



**MINUTES OF THE MEETING OF THE
LOCAL REVIEW BODY**

**THURSDAY 25 APRIL 2024
VIA THE COUNCIL HYBRID SYSTEM**

Committee Members Present:

Councillor D Collins
Councillor N Hampshire (Convener)
Councillor S McIntosh

Advisers to the Local Review Body:

Mr C Grilli, Legal Adviser to the LRB
Ms J Squires, Planning Adviser to the LRB

Clerk:

Ms M Scott, Committees Officer
Ms B Crichton, Committees Officer (meeting administrator)

Apologies:

N/A

Declarations of Interest

None

Introductory Statement by the Legal Adviser

The Legal Adviser outlined the procedure for the Local Review Body to reach a decision on the planning application before it and reminded them that further advice would be provided on procedure, should they conclude they did not have enough information to determine the application today.

On this occasion it was agreed that Councillor Hampshire would chair the Local Review Body (LRB).

The Planning Adviser made some introductory remarks regarding the status of the development plan which covered all of the applications. She advised Members that Section 25 of the Town and Country Planning (Scotland) Act 1997 required planning applications be determined in accordance with the development plan unless material considerations indicated otherwise. The development plan for all applications was National Planning Framework 4 (NPF4) and the East Lothian Local Development Plan (LDP) 2018.

1. PLANNING APPLICATION NO. 23/01051/P: CHANGE OF USE OF FLAT TO SHORT TERM HOLIDAY LET (RETROSPECTIVE), 8 FORTH STREET LANE, NORTH BERWICK EH39 4JB – REVIEW AGAINST DECISION (REFUSAL)

The Chair invited the Planning Adviser, who had not been involved in the original decision, to present a summary of the planning policy considerations in this case.

The Planning Adviser provided details of the application, property and location, and outlined the reason for refusal of planning permission.

She confirmed that the property was located within the North Berwick Conservation Area and referred to relevant legislation and policy: section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, NPF4 Policy 7 Historic Assets and Places and Policy CH2 of the LDP 2018. She also noted that the Conservation Area Character Statement for North Berwick Conservation Area was found in the Cultural Heritage Supplementary Planning Guidance.

The Planning Adviser noted that the case officer had not offered an assessment of whether the proposals preserved or enhanced the Conservation Area. However, as there were no physical alterations involved in the proposal there was no detriment in terms of the built environment. She commented that historic character could include issues such as levels of activity and ambience as well as built elements. However, the recognition in the North Berwick Conservation Area character statement of the areas expansion as a seaside resort suggested that some level of holiday accommodation was likely to be expected and that seasonal fluctuations in activity would accord with that character. The Planning Adviser noted that there were 1431 dwellings within the conservation area boundary, 137 of which had licensing applications granted. Given the recognition in the Conservation Area Character Statement, it was the Planning Adviser's view that the addition of one further holiday unit would not cause harm to the character of the Conservation Area.

The case officer had also noted that the property was within North Berwick Town Centre as defined by Policy TC2 of the LDP but had not offered any assessment of the proposal against that policy. The purpose of LDP Policy TC2 was to ensure that changes of use would not compromise the town centre's vibrancy, vitality and viability. NPF4 Policy 27 also supported proposals that enhanced and improved the vitality and viability of city, town and local centres, including proposals that increased the mix of uses. The Planning Adviser noted that use as a

short term let could contribute to viability through spending, as noted by the Economic Development Manager, however occupancy was also likely to be seasonal which would reduce vitality and vibrancy during times the property was not let.

The Planning Adviser referred to the North Berwick Town Centre Strategy Supplementary Guidance. The analysis included in the Strategy considered second homes and holiday lets in the town centre to be a weakness, though limited choice of hotels and tourist accommodation was also identified as a weakness. The Town Centre Walk and Talk had scored different elements: housing and community had scored low as the range of housing was considered very restricted, being mostly higher priced properties. One of the main reasons identified by respondents was the presence of holiday/second homes, which removed housing stock. However, no actions on short term lets were identified in the Strategy.

