

Minute of Meeting



Planning Committee

Date	Time	Venue
19 June 2018	2.00 pm	Council Chambers, Midlothian House, Buccleuch Street, Dalkeith

Present:

Councillor Imrie (Chair)	Councillor Alexander
Councillor Baird	Councillor Cassidy
Councillor Curran	Councillor Hackett
Councillor Hardie	Councillor Johnstone
Councillor Lay-Douglas	Councillor McCall
Councillor Milligan	Councillor Muirhead
Councillor Munro	Councillor Russell
Councillor Smail	Councillor Wallace
Councillor Winchester	

1. Apologies

Apologies received from Councillor Parry.

2. Order of Business

The order of business was confirmed as outlined in the agenda that had been circulated.

3. Declarations of interest

Councillor Baird declared a non-pecuniary interest in agenda item 5.2 - Supplementary Guidance - Food and Drink and Other Non-Retail Uses in Town Centres – on the grounds that the recommendations had a bias towards food and drink businesses.

4. Minutes of Previous Meetings

The Minutes of Meeting of 15 May 2018 were submitted and approved as a correct record.

5. Reports

Agenda No	Report Title	Presented by:
5.1	Supplementary Guidance: Green Networks	Peter Arnsdorf

Executive Summary of Report

With reference to paragraph 5.1 of the Minutes of 9 January 2018, there was submitted report, dated 12 June 2018, by the Head of Communities and Economy, advising the Committee of the responses received to the public consultation on the proposed supplementary guidance on 'Green Networks' and seeking agreement to the adoption of the Midlothian Green Network Supplementary Guidance; a copy of which was appended to the report.

The report explained that the consultation period had run for six weeks from 9 February to 3 April 2018 with discussions with interested parties continuing after the specified period. Responses had been received from a wide spread of consultees including, community councils, individual members of the public, community organisations, third sector groups, Government agencies, agents and developers. In total 33 different parties had raised 142 separate points for consideration. A summary of the consultation responses, together with details of the Council's proposed response were also appended to the report.

Summary of Discussion

The Committee, having heard from the Planning Manager, welcomed the comments received as a result of the public consultation on the proposed Supplementary Guidance.

Decision

After further discussion, the Committee agreed:-

- a) to adopt the Midlothian Green Network Supplementary Guidance (as amended following the consultation process);
- b) that the Green Network Supplementary Guidance will not have a significant environmental impact triggering the need for a formal Strategic Environmental Assessment;
- c) to instruct the Head of Communities and Economy to undertake the required notification/advertisement advising that the Green Network Supplementary Guidance will not have a significant environmental impact triggering the need for a formal Strategic Environmental Assessment;
- d) to instruct the Head of Communities and Economy to notify the Scottish Ministers of the Council's intention to adopt the Midlothian Green Network Supplementary Guidance; and
- e) to require notification of the outcome of the notification of the Scottish Ministers procedure.

Action

Head of Communities and Economy/Planning Manager

Agenda No	Report Title	Presented by:
5.2	Supplementary Guidance: Food and Drink, and Other Non-Retail Uses in Town Centres	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 12 June 2018, by the Head of Communities and Economy, seeking the Committee's agreement to undertake a formal consultation on its proposed 'Food and Drink and Other Non-retail Uses in Town Centres' supplementary guidance; a copy of which was appended to the report.

The report explained that the Midlothian Local Development Plan 2017 (MLDP), which had been adopted by the Council at its meeting on 7 November 2017, had included a commitment to prepare Supplementary Guidance and Planning Guidance on a number of topic areas (Section 7.2, pages 81 and 82 of the MLDP). Additional guidance was required to provide further detail and interpretation of the policies and strategy set out in its development plan. One of the topic areas which needed further detail was Food and Drink and Other Non-retail Uses in Town Centres.

