

LOCAL REVIEW BODY

25 April 2024

Application No: 23/00503/P

83A High Street, Haddington

Appointed Officer's Submission

23/00503/P – REVIEW AGAINST DECISION – PLANNING OFFICERS SUBMISSION

Planning application review against decision (refusal by condition): Alterations to roof to provide terraced area, formation of door from window opening, erection of canopy, planter, timber store, shelf and installation of lighting (retrospective) at 83A High Street, Haddington.

INDEX OF CONTENTS

1. Statement of Case: Officer's report for planning application 23/00503/P.
2. Copy of stamped approved drawings relating to planning application 23/00503/P- *can be viewed in the LRB shared folder*
3. Consultation responses from Environmental Health and Anti-Social Behaviour.
4. Letters from Interested Parties.
5. Copy of Decision Notice (including reason for refusal by condition) relating to planning application 23/00503/P.
6. Copy of Policy 7 (Historic assets and places) and 16 (Quality Homes) of National Planning Framework 4 and Policies CH1 (Listed Buildings), CH2 (Development Affecting Conservation Areas), DP2 (Design) and DP5 (Extensions and Alterations to Existing Buildings) of the adopted East Lothian Local Development Plan 2018.

OFFICER REPORT

26th October 2023

App No. **23/00503/P**

Application registered on **30th June 2023**
Target Date **29th August 2023**

Proposal	Alterations to roof to provide terraced area, formation of door from window opening, erection of canopy, planter, timber store, shelf and installation of lighting (retrospective)	SDELL	Y
		CDEL	N
Location	83A High Street Haddington East Lothian EH41 3ET	Bad Neighbour Development	N

APPLICANT: **Mr and Ms Antonio & Yuyao Iglesias & Li**

Is this application to be approved as a departure from structure/local plan? Y/N

**c/o Arctec Build Ltd
Per Andrew Dodds
4 The Maltings
Haddington
East Lothian
EH41 4EF**

DECISION TYPE: **Grant Permission Retrospectively**

REPORT OF HANDLING

PROPOSAL

This application relates to the first floor flat 83A High Street, Haddington which is within a three storey, mid-terrace flatted building with accommodation in its roof space. The building has commercial properties at ground floor level. It is situated within the Town Centre as defined by Policy TC2 of the adopted East Lothian Local Development Plan 2018 and within the Haddington Conservation Area. The building is listed as being of special architectural or historic interest (Category B).

The property is bounded to the north by neighbouring residential properties, to the east and west by commercial properties at ground floor level with residential properties situated above and to the south by the public road of High Street.

In January 2022 listed building consent (21/01470/LBC) was granted for internal alterations to the building.

Planning permission is now sought retrospectively for the following alterations:

- i) The installation of white painted, timber frame French doors with associated fanlight to the west elevation of the property;
- ii) The formation of a timber deck with associated natural stone slab;
- iii) The erection of a pergola;
- iv) The installation of a timber store;
- v) The installation of a wall mounted timber shelf to the south elevation of the property;
- vi) The installation of a wall mounted timber planter to the retaining wall of the flat roof;
and
- vii) The installation of 4 decking mounted bollard lights.

DEVELOPMENT PLAN

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.

The development plan is National Planning Framework 4 (NPF4) and the adopted East Lothian Local Development Plan 2018.

Material to the determination of the application are Section 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and NPF4.

Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires that in considering whether to grant planning permission for development which affects a listed building or its setting a planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Also material to the determination of the application is Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states that a planning authority must have regard to the desirability of preserving or enhancing the character or appearance of a conservation area in exercising its responsibilities in the determination of any application for planning permission for development affecting a conservation area.

Policies 7 (Historic Assets and Places) and 16 (Quality Homes) of NPF4 are relevant to the determination of this application. Policies CH1 (Listed Buildings), and Policies CH2 (Development Affecting Conservation Areas), DP2 (Design) and DP5 (Extensions and Alterations to Existing Buildings) of the adopted East Lothian Local Development Plan 2018

are also relevant to the determination of this application.

REPRESENTATIONS

Four public letters of objection have been received in relation to the application. In summary these state:

- i) The retrospective development (with the exception of the doorway with associated fanlight) is unacceptable due to the use of inappropriate materials and forms;
- ii) The works devalue the listed building and conservation area, heritage assets that should be protected from harmful development;
- iii) The canopy, fixed planter, shelf and timber store should all permanently be removed from the building;
- iv) The applicant has no legal right to occupy the roof of 84 High Street, Haddington;
- v) The applicant has removed the ability for the owner/tenants of the commercial property at 84 High Street to access their roof to undertake repairs;
- vi) The applicant has placed the roof of 84 High Street under greater structural load, for which it was not designed;
- vii) At no time has the applicant or their predecessor requested permission to install decking, upfill, slabs or a pergola on the owners property;
- viii) In covering the roof of the owner of 84 High Streets property the applicant has removed the ability to draw natural light into the owners commercial property;
- ix) In covering the roof of the owner of 84 High Streets property the applicant has impacted the privacy afforded to the occupants of the rear warehouse that will take light in to upper floors through the south elevation of the building at Kilpair Street;
- x) Whilst the window on the south elevation of Kilpair Street is identified as 'blocked up', in occupying the owners roof space the applicant has removed the ability of these windows to be opened up on the grounds of privacy as the owner may wish to convert this commercial property to residential;
- xi) It is unknown what damage has been caused to the roof in erecting deck, pergola etc;
- xii) Timber decking, stone slabs, timber pergola and other painted accretions are not consistent with the aesthetic, character and amenity of the original surroundings grade B and C listed buildings;
- xiii) The works are not 'unsighted' as other occupants of the surrounding properties can see the area;
- xiv) The works result in a loss of privacy as an objector notes the applicant can climb/peer

