

Minute of Meeting

Local Review Body
Tuesday 4 September 2018
Item No 4.1



Local Review Body

Date	Time	Venue
22 May 2018	2.00pm	Council Chambers, Midlothian House, Buccleuch Street, Dalkeith

Present:

Councillor Imrie (Chair)	Councillor Alexander
Councillor Baird	Councillor Cassidy
Councillor Curran	Councillor Lay-Douglas
Councillor Milligan	Councillor Munro
Councillor Smail	

1 Apologies

Apologies for absence were received from Councillor Muirhead.

2 Order of Business

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

3 Declarations of interest

Councillor Milligan advised that with regards to Agenda Item 5.5 - Notice of Review Request – Land North West of Melville Gate Road, Dalkeith, 17/00587/DPP, former Councillor, Owen Thompson had contacted, and met with him and that whilst he had listen to his comments at no time had he offered an opinion on the application. With the exception of the Chair, the remaining Members of the LRB, all of whom had also been contacted or had met with Mr Thompson indicated that they had done likewise.

Councillor Smaill advised that with regards to Agenda Item 5.8 - Notice of Review Request – Land to North West of 3 Eskview Villas, Dalkeith, 17/00920/DPP, he knew the architects and was a trustee of the Scottish Civic Trust which had an interest in protecting conservation areas. Notwithstanding these facts, he did not believe either would interfere in his being able to come to an objective decision on this particular Review Request

Councillor Curran indicated that in accordance with the agreed procedures as he had been unable to attend the Site Inspection Visits, he would not participate in consideration of any of the new Review Requests.

4 Minutes of Previous Meetings

The Minutes of Meeting of 10 April 2018 were submitted and approved as a correct record.

5 Reports

Agenda No	Report Title	Presented by:
5.1	Decision Notice – Land North West of Braidwood House, Penicuik [17/00872/PPP].	Duncan Robertson

Executive Summary of Report

With reference to paragraph 5.4 of the Minutes of 10 April 2018, there was submitted a copy of the Local Review Body decision notice upholding a review request from Kirsty Scott, Niall Young Architecture Ltd, 32-12 Harden Green Business Park, Dalhousie Road, Eskbank seeking on behalf of their client, Mr I Walsh a review of the decision of the Planning Authority to refuse planning permission (17/00872/PPP, refused on 22 December 2017) for planning permission in principle for the erection of a dwellinghouse at land north west of Braidwood House, Penicuik and granting planning permission subject to conditions.

Decision

To note the LRB decision notice.

Agenda No	Report Title	Presented by:
5.2	Decision Notice – 10 Broomhill Avenue, Penicuik, [17/00801/DPP].	Duncan Robertson

Executive Summary of Report

With reference to paragraph 5.5 of the Minutes of 10 April 2018, there was submitted a copy of the Local Review Body decision notice upholding a review request from Mr P Alford, Peter Alford Architect, 19 Tipperwell Way, Howgate, Penicuik seeking on behalf of their clients Mr and Mrs A Hogg, a review of the decision of the Planning Authority to refuse planning permission (17/00801/DPP, refused on 31 January 2018) for the erection of two storey and single storey extension at 10 Broomhill Avenue, Penicuik and granting planning permission subject to conditions.

Decision

To note the LRB decision notice.

Agenda No	Report Title	Presented by:
5.3	Decision Notice – 3 Bankmill View, Penicuik, [17/00734/DPP].	Duncan Robertson

Executive Summary of Report

With reference to paragraph 5.6 of the Minutes of 10 April 2018, there was submitted a copy of the Local Review Body decision notice dismissing a review request from Mr G McPherson, Bryant & Cairns Ltd, 2/3 Borthwick View, Pentland Industrial Estate, Loanhead seeking on behalf of their client Mr W Hall, for the removal of Conditions 1, 2 and 3 of planning permission 17/00734/DPP (granted on 10 November 2017) for the installation of replacement windows and doors at 3 Bankmill View, Penicuik and granting planning permission subject to those conditions remaining.

