

Minute of Meeting

Planning Committee
Tuesday 12 March 2024
Item No 4.2



Planning Committee

Date	Time	Venue
Tuesday 23 January 2024	13:00	Council Chambers, Midlothian House/Hybrid

Present:

Councillor Alexander	Councillor Milligan
Councillor Bowen	Councillor Parry
Councillor Cassidy	Councillor Pottinger
Councillor Curran	Councillor Russell
Councillor Drummond	Councillor Scott
Councillor McCall	Councillor Smail
Councillor McEwan	Councillor Virgo
Councillor McKenzie	Councillor Winchester
Councillor McManus	

In Attendance:

Derek Oliver	Chief Officer Place
Peter Arnsdorf	Planning, Sustainable Growth and Investment Manager
William Venters	Principal Solicitor
Lucy Roddie	Democratic Services Officer
Hannah Forbes	Assistant Democratic Services Officer

1. Apologies

Lucy Roddie, Democratic Services Officer, welcomed Elected Members to the Planning Committee and noted that apologies were offered from the Chair. Due to the absence of the Chair, Lucy Roddie invited nominations for another Elected Member to be interim Chair for the purposes of this meeting. Councillor McEwan, seconded by Councillor Pottinger, nominated Councillor Milligan. Councillor Milligan accepted.

2. Order of Business

The Chair advised the Committee that Item 5.5, '23/00694/PPP – Application for planning permission in principle for residential development (indicative 78 units) and associated works at the Scotts Touring Caravans site, land north of Mayfield Industrial Estate, Mayfield, Dalkeith' had been deferred a cycle to address a procedural matter. The order of business was otherwise as set out in the Agenda.

3. Declarations of interest

Councillor Bowen and Councillor Scott made a declaration of transparency in relation to Item 5.6. It was noted that they had attended meetings in relation to this matter but had not expressed an opinion.

4. Minutes of Previous Meetings

4.1 No minutes of previous meetings were approved.

4.2 The Action Log was noted.

5. Reports

Agenda No	Report Title	Submitted by:
5.1	MLDP2 Engagement - Local Place Plans Update	Chief Officer Place
Outline of Report and Summary of Discussion		
<p>Peter Arnsdorf, Planning, Sustainable Growth and Investment Manager, introduced the report. The purpose of this report is to update Elected Members on the production of Local Place Plans (LPPs) by Midlothian community groups.</p> <p>It is recommended that the Committee notes the contents of the report, in particular:</p> <ol style="list-style-type: none">the list of Midlothian community bodies who have submitted draft local place plans to the Council, and the summaries of the plans provided in Appendix A of the report; andthe intention to bring finalised local place plans to the 30 April 2024 Committee for consideration for validation and registration by the Council.		

Councillor Milligan, the Chair, thanked Mr Arnsdorf for the report and opened it up to questions.

In response to a question from Councillor McEwan, Peter Arnsdorf confirmed that all Community Councils had been advised of the deadlines for submitting Local Place Plans.

Decision

It is recommended that the Committee notes the contents of the report, in particular:

- i. the list of Midlothian community bodies who have submitted draft local place plans to the Council, and the summaries of the plans provided in Appendix A of the report; and
- ii. the intention to bring finalised local place plans to the 30 April 2024 Committee for consideration for validation and registration by the Council.

Action

Planning, Sustainable Growth and Investment Manager

Agenda No	Report Title	Submitted by:
5.2	Issuing of TPO at land adjacent to Meyerling and land at Little Moss and Nether Moss, Howgate, Penicuik	Chief Officer Place

Outline of Report and Summary of Discussion

Peter Arnsdorf, Planning, Sustainable Growth and Investment Manager, introduced the report. This report seeks the Committee's approval to issue a Tree Preservation Order (TPO) on woodland located at land adjacent to Meyerling and land at Little Moss and Nether Moss, Howgate, Penicuik.

It is recommended that the Committee:

- a) Agrees to the issuing of a TPO to protect the identified trees at land adjacent to Meyerling and land at Little Moss and Nether Moss, Howgate, Penicuik; and
- b) Agrees to receive a further report to consider confirming the TPO once the owner(s) of the land and other interested parties have had the opportunity to make comment.