into their window from the pergola;

xv) The space described as a timber store is storage for a washing machine that shakes an objectors window/floor and generates considerable noise pollution which is amplified by the stone courtyard. Power tools have also allegedly been used in this area;

xvi) The applicant rents their property on Airbnb and an objector alleged that guests are encouraged to use the terrace to smoke which enters neighbouring flats;

xvii) The canopy is felt lined, yet all other roof tops are slate and thus the roof of the pergola is out of place;

xviii) An objector is aware of several occasions where the shop below the terrace has suffered leaks;

xix) An objector notes it is under investigation if the roof the works have been installed on are in the sole ownership of the owner of 84 High Street or if there is communal ownership;

xx) An objector queries if the application is granted then how do the owners of 83 High Street access the roof, gutters etc in future;

xxi) An objector queries if the application is granted then who is responsible for repair works/cost;

xxii) The applicant has allegedly screwed shut communal windows which prevents escape in the event of a fire, an objector would like to see a safe plan put in place; and

xxiii) An objector feels that illegal occupation should not be "sanitised" by the approval of a planning application.

The issues raised relating to the legal right of the applicant to occupy the roof of the commercial property, 84 High Street, Haddington, the access/repair of the roof, the structural load of the roof in relation to the works, seeking permission from the owner of the roof for the works, damage or leaks to the roof/commercial property of 84 High Street, Haddington are all civil matters between affected parties and are not material considerations relevant to the determination of this planning application.

The owner of the commercial property, 84 High Street, Haddington has noted the works will prevent their ability to draw natural light into their commercial property. Whilst the development the subject of this planning application would prevent the formation of a roof light to the flat roof of 84 High Street, it would not necessarily prevent the owner of that commercial property applying for permission to form glazed openings in other elevations of their property. Any such proposals would be determined on their own merits.

In relation to the comment received stating that in covering the roof of the owner of 84 High Streets commercial property the applicant has impacted the privacy afforded to the occupants of the rear warehouse in the building. However, unlike residential amenity there is no defined degree of privacy afforded to commercial properties and as such the use of the terrace does not allow for the harmful overlooking of any commercial property.

In relation to the comment received stating that whilst the window on the south elevation of Kilpair Street is identified as 'blocked up', in occupying the owners roof space the applicant has removed the ability of these windows to be opened up on the grounds of privacy as the owner may wish to convert this commercial property to residential. If approved the development the subject of this application would not necessarily prevent the conversion of the adjacent building to residential as measures such as locating bathrooms in relevant rooms and obscure glazing could if need be, be used to safeguard privacy and amenity. However, any such application would be determined on its own merits.

The allegations that the applicant rents out their property on Airbnb as a short-term holiday let have been investigated and the listing for the property notes that only 1 room of the applicants' property is being let out. The letting out of a room within the flat does which is also occupied by the owner/tenant of the flat does not require planning permission.

The investigation of the ownership of the roof is a civil matter between affected parties.

The comments received in relation to access to the roof and guttering, responsibility and cost of any repairs and access to the communal windows which have been allegedly screwed shut are all civil matters between affected parties and are not material considerations in the determination of this planning application.

Any approval of planning permission would not 'sanitise' the development the subject of this planning application. Any legal action taken by the owner of the flat roof on which the development has taken place would be a separate civil matter between affected parties.

The Council's Anti-Social Behaviour Team have been consulted on the application and advise they have recorded incidents against the occupier of 83a High Street, Haddington. However, any anti-social behaviour matters are for the Anti-Social Behaviour team to investigate and action accordingly. They are not matters relevant to the determination of this planning application.

PLANNING ASSESSMENT

Unlike the front elevation of the listed building which is of particular special architectural or historic interest the rear elevation which has previously been altered and extended is not of the same special architectural or historic interest.

The French doors with associated fanlight to the west elevation of the applicants' property allows for access from the kitchen of the applicants' property to the external terrace and was formerly a window. The French doors and associated fanlight are of a traditional, white painted timber frame construction which ties in with the fenestration of the flatted building. Therefore, by virtue of their traditional material, form, size and positioning the French doors with associated fanlight are not harmful to the character or appearance of the flatted property, the listed building, or to the Haddington Conservation Area.

The use of the French doors and associated fanlight does not allow for any harmful overlooking of any neighbouring residential properties, furthermore it also replaced a window on the west elevation of the applicants' flatted property.

The external terrace comprises a mix of timber decking and natural stone paving which have

been formed on the flat roof of a single storey component attached to the west elevation of the building. A timber pergola covers the area of the terrace that has stone paving covering it. The timber store has been installed on the paving and is positioned against the west elevation wall of the applicants' flatted property and the timber planter has been placed at the western edge of the decking. Additionally a wall mounted timber shelf has been attached to the south elevation of the building and bollard lighting has been installed to light the terrace. Due to their location to the rear of the listed building the external terrace the decking, paving, pergola, associated bollard lighting timber store, shelf and planter are not visible from public views. They cannot be seen in relation to the front elevation of the building and are well contained to the rear of the building. Therefore on the matter of design they do not harm the special architectural or historic interest of the listed building and do not harm the character and appearance of the Haddington Conservation Area.

