

LOCAL REVIEW BODY

21 March 2024

Application No: 23/01010/P

11 Forth Street, North Berwick EH39 4HX

Appointed Officer's Submission

23/01010/P – REVIEW AGAINST DECISION – PLANNING OFFICER’S SUBMISSION

Planning Application Review Against Decision (Refusal): Replacement windows and doors at 11 Forth Street, North Berwick.

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9th February 2023

Scott Robertson
Assistant Planner (Planning Delivery)

OFFICER REPORT

26th October 2023

App No. **23/01010/P**

Application registered on **31st August 2023**
Target Date **30th October 2023**

Proposal	Replacement windows and door	SDELL	N
		CDEL	N
Location	11 Forth Street North Berwick EH39 4HX	Bad Neighbour Development	N

APPLICANT: **Mrs M. Sinclair**

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

**c/o Bryant And Cairns
Per Thomas Osborne
2/3
Borthwick View
Pentland Industrial Estate
Loanhead
Midlothian
EH20 9QH**

DECISION TYPE:

Application Refused

PLANNING ASSESSMENT

The property to which this application relates is 11 Forth Street, a two storey, mid-terrace house. It is located within a predominantly residential area as defined by Policy RCA1 of the adopted East Lothian Local Development Plan 2018. The property falls within the North Berwick Conservation Area.

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

Planning permission is sought for the replacement of 4 windows and a door within the north elevation of the applicants' property.

The existing windows are of timber frame construction and their frames are painted white in colour, the existing door is also of timber construction, painted white.

It is proposed to replace the 4 windows with uPVC framed windows that would have white coloured frames. The glazing pattern of the proposed replacement windows would replicate the

glazing pattern of the existing windows. It is proposed to replace the existing timber door with a white painted, uPVC door with associated uPVC framed fan light.

through separate application 23/01012/P planning permission is sought for the replacement of the windows on the front elevation of the neighbouring house of 15 Forth Street.

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

Policies 7 (Historic Assets and Places), 14 (Liveable Place), and 16 (Quality Homes), of NPF4 and Policies CH2 (Development Affecting Conservation Areas) and DP5 (Extensions and Alterations to Existing Buildings) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of the application.

Material to the determination of the application are Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and National Planning Framework 4 (NPF 4).

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. Development within conservation areas and proposals out with which will impact on its appearance, character or setting, should preserve or enhance the character and appearance of the conservation area.

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 or 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 window cannot be seen from a public place.

Two written letters of representation have been received in relation to the application, both of which give their support to the proposals.

Policy CH2 of the adopted East Lothian Local Development Plan 2018 states that 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.

The applicants property is located on the south side of Forth Street and fronts onto the public road. Therefore the front (north) elevation of the property is readily visible in public views from Forth Street.

The property is located within the historic core of the North Berwick Conservation Area. Although they are themselves relatively modern additions to the conservation area, the terrace of houses the applicant's property is a part of have been so designed to sit comfortably within their setting and to make a positive contribution to the character and appearance of the conservation area. A significant part of the positive contribution the buildings make to the character and appearance of the conservation is derived from the uniformity of the design of the terrace of houses using traditional materials including timber framed windows and doors.

The proposed replacement windows would have UPVC frames but would otherwise replicate the glazing pattern of the windows they would replace. If, as proposed, the timber framed windows and door were to be replaced with uPVC framed windows and door they would, by their non-traditional construction material of framing, be a change to the windows and door they would replace. This difference would not preserve the positive contribution the timber framed windows and door make to the character and appearance of the house and to the character and appearance of this part of the North Berwick Conservation Area. Consequently, the loss of the existing timber framed windows and their replacement with the uPVC framed windows would neither preserve nor enhance, but would be harmful to, the character and appearance of the house, the terrace of houses of which it is a part and to the character and appearance of this part of the North Berwick Conservation Area.

The proposed replacement windows and door are therefore contrary to Policy 7, 14 and 16 of NPF4, Policies CH2 and DP5 of the adopted East Lothian Local Development Plan 2018 and the Council's supplementary Planning Guidance on 'Cultural Heritage and the Built Environment'.

In addition, if approved, the proposed replacement windows would set an undesirable precedent for the installation of similarly designed uPVC framed windows within the public elevations of other buildings and properties within the locality. Over time such change would be collectively out of keeping with, and detrimental to, the character and appearance of this part of the North Berwick Conservation Area.

