

# Minute of Meeting

Local Review Body  
Monday 11 December 2023  
Item No 4.1



## Local Review Body

Date	Time	Venue
Monday 13 November 2023	1.00pm	Council Chambers/Hybrid

### Present:

Councillor Imrie (Chair)	Councillor Smail
Councillor Bowen	Councillor Cassidy
Councillor Drummond	Councillor McEwan

### In Attendance:

Peter Arnsdorf	Planning, Sustainable Growth and Investment Manager
Hannah Forbes	Assistant Democratic Services Officer
Lucy Roddie	Democratic Services Officer

## 1 Welcome, Introductions and Apologies

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Apologies for absence were received from Councillor Virgo, Councillor Milligan and Councillor McManus.

## 2 Order of Business

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The order of business was as outlined in the agenda.

## 3 Declarations of interest

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No declarations of interest were intimated at this stage of the proceedings.

## 4 Minute of Previous Meeting

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The Minute of the Meeting of 25 September 2023 was submitted and approved as a correct record.

## 5 Reports

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### Notice of Reviews – Determination Reports by Chief Officer Place

Agenda No	Report Title	Presented by:
5.1	23.00332.PPP - Land at Fallhills Howgate Penicuik	Peter Arnsdorf, Planning, Sustainable Growth and Investment Manager
<b>Outline of report and summary of discussion</b>		
<p>Peter Arnsdorf, Planning, Sustainable Growth and Investment Manager, presented this report. The purpose of the report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for planning permission in principle for the erection of a dwellinghouse on land at Fallhills, Howgate, Penicuik.</p> <p>Peter Arnsdorf reported that planning application 23/00332/PPP for planning permission in principle for the erection of dwellinghouse on land at Fallhills, Howgate, Penicuik was refused on 24 July 2023.</p> <p>Peter Arnsdorf noted that elected members had attended a site visit on the morning of 13 November 2023.</p> <p>Councillor Imrie, the Chair, thanked Peter Arnsdorf for the report and opened it up to questions.</p> <p>The Local Review Body in discussing the proposed development gave careful consideration to the impact on the appearance of the surrounding area, noting that the location of the development site was such that it would be visible from the road. Councillor Smaill suggested mandated tree planting along the site boundaries to provide visual containment of the site.</p>		

Councillor Imrie, the Chair, noted that the report made reference to the applicant taking no extra measures to help address climate and nature crisis as required by National Planning Framework 4 (NPF4) policies, however, in another section of the report there seem to be several measures in place to address this. The Chair sought clarity on the requirements of NPF4 in this regard.

In response, Peter Arnsdorf noted that the primary focus of the NPF4 planning policies seek for developments to be sustainable and to give consideration to the global climate and nature crises. The application site is in a rural location not serviced by public transport and the majority of trips to and from the site are likely to be done by private car. The proposed development is therefore fundamentally unsustainable. Peter Arnsdorf noted that the applicant had endeavoured to contribute to the enhancement of sustainability and biodiversity, insofar as was in their control.

The Local Review Body noted that the proposed site is an external horse riding school area lying empty. Development would therefore enhance the setting and contribute to the visual amenity of the area.

The Local Review Body noted that the 5+1 guidance was relevant to this case. The Supplementary Guidance for Housing Development in the Countryside and Green Belt provides some support for the development of one house where there is a group of 5 or more existing dwellinghouses. There are 9 houses within the group to the south of the site at Fallhills and therefore potential for one further house in the current Midlothian Local Development Plan (MLDP) period.

Councillor McEwan, seconded by Councillor Cassidy, moved to uphold the review request and grant planning permission, subject to the conditions as detailed in the report and subject to the addition of a condition to plant trees for visual containment of the site, as suggested by Councillor Smail.

#### Decision

The Local Review Body agreed to uphold the review request and to grant planning permission in principle for the erection of a dwellinghouse on land at Fallhills, Howgate, Penicuik, subject to the conditions as detailed in the report and subject to the addition of a condition to include native tree and hedgerow planting along the site boundaries to provide visual containment of the site.

#### Action

Planning, Sustainable Growth and Investment Manager prepare a decision notice for issuing through the Chair of the LRB.

## 6. Private Reports

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No private business was discussed.

## **7. Date of Next Meeting**

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The next meeting is scheduled for Monday 11 December 2023 at 13:00.

The meeting terminated at 13:17.

# Grant of Planning Permission

Town and Country Planning (Scotland) Act 1997 as amended

## Local Review Body: Review of Planning Application Reg. No. 23/00332/PPP

Ferguson Planning  
38 Thistle Street  
Edinburgh  
EH2 1EN

Midlothian Council, as Planning Authority, having considered the review of the application by Mr Brian McPhillips, 1 Fallhills Court, Howgate, EH26 8QE, which was registered on 23 October 2023 in pursuance of their powers under the above Act, hereby **grant** permission to carry out the following proposed development:

**Application for planning permission in principle for erection of dwellinghouse at land at Fallhills, Howgate, Penicuik**, in accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	P00 1:1000	25.05.2023
Site Plan	P01 1:500	25.05.2023

Subject to the following conditions:

1. The development to which this permission relates shall commence no later than the expiration of three years beginning with the date of this permission.