Whilst views of the external terrace are possible from windows of neighbouring flats, the terrace and its associated fixtures are not of a size or scale to be overly dominating. Therefore on matters of design they do not have an unacceptable impact on the visual amenity of the occupants of neighbouring flats.

The use of the decked/paved area does not allow for the harmful overlooking of neighbouring residential properties of 83 High Street, as the windows of those neighbouring residential properties are situated more than 1.8 metres above the finished floor level of the decking and paving. Whilst the use of the decking and paving would allow for the overlooking of the communal windows of 83 High Street, these windows serve a communal stairwell and as such there would be no harmful overlooking or loss of amenity to any of the neighbouring residential properties of 83 High Street.

Furthermore, the use of the decking and paving does not allow for any overlooking of any other neighbouring residential properties due to the location and orientation of the decking/paving.

The Council's Senior Environmental Health Officer has been consulted on the application and notes there are several objections to this application on the grounds of noise from electrical equipment. The Council's Senior Environmental Health Officer recommends a condition be attached to any grant of planning permission to prevent the use of electric appliances within the timber store. However such a condition would not be enforceable and therefore does not meet the terms of Planning Circular 4/98 governing the use of planning conditions attached to the grant of planning permission.

The 1st floor terrace provides the occupants of the flat an external area to be used in association with the flat. However, the timber frame pergola which is a covered, permanent structure allows for the intensification of use of this external terrace. Such an intensification of use includes storage of electrical equipment, including the washing machine beneath it, which would otherwise be stored and used within the flat. Such an intensification of use is harmful to the residential amenity of the occupants of other flats within the flatted building of 83 High Street. Therefore it should be made a condition of any grant of planning permission for the external terrace and other associated structures, that the timber pergola is refused planning permission and to require its removal from the terrace. Subject to the imposition of that planning control the use of the terrace would not harm the residential amenity of the occupants of neighbouring flat.

Given the above considerations and with the exception of the pergola, the retrospective

development is consistent with Policies 7 and 16 of NPF 4 and Policies CH1, CH2, DP2 and DP5 of the adopted East Lothian Local Development Plan 2018. Therefore, the retrospective development is considered to be in accordance with the provision of the stated relevant Development Plan policies and there are no material considerations which outweigh the proposals accordance with the Development Plan.

The timber pergola is unauthorised and therefore a breach of planning control. If, within two months of the date to grant planning permission for the other components of this application, no steps have been taken by the applicant to have the pergola removed then enforcement action will be taken to secure the removal of it, with the period for compliance with the enforcement notice being a further period of two months.

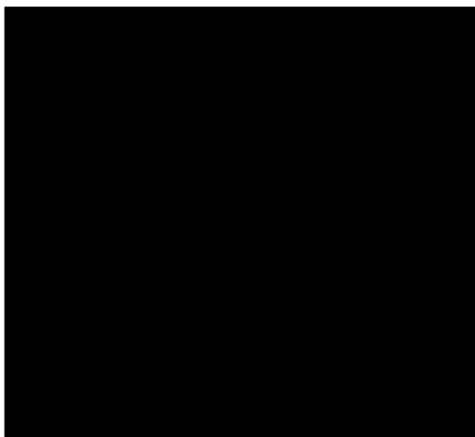
CONDITION:

- 1 Planning permission is not hereby granted for the pergola attached to the west elevation of the applicants' flatted property.

Reason:

The pergola is a covered, permanent structure that allows for the intensification of the use of the external terrace which is harmful to the residential amenity of the neighbouring residential properties of 83 High Street contrary to Policy DP5 of the adopted East Lothian Local Development Plan 2018.

LETTERS FROM



26th October 2023

Currie, Fiona

From: Clark, Colin - EHO
Sent: 20 September 2023 09:59
To: Environment Reception
Cc: Allan, James
Subject: RE: 23/00503/P-James Allan - Planning Consultation

I refer to your consultation of 13th Sep in connection with the above and would advise as follows.

I note there are several objections to this application on the grounds of noise amongst other things. Accordingly, I would recommend the following condition be attached to any consent granted:

- No electric appliances or power tools shall be used within the proposed "timber store"

You may also wish to consult with the safer communities team with regards to any alleged anti-social behaviour arising as a consequence of the retrospective use.

Regards

Colin Clark | Senior Environmental Health Officer, Public Health & Environmental Protection | Protective Services | East Lothian Council | John Muir House | Haddington | EH41 3HA |
Tel. 01620 827443 [REDACTED] | Email. cclark1@eastlothian.gov.uk | Visit our website at www.eastlothian.gov.uk

From: Environmental Health/Trading Standards <ehts@eastlothian.gov.uk>
Sent: 13 September 2023 12:02
To: [REDACTED]
Subject: Fw: 23/00503/P-James Allan - Planning Consultation

From: Environment Reception
Sent: 13 September 2023 11:46
To: Environmental Health/Trading Standards
Subject: 23/00503/P-James Allan - Planning Consultation

Please see attached document in relation to the following application: Alterations to roof to provide terraced area, formation of door from window opening, erection of canopy, planter, timber store, shelf and installation of lighting (retrospective) at 83A High Street
Haddington
East Lothian
EH41 3ET

Currie, Fiona

From: Raselli, Gail
Sent: 20 September 2023 13:40
To: Environment Reception
Cc: [REDACTED]
Subject: FW: 23/00503/P-James Allan - Planning Consultation
Attachments: [REDACTED]

To whom it may concern,

We have had incidents on the ASB register against the occupier(s) of 83A High Street Haddington.

