

REVIEW DECISION NOTICE

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

Application for Review by Format Design against decision by an appointed officer of East Lothian Council

Site Address: 2 Ayres Wynd, Prestonpans

Application Ref: 17/01062/P

Application Drawing: Drawing Nos. 10129-03-01; 10129-03-02;

Date of Review Decision Notice: 12 July 2018

Decision

The ELLRB unanimously agreed to grant planning permission for the reasons given below and upholds the review.

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.

1. Introduction

1.1. The above application for planning permission was considered by the ELLRB, at a meeting held on Thursday, 21 June 2018. The Review Body was constituted by Councillor N Hampshire (Chair), Councillor F. O'Donnell, Councillor J. McMillan and Councillor L. Bruce. All four members of the ELLRB had attended an unaccompanied site visit in respect of this application prior to the meeting.

1.2. The following persons were also present at the meeting of the ELLRB:-

Mr L Taylor, Planning Adviser to the LRB
Mr C Grilli, Legal Adviser/Clerk to the LRB
Fiona Stewart, Clerk.

2. Proposal

2.1. The application before the Local Review Body for consideration is for review against refusal of Planning Application 17/01062/P alterations, extensions and change of use of former bank (class 2 use) to form one restaurant (class 3 use) and two flats at 2 Ayres Wynd, Prestonpans EH32 9AB

2.2. Planning permission (reference number 17/01062/P was refused under delegated powers on 5 April 2018. The notice of review is dated 18 April 2018.

2.3. The reasons for refusal under delegated powers are set out in full in the Decision Notice and are, in summary, the proposed extension would not be in keeping with the size, scale, form, massing, proportions and materials of the existing building, would be of a contemporary architectural style and design inappropriate to the existing building, and would appear as an incongruous and unsympathetic addition to it. The proposed extension would not be appropriate to but instead would appear intrusive and incongruous within its surroundings and would be harmful to the character and appearance of the existing building and the wider area, all contrary to Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan) and Policy DP6 of the adopted East Lothian Local Plan 2008. The proposal also failed to comply with the required standard of provision for off street parking to serve the proposed restaurant and two flats, contrary to Policy DP22 of the adopted East Lothian Local Plan 2008.

3. Preliminaries

3.1. The ELLRB members were provided with copies of the following:-

1	The drawings specified above
2	The Application for planning permission registered on 27 November 2017
3	The Appointed Officer's Report of Handling
4	A copy of the Decision Notice dated 5 April 2018
5	Copies of Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SES Plan) and Policies ENV2, DP6, DP22, and T2 of the adopted East Lothian Local Plan 2008, and Policies TC2, DP5, T1 and T2 of the Proposed East Lothian Development Plan.
6	Notice of Review dated 18 April 2018 together with Applicant's Submission with supporting statement and associated documents.

4. Findings and Conclusions

4.1. The ELLRB confirmed that they had access to the planning file in respect of this matter and to all the information that the Appointed Officer had available when reaching the original decision to refuse planning permission, including all drawings and copies of all representations and objections received in respect of the original application.

4.2. The Members then asked the Planning Adviser to summarise the planning policy position in respect of this matter. The Planning Adviser gave a brief presentation to Members advising that, application reference 17/01062/P had been submitted seeking permission for a change of use from former bank to restaurant, together with extensions and alterations to form two residential flats above. The building is situated within Prestonpans Town Centre on the prominent corner of Ayres Wynd and High Street, between the Railway Tavern public house and public toilets. Also relevant to this proposal is the proposed Local Development Plan that has recently been submitted to Scottish Ministers stating the Council's intention to adopt the LDP as the plan for the area. The proposal involved internal reconfiguration of the existing building to form kitchen, toilets, and space for around 36 restaurant covers. The existing access from Ayres Wynd would be retained. To form the flatted accommodation above, the proposal involved extending vertically with two new floors, no change to the building footprint was proposed. In considering the application, Officers noted that Policy ENV2 requires an appropriate vertical mix of land uses and seeks to retain Town Centre vitality and viability

through this approach. The proposed restaurant use was acceptable in principle under Policy ENV2. The proposed extension however would have been of a contemporary style and materials using large glazed windows, balconies above the High Street and box dormer windows. Officers determined that based on the proposed extensions to the building, these would be incongruous with surrounding built form and would not respect the more traditional styles seen in Prestonpans. This aspect of the proposal was deemed contrary to Policy DP6 regarding extensions and alterations to existing buildings. Furthermore, the proposed land uses would generate a parking requirement of 20 off-street spaces to serve the flats and restaurant. Officers determined that the proposal did not make such provision and was contrary to Policies DP22 and T2 and the Council's parking standards.

