

**MINUTES of MEETING of the MIDLOTHIAN COUNCIL PLANNING COMMITTEE** held in the Council Chambers, Midlothian House, Buccleuch Street, Dalkeith on Tuesday 27 May 2014 at 2.00 pm.

**Present:-** Councillors Bryant (Chair), Baxter, Bennett, Coventry, de Vink, Imrie, Johnstone, Milligan, Montgomery, Muirhead, Pottinger, Rosie, Russell, Thompson and Wallace.

**Apologies for Absence:** - Councillors Beattie, Boyes and Constable.

**1. Declarations of Interest**

Councillor Montgomery declared a non-pecuniary interest in agenda item 8 - Application for Planning Permission (**14/00044/DPP**) for Erection of 9 Wind Turbines (up to 102m Tip Height) and Associated Transformers; Erection of Switchgear Building; Erection of Anemometer; Formation of Access Tracks and Associated Works at Land at Mount Lothian Moss, Penicuik – Procedural Arrangements (paragraph 6 below refers), on the grounds that he was a member of Penicuik Civic Society who had made representations on the application. He indicated that it was his intention to leave the meeting for the duration of this particular item and not to contribute to any discussion thereof.

Councillor de Vink also declared a non pecuniary interest in agenda item 8.

**2. Minutes**

The Minutes of Meeting of 22 April 2014 were submitted and approved as a correct record.

**3. Major Developments: Applications Currently Being Assessed and Other Developments at Pre-Application Consultation Stage**

There was submitted report, dated 20 May 2014 by the Head of Communities and Economy, updating the Committee on 'major' planning applications, formal pre-application consultations by prospective applicants and the expected programme of applications due for reporting.

The Committee heard from the Development Management Manager, who responded to Members' questions.

**Decision**

- (a) To note the current position in relation to major planning application proposals which were likely to be considered by the Committee in 2014; and
- (b) To receive further updated information on the procedural progress of major applications on a regular basis.

(Action: Head of Communities and Economy)

#### **4. Appeal and Local Review Body Decisions**

There was submitted report, dated 20 May 2014, by the Head of Communities and Economy, detailing the notices of reviews determined by the Local Review Body (LRB) at its meeting in April 2014 and also detailing the outcome of an appeal determined by Scottish Ministers.

The report advised that the appeal by Ms J Mercer was against condition 6 of listed building consent 13/00728/LBC for the change of use of store building to form dwellinghouse and associated external works; including re-roofing, formation of door and window openings, installation of window and doors, erection of balcony, formation of access path and car parking area at Carrington Mill, Carrington, Gorebridge. The Scottish Ministers had allowed the appeal and had varied the terms of the listed building consent, deleting condition 6 and substituting a condition which was more appropriately worded

##### **Decision**

- (a) To note the decisions made by the LRB at its meeting on 29 April 2014; and
- (b) To note the outcome of the appeal determined by Scottish Ministers.

#### **5. Guidance on the role of Councillors in Pre-Application procedures**

There was submitted report by the Head of Communities and Economy providing an update on guidance published by the Scottish Government entitled 'Guidance on the Role of Councillors in Pre-Application Procedures'.

The report explained that the Scottish Government were seeking to ensure a consistent approach across Councils whereby Councillors could be confident in engaging at the pre-application stage on substantial development proposals whilst acting within the terms of the Councillors' Code of Conduct. Such early engagement enabled Councillors to be better informed, to identify key issues, and to assist Officers in addressing these issues. In order to achieve this, the Guidance recommended that each Council prepared procedures to ensure that Councillors and others were clear about their roles and responsibilities.

The report advised that the Guidance also identified some key considerations for pre-application discussions, and key provisions for pre-application procedures, including reference to the nature of the type of forum which may be most appropriate for Councillors to express their provisional views. Knowledge of Councillors' provisional views at an early stage provided more certainty and confidence with the avoidance of unexpected issues emerging at a late stage in the assessment of a planning application.

The Committee, having heard from the Head of Communities and Economy, welcomed the Guidance and were supportive of the provision of training for Members.

### **Decision**

- (a) To note the 'Guidance on the Role of Councillors in Pre-Application Procedures' published by the Scottish Government;
- (b) To instructs that a report setting out draft procedures for the role of Midlothian Councillors in pre-application matters be submitted to the next scheduled meeting of the Committee; and
- (c) To approve the arrangement of further training for Members on their role in pre-application matters.

(Action: Head of Communities and Economy)

### **Sederunt**

With reference to paragraph 1 above Councillor Montgomery, having declared a non-pecuniary interest in the following item of business, left the meeting at 2.10pm, taking no part in the discussion thereof.

**6. Application for Planning Permission (14/00044/DPP) for Erection of 9 Wind Turbines (up to 102m Tip Height) and Associated Transformers; Erection of Switchgear Building; Erection of Anemometer; Formation of Access Tracks and Associated Works at Land at Mount Lothian Moss, Penicuik – Procedural Arrangements**

There was submitted report, dated 20 May 2014 by the Head of Communities and Economy, concerning proposals for the procedural arrangements for the Pre-Determination Hearing and Site Visit in respect of Planning Application No 14/00044/DPP Erection of 9 Wind Turbines (up to 102m Tip Height) and Associated Transformers; Erection of Switchgear Building; Erection of Anemometer; Formation of Access Tracks and Associated Works at Land at Mount Lothian Moss, Penicuik.

Having heard from the Development Management Manager, the Committee expressed its support for the proposed procedural arrangements detailed in the report.