The Planning Officer then considered the planning case officer's assessment of Policy 30 Part E of NPF4. She reminded Members that to meet the terms of NPF4 Policy 30E, there should be no unacceptable effects on residential amenity, *and* the local economic benefits should outweigh the loss of residential accommodation. The case officer had noted the views of the Senior Environmental Health officer that short-term holiday let use could result in guests misusing and abusing the property in a manner that was antisocial and could result in significant impact upon the amenity of neighbours. The case officer had considered that the nature of comings and goings in the communal areas, disturbance associated with luggage, additional activity associated with cleaning and removal of waste, as well as impact on security were detrimental to amenity of the neighbouring first floor flat, contrary to NPF4 Policy 30 of NPF4 as well as Policy RCA1. However, it was the Planning Adviser's view that Policy RCA1 did not apply to this site.

The case officer then considered the second test of Policy 30, noting the views of the Council's Housing Strategy & Development Service which considered the loss of this flat would be a significant loss to housing supply. He had noted the views of the Council's Economic Development Service Manager that there were demonstrable local economic benefits delivered by all types of short-term holiday lets in East Lothian. The Planning Adviser noted that the case officer had then weighed the economic gains against amenity, which was in her view an incorrect application of Policy 30E as impact on amenity was a stand-alone test. Economic benefit should only be weighed against loss of housing supply.

No representations from the public were made to this planning application. The Council's Road Services Manager had no objection having considered the lack of designated parking.

The Planning Adviser then provided a summary of the applicant's submission. The applicant had noted that the need for planning permission for use as a short term let depended on whether there had been a material change of use, which was a matter of fact and degree. The applicant contended that the case officer was incorrect when he stated that as there was no licence or planning permission in place for 8A Forth Street Lane, the neighbouring flat to the applicant's, that flat 8A was in residential use. The applicant considered the use could be lawful if no material change of use had taken place which he considered had not been established.

The applicant had considered the views of the Council's EHO that there may be amenity issues to be a generic comment which did not address the risk from this particular application. There had been no objection from the Council's anti-social behaviour team or the police, despite the short term let being operational since 2021. The applicant noted there was no objection from the property owner of 8A Forth Street. The applicant felt that the case officer had not properly considered the existing amenity of the individual property which was between the beach and the centre of the busy tourist High Street, above a public house and close to other commercial businesses. The applicant noted that the impact of regulars and visitors to

the pub and smoking area caused more disturbance, nuisance and noise to both properties regardless of use, than short term let use.

Referring to the reason for refusal of planning permission, the applicant has suggested that the LRB also consider the following:

- Actual local benefits of the proposal
- The applicant being a small local business.
- Lack of amenity concerns raised by the owner of the other property.
- Lack of amenity objection from the EHO, roads, or police
- Location of the property in the centre of North Berwick above a public house which closed between 11pm and 1 a.m.
- In terms of security, the entrances to external steps and common hallway were not locked and security had not been raised as an issue.

The applicant concluded that the amenity impacts were not unacceptable and outweighed by economic and tourism benefits. The applicant had also cited potential barriers to the property being suitable to first time buyers and those with accessibility requirements. The applicant therefore considered the proposal acceptable under both tests of Policy 30 of NPF4, as well as RCA1 of the LDP.

The Planning Adviser concluded that, in her view, the key considerations for Members were, firstly, whether the proposal preserved or enhanced North Berwick Conservation area. Secondly, whether the proposal met the terms of NPF4 Policy 30E and the section of LDP Policy TC2 which protected housing from environmental impact. She reiterated that Policy 30E contained two tests. The first was that there should be no unacceptable impact on local amenity or the character of a neighbourhood or area. The second was whether the loss of residential accommodation was outweighed by demonstrable local economic benefits. Economic benefits should not be weighed against loss of amenity.

She provided further information on the status of short term let licence application for the flat at 8 Forth Street Lane and confirmed that as no licence application had been made for use of 8A Forth Street Lane as short term let, its potential use as such had been passed to the Council's planning enforcement officer for investigation. In the meantime, it was reasonable to assume that the lawful use of 8A Forth Street Lane was residential.

The Planning Adviser concluded her presentation by reminding Members that it was open to them to refuse the application, to grant the application or to grant the application with conditions, and she suggested some conditions which may be appropriate for the Members to consider.

In response to a question from the Chair, the Planning Adviser advised that she couldn't comment on whether the outcome of the planning application would have been different if the neighbouring property had been a licensed short term let rather than a residential dwelling.

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.

The Chair then invited Members to give their views on the application.

Councillor McIntosh said that during the site visit the close proximity of the doors to the two flats and the narrow passageway had been very noticeable. When considering this application, she said it was important to remember that properties may change ownership and, as such,

she agreed with the case officer's assessment that the change of use would represent an unacceptable loss of amenity. She would be supporting the case officer's decision.

