

Minute of Meeting

Planning Committee
Tuesday 28 March 2023
Item No: 4.1



Planning Committee

Date	Time	Venue
Tuesday 28 February 2023	1.00 pm	Council Chambers, Midlothian House

Present:

Councillor Imrie (Chair)	Councillor Bowen
Councillor Cassidy	Councillor Curran
Councillor McCall	Councillor McEwan
Councillor McKenzie	Councillor McManus
Councillor Milligan	Councillor Parry
Councillor Pottinger	Councillor Russell
Councillor Scott	Councillor Smail
Councillor Virgo	Councillor Winchester

In Attendance:

Peter Arnsdorf	Planning, Sustainable Growth and Investment Manager
Alan Turpie	Legal and Governance Manager
Derek Oliver	Chief Officer, Place
Janet Ritchie	Democratic Services Officer

1. Apologies

Apologies for absence were received from Councillor Alexander and Councillor Drummond.

2. Order of Business

The order of business was as set out in the Agenda.

3. Declarations of interest

Councillor Smaill declared an interest in 5.3 and would leave the meeting during this item.

Councillor Milligan advised that with regards to 5.6 the Applicant and an Objector contacted him and he advised on the planning system but made no comment regarding the application.

Councillor Scott declared an interest in 5.3 and would leave the meeting during this item.

Councillor Smaill also advised that he had received correspondence with regards to 5.6 but made no comments regarding the application.

4. Minutes of Previous Meetings

The minute of the meeting of 10 January 2023 was submitted and approved as a correct record.

5. Reports

Agenda No	Report Title	Submitted by:
5.1	National Planning Framework No. 4 (NPF4) Update, MLDP2 Launch and DPS15 Report and Appendices	Chief Officer Place
Outline of report and summary of discussion		
<p>The purpose of this report was to update the Committee on the adoption of the National Planning Framework No. 4 (NPF4) and to advise of the implications for Midlothian of NPF4 adoption, including the formal commencement of the preparation of Midlothian's next Local Development Plan and engagement with communities with regard the preparation of Local Place Plans</p> <p>The Planning, Sustainable Growth and Investment Manager presented this report outlining the main sections contained within the report.</p>		

The Chair expressed his views with regards to the infrastructure and services and that with regards to housing numbers the Council has no option the Scottish Government dictates the housing numbers.

Unfortunately if the Council allow more developments in Midlothian other services should assist with the funding of appropriate infrastructure and services. During further discussion Councillors expressed their views with regards to Housing, Infrastructure and services and developer's contributions.

The Planning, Sustainable Growth and Investment Manager provided clarity on Developer's contributions and that there is a legal framework around this and Midlothian is at the top end of the charge table when charging developer's contributions and also in the recovery of contributions.

It was further highlighted that there is an expectation to take further houses in addition to the houses already agreed throughout Midlothian and the lack of adequate infrastructure and that Midlothian is one of the fast growing Councils but that this is not taken into consideration. Councillor Milligan stressed that the Council needs to oppose any additional housing until the council gets identified and funded solutions for what is required.

The Planning, Growth and Investment Manager provided clarity on the housing numbers and the scale of growth in Midlothian and advising that during the recommended workshops this will be looked at in more detail.

The Planning, Sustainable Growth and Investment Manager also responded to further comments expressed regarding Developer's contributions, key agency discussions, the engagement with local communities and the effect on social housing if further houses were not built.

Decision

The Planning Committee noted the update on NPF4 and agreed to instruct the Planning, Sustainable Growth and Investment Manager to:

1. Commence preparation of the second Midlothian Local Development Plan (MLDP2);
2. Issue invitations to local community groups to prepare Local Place Plans (LPPs) which will help inform production of MLDP2 (Appendix A);
3. Establish a MLDP2 Officer Project Board, comprising senior managers from across the Council services, to ensure the spatial dimensions of other Council strategies are reflected in MLDP2;
4. Arrange a series of workshops between elected members and officers on NPF4 and MLDP2;
5. Publish the Development Plan Scheme for Midlothian no.15 (DPS15)(Appendix B); and
6. Make any non-material changes necessary to the DPS15 and the Local Place Plan invitations prior to publication.