### **Decision**

- (a) To agree that the Pre-Determination Hearing be held in Penicuik Town Hall on Friday 26 September 2014 at 10.00am; and
- (b) To agree that this be followed by an unaccompanied Site Visit which would also take place on Friday 26 September 2014, leaving Midlothian House at 2.00pm.

(Action: Head of Communities and Economy/Legal and Secretariat Manager)

## **Sederunt**

Councillor Montgomery rejoined the meeting upon the conclusion of the foregoing item of business at 2.12pm.

### **7. Application for Planning Permission**

Applications for planning permission were dealt with as shown in the **Appendix** hereto.

The meeting terminated at 2.44 pm.

## APPENDIX

(relative to paragraph 7)

**1. Application for Planning Permission in Principle (13/00780/PPP) by RH Miller Ltd for the Erection of 60 Dwellinghouses; Erection of Warehouse; Extension to Existing Petrol Filling Station Kiosk and Associated Works at Land at Fordel, Dalkeith**

With reference to paragraph 3 of the Appendix to the Minutes of 25 February 2014, there was submitted report, dated 20 May 2014, by the Head of Communities and Economy concerning the above application. The Committee had made an unaccompanied visit to the site on Monday 26 May 2014.

The Committee, having heard from the Development Management Manager, discussed the Policy position and in particular whether this should be viewed as a windfall site, given the mix of uses that had and continued to take place there. Consideration was also given to transport related issues, the provision of developer contributions and whether housing on this site was appropriate.

Thereafter, Councillor Baxter, seconded by Councillor Johnstone, moved that planning permission be refused for the reasons given in the report.

As an amendment, Councillor Imrie, seconded by Councillor Bennett, moved, that the principle of development on the site be accepted and that planning permission be granted subject to appropriate conditions to be prepared by the Head of Communities and Economy, in consultation with the Chair.

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

The Committee thereby agreed that planning permission in principle be granted subject to appropriate conditions to be prepared by the Head of Communities and Economy, in consultation with the Chair.

(Action: Head of Communities and Economy)

**2. Application for Planning Permission (14/00215/S42) by Mr P Gray, 2 Smeaton Farm Cottages, Dalkeith to Amend Condition 9 of Planning Permission 11/00477/DPP (Infilling of Land) to Extend Duration of the Temporary Permission at Land at Blackcastle Farm, Tynehead, Pathhead**

There was submitted report, dated 20 May 2014, by the Head of Communities and Economy concerning the above application.

The Committee, having heard from the Development Management Manager, discussed the potential effects on the adjoining road network and the proposed conditions which sought to address any issues arising in this regard.

Thereafter the Committee agreed that planning permission be granted for the following reason:-

*The proposed reengineering of the ground levels will improve the condition of the land for agricultural use and is therefore in accordance with Midlothian Local Plan policies RP1, RP5, and RP7.*

subject to:

- (a) the prior signing of an extension to the legally binding agreement with the local roads authority, under the Roads (Scotland) Act 1984, to fund any additional repairs required to this section of public road (B6458) attributable to exceptional traffic loads arising from the landfill operation; and

- (b) the following conditions:

- 1. The road sweeping statement dated 09 May 2014 shall be implemented in full for the duration of the planning permission.

***Reason:*** *In the interest of road safety, and to reduce the possibility of loose material being carried from the site onto the public road.*

- 2. The resultant ground levels after infilling and restoration shall at no point exceed the original ground levels, prior to the granting of planning permission 11/00477/DPP, by any more than 2 metres.

***Reason:*** *In order to protect the landscape character of the area, and to accord with the terms of the SEPA license exemption.*

- 3. No trees within or adjoining the site shall be removed or lopped without the prior written approval of the planning authority.

***Reason:*** *In order to protect trees on site and in the interest of local landscape character.*

- 4. There shall be no works carried out, nor materials or soil stored beneath the canopy of any existing trees on site.

***Reason:*** *In order to protect trees on site and in the interest of local landscape character.*

5. Planning permission is granted for a period of 12 months from the date of this planning permission. Within the 12 months the land shall be graded to match the approved levels and seeded with grass. All stored materials not used in the re-grading operations and machinery and vehicles used in the engineering operation shall be removed from the site.

**Reason:** *Due to the temporary nature of the proposed development and to limit the visual impact and the impact upon the amenity of the area.*

6. No operations shall take place outwith the hours of 07.00 to 18.00 on Mondays to Fridays and 07.00 to 13.00 on Saturdays. No work shall be carried out on Sundays, public holidays or bank holidays.

Operations include offloading and spreading of fill material, final restoration, initial preparation of the site, wheel washing, vehicle servicing, and the movement of vehicles entering or leaving the site.

**Reason:** *To minimise the effect the impact of the development on the amenity of residents living in the vicinity of the site or the haul route to the site.*

7. Within three months of the expiry of this planning permission, or at the cessation of infilling operations, whichever is the sooner, the applicant shall plant a hedgerow of indigenous species along the north facing embankment of the infill area adjacent to the roadside burn. The details of the hedge shall be submitted to and approved in writing by the Planning Authority.

**Reason:** *In order to ensure that the site is satisfactorily restored within the temporary period of consent.*

8. There shall be no materials other than clean subsoil and stone used as fill material, and this shall be inert and not requiring subsequent treatment for landfill gas.

**Reason:** *In order ensure there is no pollution of the ground or nearby watercourses and prevent any contamination that may lower the quality of the soil for agriculture of wildlife.*

(Action: Head of Communities and Economy)