It must now be considered if there are any material planning considerations that would outweigh the policies of the development plan that would indicate that planning permission should be granted for the proposed UPVC framed replacement windows.

On this and subsequent to the registration of the application the applicant has noted they believe that other properties within Forth Street, of which the applicants' house forms part of,

have installed uPVC framed windows.

However, having checked Council records there is no record of planning permission having been granted for UPVC framed windows in the public elevations of properties within Forth Street. If any UPVC framed windows have been installed they are unauthorised and therefore a breach of Planning Control which is a matter for the Council Planning Enforcement Officer to investigate. Therefore the existence of unauthorised UPVC framed windows is not a material consideration that would outweigh the fact that the replacement windows are contrary to the development plan.

The proposed replacement windows and door are therefore contrary to Policy 7, 14 and 16 of NPF4, Policies CH2 and DP5 of the adopted East Lothian Local Development Plan 2018 and the Council's supplementary Planning Guidance on 'Cultural Heritage and the Built Environment'

In conclusion, the proposals are considered not to be in accordance with the provisions of the stated relevant Development Plan policies and there are no material considerations which outweigh the fact that the proposals do not accord with the Development Plan.

REASONS FOR REFUSAL:

- 1 The loss of the existing timber framed windows and their replacement with the uPVC framed windows would be harmful to the character and appearance of the house and would neither preserve nor enhance but would be harmful to the character and appearance of this part of the North Berwick Conservation Area contrary to Policy 7, 14 and 16 of NPF4, Policies CH2 and DP5 of the adopted East Lothian Local Development Plan 2018 and contrary to the Council's supplementary Planning Guidance on 'Cultural Heritage and the Built Environment'.

LETTERS FROM

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

26th October 2023

Currie, Fiona

From: [REDACTED]
[REDACTED] 07 September 2023 10:20
To: Environment Reception
Subject: 11 Forth Street, North Berwick - Planning Ref: 23/01010/P

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear Sir/Madam,

With regard to the above application and [REDACTED] - our flat at [REDACTED], North Berwick faces [REDACTED] this property in Creel Court, 11 Forth Street - we have been made aware of the application for window and door replacement at this property. We have looked at the various documents and drawings available online for this proposal and we wish to confirm that, with regard to the materials being used and the style and appearance of these replacements, we are in favour of and fully support the application.

Many thanks,

[REDACTED]

Currie, Fiona

From: [REDACTED]
Sent: 18 September 2023 16:19
To: Environment Reception
Subject: Planing Application 11 Forth Street NORTH BERWICK 23/01010/P EH39 4HX

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CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

To;--- East Lothian Council Planning Department

From - [REDACTED]
Copy Applicant -Mrs W Sinclair , 11 Forth Street ,North Berwick EH39 4HX

Planning Application 23/01010/P 11 Forth Street North Berwick EH39 4HX as at 4 September 2023

Application for Replacement windows and door.

I have discussed the Planning Application.with the applicant,
I am owner of the property [REDACTED] and it is my my residential home .
I do not wish to raise a neighbour objection.

I wish Mrs W Sinclair success in the application that is acceptable to myself.

I advise that I did receive a postal NEIGHBOUR NOTIFICATION

Yours sincerely

[REDACTED]

App No. 23/01010/P

**EAST LoTHIAN COUNCIL
DECISION NOTICE**

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

**Mrs M. Sinclair
c/o Bryant And Cairns
Per Thomas Osborne
2/3
Borthwick View
Pentland Industrial Estate
Loanhead
Midlothian
EH20 9QH**

APPLICANT: Mrs M. Sinclair

With reference to your application registered on 31st August 2023 for planning permission under the above mentioned Acts and Regulations for the following development, viz:-

**Replacement windows and door
at
11 Forth Street
North Berwick
EH39 4HX**

East Lothian Council as the Planning Authority in exercise of their powers under the above-mentioned Acts and Regulations hereby **REFUSE PLANNING PERMISSION** for the said development.

