

**MINUTES** of **MEETING** of the **LOCAL REVIEW BODY** held in the Council Chambers, Midlothian House, Buccleuch Street, Dalkeith on Tuesday 4 September 2012 at 2.00 pm.

**Present:** - Councillors Bryant (Chair), Baxter, Beattie, Imrie, Milligan, Pottinger and Russell.

**Apologies for Absence:** - Councillors Constable, de Vink and Rosie.

**1. Declaration of Interest**

Councillor Bryant declared a non-pecuniary interest in agenda item 6(b) Notice of Review Request -10 Eskbank Road, Dalkeith (paragraph 4(b) below refers) in view of the fact he was joint owner of a property on the opposite side of Eskbank Road. He indicated that it was his intention to vacate the Chair for this particular item and not to contribute to any discussion but he would remain to listen to the debate, as he did not feel that the nature of his interest precluded him from so doing.

**2. Minutes**

The Minutes of Meeting of 31 July 2012 were submitted and approved as a correct record.

**3. Decision Notices –**

**(a) 92 Burnbrae Road, Bonnyrigg**

With reference to paragraph 5(a) of the Minutes of 31 July 2012, there was submitted and noted a copy of the Local Review Body decision notice upholding a review request from Mr MacDougal, 92 Burnbrae Road, Bonnyrigg, seeking a review of the refusal of planning permission (11/00799/DPP, refused on 27 January 2012) for the extension to dwellinghouse at that address and granting planning permission subject to conditions.

**(b) 37 Belwood Road, Milton Bridge, Penicuik**

With reference to paragraph 5(b) of the Minutes of 31 July 2012, there was submitted and noted a copy of the Local Review Body decision notice upholding a review request from Mr A Mason, 2 Livesey Terrace, Penicuik seeking a review of the refusal of planning permission (12/00143/DPP, refused on 8 May 2012) for the erection of one and a half storey extension to dwellinghouse at 37 Belwood Road, Milton Bridge, Penicuik and granting planning permission subject to conditions.

**(c) Lyndean, St Leonards, Lasswade**

With reference to paragraph 5(c) of the Minutes of 31 July 2012, there was submitted and noted a copy of the Local Review Body decision notice upholding a review request from Dr W MacKenzie, Lyndean, St Leonards, Lasswade seeking a review of the refusal of planning permission (12/00153/DPP, refused on 16 April 2012) for the installation of replacement windows at that address and granting planning permission subject to conditions.

**(d) 16 Temple, Gorebridge**

With reference to paragraph 5(d) of the Minutes of 31 July 2012, there was submitted and noted a copy of the Local Review Body decision notice dismissing a review request from Mr L Porteous, 5 Station Road, Gorebridge seeking a review of the refusal of planning permission (11/00748/DPP, refused on 13 December 2011) for the installation of rooflights and installation of window to replace existing door (part retrospective) at 16 Temple, Gorebridge and refusing planning permission.

**(e) 74 Newbattle Abbey Crescent, Eskbank, Dalkeith**

With reference to paragraph 5(f) of the Minutes of 31 July 2012, there was submitted and noted a copy of the Local Review Body decision notice upholding a review request from Mr H Macdonald, 74 Newbattle Abbey Crescent, Eskbank, Dalkeith seeking the amendment/removal of Conditions 1 and 2 of planning permission 11/00864/DPP for the erection of boundary fence and decking area at that address and granting planning permission subject to conditions.

**4. Notice of Review Requests Considered for the First Time –****(a) 8 Mayburn Walk, Loanhead**

There was submitted report, dated 28 August 2012, by the Head of Planning and Development regarding an application from Mr J Gardiner, 8 Mayburn Walk, Loanhead, seeking a review of the refusal of planning permission (12/00208/DPP, refused on 10 May 2012) for the erection of a balcony (retrospective) at that address. Accompanying the Notice of Review Form, which was appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.

**Decision**

After discussion, the Local Review Body:-

- (i) agreed that there was sufficient information to allow the review to be considered;
- (ii) agreed that the review be dealt with by way of written submissions;

- (iii) agreed that an unaccompanied site visit be made to the review site on Monday 22 October 2012; and
- (iv) agreed to otherwise continue consideration of the review to the next LRB meeting on Tuesday 23 October 2012.