- 4.3. The Members were then asked if they had any questions for the Planning Adviser. Councillor Bruce asked for clarification on how many parking spaces were allocated for the bank. The Planning Adviser's response was that this demanded two to four spaces which had been met by on street parking.
- 4.4. The Chair then asked whether Members had sufficient information to make a decision and the Members confirmed they did.
- 4.5. Councillor Bruce stated that Prestonpans High Street is in need of regeneration and wished to provide more weight to the requirement to regenerate this High Street. In addition, the proximity to public transport links and location within Prestonpans may mitigate the concerns over parking. He also disagreed that the design would be unsympathetic in the context of the area in which the property was located. Accordingly, Councillor Bruce was minded to uphold the applicants appeal.
- 4.6. Councillor O'Donnell stated that there are not many places that you can eat out in Prestonpans and the ward requires something like this to assist in regeneration of the town centre. Councillor O'Donnell supported the comments from Councillor Bruce and accordingly was minded to uphold the applicants appeal.
- 4.7. Councillor McMillian agreed with his colleagues but was assisted in his decision by the site visit as on balance he believes this will add to the interest and vibrancy of Prestonpans. This application if approved would also create much needed housing and would be beneficial to the regeneration of the area. Accordingly Councillor McMillian supported the application and was minded to uphold the applicants appeal.
- 4.8. Councillor Hampshire agreed with his colleagues. The proposal is looking to provide major alterations to the former Royal Bank of Scotland building which had been closed for some time. Bringing this building back into use would only enhance the town centre in line with regeneration policies in the Local Plan. On street and off street parking is available within a short walking distance from the property. This application would assist regeneration within this location and therefore he was minded to uphold the appeal.

Accordingly, the ELLRB agreed unanimously to uphold the appeal and grant planning permission subject to the following conditions:

1. Prior to the class 3 restaurant use hereby approved being brought into use, the sound transmission properties of the separating floor between the proposed restaurant and the proposed flat(s) above shall be assessed to ascertain whether airborne sound arising from the restaurant would exceed noise rating curve NR20 at any Octave Band Frequency when measured in any flat above.

Prior to the class 3 restaurant use hereby approved being brought into use, a report with the findings and any recommended upgrading to achieve the required noise insulation properties shall be submitted to and approved in writing by the Planning Authority.

Thereafter, any approved recommendations shall be implemented prior to the approved class 3 restaurant use being brought into use and shall thereafter remain in place.

Reason:

To protect the residential amenity of future occupiers of the flat(s) from noise emanating from the class 3 restaurant use.

2. Noise from any plant or equipment associated with the operation of the class 3 restaurant use hereby approved shall not exceed Noise Rating curve NR20 at any octave band frequency when measured in any existing or proposed neighbouring residential property assuming windows open at least 50mm.

Reason:

To protect the residential amenity of neighbouring properties from potential noise generated by the class 3 restaurant use.

3. Prior to the commencement of the class 3 restaurant use hereby approved details of the means of ventilation of the restaurant shall be submitted to and approved in writing by the Planning Authority and the details submitted shall include efflux velocities of stack emissions, any primary, secondary and/or tertiary filtration systems for the control of cooking odours and safe disposal of cooking fumes, and a timetable for the implementation of the means of ventilation.

Any mechanical extract ventilation equipment so approved for use to vent the restaurant shall once installed be maintained to ensure its continued satisfactory operation and any cooking processes reliant on the extract ventilation system shall cease to operate if, at any time, the extract ventilation equipment ceases to effectively function.

Reason:

To ensure the operation of the restaurant use does not harm the amenity of nearby residential properties.



Carlo Grilli
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.