

Notice of Review: 26 Bellerophon Drive, Penicuik

Determination Report

Report by Dr Mary Smith Director of Education, Communities and Economy

1 Purpose of Report

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the installation of replacement windows (retrospective) at 26 Bellerophon Drive, Penicuik.

2 Background

- 2.1 Planning application 19/00211/DPP for the installation of replacement windows (retrospective) at 26 Bellerophon Drive, Penicuik was refused planning permission on 10 July 2019; a copy of the decision is attached to this report.
- 2.2 The review has progressed through the following stages:
- 1 Submission of Notice of Review by the applicant.
 - 2 The Registration and Acknowledgement of the Notice of Review.
 - 3 Carrying out Notification and Consultation.

3 Supporting Documents

- 3.1 Attached to this report are the following documents:
- A site location plan (Appendix A);
 - A copy of the notice of review form and supporting statement (Appendix B). Any duplication of information is not attached;
 - A copy of the case officer's report (Appendix C);
 - A copy of the decision notice, excluding the standard advisor notes, issued on 10 July 2019 (Appendix D); and
 - A copy of the relevant plans (Appendix E).
- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via www.midlothian.gov.uk

4 Procedures

- 4.1 In accordance with procedures agreed by the LRB, the LRB by agreement of the Chair:
- Have scheduled a site visit for Monday 2 December 2019; and
 - Have determined to progress the review by way of written submissions.
- 4.2 The case officer's report identified that there were no consultations required and one representation received. As part of the review process the interested party was notified of the review. No additional comments have been received. All comments can be viewed online on the electronic planning application case file.
- 4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:
- Identify any provisions of the development plan which are relevant to the decision;
 - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
 - Consider whether or not the proposal accords with the development plan;
 - Identify and consider relevant material considerations for and against the proposal;
 - Assess whether these considerations warrant a departure from the development plan; and
 - State the reason/s for the decision and state any conditions required if planning permission is granted.
- 4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported to the next LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

5 Conditions

- 5.1 The nature of the proposal is such that it is considered that no conditions would be required if the LRB is minded to grant planning permission.

6 Recommendations

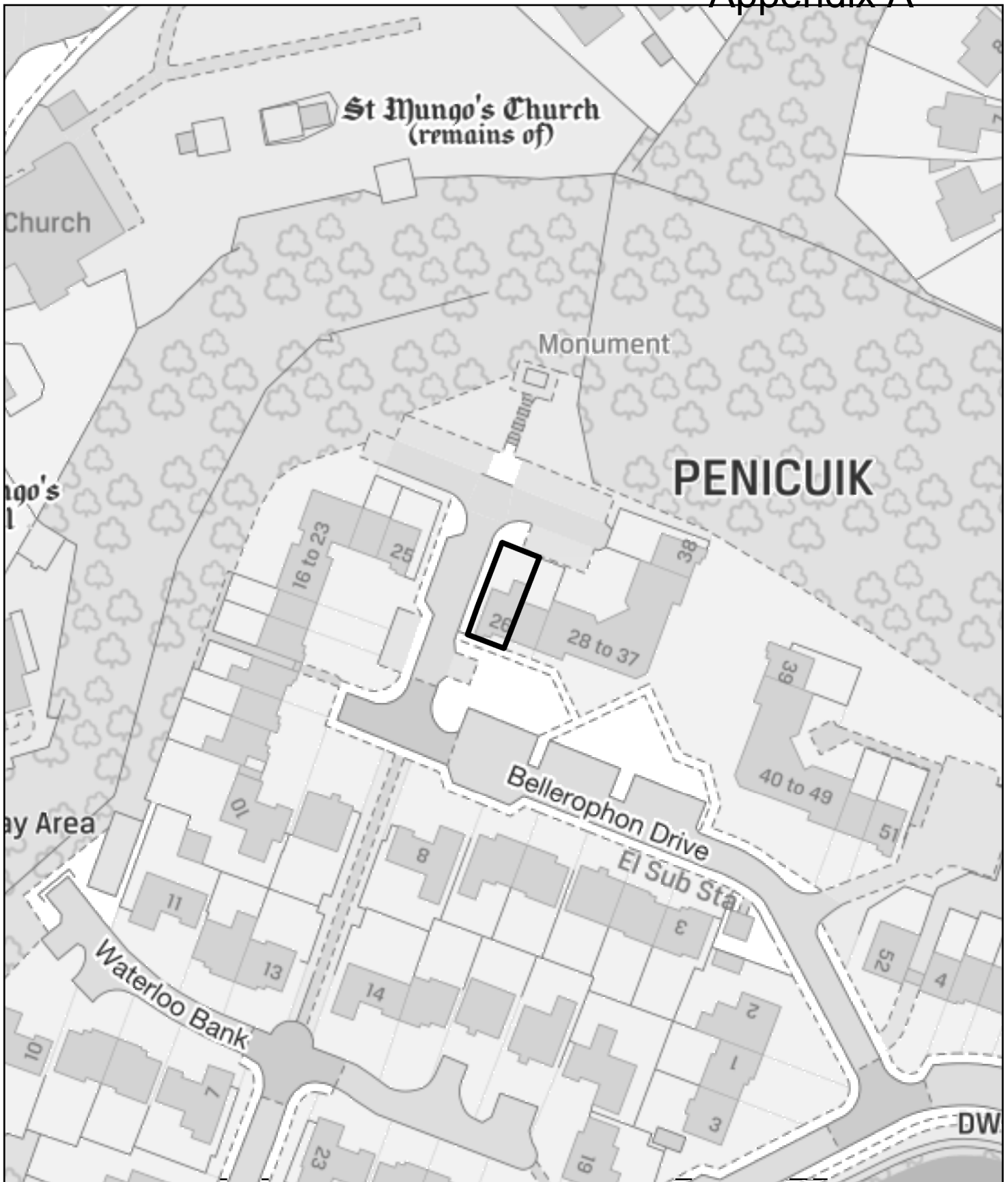
- 6.1 It is recommended that the LRB:
- a) determine the review; and
 - b) the planning advisor draft and issue the decision of the LRB through the Chair

