**  
**East Lothian**  
**EH41 3ET**

Name and address of developer:

Owner of land (if not as above):

**Signed:**

**Date:**

From: [REDACTED]

Subject: Re: Gutter and roof - 5 months waiting

Date: 1 May 2022 at 1:15:14

To: [REDACTED]

Good morning Antonio,

Could you kindly email me those roofers numbers pls.

I will chase from here

Thanks

Regards

[Sent from Yahoo Mail for iPhone](#)

On Saturday, April 30, 2022, 11:47 pm, Antonio Iglesias [REDACTED] wrote:

Hello again [REDACTED]

I am glad to hear this.

Me personally, I would tell the roofers to see how to fix the stonework as it keeps falling and am not sure if all the roofers will do these sort of jobs.

I sent [REDACTED] a couple of good roofers so hopefully they are able to help.

All the best in India!

Kind regards

Antonio and Li

On 30 Apr 2022 09:59, [REDACTED] wrote:

Antonio good afternoon,

Thank you for posting the pictures.

I will get on to this straight away. It is very much evidential that the job has not been done.

I will ensure it's all safe as well.

Many thanks for your kind attention.

Regards

[Sent from Yahoo Mail for iPhone](#)

On Saturday, April 30, 2022, 5:03 am, Antonio Iglesias [REDACTED] wrote:

Good morning [REDACTED]

Thanks for the prompt reply.

Hopefully everything goes well in India.

I am attaching a couple of pictures I took a couple of days ago to show you that the roof has not been fixed and that the gutter is still missing.

This needs to be done asap, it is very dangerous.

Thank you for comprehending how any second anything else could fall, specially with the typical weather here in Scotland.

Kind regards  
Antonio Iglesias

On 30 Apr 2022 00:18, [REDACTED] wrote:

Good morning Antonio,

Hope you both are well.

I am still in India.

I shall return in couple of months because I am a cadet for two elderly parents.

Thank you for letting me know about the roof.

I was under the impression that Edinburgh roofing company completed the works in February. We have paid the full amount of £2300.

I will need to mail and [REDACTED] will ask for an explanation.

Apologies if this is causing you a concern. I will chase this up Antonio.

Again many thanks for bringing to my attention.  
Kind regards

[Sent from Yahoo Mail for iPhone](#)

On Friday, April 29, 2022, 2:38 pm, Antonio Iglesias [REDACTED] wrote:

Good morning [REDACTED]

Hope you are both doing well.

It has been 5 months since the gutter fell into our property and since the slates fell off as well. Your roof seems to be coming off slowly but surely and it is strongly recommended that it is fixed as soon as possible, we do not want any accidents with any pieces of the following:

- Rocks
- Slates
- Other gutters

Coming onto our patio and hitting our heads or something similar.

Also, due to the roof condition worsening, the pigeons have began hanging around again. Just thought I would update you.

Have a lovely day and speak soon,  
Antonio Iglesias

On 1 Feb 2022, at 0:17, [REDACTED] wrote:

Good morning Antonio,

Thank you for your email.

Since we last met, there has been lots of changes.

1. Edinburgh roofing company came finally and we had a quote. 22/12/21. They were so busy they could carry out the repairs only in February.

2. On 08/1/22 we lost our 78 years old grand mother back home in India..

3. My father in law fell down and broke his hip and a total hip replacement has to be done.

4. Me and [REDACTED] booked an emergency flight and flew back to India on 11th January. [REDACTED] is flying back on 17th February and I am flying back on 07/04/22 since I am caring for her father.

5. Could you be kind kind enough to store the gutter in your patio area so I could get it sheen [REDACTED] returns please? Than the slates that fell off could you dispose that please.

6. I caught Omicron and I have recovered now fully.

Many thanks Antonio and we will be in touch via email

Kindest regards

[REDACTED]

[Sent from Yahoo Mail for iPhone](#)

On Monday, January 31, 2022, 10:27 pm, Antonio Iglesias

[REDACTED]

wrote:

Good afternoon [REDACTED]

I am contacting you since we have not heard back from you and it has been exactly 2 months since your last email.

We still have the gutter the fell from the building in our patio, as well as some slates. It would be great if you could get someone to fix it, or, you could always come and get it and store it somewhere in the meantime.