**Reason:** *To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning (Scotland) Act 2019).*

2. Development shall not begin until an application for the approval of matters specified in conditions for the following details has been submitted to and approved in writing by the planning authority:
  - a) A detailed layout plan of the site, showing the siting of the proposed house, details of vehicular access, parking provision and manoeuvring within the site and details of all walls, fences or other means of enclosure, including bin stores or other ancillary structures;

- b) Existing and finished ground levels and floor levels for all buildings, open space and access roads in relation to a fixed datum;
- c) Detailed plans, sections and elevations of the proposed house, indicating the colour and type of materials to be used on the external walls, roof and windows;
- d) Details of all hard surfacing and kerbing;
- e) Details of a sustainability/biodiversity scheme for the site, including the provision of house bricks and boxes for bats and swifts;
- f) Details of the provision of superfast broadband connections for the house;
- g) Details of the provision of electric vehicle charging stations for the house;
- h) Details of the proposed air source heat pump;
- i) Proposals for the treatment and disposal of foul and surface water drainage from the proposed house. Unless otherwise approved in writing by the planning authority, the surface water drainage shall comply with the standards detailed in the SUDS Manual; and
- j) Details of a scheme of existing and proposed landscaping at the site and a plan and planting schedule detailing the position, number, size and species of all trees and shrubs that are proposed to be planted; all trees on the site which are to be removed and retained; and details of the means of protection of all trees that are to be retained.

***Reason:*** *Permission is granted in principle only. No details were approved with the application and detailed consideration is required for the siting, massing and design of the proposed dwellinghouse and site access arrangements; to ensure protected species are not adversely affected.*

- 3. The house approved in terms of conditions 2a) and 2c) shall be a maximum of two storeys high with the upper level of accommodation provided wholly within the roofspace.

***Reason:*** *To be in keeping with the surrounding houses within the housing group; to protect the visual amenity of the surrounding rural area.*

- 4. The scheme of landscaping approved in accordance with condition 2j) shall include details of native tree and hedgerow planting along the site boundaries.

5. The scheme of landscaping approved in accordance with condition 2j) shall be carried out and completed within six months of the house either being completed or brought into use, whichever is the earlier date. Any trees removed, dying, severely damaged or becoming seriously diseased within five years of planting shall be replaced in the following planting season by trees of a size and species similar to those originally required.

***Reason for conditions 4 and 5:*** *To ensure the landscaping is appropriate to the rural surroundings and integrates the development into the area; to ensure that the landscaping is carried out and becomes successfully established.*

6. Before the new house is occupied the installation of the means of drainage treatment and disposal approved in terms of condition 2i) above shall be completed to the satisfaction of the planning authority.

***Reason:*** *To ensure that the house is provided with adequate drainage facilities prior to occupation.*

The Local Review Body (LRB) considered the review of the planning application at its meeting of 13 November 2023.

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

#### National Planning Framework 4

1. Policy 1 Tackling the climate and nature crisis;
2. Policy 2 Climate mitigation and adaptation;
3. Policy 3 Biodiversity;
4. Policy 5 Soils;
5. Policy 11 Energy;
6. Policy 12 Zero waste;
7. Policy 13 Sustainable transport;
8. Policy 14 Design, quality and place;
9. Policy 15 Local Living and 20 minute neighbourhoods;
10. Policy 16 Quality homes;
11. Policy 17 Rural homes;
12. Policy 19 Heating and cooling;
13. Policy 20 Blue and green infrastructure;
14. Policy 22 Flood risk and water management;
15. Policy 23 Health and safety; and
16. Policy 24 Digital infrastructure.

#### Midlothian Local Development Plan Policies:

1. DEV5 Sustainability in new development;
2. DEV6 Layout and design of new development;

3. DEV7 Landscaping in new development;
4. TRAN5 Electric vehicle charging;
5. IT1 Digital infrastructure;
6. RD1 Development in the countryside; and
7. ENV7 Landscape character.

Supplementary guidance for housing development in the countryside and green belt.

Material Considerations:

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

In determining the review the LRB concluded:

The proposed single dwellinghouse by means of its siting to the south/south west of the B6372 and proximity to other buildings in Fallhills will not be detrimental to the local landscape, residential amenity or the countryside and as such is considered an acceptable addition to the Fallhills housing cluster in accordance with the Midlothian Local Development Plan 2017.

In reaching its decision the LRB stated that the acceptability of the proposal is based on providing visual containment to the site by substantial planting and the proposed dwellinghouse being of high quality design and materials. These matters can be secured through the conditions.

Dated: 13/11/2023



Peter Arnsdorf  
Planning, Sustainable Growth and Investment Manager  
Advisor to the Local Review Body  
Place Directorate  
Midlothian Council

On behalf of:  
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, Planning, Sustainable Growth and Investment Manager via [peter.arnsdorf@midlothian.gov.uk](mailto:peter.arnsdorf@midlothian.gov.uk)*



The Coal  
Authority

**Any Planning Enquiries should be directed to:**

Planning and Local Authority Liaison

Email: [planningconsultation@coal.gov.uk](mailto:planningconsultation@coal.gov.uk)

Website: [www.gov.uk/coalauthority](http://www.gov.uk/coalauthority)

**Development Low Risk Area – Standing Advice**

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:  
[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

**Standing Advice valid from 1st January 2023 until 31st December 2024**