

REVIEW DECISION NOTICE

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

Application for review by applicant, Mrs Wilma Shaw, 15 Forth Street, North Berwick, EH39 4HX. Planning permission is sought for the replacement of 4 windows and a door within the north elevation of the applicant’s property.

Site address: 15 Forth Street, North Berwick, EH39 4HX

Application: 23/01012/P

Date of Review decision notice: 19 April 2024

1. Decision

1.1 The ELLRB dismissed the appeal and refused planning application 23/01012/P for the reasons more particularly set out below.

1.2 This Notice constitutes the formal decision notice of the Local Review Body as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.

2. Introduction

2.1 The above application for planning permission was considered by the ELLRB at the LRB meeting held on Thursday 21 March 2024. The ELLRB constituted by Councillor J Findlay (Chair), Councillor A Forrest, Councillor S McIntosh. All three members of the ELLRB had attended a site visit in respect of the application on 21 March 2024.

2.2 The following persons were also present at the meeting of the ELLRB:

Mr P Zochowski, Planning Advisor
Ms F Haque, Legal Adviser/Clerk
Ms F Currie, Clerk

3. Proposal

3.1 This application is for review of decision to refuse planning permission for the replacement of 4 windows and a door within the north elevation of the applicant’s property. The applicant appealed the refusal of the planning application on 17 January 2024.

4. Preliminaries

4.1 In advance of the ELLRB, members were provided with copies of the following:

1	Statement of Case: original case officer’s report for planning application 23/01012/P
2	Copy of letters from interested parties
3	Copy of decision notice and reasons for refusal relating to 23/01012/P
4	Copy of relevant local plan policies
5	Schedule of Conditions

5. Findings and conclusions

5.1 The Clerk confirmed that all members of the ELLRB were present and all confirmed that there were no declarations of interest.

- 5.2 The Legal Advisor proceeded to summarise the process for the LRB meeting, confirmed that all attendees had copies of the papers listed above. The members nominated Councillor J Findlay as chair for the LRB meeting.
- 5.3 The Members requested that the Planning Advisor summarise the application and the related policy position in respect of this matter.

Planning Advisor's summary

- 5.4 The Planning Adviser provided details of the application confirming that the property was located within the North Berwick Conservation Area. Planning permission had been sought for the replacement of 4 windows and a door within the north elevation. The existing windows were of timber frame construction and their frames were painted white in colour, the existing door was also of timber construction, painted white. It was 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 was proposed to replace the existing timber door with a white painted, uPVC door with associated uPVC framed fan light.
- 5.5 The Planning Adviser reminded Members that section 25 of the Town and Country Planning (Scotland) Act 1997 required that the application be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan consisted of both National Planning Framework 4 (NPF4) and the adopted East Lothian Local Development Plan (LDP) 2018. The case officer had indicated that the relevant policies were Policies 7 (Historic Assets and Places), 14 (Liveable Places), and 16 (Quality Homes), of NPF4 and Policies CH2 (Development Affecting Conservation Areas) and DP5 (Extensions and Alterations to Existing Buildings) of the adopted LDP.
- 5.6 Material to the determination of the application was 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 required 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.
- 5.7 Also, material to the determination of the application was supplementary Planning Guidance (SPG) on 'Cultural Heritage and the Built Environment' adopted by the Council in October 2018. The SPG expanded on policies set out in the LDP and provided policy guidance on replacement windows in buildings in a conservation area. The policy guidance set out in the SPG stated 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 would 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 would be: multiple glazing where there was no visible difference between that proposed and the original style of window; if the building itself did 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 if the window could not be seen from a public place.
- 5.8 Two written letters of representation had been received in relation to the application, both of which give their support to the proposals.
- 5.9 The Planning Adviser summarised the case officer's assessment of the proposals against planning policy. Policy CH2 of the adopted LDP stated 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 north

elevation of the property was readily visible in public views from Forth Street. The uPVC windows as proposed would be constructed of a new non-traditional material but would otherwise replicate the glazing pattern of the existing windows. The proposed door would be different in terms of materials and proportions, as well as being higher which would result in a reduced height for the fanlight above. The glass in the fanlight would be obscured but with a visibly different profile to the existing. Doormongery would be gold coloured whereas when built the properties had dark coloured handles and letterboxes which is a more traditional appearance.

