



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

**THURSDAY 6 OCTOBER 2022
VIA THE DIGITAL MEETINGS SYSTEM**

Committee Members Present:

Councillor J Findlay (Chair)
Councillor K McLeod
Councillor C Yorkston

Advisers to the Local Review Body:

Mr C Grilli, Legal Adviser to the LRB
Mr L Taylor, Planning Adviser to the LRB

Other attendees:

None

Clerk:

Ms B Crichton, Committees Officer

Apologies:

None

Declarations of Interest

None

Introductory Statement by the Legal Adviser

The Legal Adviser outlined the procedure for the Local Review Body to reach a decisions on the planning applications before it. He also asked the Members to confirm that they had viewed all of the documentation which had been available to the planning case officers during their consideration of the applications. All members did so.

The Legal Adviser then invited nominations to chair the meeting. Councillors McLeod and Yorkston indicated that they would be content for Councillor Findlay to chair the Local Review Body (LRB) on this occasion.

1. PLANNING APPLICATION NO. 22/00233/P: ALTERATIONS AND CHANGE OF USE OF BANK TO FORM 1 FLAT, 12 WESTGATE, NORTH BERWICK EH39 4AF

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.

Leigh Taylor, Planning Adviser, outlined the proposals contained in planning application no. 22/00233/P. He set out in detail the proposals contained within the application and provided details of the site and surroundings. There had been 11 objections and one letter of support.

He reminded Members that applications should be determined in accordance with the development plan for the area unless material considerations indicated otherwise: in this case, the South East Scotland Development Plan (SESplan); the adopted East Lothian Local Development Plan 2018 (LDP); and the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

Mr Taylor outlined the most relevant policies of the LDP, which were: TC2 (Town and Local Centres); CH1 and CH2 (Development Affecting Conservation Areas); T2 (Transport Impact); and DP5 (Conversion of an Existing Building); and the SPG Design Standards for New Housing Areas.

The case officer had considered the proposal under Policy TC2, which required marketing evidence to be provided to demonstrate the building was no longer viable for town centre commercial use. The applicant had provided marketing information, and the case officer sought the views of the Economic Development Team and a report from the District Valuer (DV). The DV report concluded that the property value was around £400,000, and considered that seeking offers over £595,000 had been excessive. The property had not sold during the marketing exercise. After seeking clarification from the applicant on aspects of the marketing, and the number of offers made remaining undisclosed, the case officer had stated that the marketing exercise was not reasonable. They determined that it had not been demonstrated that acceptable marketing of the property had been carried out, nor that the property was no longer viable as a town centre commercial premises, and concluded that the application was contrary to Policy TC2.

Regarding Policy DP5, the case officer had concluded that a sufficient level of amenity would not be afforded to the occupants of the newly-formed residential property or the neighbouring property, despite an attempt to protect privacy by blocking up of windows and use of opaque glazing. There would be no windows on the northern elevation except for the bay window fitted with opaque glazing; most rooms would have only a single south-facing aspect. There would only be garden ground to the front, which was

not considered private space. The proposal was therefore considered to be contrary to Policy DP5.

The case officer had concluded that the proposed exterior works would not significantly detrimentally impact the character or the category B listed building or the North Berwick conservation area; the application was therefore not deemed to be contrary to Policies CH1 or CH2.

No objection had been made by the Roads Service because the requirement for parking at a residential property was calculated at less than that of the building when used as a bank. On-street parking had been available during the commercial use, and therefore the case officer concluded that the proposal was not contrary to Policy T2.

Mr Taylor then turned to the applicant's appeal submission. They sought to prove that appropriate marketing evidence had been provided that made comparison with nearby properties in relation to their value. They also sought to challenge the meaning of viability within the policy in relation to whether the property should remain as commercial. Further, they challenged the application of Policy DP5 and the impacts the proposal were deemed to have upon amenity. They challenged the use of the term 'scheme of development' within the case officer's report and the decision notice on the application.

Mr Taylor responded to questions from Members. He advised that the window at the rear was in use by a neighbouring property, and the window with the balcony did not belong to the bank.

Carlo Grilli, Legal Adviser, also responded to questions from Members. He advised that responsibly for the roof would be contained within the title deeds, which were not available as part of the planning process.

Councillor Yorkston asked whether a similar report taking into account the property's commercial value had been produced in 2018 prior to the purchase of the property for £225,000 as a commercial premises. Mr Taylor was not aware of such a report, and only the current DV report had been taken into account by the case officer.

