



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

**THURSDAY 22 AUGUST 2024
VIA HYBRID MEETING FACILITY**

Committee Members Present:

Councillor C Cassini
Councillor D Collins
Councillor N Hampshire (Convener)
Councillor K McLeod (Items 1, 3 & 4)

Advisers to the Local Review Body:

Mr C Grilli, Legal Adviser to the LRB
Mr M Mackowiak, Planning Adviser to the LRB

Clerk:

Ms F Currie, Committees Officer
Ms E Barclay, Committees Assistant (meeting administrator)

Apologies:

None

Declarations of Interest

Item 2 – Councillor McLeod declared an interest as a member of the Royal Musselburgh Golf Club. He confirmed his intention to leave the meeting during this item of business.

The Clerk advised that the meeting was being held as a hybrid meeting, as provided for in legislation; that the meeting would be recorded and made available via the Council's website in order to allow the public access to the democratic process in East Lothian. She noted that the Council was the data controller under the Data Protection Act 2018; that data collected as part of the recording would be retained in accordance with the Council's policy on record retention; and that the webcast of the meeting would be publicly available for up to six months.

The Clerk recorded the attendance of Members by roll call and advised that there would be a change to the business order with Item 2 being moved to the end of the agenda.

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.

He confirmed that, on this occasion, it had been agreed that Councillor Hampshire would chair the Local Review Body (LRB).

1. PLANNING APPLICATION NO. 23/01254/P: CHANGE OF USE OF FLAT TO SHORT TERM HOLIDAY LET (RETROSPECTIVE), 46A HIGH STREET, NORTH BERWICK, EH39 4HQ – 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 including the property type, location and letting arrangements.

He 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 indicated otherwise. The development plan was National Planning Framework 4 (NPF4) and the adopted East Lothian Local Development Plan 2018 (LDP). He set out the planning policies material to the determination of the application in this case. These were: Policy 7 (Historic Assets & Places) and Policy 30 (Tourism) of NPF4 and Policies CH1 (Listed Buildings), CH2 (Development Affecting Conservation Areas), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the adopted LDP 2018. Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 were also relevant. He also reminded Members of the particular tests set out in Policy 30e of NPF4 and how these should be considered.

The Planning Adviser summarised the case officer's original assessment of the application against planning policy and considering the comments received from internal and external consultees.

He drew Members' attention to the reason for refusal of the planning application and the case officer's view that the proposals were contrary to both part e of Policy 30 of NPF4 and Policy RCA 1 of the adopted LDP 2018. The Planning Adviser stated that, in his view, Policy RCA1 did not apply in this case. He indicated that should Members decide to allow appeal, the case officer had recommended suggested conditions. However, if Members decided to refuse planning permission, he advised them that this should be for the reason set out in the original decision notice but amended to remove reference to Policy RCA1 of the adopted LDP 2018.

The Planning Adviser summarised the submission made by the applicant in support of the appeal, highlighting its key arguments. He also drew attention to a further representation from the Council's Economic Development and Regeneration Service Manager.

He concluded his presentation by reminding Members that they could request further information, if necessary.

The Planning Adviser responded to questions from Members on security and antisocial behaviour issues and the maximum number of guests allowed in the property. The Chair advised Members that if they were minded to grant planning permission, issues such as the maximum number of guests could be specified in conditions.

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 McLeod said that this property was in an excellent location with North Berwick. He noted that there had been no anti-social behaviour problems in the past but that, as stated by the Council's Environmental Health Officer, no assumptions could be made about future behaviour, and it would be difficult to include controls to prevent any future issues. He remained concerned about the impact on other residents as this was a communal stair and he would be supporting the planning case officer's original decision.

Councillor Collins said that the site visit had been helpful, and she noted that the property had been run as a short-term let for 9 years with no problems or objections. She commented on the narrow staircase and the possibility of disturbance and expressed concern about the lack of a secure entry. However, she noted that the applicant met guests on arrival and was there when they departed. Councillor Collins commented that the county was almost reaching a tipping point with short-term lets and that this was beginning to affect the local economy. As there were no issues of concern with this property, she would be minded to uphold the appeal.

Councillor Cassini noted the shared entry to the stair and, while this was not secure, she felt that the size of the rental property could lead to a lot of people could be coming and going on regular basis. She felt that this would pose a risk to the amenity of other residents in the stair and, for this reason, she would be supporting the original decision of the planning case officer.

The Chair was of a similar mind. He commented that if planning permission were granted there would be no control over who stayed in the property in the future. There could be a number of people coming and going in the stairwell and this could be intimidating for other residents. He felt that the amenity of neighbouring properties was a major factor to be considered and while the county needed tourist accommodation it should not be at the detriment of residential amenity. He was minded to support the planning case officer's original decision. The Chair also sought and received clarification on the policies to be referred to in the reasons, should the appeal be refused.

