

**REVIEW DECISION NOTICE**

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

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Application for Review by Chris Montgomery of Tusculum Flat 5, 3c Links Road, North Berwick against decision by an appointed officer of East Lothian Council relating to the terms of Condition 1 of Planning Consent for alteration and extension to flat to form new enlarged tower viewing room.

Site Address: Tusculum Flat 5, 3c Links Road, North Berwick

Application Ref: 18/00193/P

Application Drawing: MANU LITERATURE 1

208-DE-201

208-GA-001

208-GA-100

208-GA-101

208-GA-110

208-GA-111

**Date of Review Decision Notice: 15 October 2018**

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**Decision**

The ELLRB upheld the review of Condition 1 of Planning Permission 18/00193/P.

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, 30 August 2018. The Review Body was constituted by Councillor N Hampshire (Chair); Councillor L Bruce, Councillor S Kempson and Councillor S Currie. All four members of the ELLRB had attended an accompanied 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 planning application is for the alteration and extension to flat to form new enlarged tower viewing room.
- 2.2. The planning application was registered on 27 February 2018 and was approved under delegated powers on 25 April 2018 subject to condition 1. The notice of review is dated 25 May 2018.
- 2.3. The reasons for the use of condition 1 as set out in full in the Decision Notice is to safeguard the character and appearance of the North Berwick Conservation Area.

## 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 February 2018
3	The Appointed Officer's Report of Handling
4	A copy of the Decision Notice dated 25 April 2018
5	Copies of the Strategic Development Plan Policy 1B (The Spatial Strategy: Development Principles) and Local Plan 2008 policies ENV4 (Development Within Conservation Areas) and DP6 (Alteration and Extensions to Existing Buildings).
6	Notice of Review dated 9 January 2018 together with Applicant's Submission with supporting statement and associated documents.

## 4. Findings and Conclusions

- 4.1. The ELLRB confirmed that the application was for a review of Condition 1 of the Planning Permission and permitted them to consider this Condition afresh and it was open to them to accept this condition, alter this conditions or to overturn it. They 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 determining the application, 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 the application sought consent for alterations and extension to an existing top floor flat in order to form a tower viewing room. The alterations included the addition of a single storey pitched roof extension (to replace a smaller pitched roofed tower part on the centre of the building) as well as replacement cope stones to balcony and replacement downpipe. The flat is within a large stone building located within the North Berwick Conservation Area that has been sub-divided to form a number of residential flats. Of relevance to the determination of this application was SDP Policy 1B and Local Plan 2008 policies ENV4 and DP6. Officers concluded that the proposed alterations would by virtue of their scale, form, size, proportions, materials and positioning be sympathetic to the

existing building, and that they would not harm the character and appearance of the building or the surrounding area. Planning permission was subsequently granted and the Decision Notice was issued on the 25th April 2018.

Condition 1 states that notwithstanding the drawings submitted with the application, the windows and door to be formed in the extension shall not be aluminium clad in powder coated white colour, but shall instead be of timber frame and astragal construction painted in white. Details were required to be submitted for consideration prior to commencement. As detailed in the Officer's Report and Decision Notice, the reason given for the use of condition 1 was to safeguard the character and appearance of the North Berwick Conservation Area in accordance with Local Plan policies. Officers concluded that this condition was necessary due to the proposal which, through the use of aluminium clad window frames (without astragals) and door, be of modern appearance, and would be at odds with and significantly different to the timber window frames within the remainder of the building.

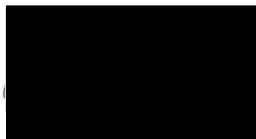
- 4.3. Councillor Currie noted that the applicant was prepared to accept the type of materials required to be used in terms of Condition 1 and that the Applicant was prepared to accept the condition on the basis that the requirement for astragals are removed. Therefore as this is the only issue then he would be happy to support appeal on this basis.
- 4.4. Councillor Bruce agreed with Councillor Currie and would be minded to uphold the application.
- 4.5. Cllr Kempson was also minded to support the review on this basis.
- 4.6. Cllr Hampshire was also in agreement with Councillor Currie and indicated support for the application.

Accordingly, the ELLRB decided unanimously that the Review should be upheld and Condition 1 amended to read:

Notwithstanding that which is stated on the docketed drawings the frames of the windows and door to be formed within the proposed extension hereby approved shall not be aluminium clad in a powder coated white colour but instead shall have timber frames painted in a white colour. Prior to the commencement of development details of the timber framed windows and door shall be submitted to and approved by the Planning Authority. Development thereafter shall be carried out in accordance with the details so approved.

Reason:

To safeguard the character and appearance of the North Berwick Conservation Area.



**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.