

NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT
1997 (AS AMENDED) IN RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW
PROCEDURE) (SCOTLAND) REGULATIONS 2013

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2008

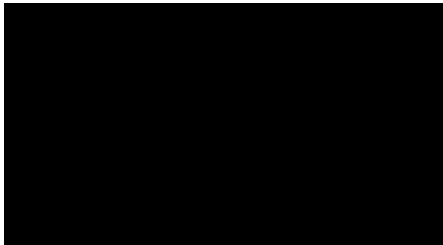
IMPORTANT: Please read and follow the guidance notes provided when completing this form. Failure to supply all the relevant information could invalidate your notice of review.

Use BLOCK CAPITALS if completing in manuscript

Applicant(s)

Name Alan and Loraine Thomson

Address



Postcode

Contact Telephone 1

Contact Telephone 2

E-mail*



Agent

Name JSK Designs

Address Edgemount, Parkburn Road
Kilsyth
Glasgow

Postcode G65 9DG

Contact Telephone 1 07532 435406

Contact Telephone 2

E-mail* jimkerr1537@gmail.com

Mark this box to confirm all contact should be
through this representative: ☒

*Do you agree to correspondence regarding your review being sent by e-mail? Yes

Planning Authority

Perth and Kinross

Planning authority's application reference number 24/00571/FLL

Site address St Caens, Perth Road, Birnam, Dunkeld, PH8 0BH

Description of proposed development

Installation of replacement windows (in retrospect)

Date of application 03/05/2024

Date of decision (if any) 20/06/2024

Note. This notice must be served on the planning authority within three months of the date of the decision notice or from the date of expiry of the period allowed for determining the application.

Nature of application

- | | | |
|----|---|-------------------------------------|
| 1. | Application for planning permission (including householder application) | <input checked="" type="checkbox"/> |
| 2. | Application for planning permission in principle | <input type="checkbox"/> |
| 3. | Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition) | <input type="checkbox"/> |
| 4. | Application for approval of matters specified in conditions | <input type="checkbox"/> |

Reasons for seeking review

- | | | |
|----|--|-------------------------------------|
| 1. | Refusal of application by appointed officer | <input checked="" type="checkbox"/> |
| 2. | Failure by appointed officer to determine the application within the period allowed for determination of the application | <input type="checkbox"/> |
| 3. | Conditions imposed on consent by appointed officer | <input type="checkbox"/> |

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.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may mark more than one box if you wish the review to be conducted by a combination of procedures.

- | | | |
|----|--|-------------------------------------|
| 1. | Further written submissions | <input type="checkbox"/> |
| 2. | One or more hearing sessions | <input type="checkbox"/> |
| 3. | Site inspection | <input checked="" type="checkbox"/> |
| 4. | Assessment of review documents only, with no further procedure | <input checked="" type="checkbox"/> |

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

Site inspection

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

- | | | |
|----|---|-----|
| 1. | Can the site be viewed entirely from public land? | Yes |
| 2. | Is it possible for the site to be accessed safely, and without barriers to entry? | Yes |

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

Statement

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.

Note: 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.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

See attached supporting statement outlining the arguments against refusal of the application

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 new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

List of documents and evidence

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.

Attached supporting statement and photographic evidence.

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

Checklist

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

- ☐ Full completion of all parts of this form
- ☒ Statement of your reasons for requiring a review

- ☒ All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

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 from that earlier consent.

Declaration

I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed: James Kerr for JSK Designs

Date: 08 September 2024

NOTICE OF REVIEW

SUPPORTING STATEMENT

PLANNING APPLICATION REFERENCE : 24/00571/FLL

ST CAENS, PERTH ROAD, BIRNAM, DUNKELD, PH8 0BH

BACKGROUND

My clients, Alan and Loraine Thomson, purchased St Caens almost 27 years ago and have been living regularly in the property with their children and now their grandchildren for that time. They are regular participants in the local community activities and have contributed significant time and effort to the village over the years.

During that period they have been totally unaware that the property was located within a conservation area. In late 2023 a decision was taken to replace the original timber sash windows in the house with upvc windows. The timber windows were in a poor state of repair having been patched up and repaired numerous times in the proceeding years.

As stated previously my clients occupy the property with their grandchildren. Two of the children have severe autism and a secure environment is necessary for their well being, something that the new windows can provide.

REASONS FOR REFUSAL

‘The windows, by virtue of their increased framing thickness, inappropriate opening mechanism, and incongruous profile, have an adverse impact upon the visual amenity of the cottage and a detrimental impact upon the character and appearance of the conservation area.’

I cannot understand this reasoning, I would totally disagree that there is an increased framing thickness to the new windows. I cannot see how the case officer has come to this conclusion when none of the previous timber sash windows exist, to do a direct comparison. I do not understand the term inappropriate opening mechanism and why it should be so important. The opening mechanism is appropriate to the style of windows installed, is far more secure than the original windows and cannot be seen from the outside, therefore does not have an adverse impact upon the visual amenity of the cottage and a detrimental impact upon the character and appearance of the conservation area. I would also disagree that the windows have an incongruous profile, the windows have been designed in a manner to try to replicate the original sash windows in their casement proportions.