Date: 21 November 2019

Report Contact: Peter Arnsdorf, Planning Manager
peter.arnsdorf@midlothian.gov.uk

Tel No: 0131 271 3310

Background Papers: Planning application 19/00211/DPP available for inspection online.



**Education, Economy
& Communities**
Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith
EH22 3AA

Installation of replacement windows (retrospective) at
26 Bellerophon Drive, Penicuik

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File No: 19/00211/DPP

Scale: 1:1,000



Midlothian



Fairfield House 8 Lothian Road Dalkeith EH22 3ZN Tel: 0131 271 3302 Fax: 0131 271 3537 Email: planning-applications@midlothian.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100185362-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

☐ Applicant ☒ Agent

Agent Details

Please enter Agent details

Company/Organisation:	Kevin Smith Architectural Technologist		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Kevin	Building Name:	
Last Name: *	Smith	Building Number:	10
Telephone Number: *	0798 1156 559	Address 1 (Street): *	Halfway Avenue
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Luton
Fax Number:		Country: *	UK
		Postcode: *	LU4 8RB
Email Address: *	kevin.smith970@ntlworld.com		

Is the applicant an individual or an organisation/corporate entity? *

☒ Individual ☐ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Herbert"/>	Building Number:	<input type="text" value="26"/>
Last Name: *	<input type="text" value="Rodgers"/>	Address 1 (Street): *	<input type="text" value="Bellerophon Drive"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Penicuik"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH26 8NU"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text"/>		

Site Address Details

Planning Authority:	<input type="text" value="Midlothian Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="26 BELLEROPHON DRIVE"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="PENICUIK"/>
Post Code:	<input type="text" value="EH26 8NU"/>

Please identify/describe the location of the site or sites

Northing

Easting

Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Appeal against Refusal of Planning Permission for Retention of Replacement Windows under Application 19/00211/DPP

Type of Application

What type of application did you submit to the planning authority? *

- ☒ Application for planning permission (including householder application but excluding application to work minerals).
☐ Application for planning permission in principle.
☐ Further application.
☐ Application for approval of matters specified in conditions.

What does your review relate to? *

- ☐ Refusal Notice.
☒ Grant of permission with Conditions imposed.
☐ No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Please see separate document "Planning Policy Statement" dated 30-09-2019

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

☒ Yes ☐ No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Similar applications have come to light that we believe demonstrate how the local planning authority have been inconsistent in applying planning policy with applications of this type.

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

Cover letter dated 09-05-2019 Existing Elevations Proposed Elevations Planning Policy Statement 08-05-2019 Cover letter dated 04-09-2019 Planning Policy Statement 04-10-2019

Application Details

Please provide details of the application and decision.

What is the application reference number? *

19/00211/DPP

What date was the application submitted to the planning authority? *

09/05/2019

What date was the decision issued by the planning authority? *

10/07/2019

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

☒ Yes ☐ No

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

☒ Yes ☐ No

Is it possible for the site to be accessed safely and without barriers to entry? *

☒ Yes ☐ No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant? *

☒ Yes ☐ No

Have you provided the date and reference number of the application which is the subject of this review? *

☒ Yes ☐ No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

☒ Yes ☐ No ☐ N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

☒ Yes ☐ No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

☒ Yes ☐ No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Kevin Smith

Declaration Date: 04/10/2019

kevin smith

C H A R T E R E D A R C H I T E C T U R A L T E C H N O L O G I S T

Thursday, 4th October, 2019

For the attention of: Head of Planning

Development Control
Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith
EH22 3A A

Re: Application 19/00211/DPP 26 Bellerophon Drive, Penicuik, EH26 8NU.