The officer who has dealt with these is currently on leave back on Monday 25th September, copied for info.

Regards
Gail

-----Original Message-----

From: Black, Kenneth [REDACTED]
Sent: 20 September 2023 10:13
To: Raselli, Gail [REDACTED]
Subject: FW: 23/00503/P-James Allan - Planning Consultation

Gail
Can you carry out the necessary checks.
Thanks
Kenny

-----Original Message-----

From: Environment Reception <environment@eastlothian.gov.uk>
Sent: 20 September 2023 10:09
To: Black, Kenneth [REDACTED]
Subject: 23/00503/P-James Allan - Planning Consultation

Please see attached document in relation to the following application: Alterations to roof to provide terraced area, formation of door from window opening, erection of canopy, planter, timber store, shelf and installation of lighting (retrospective) at 83A High Street Haddington East Lothian
EH41 3ET



CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear whom it may concern please see the pdf, photo and link to an Airbnb profile relating to the application 23/00503/p for retrospective planning permission.

https://www.airbnb.co.uk/rooms/569602844362675257?check_out=2023-08-17&check_in=2023-08-12&adults=1&guests=1&sr=42&unique_share_id=54c0bb13-15f2-4851-8e85-0b1e9088eca4&branch_match_id=1266712600984202860&branch_referrer=H4:IAAAAAAAAA8soKSkotLXT0zK59L4T0UyCzAM9jzCM10SpIA4j0hB:AAAA%3D&source_impression_id=ep3_1689076477_8To4%2BqHrgXAwKWZ

Kind Regards

■

Dear all I am writing to officially submit an objection to the retrospective plans being brought forward by [REDACTED] 83A High Street Haddington, Antonio & Lee. Application Number 23/00503/P.

[REDACTED] we strongly object to any of the plans. We feel that the sheer lack of respect and thought behind the actions of the owners in 83A has or shall compromise the roof and the overall building now and in the near future.

Our primary concern is that the area highlighted in the retrospective plans does not belong to Antonio & Lee and is in fact is currently under investigation to whether or not it is the sole responsibility of [REDACTED] or if it is a common responsibility. All common areas are split as per title deeds which is ratable value which in turn means a share in maintaining the property areas, meaning the area is not the sole ownership of 83A. **If this application is granted how do other owners [REDACTED] seek access to the roof, gutters etc in the future?**

The roof was purpose built a significant time ago meaning the extra weight of decking, slabs and white goods was not accounted for and likely not structurally adequate to meet the needs. In addition to this, we have no account for the current state of the roof and will be unable to monitor this going forward, likely leading to future leaks or damage to the shop below. **If this application is granted this raises the question who is responsible for lifting the decking/slabs and reinstating after the damage is fixed and who is paying for it?**

Another main concern regarding the retrospective plan is the inaccuracy of the area highlighted as a timber store, this is in fact being used as a utility area with a washing machine. This is a great concern as the machine is running throughout the day causing external windows to rattle, vibrates of the roof (again is the roof structurally sound for this?) and is extremely loud for surrounding neighbours.

The pergola on the plans and already in place raises the issue of privacy and security as it gives an extra height meaning easier access to the flats above [REDACTED]

A further inaccuracy of submitted plans is that the area is highlighted as a roof garden. We are aware that the owners of 83A have this listed as a smoking area on their Air B and B site. This comes with multiple concerns including fire hazard, noise and increased foot traffic. **The main subject that this raise is – have they got planning for change of use to even run an Air B and B?** Please see the link attached.

Following this objection, if agreed we would like to see everything reinstated to original state, especially the double doors to the decking as access is currently being denied to the communal area. The owner has currently screwed down communal windows preventing a fire escape which is both alarming and potentially highly dangerous and we would like to see a safe plan put in place.



Comments for Planning Application 23/00503/P

Application Summary

Application Number: 23/00503/P

Address: 83A High Street Haddington East Lothian EH41 3ET

Proposal: Alterations to roof to provide terraced area, formation of door from window opening, erection of canopy, planter, timber store, shelf and installation of lighting (retrospective)

Case Officer: James Allan

Customer Details

Name: [REDACTED]

Address: [REDACTED]

Comment Details

Commenter Type: [REDACTED]

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I object to the proposals submitted to East Lothian Council (ref. 23/00503/P).

