

REVIEW DECISION NOTICE

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

Application for Review by Dr & Mrs Nigel Sharp, c/o Andrew Megginson Architecture 128 Dundas Street, New Town, Edinburgh EH3 5DQ of decision to refuse Planning Permission for Alterations, extensions and change of use of bank to form 1 house, formation of off-road parking, hardstanding areas and associated works at 12 Westgate, North Berwick EH39 4AF

Site Address: 12 Westgate, North Berwick EH39 4AF

Application Ref: 24/01290/P

Application Drawing: Please refer to the Drawings/Plans detailed at 3.1 (i)

Date of Review Decision Notice: 25 September 2025

Decision

The ELLRB unanimously agreed to dismiss the appeal and refuse Planning Permission for alterations, extensions and change of use of bank to form 1 house, formation of off-road parking, hardstanding areas and associated works at 12 Westgate, North Berwick EH39 4AF for the reasons more particularly set out below.

This Notice constitutes the formal decision notice of the Local Review Body as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.

1. Introduction

The above application 24/01290/P for Planning Permission for alterations, extensions and change of use of bank to form 1 house, formation of off-road parking, hardstanding areas and associated works at 12 Westgate, North Berwick EH39 4AF was considered by the ELLRB, at a meeting held on Thursday, 21 August 2025. The Review Body was constituted by Councillor N Hampshire (Chair), Councillor D Collins and Councillor K McLeod. All three members of the ELLRB had attended a site visit in respect of this application prior to the meeting.

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

Mr P Zochowski, Planning Adviser to the LRB
Mr C Grilli, Legal Adviser to the LRB
Ms F Currie, Clerk

2. Proposal

2.1. The planning application is for Planning Permission for Alterations, extensions and change of use of bank to form 1 house, formation of off-road parking, hardstanding areas and associated works at 12 Westgate, North Berwick EH39 4AF and was registered on 3 December 2024.

2.2. The Decision Notice refusing the application was dated 7 March 2025.

2.3. The reason for refusal more particularly set out in full in the said Decision Notice and set out as follows:

1. *The proposed scheme of development would result in the loss of a ground floor Class 1A commercial premises within North Berwick Town Centre where there is no evidence that the premises is no longer viable as a town or local centre use, contrary to Policies 27 of NPF4 and TC2 of the adopted ELLDP.*
2. *The proposed extension by virtue of its size, scale, alignment and height would not be subservient to the existing listed building and as such would be harmful to the special architectural and historic interest of the listed building and would neither preserve nor enhance the character and appearance of this part of the North Berwick Conservation Area contrary to Policy 7 of NPF4 and Policies CH1 and CH2 of the adopted ELLDP.*
3. *The proposed vehicular access and hardstanding area would be intrusive and incongruous changes to the character and appearance of the streetscape of Westgate and of the North Berwick Conservation Area. Therefore, the proposals would neither preserve nor enhance but would be harmful to the character and appearance of the Conservation Area, contrary to Policy 7 of NPF4 and Policy CH2 of the adopted ELLDP.*
4. *The proposed scheme of development would not be subservient to or complement the existing building and would result in an unacceptable loss of residential amenity to the occupiers of neighbouring residential properties by virtue of direct overlooking and loss of daylight. Therefore, the proposal is contrary to Policy 16 of NPF4 and Policy DP5 of the adopted ELLDP.*
5. *The occupants of the proposed house would not be afforded an acceptable level of privacy and amenity. Therefore, the proposal is contrary to Policy DP7 of the adopted ELLDP.*