Dear Sirs,

Planning approval 19/00714/DPP was granted on 15th December 2016 for replacement windows at the above address on condition that they be changed for timber windows.

Planning approval was refused on 10-07-2018 under reference 19/00211/DPP for the removal of the condition that required the window material to be changed from uPVC to timber.

We are making application for a Local Review of this decision and have uploaded the following documents for your consideration via the ePlanning.Scot web site:

- Cover letter dated 09-05-2019 planning application 19/00211/DPP.
- Existing elevations and 1:50 scale site plan previously submitted under 19/00714/DPP and 19/00211/DPP.
- Proposed elevations previously submitted under 19/00714/DPP and 19/00211/DPP.
- Planning Policy Statement including location plan submitted under 19/00211/DPP.
- New Planning Policy Statement dated 04-10-2019 giving the reasons for the LRB to consider in reviewing this case.

We look forward to working with you in bringing this to a satisfactory conclusion. In the meantime, should the LRB have any queries or want further clarification of any information submitted please contact me immediately.

Thank you for your consideration of this.

Yours faithfully,

Kevin Smith



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Appeal against Refusal of Planning Permission for Retention of Replacement Windows under
Application 19/00211/DPP

26 BELLEROPHON DRIVE, PENICUIK, EH26 8NU

PLANNING POLICY STATEMENT

04-10-2019

INTRODUCTION

Application is made for a Local Review Body to review Planning refusal 19/00211/DPP. It is believed that a refusal has been made based upon a misapplication of planning policy. Therefore the LRB are invited to re-read the documents originally submitted, in particular the argumentation presented in the 'Planning Policy Statement' dated 08-05-2019 on the basis of the following comments and some new information now presented.

CASE OFFICER DELEGATED WORKSHEET 19/00211/DPP

Following are our responses to statements made by the case officer in the delegated worksheet, in the order in which they are made.

Heading: Proposed Development Details

It is stated here that details of the profile of the glazing within the replacement windows were not detailed within the submitted plans. They did not need to be since these had been submitted and approved previously under approval 16/00714/DPP. The only objection under this application was to the use of uPVC as a material. Please also see the comments headed 'Paragraph 5' below for more information.

Heading: Relevant Planning Policies

The first two paragraphs here regarding Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and Historic Environment Scotland Policy Statement 2016 and Scottish Planning Policy (SPP) are worded exactly as they were in the 16/00714/DPP worksheet with the exception that the following policy has conveniently been omitted:

"A proposed development that would have a neutral effect on the character or appearance of a conservation area (i.e. does no harm) should be treated as one which preserves that character or appearance." (Scottish Planning Policy p34 par 143.)

The case officer merely acknowledged later under the heading 'Planning Issues' (par. 3) that this point had been made but did not comment on the validity or influence of it on the application. It is very significant that the case officer has now chosen to omit any reference to this policy as being relevant to the case, as if it does not exist.

This policy has a powerful influence on the way that the original application should have been judged and should be a key determining factor for the LRB to consider when determining this case because it means that whilst conservation areas should be preserved, development which "does no harm" must be approved. The case officer cannot ignore national planning policy.

Our argumentation as to why these proposals *"do no harm"* is detailed in the original application for you to consider under the main heading 'Windows'.



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In addition please see Views 9 and 10 shown in the Appendix. This shows photographs before and after the replacement of the windows. The colour (cream, not white as stated in the case officer's worksheet), style and proportions of the windows on no.26 match the timber windows on no.27. A trained eye might detect that these are uPVC from the street but can you in all honesty really see a difference? Has this really caused harm to the character of the building? The reality of the situation is that as the timber windows continue to deteriorate, that is what is going to cause harm to the character of the buildings and area.

If asked "Have these replacement windows caused any harm?" the answer in the minds of any onlooker would surely be No!

Heading: Planning Issues

Paragraph 2

The case officer dismisses our argumentation that Historic Environment Scotland's publication "Managing Change in The Historic Environment - Windows" does not apply even though it clearly states that *"This note sets out the principles that apply to altering the windows of historic buildings."*

Please note the case officer confirms in paragraph 4 that *"the dwellings within this part of the conservation area are not historic".* By this admission the cited guidance therefore has no relevance.

It is claimed that whilst this guidance is *"best practice for historic buildings generally it is also a material consideration in assessing proposals for listed and unlisted buildings in conservation areas."* Whilst the case officer may wish this guidance to apply, the guidance nowhere states that it is a material consideration for listed and unlisted buildings in conservation areas.

Having said this, it is not as though the applicant does not care about what the windows look like. Every effort has been made to ensure that the design, which has already been approved, is acceptable and harmonises with other windows in the estate as already expressed above.