[REDACTED] - essentially the roof of [REDACTED] property at 84 High Street, Haddington - as identified by the applicant and their agent within the application documents and the Certificate of Ownership, I would raise the following objections and concerns:

- The applicant has no legal right to occupy the roof of 84 High Street, Haddington - [REDACTED]
- The applicant has removed the ability for [REDACTED] access [REDACTED] roof to undertake repairs.
- The applicant has placed [REDACTED] roof under greater structural load, for which it was not designed, imparting significant stress to the structural integrity of the roof. This includes, but is not limited to the "stone slabs on upfill material".
- At no time has the applicant or their predecessors requested permission to install the decking, upfill, slabs and pergola [REDACTED]. I understand from the application documents that previously there was artificial grass laid across the roof. This, I imagine, would have the ability to be easily removed, for repairs to be undertaken to the roof below. This is not the case with a structural deck, upfill, slabs and a pergola - I imagine that there would be objections to [REDACTED] removing the structures and finishes noted in the application, to access [REDACTED] roof.
- [REDACTED], the applicant has removed the ability for [REDACTED] draw natural light in to [REDACTED] property. The ability to have natural light is a significant and relevant planning issue.
- [REDACTED], the applicant has impacted the privacy afforded to the occupants of the rear warehouse that will take light in to the upper floors through the south elevation of the building at Kilpair Street - this is a material consideration. Whilst the window on the south elevation of Kilpair Street is identified as "blocked up"; in occupying [REDACTED] roof-space, the applicant has removed the ability for [REDACTED] to open up this window on grounds of privacy - this is a measure that contravenes Planning law.

- In building the deck, pergola structure, and various other accretions on [REDACTED] roof, it is unknown what damage has been made to [REDACTED] property.
- Timber decking, stone slabs, timber pergolas and other painted accretions are not consistent with the aesthetic, character and amenity of the original surrounding grade B and grade C Listed properties. They are not "unsighted" as other occupants of the surrounding properties can see the area.
- In summary, I object to the proposals on the grounds of: illegal development; removal of the building owners basic rights to daylight, sunlight and privacy; removal of the building owners right to access their own property to undertake essential repairs; detrimental and dangerous over-loading of [REDACTED] roof structure and placing at risk the structural integrity of [REDACTED] property and its occupants; incompatible design in the context of the host grade B and adjoining/surrounding grade C Listed buildings.

Currie, Fiona

From: [REDACTED]
Sent: 10 July 2023 22:50
To: Environment Reception
Subject: objection to planning application

You don't often get email from [REDACTED] [Learn why this is important](#)

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear Service Manager

In reference to application number: 23/00503/P
Application location: 83A High St Haddington, East Lothian.

My comments for grounds to object the permission for works carried are detailed below.

1. loss of privacy - on two accounts I have seen Antonio on his newly installed canopy roof where he can easily peer/climb into [REDACTED] window. With the police and anti social behaviour aware of certain incidents this is a cause of great concern [REDACTED].

2. The space has been described as a "timber store" in the application however it is in fact storage for a washing machine that shakes [REDACTED] windows and floor, and generates considerable noise pollution. Especially in the stone courtyard where the noise reverberates, and makes [REDACTED] windows resonate and rattle.

The space is also used as a workshop space, with loud power tools which are visible in the photos in application. The noise from the chop saw is quite unbearable.

In the pictures on the walls under their new canopy you can also see their speakers which he blasts with zero consideration for the fact that a stone courtyard amplifies the noise. Again police and anti social behaviour have been notified on many occasions for ongoing noise disturbances.

3. Their Airbnb guests are encouraged to use the terrace as their own personal smoking area. The smell of which enters [REDACTED] flat even with the windows shut. [REDACTED] don't wish to expose [REDACTED] to tobacco smoke, and [REDACTED] don't want [REDACTED] sofa or curtains to smell of tobacco smoke either.

4. The canopy is felt lined, yet all the roof tops around are slate. It just looks out of place considering [REDACTED] in a conservation area.

5. Lastly, I believe that 83A have created a "garden" on a the shops roof with zero planning consent. This roof is detailed in the buildings deeds as a communal area which [REDACTED] all expected to maintain yet [REDACTED] have been given no access to, and in fact the communal window to this area has since been screwed shut from 83A's side. [REDACTED] have no assurance of how the roof for the shop is keeping, if this terrace is safe, and if drainage is being considered. [REDACTED] aware of several occasions where the shop has suffered from leaks.

All in all, we heavily object to their alterations as the uses of the structure have led to [REDACTED] one half of [REDACTED] flat exposed to unwanted noise, smells and privacy. [REDACTED] believe that there was planning permission given for this space to be created therefore it saddens me to see this was not the case.

Kind regards,
[REDACTED]



Speaking for Scotland's Buildings

AHSS East Lothian Cases Panel,



Planning and Environment

East Lothian Council

John Muir House

Brewery Park

Haddington

East Lothian EH41 3HA

f.a.o. James Allan

Our ref 23.EH41 3ET

by email: environment@eastlothian.gov.uk

21 July 2023

Dear Mr Allan

83A High Street Haddington East Lothian EH41 3ET: Alterations to roof to provide terraced area, formation of door from window opening, erection of canopy, planter, timber store and shelf (retrospective)

Planning application no: 23/00502/LBC AND 23/00503/P

The AHSS notes the alterations to the listed building which is set within a Conservation Area. There can be no doubt the building and its environs are sensitive.

It is unfortunate that the applications seek retrospective planning permission and late listed building consent for works undertaken without the necessary approvals. As the property is flatted the works would have required approval even if the building was unlisted and not in a Conservation Area.