Action
The Planning, Sustainable Growth and Investment Manager

Agenda No	Report Title	Submitted by:
5.2	Planning Performance Framework Annual Report 2021/22	Chief Officer Place
Outline of report and summary of discussion		
<p>This report provides an update on the progress of work undertaken on the Planning Performance Framework (PPF) for Midlothian. Specifically, it provides feedback from Scottish Government on the Council's submitted PPF for 2021/22.</p> <p>The Planning, Sustainable Growth and Investment Manager presented this report outlining the main sections contained within the report highlighting the ratings shown on Appendix A to the report.</p> <p>The Chair expressed his congratulations to the staff.</p>		
Decision		
The Planning Committee noted the feedback from Scottish Government on the Council's submitted Planning Performance Framework (PPF) for 2021/22.		
Action		
The Planning, Sustainable Growth and Investment Manager		

Councillor Scott, Councillor Smaill and Councillor McCall left the meeting at 1.30 pm.

Agenda No	Report Title	Submitted by:
5.3	Land North of 6 Ashbank, Gorebridge - Enforcement Notice Prosecution Report and Appendices	Chief Officer Place
Outline of report and summary of discussion		
<p>This report relates to the non-compliance with the requirements of an enforcement notice served by the Council pursuant to Section 127 of the Town and Country Planning (Scotland) Act 1997, as amended, with regard the change of use of vacant land to a builders' yard (sui generis); siting of shipping containers and associated engineering operations to form a hardstanding at land north of 6 Ashbank, Gorebridge.</p> <p>The enforcement notice required the unauthorised use of the land as a builder's yard to permanently cease and for the shipping containers brought onto the site in associated with that use to be removed from the land. Furthermore, the areas of hardstanding formed on the land to facilitate the unauthorised use shall be removed</p>		

and the land returned to grass. None of these steps have been taken, either by the enforcement notice compliance date of 6 January 2023 or to date (at the time of drafting this report). Non-compliance with an enforcement notice constitutes an offence.

The Planning, Sustainable Growth and Investment Manager presented this report to the committee advising of the key sections contained within the report.

Decision

The Planning Committee agreed to instruct the Planning, Sustainable Growth and Investment Manager (or an alternatively appropriately appointed officer) to refer the case to the Crown Office and Procurator Fiscal Service for consideration of prosecutorial action pursuant to Section 136 of the Town and Country Planning (Scotland) Act 1997 as amended.

Action

The Planning, Sustainable Growth and Investment Manager

Councillors Scott, Smail and McCall re-joined the meeting at 1.34 pm, following discussion of the above item.

Councillor McKenzie declared that the Applicant is in his Ward and that he had correspondence with him regarding the process but did not comment on the Application.

Agenda No	Report Title	Submitted by:
5.4	2 Conifer Road, Mayfield – Enforcement Notice Appeal Decision	Chief Officer Place
Outline of report and summary of discussion		
<p>The purpose of this report was to advise the Committee of an enforcement notice appeal decision with regard the erection of an outbuilding in the side garden of 2 Conifer Road, Mayfield.</p> <p>A retrospective planning application for the erection of an outbuilding at 2 Conifer Road, Mayfield was refused 29 September 2020. Despite the refusal of planning permission and a letter to the occupant dated 26 August 2021 requesting the removal of the outbuilding by 11 October 2021, the outbuilding remained in place. An enforcement notice was issued on the occupier and the owner (Melville Housing Association) on 13 September 2022, with a take effect date of 13 October 2022 and a five month compliance period. The occupier appealed the enforcement notice - a Scottish Government Reporter appointed to determine the appeal dismissed it and upheld the enforcement notice.</p> <p>The Planning, Sustainable Growth and Investment Manager presented this report outlining the main sections contained within the report.</p>		

Decision
The Planning Committee noted the enforcement notice appeal decision with regard to the erection of an outbuilding in the side garden of 2 Conifer Road, Mayfield.
Action
The Planning, Sustainable Growth and Investment Manager

Agenda No	Report Title	Submitted by:
5.5	Land South of Mayfield and East of Newtongrange Report and Plans (22/00027/PPP)	Chief Officer Place
Outline of report and summary of discussion		
<p>This report relates to the application for planning permission in principle for residential development with associated neighbourhood retail, commercial and leisure development and/or community facilities on land to the south of Mayfield and east of Newtongrange, Crawlees Road, Gowkshill, Gorebridge (alternately referred to as the South Mayfield or Lingerwood site).</p> <p>The Planning, Sustainable Growth and Investment Manager presented this report to the committee outlining the main sections contained within the report.</p> <p>The Planning, Sustainable Growth and Investment Manager responded to concerns raised with regards to this site merging Newtongrange, Gowkshill and Mayfield and the possibility of coalescence. He confirmed that the majority of the site was allocated in 2003 and as this application does wrap round Mayfield Industrial Estate it does link these but consideration was given to coalescence and it was judged to be acceptable although there is the recognition of the connection to the existing settlements. He advised that the development will not go right up to boundaries and there will also be green space, woodlands and open space throughout. He also confirmed that there was plans to improve the existing roads and also to incorporate a bus route.</p> <p>Councillor Scott raised concerns with regards the proposed number of houses and the capacity of the existing schools in the area and by continuing to approve these developments without any acknowledgement for the need of a High School in Gorebridge as part of the infrastructure required is against the MP4 policies which emphasises an infrastructure first approach as part of the considerations. Continuing to approve these developments will have an extraordinary impact on the Education provision required for Midlothian.</p> <p>During a lengthy discussion further comments were raised with regards to the building material types and the character of the neighbourhood, Social Housing, the impact if this development was refused, the concerns regarding Crawlees Road and the road infrastructure, the abandoned railway as a possible dividing feature for the area, developers contributions used to rejuvenate Mayfield Town Centre and a</p>		