Thank for your understanding

Kind regards

Antonio Iglesias



On 30 Nov 2021, at 10:47, [REDACTED]  
[REDACTED]

FYI

[Sent from Yahoo Mail for iPhone](#)

Begin forwarded message:

On Tuesday, November 30, 2021, 9:43 am, [REDACTED]  
[REDACTED]

Good morning [REDACTED]

Further to the damage at [REDACTED] Day Today Haddington, it will not be until at least next week before we can get someone to investigate the damage. We are still trying to get down due to illness and we are concentrating on clients that are no longer within a watertight duct through storm....

will be in touch.

Kin regards

[REDACTED]

----- Original Message -----

From [REDACTED]

To [REDACTED]

[REDACTED] sent 28/11/2021 21:42:58

Subject Fw Gutte and roof

Picture enclosed

[Sent from Yahoo Mail for iPhone](#)

Begin forwarded message:

On Sunday, November 28, 2021, 9:38 pm, [REDACTED]

[REDACTED]:

[Sent from Yahoo Mail for iPhone](#)

Begin forwarded message:

On Sunday, November 28, 2021, 8:12 pm, Antonio Iglesias [REDACTED] wrote:

Good evening [REDACTED]

I hope you are both doing great.

The reason for this email is simple, due to the high winds the other night, a gutter and a roof slate has come off your roof, that part of the roof is still has bits of stones falling, we just thought to let you know so it can get fixed along with the couple of things that have collapsed.

We are attaching pictures at the end of the email for an easier explanation.

Have a lovely day

Kind regards  
Antonio Iglesias & Yuyao Li

|



**DECLARATION**

I, FRANCIS JAMES BELL, residing previously at 83a High Street, Haddington EH41 3ET and now with no fixed residence living in a Campervan do solemnly and sincerely declare as follows:

I owned the subjects known as and forming 83A High Street, Haddington EH41 3ET being the subjects registered in the Land Register of Scotland under Title Number ELN1076 between June 2000 and October 2020 ("the subjects").

I confirm that the roof terrace was in place prior to my ownership.

Declared by the above

.....  
..... signature of Frank Bell

At *Perth and Dundee* (place) *Office*  
On *3<sup>rd</sup> May 2023* (date)

Witness signature .....  
Witness full name .....  
Witness address .....  
.....

[INTRODUCTION - Antisocial Behaviour etc. \(Scotland\) Act 2004: noise nuisance guidance - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/antisocial-behaviour-etc-scotland-act-2004-guidance-noise-nuisance/pages/1/#:~:text=The%20time%20periods%20and%20corresponding%20permitted%20noise%20levels,Night,time...)

from the end of November 2004 and the number will be widely published in advance. If you want to find out more information about the advice line, you can contact the Executive's Antisocial Behaviour Unit by email at [antisocialbehaviourunit@scotland.gsi.gov.uk](mailto:antisocialbehaviourunit@scotland.gsi.gov.uk)

**CONTEXT AND BACKGROUND**

9. Part 5 of the Antisocial Behaviour etc. (Scotland) Act 2004 contains provisions in relation to noise nuisance. In particular it gives local authorities additional powers to deal with noise nuisance, tackles the problems of night noise in dwellings.

10. These provisions are contained within sections 41 to 54 of Part 5 of the Act. If an officer of the local authority considers that the noise being emitted from a dwelling exceeds, or may exceed, the relevant permitted noise level, as measured from a relevant place, the officer may issue a Warning Notice under section 44. Where that Warning Notice is not complied with, within the stated time period, the person responsible for the noise will have committed an offence under section 45. The Officer may then issue a Fixed Penalty Notice, as described in section 46. The permitted noise levels will be determined by order from the Scottish Ministers. Recent research (McKell, 2004) has identified the objectively measured day, evening and night time permitted noise levels. The time periods and corresponding permitted noise levels have been defined as follows:-

- Daytime 07.00 - 19.00 hours  $L_{Aeq}$  41dB
- Evening 19.00 - 23.00 hours  $L_{Aeq}$  37dB
- Night-time 23.00 - 07.00 hours  $L_{Aeq}$  31dB.

1. Whilst the provisions of Part 5 of the ASBA give local authorities power to implement a noise nuisance service for up to 24 hours a day, 7 days a week, it is recognised that not all local authorities within Scotland will

[Back to top ↑](#)



## Housing Health and Safety Rating System (HHSRS)

### Category One Hazards

#### **What is the Housing Health & Safety Rating System?**

The Housing Health and Safety Rating System (HHSRS) is a system for assessing the health and safety risks in dwellings.

#### **The Principle**

The principle of HHSRS is any dwelling (including the structure, associated out buildings, gardens, yards, amenity space and means of access) should provide a safe and healthy environment for someone to live in.

A dwelling includes a house, a self contained flat, bed-sit, and a room in a hostel or similar residential building.



