



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

**THURSDAY 15 APRIL 2021
VIA THE DIGITAL MEETINGS SYSTEM**

Committee Members Present:

Councillor N Hampshire (Chair)
Councillor J Findlay
Councillor K McLeod

Advisers to the Local Review Body:

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

Council Officers Present:

Ms P Gray, Communications Adviser

Clerk:

Ms J Totney, Team Manager, Democratic and Licensing

Apologies:

None

Declarations of Interest

None

Introductory Statement by the Legal Adviser

The Legal Adviser outlined the procedure for the meeting and the options available to the Local Review Body in reaching a decision on the planning applications before it.

The Legal Adviser then invited nominations to chair the meeting and Councillors McLeod and Findlay proposed and seconded Councillor Hampshire. It was therefore agreed that Councillor Hampshire would chair the Local Review Body on this occasion.

1. PLANNING APPLICATION NO. 20/00998/P: ERECTION OF HUT, STORE AND ASSOCIATED WORKS (PART RETROSPECTIVE) BOLTON MUIR WOOD, GIFFORD, HADDINGTON

The Chair invited the Planning Adviser, who had had no involvement in the original decision, to present a summary of the planning policy considerations in this case.

Prior to doing so, the Planning Adviser drew the Local Review Body's attention to the meeting of the Local Review Body on 10 March 2021 in respect of planning application 20/00824/P (proposed erection of a hut and shed (part retrospective) at the woodlot known as "Wynd Wood" at Bolton Muir Wood). He advised that the Local Review Body on 10 March 2021 dismissed that application and refused planning permission as "the proposed hut and associated shed, by virtue of its impact on biodiversity and on vehicle movements within Bolton Muir Wood, would be harmful to the countryside contrary to Policy DC1 of the adopted East Lothian Local Development Plan 2018". He stated that this decision by the Local Review Body on 10 March 2021 is material to the determination of this application (20/00998/P) and explained that the application before the Local Review body today relates to another parcel of woodland located within Bolton Muir Wood known as "Nolt Wood".

The Planning Adviser outlined the background and detailed proposals contained in planning application No. 20/00998/P, a part retrospective planning application for a hut and store and associated works at Bolton Muir Wood. He advised that Bolton Muir Woodland is now in the care of Woodlands.co.uk, a company run by foresters specialising in selling productive and amenity parcels of forestry. He reminded the Local Review Body that this is an appeal against non-determination of the application, outlined the policies and documents that are relevant to the determination of this application, and provided the definition of a "hut" as defined by Scottish Planning Policy.

The Planning Adviser reported that six written objections had been received in relation to this application and were fully considered by the planning case officer. He also reported that no objections had been raised by any of the Council's service areas, although the Council's Biodiversity Officer and Access Officer had raised concerns about potential disturbance to wildlife and the impact on the ambience of the wood, and had suggested ways to mitigate these.

The Planning Adviser then considered the assessment of the application provided by the appointed Planning case officer. The case officer had noted that due to the site's location the proposed hut, erected sheds, compost store building and raised planters would not, and do not, have any harmful impacts of overlooking or overshadowing. Also, in terms of its size, and scale the proposed hut meets the terms specified within Scottish Planning Policy, and is in principle consistent with it. The adopted East Lothian

Local Development Plan 2018 is silent on policies relating to hutting developments. However, Policy DC1 of the adopted East Lothian LDP in principle supports development in the countryside for specific reasons including the proposed use of the hut and associated works for leisure and/or countryside recreation. The case officer had considered that the proposed hut by virtue of its architectural form, size, scale, height, design, proportions, materials and position, would be well absorbed into its surroundings and would not appear as a harmfully dominant, intrusive or incongruous feature within its landscape setting and would not be harmful to the landscape character and visual amenity of the area; the same conclusion applies to the erected shed, which contains the composting toilet. However, with regard to the erected tool shed, compost store building and raised planters the case officer assessed that these structures are domestic in nature and are not required to facilitate the use of the hut as a recreational building. The case officer had noted that these, individually and cumulatively, appear as harmfully intrusive and incongruous features within their woodland setting contrary to Policy DC1 of the adopted East Lothian Local Development Plan 2018 and Scottish Planning Policy: Revised December 2020.