Councillor Collins agreed that it was a very small communal lobby. She noted that it was above a pub and that there would be noise, however, as there was no documentary evidence confirming the neighbouring property's use as a short term let, it must be treated as a residential unit. Therefore, she agreed that there would be loss of amenity and she would be supporting the case officer's decision.

The Chair said that the site visit had been helpful to see the proximity of the two doorways and narrowness of the hallway. He felt that comings and goings would be more noticeable and that residents could be alarmed at meeting strangers in such a small space. He would therefore be supporting the case officer's decision in relation to Policy 30 of NPF4 and Policy RCA1 of the LDP.

The LRB members confirmed their decision via roll call vote. They agreed, unanimously, to confirm the original decision of the planning case officer to refuse planning permission.

Decision

The ELLRB agreed, unanimously, to confirm the original decision of the planning case officer to refuse planning permission.

2. PLANNING APPLICATION NO. 21/01599/P: ERECTION OF 1 HOUSE AND ASSOCIATED WORKS, LAND ADJACENT TO CASTLEPARK GOLF CLUB, YESTER, GIFFORD – REVIEW AGAINST DECISION (REFUSAL)

The Chair invited the Planning Adviser, who had not been involved in the original decision, to present a summary of the planning policy considerations in this case.

The Planning Adviser provided details of the application, property and location, and outlined the reasons for refusal of planning permission.

The Planning Adviser summarised the case officer's assessment of the application against relevant planning policy. She noted that the case officer had considered the proposal to be acceptable in terms of design, and in terms of Yester Designed Landscape, and so would not conflict with Policies 7 and 14 of NPF4, nor LDP Policies DP1, DP2 or CH6 which concern design and Designed Landscapes. The case officer had noted that the Council's Environmental Health Officer did not object to the application but suggested a condition to address potential contamination of the site, should permission be granted. The Council's Civil Engineer (Flooding) advised that drainage proposals were acceptable subject to testing and suggested a condition should permission be granted. The Council's Road Services did not object. The case officer had considered that subject to imposition of the condition on actions to reduce carbon emissions the proposal would conform to NPF4 Policies 1 and 2 of NPF4 on climate mitigation.

The case officer had then considered the principle of a new house in this countryside location and the requirements of Policy 17 of NPF4, Policy DC1 and Policy DC4 of the LDP 2018. The case officer had considered that the main issue was whether or not there was a direct operational requirement for a house that derived from the business. The case officer had noted the information provided by the applicant in their Design and Access Statement in support of this need. The Council's Agricultural and Rural Development Consultant advised that the golf club business was not sufficiently financially robust to support the proposed development and therefore it was not demonstrated that the business was viable and required a home for a

manager or staff on site and that similar businesses operated without onsite accommodation. The case officer had considered that the applicant had not provided evidence to show that other security measures could not be used. They found that as the business had not been demonstrated to be viable and without operational justification of need for it, the principle of the house was contrary to Policy 17 of NPF4 and Policy DC1 and DC4 of the LDP and consequently also Policy 16 of NPF4.

The Planning Adviser noted that two objections had been received to the application.

She then provided a summary of the applicant's submission. It stated that the accommodation would house the owners, their children and guests or staff members to support the golf club. The development of 26 holiday lodges on the adjacent site amplified the requirement for an onsite presence. Therefore, the proposal accorded with Policy 17 of NPF4 and LDP Policy DC4. The house would help to attract and secure staff and provide around the clock security. Furthermore, the growth of Castle Park Golf Club aligned with the Council's Economic development and tourism strategies.

The applicant was of the view that the proposal conformed to Policy 17 of NPF4 as it would re-use an existing brownfield site which had no realistic prospect of returning to a natural state without intervention; and it would support the sustainable management of a viable rural business. The applicant submitted a letter from their accountants in support of this statement.

The Planning Adviser summarised the further representation made in relation to the appeal and the response to the comments by the applicant.

The Planning Adviser then set out her views on the case. She agreed with the case officer that the policies on design were met. The case officer had not mentioned that the proposal lay within the Lammer Law, Hopes to Yester Special Landscape Area. Policy DC9 of the LDP required that development within such areas accorded with their Statement of Importance. She considered that the proposal did conform to the Statement of Importance and did not harm the SLA. She also agreed with the applicant and case officer that there was no harm to the Yester Designed Landscape.

