

Grant of Planning Permission

Town and Country Planning (Scotland) Act 1997

Local Review Body: Review of Planning Application

Reg. No. 13/00348/DPP

Rapleys LLP
Caledonian Exchange
19A Canning Street
Edinburgh
EH3 8EG

Midlothian Council, as Planning Authority, having considered the review of the application by Mr Ivar McLeish, Braidlaw Farmhouse, Braidlaw Farm, Silverburn, EH26 9LP, which was registered on 30 September 2013 in pursuance of their powers under the above Acts, hereby **grant** permission to carry out the following proposed development:

Removal of planning condition 7 of planning permission 02/00864/FUL (Erection of detached dwelling) to remove occupancy restriction at Braidlaw Farmhouse, Penicuik, EH26 9LP, in accordance with the application and the following documents:

Document Description.

Dated

Notice of review and supporting statement

30 September 2013

This grant of planning permission shall be appended to planning application 02/00864/FUL and grants a non conditional planning permission for the erected dwellinghouse at Braidlaw Farmhouse, Penicuik.

The Local Review Body (LRB) considered the review of the planning application at its meeting of 26 November 2013. The LRB carried out an unaccompanied site visit on the 25 November 2013.

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

Development Plan Policies:

1. RP1 of the Midlothian Local Plan – Protection of the Countryside
2. RP6 of the Midlothian Local Plan – Areas of Great Landscape Value
3. DP1 of the Midlothian Local Plan – Development in the Countryside

4. ENV3 of the Edinburgh and the Lothians Structure Plan 2015 – Development in the Countryside

Material Considerations:

1. The individual circumstances of the site and the application.

In determining the review the LRB concluded:

The individual circumstance of the application/review, in particular the negative financial circumstance relating to the business, means that on this occasion it is appropriate to disconnect the tie, by way of planning condition, between the dwellinghouse and the stud farm business on the site. The applicant has demonstrated a significant commitment to the business in terms of time and financial resource and should not be forced to sell the property because the business is no longer viable.

It is important to note that this decision does not undermine the general principle of securing a relationship, by planning condition, between new dwellinghouses in the countryside (approved under policy DP1 of the Midlothian Local Plan) and their associated rural business. Furthermore, this decision will be a significant material consideration if any subsequent owner of the rural business on this site applies for a further dwellinghouse.

Dated: 26/11/2013

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

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, Development Management Manager tel: 0131 2713310 or via peter.arnsdorf@midlothian.gov.uk

PLEASE NOTE

This permission does not carry with it any necessary consent or approval to the proposed development which may be required under the Building (Scotland) Acts and Regulations or under any other Statutory Enactment.

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 require the planning authority to review the case under section 43A of the Town & Country Planning (Scotland) Act 1997 within 3 months from the date of this notice. The notice of review should be addressed to The Development Manager, Development Management Section, Midlothian Council, Fairfield House, 8 Lothian Road, Dalkeith, EH22 3ZN. A notice of review form is available from the same address and will also be made available online at www.midlothian.gov.uk

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 reasonable 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

Duration of Planning Permission and/or Listed Building Consent

The permission hereby approved lapses on the expiration of a period of either:

- a) three years from the date of this decision notice, if the permission is for **detailed planning permission (DPP)** or **listed building consent (LBC)** as specified in Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended by Planning etc (Scotland) Act 2006); or
- b) two years from the date of approval by the planning authority of the last application for matters specified in conditions to be approved if the permission is for **planning permission in principle (PPP)** as specified in Section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended by Planning etc (Scotland) Act 2006). Applications for approval of matters specified in conditions shall be made to the planning authority within three years from the date of this permission.

Prior to any work taking place on site all pre commencement conditions attached to a grant of planning permission must be agreed in writing with the planning authority. Failure to do so could result in any development works taking place being unauthorised and undertaken at your own risk and expense.

The Felling of Trees

Where full planning permission authorises the felling of trees on a development site, no further consent is required under the Forestry Act 1967 (as amended). However, developers should note that any tree felling not expressly authorised by full planning permission, and not exempted, requires a felling licence granted under the Forestry Act 1967 (as amended).

Developers should note that any felling carried out without either a licence or other valid permission is an offence. This can mean, on conviction, a fine of up to £2,500 (level 4 on the standard scale) or twice the value of the trees, whichever is higher with the conviction being recorded.

Contact your local Forestry Commission Scotland Office if you are not certain whether exemptions apply. You can get an application form for a felling licence from the Forestry Commission website www.forestry.gov.uk or any Forestry Commission Scotland Office.

Prior to Commencement (Notice of Initiation of Development)

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. Failure to do so would be a breach of planning control under section 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning etc (Scotland) Act 2006). A copy of the Notice of Initiation of Development is available on the Council's web site www.midlothian.gov.uk

IMPORTANT NOTE REGARDING PUBLIC ACCESS TO INFORMATION

Making an application

Please note that when you submit a planning application, the information will appear on the Planning Register and the completed forms and any associated documentation will also be published on the Council's website.

Making comment on an application

Please note that any information, consultation response, objection or supporting letters submitted in relation to a planning application, will be published on the Council's website.

The planning authority will redact personal information in accordance with its redaction policy and use its discretion to redact any comments or information it considers to be derogatory or offensive. However, it is important to note that the publishing of comments and views expressed in letters and reports submitted by applicants, consultees and representatives on the Council's website, does not mean that the planning authority agrees or endorses these views, or confirms any statements of fact to be correct.