division of the industrial area from the residential area. Major concerns were also highlighted with regards to the Infrastructure, the loss of natural green space, the individual identities of the villages and the Education provision and the roads infrastructure.

The Planning, Sustainable Growth and Investment Manager in a further response advised that as this is still at the planning in principle stage and a lot of the details have still to be agreed but he noted the concerns raised, he also confirmed there was a 25% policy for social housing for this development. He further advised that due to the size of the site this will be done in phases over a period of time. Councillor Curran, seconded by Councillor Pottinger moved to refuse the planning application in principle.

As an amendment Councillor Imrie, seconded by Councillor McKenzie moved to grant the planning application in principle.

On a vote being taken 4 voted for the Motion to refuse the planning application in principle and 10 voted for the Amendment to grant the planning application in principle, therefore this became the decision of the Committee.

It was also noted that the 6 local Members would get in touch with the Planning Officers to discuss any concerns.

Decision

The Planning Committee agreed that planning permission in principle is granted for the following reasons:

The proposed development site is allocated for housing in the Midlothian Local Development Plan 2017 (MLDP) where there is a presumption in favour of an appropriate form of development. Whilst the proposed development would deliver in excess of the indicative residential unit capacity set out in the MLDP, the submitted EIA has sufficiently demonstrated that the proposed level of development can be achieved, subject to detailed design and subject to securing developer contributions. The proposed ancillary neighbourhood retail, commercial, leisure and community facilities are a welcome additions and contribute to the provision of a sustainable community in accordance with National Planning Framework 4. The presumption for development is not outweighed by any other material considerations.

Subject to the conditions as set out in the report.

Action

The Planning, Sustainable Growth and Investment Manager/Elected Members

Councillor McEwan highlighted that he had received correspondence along with other Councillors regarding the next application but had made no comments.

Agenda No	Report Title	Submitted by:
5.6	Hamilton Waste, Eldin Industrial Estate, Loanhead Report and Plans (22/00345/PPP)	Chief Officer Place
Outline of report and summary of discussion		
<p>This report relates to the application for a change of use of land to a waste transfer site (comprising washer plant to clean and separate soils from waste, and a crusher to break down stone, brick and rubble into aggregate) and the erection of associated plant and machinery. The site is a concrete surfaced yard at Eldin Industrial Estate, Edgefield Road, Loanhead.</p> <p>The Planning, Sustainable Growth and Investment Manager presented this report to the committee outlining the main sections contained within the report.</p> <p>The Chair acknowledged that Councillor Parry had called this in therefore gave her the opportunity to speak. Councillor Parry declared that she had also received communication regarding this application and advised that the reason for the call-in was that it would adversely impact on the character of the area. She also highlighted some further concerns regarding the change of operating hours, the impacts on Straiton pond and the wildlife, the proximity on safer routes to schools and the number of recommendations received from communities and that some of these had not been explored or commented on.</p> <p>The Planning, Sustainable Growth and Investment Manager responded to the comments made advising that the all commercial vehicles would not go through residential areas and there was a designated access route on the Edgefield relief road. He further responded to the concerns regarding Straiton pond wildlife and that there was a programme to mitigate dust to keep it within the site and also advised on the restrictions on the hours of operation. Mr Oliver also advised that regarding waste management and dust and this would be monitored by SEEPA.</p> <p>Further comments were made with regards to the proximity to housing and schools but it was also acknowledged that there was a lot of conditions put in place to address the concerns raised.</p> <p>Councillor Virgo, seconded by Councillor Winchester moved to grant permission with the conditions as set out in the report.</p> <p>Councillor Parry, seconded by Councillor McCall moved to continue the application to the next cycle to look at the conditions and also to arrange a site visit.</p> <p>In responding to Councillor Curran's comments regarding the site and dust suppression and the Planning, Sustainable Growth and Investment Manager confirmed that the site was previously a waste transfer site and then a contractor's yard and that SEEPA would monitor the site in terms of compliance.</p>		

On a vote being taken 7 voted for the Amendment to continue the application to the next meeting and 9 voted for the Motion to grant planning permission therefore that became the decision of the Committee.