The LRB members confirmed their decision via roll call vote:

C Cassini	uphold officer decision
D Collins	uphold appeal
N Hampshire	uphold officer decision
K McLeod	uphold officer decision

Decision

The LRB agreed by a majority of 3:1, to confirm the original decision of the planning case officer to refuse planning permission for the reasons set out in the original decision notice, amended to remove reference to policy RCA1 of the adopted LDP 2018.

3. PLANNING APPLICATION NO. 24/00016/P: CHANGE OF USE OF FLAT TO SHORT TERM HOLIDAY LET (RETROSPECTIVE), FLAT 3, ROSEBERY PLACE, 8 MAIN STREET, GULLANE, EH31 2AN – 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 including the property type, location and letting arrangements.

He 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 indicated otherwise. The development plan was National Planning Framework 4 (NPF4) and the adopted East Lothian Local Development Plan 2018 (LDP). He set out the planning policies material to the determination of the application in this case. These were: Policies 7 (Historic Assets & Places), 13 (Sustainable Transport) and 30 (Tourism) of NPF4 and Policies TC2 (Town Centres), CH2 (Development Affecting Conservation Areas), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the adopted LDP 2018. Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 was also relevant. He also reminded Members of the particular tests set out in Policy 30e of NPF4 and how these should be considered.

The Planning Adviser summarised the case officer's original assessment of the application against planning policy and considering the comments received from internal and external consultees. There were also two public objections to the application.

Concluding his summary of the case officer's submission, the Planning Adviser referred to possible conditions should Members decide to allow appeal. However, if Members decided to refuse planning permission, he advised them that, as with the previous case, this should be for the reason set out in the original decision notice but amended to remove reference to Policy RCA1 of the adopted LDP 2018.

The Planning Adviser summarised the submission made by the applicant in support of the appeal, highlighting its key arguments. He also drew attention to two further representations and the applicant's response to these additional comments.

He concluded his presentation by reminding Members that they could request further information, if necessary.

The Planning Adviser responded to a question from Councillor Collins indicating that any condition added to control access to the communal garden would be very difficult to enforce.

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 Cassini noted that each application should be considered on its own merits. She said her attention had been caught by the objections which had been lodged and which supported the view that the short-term let was incompatible with the amenity of other residents. As a result, she was minded to support the original decision of the planning case officer.

Councillor Collins said she was conflicted in relation to the issues around use of the communal garden. She acknowledged that it would be tempting for guests to use the space in the evenings but, as the majority of the guests seemed to be golfing groups, she felt they would be less likely to cause disturbance. She noted that this was the applicant's home, and he would be returning to it in the future, and that the letting agents had a good reputation. For these reasons, she was minded to uphold the appeal.

Councillor McLeod said that for similar reasons to the previous application, he was minded to support the planning case officer's original decision.

The Chair commented that the entrance door to the stairwell was completely secluded; and that a resident could encounter strangers on the stairwell and that this could be intimidating. He also had concerns about the outdoor space and the potential for disruption to the amenity of residents. Therefore, he was minded to support the original decision of the planning case officer and the reason for refusal would relate to Policy 30e of NPF4 and not policy RCA1 of the LDP 2018.

The LRB members confirmed their decision via roll call vote:

C Cassini	uphold officer decision
D Collins	uphold appeal
N Hampshire	uphold officer decision
K McLeod	uphold officer decision

Decision

The LRB agreed by a majority of 3:1, to confirm the original decision of the planning case officer to refuse planning permission for the reasons set out in the original decision notice, amended to remove reference to policy RCA1 of the adopted LDP 2018.

4. PLANNING APPLICATION NO. 23/00950/P: ALTERATIONS, CHANGE OF USE OF AGRICULTURAL BUILDING TO FORM 1 HOUSE AND ASSOCIATED WORKS, FERNEYLEA STEADING, OLDHAMSTOCKS

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, including the property type, location proposed works and the planning history of the site.

He 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 indicated otherwise. The development plan was National Planning Framework 4 (NPF4) and the adopted East Lothian Local Development Plan 2018 (LDP). He set out the planning policies material to the determination of the application in this case. These were: Policies 1 (Tackling the Climate and Nature Crisis), 2 (Climate Mitigation and Adaptation), 3 (Biodiversity), 7 (Historic Assets & Places) 9 (Brownfield, Vacant and Derelict Land and Empty Buildings), 14 (Design, Quality and Place), 16 (Quality Homes), 17 (Rural Homes) of NPF4 and Policies T1 (Development, Location and Accessibility), T2 (General

Transport Impact), DP5 (Alterations and Extensions to Existing buildings), DC 1 (Rural Diversification), DC2 (Conversion of Rural Buildings to Housing), CH4 (Scheduled Monuments and Archaeological sites), DP8 (Design Standards for New Housing Areas), and Policy W3 (Waste Separation and Collection) of the adopted LDP 2018. East Lothian Council's Farm Steading Design Supplementary Planning Guidance (SPG) 2018 and Design Standards for New Housing Areas SPG (May 2020) were also material to the determination of the application.