#### **The Inspection and Risk Assessment**

A council officer will inspect a dwelling and note any defects (potential hazards) found. The officer will judge the hazards and the likelihood of an accident causing harm to an occupier or visitor over the next 12 months. The officer then calculates a score representing the degree of risk of each of the hazards identified.

The assessment is based on the most vulnerable potential occupant, but the council will be able to take account of the vulnerability of the current occupant when deciding the best course of action to remove any hazard. Hazards are rated according to how serious they are and the effect they are having or could have on the occupiers of a dwelling.

#### **Category One Hazards**

The rating system compares the risks associated with different types of hazards. It should be borne in mind that all types of homes contain inherent hazards such as stairs and electrical equipment. Category 1 hazards are those where the most serious harm outcome is identified, for example, death, permanent paralysis, permanent loss of consciousness, loss of a limb or serious fractures.



## The Hazards

There are 29 hazards and these have been arranged into 4 main groups reflecting the basic health requirements.

### PHYSIOLOGICAL REQUIREMENTS

1. Damp and Mould Growth
2. Excess Cold
3. Excess Heat
4. Asbestos and manufactured mineral fibre
5. Biocides
6. Carbon Monoxide and flue combustion products
7. Lead
8. Radiation
9. Uncombusted fuel gas
10. Volatile Organic Compounds



### PHYSCHOLOGICAL REQUIREMENTS

11. Crowding and Space
12. Entry by intruders
13. Lighting
14. Noise



### PROTECTION AGAINST INFECTIONS

15. Domestic hygiene, pests and refuse
16. Food Safety
17. Personal Hygiene, sanitation and drainage
18. Water supply

### PROTECTION AGAINST ACCIDENTS

19. Falls associated with baths etc
20. Falls on level surfaces
21. Falls on stairs or steps
22. Falls between levels
23. Electrical hazards
24. Fire
25. Hot surfaces
26. Collision and entrapment
27. Explosions
28. Ergonomics- position and use of amenities
29. Structural collapse and falling elements



The HHSRS assessment is used for the inspection of all Fit to Rent properties.

Our Ref: 22/00077/COM  
Date: 13<sup>th</sup> April 2022  
Telephone: 01620 827686  
E-Mail: [REDACTED]

John Muir House  
Haddington  
East Lothian  
EH41 3HA  
Tel 01620 827827

**IMPORTANT- THIS COMMUNICATION AFFECTS YOUR PROPERTY**

**FAO: Mr & Ms Antonio & Yuyao Iglesias & Li**  
83A High Street  
Haddington  
East Lothian  
EH41 3ET

Dear Mr & Ms Antonio & Yuyao Iglesias & Li,

**RE: ALLEGED UNAUTHORISED PART CHANGE OF USE TO FORM A DOG GROOMING BUSINESS (CLASS 2) AT 83A HIGH STREET, HADDINGTON, EAST LOTHIAN, EH41 3ET.**

Further to a complaint recently received by East Lothian Council's Planning (Enforcement) Service, I write concerning the above.

It has been alleged that an unauthorised part change of use to form a dog grooming business (class 2) has been undertaken at the above named flatted dwelling. Should it be the case that a change of use of a flatted dwelling (Sui Generis) to form a dog grooming business (Class 2) has been undertaken, a grant of Planning Permission would be required.

At this time, you are required to respond in writing to the allegation that has been made against you, in respect of the above named address within the next **14 day period**. Please note, that a site visit may also be required to be undertaken.

Should it be the case that a change of use has been undertaken (or is proposed to be undertaken), please ensure an application for retrospective Planning Permission is submitted within the next **21 day period**. Alternatively, the unauthorised change of use would be required to cease.

Applications can be submitted online via: [www.eplanning.scot](http://www.eplanning.scot)

I look forward to hearing from you.

Yours Sincerely



**Amelia Louise Smith**  
Enforcement Planner



Our Refs: 23/00093/COM  
Date: 5th April 2023  
Ask For: Amelia Louise Smith  
Email: [REDACTED]

Owner/Occupier(s)  
83A High Street  
Haddington  
East Lothian  
EH41 3ET

Dear Sir or Madam,

**RE: ALLEGED UNAUTHORISED DEVELOPMENT AT 83 (FLAT A) HIGH STREET, HADDINGTON, EAST  
LOTHIAN, EH41 3ET.**

Further to a complaint recently received by East Lothian Council's Planning (Enforcement) Service, I write concerning the above.