Furthermore, she agreed with the applicant that the proposal conformed to Policy 17 and Policy 16 of NPF4. In terms of LDP Policy DC4, she agreed with the case officer that the operational justification for a house in terms of security had not been demonstrated. She also agreed with the case officer in accepting the advice of the Council's agricultural and rural development consultant on the viability of the business. The applicant had argued that in addition to the business being viable now, the lodges would enhance the justification for permanent onsite presence as well as enhancing viability. However, it was not certain that the lodges would be built, and if they were, that they would be run as part of the same business. The proposal therefore did not, in her view, conform to LDP Policy DC4.

The Planning Adviser concluded her presentation by noting that the case officer had suggested conditions, should Members be minded to allow the appeal. She added that Members may also wish to consider a condition to secure biodiversity enhancement. This was a requirement of NPF4 Policy 3. The submission of a scheme of biodiversity enhancement could be made subject of a condition which would be necessary to secure compliance with NPF Policy 3.

In response to questions from Members, the Planning Adviser provided further advice on the protections available for nesting birds, how long the business had been running, whether staff had previously lived onsite and the economic assessment carried out by an independent adviser.

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.

The Chair then invited Members to give their views on the application.

Councillor Collins noted that this was a very busy golf course, and that the applicant was clearly very enthusiastic about his plans for the site and business. She commented that in her view no properties situated around the site had a line of site to this property and this raised issues around safety and security in a rural setting. She also felt that the proposal would support this rural business and enhance local employment opportunities. For these reasons she would be supporting the appeal.

Councillor McIntosh agreed that the site visit had been useful and that the issue was whether it was necessary to have someone on site. She felt that it was appropriate and, that the economic assessment had been unusually strict and had not considered the potential benefits to people's wellbeing provided by the golf club. She also felt that the proposed design of the building would sit well within the landscape, and she was minded to support the appeal.

The Chair agreed with his colleagues that this was a good rural business and he added that it was important to support local employment opportunities. He also agreed that the proposed design would fit into landscape well and, for these reasons, he would be supporting the appeal.

The LRB members confirmed their decision via roll call vote. They agreed, unanimously, to uphold the appeal and to grant planning permission subject to the conditions suggested by the planning case officer and the addition of a further condition in relation to biodiversity enhancement in line with NPF4.

Decision

The ELLRB agreed, unanimously to uphold the appeal and to grant planning permission subject to conditions.

3. PLANNING APPLICATION NO. 23/01289/P: CHANGE OF USE OF FLAT TO SHORT TERM HOLIDAY LET (RETROSPECTIVE), 12D BUSH TERRACE, MUSSELBURGH EH21 6DF – REVIEW AGAINST DECISION (REFUSAL)

The Chair invited the Planning Adviser, who had not been involved in the original decision, to present a summary of the planning policy considerations in this case.

The Planning Adviser provided details of the application, property and location, and outlined the reason for refusal of planning permission.

The Planning Adviser summarised the case officer's assessment of the application against relevant planning policy. The case officer had considered NPF4 policy 30 (Tourism) and policy RCA1 (Residential Character and Amenity) and T2 (General Transport Impact) to be relevant. They had considered the impact of the change of use on amenity of neighbouring properties and the views of the Council's Environmental Health Officer that use of property for short term let could lead to guests misusing the property in an anti-social way. However, the Council's Anti-Social Behaviour Team and the police had no records of any anti-social behaviour at the property. The Council's Road Services did not object to the change of use. The case officer had considered, however, that there would be harm to the amenity of occupants of the other flats in the building due to changed comings and goings, transport of luggage, access of communal areas for cleaning. Allowing frequently changing guests into communal areas

would change the actual and perceived security of residents. The case officer had therefore considered the proposal contrary to NPF4 Policy 30E part 1 and LDP Policy RCA1.

The case officer had noted that the Council's Housing Strategy and Development Service had no objection as, although this was a 2 bedroomed flat in Musselburgh, the property was a long term established let (since 2017). The Council's Economic Development Service Manager had supported the application advising that there were demonstrable local economic benefits from all types of short-term holiday lets in East Lothian. While noting the position of the two Council services, the case officer had not stated whether they considered the loss of residential accommodation to be outweighed by demonstrable local economic benefits.

