

Minute of Meeting



Local Review Body

Date	Time	Venue
Tuesday 14 September 2021	1.00pm	Virtual Meeting using MS Teams

Present:

Councillor Imrie (Chair)	Councillor Alexander
Councillor Cassidy	Councillor Curran
Councillor McKenzie	Councillor Milligan

In Attendance:

Derek Oliver, Chief Officer Place	Joyce Learmonth, Lead Officer, Major Developments and Enforcement
Mhairi-Anne Cowie, Planning Officer: Local Developments	Mike Broadway, Democratic Services Officer
Andrew Henderson, Democratic Services Officer	

1 Apologies

Apologies for absence had been received from Councillors Lay-Douglas, Muirhead, Munro and Smail.

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 5.2 – Notice of Review Request - 10 Ashbank, Vogrie Road, Gorebridge (20/00375/PPP), he had been approached by the appellant regarding how the Local Review Body operated. Whilst he had explained the review process, at no time had he given an opinion on the particular review in question and he did not believe his exchange would interfere in his being able to come to an objective decision on this Review Request therefore he would still take part in the discussion.

4 Minute of Previous Meeting

The Minutes of Meeting held on 14 June 2021 were submitted and approved as a correct record.

5 Reports

Agenda No	Report Title	Presented by:
5.1	Notice of Review – Land at 6 Lugton Brae, Dalkeith (20/00695/DPP) – Determination Report.	Joyce Learmonth
Executive Summary of Report		
<p>There was submitted report dated 2 September 2021 by the Chief Officer Place, regarding an application from APT Planning and Development, 6 High Street, East Linton seeking, on behalf of their client Mr & Mrs C Flockhart, a review of the decision of the Planning Authority to refuse planning permission (20/00695/DPP, refused on 10 March 2021) for the erection of dwellinghouse; alterations to existing boundary walls; erection of gates and retaining walls on land at 6 Lugton Brae, Dalkeith.</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>		
Summary of Discussion		
<p>In accordance with the procedures for the Local Review Body, Joyce Learmonth, as Planning Advisor gave a brief overview of the review hearing procedures and outlined the background to the case, before taking Members through a visual presentation.</p>		

Thereafter, oral representations were received firstly on behalf of the applicant from Tony Thomas, APT Planning and Development, the applicant's agent; also present was the applicant, Chris Flockhart, and then from Mhairi-Anne Cowie, the local authority Planning Officer; following which both parties responded to Members' questions/comments.

The LRB then 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 consideration was given to the potential impact that the proposed development would have on the character and appearance of the area; and whether or not it would be visually intrusive.

Decision

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

The development is not visually intrusive and would not have a significant impact on the character and appearance of the surrounding Conservation Area as compared to the existing developments in the area, nor would it have a significant detrimental impact on the setting of the listed building. Sufficient amenity space is provided for existing and proposed houses. The development therefore complies with policies DEV2, STRAT2, ENV19 and ENV22 of the adopted Midlothian Local Development Plan 2017.

subject to the following conditions –

1. Prior to the commencement of development, the following details shall be submitted and approved in writing by the planning authority and only those approved details shall be used in the implementation of this grant of planning permission:
 - a) Details and a sample of all external materials;
 - b) Details of the materials of any areas of hardstanding;
 - c) Details of the design, dimensions, materials and colour finish of all new walls, gates, fences or other means of enclosure;
 - d) Details of a scheme of landscaping for the site. Details shall include the position, number, size and species of all trees and shrubs that are proposed to be planted, as well as identifying all trees and hedges on site which are proposed to be removed and retained;
 - e) Details of a sustainability/biodiversity scheme for the site including the provision of boxes for bats and birds and sustainability areas; and
 - f) Details of the proposed solar including dimensions and illustrations.

Reason: *These details were not submitted with the application; in order to ensure that the development hereby approved does not detract from the character and appearance of the surrounding conservation area and nearby listed building.*

2. The wall materials approved in condition 1a) above shall be either natural stone, smooth or wet dash render, or timber cladding.

Reason: *In order to ensure that the development hereby approved does not detract from the character and appearance of surrounding conservation area and nearby listed building.*

3. The landscape plan approved in condition 1d) above shall include that the existing hedge along the west boundary of the site to 6B Lugton Brae is protected during development and retained.

Reason: *To protect the character and appearance of the surrounding conservation area; to integrate the house into the area; to protect the amenity and privacy of existing and future occupants.*

4. The landscape plan approved in condition 1d) above shall include details of protection measures for the hedge to be retained in condition 3.
5. Any temporary protective fencing approved in condition 4 shall be erected before any work on the development is begun, including site clearance, and shall be retained until the development is completed. Within the area enclosed by the fencing there shall be no movement of machinery, excavation, no removal of soil, no placing of additional soil, no storage of any kind, disposal of any waste or fires lit. These works shall be carried out in accordance with BS5838:2012 Trees in Relation to Development.

