

MINUTES of **MEETING** of the **LOCAL REVIEW BODY** held in the Council Chambers, Midlothian House, Buccleuch Street, Dalkeith on Tuesday 19 January 2016 at 2.00 pm.

Present: - Councillors Bryant (Chair), Baxter, Beattie, Bennett, Constable, Imrie and Rosie.

Apologies for Absence: - Councillors de Vink, Milligan and Montgomery.

1. Declarations of Interest

No declarations of interest were intimated.

2. Minutes

The Minutes of Meeting of 24 November 2015 were submitted and approved as a correct record.

3. Decision Notice – Whitehill, Nine Mile Burn, Penicuik (15/00592/DPP)

With reference to paragraph 5 of the Minutes of 24 November 2015, there was submitted a copy of the Local Review Body decision notice upholding a review request from Derek Scott Planning, 21 Lansdowne Crescent, Edinburgh, seeking on behalf of their clients Newhall Farm Partnership, a review of the decision of the Planning Authority to refuse planning permission (15/00592/DPP, refused on 28 August 2015) for the erection of a dwellinghouses and formation of access at Whitehill, Nine Mile Burn, Penicuik, and granting planning permission subject to conditions.

Decision

To note the LRB decision notice.

Eligibility to Participate in Debate

In considering the following item of business, only those LRB Members who had attended the site visit on Monday 23 October 2015 participated in the review process, namely Councillors Bryant (Chair), Baxter, Beattie, Bennett, Constable, Imrie and Rosie.

4. Notice of Review Requests Considered for the First Time – (a) Shewington, Rosewell (15/00158/DPP)

There was submitted report, dated 17 November 2015, by the Head of Communities and Economy regarding an application from Mainstream Renewable Power, 2 West Regent Street, Glasgow, seeking on behalf of their clients Neart na Gaoithe Offshore Wind Ltd, a review of the decision of the Planning Authority to refuse planning permission (15/00158/DPP, refused on 30 June 2015) for the formation of a temporary test piling facility, associated car parking, access road and buildings at Shewington, Rosewell.

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 18 January 2016.

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. He then introduced Ms Stephanie Moran, Ms Rosie Scurr and Mr Martin Field, all of whom were appearing on behalf of the applicants, Neart na Gaoithe Offshore Wind Ltd, and Mr Robert Pitcairn, Rosslynlee Trout Fishery to the meeting.

Thereafter, oral representations were received on behalf of the applicants, Mr Pitcairn and the local authority Planning Officer; following which they responded to questions from members of the LRB.

Thereafter, 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. Notwithstanding the fact that there was clear disagreement between the various parties as to the potential impact of any vibration or noise disturbance, the LRB debated whether mitigating measures, such as a restoration bond, could be put in place to cover the cost of any damage in the event that it should arise. The LRB also discussed whether any additional measures were needed and in the event that consent were granted for the proposed development what conditions might be appropriate.

After further discussion, Councillor Baxter, seconded by Councillor Bennett, moved that the Review Request be upheld and that the LRB be minded to grant planning permission subject to (i) provision of a suitable bond to cover any damage that might be caused as a result of the works; and (ii) a further report on suitable conditions based on those detailed in the Head of Communities and Economy's report, and having regards to the points raised during discussion.

As an amendment, Councillor Beattie, seconded by Councillor Constable, moved to dismiss the Review Request and uphold the decision to refuse planning permission on the grounds given in the original decision notice.

On a vote being taken, two Members voted for the amendment and four for the motion which accordingly became the decision of the meeting.

Decision

The Local Review Body agreed to uphold the review request, and were minded to grant planning permission, subject to suitable conditions; which would be the subject of a further report, and also evidence of the provision of a suitable bond to cover any damage that might be caused as a result of the works.

(Action: Head of Communities and Economy)

(b) Land at Camp Wood, Dalkeith (15/00591/DPP)

There was submitted report, dated 12 January 2016, by the Head of Communities and Economy regarding an application from Format Design, 146 Duddingston Road West, Edinburgh, seeking on behalf of their client Mr M Smith, a review of the decision of the Planning Authority to refuse planning permission (15/00591/DPP, refused on 7 September 2015) for the erection of dwellinghouse and outbuildings; formation of access roads, paths, car parking, two ponds, coarse fishery and associated works at land south of Camp Wood, 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 accompanied visit to the site on Monday 18 January 2016.

