

Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

Local Review Body
Tuesday 18 February 2020
Item No 5.2

Local Review Body: Review of Planning Application Reg. No. 19/00211/DPP

Kevin Smith
Architectural Technologist
10 Halfway Avenue
Luton
LU4 8RB

Midlothian Council, as Planning Authority, having considered the review of the application by Mr Herbert Rogers, 26 Bellerophon Drive, Penicuik, EH26 8NU which was registered on 7 October 2019 in pursuance of their powers under the above Act, hereby **refuse** permission to carry out the following proposed development:

Installation of replacement windows (retrospective) at 26 Bellerophon Drive, Penicuik, EH26 8NU, in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	1:250	14.05.2019
Illustration/Photograph	ANGLIAN 30164470/1 1:500	14.05.2019
Proposed Elevations	ANGLIAN 30164470/2 1:20	14.05.2019
Other Statements	PLANNING POLICY STATEMENT	14.05.2019

For the following reasons:

1. The introduction of uPVC framed windows fails to preserve or enhance the character or appearance of the conservation area or the application dwelling, resulting in a significant adverse impact on the character and appearance of the conservation area, which is contrary to policies ENV19 and DEV2 of the adopted Midlothian Local Development Plan and Historic Environment Scotland policy and guidance.
2. Approval of the proposed scheme would be contrary to a recent Local Review Body decision on a similar case in close proximity to the application site and within the same conservation area. There are no overriding material considerations to outweigh the recent decision of the Local Review Body.

The Local Review Body (LRB) considered the review of the planning application at its meeting of 2 December 2019. The LRB carried out an unaccompanied site visit

on the 2 December 2019.

In reaching its decision the LRB gave consideration to the following development plan policies and material considerations:

Development Plan Policies:

1. DEV2 of the Midlothian Local Development Plan 2017 – Protecting amenity within the built-up area; and
2. ENV19 of the Midlothian Local Development Plan 2017 – Conservation Areas

Material Considerations:

1. The individual circumstances of the site;
2. Setting a precedent in how the local planning authority considers the use of UPVC in Conservation Areas; and
3. Government guidance on the protection and management of Conservation Areas (Historic Environment Policy for Scotland 2019 (HEPS) and Scottish Planning Policy (SPP))

Dated: 02/12/2019

A handwritten signature in black ink, appearing to read 'Peter Arnsdorf', with a stylized, flowing script.

Peter Arnsdorf
Planning Manager (Advisor to the Local Review Body)
Communities and Economy
Midlothian Council

On behalf of:

Councillor R Imrie
Chair of the Local Review Body
Midlothian Council

NOTICE TO ACCOMPANY REFUSAL ETC.

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Notification to be sent to applicant on refusal of planning permission or on the grant of permission subject to conditions, or

Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under section 43A(8)

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for 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 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

Important Advisory Note:

The installed uPVC windows in the property do not benefit from planning permission and as such must be removed from the building within 3 months – the Council will contact you separately under its Planning Enforcement powers regarding this breach of planning control.

Advisory note:

If you have any questions or enquiries regarding the Local Review Body procedures or this decision notice please do not hesitate to contact Peter Arnsdorf, Planning Manager tel: 0131 2713310 or via peter.arnsdorf@midlothian.gov.uk