The Planning Adviser further reported that the planning case officer confirmed that Bolton Muir Wood currently has 18 individual woodlots, each of which has a surfaced parking area at the entrance. If two cars were allowed to be parked within each woodlot, as is proposed within the woodlot named 'Nolt Wood', this would result in the potential of 36 vehicles travelling on the tracks through the woods and those 36 vehicles being parked within Bolton Muir Woods at any one time. The case officer had stated that the overriding material planning consideration in the determination of this planning application is the Council's decision, at the Local Review Body meeting on the 10th of March 2021, to refuse planning permission (Ref:20/00824/P) for the erection of a hut and shed (part retrospective) at Bolton Muir Wood. Although one of the three Local Review Body Members were satisfied with the officer recommendation for approval, two of the members raised concerns relating to the impact of the vehicular movements through, and within, the woodland area and the impact and conflict that this may cause with other users within the woodland of Bolton Muir Wood.

The Planning Adviser then reported that the case officer's recommendation, in accordance with the previous Local Review Body's decision (which is a material planning consideration in the determination of this current application), is that without any alternative proposal for the parking of vehicles for the owners of Bolton Muir Wood this application should be refused planning permission; the reason for the refusal being that the proposed hut and the erected shed containing the compost toilet, the erected tool shed, compost store building and raised planters by virtue of their impact on biodiversity and on vehicle movements within Bolton Muir Wood, would be and are harmful to the countryside contrary to Policy DC1 of the adopted East Lothian Local Development Plan 2018, and in the case of the erected tool shed, compost store building and raised planters with Scottish Planning Policy: Revised December 2020.

The Planning Adviser then summarised the content of the Planning Statement and Ecological Report which had been submitted by the applicant's agent. He advised that the Woodlands company are trying to place new owners of the woodlots in a position to actively manage their trees. This means felling and replanting as required. To enable this, the company have formed hardcore timber-stacking areas at the entrance to each woodlot, to allow a tractor/trailer and loading crane into the edge of the sites to collect the stacked wood. When not required for timber-stacking these hardcore zones would make perfectly suitable hardstanding to park the owners' vehicles. He advised that the agent has emphasised that parking is a subsidiary use, not the primary use. However, the Planning Adviser pointed out that the creation of functional areas of new

hardstanding for the stacking of timber requires Prior Notification for Agricultural and Forestry Developments but not a full planning application. He informed the Local Review Body that the applicant's agent indicates that as these areas of hardstanding at Bolton Muir are at the entrances to the individual woodlots, and that ELC Planning Department, and also the objectors, are assuming that they are only parking areas for the hut owners' cars, although they would actually be dual purpose.

The Planning Adviser further advised that the agent's submission addresses a number of individual issues raised by the objectors, including an adverse impact on wildlife and highlights that the woodland owners have planted over 400 trees with more to be planted in the next few months which will be native broadleaves and Scots Pine, which will greatly enhance the natural credentials of the woods. The agent has also addressed the issue raised in relation to the possible increase in human activity and traffic, but had stated that as many local people already use their cars to get to Bolton Muir Woods there would not be a significant increase in traffic to the huts. He added that it has been suggested that a planning condition could be imposed to restrict excessive traffic and parking within Bolton Muir.

The Planning Adviser concluded his presentation by outlining a further three objections that had been received. He advised that a local resident has suggested that the primary use of the areas of hard standing in Bolton Muir Wood is for car parking and not for stacking timber. Humbie, East & West Saltoun and Bolton Community Council had commented that the Bolton Muir Woods currently has 18 woodlots and that approval of this application will in effect give a green light to a far wider development of woodlands across East Lothian. The community council also noted that there is no overall management plan for the wider woodland to coordinate the felling, wood extraction or replanting of species across the woodlots and that there appears to be no communal arrangements for the disposal of waste, and no restrictions on the use of generators and other machinery. The community council are seeking that an overall management plan covering all activities that are to take place in the entire Bolton Muir Woods is put in place before development is allowed, in order to preserve and enhance this ancient woodland. The Council's Access Officer is concerned that splitting up this woodland and the building of huts will have a detrimental impact on public access rights within the woods, and that the public perception would be that they only have a right of access along the tracks, which could severely reduce the joy of walking there.

The Planning Adviser responded to questions from Members on the type of trees that would be planted; preventing the erection of additional huts on individual sites; fire safety; the residential status of the huts; privacy for owners; and the ability for the Council to control the development over 18 individual sites/planning applications. He advised that additional huts would require planning permission; that the best way to address accident prevention would be through a proper overall management plan; that individuals using the woods need to exercise responsible access; and acknowledged that control is currently difficult due to the absence of a management plan.