Reason for conditions 4 and 5: *To protect the character and appearance of the surrounding conservation area; to integrate the house into the area; to protect the amenity and privacy of existing and future occupants; to ensure that the hedge to be retained is protected from damage during development; to ensure that the best practice is followed.*

6. Development shall not begin until details, including a timetable of implementation, of high speed fibre broadband have 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 dwellinghouse. 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 in accordance with the requirements of policy IT1 of the adopted Midlothian Local Development Plan 2017.*

7. Development shall not begin until details of the provision and use of electric vehicle charging stations throughout the development have 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 by the planning authority.

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

8. Unless otherwise approved in writing by the planning authority, shrubs to be removed to accommodate the outbuilding shall not be removed during the months of March to September inclusive.

Reason: *To protect the local biodiversity of the site; there is potential for the disturbance of nesting birds at the site during bird nesting season.*

Action

Planning, Sustainable Growth and Investment Manager

Agenda No	Report Title	Presented by:
5.2	Notice of Review – 10 Ashbank, Vogrie Road, Gorebridge (20/00375/PPP) – Determination Report.	Joyce Learmonth

Executive Summary of Report

There was submitted report dated 2 September 2021 by the Chief Officer Place, regarding an application from Liston Architects, 1 Summerhall, Edinburgh seeking, on behalf of their client Mr D Givan, a review of the decision of the Planning Authority to refuse planning permission in principle (20/00375/PPP, refused on 31 August 2020) for the erection of a dwellinghouse on land at 10 Ashbank, Vogrie Road, Gorebridge.

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.

Summary of Discussion

The LRB, having heard from the Planning Advisor, 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 at length the potential impact that permitting the proposed development would have on the character and appearance of the area; concerns regarding the proposed access arrangements; and the potential impact its development might have on trees located within the application site.

Decision

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

The development is an opportunity to tidy up an untidy workshop and area of hardstanding in an attractive rural location.

subject to:-

1. Development shall not begin until an application for approval of matters specified in conditions for a scheme to deal with any contamination of the site has been submitted to and approved by the Planning Authority. The scheme

shall contain details of the proposals to deal with any contamination and include:

- a) The nature, extent and types of contamination on the site;
- b) Measures to treat or remove contamination to ensure that the site is fit for the uses hereby approved, and that there is no risk to the wider environment from contamination originating within the site;
- c) Measures to deal with contamination encountered during construction work; and
- d) The condition of the site on completion of the specified decontamination measures.

Before any part of the site is occupied for residential purposes, the measures to decontaminate the site shall be fully implemented as approved by the Planning Authority and a validation report or reports shall be submitted to the and approved in writing by the Planning Authority confirming that the works have been carried out in accordance with the approved scheme.

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.*

2. Development shall not begin until an application for approval of matters specified in conditions for 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:

- a) A scheme of intrusive site investigations;
- b) A report of findings arising from the intrusive site investigations and the results of any gas monitoring; and
- c) A scheme of remedial/mitigation works.

Before any work starts onsite on the erection of the dwellinghouse the investigation schemes and remediation/mitigation works shall be fully implemented as approved by the Planning Authority and the Coal Authority and a verification report shall be submitted to and approved in writing by the Planning Authority and the house hereby approved shall not be occupied until this has been approved in writing by the Planning 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 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 and parking provision 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 high speed fibre broadband connections for the house;
- g) Details of the provision of electric vehicle charging stations for the house;
- h) 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;
- i) Details of a scheme of landscaping for the boundaries of the site; and Details shall include a plan showing 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.*

4. The house hereby approved in terms of conditions 3 (a), (b) and (c) shall be on a maximum of two levels with the upper floor wholly accommodated in the roofspace.

Reason: *To ensure that the dwelling is of an appropriate scale to the surrounding rural area; for the avoidance of doubt; to ensure that adequate room is provided to allow for appropriate landscaping; to help integrate the house in the surrounding rural and sensitive area.*

5. The details of the hardstanding required in terms of condition 3d) shall be porous materials.

Reason: *In the interests of road safety; to prevent water run-off from the site onto Vogrie Road.*

6. The details of the boundary treatments required in terms of condition 3a) shall include close boarded fencing along the north and east boundaries.

Reason: *To protect the amenity of the occupants of the house from noise from the adjacent dog day care business.*

7. The landscape scheme approved in terms of condition 3i) shall include details of planting along the west boundary to Vogrie Road.

8. The scheme of landscaping approved in accordance with condition 3j) shall include details of boundary planting to both integrate the development into the surrounding area and also provide and maintain privacy to existing and future occupants.