The supplementary guidance provided a framework to protect and enhance town centres and to ensure that the right development was directed into the right areas. Food and drink and other non-retail uses should not compromise the amenity, environment and functioning of town centres but should be part of a wider range of facilities supporting vibrant and diverse commercial areas. The supplementary guidance sought to ensure that these areas were allowed to thrive and develop to meet the changing needs of local communities, with uses and facilities which would attract high footfall and economic benefits.

Summary of Discussion

The Committee, having heard from the Planning Manager, welcomed the Supplementary Guidance and looked forward to seeing the comments received as a result of the public consultations.

Decision

After further discussion, the Committee:-

- a) approved the draft Food and Drink and Other Non-retail Uses in Town Centres Supplementary Guidance for consultation; and
- b) noted that a further report on the Food and Drink and Other Non-retail Uses in Town Centres Supplementary Guidance would be brought forward for consideration following conclusion of the consultation period.

Action

Head of Communities and Economy/Planning Manager

Agenda No	Report Title	Presented by:
5.3	Major Developments: Applications Currently Being Assessed and Other Developments at Pre-Application Consultation Stage	Peter Arnsdorf
Executive Summary of Report		
<p>There was submitted report, dated 12 June 2018, by the Head of Communities and Economy, updating the Committee with regard to 'major' planning applications, formal pre-application consultations by prospective applicants, and the expected programme of applications due for reporting to the Committee.</p> <p>The current position with regard to 'major' planning applications and formal pre-application consultations by prospective applicants was outlined in the Appendices to the report.</p>		
Decision		
<p>The Committee, having heard from the Planning Manager, agreed:-</p> <ul style="list-style-type: none"> (a) To note the current position in relation to major planning application proposals which were likely to be considered by the Committee in 2018; and (b) To note the updates for each of the applications. 		

Action
Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.4	Appeal and Local Review Body Decisions	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 12 June 2018, by the Head of Communities and Economy, detailing the notices of review determined by the Local Review Body (LRB) at its meeting in May 2018, and two appeal decisions received from Scottish Ministers.

Appended to the report were copies of the following appeal decision notices from the Scottish Government, Planning and Environmental Appeals Division:-

- Dated 1 June 2018, advising that following the successful conclusion of a legal agreement to secure developer contributions planning permission for the erection of 11 flatted dwellings and five dwelling houses, formation of access and car parking and associated works at land at junction of Bryans Road and Morris Road, Newtongrange (16/00809/DPP) had now been granted subject to conditions.
- Dated 29 March 2018, dismissing a claim for the award of expenses by T & V Builders against the Council in the matter of the refusal of planning permission for the erection of 11 flatted dwellings and five dwelling houses, formation of access and car parking and associated works at land at junction of Bryans Road and Morris Road, Newtongrange (16/00809/DPP)

Decision

The Committee:

- Noted the decisions made by the Local Review Body at its meeting on 22 May 2018; and
- Noted the outcome of the Appeals determined by the Scottish Ministers.

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.6	Application for Planning Permission in Principle for residential development (up to 400 units) and employment uses; formation of access roads and associated works at Land at Salters Park, Salters Road, Dalkeith (16/00893/PPP).	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 7 November 2017, by the Head of Communities and Economy concerning the above application.

Summary of Discussion

The Committee heard from the Planning Manager, who highlighted that the proposed site was allocated in the Midlothian Local Development Plan (MLDP) 2017 for economic development Class 4 (business), Class 5 (general industry) and Class 6 (storage and distribution) uses as defined by the Town and Country Planning (Use Classes) Scotland Order 1997 (as amended); that in terms of the Council's housing land supply there was no requirement for the proposed additional housing; and that there was currently no primary school capacity or an agreed acceptable solution to accommodate the primary school pupils arising from the proposed development.