2.4. The notice of review is dated 6 May 2025

3. Preliminaries

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

i.	<p>The drawings accompanying this application are referenced and numbered as follows:</p> <table><tr><th><u>Drawing No.</u></th><th><u>Revision No.</u></th><th><u>Date Received</u></th></tr><tr><td>DWG 1</td><td>-</td><td>22.11.2024</td></tr><tr><td>1141-PL-02</td><td>-</td><td>22.11.2024</td></tr><tr><td>1141-PL-03</td><td>-</td><td>22.11.2024</td></tr><tr><td>1141-PL-04</td><td>-</td><td>22.11.2024</td></tr><tr><td>1141-PL-09</td><td>-</td><td>22.11.2024</td></tr><tr><td>DWG 2</td><td>-</td><td>02.12.2024</td></tr><tr><td>1141-PL-05</td><td>A</td><td>02.12.2024</td></tr><tr><td>1141-PL-06</td><td>A</td><td>02.12.2024</td></tr><tr><td>1141-PL-07</td><td>A</td><td>02.12.2024</td></tr><tr><td>1141-PL-08</td><td>A</td><td>02.12.2024</td></tr><tr><td>1141-PL-11</td><td>-</td><td>02.12.2024</td></tr><tr><td>1141-PL-12</td><td>-</td><td>02.12.2024</td></tr><tr><td>1141-PL-13</td><td>-</td><td>02.12.2024</td></tr><tr><td>1141-PL-01</td><td>A</td><td>02.12.2024</td></tr><tr><td>1141-PL-10</td><td>-</td><td>02.12.2024</td></tr></table>	<u>Drawing No.</u>	<u>Revision No.</u>	<u>Date Received</u>	DWG 1	-	22.11.2024	1141-PL-02	-	22.11.2024	1141-PL-03	-	22.11.2024	1141-PL-04	-	22.11.2024	1141-PL-09	-	22.11.2024	DWG 2	-	02.12.2024	1141-PL-05	A	02.12.2024	1141-PL-06	A	02.12.2024	1141-PL-07	A	02.12.2024	1141-PL-08	A	02.12.2024	1141-PL-11	-	02.12.2024	1141-PL-12	-	02.12.2024	1141-PL-13	-	02.12.2024	1141-PL-01	A	02.12.2024	1141-PL-10	-	02.12.2024
<u>Drawing No.</u>	<u>Revision No.</u>	<u>Date Received</u>																																															
DWG 1	-	22.11.2024																																															
1141-PL-02	-	22.11.2024																																															
1141-PL-03	-	22.11.2024																																															
1141-PL-04	-	22.11.2024																																															
1141-PL-09	-	22.11.2024																																															
DWG 2	-	02.12.2024																																															
1141-PL-05	A	02.12.2024																																															
1141-PL-06	A	02.12.2024																																															
1141-PL-07	A	02.12.2024																																															
1141-PL-08	A	02.12.2024																																															
1141-PL-11	-	02.12.2024																																															
1141-PL-12	-	02.12.2024																																															
1141-PL-13	-	02.12.2024																																															
1141-PL-01	A	02.12.2024																																															
1141-PL-10	-	02.12.2024																																															
ii.	The Application for planning permission registered on 3 December 2024																																																
iii.	The Appointed Officer's Submission																																																
iv.	<p>Policies relevant to the determination of the application:</p> <p>Policy 1 (Tackling the climate and nature crises), Policy 3 (Biodiversity), Policy 7 (Historic assets and places), Policy 9 (Brownfield, Vacant and Derelict Land and Empty Buildings), Policy 13 (Sustainable transport), Policy 14 (Design, quality and place), Policy 15 (Local Living and 20 Minute Neighbourhoods), Policy 16 (Quality Homes) and Policy 27 (City, town, local and commercial centres) of National Planning Framework 4 (NPF4)</p> <p>Policies TC2 (Town and Local Centres), CH1 (Listed Buildings), CH2 (Development Affecting Conservation Areas), DP5 (Extensions and Alterations to Existing Buildings), DP7 (Infill, Backland and Garden Ground development), T1 (Development Location and Accessibility) and T2 (General Transport Impact) of the adopted East Lothian Local Development Plan 2018</p>																																																
v.	Notice of Review dated 6 May 2025 together with Applicant's Submission with supporting statement and associated documents.																																																

4. **Findings and Conclusions**

- 4.1. The ELLRB confirmed that the application for a review of the planning application permitted them to consider the application afresh and it was open to them to grant it in its entirety, grant it subject to conditions or to refuse it. They confirmed that they had access to the planning file in respect of this matter and to all the information that the Appointed Officer had available when reaching the original decision to refuse planning permission including all drawings and copies of all representations and objections received in respect of the original application. They also confirmed they had received and reviewed the Applicant's Submission and further representations made in connection within this appeal before the ELLRB today.