The Chair thanked Mr Arnsdorf for the report and opened it up to questions. No questions were received or comments made and the Committee unanimously agreed to the recommendations as set out in the report.

Decision

The Committee:

- a) Agreed to the issuing of a TPO to protect the identified trees at land adjacent to Meyerling and land at Little Moss and Nether Moss, Howgate, Penicuik; and

- b) Agreed to receive a further report to consider confirming the TPO once the owner(s) of the land and other interested parties have had the opportunity to make comment.

Action

Planning, Sustainable Growth and Investment Manager

Agenda No	Report Title	Submitted by:
5.3	Non-compliance with a Listed Building Enforcement Notice related to installation of 16 uPVC windows issued in relation to 130 High Street, Dalkeith	Chief Officer Place

Outline of Report and Summary of Discussion

Peter Arnsdorf, Planning, Sustainable Growth and Investment Manager, introduced the report. The report relates to the non-compliance with the requirements of a listed building enforcement notice served by the Council with regard the removal of sixteen singled glazed, timber framed, sash and case windows, and the installation of sixteen double glazed, uPVC (un-Plasticised Polyvinyl Chloride) framed, tilt and turn windows in the front, rear and side facades at 130 High Street, Dalkeith.

It is recommended that the Committee determine to instruct the Planning, Sustainable Growth and Investment Manager (or an alternatively appropriately appointed officer) to refer the case to the Crown Office and Procurator Fiscal Service for consideration of prosecutorial action.

The Chair thanked Mr Arnsdorf for the report and opened it up to questions.

Councillor Alexander commented on the need to consider the benefits of making older buildings more energy efficient and suggested that landlords and owners should be encouraged to take such measures. In response, the Chair commented that the enforcement notice had been served in accordance with Scottish Government planning enforcement policy. In this context, the Planning Committee's role is to determine whether the enforcement notice should be served.

Councillor McManus asked about the implications if the Planning Committee decided to not refer the case for prosecutorial action. Peter Arnsdorf commented that the breach of planning control would remain outstanding. Reputational damage could be caused, and the decision to not refer the case could give hope to others that the Council will not enforce breaches of planning control. The owner could re-apply for listed building consent and planning permission but it would be unlikely a decision would be made in their favour. Councillor Drummond noted her concern that by not referring this case for prosecutorial action, a precedent would be set whereby the Council is seen to ignore Scottish Government planning enforcement policy. Councillor Parry noted her concern that an outstanding breach of planning control would be inherited by any future owners.

Councillor McCall, seconded by Councillor Virgo, moved to instruct the Planning, Sustainable Growth and Investment Manager (or an alternatively appropriately appointed officer) to refer the case to the Crown Office and Procurator Fiscal Service for consideration of prosecutorial action.

Councillor Alexander, seconded by Councillor Cassidy, moved an amendment to the motion, namely, to not refer the case to the Crown Office and Procurator Fiscal Service for consideration of prosecutorial action.

On a vote being taken, 2 members of the Committee voted for the amendment and 15 members of the Committee voted for the motion. This then became the decision of the Committee.

Decision

The Planning Committee instructed the Planning, Sustainable Growth and Investment Manager (or an alternatively appropriately appointed officer) to refer the case to the Crown Office and Procurator Fiscal Service for consideration of prosecutorial action.

Action

The Planning, Sustainable Growth and Investment Manager

Agenda No	Report Title	Submitted by:
5.4	Non-compliance with a Listed Building Enforcement Notice related to erection of fascia sign issued in relation to 41 High Street, Dalkeith	Chief Officer Place

Outline of Report and Summary of Discussion

Peter Arnsdorf, Planning, Sustainable Growth and Investment Manager, introduced the report. This report relates to the non-compliance with the requirements of a listed building enforcement notice served by the Council with regard the erection of a fascia sign at 41 High Street, Dalkeith. Peter Arnsdorf reported that since the publication of this report, the occupier had indicated their intention to remove the signage within the next two weeks.