- 5.10 The Planning Advisor then turned to any material considerations that should be considered in determining the application afresh, the applicant had noted the presence of other uPVC windows in Forth Street. The case officer stated that these must be unauthorised and would be a matter for Planning Enforcement to investigate, thus he did not consider this to be a valid material consideration.
- 5.11 The original case officer noted that the changes proposed to the windows and doors would, by their non-traditional construction material be a harmful change that would not preserve the character and appearance of the house and the conservation area. As such they would be contrary to Policy 7 Historic Assets and Places), 14 (Liveable Places) and 16 Quality Homes of NPF4 and policies CH2 (Development Affecting Conservation Areas) and policy DP5 Extensions and Alterations to existing buildings and to the Council's Supplementary Planning Guidance on Cultural Heritage and the Built Environment. The case officer also stated that 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.
- 5.12 The Planning Adviser agreed with the original case officer's assessment of the application.
- 5.13 The Planning Adviser summarised the applicant's appeal statement which included the following comments:
- 5.13.1 The existing windows were dated and draughty. Replacements would improve the energy efficiency of the property through improved u values and a higher quality fitting.
- 5.13.2 The windows would therefore help towards meeting net zero.
- 5.13.3 The proposed uPVC windows could be utilised for a greener future and would help the house to be well insulated in future.
- 5.13.4 The proposed windows would be finished to a 'woodgrain' effect to blend in with existing windows.
- 5.14 The Planning Adviser concluded his statement by informing Members that, should they decide to allow the appeal, the case officer had suggested a condition that should be applied. However, should Members decide to refuse the application, he advised that it could be refused for the same reasons given in the original refusal dated 26 October 2023.

Discussion and vote

- 5.15 There were no questions for the Planning Advisor.
- 5.16 Councillor McIntosh stated that the core issues were the same as the previous appeal and her views on this application were also the same. These were that she would always support progress towards net zero targets and the circular economy but she was concerned that there seemed to be an assumption that uPVC was better for environment when this was not necessarily the case. Her research had also suggested that that uPVC windows would not necessarily be warmer or more draught proof.
- 5.17 Councillor McIntosh added that in terms of the visual differences between the existing and proposed replacements was more apparent in the door, but both could be viewed from street level. She reiterated her view that she didn't think the case had been made that uPVC was the only option to improve energy efficiency and she felt that the reasons for maintaining the

character of the conservation area were powerful. She would be supporting the decision of the original case officer.

- 5.18 Councillor Forrest said he aligned with the comments made by Councillor McIntosh and would be supporting the decision of the original case officer.
- 5.19 The Chair stated that his position was also the same as in the previous appeal. These comments were that Gullane did not have an over-supply of short-term lets. He also felt that there was sufficient affordable accommodation as a result of new house building in recent years. In comparison to the local hotels, all of which were 4 star or above, short term lets could offer a more affordable type of holiday accommodation. He also noted the one of the neighbours within the stair resident was supportive of the application and that the other flat on the second floor was also a short-term let. In addition, he noted that there was support from neighbours for the proposed changes. He would therefore be supporting the appeal.
- 5.20 The Chair asked his colleagues to confirm that they had attended the site visit and if they were satisfied that they had sufficient information before them to determine the application. They confirmed this to be the case.
- 5.21 The LRB members confirmed their decision via roll call vote. They agreed by a majority to uphold the decision of the planning case officer to refuse planning permission.

Planning permission is hereby refused.



Fariha Haque
Legal Adviser to ELLRB

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under Section 43A(8)

Notice Under Regulation 21 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.

- 1 If the applicant is aggrieved by the decision of the planning authority to refuse permission or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.

- 2 If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.