Planning Adviser Summary

- 4.2. The Members then asked the Planning Adviser to summarise the planning policy position in respect of this matter. The Planning Adviser advised that the case before them is for full review of 24/01290/P for Alterations, extensions and change of use of bank to form 1 house, formation of off-road parking, hardstanding areas and associated works at 12 Westgate which is a location within North Berwick town centre as defined by the Local Development Plan. It also lies within the North Berwick Conservation Area and the main part of the house is a listed building category B. A two-storey extension is sought that replaces the existing extension and it also includes a lower basement level. In addition, part removal of a section of boundary wall on Westgate is proposed to widen an existing access to enable the formation of vehicle access and parking off Westgate. A turntable is proposed to allow the vehicle to be turned to exit the site in forward gear. The single storey extension to the west has been specifically excluded from the listing since 2020. As seen at the site visit, the building was the former Royal Bank of Scotland branch in the town; it is a significant two storey stone building with pitched slate roof and ornate chimney stacks dating from 1840 with a stone clad single storey flat roofed extension to the west that dates from the 1980s.

The context of the site includes that it is a part of a series of distinctive traditional Victorian style two storey stone buildings with slate roofs set back from Westgate with front garden ground and a low stone wall at the footway. Originally built as houses, as North Berwick has expanded some were changed to commercial use and in this case, it is noted that the Historic Environment Scotland listing states that it became a bank in 1923. All of Westgate lies within the designated town centre which extends westwards to include Station Hill.

The Planning Adviser commented that when alterations are proposed to a listed building it is usual for listed building consent as well as planning permission to be required. However, when an appeal is submitted against refusal of both planning permission and listed building consent, the listed building consent appeal is heard by a Reporter at the Planning and Environmental Appeals Division (DPEA). The associated listed building consent appeal for this building was determined on 28 July and this appeal was dismissed. This means that even if planning permission were granted on appeal, the proposed development could not proceed as it does not have listed building consent.

The Planning Adviser set out the planning history of the application site. He stated that there is a long history of planning applications and appeals for the building dating back to 2019 and set out by the case officer in their report. This includes alterations, extension and part change of use to form 2 class 2 units and a class 3 café, granted on 10 February 2023 and still able to be implemented.

In determining the application you must first consider it against Sections 59 and 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 are material to the determination of the application along with the Scottish Govt policy on development affecting the setting of a listed building and development in a conservation area as set out in the Historic Environment Policy for Scotland April 2019. S59 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 and enhancing the building, its setting and any features of special architectural or historic interest which it possesses. S64 requires that a planning authority must have regard to the desirability of preserving or enhancing the character or appearance of a conservation area when determining any application for planning permission for development affecting a

conservation area. Further all planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan consists of the East Lothian Local Development Plan 2018 together with National Planning Framework 4 read and applied together. The case officer's report lists the following planning policies to be used in considering this application, [which is set out at paragraph 3.2 (ii) of this decision notice].

The Planning Officer then confirmed that fifteen letters of representation to the application were received, all objections. The main reasons for objection were loss of ground floor commercial detrimental impact on listed buildings and the conservation area, impact on neighbouring properties; that the marketing was not at a realistic commercial value; the proposal was considered inappropriate in terms in terms of design and materials; loss of on street parking and the precedent that would be set for loss of office and shop space as well as on-street parking, among other reasons summarised by the case officer. A more detailed summary of the objections is included on pages 10-12 of the case officer report.

North Berwick Community Council objected to the planning application on the grounds of loss of office space.

The case officer noted firstly the provisions of development plan policy as regards town centres. NPF4 Policy 27 supports change of use of vacant buildings to residential in such areas where the existing use is no longer viable. The purpose of LDP Policy TC2 is to make sure that changes of use do not compromise the centre's vibrancy, vitality and viability. Residential use may be supported, especially in backland or above ground floor level. However, changes of use to residential will again only be permitted where there is evidence that the premises is no longer viable as a town centre use. The building was marketed following its closure in 2018, with a number of offers made for commercial uses. The applicant purchased the property at that time, since when it has been vacant. Change of use to residential has been sought and refused on 3 occasions. There is also an extant consent for alterations and extension to form 2 class 2 units and a café. The advice of the District Valuer was obtained regarding the price of £595,000. The District Valuer considered this amount excessive, having taken into account the condition of the building and the extant planning consent, and stated that £300,000 was a more appropriate figure for the existing use and condition, with a figure of £415,000 should planning permission be granted for residential use. The Council's Economic Development officer notes that demand for commercial premises in North Berwick is buoyant and agrees with the District Valuer. The case officer therefore considered there was insufficient evidence the property had been marketed at a reasonable rate, and accordingly the proposal was contrary to Policy 27 of NPF4 and tc2 of the ELLDP.

