

**MINUTES** of **MEETING** of the **LOCAL REVIEW BODY** held in the Council Chambers, Midlothian House, Buccleuch Street, Dalkeith on Tuesday 4 June 2013 at 2.00 pm.

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

**Apology for Absence:** - Councillor Beattie, de Vink and Russell.

**1. Order of Business.**

The Local Review Body agreed to take Agenda Item No 7(c) – Eldin Industrial Estate, Loanhead before Agenda Item No 7(b) – Land to the North of Edgefield Toll Farm, Edgefield Road, Loanhead.

**2. Declaration of Interest**

Councillor Pottinger declared a non-pecuniary interest in agenda items 7(b) – Land to the North of Edgefield Toll Farm, Edgefield Road, Loanhead and 7(c) – Eldin Industrial Estate, Loanhead, on the grounds that he was a former employee of the applicants. He indicated that it was his intention to leave the meeting for the duration of these particular items and not to contribute to any discussion thereof.

**3. Minutes**

The Minutes of Meeting of 23 April 2013 were submitted and approved as a correct record.

**4. Decision Notices –**

**(a) 15 Main Street, Gorebridge**

With reference to paragraph 4(a) of the Minutes of 23 April 2013, there was submitted a copy of the Local Review Body decision notice upholding a review request from Format Design, 146 Duddingston Road West, Edinburgh, seeking a review of the refusal of planning permission (12/00795/DPP, refused on 4 February 2013) for the change of use from shop (class 1) to hot food takeaway (sui generis) and installation of flue at 15 Main Street, Gorebridge and granting planning permission subject to conditions.

**Decision**

To note the LRB decision notice.

**(b) 27 The Square, Penicuik**

With reference to paragraph 4(b) of the Minutes of 23 April 2013, there was submitted a copy of the Local Review Body decision notice upholding a review request from Format Design, 146 Duddingston Road West, Edinburgh,

seeking a review of the refusal of planning permission (12/00693/DPP, refused on 17 December 2012) for the change of use from shop (class 1) to cafe/hot food takeaway (sui generis) (retrospective) at 27 The Square, Penicuik and granting planning permission subject to conditions.

### **Decision**

To note the LRB decision notice.

### **(c) 10A Lower Broomieknowe, Lasswade**

With reference to paragraph 4(c) of the Minutes of 23 April 2013, there was submitted a copy of the Local Review Body decision notice upholding a review request from Robert Bruce Design, 11 Wardie Square, Edinburgh seeking removal of condition 2 of planning permission 12/00750/DPP for the erection of detached garage at 10A Lower Broomieknowe, Lasswade and granting planning permission subject to conditions.

### **Decision**

To note the LRB decision notice.

## **5. Notice of Review Requests Considered for the First Time –**

### **(a) 38 Dewartown, Gorebridge**

There was submitted report, dated 28 May 2013, by the Head of Planning and Development regarding a review request from Jobs Worth Doing c/o Arkiplan Ltd, 28 Grahamsdyke Place, Bo'ness, West Lothian seeking a review of the refusal of planning permission (12/00792/DPP, refused on 1 February 2013) for planning permission for the installation of replacement windows at 38 Dewartown, Gorebridge. Accompanying the Notice of Review Request 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 should be dealt with by way of written submissions;
- (iii) agreed that an unaccompanied site visit be made to the review site on Monday 2 September 2013; and
- (iv) agreed to otherwise continue consideration of the review to the next LRB meeting on Tuesday 3 September 2013.

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

**(b) 41 Easter Langside Medway, Dalkeith**

There was submitted report, dated 28 May 2013, by the Head of Planning and Development regarding a review request from Mr R Fryatt, 41 Easter Langside Medway, Dalkeith seeking a review of the refusal of planning permission (13/00002/DPP, refused on 6 February 2013) for planning permission for the extension to dwellinghouse at that address. Accompanying the Notice of Review Request 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 should be dealt with by way of written submissions;
- (iii) agreed that an unaccompanied site visit be made to the review site on Monday 2 September 2013; and
- (iv) agreed to otherwise continue consideration of the review to the next LRB meeting on Tuesday 3 September 2013.