The Society does not object to the alteration to the building to form a doorway with fanlight from the kitchen to the outdoor space. However, all other works are considered unacceptable due to the use of inappropriate materials and forms. They devalue the listed building and conservation area, heritage assets that should be protected from harmful development. The canopy and fixed planter, the shelf and the timber store should all be permanently removed from the building. It is unclear if the timber store is fixed or not as the application is somewhat contradictory. It is unclear also if the applications seek permission to retain the paving and decking. It is expected that there may be a civil issue in connection with the decking and paving.

In any event, the Society **OBJECT** to the retention of the canopy, fixed planter, timber store and shelf We recommend enforcement action to seek the removal of these structures.

Yours faithfully,

The AHSS East Lothian Cases Panel

c.c. Historic Environment Scotland :steven.robb@hes.scot
AHSS National Office nationaloffice@ahss.org.uk

Chairman: Martin Robertson

AHSS Cases Panels | National Office | 15 Rutland Square, Edinburgh EH1 2BE
0131 557 0019 | nationaloffice@ahss.org.uk | www.ahss.org.uk

App No. 23/00503/P

EAST LoTHIAN COUNCIL

DECISION NOTICE

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

**TOWN AND COUNTRY PLANNING
(DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATIONS 2013**

Mr and Ms Antonio & Yuyao Iglesias & Li
c/o Arctec Build Ltd
Per Andrew Dodds
4 The Maltings
Haddington
East Lothian
EH41 4EF

APPLICANT: Mr and Ms Antonio & Yuyao Iglesias & Li

With reference to your application registered on **30th June 2023** for planning permission under the above mentioned Acts and Regulations for the following development, viz:-

Alterations to roof to provide terraced area, formation of door from window opening, erection of canopy, planter, timber store,shelf and installation of lighting (retrospective)

at
83A High Street
Haddington
East Lothian
EH41 3ET

East Lothian Council as the Planning Authority in exercise of their powers under the above-mentioned Acts and Regulations hereby **GRANT PLANNING PERMISSION** for the said development in accordance with the particulars given in the application, the plan(s) docketed as relative hereto and the conditions set out below:-

CONDITIONS:

- 1 Planning permission is not hereby granted for the pergola attached to the west elevation of the applicants' flatted property.

Reason:

The pergola is a covered, permanent structure that allows for the intensification of the use of the external terrace which is harmful to the residential amenity of the neighbouring residential properties of 83 High Street contrary to Policy 14 of NPF4 and Policy and DP5 of the adopted East Lothian Local Development Plan 2018.

The report on this application is attached to this Decision Notice and its terms shall be deemed to be incorporated in full in this Decision Notice.

Details of the following are given in the application report:

- the terms on which the Planning Authority based this decision;
- any variations made to the application in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997; and
- where applicable the summary of the terms of any agreement entered into under Section 75 of the Town and Country Planning (Scotland) Act 1997.

A copy of the Section 75 Agreement can be inspected in the application file on the Council's website.

The docketed plans to which this decision relate are as follows:

<u>Drawing No.</u>	<u>Revision No.</u>	<u>Date Received</u>
MANU LITERATURE 01	-	29.06.2023
DWG 01	-	29.06.2023
27021-10	B	29.06.2023
27021-11	A	30.06.2023

ADVISORY NOTE

It should be understood that this permission does not carry with it any necessary consent or approval for the proposed development under other statutory enactments.

3rd November 2023



Keith Dingwall
Service Manager - Planning

NOTES ABOUT REVIEW OF DECISION

If the applicant is aggrieved by the decision of the Planning Authority to grant permission for the proposed development subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this decision notice. The notice of review should be addressed to the Clerk to the Local Review Body, Committee Team, Communications and Democratic Services, John Muir House, Haddington, East Lothian EH41 3HA.

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 5 of the Town and Country Planning (Scotland) Act 1997.

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

**TOWN AND COUNTRY PLANNING
(DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATIONS 2013**

Section 27A (1) of the above-mentioned Act requires that this notice must be served to the Council **prior** to the start of work. Failure to do so is a breach of planning control under section 123(1) of the above Act and may result in the Council taking enforcement action.

NOTICE OF INITIATION OF DEVELOPMENT

Notice is hereby given that the under-mentioned scheme of development is expected to commence on/...../20....

Planning authority reference: **23/00503/P**

Date of decision notice: **3rd November 2023**

Address/Location of site:

**83A High Street
Haddington
East Lothian
EH41 3ET**

Name and address of developer:

Name and contact details of site agent:

Owner of land (if not as above):

Signed:

Date:

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
TOWN AND COUNTRY PLANNING
(DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATIONS 2013

Section 27B (1) of the above-mentioned Act requires that this notice must be served to the Council on completion of the approved scheme of development.

NOTICE OF COMPLETION OF DEVELOPMENT

Notice is hereby given that the under-mentioned scheme of development was completed on/...../20....

Planning authority reference: **23/00503/P**

Date of decision notice: **3rd November 2023**

Address/Location of site:

83A High Street
Haddington
East Lothian
EH41 3ET

Name and address of developer:

Owner of land (if not as above):

Signed:

Date:

National Planning Framework 4

Policy 7 (Historic assets and places)

(a) Development proposals with a potentially significant impact on historic assets or places will be accompanied by an assessment which is based on an understanding of the cultural significance of the historic asset and/or place. The assessment should identify the likely visual or physical impact of any proposals for change, including cumulative effects and provide a sound basis for managing the impacts of change. Proposals should also be informed by national policy and guidance on managing change in the historic environment, and information held within Historic Environment Records.