The Planning Adviser summarised the case officer's original assessment of the application against planning policy and considering the comments received from internal and external consultees. There were also 3 public objections to the application, which were also summarised.

The Planning Adviser summarised the submission made by the applicant's agent in support of the appeal, highlighting its key arguments.

He concluded his presentation by outlining the details of three further representations which were submitted by local residents in response to the appeal.

The Planning Adviser and Legal Adviser responded to questions from Members on the septic tank, the size and suitability of the proposed parking area and ownership of the access routes.

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 commented that the access lane was quite narrow and was also the only access for the adjacent field which currently had livestock in it. As such, an building work or scaffolding would prevent access to field for the farmer. While she considered that the building might be suitable for an office, she questioned whether it would make a liveable home. She had concerns about the water supply and the possibility of lead piping, about the size and suitability of the proposed parking area and the capacity of the existing septic tank. She acknowledged the objections raised by local residents and would be supporting the original decision of the planning case officer.

Councillor McLeod concurred with the remarks made by Councillor Collins, particularly around the suitability of the building. He would be supporting the original decision of the planning case officer.

Councillor Cassini said she was in complete agreement with her colleagues. There were so many difficulties, not least with access and overlooking, that, in her view, the building did not easily lend itself to residential use. She would be supporting the original decision of the planning case officer.

The Chair said that he would normally support the conversion of unused farm buildings into residential accommodation but only where this would provide a quality home. He believed that the planning case officer's assessment was correct in this case, and that this proposal would not provide a quality home.

The LRB members confirmed their decision via roll call vote:

C Cassini	uphold officer decision
D Collins	uphold officer decision

N Hampshire uphold officer decision
K McLeod uphold officer decision

Decision

The ELLRB agreed unanimously to confirm the original decision of the planning case officer to refuse planning permission for the reasons set out in the original decision notice.

SEDERUNT: Councillor McLeod left the meeting.

2. PLANNING APPLICATION NO. 21/01510/P: EXTENSION TO HOUSE, SOUTH LODGE, PRESTONGRANGE ROAD, PRESTONPANS, EH32 9RR – 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, including the property type, location and the proposed works.

He 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 indicated otherwise. The development plan was National Planning Framework 4 (NPF4) and the adopted East Lothian Local Development Plan 2018 (LDP). He set out the planning policies material to the determination of the application in this case. These were: Policies 6 (Forestry, Woodland and Trees), 7 (Historic Assets and Places), 8 (Green Belts) and 16 (Quality Homes) of NPF4 and Policies CH1 (Listed Buildings), CH5 (Battlefields), CH6 (Gardens and Designed Landscapes), DP5 (Extensions and Alterations to Existing Buildings) and NH8 (Trees and Development) of the adopted LDP 2018. Section 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 were also material to the determination of the application.

The Planning Adviser summarised the case officer's original assessment of the application proposals against planning policy and considering the comments received from internal consultees. There were no public objections to the application.

The Planning Adviser summarised the submission made by the applicant's agent in support of the appeal, highlighting its key arguments.

He concluded his presentation by reminding Members that they could request further information, if necessary.

The Planning Adviser responded to a question from Councillor Cassini on the size of the tree roots found on the site.

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 said that the site visit had been very helpful. She noted that the foundation pits had revealed tree roots 2-3 inches in diameter on west and north side of the building and

that the proposals would encroach on the roots of trees covered by the Tree Protection Order. She was also of the view that the proposed extension would, by its size, overwhelm house and that the cladding would not be in keeping with the stonework of the building. For these reasons she would be supporting the original decision of the planning case officer.

The Chair considered that any proposed extension should match the scale of existing building. He was also concerned about preserving the trees and would want to ensure that the trees and their roots would not be damaged by any development on the site. He agreed with the assessment of the planning case officer; the extension would be of a large scale which would be out of character with the existing property and further evidence was needed to demonstrate that the trees would be protected. Therefore, he was minded to support the original decision of the planning case officer.

Councillor Cassini said that for similar reasons, particularly the prevention of damage to tree roots, she would be supporting the original decision of the planning case officer.

The LRB members confirmed their decision via roll call vote:

C Cassini uphold officer decision
D Collins uphold officer decision
N Hampshire uphold officer decision

Decision

The ELLRB agreed, unanimously to confirm the original decision of the planning case officer to refuse planning permission for the reasons set out in the original decision notice.

Signed

Councillor Norman Hampshire
Chair of Local Review Body (Planning)