The Planning Adviser then moved to summarise the terms of design stating that the proposal is for a building over 3 levels, the lowest requiring excavation, and with the roof ridge height being the same as the adjacent listed buildings 12B and 14 Westgate. This proposal is slightly reduced in size compared to previously. The western component of the 2-storey extension would project 2.5m from the existing south elevation building line of the former banking hall, and so slightly behind the south elevations of both adjacent listed buildings, though forward of the existing door of the former bank. The first-floor extension would be 1.8m rather than 1.5m from the western elevation of 12B Westgate. It would be some 2m from the east boundary of the adjacent listed building. There are also changes to the north elevation ground floor windows but other than this the proposed development is similar to previously. It remains a proposal for a two-storey gabled pitched roofed extension with a ridge height of 9m, and a front building line forward of the existing. The case officer

considered the existing extension to be subservient to the listed building at 12B Westgate, but that the proposal would grow the scale, mass and prominence, and the design would result in narrow gaps between it and the adjacent listed buildings. The building is in a prominent position within North Berwick Conservation area, and it was considered it would be a tight-fitting, overly dominant and awkward addition, and as such would neither preserve nor enhance the Conservation Area. The main view of the building will be from Westgate and

The Planning Adviser referred to the Report of Handling confirming that the case officer set out the Council's usual practice of allowing a 9m separation distance between windows and garden ground where they directly overlook. The garden ground to the north belongs to 12B Westgate, and the case officer considered that as there would be no separation distance, despite use of obscure glazing and changes to fenestration on the ground floor there would be considerable loss of amenity. In addition, these measures would mean that the new occupants of the proposed house would not enjoy sufficient amenity. Although there is an existing window, this served the kitchen of the bank, and the building itself was only in use in business hours. The first floor has five glazed floor-to-ceiling doors, giving on to a roof terrace which is stated to be inaccessible, however the case officer considered there would be nothing to stop residents opening these doors and using the flat roofed area as a terrace.

The Planning Adviser then confirmed that the approved planning application is a material consideration. Although windows were included in the north elevation, this was to serve a commercial use and comprised 4 high level windowpanes with their lower sills 1.8m above floor level and set back 3m from the current northern elevation, preventing direct overlooking of neighbouring property. There are three windows at first floor level in the adjacent 14 Westgate, which are a bedroom and two living rooms. These would have a view of a blank wall some 2m away. A window in 12B Westgate would have similar. This would reduce the level of amenity to those properties. The case officer comments on a report submitted by the applicant on daylight and sunlight, that this shows that the amount of daylight received by these three windows would be reduced such that it would fail to meet the BRE Compliant Standard, as would the first-floor window of 12B. The case officer therefore considered the proposal contrary to Policies 15 of NPF4 and DP5 and DP7 of the LDP. The occupants of the proposed house would not have satisfactory levels of privacy or amenity in terms of provision of garden ground, contrary to Policy 16 of NPF4 and DP7 of the LDP.

The existing access is proposed to be widened to form a vehicle access, and a turntable formed. There will be some loss of on street parking space. Subject to conditions on use of permeable materials and others, the Council's Road Services consider this acceptable. However, vehicle access and parking in the front gardens of buildings are not characteristic of this part of the Conservation Area. The wall, part of which would be lost, is listed. The proposed hardstanding with vehicle turntable and parking of vehicles would alter the character and appearance of the front garden of the building, being an intrusive and incongruous change which would not preserve or enhance the Conservation Area and would be to the detriment of the setting of the Listed Building, contrary to NPF4 Policies 7 of NPF4, and CH1 and CH2 of the LDP.

The Council's Economic Development and Strategic Investment Manager objected to the proposal on the grounds that it would result in the loss of town centre commercial space.

The Officers Report assessed the proposal and concluded that there are no material

planning considerations that outweigh the fact that the proposed scheme of development is contrary to Policies CH1 (Listed Buildings), CH2 (Development Conservation Areas), TC2 (Town and Local Centre), DP5 (Extensions and Alterations to Existing Buildings) and DP7 (Infill, Backland and Garden Ground Development) of the adopted East Lothian Local Development Plan 2018 and Scottish Planning Policy: June 2014.

The proposal was therefore refused for the 5 reasons as set out in the decision notice dated 7 March 2025.

The Planning Adviser summarised the applicant's submission which includes an independent valuation submission from Shepherd, a submission on heritage from AOC Archaeology and Gray Planning and Development, a submission from the agents Andrew Megginson Architects, the Daylight and Sunlight report submitted in 2019 and revised in 2020, and the Galbraith marketing report. It is stated that this could not all have been submitted at the time as they did not have time to review the District Valuer information before the application was determined.