It has been alleged that decking has been erected on the roof of 83 High Street, Haddington, East Lothian. The complainant has suggested that the decking belongs to the owner/occupier of Flat A.

The erection of decking within a conservation area, as underpinned by an Article 4 Direction requires the grant of planning permission. Furthermore, the attachment of decking to a listed building requires the grant of Listed Building Consent.

As the above property is a B listed building and is located within the Haddington Conservation Area, as underpinned by an Article 4 Direction, the erection of any such decking and the attachment of that decking to a listed building would require the grant of both Listed Building Consent and Planning Permission.

At this time, you are required to address the allegations that have been made against you within the next **14 day period**. Please note, a site visit may be required to be undertaken.

Should decking have been erected on the roof of the above named flatted building, you would be required to either submit a retrospective application for planning permission and listed building consent, or remove all semblance of the decking and evidence its remove. One action must be taken within a **21 day period** from the above named date.

Should you wish to submit an application for retrospective planning permission, relevant forms and additional guidance can be found and downloaded at: [www.eplanning.scot](http://www.eplanning.scot)

Failure to respond accordingly may leave East Lothian Council with no option, other than to instigate formal enforcement proceedings.

Should you have any queries regarding the above, please do not hesitate to contact me.

Yours sincerely,

[REDACTED]  
A. Smith  
Planning (Enforcement) Officer

From: [REDACTED]

FW: letter to shops owners

Date: 2 November 2021 at 21:34:59

To: [REDACTED]

---

Hey Antonio and Li,

I have got 82/84 in this draft but when sending out the final letter I will send with the one premises number to each owner. Let me know if this is ok – or if there is something missing.

Thanks,



Dear XXXXXXXXXXXXXXXX

I am writing to you on behalf of each of the owner's residing in ■ High Street, Haddington in regards to major work needing to be carried out on the roof which covers the premises 82-84 High Street Haddington.

I have lived here in the building for over a year and water ingress has required 3 separate contractors up to carry out gutter cleaning, replacing extreme weather worn slates and fix major leaks.

Each of the three roofing contractors have informed us that the whole roof is in dire need of a major roof overhaul as it appears to not have had this for an extended period of time. The problem has been that although with patch repairs, with the next heavy rainfall subsequently results the next weakest part of the roof becoming a source of water ingress. This has been communicated many times to your lease holders, therefore this is not new information.

We currently have water coming into the building and therefore require action to be taken urgently. With new occupants of the building, it has come to light that in each of our deeds it states that each owner has a rateable value for how the costs of such repairs will be split. This is not an equal share as the shop keepers are stating.

Although your tenants of shop 82/84 have been very cooperative in the past for maintenance and repairs, this was when we had been doing equal shares. With this new piece of information, it is unanimous amongst all the residents that we do wish to progress with what is stated in our deeds and would wish for you to clarify if this is also correct in their contract.

Your tenants have since become unwilling to provide this information themselves and requested that we must liaise with the owners to progress any action and can only do so by writing you this letter. This is only delaying the ongoing issue of water damage in my flat. The lease holder/s are unwilling to agree

to the rateable value which is stated in our deeds and wish for the owners of premises 82/84 to clarify this, as to what is expected of them or if this is the responsibility of the owners.

We require in writing who is responsible for the rateable value share of 82/84 High Street Haddington in order to get the roof seen to and paid for correctly and promptly. From here we will conduct a meeting with all whom are responsible for the share of the roof to discuss quotes and they way forward. I would be grateful for a quick response as I am heavily pregnant and wish for this leak to be fixed as a matter of urgency.

Failure to respond to this letter within a timely manner will only result in the owners of the flats occupying the building [REDACTED] High St taking legal advice.

You may respond via email if you wish to the following;

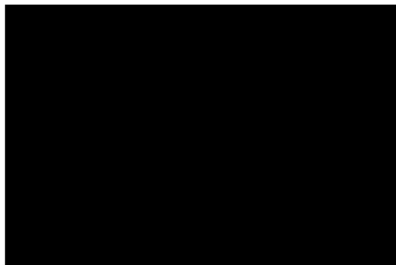


Yours sincerely,



This letter has been sent on behalf of each of the following owners;

Yuyao Li and Antonio Iglesias Barrenechea - 83A





**App No. 21/01470/LBC**

**EAST LoTHIAN COUNCIL**

**PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS)  
(SCOTLAND) ACT 1997  
AS AMENDED BY THE HISTORIC ENVIRONMENT SCOTLAND ACT 2014**