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

The Planning Adviser summarised the applicant's submission which noted that there had been no objections from residents in the time the flat had been let; there were no objections from Police Scotland, the Council's Anti-Social Behaviour Team, Roads Services or the Housing Strategy and Development Service Manager. The Council's Economic Development Service Manager considered that short term lets were an asset. The use provided employment and holiday accommodation. The owner returned to the flat often, and intended to return permanently in four years so there would be no residential letting of the flat. The extended minimum let period of the flat (7 nights or more) would reduce footfall in the communal stairway.

The Planning Adviser provided her views on the case. She stated that the key issue was whether the proposal met the terms of NPF4 Policy 30E which specifically covered short term lets, and LDP Policy RCA1 which aimed to protect residential character and amenity. She reminded Members that Policy 30E contained two criteria which must both be met for proposals for short term let to be supported. The first was that there should be no unacceptable impact on local amenity or the character of a neighbourhood or area, which was similar to the provisions of LDP Policy RCA1. The second was whether the loss of residential accommodation was outweighed by demonstrable local economic benefits. Economic benefits should not be weighed against loss of amenity but against loss of residential accommodation.

The Planning Adviser concluded by reminding Members that it was open to them to refuse the application, either for the reasons given by the case officer or for other planning reasons, to grant the application or to grant the application with conditions.

There were no questions for the Planning Adviser.

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.

The Chair then invited Members to give their views on the application.

The Chair said that the site visit had been useful. There were a number of flats which were accessed via the stairwell, and, in his view, it was inevitable that there would be conflict between residents and those using the short term let and that this could be intimidating for residents. He did not consider this to be a suitable property for a short term let and he would not be supporting the appeal.

Councillor Collins was sympathetic to the applicant who had been running their business for 7 years with no problems or objections noted. In her view, there would not be as much disturbance to other residents in the stairwell as might be expected, and she queried the current level of letting per year and its likely impact on residential amenity.

Councillor McIntosh also had some empathy for the applicant who had been running their business for a number of years. However, she felt it important to consider the issue of amenity as a whole. While conflict might be quite rare, when speaking to people in general who lived next to short term lets, her sense was that they were unsettled by the comings and goings and by not knowing their neighbours. She therefore agreed that there would be an unacceptable loss of amenity and she was minded to support case officer's original decision.

The LRB members confirmed their decision via roll call vote. They agreed, by a majority, to confirm the decision of the planning case officer to refuse planning permission.

Decision

The ELLRB agreed, by majority, to confirm the decision of the planning case officer to refuse planning permission.

4. PLANNING APPLICATION NO. 23/00503/P: 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), 83A HIGH STREET, HADDINGTON EH41 3ET – REVIEW OF CONDITIONS

The Chair invited the Planning Adviser, who had not been involved in the original decision, to present a summary of the planning policy considerations in this case.

The Planning Adviser provided details of the application, property and location and confirmed that the appeal was against a condition of planning permission. The majority of the works outlined in the original application were granted permission and this could not now be revisited through this review. The review covered only the matter of the condition preventing construction of the pergola. The property was situated in Haddington Town Centre and was Category B listed. The site was also within Haddington Conservation Area.

The Planning Adviser summarised the case officer's assessment of the application against relevant planning policy. The case officer had noted Section 59 of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 required that in considering whether to grant planning permission for development which affected 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. Section 64 of this Act was also of relevance. The case officer had noted there were four letters of objection to the proposal as a whole. Specifically, that the pergola should be removed from the building; that the application had not requested permission to install the pergola on the owner's property; that the pergola was not consistent with the aesthetic, character and amenity of the surrounding listed buildings; the works resulted in loss of privacy and security; and that the material and form of the pergola was inappropriate. The case officer had pointed out that issues relating to the right to occupy the roof were not planning matters.

The case officer had considered the rear elevation of the building not to be of the same special architectural or historic interest as the front. They noted that the timber pergola covered the area of the terrace that had stone paving on it. The pergola was not visible from any public view and was not visible in relation to the front elevation of the building. The case officer had therefore considered it did not harm the special architectural or historic interest of the listed building nor the character and appearance of Haddington Conservation Area. The case officer had considered that although views of the terrace were obtained from neighbouring flats, the terrace and fixtures did not have an unacceptable impact on their visual amenity. However,

the case officer had considered that the timber frame pergola, being a covered, permanent structure allowed for the intensification of the use of the external terrace, including storage of electrical equipment including a washing machine. This was harmful to the residential amenity of the occupants of other flats within 83 High Street, contrary to Policy 14 of NPF4 and LDP Policy DP5 on Extensions and Alterations to Existing Building. The use of electrical appliances could not in their view be controlled by condition as it was not enforceable. Therefore, a condition was placed on the planning consent to the effect that the pergola was not granted planning consent.