(Action: Head of Planning and Development/Legal and Secretariat Manager)

### **Chair**

With reference to paragraph 1 above Councillor Bryant, having declared a non-pecuniary interest in the following item of business, vacated the Chair, but remained in attendance, taking no part in the discussion thereof.

Councillor Imrie, with the unanimous agreement of the LRB, took the Chair for this item.

### **(b) 10 Eskbank Road, Dalkeith**

There was submitted report, dated 28 August 2012, by the Head of Planning and Development regarding an application from M & A Restaurants Ltd, 9 Logie Green Gardens, Edinburgh, seeking a review of the refusal of planning permission (12/00207/DPP, refused on 7 May 2012) for the cladding of the front elevation of a building (retrospective) at 10 Eskbank Road, Dalkeith. Accompanying the Notice of Review Form, which was appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.

### **Decision**

After discussion, the Local Review Body:-

- (i) agreed that there was sufficient information to allow the review to be considered;
- (ii) agreed that the review be dealt with by way of written submissions;
- (iii) agreed that an unaccompanied site visit be made to the review site on Monday 22 October 2012; and
- (iv) agreed to otherwise continue consideration of the review to the next LRB meeting on Tuesday 23 October 2012.

(Action: Head of Planning and Development/Legal and Secretariat Manager)

### **Chair**

Councillor Bryant rejoined the meeting upon the conclusion of the foregoing item of business and, having thanked Councillor Imrie, reassumed the Chair.

## **5. Notice of Review Requests Considered at a Previous Meeting –**

### **(a) Land to South of Hilltown House, Woolmet, Dalkeith**

With reference to paragraph 3 of the Minutes of 31 July 2012, the Local Review Body resumed consideration of a Notice of Review Request in respect of an application from Mr and Mrs P Spoors per RSM Tenon, Unit 1, Calder Close, Calder Park, Wakefield, seeking a review of the refusal of planning permission (12/00111/DPP, refused on 4 April 2012) for the erection of four dwellinghouses at Land to the South of Hilltown House, Woolmet, Dalkeith.

In this regard, there was submitted report, dated 24 July 2012, by the Head of Planning and Development, which incorporated an email, dated 9 July 2012, from Mr R Paris confirming his objection to the proposed development. The Local Review Body had made an accompanied visit to the site on 3 September 2012.

The Chair, Councillor Bryant, welcomed the applicant's agents, Mr Gordon Duffy, Studio DuB to the meeting.

In accordance with the procedures for the Local Review Body, the Planning Advisor gave a brief overview of the review hearing procedures and outlined the background to the case.

Thereafter, oral representations were received from the applicant's agents and the local authority Planning Officer; following which they both responded to questions from members of the LRB.

The LRB then gave careful consideration to the merits of the case based on all the information provided both in writing and in person at the Hearing. In particular, consideration was given to the likely visual impact of the proposed development, its relationship to the neighbouring development at Shawfair, the potential impact on the road network and other infrastructure and the planning history of the site.

After discussion, Councillor Baxter, seconded by Councillor Beattie moved that the Review Request be dismissed and planning permission refused for the reasons given in the original Decision Notice.

As an amendment, Councillor Imrie, seconded by Councillor Milligan, moved that the Review Request be upheld and planning permission granted subject to the conditions outlined in the Head of Planning and Development's report.

On a vote being taken, two Members voted for the motion and four for the amendment which accordingly became the decision of the meeting.

### **Decision**

The Local Review Body agreed to uphold the Review Request and grant planning permission subject to

- (i) the prior signing of a legal agreement to secure contributions towards, education provision, children's play provision, town centre improvements and the Borders Rail Line; and

(ii) the following conditions:-

1. The development hereby permitted shall be begun within three years from the date of this permission. Prior to the development commencing the planning authority shall be notified in writing of the expected commencement of work date and once development on site has been completed the planning authority shall be notified of the completion of works date in writing.

**Reason:** *To accord with Section 58 and 27A of the Town and Country Planning (Scotland) Act 1997 (as amended by Planning etc (Scotland) Act 2006).*

2. Development shall not begin until samples of materials to be used on the external surfaces of the extension have been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority.