Paragraph 4

It is stated that the majority of surrounding dwellings within the area have timber frame windows. The case officer confirms in paragraph 2 under the heading 'Site Description' that *"There are a couple of windows in Bellerophon Drive that are uPVC."* This is a gross understatement! In fact a significant number have uPVC fenestration. Please note the following examples:

3 Bankmill View (Appl 17/00734/OPP)

Permission was refused at this address for the replacement of painted green timber windows for white uPVC. However permission was granted for green uPVC windows at the rear of the property only due to it being *"less open to public views."* Permission was not granted for green uPVC windows in the front or side elevations on the grounds that they were *"more exposed and open to public views."*

Please see Views 1 and 2 in the Appendix. This demonstrates just how *"open to public views"* the very small windows on the side elevation of no. 3 Bankmill view are. They are virtually unseen! By contrast the whole of the side elevation of no.1 Bankmill View is very prominent in the streetscene and has a large uPVC conservatory which is open to public views from the street, yet was approved under application 03/00436/FUL.

7, 19 and 23 Waterloo Bank

The same applies to large uPVC conservatories at nos. 7, 19 and 23 Waterloo Bank (Applications 03/00614/FUL, 01/00279/FUL and 04/00156/FUL respectively). Number 7 and 23 are corner plots hence their side elevations face the street and therefore their conservatories are very open to public views. The conservatory at no. 23 is not white or green to match existing fenestration, but brown. How can this be said to harmonise with the building and its locale? Number 19 has



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its rear elevation facing Lower Valleyfield Road therefore the conservatory is open to public views from there. See Appendix Views 3-6 for street views of each of these properties.

If uPVC has been approved on main elevations facing the street at these addresses then logically uPVC should be considered to be acceptable on elevations fronting the street of other properties in this estate.

11-41 Lower Valleyfield View

These properties comprising dwellinghouses and flats are also part of the conservation area yet all of them have been approved with white uPVC windows on all elevations. These are attractive dwellings and their windows will contribute to them remaining so because they will not deteriorate unlike the windows in Bellerophon Drive. If any of these windows at nos.11-41 ever needed to be replaced for any reason, would the local planning authority require that these be replaced with timber to match the rest of the estate? Hardly! What a mistake that would be.

Please see the Appendix View 7 and 8.

Each of these examples demonstrates where the local planning authority has approved the use of uPVC on a major building elevation thus setting a precedent for uPVC to be used elsewhere on the same estate.

It is stated that *"whilst the dwellings within this part of the conservation area are not historic, the dwellings are of a traditional form and utilise a traditional palette of finishing materials which contribute towards the character and appearance of this part of the conservation area."*

These buildings have some traditional features but these are at best poor modern imitations of the genuine article found on the historic buildings elsewhere and that is because they were not built to be part of the conservation area in the first place. They came to be included in it later. Hence you have features such as uPVC rainwater goods and concrete cloaked verges on roofs, which would never be found in a conservation area, now being part of one. If these modern materials and features are an acceptable inclusion in this part of the conservation area so should uPVC windows be. And clearly the local authority think so or they would not find acceptable the windows on numbers 11-41 Lower Valleyfield View.

Paragraph 5

It is stated that *"the design of the replacement windows are of similar style to that of the existing but the frames do not replicate the proportions of the previous windows. Furthermore, the material finish does not reflect the character of the dwellinghouse or the locale."*

The manufacturers detailed construction drawings of the replacement windows including style, colour and proportions were previously approved under planning application 16/00714/DPP. Please note paragraph 4 under the heading 'Planning Issues' of the case officers delegated worksheet. After having stated in paragraph 2 that the use of uPVC was unacceptable it went on to say:

"It is considered that the proposal accords with the principles and policies of Midlothian Local Plan and is acceptable in terms of all other applicable material considerations."

Therefore the only objection was to the use of uPVC as a material. The approval notice did not contain any conditions regarding style, colour and proportions of windows. To now object that the frames do not replicate the proportions of the previous windows is therefore not a valid argument.

The above claim that *"the material finish does not reflect the character of the dwellinghouse or the locale."* is disproven by the number of examples given in this report, namely 3 Bankmill View, 7, 19 and 23 Waterloo Bank and 11-41 Lower Valleyfield View, all of which have been given approval for the use of uPVC on elevations open to public views. Therefore the use of uPVC is definitely characteristic of the locale.



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Paragraph 6

It is stated that *"the lack of maintenance undertaken by home-owners does not justify the introduction of non-traditional uPVC windows in the conservation area."* Please re-read the argumentation presented in the Planning Policy Statement dated 08-05-19 under the heading 'Visual Impact' to show that these replacement windows have made a positive contribution to preserving the character of the area. Even so, the local planning authority has themselves introduced non-traditional uPVC windows in the conservation area by approving them under the applications mentioned above.

Paragraph 7

It is stated that the upper rear elevation of 26 Bellerophon Drive is more exposed and open to public views from the car park at the rear and as such the use of uPVC within the rear elevation will result in an adverse visual impact. Is the rear elevation of 26 Bellerophon Drive open to public views in the same way as nos. 7, 19 and 23 Waterloo Bank, which are very open? No. This is a car park that, except for the few residents who park there, members of the public will not frequent.