The reasons for the Council's refusal of planning permission are:-

- 1 The loss of the existing timber framed windows and their replacement with the uPVC framed windows would be harmful to the character and appearance of the house and would neither preserve nor enhance but would be harmful to the character and appearance of this part of the North Berwick Conservation Area contrary to Policy 7, 14 and 16 of NPF4,

Policies CH2 and DP5 of the adopted East Lothian Local Development Plan 2018 and contrary to the Council's supplementary Planning Guidance on 'Cultural Heritage and the Built Environment'.

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;
- details of any variations made to the application in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997.

The plans to which this decision relate are as follows:

<u>Drawing No.</u>	<u>Revision No.</u>	<u>Date Received</u>
W10413/01	-	31.08.2023
W10413/02	-	31.08.2023

31st October 2023



Keith Dingwall
Service Manager - Planning

NOTES

If the applicant is aggrieved by the decision to refuse permission for the proposed development, 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 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.

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. Part 2 – National Planning Policy National Planning Framework 4 46

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

Policy 14: Design, Quality and Place

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

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. Pleasant: Supporting attractive natural and built spaces. Connected: Supporting well connected networks that make moving around easy and reduce car dependency Distinctive: Supporting attention to detail of local architectural styles and natural landscapes to be interpreted, literally or creatively, into designs to reinforce identity. 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. 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. Further details on delivering the six qualities of successful places are set out in Annex D.

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.

Policy 16: Quality Homes

a) Development proposals for new homes on land allocated for housing in LDPs will be supported.

b) Development proposals that include 50 or more homes, and smaller developments if required by local policy or guidance, should be accompanied by a Statement of Community Benefit. The statement will explain the contribution of the proposed development to: i. meeting local housing requirements, including affordable homes; ii. providing or enhancing local infrastructure, facilities and services; and iii. improving the residential amenity of the surrounding area. Part 2 – National Planning Policy Framework 4 63

c) Development proposals for new homes that improve affordability and choice by being adaptable to changing and diverse needs, and which address identified gaps in provision, will be supported. This could include: i. self-provided homes; accessible, adaptable and wheelchair accessible homes; build to rent; iv. affordable homes; v. a range of size of homes such as those for larger families; vi. homes for older people, including supported accommodation, care homes and sheltered housing; vii. homes for people undertaking further and higher education; and viii. homes for other specialist groups such as service personnel.

d) Development proposals for public or private, permanent or temporary, Gypsy/Travellers sites and family yards and Travelling Showpeople yards, including on land not specifically allocated for this use in the LDP, should be supported where a need is identified and the proposal is otherwise consistent with the plan spatial strategy and other relevant policies, including human rights and equality.

e) Development proposals for new homes will be supported where they make provision for affordable homes to meet an identified need. Proposals for market homes will only be supported where the contribution to the provision of affordable homes on a site will be at least 25% of the total number of homes, unless the LDP sets out locations or circumstances where: i. a higher contribution is justified by evidence of need, or ii. a lower contribution is justified, for example, by evidence of impact on viability, where proposals are small in scale, or to incentivise particular types of homes that are needed to diversify the supply, such as self-build or wheelchair accessible homes. The contribution is to be provided in accordance with local policy or guidance.

f) Development proposals for new homes on land not allocated for housing in the LDP will only be supported in limited circumstances where: i. the proposal is supported by an agreed timescale for build-out; and ii. the proposal is otherwise consistent with the plan spatial strategy and other relevant policies including local living and 20 minute neighbourhoods; iii. and either: delivery of sites is happening earlier than identified in the deliverable housing land pipeline. This will be determined by reference to two consecutive years of the Housing Land Audit evidencing substantial delivery earlier than pipeline timescales and that general trend being sustained; or the proposal is consistent with policy on rural homes; or the proposal is for smaller scale opportunities within an existing settlement boundary; or the proposal is for the delivery of less than 50 affordable homes as part of a local authority supported affordable housing plan.

g) Householder development proposals will be supported where they: i. do not have a detrimental impact on the character or environmental quality of the home and the surrounding area in terms of size, design and materials; and ii. do not have a detrimental effect on the neighbouring properties in terms of physical impact, overshadowing or overlooking.

h) Householder development proposals that provide adaptations in response to risks from a changing climate, or relating to people with health conditions that lead to particular accommodation needs will be supported.

East Lothian Local Development Plan 2018

Policy 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.

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;
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.

Schedule of Conditions for 23/01010/P if appeal is upheld:

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.