Decision
To note the LRB decision notice.

Agenda No	Report Title	Presented by:
5.4	Decision Notice – 75 Castlelaw Crescent, Bilston, [17/00828/DPP].	Duncan Robertson

Executive Summary of Report

With reference to paragraph 5.7 of the Minutes of 10 April 2018, there was submitted a copy of the Local Review Body decision notice dismissing a review request from Mr L McCaskey, 18A Rothesay Place, Edinburgh seeking on behalf of their client Mr J Murphy, a review of the decision of the Planning Authority to refuse planning permission (17/00828/DPP, refused on 18 December 2017) for the erection of an extension at 75 Castlelaw Crescent, Bilston and refusing planning permission.

Decision

To note the LRB decision notice.

Eligibility to Participate in Debate

In considering the following items of business, only those LRB Members who had attended the site visits on Monday 21 May 2018 participated in the review process, namely Councillors Imrie, Alexander, Baird, Cassidy, Lay-Douglas, Munro, Milligan and Smaill.

Councillor Curran whilst present during the respective debates had been unable to attend the site visits and accordingly did not actively participate in the proceedings.

Agenda No	Report Title	Presented by:
5.5	Notice of Review Request Considered for the First Time – Land North West of Melville Gate Road, Dalkeith, [17/00587/DPP].	Duncan Robertson

Executive Summary of Report

There was submitted report, dated 15 May 2018, by the Head of Communities and Economy regarding an application from Jessica Powell, Colliers International, 1 Exchange Crescent, Conference Square, Edinburgh seeking on behalf of their clients, Montpelier Estates a review of planning application 17/00587/DPP for the erection of residential care home with associated access, car parking, landscaping and works at land north-west of Melville Gate Road, Dalkeith, which had not been determined within the statutory time periods (2 months as extended by agreement).

Accompanying the Notice of Review Form and supporting statement, which were appended to the report, was a copy of the report of handling thereon.

The Local Review Body had made an accompanied visit to the site on Monday 21 May 2018.

Summary of Discussion

In accordance with the procedures for the Local Review Body, the Planning Advisor gave a brief overview of the review hearing procedures and outlined the background to the case.

Thereafter, oral representations were received firstly from the applicant agent Meabhann Crowe, then from John Horsman on behalf of the applicants, and finally from Joyce Learmonth, the local authority Planning Officer; following which they all responded to Members' questions/comments.

The LRB, in giving consideration to the merits of the case based on all of the information provided both in writing and in person at the Hearing, discussed the proposed development, and the apparent impasse that appeared to have developed between the applicants and the planners. Members, as a result of comments made by the applicant and Planning Officer, requested clarity on the description of the proposal and what they were being asked to assess during the review hearing. In debating how best to proceed the possibility of a continuation until the next LRB meeting was raised as this would allow a briefing note to be prepared for Members, providing more clarity regarding the description of the proposal, and also for the two parties to meet to discuss the application and to try and resolve their differences.

Decision

The LRB agreed to continue consideration of the review request until the next LRB meeting in order that a briefing note could be prepared for Members, providing more clarity regarding the description of the proposal, and also for the two parties to meet to discuss the application and to try and resolve their differences.

Action

Head of Communities and Economy/Clerk

Agenda No	Report Title	Presented by:
5.5	Notice of Review Request Considered for the First Time – Former Loanhead Ex Servicemens Club, 10 Academy Lane, Loanhead, [17/00905/S42].	Joyce Learmonth

Executive Summary of Report

There was submitted report, dated 3 April 2018, by the Head of Communities and Economy regarding an application from Colin Young, Niall Young Architecture Ltd, 32/12 Hardengreen Business Park, Eskbank seeking on behalf of their clients Mr and Mrs Farren, the removal of Condition 3 of planning permission 15/00530/DPP (granted on 11 January 2018) to increase the maximum number of children from 50 to 102.

Accompanying the Notice of Review Form and supporting statement, which were appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.