In considering the argument put forward by the applicant that the site was not viable solely for economic land uses, the Committee discussed the way in which the site had been marketed for economic land uses and also the options open to the applicants to seek a change in allocation through the local development plan process. The position in relation to education provision was also debated at some length, there being major concerns that without a significant developer contribution it was highly unlikely that an acceptable solution could be found. It was pointed out that the applicants had indicated a willingness to provide developer contribution towards the cost of community use facilities at the Dalkeith Schools campus, to limit the number of housing units to 150 and to develop out the employment uses first, which would allow time for an acceptable educational solution to be found.

After further discussion, Councillor Cassidy, seconded by Councillor Baird, moved that based on the undertakings offered by the applicants, that planning permission in principle be granted for upto a maximum of 150 dwellinghouses subject to appropriate conditions and suitable developer contributions, particularly in relation to education provision.

As an amendment, Councillor Milligan, seconded by Councillor Hackett, moved that, as the proposed application was contrary to policy and that there was no acceptable educational solution, planning permission in principle be refused for reasons detailed in the Head of Communities and Economy's report.

Councillor Milligan further requested that a roll call vote be taken which was unanimously agreed by the Committee thereby satisfied the requirements of Standing Order 11.5(ii) for one-third of the Members present (or the nearest whole number to this) for a roll call vote.

Following this the Committee voted as follows:

Name	Motion	Amendment	Abstain
	Moved by Cllr Cassidy 2 nd by Cllr Baird	Moved by Cllr Milligan 2 nd by Cllr Hackett	
Cllr Alexander		X	
Cllr Baird	X		
Cllr Cassidy	X		
Cllr Curran		X	
Cllr Hackett		X	
Cllr Hardie	X		
Cllr Imrie		X	
Cllr Johnstone	X		
Cllr Lay-Douglas		X	
Cllr McCall		X	
Cllr Milligan		X	
Cllr Muirhead		X	
Cllr Munro			X
Cllr Russell		X	
Cllr Smail	X		
Cllr Wallace		X	
Cllr Winchester		X	
TOTAL	5	11	1

Decision

The Committee agreed that planning permission be refused for the following reasons:

1. The proposed residential use is not in accordance with the site's allocation for Class 4 (business), Class 5 (general industry) and Class 6 (storage and distribution) uses in the development plan and as such the development is contrary to policy 2 of the Strategic Development Plan for Edinburgh and the South-East Scotland (approved in 2013), policies STRAT1 and ECON1 of the Midlothian Local Development Plan 2017 and the Scottish Government's policy position set out in Scottish Planning Policy.
2. There is not an education solution to accommodate all of the school children that would arise from the proposed residential development of the site, in particular non-denominational primary school children and as such the proposed development does not accord with policies IMP1 and IMP2 of the Midlothian Local Development Plan 2017.
3. It has not been demonstrated that the proposed economic uses, working from home units/workshop homes and the residential development can coexist on the site without the economic uses having a detrimental impact on residential amenity or the housing resulting in a restrictive burden being placed businesses located on the site.

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.7	Section 42 Application to Remove Condition 8 (Zero and/or Low Carbon Equipment) of Planning Permission 07/00556/OUT for Class 4 and 5 Uses (Business and Industrial Uses) at Land South West of Newtonloan Toll, Gorebridge (17/00559/S42).	Peter Arnsdorf
Executive Summary of Report		
There was submitted report, dated 12 June 2018, by the Head of Communities and Economy concerning the above application.		
Decision		
The Committee, having heard from the Planning Manager, who offered in response to a request from Councillor Johnstone to provide a briefing for the local Members, agreed that planning permission be granted for the following reason:		
<p><i>The proposed development site is identified as being part of the Council's safeguarded/committed economic land supply within the Midlothian Local Development Plan 2017 and as such there is a presumption in favour of the proposed development. This presumption in favour of development is not outweighed by any other material considerations.</i></p>		
subject to:		
i) the prior signing of a legal agreement to secure contributions towards Borders Rail. The legal agreement shall be concluded within six months. If the agreement is not concluded timeously the application will be refused; and		
ii) the following conditions:		
<p>1. Details of the phasing of the development shall be submitted to the planning authority for approval, and no work shall commence on site until the phasing scheme has been approved in writing. Following approval, the development shall be implemented in accordance with the approved scheme.</p>		
<p>Reason: <i>To ensure the development is phased to mitigate the impact of construction on future users of the buildings, existing local residents and those visiting the development site.</i></p>		
<p>2. Development shall not begin on any individual phase of development (identified in compliance with condition 1) until an application for approval of matters specified in conditions for a scheme of hard and soft landscaping works for the corresponding phase of development has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:</p>		