Decision

The Planning Committee agreed that planning permission be granted for the following reason:

The site forms part of the established economic land supply and the proposed use is in keeping with the scale and character of the surrounding industrial estate where there is a presumption in favour of an appropriate form of development. Appropriate conditions will ensure that the amenity of residential properties in the surrounding area will be safeguarded. The proposal complies with the relevant policies of the Development Plan and the presumption for development is not outweighed by any other material considerations.

Subject to the conditions as set out in the report.

Action

The Planning, Sustainable Growth and Investment Manager

Councillor Parry left the meeting at 14.22 pm

Agenda No	Report Title	Submitted by:
5.7	Land at Robertson Bank, Gorebridge Report and Plans (20/00899/DPP)	Chief Officer Place
Outline of report and summary of discussion		
<p>This report relates to the application for the erection of 14 dwelling houses, formation of access roads and car parking and associated works. The site is situated to the south of Lady Brae, Gorebridge, and to the west of the Borders Rail line.</p> <p>The Planning, Sustainable Growth and Investment Manager presented this report to the committee outlining the main sections contained within the report.</p> <p>The Chair acknowledged that Councillor Scott had called this in therefore gave her the opportunity to speak. Councillor Scott declared that she had received communication regarding this application but gave no opinion. Councillor Scott then went on to explain some of the dangers on some parts of Lady Brae and that such a right turn would prove dangerous and did not in her opinion feel that this was the best place for an entrance. She further expanded on some of the other reasons for her objection with regards to Education, flooding, the embankment and the removal of substantial trees and highlighted there is also a historic tunnel which has not been detailed in the report. If this application was approved there is a need for some calming measure on the bend before Lady Brae and if approved would it be possible for a mechanism for the developers to pay for as slope monitor insurance for any damage to residents properties.</p>		

The Planning, Sustainable Growth and Investment Manager advised that land owners have a responsibility and if any damage is done to other land owners properties there is a mechanism for this. With regards to the slope there is a presumption that the house builder will build units safely and responsibly. He responded to the comments with regards to Education and the entrance to the site meets the visibility standards and according to their records there had been no recorded accidents in the last 3 years. He also advised that there would be a mining an intrusive investigation and if a tunnel was there this would be discovered.

Councillor Virgo, seconded by Councillor Winchester moved to grant planning permission.

Decision

The Planning Committee agreed that planning permission be granted for the following reason:

The proposed development site will contribute to the sustainable delivery of housing in compliance with the policies of National Planning Framework 4 and is allocated for housing in the Midlothian Local Development Plan 2017 (MLDP) where there is a presumption in favour of an appropriate form of development. The proposed detailed scheme of development in terms of its layout, form, design and landscape framework is acceptable and as such accords with development plan policies, subject to securing developer contributions. The presumption for development is not outweighed by any other material considerations.

Subject to the conditions as set out in the report.

Action

The Planning, Sustainable Growth and Investment Manager

Agenda No	Report Title	Submitted by:
5.8	Easthouses Primary School Report and Plans (22/00721/DPP)	Chief Officer Place
Outline of report and summary of discussion		
<p>This report relates to the application for the erection of a primary school and nursery; formation of a multi-use games area (MUGA), car parking and associated works on the northern part of the former Newbattle High School site, Easthouses Road, Easthouses.</p> <p>The Planning, Sustainable Growth and Investment Manager presented this report to the committee outlining the main sections contained within the report.</p> <p>Councillor Virgo, Seconded by Councillor Pottinger moved to grant planning permission.</p>		

Councillor Pottinger commented on safer route to schools and the Chair advised the Planning, Sustainable Growth and Investment Manager to pick this up with the relevant Planning Officer to ensure that safer routes to school would be considered.

Decision

The Planning Committee agreed that planning permission is granted for the following reason:

The site is located within the settlement boundary of Easthouses and on a site with an established educational and community use and as such there is presumption in favour of an appropriate educational use development. The proposed detailed scheme of development in terms of its layout, form, design and landscape framework is acceptable and as such accords with development plan policies. The presumption for development is not outweighed by any other material considerations.

Subject to the conditions as set out in the report.

Action

The Planning, Sustainable Growth and Investment Manager

6. Private Reports

No items for discussion

7. Date of Next Meeting

The next meeting will be held on Tuesday 28 March 2023 at 1.00pm

The meeting terminated at 14.36 pm