

**MINUTES** of **MEETING** of the **LOCAL REVIEW BODY** held in the Council Chambers, Midlothian House, Buccleuch Street, Dalkeith on Tuesday 3 June 2014 at 2.00 pm.

**Present:** - Councillors Bryant (Chair), Baxter, Bennett, Constable, de Vink, Imrie, Milligan and Rosie.

**Apologies for Absence:** - Councillors Beattie and Montgomery.

**1. Declarations of Interest**

No declarations of interest were intimated.

**2. Minutes**

The Minutes of Meeting of 29 April 2014 were submitted and approved as a correct record.

**3. Decision Notice – Carrington Mill, Carrington, Gorebridge**

With reference to paragraph 4 of the Minutes of 29 April 2014, there was submitted a copy of the Local Review Body decision notice upholding a review request from Niall Young Architecture Ltd, 32/12 Hardengreen Business Park, Dalhousie Road, Dalkeith, seeking on behalf of their client Ms J Mercer, removal of condition 6 of planning permission 13/00736/DPP 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 and granting planning permission subject to conditions.

**Decision**

To note the LRB decision notice.

**Eligibility to Participate in Debate**

In considering the following items of business, only those LRB Members who had attended the site visits on 2 June 2014 participated in the review process, namely Councillors Bryant (Chair), Baxter, Bennett, Constable, Imrie, Milligan and Rosie.

Councillor de Vink whilst present during the debates had only been able to attend the site visit to the Premier Inn, Melville Dykes, Lasswade (paragraph 4(b)) and accordingly only actively participate in the consideration of this particular Review Request.

#### **4. Notice of Review Requests –**

##### **(a) Land to the West of 25 Damhead, Lothianburn**

There was submitted report, dated 27 May 2014, 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 J Tickle, a review of the decision of the Planning Authority to refuse planning permission (13/00805/DPP, refused on 13 January 2014) for the change of use from agriculture to dog kennels and erection of associated kennels at land 50 metres west of 25 Damhead, Lothianburn. 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 2 June 2014.

The Chair, Councillor Bryant, welcomed the applicant, Mr John Tickle and his agent, Mr Bob Tait, Format Design 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. The proposed kennels were considered to be an appropriate development in the countryside in support of the rural economy. The potential level of any noise disturbance from the proposed use was discussed at some length and the possible impact that it could have on the residential amenity of local residents was considered. In addition, whether any noise disturbance could be further mitigated by noise insulation within the design of the building and the imposition of conditions on the grant of planning permission were discussed.

Thereafter, Councillor Imrie, seconded by Councillor Bennett, moved that the review request be upheld and that planning permission be granted subject to the recommended conditions detailed in the Head of Communities and Economy's report.

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

As a second amendment, Councillor Milligan, seconded by Councillor Baxter, moved that consideration of the Review Request be continued to the next meeting in order to allow for the attendance of acoustic consultants RMP.

In terms of Standing Order 11.3 (vii), the Chair directed that a first vote be taken for and against the second amendment to continue consideration of the matter and if this was carried that would be the end of the matter. If however it fell then a second vote be taken between the motion to approve and the first amendment to refuse the application.

Thereafter, on a first vote being taken, three Members voted for the second amendment and 4 against, which meant that the second amendment therefore fell.

On a second vote being taken, three 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 grant planning permission subject to the following conditions:-

1. Prior to the commencement of development, the following details shall be submitted to and approved in writing by the planning authority:
  - (a) Details of all external finishes of the kennel building;
  - (b) Details of any proposed fences, walls and means of enclosure, including position, design, materials and finish;
  - (c) Details of staff and customer parking areas;
  - (d) Details of any proposed external exercise areas, including location and materials;
  - (e) Details of the number of dogs to be permitted into the external exercise area at any one time; and
  - (f) Details of any the location and materials of any areas of hardstanding.

***Reason:*** *These details were not submitted with the original application; to ensure the development is in keeping with the surrounding countryside.*

2. Unless otherwise agreed in writing by the planning authority, the acoustic fencing hereby approved shall be coloured either dark green or brown.

***Reason:*** *To ensure the development is in keeping and protect the appearance of the surrounding countryside.*

3. Prior to the dog kennels being brought into use, the acoustic fencing hereby approved shall be erected.
4. No dog shall be allowed into any external run area outwith the hours of 6.00pm to 9.00am unless otherwise agreed in writing by the planning authority.

***Reason for conditions 3 and 4:*** *To minimise noise disturbance to nearby residential properties.*

5. The kennels hereby permitted in terms of this planning permission shall be operated by the occupant of 25 Damhead Holdings.

***Reason:*** *The noise assessment has not assessed the impact on the amenity of the occupants at 25 Damhead Holdings; to protect the amenity of the occupants of this property.*

**(b) Premier Inn, Melville Dykes, Lasswade**

There was submitted report, dated 27 May 2014, by the Head of Communities and Economy regarding an application from Walsingham Planning, Brandon House, King Street, Knutsford, seeking on behalf of their client Whitbread PLC, a review of the decision of the Planning Authority to refuse planning permission (13/00725/DPP, refused on 3 December 2013) for the erection of a 20 metre high fence at the Premier Inn, Melville Dykes, Lasswade. 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 2 June 2014.

The Chair, Councillor Bryant, welcomed the applicant's agent, Ms Roberta Cameron, Walsingham Planning and Mr Alistair Macfarlane, Melville Golf Centre, 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. In particular, whether the proposed increase in the height of the golf ball stop fence from 15 metres to 20 metres would have a significant demonstrable impact on the landscape character or visual amenity of the area so as to outweigh the health and safety requirement of the development was discussed at some length

**Decision**

The Local Review Body agreed to uphold the review request and grant planning permission

(Action: Head of Communities and Economy)

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Councillor de Vink left the meeting at the conclusion of the foregoing item of business at 3.20pm.