(b) Development proposals for the demolition of listed buildings will not be supported unless it has been demonstrated that there are exceptional circumstances and that all reasonable efforts have been made to retain, reuse and/or adapt the listed building. Considerations include whether the: i. building is no longer of special interest; ii. building is incapable of physical repair and re-use as verified through a detailed structural condition survey report; iii. repair of the building is not economically viable and there has been adequate marketing for existing and/or new uses at a price reflecting its location and condition for a reasonable period to attract interest from potential restoring purchasers; or iv. demolition of the building is essential to delivering significant benefits to economic growth or the wider community.

(c) Development proposals for the reuse, alteration or extension of a listed building will only be supported where they will preserve its character, special architectural or historic interest and setting. Development proposals affecting the setting of a listed building should preserve its character, and its special architectural or historic interest.

(d) Development proposals in or affecting conservation areas will only be supported where the character and appearance of the conservation area and its setting is preserved or enhanced. Relevant considerations include the: i. architectural and historic character of the area; ii. existing density, built form and layout; and iii. context and siting, quality of design and suitable materials.

(e) Development proposals in conservation areas will ensure that existing natural and built features which contribute to the character of the conservation area and its setting, including structures, boundary walls, railings, trees and hedges, are retained.

(f) Demolition of buildings in a conservation area which make a positive contribution to its character will only be supported where it has been demonstrated that: i. reasonable efforts have been made to retain, repair and reuse the building; ii. the building is of little townscape value; iii. the structural condition of the building prevents its retention at a reasonable cost; or iv. the form or location of the building makes its reuse extremely difficult.

(g) Where demolition within a conservation area is to be followed by redevelopment, consent to demolish will only be supported when an acceptable design, layout and materials are being used for the replacement development.

(h) Development proposals affecting scheduled monuments will only be supported where: i. direct impacts on the scheduled monument are avoided; ii. significant adverse impacts on the integrity of the setting of a scheduled monument are avoided; or iii. exceptional circumstances have been demonstrated to justify the impact on a scheduled monument and its setting and impacts on the monument or its setting have been minimised.

(i) Development proposals affecting nationally important Gardens and Designed Landscapes will be supported where they protect, preserve or enhance their cultural significance, character and integrity and where proposals will not significantly impact on important views to, from and within the site, or its setting.

(j) Development proposals affecting nationally important Historic Battlefields will only be supported where they protect and, where appropriate, enhance their cultural significance, key landscape characteristics, physical remains and special qualities.

(k) Development proposals at the coast edge or that extend offshore will only be supported where proposals do not significantly hinder the preservation objectives of Historic Marine Protected Areas.

(l) Development proposals affecting a World Heritage Site or its setting will only be supported where their Outstanding Universal Value is protected and preserved.

(m) Development proposals which sensitively repair, enhance and bring historic buildings, as identified as being at risk locally or on the national Buildings at Risk Register, back into beneficial use will be supported.

(n) Enabling development for historic environment assets or places that would otherwise be unacceptable in planning terms, will only be supported when it has been demonstrated that the enabling development proposed is: i. essential to secure the future of an historic environment asset or place which is at risk of serious deterioration or loss; and ii. the minimum necessary to secure the restoration, adaptation and long-term future of the historic environment asset or place. The beneficial outcomes for the historic environment asset or place should be secured early in the phasing of the development, and will be ensured through the use of conditions and/or legal agreements.

(o) Non-designated historic environment assets, places and their setting should be protected and preserved in situ wherever feasible. Where there is potential for non-designated buried archaeological remains to exist below a site, developers will provide an evaluation of the archaeological resource at an early stage so that planning authorities can assess impacts. Historic buildings may also have archaeological significance which is not understood and may require assessment.

Where impacts cannot be avoided they should be minimised. Where it has been demonstrated that avoidance or retention is not possible, excavation, recording, analysis, archiving, publication and activities to provide public benefit may be required through the use of conditions or legal/planning obligations.

When new archaeological discoveries are made during the course of development works, they must be reported to the planning authority to enable agreement on appropriate inspection, recording and mitigation measures.

Policy 16 (Quality Homes)

a) Development proposals for new homes on land allocated for housing in LDPs will be supported

b) Development proposals that include 50 or more homes, and smaller developments if required by local policy or guidance, should be accompanied by a Statement of Community Benefit. The statement will explain the contribution of the proposed development to:

- i. meeting local housing requirements, including affordable homes;
- ii. providing or enhancing local infrastructure, facilities and services; and
- iii. improving the residential amenity of the surrounding area.

c) Development proposals for new homes that improve affordability and choice by being adaptable to changing and diverse needs, and which address identified gaps in provision, will be supported.