The case officers argument is completely defeated anyway by the fact that uPVC fenestration has been approved in main elevations, facing the street, on other properties as listed earlier in this report.

Paragraph 8

It is stated that uPVC *"windows within the ground floor level of the rear elevation is unlikely to result in an adverse visual impact"* but that this window *"cannot be supported as part of this application."* Please note that the ground floor extension, including its window, is already approved under application 18/00294/FUL. The approval notice nowhere gives a condition to replace the uPVC window for one made of timber.

CONCLUSION

It has already been established that the buildings in this part of the conservation area are not historic. Buildings in Penicuik which are truly historic must be rigorously preserved in accordance with published guidelines. However the buildings in Bellerophon Drive and Lower Valleyfield View do not fall into this category. They are a modern design built with modern materials which have found themselves being included in the conservation area as it grew. The local authority accepted the fact that some non-traditional materials and features that they contain would come with them when they included this estate in the expanded conservation area. Therefore it would not be unreasonable to accept the inclusion of further modern materials such as uPVC windows as well, just as the local authority have done with the examples in Bankmill View, Waterloo Bank and Lower Valleyfield View cited in this report. Some of these applications may have been approved before the estate became included in the conservation area. The fact still remains they are there and the local authority was obviously not averse to them being a feature of the conservation area when they decided to include them in it.

It is also established that the poor quality existing timber windows are deteriorating rapidly on many dwellings. Through a lack of maintenance, which the council cannot control, the appearance and hence 'tone' of the area is diminishing as shown by photographs originally submitted.

If residents were allowed to replace these poor quality windows with ones that do not deteriorate, this would actually preserve the original design and character of the buildings and would be a very positive step towards maintaining the appearance of the conservation area. Please study the photographs shown at Views 9 and 10 and ask yourself if you can really see a difference between them. Have these replacement windows caused a harmful effect or a neutral one? Almost all onlookers would say it is the later and therefore according to Scottish National Planning Policy p34 paragraph 143 it should be treated as one which preserves that character or appearance and hence approved.



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Project: 059GK

Appeal against Refusal of Planning Permission for Retention of Replacement Windows under
Application 19/00211/DPP /Cont'd

04/10/2019

The local authority has a real opportunity to ensure that the character of the area is preserved by doing this whilst at the same time controlling through the planning process the style, colour and proportions of the uPVC windows that would be installed to ensure that they match those being replaced.

In view of the information previously submitted and the foregoing replies to the case officer's report we believe there are clear grounds, based on planning policy and common sense, to grant approval to retain these uPVC window materials. The LRB are therefore respectfully requested to overturn the refusal of the local planning authority to retain the use of uPVC windows at 26 Bellerophon Drive.

Please see the Appendix following on pages 6-12 for photographs referred to in this report.



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APPENDIX



VIEW 1: Streetscene of Bankmill View.

This view is seen from Lower Valleyfield Road. Note the side windows to no.3 are virtually unseen yet permission was reused for a uPVC window in this location. By comparison the side elevation of no.1 is fully visible from the street yet the large uPVC conservatory was approved.



VIEW 2: Side elevation of No.1 Bankmill View.

This view is seen from the residents parking area showing the very prominent conservatory open to public views.

**VIEW 3: Approach along Waterloo Bank**

Large uPVC conservatories at nos.7 and 23 are very open to public views.
The conservatory at no.23 does not even match the colour of the existing fenestration.

**VIEW 4: Side Elevation of no.7 Waterloo Bank**

The conservatory is very open to public views.