**Mr and Ms Antonio & Yuyao Iglesias & Li  
c/o Arcotec Build Ltd  
Per Andrew Dodds  
4 The Maltings  
Haddington  
EH41 4EF**

**APPLICANT: Mr and Ms Antonio & Yuyao Iglesias & Li**

With reference to your application registered on 22nd November 2021 for listed building consent under the above mentioned Act for the following development, viz:-

**Internal alterations to building (Part Retrospective)  
at  
83A High Street  
Haddington  
EH41 3ET**

the Council in exercise of their powers under the above-mentioned Act hereby **GRANT LISTED BUILDING CONSENT** for the said development in accordance with the plan(s) docketed as relative hereto and the particulars given in the application. The permission is subject to the following conditions which have been imposed for the reasons set out below:-

**CONDITIONS:**

- 1 The works to implement this listed building consent shall begin before the expiration of 3 years from the date of this grant of listed building consent.

Reason:

Pursuant to Section 16 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

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

**14th January 2022**



Keith Dingwall  
Service Manager - Planning

## NOTES

If the applicant is aggrieved by the decision of the Planning Authority to grant listed building consent for the proposed development subject to conditions, the applicant may, within three months from the receipt by the applicant of this notice, appeal to the Scottish Ministers under Section 18 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as amended by the Historic Environment Scotland Act 2014. The appeal should be made by notice served in the prescribed manner to Planning and Environmental Appeals Division, Scottish Government, Ground Floor, Hadrian House, Callendar Business Park, Callendar Road, Falkirk FK1 1XR. A copy of the notice of appeal must at the same time be sent to Development Management, East Lothian Council, John Muir House, Brewery Park, Haddington, East Lothian EH41 3HA.

Section 7(2)(b) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires recipients of consent to demolish a listed building or an unlisted building in a conservation area to give Historic Environment Scotland notice of this consent being issued. They can be notified at Historic Environment Scotland, Longmore House, Salisbury Place, Edinburgh, EH9 1SH. Historic Environment Scotland will complete any necessary recording within 3 months of the receipt of notification. Recording carried out by Historic Environment Scotland is not a substitute for any recording that may be required as a condition of consent. Historic Environment Scotland will respond to consent application notifications to confirm if recording is to be carried out. Where recording is not to be undertaken by Historic Environment Scotland it will confirm this to the recipients of consent within 28 days of receipt of notification.



# OFFICER REPORT

**26th October 2023**

App No. **23/00503/P**

Application registered on **30th June 2023**  
Target Date **29th August 2023**

Proposal	<b>Alterations to roof to provide terraced area, formation of door from window opening, erection of canopy, planter, timber store, shelf and installation of lighting (retrospective)</b>	SDELL	Y
		CDEL	N
Location	<b>83A High Street Haddington East Lothian EH41 3ET</b>	Bad Neighbour Development	N

**APPLICANT: Mr and Ms Antonio & Yuyao Iglesias & Li**

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

**c/o Arctec Build Ltd  
Per Andrew Dodds  
4 The Maltings  
Haddington  
East Lothian  
EH41 4EF**

**DECISION TYPE: Grant Permission Retrospectively**

## REPORT OF HANDLING

### PROPOSAL

This application relates to the first floor flat 83A High Street, Haddington which is within a three storey, mid-terrace flatted building with accommodation in its roof space. The building has commercial properties at ground floor level. It is situated within the Town Centre as defined by Policy TC2 of the adopted East Lothian Local Development Plan 2018 and within the Haddington Conservation Area. The building is listed as being of special architectural or historic interest (Category B).

The property is bounded to the north by neighbouring residential properties, to the east and west by commercial properties at ground floor level with residential properties situated above and to the south by the public road of High Street.

In January 2022 listed building consent (21/01470/LBC) was granted for internal alterations to the building.

Planning permission is now sought retrospectively for the following alterations:

- i) The installation of white painted, timber frame French doors with associated fanlight to the west elevation of the property;
- ii) The formation of a timber deck with associated natural stone slab;
- iii) The erection of a pergola;
- iv) The installation of a timber store;
- v) The installation of a wall mounted timber shelf to the south elevation of the property;
- vi) The installation of a wall mounted timber planter to the retaining wall of the flat roof;  
and
- vii) The installation of 4 decking mounted bollard lights.

#### DEVELOPMENT PLAN

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 are Section 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and NPF4.

Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires that in considering whether to grant planning permission for development which affects a listed building or its setting a planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Also 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 states 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.

Policies 7 (Historic Assets and Places) and 16 (Quality Homes) of NPF4 are relevant to the determination of this application. Policies CH1 (Listed Buildings), and Policies CH2 (Development Affecting Conservation Areas), DP2 (Design) 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.