- 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 buildings on adjoining plots being 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, watercourse diversions, flood prevention measures and sustainable urban drainage systems to manage water runoff;
- viii. proposed car park configuration and surfacing;
- ix. proposed footpaths and cycle paths (designed to be unsuitable for motor bike use);
- x. proposed cycle parking facilities;
- xi. proposed woodland management plan for any existing, to be retained, and proposed woodland; and,
- xii. details of existing and proposed services, including water, gas, electric, telephone and community heating.

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 (part 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 DEV2, DEV5, DEV6 and DEV7 of the Midlothian Local Development Plan 2017 and national planning guidance and advice.

4. Development shall not begin on an individual phase of development (identified in compliance with condition 1) until an application for approval of matters specified in conditions for the siting, design and external appearance of all buildings and other structures, including electricity substations, for the corresponding phase of development 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 in accordance with the approved details 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 DEV2, DEV5 and DEV6 of the Midlothian Local Development Plan 2017 and national planning guidance and advice.*

5. Development shall not begin on an individual phase of development (identified in compliance with condition 1) until an application for approval of matters specified in conditions for site access, roads, footpaths, cycle ways and transportation movements for the corresponding phase of development 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 roads (including turning facilities), footpaths and cycle ways;
 - iii. proposed visibility splays, traffic calming measures, lighting and signage;
 - iv. proposed construction traffic access and haulage routes;
 - v. a green transport plan designed to minimise the use of private transport and to promote walking, cycling and the use of public transport;
 - vi. proposed car parking and vehicle charging arrangements;
 - vii. an internal road layout which facilitates buses entering and leaving the site in a forward facing direction;
 - viii. details of a 3 metre wide pedestrian/cycling link to be provided to the southern edge of the site to link to the bus based park and ride to be provided within the housing site at Redheugh; and,
 - ix. a programme for completion for the construction of access, roads, footpaths and cycle paths.

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.*

6. Development shall not begin until an application for approval of matters specified in conditions for works to the A7 has been submitted to and

approved in writing by the planning authority. Details of the scheme shall include:

- i. details of the proposed vehicular and pedestrian access from the A7 (including a 2 metre wide footpath along the site frontage with the A7, proposed visibility splays, traffic calming measures, lighting and signage);
- ii. details of the provision of two new bus stops and shelters provided at suitable points on the site frontage with the A7;
- iii. details of the proposed signalised junction access layout (as shown on drawing 0429_SK-031 rev B) together with further details of the traffic control system onto the A7;
- iv. details of upgrading works to the existing traffic lights at Newtonloan Toll to provide a pedestrian crossing facility on all four arms; and,
- v. a programme for completion for the construction of access, roads, footpaths and cycle paths.

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.

7. Development shall not begin until a scheme to deal with any contamination of the site and/or previous mineral workings has been submitted to and approved by the planning authority. The scheme shall contain details of the proposals to deal with any contamination and/or previous mineral workings and include:

- i. the nature, extent and types of contamination and/or previous mineral workings on the site;
- ii. measures to treat or remove contamination and/or previous mineral workings to ensure that the site is fit for the uses hereby approved, and that there is no risk to the wider environment from contamination and/or previous mineral workings originating within the site;
- iii. measures to deal with contamination and/or previous mineral workings encountered during construction work; and
- iv. the condition of the site on completion of the specified decontamination measures.