The Local Review Body discussed concerns about the impact of cumulative developments; the site capacity; the impact on biodiversity and dealing with individual applications without a wider understanding of the site management; and suggested that the Woodland company is advised that no further planning applications can be considered until a management plan for this site has been put in place.

The Legal Adviser informed the Local Review Body that they had the option to

request further information before making a decision, either by way of a written submission or a Hearing with the applicant. He advised that non-determination of the application was not an option for the Local Review Body, but the application could be continued pending additional information. In response to Councillor Hampshire, he advised that the Local Review Body could be very specific in terms of the additional information they are requesting and could set a timescale for receipt of the information.

Councillor Hampshire advised that he did not have sufficient information to determine the application and recommended that the applicant be contacted to ascertain if they would be agreeable to producing a site management plan and a woodland management plan, in conjunction with council officers, within three months.

Councillors Findlay and McLeod fully concurred with Cllrs Hampshire's recommendation.

Decision

The East Lothian Local Review body agreed unanimously that the application be continued and that a council officer would contact the applicant to seek additional information.

Sederunt: Ms Gray left the meeting

2. PLANNING APPLICATION NO. 20/00660/P: CHANGE OF SURFACING OF GRASSED OPEN SPACE TO HARDSTANDING AND RESURFACING OF FOOTPATH (RETROSPECTIVE), 12 STATION ROW, MACMERRY, TRANENT EH33 1PD – REVIEW AGAINST DECISION (REFUSAL)

The Chair invited the Planning Adviser, who had had no involvement in the original decision, to present a summary of the planning policy considerations in this case.

The Planning Adviser outlined the background and detailed proposals contained in planning application no. 20/00660/P, which seeks retrospective planning permission for a change of surfacing of a grassed open space to hardstanding and the resurfacing of the footpath outside 12 Station Row, Macmerry. He explained that the application site covers an area of some 40 square meters and is composed of two roughly equal areas of land that form a section of a public footpath that runs adjacent to the front elevation of the applicant's house at 12 Station Row and an area of public open space located between the footpath and the A199 public road. He advised that the appointed planning case officer confirms that the area of grassed open space which is the subject of the application is a part of the roadside verge of the A199 public road. It was formerly laid in grass and was a part of an existing larger grassed strip of land located between the cottages of Station Row and the public road. The grass has been uplifted on that area of open space and a hard surface formed in paving blocks (mono-block pavements). In addition, the case officer confirms that the grass verge is in the council's ownership and that the footpath outside no 12 Station Row is owned by the applicant.

The Planning Adviser stated that Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that this application be determined in accordance with the development plan, unless material considerations indicate otherwise and that Policy DP2 (Design) of the adopted East Lothian Local Development Plan 2018 is relevant to the determination of the application. He added that there are no public objections to this application and no objections from the Council's Amenity Officer. However,

although the Council's Roads Services confirmed the status of the area of open space as part of the public road and confirmed that works undertaken on that area of public road did not benefit from a required permission from East Lothian Council as roads authority, they objected to the laying of the mono block surfacing on that area of land and confirmed that the footpath is not adopted by the Council for management and maintenance purposes. With regard to Policy DP2, he advised that Policy DP2 (Design) of the adopted East Lothian Local Development Plan 2018 states amongst other things, that development must be appropriate to its location in terms of its positioning, size, form, massing, proportion and scale and use of a limited palate of materials and colours that complement its surroundings.

The Planning Adviser then considered the assessment of the application provided by the appointed planning case officer. The case officer had noted that the applicant's house is part of a long terrace of single storey houses that front onto the A199 public road and are readily visible from that public road. The houses have no front garden and are bounded by a 3m wide public footpath. Beyond the footpath is a 2.5m wide grassed strip that separates the footpath from the public road. The terrace of houses, the footpath and the grassed strip together provide a strong linear, uniform frontage to the streetscape of this part of Macmerry and are an inherent character of it. This is distinctly different in appearance to the domestic character and appearance of other houses in the vicinity that have clearly distinguishable front gardens. The area of mono-blocked surfacing extends across the 3m wide footpath and the 2.5m wide grass verge between the front of the applicant's house and the public road. He stated that it is the case officer's view that this new hard surface has noticeably altered the character and appearance of the footpath and the grass verge to the front of the applicant's house, giving it a domestic driveway appearance more akin to the front garden of a house. The case officer had concluded that the change in appearance of this section of the footpath and grass verge has interrupted and disrupted the uniformity of the strong linear frontage that the terrace of houses, the footpath and grass verge display and therefore the character of this part of Macmerry. By merging the footpath and grass verge into one larger hard surfaced area this is development that is inappropriate for its positioning and does not respect or complement the site's context as part of a wider grass verge and footpath, thereby giving it a strong visual relationship with the applicant's house that is overly domestic in character. It is therefore a form of development that is harmful to the visual amenity of the area and therefore to the character and appearance of the area.