This could include:

- i. self-provided homes;
- ii. accessible, adaptable and wheelchair accessible homes;
- iii. build to rent;
- iv. affordable homes;
- v. a range of size of homes such as those for larger families;
- vi. homes for older people, including supported accommodation, care homes and sheltered housing;
- vii. homes for people undertaking further and higher education; and
- viii. homes for other specialist groups such as service personnel.

d) Development proposals for public or private, permanent or temporary, Gypsy/Travellers sites and family yards and Travelling Showpeople yards, including on land not specifically allocated for this use in the LDP, should be supported where a need is identified and the proposal is otherwise consistent with the plan spatial strategy and other relevant policies, including human rights and equality.

e) Development proposals for new homes will be supported where they make provision for affordable homes to meet an identified need. Proposals for market homes will only be supported where the contribution to the provision of affordable homes on a site will be at least 25% of the total number of homes, unless the LDP sets out locations or circumstances where:

- i. a higher contribution is justified by evidence of need, or
- ii. a lower contribution is justified, for example, by evidence of impact on viability, where proposals are small in scale, or to incentivise particular types of homes that are needed to diversify the supply, such as self-build or wheelchair accessible homes.

The contribution is to be provided in accordance with local policy or guidance

f) Development proposals for new homes on land not allocated for housing in the LDP will only be supported in limited circumstances where:

- i. the proposal is supported by an agreed timescale for build-out; and

ii. the proposal is otherwise consistent with the plan spatial strategy and other relevant policies including local living and 20 minute neighbourhoods; iii. and either:

delivery of sites is happening earlier than identified in the deliverable housing land pipeline. This will be determined by reference to two consecutive years of the Housing Land Audit evidencing substantial delivery earlier than pipeline timescales and that general trend being sustained; or ·

- the proposal is consistent with policy on rural homes; or
- the proposal is for smaller scale opportunities within an existing settlement boundary; or ·
- the proposal is for the delivery of less than 50 affordable homes as part of a local authority supported affordable housing plan.

g) Householder development proposals will be supported where they:

i. do not have a detrimental impact on the character or environmental quality of the home and the surrounding area in terms of size, design and materials; and

ii. do not have a detrimental effect on the neighbouring properties in terms of physical impact, overshadowing or overlooking.

h) Householder development proposals that provide adaptations in response to risks from a changing climate, or relating to people with health conditions that lead to particular accommodation needs will be supported.

Adopted East Lothian Local Development Plan 2018

CH1 (Listed Buildings)

Internal or external alterations or extensions to listed buildings will only be permitted where they do not harm the architectural or historic character of the building.

The demolition of a listed building will not be permitted unless the building is no longer of special interest, is incapable of repair or there are overriding environmental or economic reasons, and it must be satisfactorily demonstrated that every effort has been made to continue the present use or to find a suitable new use.

New development that harms the setting of a listed building will not be permitted.

CH2 (Development Affecting Conservation Areas)

All development proposals within or affecting a Conservation Area or its setting must be located and designed to preserve or enhance the special architectural or historic character or appearance of the Conservation Area. Proposals for new development should accord with the size, proportions, orientation, alignment, density, materials, and boundary treatment of nearby buildings and public and private spaces. Parking requirements of new developments must accord with the Council's adopted parking standards unless it can be demonstrated that a reduced level of parking (which in exceptional circumstances could be no parking provision) will achieve positive townscape benefits without compromising road safety.

The Council will set out in supplementary planning guidance more detailed policies on the circumstances in which it would support proposals for alterations to shop fronts, external security, external wall treatment and the display or installation of advertisements in Conservation Areas.

Policy DP2 (Design)

The design of all new development, with the exception of changes of use and alterations and extensions to existing buildings, must:

1. Be appropriate to its location in terms of its positioning, size, form, massing, proportion and scale and use of a limited palette of materials and colours that complement its surroundings;
2. By its siting, density and design create a coherent structure of streets, public spaces and buildings that respect and complement the site's context, and create a sense of identity within the development;
3. Position and orientate buildings to articulate, overlook, properly enclose and provide active frontages to public spaces or, where this is not possible, have appropriate high quality architectural or landscape treatment to create a sense of welcome, safety and security;
4. Provide a well connected network of paths and roads within the site that are direct and will connect with existing networks, including green networks, in the wider area ensuring access for all in the community, favouring, where appropriate, active travel and public transport then cars as forms of movement;

5. Clearly distinguish public space from private space using appropriate boundary treatments;
6. Ensure privacy and amenity, with particular regard to levels of sunlight, daylight and overlooking, including for the occupants of neighbouring properties;
7. Retain physical or natural features that are important to the amenity of the area or provide adequate replacements where appropriate;
8. Be able to be suitably serviced and accessed with no significant traffic or other environmental impacts.

DP5 (Extensions and Alterations to Existing Buildings)

All alterations and extensions to existing buildings must be well integrated into their surroundings, and must be in keeping with the original building or complementary to its character and appearance. Accordingly such development must satisfy all of the following criteria:

1. It must not result in a loss of amenity with neighbouring uses or be harmful to existing residential amenity through loss of privacy from overlooking, or from loss of sunlight or daylight;
2. For an extension or alteration to a house, it must be of a size, form, proportion and scale appropriate to the existing house, and must be subservient to and either in keeping with or complementary to the existing house;
3. For an extension or alteration to all other buildings, it must be of a size, form, proportion and scale appropriate to its surroundings and, where the existing building has architectural merit be in keeping with or complement that existing building;

Development that does not comply with any of the above criteria will only be permitted where other positive planning and design benefits can be demonstrated.