**Reason:** *To ensure the quality of the development is enhanced by the use of quality materials to reflect its setting in accordance with policies RP20 and DP2 of the Midlothian Local Plan and national planning guidance and advice.*

3. Development shall not begin until details of a scheme of hard and soft landscaping has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
  - i existing and finished ground levels and floor levels for all buildings, open space and roads in relation to a fixed datum;
  - ii existing trees, landscaping features and vegetation to be retained; removed, protected during development and in the case of damage, restored;
  - iii proposed new planting in communal areas and open space, including trees, shrubs, hedging, wildflowers and grassed areas;
  - iv location and design of any proposed walls, fences and gates, including those surrounding bin stores or any other ancillary structures;
  - v schedule of plants to comprise species, plant sizes and proposed numbers/density;
  - vi programme for completion and subsequent maintenance of all soft and hard landscaping. The landscaping in the open spaces shall be completed prior to the houses/buildings on adjoining plots are occupied. Any tree felling or vegetation removal proposed as part of the landscaping scheme shall take place out with the bird breeding season (March-August);

- vii drainage details and sustainable urban drainage systems to manage water runoff; and
- viii proposed car park configuration and surfacing.

All hard and soft landscaping shall be carried out in accordance with the scheme approved in writing by the planning authority as the programme for completion and subsequent maintenance (vi). Thereafter any trees or shrubs removed, dying, becoming seriously diseased or damaged within five years of planting shall be replaced in the following planting season by trees/shrubs of a similar species to those originally required.

**Reason:** *To ensure the quality of the development is enhanced by landscaping to reflect its setting in accordance with policies RP20 and DP2 of the Midlothian Local Plan and national planning guidance and advice.*

4. The buildings permitted shall not be occupied until vehicular and pedestrian access details have been constructed in accordance with plans to be submitted and approved in writing. The plans shall include details of construction, visibility, traffic calming measures, lighting and signage.

**Reason:** *To ensure the future users of the buildings have safe and convenient access to and from the site.*

(Action: Head of Planning and Development/Legal and Secretariat Manager)

### **Declaration of Interest**

Councillor Russell declared a non-pecuniary interest in the foregoing item of business as she knew one of the parties who had made representations objecting to the development. She left the meeting at 2.24pm and took no part in the discussion thereof.

### **Sederunt**

Councillor Russell rejoined the meeting at the conclusion of the foregoing item of business at 2.37 pm.

### **Eligibility to Participate in Debate**

In considering the following item of business, only those LRB Members who had attended the site visit on 30 July and had been in attendance at the 31 July LRB meeting participated in the review process, namely Councillors Bryant (Chair), Imrie, Milligan, Pottinger, and Russell.

Councillors Baxter and Beattie whilst present during the debate had been unable to attend the site visit/previous LRB meeting and accordingly they did not actively participate in the proceedings

**(b) Land Adjacent to 7 Westfield Park, Eskbank, Dalkeith**

With reference to paragraph 3 of the Minutes of 31 July 2012, the Local Review Body resumed consideration of a Notice of Review Request in respect of an application from Mr F Watson, 5 Hawk Crescent, Dalkeith seeking a review of the refusal of planning permission (11/00780/DPP, refused on 20 January 2012) for the erection of a dwellinghouse on Land Adjacent to 7 Westfield Park, Eskbank, Dalkeith. Accompanying the Notice of Review Form, which was appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.

In this regard, there was submitted report, dated 28 August 2012, by the Head of Planning and Development, which incorporated written submissions from five of the original objectors to the application, reiterating their objections to the proposed development. The Head of Planning and Development informed the Local Review Body that the applicant had advised that he had no further comment on these further submitted representations. The Local Review Body had made an unaccompanied visit to the site on 30 July 2012.

The LRB then gave careful consideration to the merits of the case based on all the written information provided.

**Decision**

After discussion, the Local Review Body agreed to dismiss the Review Request and refuse planning permission for the following reasons:-

1. The height, design and location of the proposed dwellinghouse would have a dominant and detrimental overbearing impact on neighbouring dwellings and therefore does not comply with the terms of Policy RP20 of the adopted Midlothian Local Plan; and
2. Due to the low pitch of the roof, the design and form of the proposed house appears unbalanced and unsympathetic to its location and would result in a development which does not comply with the detailed design guidance as set out in Policy DP2 of the adopted Midlothian Local Plan

Additionally, the LRB also agreed that, if required, the Director, Corporate Resources be authorised to take any enforcement action which he considered to be appropriate.

(Action: Head of Planning and Development/Legal and Secretariat Manager)

The meeting terminated at 3.00 pm.