The case officer had considered that the proposal would not meet the terms of LDP Policy DP5, which included in part 1 that development 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 case officer had also considered the pergola contrary to Policy 14 of NPF4 which provided that development proposals that were detrimental to the amenity of the surrounding area or inconsistent with the six qualities of successful places would not be supported.

The Planning Adviser then summarised the applicant's submission. This provided information on the history of the roof terrace and stated that there were hazards from falling slates, stones and gutters to those using the terrace. The pergola was installed to safeguard the applicants from falling hazards. Dismantling the pergola would introduce risk to the health and safety of neighbouring residents. The pergola protected the roof by channelling rain and snow into a gutter. The applicant stated that noise could be mitigated by the structure of the pergola and its felted roof, and its removal would not result in less noise. The applicant also contended that the noise level of the washing machine fell within permissible limits in Scotland and that they had submitted audit test information, however its format could not be accepted.

The applicant considered that the pergola complied with Policy DP5 of the LDP as it is not dominant; it was smaller in scale than the remainder of the flat and building and complemented them. It was not at the front of the listed building and was not visible from the street. The applicant considered that the pergola facilitated safe enjoyment of the exterior space.

In terms of NPF Policy 14 the applicant considered that pergola enhanced the quality of the urban locale including for health and safety and noise considerations. It met the 'healthy' quality of successful places by improving safety of the area and so supporting time spent outdoors. It met the 'pleasant' quality by safeguarding against falling objects, protecting from the elements, offering shade and shelter, and serving as a noise barrier. It supported the 'sustainable' quality by allowing use of the outdoor space even when weather was poor, and the 'adaptable' quality by protecting the property.

The appellant considered the pergola was a design of merit that aligned with the six qualities of successful places, and therefore complied with Policy 14 of NPF4. The pergola did not result in loss of amenity of neighbouring uses or harm existing residential amenity.

The Planning Adviser summarised the further representations received from third parties and noted that the applicant had responded to the matters raised by reference to the case officer's report.

The Planning Adviser then provided comments on the case. She advised Members that they should first consider whether removing the condition to allow retention of the pergola would preserve the listed buildings or their settings or any features of special architectural or historic interest which they possess, and whether this would preserve or enhance Haddington Conservation Area. The second key issue on which the pergola was refused by condition was the issue of amenity. She advised that Members should consider whether the proposal met the terms of NPF4 Policy 14 in terms of amenity not being detrimental to the surrounding area

and was consistent with the six qualities of successful places. They should also consider whether any amenity issues were acceptable in line with either LDP Policies DP5 or TC2.

The Planning Adviser concluded her presentation by reminding Members that it was open to them to retain the condition or remove the condition. If they considered that the removal of the condition to allow the pergola would be acceptable subject to appropriate conditions, it was open to them to place conditions on the consent.

There were no questions for the Planning Adviser.

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.

The Chair then invited Members to give their views on the application.

The Chair said it had been useful to see the site. It had been clear that the building alongside the property was in a poor state of repair and there were signs of material falling onto the area where people were trying to enjoy outside space. The pergola would provide added safety to those using the area and it was not visible from public areas, and therefore did not contravene planning policy relating to conservation areas. For these reasons, he would be upholding the appeal.

Councillor McIntosh agreed with the point regarding the impact on the conservation area and that the pergola would not be harmful. While she sympathised with residents regarding the fabric of the neighbouring building, she had reservations that Members were being asked to make a planning decision because a third party had failed to maintain their roof to a reasonable standard. She was not convinced this was a good enough reason to allow such a large structure as the pergola. She agreed with the case officer's assessment that the intensification of use of the area caused by the pergola was harmful to the amenity of the occupants of other flats, and she would be minded to support the condition remaining in place.

Councillor Collins agreed with the previous comments about safety and the difficulties in resolving the building maintenance issue. She asked whether it would be appropriate to add a condition that put spikes or other security measures on the pergola but was advised that this could not be included as it had not formed part of the original planning application. Nevertheless, she was minded to uphold the appeal.

The LRB members confirmed their decision via roll call vote. They agreed, by a majority, to uphold the appeal and to remove the condition of planning permission.

Decision

The ELLRB agreed, by majority, to uphold the appeal and to remove the condition of planning permission.

Signed

Councillor Norman Hampshire
Chair of Local Review Body (Planning)