No. 23 conservatory

VIEW 5: Side Elevation of no.23 Waterloo Bank

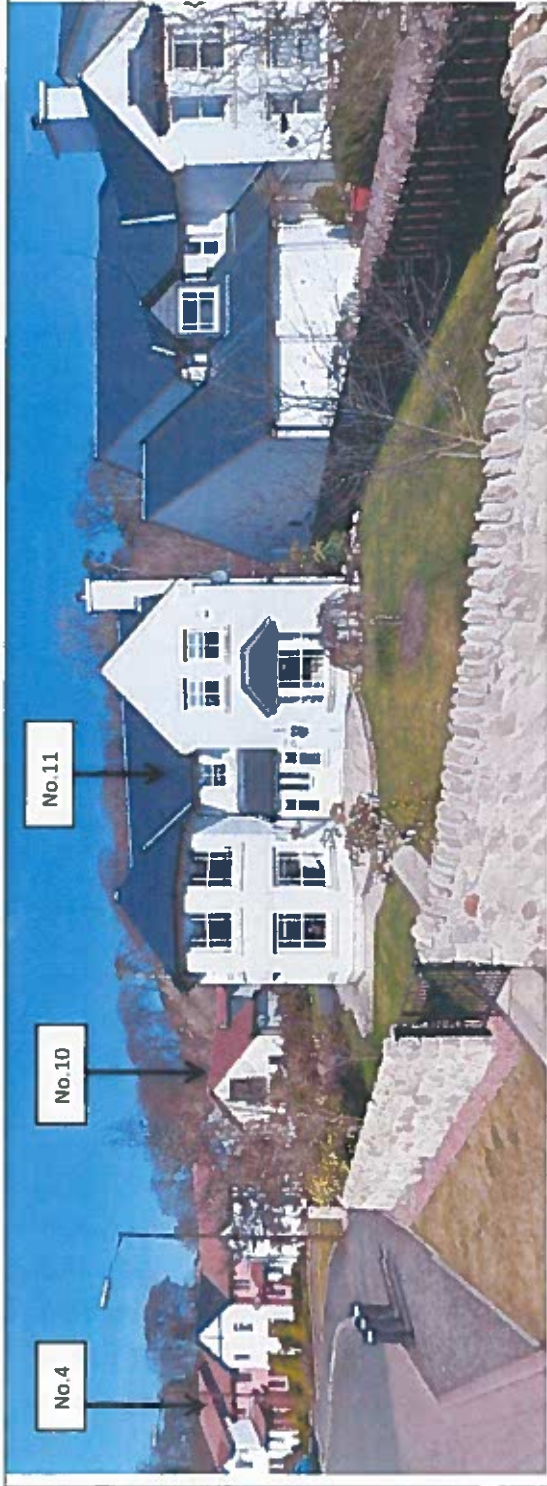
The conservatory is very open to public views and does not even harmonise with the colour of the existing fenestration.



No. 19 conservatory

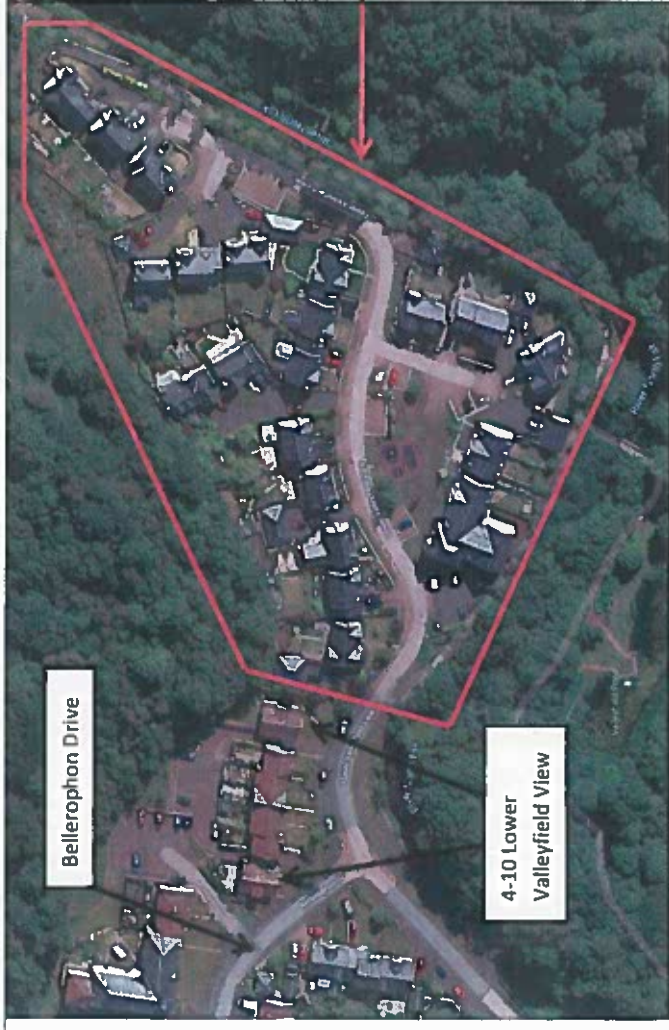
VIEW 6: Rear elevation of no.19 Waterloo Bank

This view is seen from the streetscene in Lower Valleyfield View from where the conservatory is very open to public views.



VIEW 7: 11 Lower Valleyfield View

This view is seen from the streetscene just past Belleorophon Drive. Nos.4-10 have timber windows. Nos.11-41 have uPVC windows throughout.



VIEW 8: Lower Valleyfield View Aerial Photo

All of the buildings (numbers 11-41) outlined in red are within the conservation area and have been approved with uPVC windows throughout.





VIEW 10: Front Elevation of Numbers 26 and 27 Bellerophon Drive

AFTER

Is there any noticeable difference in fenestration between number 26 and 27? Has this caused any harm to the design or appearance of the building? Or is it a neutral effect? Scottish Planning Policy p34 par.143 states "A proposed development that would have a neutral effect on the character or appearance of a conservation area (i.e. does no harm) should be treated as one which preserves that character or appearance."

MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Planning Application Reference: 19/00211/DPP

Site Address: 26 Bellerophon Drive, Penicuik

Site Description:

The application site comprises a two storey end terraced dwellinghouse that is located within a residential area which is situated within the conservation area of Penicuik.

The application dwellinghouse is finished in an off-white painted wet dash render with white UPVC windows. It is noted that the uPVC windows do not have planning permission.

The residential locale comprises of two storey terraced/semi-detached dwellings and 3 and 4 storey flats. The dwellings located within the locale (Bellerophon Drive) are finished in similar materials with the painted timber windows and doors. There are a couple windows in Bellerophon Drive that are uPVC, the majority of windows are painted timber. Within the wider locale there is a variety of fenestration types.

Proposed Development: Installation of replacement windows (retrospective)

Proposed Development Details:

Retrospective planning permission is sought for the installation of replacement windows. The previous windows were painted white timber framed windows

Retrospective planning permission is sought for the replacement of the painted white timber windows for white uPVC windows.

The style of the replacement windows are of a similar design to that of the previous windows. Details of the profile of the glazing within the replacement windows have not been detailed within the submitted plans.

The application was accompanied by a planning policy statement to support the current planning application.

Background (Previous Applications, Supporting Documents, Development Briefs): Planning history sheet checked.

Planning permission was granted subject to conditions in 2016 for the installation of replacement windows and doors. A condition was attached refusing the use of uPVC window frames and door and for the frames to be replaced on a like for like basis. Planning ref: 16/00714/DPP.

Planning permission was granted subject to conditions in 2018 for the extension to dwellinghouse (retrospective). A condition was attached refusing the use of interlocking grey concrete tiles and for an alternative roof material to be submitted to the Planning Authority for prior written approval. Planning ref: 18/00294/DPP.

Consultations:

No consultations required.

Representations:

One representation has been received of which objects to the above planning application. The representation raised concerns which can be summarised as follows:

- Noted that the replacement windows application that was previously made in 2016 following which permission was granted under the condition that the window finish was painted timber in keeping with the surrounding conservation area. The windows were subsequently replaced by UPVC material finish and concerned that no further action was taken by the planning department.
- Concerns relating to the extension that was granted retrospective planning permission and the breach of conditions attached in relation to the roof finish.
- Note that the previous planning permissions/conditions should be enforced.
- Concerned that if approved the development will result in a detrimental effect on the remaining development as it opens the floodgates for other property owners to make alternations to their properties that are not in-keeping with the surrounding conservation area.

With regards to the concerns of the roof finish of the proposed extension, it is noted that this does not form part of the current planning application. A separate section 42 application has been submitted to address the roof finish of extension. Planning ref: 19/00493/S42.

Relevant Planning Policies:

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 places a duty on planning authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Historic Environment Policy for Scotland (HEPS) 2019 and Scottish Planning Policy (SPP) offer guidance on the protection and management of the historic environment and Conservation Areas and areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance. Their designation provides the basis for the positive management of an area. The Policy Statement and SPP also indicated that the planning authority should consider the design, materials, scale and sitting of any development, and its impact on the character of the historic environment.

Historic Environment Scotland's Managing Change in the Historic Environment document on Windows states that windows make a substantial contribution to the character and physical integrity of most historic buildings and also to the character and interest of historic streets and places. The size, shape and proportion of a window, the pattern of design, the materials and details of construction, the method of opening, the finish and associated fixtures typically contribute to the interest of a window.

The relevant policies of the adopted **Midlothian Local Development Plan 2017** are; Policy **DEV2: Development within the Built-up Area** states that development will not be permitted within existing and future built-up areas where it is likely to detract materially from the existing character or amenity of the area.

Policy **ENV19: Conservation Areas** seeks to prevent development which would have any adverse effect on the character and appearance of Conservation Areas.

Planning Issues:

The main planning issue to be considered is whether or not the proposal complies with the development plan policies and, if not, whether there are any material planning considerations which would otherwise justify approval.

Within the applicant's supporting statement, it is stated that as the application property is not a listed 'historic' property then the managing change guidance is not applicable. Whilst Historic Environment Scotland's Managing Change in the Historic Environment guidance is best practice for historic buildings generally it is also a material consideration in assessing proposals for listed and unlisted buildings in conservation areas.

It is also stated within the applicant's supporting statement that whilst conservation areas must be preserved, development which does no harm should be approved.

The planning authority does not encourage the use of uPVC framed windows or doors within conservation areas. UPVC is not a traditional material and it rarely defines the character of a conservation area. The majority of surrounding dwellings within the area have timber framed windows, all of a similar design which contribute towards the character of this part of the conservation area. Within the applicant's supporting statement it is stated that the housing development is modern and will never equate to the historic buildings within the town centre in architectural features. Whilst the dwellings within this part of the conservation area are not historic, the dwellings are of a traditional form and utilise a traditional palate of finishing materials which contribute towards the character and appearance of this part of the conservation area.