## REPRESENTATIONS

Four public letters of objection have been received in relation to the application. In summary these state:

- i) The retrospective development (with the exception of the doorway with associated fanlight) is unacceptable due to the use of inappropriate materials and forms;
- ii) The works devalue the listed building and conservation area, heritage assets that should be protected from harmful development;
- iii) The canopy, fixed planter, shelf and timber store should all permanently be removed from the building;
- iv) The applicant has no legal right to occupy the roof of 84 High Street, Haddington;
- v) The applicant has removed the ability for the owner/tenants of the commercial property at 84 High Street to access their roof to undertake repairs;
- vi) The applicant has placed the roof of 84 High Street under greater structural load, for which it was not designed;
- vii) At no time has the applicant or their predecessor requested permission to install decking, upfill, slabs or a pergola on the owners property;
- viii) In covering the roof of the owner of 84 High Streets property the applicant has removed the ability to draw natural light into the owners commercial property;
- ix) In covering the roof of the owner of 84 High Streets property the applicant has impacted the privacy afforded to the occupants of the rear warehouse that will take light in to upper floors through the south elevation of the building at Kilpair Street;
- x) Whilst the window on the south elevation of Kilpair Street is identified as 'blocked up', in occupying the owners roof space the applicant has removed the ability of these windows to be opened up on the grounds of privacy as the owner may wish to convert this commercial property to residential;
- xi) It is unknown what damage has been caused to the roof in erecting deck, pergola etc;
- xii) Timber decking, stone slabs, timber pergola and other painted accretions are not consistent with the aesthetic, character and amenity of the original surroundings grade B and C listed buildings;
- xiii) The works are not 'unsighted' as other occupants of the surrounding properties can see the area;
- xiv) The works result in a loss of privacy as an objector notes the applicant can climb/peer

into their window from the pergola;

xv) The space described as a timber store is storage for a washing machine that shakes an objectors window/floor and generates considerable noise pollution which is amplified by the stone courtyard. Power tools have also allegedly been used in this area;

xvi) The applicant rents their property on Airbnb and an objector alleged that guests are encouraged to use the terrace to smoke which enters neighbouring flats;

xvii) The canopy is felt lines, yet all other roof tops are slate and thus the roof of the pergola is out of place;

xviii) An objector is aware of several occasions where the shop below the terrace has suffered leaks;

xix) An objector notes it is under investigation if the roof the works have been installed on are in the sole ownership of the owner of 84 High Street or if there is communal ownership;

xx) An objector queries if the application is granted then how do the owners of 83 High Street access the roof, gutters etc in future;

xxi) An objector queries if the application is granted then who is responsible for repair works/cost;

xxii) The applicant has allegedly screwed shut communal windows which prevents escape in the event of a fire, an objector would like to see a safe plan put in place; and

xxiii) An objector feels that illegal occupation should not be "sanitised" by the approval of a planning application.

The issues raised relating to the legal right of the applicant to occupy the roof of the commercial property, 84 High Street, Haddington, the access/repair of the roof, the structural load of the roof in relation to the works, seeking permission from the owner of the roof for the works, damage or leaks to the roof/commercial property of 84 High Street, Haddington are all civil matters between affected parties and are not material considerations relevant to the determination of this planning application.

The owner of the commercial property, 84 High Street, Haddington has noted the works will prevent their ability to draw natural light into their commercial property. Whilst the development the subject of this planning application would prevent the formation of a roof light to the flat roof of 84 High Street, it would not necessarily prevent the owner of that commercial property applying for permission to form glazed openings in other elevations of their property. Any such proposals would be determined on their own merits.

In relation to the comment received stating that in covering the roof of the owner of 84 High Streets commercial property the applicant has impacted the privacy afforded to the occupants of the rear warehouse in the building. However, unlike residential amenity there is no defined degree of privacy afforded to commercial properties and as such the use of the terrace does not allow for the harmful overlooking of any commercial property.

In relation to the comment received stating that whilst the window on the south elevation of Kilpair Street is identified as 'blocked up', in occupying the owners roof space the applicant has removed the ability of these windows to be opened up on the grounds of privacy as the owner may wish to convert this commercial property to residential. If approved the development the subject of this application would not necessarily prevent the conversion of the adjacent building to residential as measures such as locating bathrooms in relevant rooms and obscure glazing could if need be, be used to safeguard privacy and amenity. However, any such application would be determined on its own merits.