Reason for conditions 7 and 8: *To ensure the development is integrated into and in keeping with the surrounding rural and sensitive area.*

9. The scheme of landscaping approved in accordance with condition 3i) shall be carried out and completed within six months of the building 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: *To ensure the landscaping is carried out and becomes successfully established.*

10. The tree protection measures approved in terms of condition 3i) shall be in place before any work on the development is begun, including site clearance, and shall be retained until the development is completed, including the protection of trees outwith but adjacent to the site which would be affected by development. Within the area enclosed by fencing there shall be no excavation, no removal of soil, no placing of additional soil, no storage of any kind, disposal of any waste or fires lit. These works shall be carried out in accordance with BS5837:2012 Trees in Relation to Design, Demolition and Construction – Recommendations.

Reason: *To ensure that the trees and landscaping to be retained are protected from damage during development; to protect the appearance of the surrounding rural area.*

11. Before the new house is occupied the installation of the means of drainage treatment and disposal approved in terms of condition 3h) 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.*

Action

Planning, Sustainable Growth and Investment Manager

Agenda No	Report Title	Presented by:
5.3	Notice of Review – 18-20 Edinburgh Road, Penicuik (20/00562/DPP) – Determination Report.	Joyce Learmonth

Executive Summary of Report

There was submitted report, dated 2 September 2021 by the Chief Officer Place, regarding an application from Zander Planning Ltd, Clyde Office 2nd floor, 48 West George Street, Glasgow, seeking, on behalf of their clients A F Noble and Sons a review of the decision of the Planning Authority to refuse planning permission (20/00562/DPP, refused on 18 June 2021) for the erection of retail (class 1) and food and drink (class 3) units, formation of car park, creation of external seating area and erection of fence and gates at 18-20 Edinburgh Road, Penicuik.

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.

Summary of Discussion

The LRB, having heard from the Planning Advisor, 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 at length the potential detrimental impact that permitting the proposed development would have on Penicuik town centre; concerns regarding the proposed access arrangements and related road safety concerns; and issues arising a result of its close proximity to the local Primary School.

Decision

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

1. It has not been demonstrated that the proposed retail and class 3 units would not have a significant detrimental impact on the vitality and viability of Penicuik town centre and so the proposal does not comply with policy TCR2 of the Midlothian Local Development Plan and the Scottish Planning Policy, both of which aim to prioritise and protect town centres through the town centre first principle.
2. The proposed access and turning space within the site raises road safety concerns which would be to the detriment of the safety of road users and customers of the proposed units.
3. The service/delivery area, being located to the front of the building, will have an adverse impact on the appearance of the area, thereby not complying with policy DEV2 of the adopted Midlothian Local Development Plan 2017.
4. The proposed ancillary takeaway for the class 3 unit is within 400m of the curtilage of Strathesk Primary School and so the proposal does not comply with the adopted Supplementary Guidance for Food and Drink and Other Non-retail Uses in Town Centres.

Action

Planning, Sustainable Growth and Investment Manager

Agenda No	Report Title	Presented by:
5.4	Notice of Review – 33 Mayburn Terrace, Loanhead (21/00032/DPP) – Determination Report.	Joyce Learmonth
Executive Summary of Report		
<p>There was submitted report, dated 2 September 2021 by the Chief Officer Place, regarding an application from Cockburn’s Consultants, 1A Belford Park, Edinburgh seeking, on behalf of their client Mr J Ewen, a review of the decision of the Planning Authority to refuse planning permission (21/00032/DPP, refused 12 March 2021) for the subdivision of existing dwellinghouse to form two flatted dwellings and associated extension and external alterations at 33 Mayburn Terrace, 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>		
Summary of Discussion		
<p>The LRB, having heard from the Planning Advisor, gave careful consideration to the merits of the case based on all the written information provided. In discussing the proposed change of use and the reasons for its refusal, the LRB considered at length the potential impact that permitting the proposed development would have on existing neighbouring residential properties due to the close proximity of the properties; the adequacy of the level of amenity for future residents of the proposed properties; the lack of off-street parking provision; and access arrangements.</p>		
Decision		
<p>After further discussion, the LRB agreed to dismiss the review request, and refuse planning permission for the following reasons:</p> <ol style="list-style-type: none"> 1. The development will provide an inadequate level of amenity for future residents due to the fact that it will be overlooked by existing neighbouring residential properties and that it has not been demonstrated that there will be an adequate level of garden ground being provided for each dwelling within the application site. 2. The development will have a detrimental impact on the amenity and privacy of the occupants of the immediately adjacent residential properties due to the close proximity of the properties and the distances between the windows on neighbouring flatted dwellings. 3. The proposed development in having no off-street parking provision means that it does not comply with the Council's parking standards and will result in cars being parked on the street to the significant detriment of traffic and pedestrian safety on this busy public transport corridor. 4. For the above reasons, the proposal is contrary to policies STRAT2, DEV2 and DEV6 of the adopted Midlothian Local Development Plan 2017. 		
Action		
Planning, Sustainable Growth and Investment Manager		

6. Private Reports

No private business was discussed.

7. Date of Next Meeting

The next scheduled meeting will be held on Tuesday 26 October 2021 at 1.00 pm.

The meeting terminated at 1.52pm.