It is suggested by the applicant that there is no evidence that the premises is not viable as a town or centre use, they state that the property has been marketed for 6 months on the basis of a valuation provided by Galbraith, with little interest shown in the property and no requests for Heads of Terms on a purchase. The applicant considers the DV report contains incorrect information. A report from Shepherds values the vacant property at £500,000, with a notional house based on the proposals at £1,000,000. Marketing was therefore carried out at a reasonable price for 6 months, and despite 82 viewings there were no formal notes of interest and no offers. They draw attention to the DVs comments that the property is at the outskirts of the town centre and lies between two existing residential properties and set back from the road which would undermine its suitability for some commercial uses, most notably retail. The Shepherd report also noted that the location of the unit underneath part of a first-floor dwelling was a concern. Loss of such premises would therefore not compromise the Town Centres vibrancy, vitality or viability. Change of use would bring a vacant building back into use to the benefit of the area.

For the second and third reasons for refusal, harm to the Listed Building and Conservation Area, the applicant considers the proposal subservient to the adjoining listed building. In their opinion, an increase in the amount of soft landscaping in the garden ground would be a benefit to the Conservation Area.

AOC Archaeology stating that the proposals are an improvement on those originally proposed and would not result in adverse impact on or loss of the special architectural or historic interests of the Listed Buildings or Conservation Area. The changes to widen the driveway would not be the first changes to the boundary wall.

The Planning Adviser commented that whether or not these proposals are better than previously refused proposals is not the development plan policy test. The applicant further notes that Historic Environment Scotland did not object.

Reason for refusal 4 was loss of residential amenity to occupants of neighbouring properties by virtue of overlooking and loss of daylight. The applicant considers there is no direct overlooking and that the case officer is mistaken about access to the roof via sliding doors as a Juliet balcony is shown. This is indeed indicated on the plan and shown on a separate drawing, though is not shown on the elevations. The drawings do not appear to indicate whether the eastern front window, which could potentially also give access to the roof, could

be opened or not, however this could be controlled by condition. The applicant states a terrace was permitted on the former Blenheim Hotel which also allows overlooking into this garden. The applicant supplied a daylight assessment of loss which they state shows the proposal would have a negligible effect and the neighbours would not notice and loss of daylight and sunlight.

With regard to Reason 5, that the occupants of the new house would not enjoy acceptable levels of amenity and privacy, the applicant disagrees as a kitchen does not need a window and all internal spaces will be bright and comfortable. There are many properties without private garden space which is not an issue for North Berwick town centre properties as there is plenty of open space nearby.

Four objectors to the proposal have also made further representation, copies of which were made available to the LRB, mainly reiterating reasons for the original objection. The applicant has also provided a response dated 15 July to these representations which was also made available to the LRB members.

Members Questions

- 4.3. The Planning Adviser responded to questions from Members providing further information on the property valuation, the differing processes for considering appeals against refusal of LBC consent and planning permission and commercial property availability in North Berwick. He also commented on the differences between the various applications submitted by the applicant and any pre-application enquiries.

Members Comments and Determination

- 4.4. The Chair asked his colleagues if they had sufficient information to proceed to determine the application today and they unanimously agreed to proceed. Comments on the application followed.
- 4.5. Councillor Collins noted that there had been pre-application discussions and advice provided by planning officers. She was of the view that there would be a loss of amenity and loss of daylight for neighbouring properties as a result of the proposals. She also said she had knowledge of at least 3 offers that were made for the commercial property but not at the inflated price paid by the applicants. She concluded by saying that she fully supported the decision of the planning case officer.
- 4.6. Councillor McLeod noted the valuation report, and that the LBC application appeal had been rejected. In his view, this information solidified the case for refusal of planning permission. He could see no major changes from previous proposals submitted by the applicant, and he would be supporting the planning officer's decision.
- 4.7. The Chair felt that the planning officer had followed the process as it should be done and that this site was unlike other commercial property conversions. He said he agreed with the decision of the planning officer.

Accordingly, the ELLRB by unanimously agreed to dismiss the appeal and refuse planning permission for the reasons more particularly set out in the Planning Officer's report for handing.

Planning Permission is hereby refused.



Carlo Grilli
Legal Adviser to ELLRB

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under Section 43A(8)**

Notice Under Regulation 21 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.

- 1 If the applicant is aggrieved by the decision of the planning authority to refuse permission or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
- 2 If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.