The case officer also noted that if planning permission were to be granted for the mono block this could present difficulties for the planning authority in resisting further applications for such development, the cumulative effect of which would be the gradual erosion of the larger grassed strip of open space and a harmful impact on the character and appearance of the wider area. The case officer concluded that the proposal is contrary to Policy DP2 of the adopted East Lothian Local Development Plan 2018.

The Planning Adviser then referred to the submission from the applicants and pointed out that the applicants discussed some repair proposals relating to the footpath with a representative of the Council's Roads Services in 2019 and were told that as the owners of this section of the footpath they were responsible for its maintenance. As a result of this discussion the applicants were under the impression that it is permissible to change the surface of the footpath from tarmac to mono blocks. Additionally, the applicants claim that they were told that the council maintains the grassed verge as a courtesy, which made them believe that they also owned that area as well. Their statement confirms that they never planned to use the hard surfaced area as parking as it is opposite a traffic island and marked cycleway. The applicants emphasise that they tried to create a neat and permanently tidy area to the front of their cottage and

agree with the case officer that this development has interrupted the linear flow of the grass verge. However, they feel that it has added to the betterment and symmetry of the row, since artificial grass and cobbles have already been laid out at the other end of the row. The applicants disagree with the case officer's comment about the resurfaced verge and footpath being too domestic. They note that this new surface type has not stopped an increased number of pedestrians using it as a crossing point in conjunction with the traffic island.

The Planning Adviser responded to questions from the Local Review Body on service access, the ownership of the grassed open space, and the reinstatement of the mono-block following any service access that is required in the future. He advised that the Council own the grassed open space and would have the right to remove the mono-block. Councillor Hampshire commented that the council would likely replace the mono-block with grass if they had to disturb the mono-block to access services.

The Legal Adviser reminded Members that this application is for retrospective planning permission and that consideration should be in respect of the acceptability of the changes that have been made, from a planning perspective.

The Chair asked his colleagues to confirm if they were satisfied that they had sufficient information before them to determine the application. They were all satisfied that they had sufficient information.

The Chair then invited Members to give their opinions.

Councillor McLeod commented on the high quality of the work that had been carried out but wondered about potential future issues if the council require access to services, particularly in relation to who would be responsible for lifting the mono-block and whether it would be reinstated thereafter. He indicated that he would be supportive of granting planning permission for both the grassed open space and the footpath on the proviso that the council's transportation service can remove the mono-block for access.

Councillor Findlay commented on the fact that the work had been carried out without planning permission and could set a precedent for other households to undertake similar changes and then apply retrospectively for planning permission. He stated that he was supportive of granting planning permission for the footpath but not in respect of the grassed verge.

Councillor Hampshire stated that he did not see the work as detracting from the character and appearance of the area but he did have concerns about the grassed area in relation to service access as the mono block would not be reinstated by the Council after any works. He indicated that he would be supportive of granting planning permission for both the grassed open space and the footpath, on the basis that the council can ask for the mono block to be removed if access is required and that it would subsequently be replaced with grass, regardless of the fact that planning permission had been granted.

Decision

The East Lothian Local Review body agreed by a majority to grant retrospective planning permission for the change of surfacing of the grassed open space and the footpath subject to the following conditions:

1. No use shall be made at any time of the hardsurfaced area of former grassed roadside verge hereby approved for the parking of vehicles.

2. The resurfaced area of public footpath hereby approved shall at no time be subject to any use other than that of public footpath.
 3. The Roads Authority shall, if deemed to require repair of which the Roads Authority is responsible for, be entitled to carry out an appropriate repair to the area resurfaced in terms of this planning permission with whatsoever materials are deemed appropriate by the Roads Authority.
- 3. PLANNING APPLICATION NO. 20/00883/P – REPLACEMENT WINDOWS AND DOORS (RETROSPECTIVE), 1 WEDDERBURN TERRACE, INVERESK, MUSSELBURGH EH21 7TJ – REVIEW AGAINST DECISION (REFUSAL)**

The Chair invited the Planning Adviser, who had had no involvement in the original decision, to present a summary of the planning policy considerations in this case.