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

**(c) 98/6 Eastfield Industrial Estate, Penicuik**

There was submitted report, dated 28 May 2013, by the Head of Planning and Development regarding a review request from Alex F Noble and Son, 1 Swinton Place, Straiton, Loanhead seeking a review of the refusal of planning permission (12/00835/DPP, refused on 8 March 2013) for the change of use from general industry (class 5) to dance and fitness studio (class 11) at 98/6 Eastfield Industrial Estate, Eastfield Drive, Penicuik. Accompanying the Notice of Review Request 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 should be dealt with by way of written submissions;
- (iii) agreed that an unaccompanied site visit be made to the review site on Monday 2 September 2013; and

- (iv) agreed to otherwise continue consideration of the review to the next LRB meeting on Tuesday 3 September 2013.

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

**(d) 30/3 Hardengreen Industrial Estate, Dalkeith**

There was submitted report, dated 28 May 2013, by the Head of Planning and Development regarding a review request from Sorrell Associates, The Green House, 41 St Bernard's Crescent, Edinburgh seeking a review of the refusal of planning permission (13/00161/DPP, refused on 7 May 2013) for the change of use from office/light industry (class 4) to fitness studio (class 11) at 30/3 Hardengreen Industrial Estate, Eskbank, Dalkeith. Accompanying the Notice of Review Request 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 a hearing to supplement the written submissions;
- (iii) agreed that an accompanied site visit be made to the review site on Monday 2 September 2013; and
- (iv) agreed to otherwise continue consideration of the review to the next LRB meeting on Tuesday 3 September 2013.

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

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

**(a) Land to South West of Mosshouses, Penicuik**

With reference to paragraph 3(a) of the Minutes of 23 April 2013, the Local Review Body resumed consideration of a Notice of Review Request in respect of an application from Miss Caroline Wilson, Eskvalley Stud, 23 Broomhill Avenue, Penicuik seeking a review of the refusal of planning permission (12/00654/PPP, refused on 30 November 2012) for planning permission in principle for the erection of a dwellinghouse at Land to South West of Mosshouses, Penicuik.

In this regard, there was submitted report, dated 24 May 2013, by the Head of Planning and Development. The Local Review Body had made an unaccompanied visit to the site on 3 June 2013.

The LRB then gave careful considered to the merits of the case based on all the written information provided. In particular the LRB considered the current policy position regarding developments in the countryside.

## Decision

After further discussion, the Local Review Body upheld the Review Request for the following reason:-

*The principle of a dwellinghouse is in this location is acceptable on the basis that it is required to support and facilitate an equestrian business which has planning permission and is appropriately located in the countryside.*

and agreed to grant planning permission subject to the following conditions

1. Development shall not begin until an application for approval of matters specified in conditions for a scheme of hard and soft landscaping works 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 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 including trees, shrubs, hedging 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; and
  - vii drainage details and sustainable urban drainage systems to manage water runoff.

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 DP1 and DP2 of the Midlothian Local Plan and national planning guidance and advice.*

2. Development shall not begin until an application for approval of matters specified in conditions for the siting, design and external appearance of all residential units and other structures has been submitted to and approved in writing by the planning authority. The application shall include samples of materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and

ancillary structures. 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 DP1 and DP2 of the Midlothian Local Plan and national planning guidance and advice.*

3. Development shall not begin until an application for approval of matters specified in conditions for the site access, internal roads, footpaths, car parking and transportation movements has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
  - i existing and finished ground levels for all roads and cycle ways in relation to a fixed datum;
  - ii proposed vehicular and pedestrian access;
  - iii proposed internal roads/driveways (including turning facilities) and footpaths;
  - vi proposed visibility splays, traffic calming measures, lighting and signage; and
  - v a programme for completion for the construction of access, roads, footpaths and car parking.

Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be agreed in writing with the planning authority.

**Reason:** *To ensure the future users of the buildings, existing local residents and those visiting the development site during the construction process have safe and convenient access to and from the site.*

4. The dwellinghouse hereby approved shall be occupied solely by a person or persons employed or last employed in managing the onsite equestrian business approved under planning permission 12/00218/DPP, together with the dependants of such persons residing with him or her or by the widow or widower of such person or persons.

**Reason:** *The supervision of the animals within the site was part of the justification for approval of the development.*

(Action: Head of Planning and Development)

### **Sederunt**

With reference to paragraph 2 above Councillor Pottinger, having declared a non-pecuniary interest in the following items of business, left the meeting taking no part in the discussion thereof.

**(b) Eldin Industrial Estate, Loanhead**

With reference to paragraph 4(c) of the Minutes of 23 April 2013, the Local Review Body resumed consideration of a Notice of Review Request in respect of a review request from Format Design, 146 Duddingston Road West, Edinburgh seeking a review of the refusal of planning permission (12/00390/DPP, refused on 12 December 2012) for the amendment to condition 10 of planning permission 08/00680/FUL (Permanent use of land for waste transfer station, change of use of agricultural land to industrial use and erection of ancillary buildings, part retrospective) to amend hours of starting operation from 7.00am to 6.00am, 7 days a week (retrospective) at Caleco Waste, Eldin Industrial Estate, Loanhead.