### (c) **Land 25m West of Junction with Lugton Brae, Old Dalkeith Road, Dalkeith**

There was submitted report, dated 27 May 2014, by the Head of Communities and Economy regarding an application from Niall Young Architecture Ltd, 32/12 Hardengreen Business Park, Dalhousie Road, Eskbank, seeking on behalf of their client Mr F Ewart, a review of the decision of the Planning Authority to refuse planning permission (13/00843/DPP refused on 31 January 2014) for the change of use of vacant land to a temporary overspill car park (retrospective) at land 25m west of junction with Lugton Brae, Old Dalkeith Road, 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 unaccompanied visit to the site on Monday 2 June 2014.

The LRB then gave careful consideration to the merits of the case based on all the written information provided. Whilst it was acknowledged by the LRB that it would be desirable, given the site's prominent gateway location, to see it redeveloped, there were concerns that any temporary use, such as that contained in the current proposals, would simply delay this process.

## 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:-

*The development has a significant detrimental impact on the character and appearance of this highly prominent site at the entrance to Dalkeith, located immediately adjacent to the Eskbank and Ironmills Conservation Area. Therefore the development does not comply with the terms of policies RP20 and RP22 of the adopted Midlothian Local Plan.*

In addition, the Local Review Body asked Officers to investigate if anything could be done to encourage plans for the permanent redevelopment of the site, or failing that improving the appearance of the site given its prominent gateway location.

(Action: Head of Communities and Economy)

**(d) Land South of Units 2 and 4A Butlerfield Industrial Estate, Bonnyrigg**

There was submitted report, dated 27 May 2014, by the Head of Communities and Economy regarding an application from Mr D Hogg, Crummock (Scotland) Ltd, 4A, Butlerfield Industrial Estate, Bonnyrigg, seeking a review of the decision of the Planning Authority to refuse planning permission (13/00901/DPP refused on 5 March 2014) for the re-grading of land and formation of storage yard (part retrospective) at land south of units 2 to 4A, Butlerfield Industrial Estate, Bonnyrigg. 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 unaccompanied visit to the site on Monday 2 June 2014.

The LRB then gave careful consideration to the merits of the case based on all the written information provided. The potential for the proposed development to support the existing business and with appropriate landscaping (secured by condition) to be satisfactorily incorporated into the landscape without detriment to local amenity was discussed. The use was felt on balance to be a 'natural' extension of the existing industrial estate.

**Decision**

After further discussion, the Local Review Body agreed to uphold the review request and grant planning permission subject to the following conditions:-

1. Development shall not begin until details of a scheme of hard and soft landscaping, including the formation of bunding, has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
  - i existing and finished ground levels for all storage areas 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 proposed new planting, including trees, shrubs, hedging, wildflowers and grassed areas;
  - 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 drainage details, watercourse diversions, flood prevention measures and sustainable urban drainage systems to manage water runoff;
  - vii proposed areas of hardstanding; and

- viii a programme for completion and subsequent maintenance of all soft and hard landscaping. The landscaping shall be completed within six months of the grant of planning permission. Any tree felling or vegetation removal proposed as part of the landscaping scheme shall take place out with the bird breeding season (March-August).

All hard and soft landscaping, including the formation of bunding and hardstanding, shall be carried out in accordance with the scheme approved in writing by the planning authority as the programme for completion and subsequent maintenance (viii). 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 policy RP20 of the Midlothian Local Plan and national planning guidance and advice.*

- 2. The maximum height of the stored materials and any plant and machinery on site shall not exceed 3 metres from the adjacent ground level approved in compliance with condition 1. Any stored materials and plant and machinery stored on the land shall be in connection with/for the use of Crummock (Scotland) Limited.

**Reason:** *To ensure the quality of the development reflect its setting in accordance with policy RP20 of the Midlothian Local Plan and national planning guidance and advice.*

- 3. All salt and other fine grained material shall be stored on a hardstanding, the details of which shall be approved in compliance with condition 1.

**Reason:** *To ensure material does not contaminate the ground in accordance with policy DP3 of the Midlothian Local Plan.*

(Action: Head of Communities and Economy)

#### **(e) 14 Hillhead, Bonnyrigg**

There was submitted report, dated 27 May 2014, by the Head of Communities and Economy regarding an application from PMAS Ltd, 17 Blackford Bank, Edinburgh, seeking on behalf of their client Mr and Mrs S Macintosh, a review of the decision of the Planning Authority to refuse planning permission (14/00132/DPP refused on 7 April 2014) for the installation of replacement windows at Edgerton, 14 Hillhead, Bonnyrigg. 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 unaccompanied visit to the site on Monday 2 June 2014.

The LRB then gave careful consideration to the merits of the case based on all the written information provided. The replacement of the existing timber windows with uPVC windows was considered on balance to be acceptable if the design, means of opening and the size and scale of the frames were a like for like replacement. The presence of uPVC elsewhere on the building and the continuing improvement in the design of uPVC windows meant that the use of none traditional materials did not undermine the Conservation Area. In this regard the LRB considered that it would be beneficial if existing guidance could be updated and supplemented as necessary to reflect this position.

### **Decision**

After further discussion, the Local Review Body agreed to uphold the review request and grant planning permission.

The meeting terminated at 2.41pm.