

**MINUTES** of **MEETING** of the **LOCAL REVIEW BODY** held in the Council Chambers, Midlothian House, Buccleuch Street, Dalkeith on Tuesday 26 November 2013 at 2.00 pm.

**Present:** - Councillors Imrie, Milligan, Pottinger and Rosie.

**Apologies for Absence:** - Councillors Baxter, Beattie, Bryant, Constable, de Vink and Russell.

**1. Chair**

In the absence of the Chair, Councillor Bryant, it was agreed, on a motion by Councillor Milligan, seconded by Councillor Pottinger, that in terms of Standing Order 7.3, Councillor Imrie be appointed to Chair the Meeting.

**2. Declaration of Interest**

No declarations of interest were intimated.

**3. Minutes**

The Minutes of Meeting of 3 September 2013 were submitted and approved as a correct record.

**4. Procedures for the Local Review Body**

With reference to paragraph 4 of the Minutes of 19 June 2012, there was submitted report, dated 19 November 2013, by the Head of Planning and Development advising the Local Review Body (LRB) of the procedural arrangements for the determination of Local Reviews by the LRB, which following a review had been updated.

The Development Management Manager confirmed that following Members comments at the conclusion of the previous meeting, the procedures had been reviewed to enable notices of reviews to be considered at a single meeting, the various stages that comprised the current LRB procedural process had been examined and a number of refinements were now proposed in order to allow the determination process (previously stage 4) to be agreed with the Chair of the LRB without referral to a meeting of the LRB.

The consequences of this proposed change were that:-

- i) reviews would be considered by the LRB at the first available meeting;
- ii) the LRB would determine the review by way of written submissions unless the applicant requested a hearing in their notice of review submission;

- iii) site visits would normally be scheduled for the Monday afternoon immediately preceding the meeting of the LRB at which the review was to be determined. The site visit would be unaccompanied if the review was to be determined by way of written submissions and accompanied if the review was to be determined by way of a hearing. The LRB would be notified in advance of any changes to this timetable; and
- iv) the LRB could decide to defer the consideration of a review if they require any further information (previously stage 5).

### **Decision**

Following discussion and questions to the Development Management Manager, the Local Review Body:-

- (a) Approved the updated administrative and procedural arrangements as set out in the report; and
- (b) Agreed that a copy of the updated procedural arrangements be placed on the Council's website, and otherwise be made readily available upon request.

(Action: Head of Planning and Development)

## **5. Decision Notices –**

### **(a) 30/3 Hardengreen Industrial Estate, Dalkeith**

With reference to paragraph 3(a) of the Minutes of 3 September 2013, there was submitted a copy of the Local Review Body decision notice upholding a review request from Sorrell Associates, The Green House, 41 St Bernard's Crescent, Edinburgh seeking a review of the refusal of planning permission (13/00161/DPP, refused on 7 May 2013) for the change of use from office/light industry (class 4) to fitness studio (class 11) at 30/3 Hardengreen Industrial Estate, Eskbank, Dalkeith and granting planning permission subject to conditions.

### **Decision**

To note the LRB decision notice.

### **(b) 98/6 Eastfield Industrial Estate, Penicuik**

With reference to paragraph 3(b) of the Minutes of 3 September 2013, there was submitted a copy of the Local Review Body decision notice dismissing a review request from Alex F Noble and Son, 1 Swinton Place, Straiton, Loanhead seeking a review of the refusal of planning permission (12/00835/DPP, refused on 8 March 2013) for the change of use from general industry (class 5) to dance and fitness studio (class 11) at 98/6 Eastfield Industrial Estate, Eastfield Drive, Penicuik and refusing planning permission.

### **Decision**

To note the LRB decision notice.

**(c) 38 Dewartown, Gorebridge**

With reference to paragraph 3(c) of the Minutes of 3 September, there was submitted a copy of the Local Review Body decision notice upholding a review request from Jobs Worth Doing c/o Arkiplan Ltd, 28 Grahamsdyke Place, Bo'ness, West Lothian seeking a review of the refusal of planning permission (12/00792/DPP, refused on 1 February 2013) for planning permission for the installation of replacement windows at 38 Dewartown, Gorebridge and granting planning permission subject to conditions.