The Planning Adviser outlined the background and detailed proposals contained in planning application no. 20/00883/P, which seeks retrospective permission for the replacement of windows and doors of the house at 1 Wedderburn Terrace located in the Inveresk Conservation Area.

The Planning Adviser referred to the assessment of the application provided by the appointed planning case officer which described the windows that have been replaced as largely single glazed sash and case windows with astragals that had white painted, timber frames. The glazing pattern of the windows were largely either a six over six or an eight over eight glazing pattern. However, the two first floor windows on the front northwest elevation of the house were casement windows with top opening hoppers with a 3 over 6 glazing pattern. The doors that have been replaced were of timber construction. The replacement windows are all white uPVC framed, double glazed casement windows with astragal bars to the top opening hopper section of the windows. The replacement doors are of uPVC construction and are grey in colour. The door installed in the side (southwest) elevation of the house has a full height glazed panel with astragals adjacent to it.

The Planning Adviser then outlined that Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise. He explained that Policies CH2 (Development in Conservation Areas), CH5 (Battlefields) and DP5 (Extensions and Alterations to Existing Buildings) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of the application and provided details of the other legislation and guidance that is material to the determination of this application. He informed the Local Review Body that no public objections had been received.

The Planning Adviser returned to the case officer's report and highlighted the references in the report regarding the Inveresk Conservation Area Character Appraisal, the 20th century sandstone houses that are built in the Terrace, and a small group of infill properties with a more modern architectural style that are built near to the applicant's house. The applicant's house is considered to display a traditional architectural style and the case officer highlighted that its traditional timber framed sash and case windows were a significant component of the house and the positive contribution it made to the character and appearance of the Inveresk Conservation

Area. The case officer's report also stated that the replacement windows to the sides and front of the house, with their modern uPVC framing and different glazing pattern and opening mechanisms, are readily visible from Wedderburn Terrace and are considered harmful to the character and appearance of this part of the conservation area. However, the replacement windows on the rear elevation which are not easily seen from public view, along with the replacement doors are not seen to harm the character and appearance of the area.

The Planning Adviser reported that as the bulk of the uPVC framed windows are readily visible from public view the decision of the case officer was that the application as a whole should be refused, and reminded Members of the grounds on which the application was refused.

The Planning Adviser then turned to the submission made by the applicant's agent challenging the reasons for refusal of planning permission and he highlighted the main points raised including overstating the quality and character of the existing housing, the fact that the new windows offer far greater environmental performance/efficiency, and that there is already a mix of residential dwellings in the Inveresk Conservation Area. He informed the Local Review Body that the applicant had volunteered a potential solution which would be to match the glazing pattern in the bottom half of the sash windows to match that in the top half.

The Planning Adviser responded to questions from the Local Review Body on the precedent of permitting replacement windows from material different to the original where not visible to the public, the public visibility of the replacement windows at this property, and the age of the property. He confirmed that planning permission has previously been granted for replacement windows outwith the public view, commented that most people would not be able to see the replacement windows at 1 Wedderburn Terrace, and that the exact age of the house was not recorded in the case officer's report.

The Chair asked his colleagues to confirm if they were satisfied that they had sufficient information before them to determine the application. They were all satisfied that they had sufficient information.

The Chair then invited Members to give their opinions.

Councillor McLeod advised that he found the site visit interesting and that he did not consider the windows to be out of place and that you had to be very close to the property to realise that the windows were uPVC, adding that the effect created at the front fence means that you cannot easily see the windows. He stated that he would support the granting of planning permission along with the suggestion of matching the glazing in the top and bottom of the sash windows, if that is what is required to be able to grant planning permission.

Councillor Findlay stated that he had walked around the area and had observed a whole mix of types of buildings and windows. He advised that he would be supportive of granting planning permission without the requirement to match the top and bottom sash glazing.

Councillor Hampshire also advised that the site visit had been useful and while he would have thought the whole window would have been visible this was not the case and he therefore considered the replacement windows to have a limited impact on the Conservation Area, and agreed that there is a range of styles of windows in the properties in the area. He stated that things change over time with regard to

conservation areas and modern additions are starting to emerge. He advised that he would be going against the officer's recommendations and would grant planning permission for this application.

Decision

The East Lothian Local Review Body agreed unanimously to grant retrospective planning permission for Planning Application No. 20/00882/P – Replacement Windows and Doors, 1 Wedderburn Terrace, Inveresk, Musselburgh, EH21 7TJ

Signed

Councillor Norman Hampshire
Chair of Local Review Body (Planning)