The allegations that the applicant rents out their property on Airbnb as a short-term holiday let have been investigated and the listing for the property notes that only 1 room of the applicants' property is being let out. The letting out of a room within the flat does which is also occupied by the owner/tenant of the flat does not require planning permission.

The investigation of the ownership of the roof is a civil matter between affected parties.

The comments received in relation to access to the roof and guttering, responsibility and cost of any repairs and access to the communal windows which have been allegedly screwed shut are all civil matters between affected parties and are not material considerations in the determination of this planning application.

Any approval of planning permission would not 'sanitise' the development the subject of this planning application. Any legal action taken by the owner of the flat roof on which the development has taken place would be a separate civil matter between affected parties.

The Council's Anti-Social Behaviour Team have been consulted on the application and advise they have recorded incidents against the occupier of 83a High Street, Haddington. However, any anti-social behaviour matters are for the Anti-Social Behaviour team to investigate and action accordingly. They are not matters relevant to the determination of this planning application.

## PLANNING ASSESSMENT

Unlike the front elevation of the listed building which is of particular special architectural or historic interest the rear elevation which has previously been altered and extended is not of the same special architectural or historic interest.

The French doors with associated fanlight to the west elevation of the applicants' property allows for access from the kitchen of the applicants' property to the external terrace and was formerly a window. The French doors and associated fanlight are of a traditional, white painted timber frame construction which ties in with the fenestration of the flatted building. Therefore, by virtue of their traditional material, form, size and positioning the French doors with associated fanlight are not harmful to the character or appearance of the flatted property, the listed building, or to the Haddington Conservation Area.

The use of the French doors and associated fanlight does not allow for any harmful overlooking of any neighbouring residential properties, furthermore it also replaced a window on the west elevation of the applicants' flatted property.

The external terrace comprises a mix of timber decking and natural stone paving which have

been formed on the flat roof of a single storey component attached to the west elevation of the building. A timber pergola covers the area of the terrace that has stone paving covering it. The timber store has been installed on the paving and is positioned against the west elevation wall of the applicants' flatted property and the timber planter has been placed at the western edge of the decking. Additionally a wall mounted timber shelf has been attached to the south elevation of the building and bollard lighting has been installed to light the terrace. Due to their location to the rear of the listed building the external terrace the decking, paving, pergola, associated bollard lighting timber store, shelf and planter are not visible from public views. They cannot be seen in relation to the front elevation of the building and are well contained to the rear of the building. Therefore on the matter of design they do not harm the special architectural or historic interest of the listed building and do not harm the character and appearance of the Haddington Conservation Area.

Whilst views of the external terrace are possible from windows of neighbouring flats, the terrace and its associated fixtures are not of a size or scale to be overly dominating. Therefore on matters of design they do not have an unacceptable impact on the visual amenity of the occupants of neighbouring flats.

The use of the decked/paved area does not allow for the harmful overlooking of neighbouring residential properties of 83 High Street, as the windows of those neighbouring residential properties are situated more than 1.8 metres above the finished floor level of the decking and paving. Whilst the use of the decking and paving would allow for the overlooking of the communal windows of 83 High Street, these windows serve a communal stairwell and as such there would be no harmful overlooking or loss of amenity to any of the neighbouring residential properties of 83 High Street.

Furthermore, the use of the decking and paving does not allow for any overlooking of any other neighbouring residential properties due to the location and orientation of the decking/paving.

The Council's Senior Environmental Health Officer has been consulted on the application and notes there are several objections to this application on the grounds of noise from electrical equipment. The Council's Senior Environmental Health Officer recommends a condition be attached to any grant of planning permission to prevent the use of electric appliances within the timber store. However such a condition would not be enforceable and therefore does not meet the terms of Planning Circular 4/98 governing the use of planning conditions attached to the grant of planning permission.

The 1st floor terrace provides the occupants of the flat an external area to be used in association with the flat. However, the timber frame pergola which is a covered, permanent structure allows for the intensification of use of this external terrace. Such an intensification of use includes storage of electrical equipment, including the washing machine beneath it, which would otherwise be stored and used within the flat. Such an intensification of use is harmful to the residential amenity of the occupants of other flats within the flatted building of 83 High Street. Therefore it should be made a condition of any grant of planning permission for the external terrace and other associated structures, that the timber pergola is refused planning permission and to require its removal from the terrace. Subject to the imposition of that planning control the use of the terrace would not harm the residential amenity of the occupants of neighbouring flat.