The Local Review Body had made an accompanied visit to the site on Monday 21 May 2018.

Summary of Discussion

In accordance with the procedures for the Local Review Body, the Planning Advisor gave a brief overview of the review hearing procedures and outlined the background to the case. She also explained that although the applicants and their agent had been informed of the date, time and venue for the Hearing, neither were currently present and the LRB may wish to consider continuing and determining the Review in their absence, and this was agreed.

Thereafter, an oral representation was received from Marie-Anne Cowie, the local authority Planning Officer; following which she responded to questions from members of the LRB.

Having heard from the Planning Adviser, the LRB gave careful consideration to the merits of the case based on all the information provided both in writing and in person at the Hearing. In particular, the LRB discussed the potential impact that the proposed increase in numbers was likely to have on the neighbouring properties. The debate amongst Members being that a development of this type by its nature was likely to generate traffic movements from parents dropping off and collecting children and noise from the children playing.

Decision

After further discussion, the LRB agreed to uphold the review request, and grant planning permission for the following reason:-

The proposed development would not have a significant detrimental impact on the character and amenity of the surrounding area and so accords with policies DEV2 and ENV18 of the adopted Midlothian Local development Plan 2017.

subject to the following condition:-

1. Without the prior written agreement of the Planning Authority, the maximum number of children attending the nursery at any one time shall not exceed 80.
2. The hours of operation of the nursery hereby approved shall be 07.30 to 18.30 Mondays to Fridays.

Reason: To protect the amenity of the surrounding residential area in regards to noise and disturbance.

3. The building shall be used only as a children's nursery, and for no other purposes within Class 10 of the Schedule to the Town and Country Planning (Use Classes) (Scotland) Order 1997 or the equivalent class of any subsequent order amending or superseding it.

Reason: To enable the Planning Authority to retain effective control over the future use of the building and to ensure that it is able to assess any such proposals in terms of their traffic generation, parking requirements and overall impact on the amenity of the area.

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.6	Notice of Review Request Considered for the First Time – Land West of 14-18 The Loan, Loanhead, [17/00930/DPP].	Joyce Learmonth
Executive Summary of Report		
<p>There was submitted report, dated 15 May 2018, by the Head of Communities and Economy regarding an application from Kevin McLellan, David Paton Building Consultancy, 13 High Street, Loanhead seeking on behalf of their client Mr B Campbell, a review of the decision of the Planning Authority to refuse planning permission (17/00930/DPP, refused on 19 February 2018) for the erection of 3 flatted dwellings; change of use of existing garage to form dwellinghouse and installation of rooflight, door and windows at 14 - 18 The Loan, Loanhead.</p> <p>Accompanying the Notice of Review Form and supporting statement, which were appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.</p> <p>The Local Review Body had made an unaccompanied visit to the site on Monday 21 May 2018.</p>		
Summary of Discussion		
<p>Having heard from the Planning Advisor, the LRB then gave careful consideration to the merits of the case based on all the written information provided. In discussing the proposed development and the reasons for its refusal, the LRB considered the potential impact that the lack of parking provision might have on what was a town centre development; it being felt that suitable alternative car parking was available nearby for anyone moving into the proposed properties should they require it.</p>		

Decision

After further discussion, the LRB agreed to uphold the review request, and grant planning permission for the following reason:

The proposed residential development is an acceptable use within the town centre. The location of the site, close to a range of town centre facilities, public parks and public transport, will ensure a sufficient level of amenity for the future occupants of the dwellings in order to compensate for the limited amenity space and lack of parking within the application site.

subject to

(a) the prior signing of a legal agreement to secure appropriate developer contributions. The legal agreement to be concluded within 6 months of the resolution to grant planning permission, if the agreement is not concluded the review will be reported back to the LRB for reconsideration. The legal agreement to be concluded prior to the issuing of the LRB decision; and

(b) the following condition:-

1. Prior to the commencement of development, the following details shall be submitted to and approved in writing by the Planning Authority:

- a) Details and samples of all proposed external materials;
- b) Details of the position, design, materials, dimensions and finish of all walls, fences, gates or other means of enclosure;
- c) Proposals for the treatment and disposal of foul and surface water drainage; and
- d) Details of secure cycle storage, including the design, dimensions, materials and position of any new building.