Before any part of the site is occupied, the measures to decontaminate the site shall be fully implemented as approved by the planning authority.

Reason: To ensure that any contamination on the site is adequately identified and that appropriate decontamination measures are

undertaken to mitigate the identified risk to site users and construction workers, built development on the site, landscaped areas, and the wider environment.

8. Development shall not begin until an application for approval of matters specified in conditions setting out details, including a timetable of implementation, of high speed fibre broadband has been submitted to and approved in writing by the planning authority. The details shall include delivery of high speed fibre broadband prior to the occupation of each commercial building. The delivery of high speed fibre broadband shall be implemented as per the approved details.

Reason: *To ensure the quality of the development is enhanced by the provision of appropriate digital infrastructure.*

9. Development shall not begin until an application for approval of matters specified in conditions for a scheme of sustainability/biodiversity for the site, including the provision of bricks and boxes for bats and swifts throughout the development has been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the planning authority.

Reason: *To ensure the development accords with the requirements of policy DEV5 of the Midlothian Local Development Plan 2017.*

10. Development shall not begin until an application for approval of matters specified in conditions for the provision and use of electric vehicle charging stations throughout the development has been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the planning authority.

Reason: *To ensure the development accords with the requirements of policy TRAN5 of the Midlothian Local Development Plan 2017.*

11. Development shall not begin until an application for approval of matters specified in conditions for a scheme setting out the scope and feasibility of a community heating scheme for the development hereby approved and; if practicable, other neighbouring developments/sites, in accordance with policy NRG6 of the Midlothian Local Development Plan, shall be submitted for the prior written approval of the planning authority.

12. No commercial building on the site shall be occupied until a community heating scheme for the site and; if practicable, other neighbouring developments/sites, is approved in writing by the planning authority. The approved scheme shall be implemented in accordance with a phasing scheme also to be agreed in writing in advance by the Planning

Authority. There shall be no variation therefrom unless with the prior written approval of the planning authority.

Reason for conditions 11 and 12: *To ensure the provision of a community heating system for the site to accord with the requirements of policy NRG6 of Midlothian Local Development Plan 2017 and in order to promote sustainable development.*

13. The details of the development delineated on the indicative plan, dated May 2007, originally submitted with planning application 07/00556/OUT, are not approved.

Reason: *The planning permission is in principle only and the details shown on the layout plan are for illustrative purposes only and do not form part of the planning permission in principle.*

14. No overhead wires, cables or telecommunication masts shall be introduced onto the site without the prior written approval of the planning authority.

Reason: *To ensure that the appearance of the development is not spoiled by over-head power lines, wires and telecommunication masts.*

15. No construction, engineering or other works shall take place out with the hours of 8.00am to 7.00pm on Mondays to Fridays and 8.00am to 1.00pm on Saturdays unless otherwise agreed in writing by the planning authority.

Reason: *To minimise disturbance to nearby residential properties from noise, construction traffic and other pollution.*

16. The use of the buildings erected on the site shall be for uses within Class 4 (Business) and Class 5 (General Industrial) of the Town and Country Planning (Use Classes) (Scotland) Order 1997 or equivalent in any subsequent amendment or replacement order, unless otherwise approved by the planning authority.

Reason: *To ensure that the uses of the buildings are for the purposes applied for in order to meet economic land requirements.*

17. There shall be no external storage of equipment, packaging, waste or other items on the site and no industrial process or work shall be undertaken out with the buildings unless approved by the planning authority.

Reason: *In the interest of visual amenity.*

18. Development shall not begin until an investigation on badger and bat activity/presence is undertaken by a qualified ecologist and any mitigation measures identified implemented in accordance with details

to be submitted and approved in writing by the planning authority. The investigation shall be carried out within the six months prior to development commencing.

Reason: *In the interests of safeguarding badgers and bats and to ensure that an up to date understanding of these species on the site is available prior to development commencing.*

Action

Head of Communities and Economy

The meeting terminated at 3.15pm.