**Decision**

To note the LRB decision notice.

**(d) 41 Easter Langside Medway, Dalkeith**

With reference to paragraph 3(d) of the Minutes of 3 September, there was submitted a copy of the Local Review Body decision notice upholding a review request from Mr R Fryatt, 41 Easter Langside Medway, Dalkeith seeking a review of the refusal of planning permission (13/00002/DPP, refused on 6 February 2013) for planning permission for the extension to dwellinghouse at that address and granting planning permission subject to conditions.

**Decision**

To note the LRB decision notice.

**6. Notice of Review Requests –****(a) Land at 2 and 4 Crichton Avenue, Pathhead**

There was submitted report, dated 19 November 2013, by the Head of Planning and Development regarding an application from Pearson Planning, PO Box 28606, Edinburgh EH4 9BQ, seeking on behalf of their client Mr D McGuinness, a review of the decision of the Planning Authority to refuse planning permission for the erection of dwellinghouse at land at 2 and 4 Crichton Avenue, Pathhead. Accompanying the Notice of Review Form and supporting statement, which was 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 2 September 2013.

The Chair, Councillor Imrie, welcomed the applicant's agent, Mr Euan Pearson, Pearson Planning to the meeting.

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 from the applicant's agent; and the local authority Planning Officer; following which they both 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 it was acknowledged that the applicant had through the design of the proposed property attempted to address issues regarding the levels of amenity, concerns remained about the potential impact that it would have in this regard and also the possible precedent that it could set for other similar proposals within the area.

In response to a question from Members regarding the possibility of a condition limiting the number of occupants who could live in the proposed house, the Planning Advisor indicated that such a condition was not appropriate as amongst other things it would be hugely difficult to enforce.

### **Decision**

After further discussion, the Local Review Body agreed to dismiss the Review Request and uphold the decision to refuse planning permission on the grounds that:-

1. The proposal would result in an unacceptable development with significantly low levels of amenity and appearance, at variance with the character of the existing properties in the area and character and pattern of the street and with a detrimental impact on the amenity of neighbouring residents. As a result the proposed development is contrary to policies RP20, HOUS3 and DP3 of the adopted Midlothian Local Plan.

(Action: Head of Planning and Development)

### **(b) Braidlaw Farmhouse, Penicuik**

There was submitted report, dated 19 November 2013, by the Head of Planning and Development regarding an application from Rapleys, Caledonian Exchange, 19A Canning Street, Edinburgh EH3 8EG, seeking on behalf of their client Mr I McLeish, a review of the decision of the Planning Authority to refuse to remove condition 7 of planning permission 02/00864/FUL, for the erection of a dwellinghouse at Braidlaw Farmhouse (formerly known as Lansik Stud), Penicuik.. Accompanying the Notice of Review Form, which was 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 2 September 2013.

The LRB then gave careful consideration to the merits of the case based on all the written information provided. Whilst noting the financial circumstance of the applicant, the LRB reaffirmed the appropriateness of the general principle of securing a relationship, by planning condition, between new dwellinghouses in the countryside (approved under policy DP1 of the Midlothian Local Plan) and their associated rural business.

The Planning Advisor, in response to Members' questions advised the LRB that if it was minded to uphold the Review Request then the decision to disconnect the tie between the dwellinghouse and the stud farm business would be a significant material consideration if any subsequent owner or occupier of a rural business on this site applied for a further dwellinghouse.

### **Decision**

After further discussion, the Local Review Body upheld the Review Request and agreed to the removal of condition 7 of planning permission 02/00864/FUL (Erection of detached dwelling) relating to the occupancy restriction on Braidlaw Farmhouse, Penicuik.

(Action: Head of Planning and Development)

The meeting terminated at 2.32 pm.