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: *These details were not submitted as part of the application: to ensure the buildings are finished in high quality materials; to protect the visual amenity of the surrounding area; to ensure the units are provided with adequate amenity; to help integrate the proposal into the surrounding area.*

2. Unless otherwise approved in writing by the Planning Authority, the roof of the flats shall be finished in natural slate.

Reason: *To ensure these are finished in materials appropriate to the surrounding area.*

3. Before the residential units are occupied, the installation of the means of drainage treatment and disposal in terms of condition 1c) shall be completed to the satisfaction of the Planning Authority.

Reason: To ensure that these are provided with adequate drainage facilities prior to occupation.

4. The existing vehicle dropped kerb at The Loan shall be removed and replaced with a standard footway.

Reason: In the interests of road safety.

5. Prior to the commencement of development, a programme of site investigation works shall take place to confirm coal mining legacy issues at the site. This programme shall include the submission of a scheme of intrusive site investigation works to be submitted to and approved in writing by the planning authority which, if approved, shall be undertaken. A further report of findings arising from the intrusive site investigations shall be submitted along with a scheme to address any remedial works necessary to be approved in writing by the planning authority which shall then be implemented.

Reason: To ensure that the site is suitable for development given the previous coal workings in the area.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, or any subsequent order amending or superseding it, there shall be no openings formed on any elevations of nor any extensions to the converted garage to dwellinghouse hereby approved without the prior submission of a planning application and subsequent consent of the Planning Authority.

Reason: To ensure that the converted dwellinghouse does not have a detrimental impact on the privacy and amenity of the occupiers of the adjacent properties as a result of overlooking.

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.7	Notice of Review Request Considered for the First Time – Land to North West 3 Eskview Villas, Dalkeith, [17/00920/DPP].	Joyce Learmonth
Executive Summary of Report		
There was submitted report, dated 15 May 2018, by the Head of Communities and Economy regarding an application from Gail Halvorsen, Halvorsen Architects, Mountskip House, Gorebridge seeking on behalf of their client Mrs C Walters, a review of the decision of the Planning Authority to refuse planning permission (17/00920/DPP, refused on 5 March 2018) for the erection of dwellinghouse and		

two flatted dwellings; formation of access, car parking and associated works at land to north-west of 3 Eskview Villas, Dalkeith.

Accompanying the Notice of Review Form and supporting statement, which were appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.

The Local Review Body had made an unaccompanied visit to the site on Monday 21 May 2018.

Summary of Discussion

Having heard from the Planning Advisor, the LRB then gave careful consideration to the merits of the case based on all the written information provided. In discussing the proposed development and the reasons for its refusal, the LRB considered the potential impact that the proposed development would have as a result of its scale and design. The feeling being that it did not compliment the character of the surrounding conservation area and would negatively impact on the streetscape as a result of its design, scale and positioning.

Decision

After further discussion, the LRB agreed to dismiss the review request, and uphold the decision to refuse planning permission for the following reasons:

1. *The site has insufficient space to accommodate the necessary levels of private outdoor space and the necessary levels of car parking provision. The proposal is therefore contrary to policies STRAT2, DEV2 and DEV6 of the adopted Midlothian Local Development Plan 2017.*
2. *The external stairs would be an unattractive feature that would have a detrimental impact on the character of the surrounding area. The proposal is therefore contrary to policies DEV2 and ENV19 of the adopted Midlothian Local Development Plan 2017.*
3. *The external stairs and rear balcony would create an unacceptable loss of privacy for properties in the surrounding area. The proposal is therefore contrary to policy DEV2 and DEV6 of the adopted Midlothian Local Development Plan 2017.*

Action

Head of Communities and Economy

The meeting terminated at 3.12 pm.