Given the above considerations and with the exception of the pergola, the retrospective

development is consistent with Policies 7 and 16 of NPF 4 and Policies CH1, CH2, DP2 and DP5 of the adopted East Lothian Local Development Plan 2018. Therefore, the retrospective development is considered to be in accordance with the provision of the stated relevant Development Plan policies and there are no material considerations which outweigh the proposals accordance with the Development Plan.

The timber pergola is unauthorised and therefore a breach of planning control. If, within two months of the date to grant planning permission for the other components of this application, no steps have been taken by the applicant to have the pergola removed then enforcement action will be taken to secure the removal of it, with the period for compliance with the enforcement notice being a further period of two months.

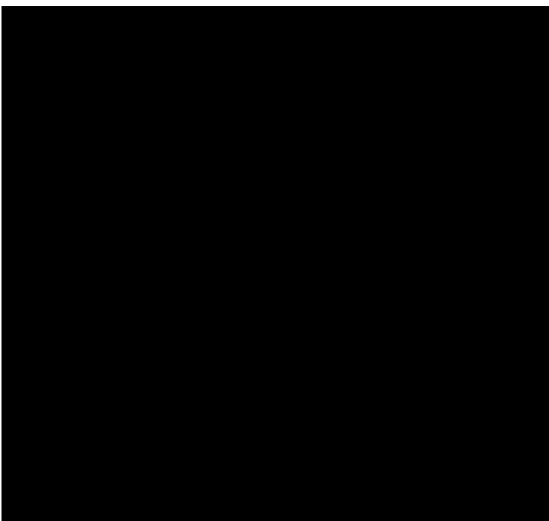
**CONDITION:**

- 1 Planning permission is not hereby granted for the pergola attached to the west elevation of the applicants' flatted property.

**Reason:**

The pergola is a covered, permanent structure that allows for the intensification of the use of the external terrace which is harmful to the residential amenity of the neighbouring residential properties of 83 High Street contrary to Policy DP5 of the adopted East Lothian Local Development Plan 2018.

**LETTERS FROM**



26th October 2023

**App No. 23/00502/LBC**

**EAST LoTHIAN COUNCIL**

**PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS)  
(SCOTLAND) ACT 1997  
AS AMENDED BY THE HISTORIC ENVIRONMENT SCOTLAND ACT 2014**

**Mr And Ms Antonio & Li Iglesias  
c/o Arctec Build Ltd  
Per Andrew Dodds  
4 The Maltings  
Haddington  
East Lothian  
EH41 4EF**

**APPLICANT: Mr And Ms Antonio & Li Iglesias**

With reference to your application registered on 30th June 2023 for listed building consent under the above mentioned Act for the following development, viz:-

**Alterations to roof to provide terraced area, formation of door from window opening, erection of canopy, planter, timber store and shelf (retrospective)  
at  
83A High Street  
Haddington  
East Lothian  
EH41 3ET**

the Council in exercise of their powers under the above-mentioned Act hereby **GRANT LISTED BUILDING CONSENT** for the said development in accordance with the plan(s) docketed as relative hereto and the particulars given in the application. The permission is subject to the following conditions which have been imposed for the reasons set out below:-

**CONDITIONS:**

1 None.

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

**3rd November 2023**





Keith Dingwall  
Service Manager - Planning

## NOTES

If the applicant is aggrieved by the decision of the Planning Authority to grant listed building consent for the proposed development subject to conditions, the applicant may, within three months from the receipt by the applicant of this notice, appeal to the Scottish Ministers under Section 18 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as amended by the Historic Environment Scotland Act 2014. The appeal should be made by notice served in the prescribed manner to Planning and Environmental Appeals Division, Scottish Government, Ground Floor, Hadrian House, Callendar Business Park, Callendar Road, Falkirk FK1 1XR. A copy of the notice of appeal must at the same time be sent to Development Management, East Lothian Council, John Muir House, Brewery Park, Haddington, East Lothian EH41 3HA.

Section 7(2)(b) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires recipients of consent to demolish a listed building or an unlisted building in a conservation area to give Historic Environment Scotland notice of this consent being issued. They can be notified at Historic Environment Scotland, Longmore House, Salisbury Place, Edinburgh, EH9 1SH. Historic Environment Scotland will complete any necessary recording within 3 months of the receipt of notification. Recording carried out by Historic Environment Scotland is not a substitute for any recording that may be required as a condition of consent. Historic Environment Scotland will respond to consent application notifications to confirm if recording is to be carried out. Where recording is not to be undertaken by Historic Environment Scotland it will confirm this to the recipients of consent within 28 days of receipt of notification.