Councillor Yorkston asked whether the price paid for a property in relation to its value would be relevant in terms of viability, as a business plan would take this into account. Mr Taylor advised that any uplift potential and redevelopment costs had been taken into account by the DV. He advised that the LDP included definitions of viability and vitality, and an element of judgement was required, but it had been felt that the property was not marketed at a reasonable cost compared to its actual market value.

Councillor Findlay asked about the opaque glass to protect the privacy of neighbours. Mr Taylor said that concerns had been raised over amenity as secondary glazing could be easily removed, but noted that this could be managed through 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 felt that there were possible business opportunities in North Berwick, and the property should be used for this purpose. He supported the original decision of the case officer.

Councillor Yorkston also supported the original decision of the case officer and felt there was potential for business use on the thriving high street.

Councillor Finlay also supported the original decision of the case officer due to concerns over the privacy of neighbouring gardens. He also agreed that the property still had commercial viability.

Decision

The ELLRB agreed unanimously to dismiss the appeal and to refuse planning permission for this application, for the reasons set out in the original decision notice.

2. PLANNING APPLICATION NO. 21/01364/P: ERECTION OF 1 HOUSE WITH INTEGRAL GARAGE AND ASSOCIATED WORKS, LAND TO REAR OF SPEEDWELL HOUSE, MAIN ROAD, DIRLETON

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.

Mr Taylor outlined the proposals contained in planning application no. 21/01364/P. He set out in detail the proposals contained within the application and provided details of the site and surroundings. There had been six objections to the proposals, including one from the Dirleton Village Association.

He reminded Members that applications should be determined in accordance with the development plan for the area unless material considerations indicated otherwise: in this case the South East Scotland Development Plan (SESplan); the adopted East Lothian Local Development Plan 2018 (LDP); and the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. Also material to the determination was the site history including an earlier application seeking permission for two detached dwellings. This was refused in 2009 and dismissed at appeal by the DPEA in 2010. The Planning Adviser outlined the most relevant policies of the LDP, which were CH2, RCA1, and DP7.

Mr Taylor advised that the case officer assessed that the proposal would not have a detrimental effect on the neighbouring properties in relation to privacy and overlooking, and the dwelling itself would benefit from sufficient privacy and amenity. There were also no objections from council services in relation to transport impact and access and contaminated land, with any matters able to be addressed through conditions.

The case officer's assessment reiterated comments from the appeal that was dismissed for an earlier application for two dwellings, including observations that the proposals would not integrate well with its surroundings and would extend the northern edge of the village into undeveloped countryside. The previous proposal was deemed to represent an intrusion that would have been out of character with the surrounding agricultural land and would conflict with the objective of preserving and enhancing Dirleton Conservation Area. The case officer concluded that there was no reason to take a different view on the application before them; there had been no significant change in relation to applicable policies since the determination of the earlier application for two dwellings, and no other material considerations that would outweigh the conflict with the LDP. The decision notice's stated reason for refusal for the current application was: the development would be a conspicuous and incongruous outward

extension of Dirleton, harmful to the form, character and appearance of the village and of the conservation area, and would not preserve or enhance the special architectural or historic character or appearance of the Dirleton Conservation Area.

Mr Taylor then turned to the applicant's appeal submission, which focused on the application of policies RCA1, DP7, and CH2, It also discussed the sustainability of the proposal, the DPEA appeal decision on the previous application for two dwellings, and the fact that there were no objections from the council services consulted.

Mr Taylor advised that Policy RCA1 was challenged on the basis that it actively encouraged development in designated areas, thereby supporting the principle of the development. Policy CH2 was challenged in relation to the overall impact of the conservation area, discussing the Dirleton Conservation Area Character Statement, and providing evidence in the form of historic maps and photos of the site showing buildings situated on it. Differences from the earlier application were also highlighted, including a comparison of building footprints and floor space, as well as differences in relation to works on trees on the site boundary.

Councillor McLeod enquired as to the previous use of the neighbouring ground, prior to it being wasteland. Mr Taylor advised that the previous use was described as a market garden.

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.

Councillors Yorkston, McLeod, and Findlay all confirmed that they supported the original decision of the case officer.

Decision

The ELLRB agreed unanimously to dismiss the appeal and to refuse planning permission for this application, for the reasons set out in the original decision notice.

Signed

Councillor Jeremy Findlay
Chair of Local Review Body (Planning)