It is recommended that the Committee determine to instruct the Planning, Sustainable Growth and Investment Manager (or an alternatively appropriately appointed officer) to refer the case to the Crown Office and Procurator Fiscal Service for consideration of prosecutorial action.

The Chair thanked Mr Arnsdorf for the report and opened it up to questions.

Councillor Virgo, seconded by Councillor Parry, moved to instruct the Planning, Sustainable Growth and Investment Manager (or an alternatively appropriately appointed officer) to refer the case to the Crown Office and Procurator Fiscal Service for consideration of prosecutorial action.

Decision
The Planning Committee instructed the Planning, Sustainable Growth and Investment Manager (or an alternatively appropriately appointed officer) to refer the case to the Crown Office and Procurator Fiscal Service for consideration of prosecutorial action pursuant to Sections 126 and 172 of the Town and Country Planning (Scotland) Act 1997 as amended.
Action
The Planning, Sustainable Growth and Investment Manager

Agenda No	Report Title	Submitted by:
5.5	23/00694/PPP – Application for planning permission in principle for residential development (indicative 78 units) and associated works at the Scotts Touring Caravans site, land north of Mayfield Industrial Estate, Mayfield, Dalkeith	Chief Officer Place
Outline of Report and Summary of Discussion		
Withdrawn		
Decision		
Action		

Agenda No	Report Title	Submitted by:
5.6	23/00674/LBC and 23/00675/DPP – Installation of solar panels on Newtongrange Parish Church, Main Street, Newtongrange (called in by Cllr Bowen)	Chief Officer Place
Outline of Report and Summary of Discussion		
<p>Peter Arnsdorf, Planning, Sustainable Growth and Investment Manager, introduced the report. The applications are for the installation of solar panels on Newtongrange Parish Church, Main Street, Newtongrange. The recommendation is to refuse listed building consent and planning permission. It was noted that no representations had been received.</p> <p>The Chair thanked Mr Arnsdorf for the report and opened it up to questions.</p> <p>Councillor Smaill remarked that the church is a prominent listed building of historical significance and he would not support the installation of solar panels due to the</p>		

impact of the proposed works on the character, appearance and historic interest of the listed building.

Some discussion took place in relation to the present climate emergency. The Planning Committee noted the requirement to reduce reliance on unsustainable energy sources and support measures to improve energy efficiency. It was suggested that a review of the relevant policies, in consultation with Scottish Government where appropriate, should be undertaken to ensure alignment with the requirement to address the present climate emergency.

The Planning Committee noted that the Newtongrange Community Council, and the community more widely, were supportive of the applications and considered the redevelopment project as beneficial to the local area. Several members of the Committee noted their desire to support the redevelopment project and ensure the survival of the building. Councillor Smaill remarked that it had not been demonstrated that the installation of solar panels was critical to the success of the project, and a cost-benefit analysis had not been completed.

Councillor Virgo noted his concern that it had not been demonstrated that the church roof could sustain the solar panels. Councillor Virgo suggested a structural assessment be undertaken and a report be brought to the Planning Committee before a decision is taken. Councillor Smaill echoed these comments and, in addition, called for a cost benefit analysis of the solar panels and an architectural impact assessment to be brought before the Planning Committee. Councillor Smaill suggested establishing an expert group with an understanding of architecture to provide professional advice to the Planning Committee in relation to matters such as this.

Councillor Alexander, seconded by Councillor Drummond, moved to grant listed building consent and planning permission.

On an amendment to the motion, Councillor Smaill, seconded by Councillor Virgo, moved to refuse listed building consent and planning permission with a structural assessment, cost benefit analysis and architectural impact assessment to be undertaken and further reports to be brought back to the Planning Committee.

On a vote being taken, 4 members of the Committee voted for the amendment and 13 members of the Committee voted for the motion. This then became the decision of the Committee.

Decision

The Planning Committee granted listed building consent and planning permission for the installation of solar panels on Newtongrange Parish Church, Main Street, Newtongrange.

Action

The Planning, Sustainable Growth and Investment Manager

6. Private Reports

No items for discussion

7. Date of Next Meeting

The next meeting will be held on Tuesday 12 March at 1:00pm.

The meeting terminated at 13:56.