The design of the replacement windows are of a similar style to that of the existing but the frames do not replicate the proportions of the previous windows. Furthermore, the material finish does not reflect the character of the dwellinghouse or the locale. The introduction of white uPVC windows is out of character for the area and will result in a negative visual impact on the dwelling and conservation area. The introduction of white uPVC windows fails to preserve or enhance the character or appearance of the conservation area.

It is stated within the applicant's supporting statement that the previous timber framed windows and neighbouring timber framed windows are of poor quality and that, due to lack of maintenance, they are contributing to the deterioration of the character of the conservation area. It is noted that the Planning Authority cannot enforce the maintenance of private properties. The lack of maintenance undertaken by home-owners does not justify the introduction of non-traditional uPVC windows within the conservation area.

The front, side and upper rear elevation are more exposed and open to public views from Bellerophon Drive and the car park to the rear. Therefore the introduction of uPVC is still not considered to be an appropriate option for the replacement windows. The use of uPVC windows within these elevations results in an adverse visual impact upon the character and appearance of the conservation area.

However, the use of white uPVC framed double glazed windows within the ground floor level of the rear elevation is unlikely to result in an adverse visual impact upon the character or appearance of the conservation area or dwelling due to it being less exposed to public views. As this window only forms a limited part of the proposal it cannot be supported as part of this application.

In 2017, a neighbouring dwellinghouse within the area, no.3 Bankmill View, was refused planning permission for the installation of uPVC windows and door within the front and side elevation (via a planning condition) due to the impact that the proposal would have on the conservation area. The applicant requested that the Council review this decision. The Council's Local Review Body dismissed the appeal in 2018. Approval of the proposed scheme would be contrary to the LRB's recent decision on a similar case in close proximity to the application site.

There is no adverse impact on neighbour amenity as a consequence of the proposal, due to the nature of the works.

Overall, all relevant matters have been taken into consideration in determining this application. It is considered that the proposal does not accord with the principles and policies of the adopted Midlothian Local Development Plan 2017 and Historic Environment Scotland policy and guidance and is not acceptable in terms of all other applicable material considerations. Therefore, it is recommended that the application is refused.

Recommendation: Refuse planning permission.



Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 19/00211/DPP

Kevin Smith
Architectural Technologist
10 Halfway Avenue
Luton
LU4 8RB

Midlothian Council, as Planning Authority, having considered the application by Mr Herbert Rogers, 26 Bellerophon Drive, Penicuik, EH26 8NU, which was registered on 14 May 2019 in pursuance of their powers under the above Acts, 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 documents/drawings:

<u>Document/Drawing.</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

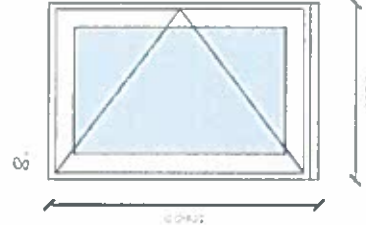
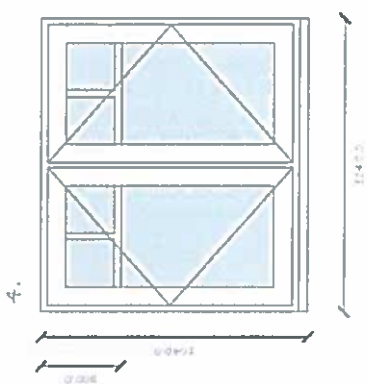
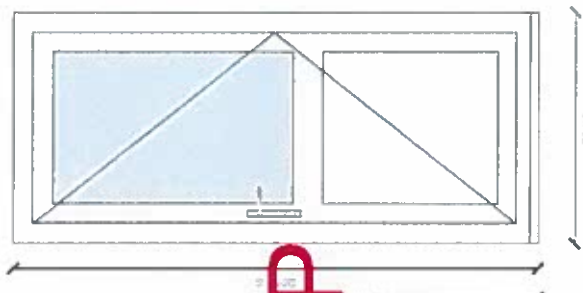
The reasons for the Council's decision are set out below:

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.

Dated 10 / 7 / 2019

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Duncan Robertson
Lead Officer – Local Developments Fairfield House, 8 Lothian Road, Dalkeith, EH22 3ZN

APPROVED
15.12.2016
16/00714/DF



Mr. H. Rodgers,
26 Bellerophon Drive,
Penicuke, EH26 8NU.

Proposed Details

Scale: 1:20

9/10/16

Ref: Anglian 3016470/2

NOTES: ALL AREAS
TO BE EXCAVATED
TYPICAL PLASTIC 150 x 150
FACED: 300 x 100 x 100
CONCRETE

JOHN GARDNER ASSOCIATES LTD

9/10/16 2.00 PM 16/09/2016 10:00 AM 10/09/2016 10:00 AM

DATE: 16/09/2016

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