In this regard, there was submitted report, dated 24 May 2013, by the Head of Planning and Development. The Local Review Body had made an unaccompanied visit to the site on 3 June 2013.

The LRB then gave careful considered to the merits of the case based on all the written information provided. Whilst it was acknowledged that there was the potential for an increase in noise nuisance, given that a variety of other businesses enjoying differing operating hours already operated out of the Industrial estate that potential already existed. It was, however, felt that the applicants could mitigating against some of these potential difficulties by taking steps to fill in the potholes on the access road for example

**Decision**

After further discussion, the Local Review Body upheld the Review Request for the following reason:-

*The extension of the operational hours of the application site will not have an unacceptable detrimental impact on the environment or neighbouring land users and residents; when compared to the current level of activity on site, the noise and disturbance caused by the traffic using the bypass and the operations of the remaining units on the Eldin Industrial Estate and other nearby industrial units which operate without restrictive hours.*

and agreed to grant planning permission subject to the following conditions

1. No operation of plant or machinery shall be operated on any part of the site and no HGV's shall enter the site or be dispatched out with the following hours unless otherwise approved by the Planning Authority:

Monday - Friday inclusive	6.00am -10.00pm
Saturdays	6.00am - 6.00pm
Sundays	6.00am -12.00 Noon

**Reason:** *In the interests of safeguarding the amenity of neighbouring residences.*

(Action: Head of Planning and Development)

**(c) Land to the North of Edgefield Toll Farm, Edgefield Road, Loanhead**

With reference to paragraph 3(b) of the Minutes of 23 April 2013, the Local Review Body resumed consideration of a Notice of Review Request in respect of a review request from Format Design, 146 Duddingston Road West, Edinburgh, seeking a review of the refusal of planning permission (12/00796/DPP, refused on 19 March 2013) for the temporary change of use of agricultural land to open storage at Land to the North of Edgefield Toll Farm, Edgefield Road, Loanhead.

In this regard, there was submitted report, dated 24 May 2013, by the Head of Planning and Development. The Local Review Body had made an unaccompanied visit to the site on 3 June 2013.

The LRB then gave careful considered to the merits of the case based on all the written information provided. In particular the LRB discussed the outstanding objection from Transport Scotland and the long standing issue of access to the Industrial Estate, which it was anticipated would be resolved once the proposed relief road was constructed. Although not part of this particular application, the Development Management Manager undertook to raise Members concerns with the relevant parties.

**Decision**

After further discussion, the Local Review Body upheld the Review Request for the following reason:-

*The temporary change of use of the land will not have an unacceptable detrimental impact on the environment or neighbouring land users and residents; when compared to the current level of activity on the neighbouring industrial site and the noise and disturbance caused by the traffic using the bypass. The economic benefits of supporting the expansion of an existing business, on a temporary basis, is a material consideration which outweighs the developments conflict with development plan policies.*

and agreed to:-

- (1) note that as the application had been the subject of an objection from Transport Scotland it would require to be referred to the Scottish Ministers, unless matters could be satisfactorily resolved between the applicants and Transport Scotland and the objection withdrawn, which process would require to be completed prior to the Council issuing any grant of planning permission; and
- (2) grant temporary planning permission for a period of eighteen months, subject to (i) the successful resolution of the above matter or referral to Scottish Ministers; and (ii) the following conditions:-
  1. No operation of plant or machinery shall be operated on any part of the site and no HGV's shall enter the site or be dispatched out with the following hours unless otherwise approved by the Planning Authority:



Monday - Friday inclusive	6.00am -10.00pm
Saturdays	6.00am - 6.00pm
Sundays	6.00am -12.00 Noon

***Reason:*** *In the interests of safeguarding the amenity of neighbouring residences.*

2. The use hereby approved shall cease and any stored material on the land removed by 3 January 2015. The land shall be graded to match the level of the site prior to the temporary use commencing and seeded with grass by 3 February 2015, unless otherwise agreed in writing by the Planning Authority.

***Reason:*** *The proposed use is within the countryside/green belt and a permanent change of use would be contrary to the development plan.*

(Action: Head of Planning and Development)

The meeting terminated at 2.16 pm.