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. He then introduced the applicant Mr Mark Smith, the applicant's agent, Mr Bob Tait, Format Design, and Mr Robert Gray, the applicant's Forestry Consultant to the meeting.

Thereafter, oral representations were received from the applicant, his agent, Forestry Consultant and the local authority Planning Officer; following which they responded to questions from members of the LRB.

Thereafter, 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. Whilst noting the present and emerging development plan policies, the LRB debated whether there were material planning considerations that justified a departure. The representations and consultation responses received were material considerations. The LRB also discussed the need for a Coal Mining Risk Assessment (CMRA) to be undertaken by the applicant in order to secure the removal of an objection from the Coal Authority: the application site being within an identified area of high risk from previous coal workings. Any mitigation measures proposed by the Coal Authority as a result of the CMRA would require to be incorporated into the development.

Decision

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

The erection of a dwellinghouse discreetly designed to fit into the landscape would result in an environmental improvement of the site and help support the proposed rural business.

subject to the following conditions:-

1. Development shall not begin until phasing plan has been submitted to and approved in writing by the Planning Authority. The phasing plan shall detail the timetable for the commencement of livestock rearing; the erection and operation of the fishery; and the erection and occupation of the dwellinghouse and associated outbuildings. Unless otherwise approved in writing by the Planning Authority development shall be undertaken in the order detailed in the approved phasing plan.

Reason: *To ensure that the agricultural and fishery operations which justify the erection of a dwellinghouse are commenced within an acceptable timeframe.*

2. Development shall not begin until a scheme of investigation and remediation to deal with previous mineral workings has been submitted to and approved in writing by the Planning Authority. The scheme shall include:
 - i. A scheme of intrusive site investigations;
 - ii. A report of findings arising from the intrusive site investigations; and
 - iii. A scheme of remedial works for approval by the Coal Authority.

Before any work starts onsite the investigation schemes and remediation works shall be fully implemented as approved by the Planning Authority and the Coal Authority.

Reason: *To ensure that any risks posed by the coal mining history of the area are identified and addressed prior to development commencing.*

3. Development shall not begin until a Woodland Management Plan, complying with current Forestry Commission Scotland guidance, has been submitted to and approved in writing by the Planning Authority. Unless otherwise approved in writing by the Planning Authority the woodland within the application site shall be managed in compliance with the approved plan.

Reason: *To ensure the development does not result in the loss or damage of trees which merit retention in accordance with policy RP5 of the Midlothian Local Plan and national planning guidance and advice.*

4. Development shall not begin until an Access Plan has been submitted to and approved in writing by the Planning Authority. The Access Plan shall provide details of measures to ensure that access complying with the Midlothian Core Paths Plan is maintained during and after development work. Unless otherwise approved in writing by the Planning Authority the Access Plan shall be implemented on commencement of development and shall remain in operation thereafter.

Reason: *To ensure that the development does not result in the loss of access to core path 7-35 and other paths that form part of the wider path network and to comply with policy RP32 of the Midlothian Local Plan.*

5. Development shall not begin until details of a scheme of hard and soft landscaping 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, open space and access tracks 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 boundary planting along the external boundaries of the application site;
 - 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 the boundary planting. The boundary planting shall be completed prior to the house 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 and sustainable urban drainage systems to manage water runoff;
 - viii proposed car park configuration and surfacing; and
 - ix proposed footpaths and rights of way (designed to be unsuitable for motor bike use).

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 RP1 and DP1 of the Midlothian Local Plan and national planning guidance and advice.*

6. Development shall not begin until samples of materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and ancillary structures have been submitted to and approved in writing by the planning authority. 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 RP1 and DP1 of the Midlothian Local Plan and national planning guidance and advice.*

7. Prior to work commencing on the formation of the ponds, fishery and associated bunding the following details shall be submitted to and approved in writing by the Planning Authority:
 - i Scaled cross sections at a scale of 1:100 of the ponds and bunding;
 - ii Details of any landscaping associated with the ponds and bunding;
 - iii Details of a scheme to ensure that the design, construction and maintenance of the pond embankments will ensure the stability of the embankments.

Unless otherwise approved in writing by the Planning Authority the development of the ponds and bunding shall be undertaken in compliance with the approved details.

Reason: *To ensure that the proposed development does not adversely affect the water environment and to comply with policies RP8 and DP3 of the Midlothian Local Plan.*

(Action: Head of Communities and Economy)

The meeting terminated at 4.02 pm.