COMMENTS ON DOCUMENTS REFERRED TO

Policy 1A ‘Development must contribute positively to the quality of the surrounding built and natural environment. All development should be planned and designed with reference to climate change, mitigation and adaptation.

The design, density and siting of development should respect the character and amenity of the place, and should create and improve links within and, where practical, beyond the site. Proposals should also incorporate new landscape and planting works appropriate to the local context and the scale and nature of the development.’

This would appear to be a sweeping policy statement which encompasses multi million pound developments down to minor alterations. If the policy should be applied as a reason for refusing the planning application, then I would argue that the windows do contribute positively to the quality of the surrounding built and natural environment and have been planned and designed with reference to climate change as the insulation properties of the new windows are far superior to the original timber sash windows.

A precedent has obviously been set previously regarding the use of upvc windows as there are numerous properties on Perth Road alone where the windows have been replaced with upvc (see separate email with photographic evidence attached)

Policy 1B ‘All proposals should meet all the following placemaking criteria’:

(c) The design and density should complement its surroundings in terms of appearance, height, scale, massing, materials, finishes and colours.

I would contend that the windows as installed, comply with this statement.

Policy 17: ‘Residential Areas

The Plan identifies areas of residential and compatible uses inside settlement boundaries where existing residential amenity will be protected and, where possible, improved. Changes away from ancillary uses such as employment land, local shops and community facilities, for example pubs and restaurants will be resisted unless there is demonstrable market evidence that the existing use is no longer viable as a commercial venture or community-run enterprise. Generally, encouragement will be given to proposals which fall into one or more of the following categories of development and which are compatible with the amenity and character of the area:

(c) Proposals which will improve the character and environment of the area or village.

This again is a sweeping statement which appears to have little or no relevance to the current application. Should it be applied to the materials used for the windows, I would again refer to the number of local properties where upvc windows have been installed.

PLACEMAKING SUPPLEMENTARY GUIDANCE 2020

This guidance would appear to be supportive of the Local Development Plan 2 2019, which has been commented on previously. Again the document seems to cover a wide range of developments, however reference was made to replacing windows in unlisted buildings in a conservation area. The statements made are :

- Ensure that replacement windows on the front and all sides of the building visible to the public match the original as closely as possible. As stated previously, my opinion is that the windows match the original as closely as possible.**
- Take the opportunity of installing appropriate new windows where the existing windows are modern replacements not in keeping with the building or area. Again, my opinion is that the new windows are in keeping with the building and area.**

NATIONAL PLANNING FRAMEWORK 4 2023

Policy 7 (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**

I would argue that the character and appearance of the conservation area and its setting is preserved by the installation of the replacement windows, due to the presence of similar style of windows in the conservation area.

Policy 14 (c) Development proposals that are poorly designed, detrimental to the amenity of the surrounding area or inconsistent with the six qualities of successful places, will not be supported.

As previously stated, I do not believe that the replacement windows have been poorly designed and are detrimental to the amenity of the surrounding area. I also cannot see the relevance of the 'six qualities of successful places' to this particular application.

Policy 16 (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.

Apologies for seeming to repeat myself but I do not agree that the installation of the replacement windows has a detrimental impact on the character or environmental quality of the home, neighbouring properties and the surrounding area.

MANAGING CHANGE IN THE HISTORIC ENVIRONMENT : WINDOWS 2020

The contents of the above policy document are noted and have previously been responded to.

CONCLUSION

I cannot understand why my clients have been singled out in this manner, requested to submit a planning application and ultimately have it refused.

I accept that the choice of materials (upvc) is not ideal when taken in conjunction with development plans and policy documents. Every effort has been made to replicate the sash style of window and the scale of the upvc frames being similar to the original timber frames. The documents used in support of the refusal seem to cover a multitude of various sized developments, it seems to be a case of using a sledgehammer to crack a nut. Some of the documents used are also guidance documents, my definition of that term is exactly as it is, guidance and not a prescriptive statement or requirement.

The refusal notice makes reference to the 'adverse impact upon the visual amenity of the cottage and a detrimental impact upon the character and appearance of the conservation area'. I totally refute that statement, in my opinion the style of window is perfectly suited to the age of the cottage which was built in the mid 1930's, after all we are not talking about an historic building which is hundreds of years old. I also started to survey the properties on Perth Road that lie within the conservation area and have upvc replacement windows installed, there are quite a number. (See separate email with photographic evidence attached). When checking the planning register I am not aware of any properties that have applied for planning permission to replace the windows, dating back to January 1987.

I would also like to point out that the planning application was determined on 20 June 2024, by mid July I still had not received any notification of the decision and I contacted the planning service. The decision notice was subsequently sent to me, albeit a month late.















