

# Minute of Special Meeting



## Local Review Body

Date	Time	Venue
20 June 2018	2.00pm	Council Chambers, Midlothian House, Buccleuch Street, Dalkeith

### Present:

Councillor Imrie (Chair)	Councillor Alexander
Councillor Baird	Councillor Cassidy
Councillor Curran	Councillor Lay-Douglas
Councillor Milligan	Councillor Munro
Councillor Smail	

## 1 Apologies

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Apologies for absence were received from Councillor Muirhead.

## 2 Order of Business

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The order of business was confirmed as outlined in the agenda that had been previously circulated.

## 3 Declarations of interest

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Councillor Milligan advised that with regards to Agenda Item 5.5 - Notice of Review Request – Land North West of Melville Gate Road, Dalkeith, 17/00587/DPP, former Councillor, Owen Thompson had contacted, and met with him and that whilst he had listen to his comments at no time had he offered an opinion on the application. With the exception of the Chair, the remaining Members of the LRB, all of whom had also been contacted or had met with Mr Thompson indicated that they had done likewise.

Councillor Curran indicated that in accordance with the agreed procedures as he had been unable to attend the Site Inspection Visit for the above item, he would not participate in consideration of the continued Review Request.

## 4 Reports

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Agenda No	Report Title	Presented by:
4.1	Decision Notice – Former Loanhead Ex Servicemens Club, 10 Academy Lane, Loanhead, [17/00905/S42].	Peter Arnsdorf

### Executive Summary of Report

With reference to paragraph 5.5 of the Minutes of 22 May 2018, there was submitted a copy of the Local Review Body decision notice upholding a review request from Colin Young, Niall Young Architecture Ltd, 32/12 Hardengreen Business Park, Eskbank seeking on behalf of their clients Mr and Mrs Farren, the removal of Condition 3 of planning permission 15/00530/DPP (granted on 11 January 2018) to increase the maximum number of children from 50 to 102 and granting planning permission subject to conditions.

### Decision

To note the LRB decision notice.

Agenda No	Report Title	Presented by:
4.2	Decision Notice – Land to North West of 3 Eskview Villas, Dalkeith [17/00920/DPP].	Peter Arnsdorf

#### Executive Summary of Report

With reference to paragraph 5.7 of the Minutes of 22 May 2018, there was submitted a copy of the Local Review Body decision notice dismissing a review request from Gail Halvorsen, Halvorsen Architects, Mountskip House, Gorebridge seeking on behalf of their client Mrs C Walters, a review of the decision of the Planning Authority to refuse planning permission (17/00920/DPP, refused on 5 March 2018) for the erection of dwellinghouse and two flatted dwellings; formation of access, car parking and associated works at land to north-west of 3 Eskview Villas, Dalkeith and refusing planning permission.

#### Decision

To note the LRB decision notice.

#### Order of Business

As the Applicants and their Agent were not yet in attendance for the next item of business on the agenda, the LRB agreed to continue agenda item 4.3 until the end of the meeting.

#### Eligibility to Participate in Debate

In considering the following item of business, only those LRB Members who had attended the site visits on Wednesday 20 June 2018 participated in the review process, namely Councillors Imrie, Alexander, Baird, Cassidy, Curran, Lay-Douglas, Munro, Milligan and Small.

Agenda No	Report Title	Presented by:
4.4	Notice of Review Request Considered for the First Time – Land West of Wellington Cottages, Springfield Road, Penicuik, [17/00900/DPP].	Peter Arnsdorf

#### Executive Summary of Report

There was submitted report, dated 13 June 2018, by the Head of Communities and Economy regarding an application from Chris Turner, Westland Horticulture, Old School House, 9 School Lane, Stow, Lincoln seeking on behalf of their clients Westland Horticulture, a review of the decision of the Planning Authority to refuse planning permission (17/00900/DPP, refused on 26 January 2018) for the siting of two residential caravans for a temporary period of two years (retrospective) at land west of Wellington Cottages, Springfield 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.

The Local Review Body had made an accompanied visit to the site on Wednesday 20 June 2018.

### Summary of Discussion

Having heard from the Planning Advisor, the LRB then gave careful consideration to the merits of the case based on all the written information provided. In discussing the proposal, the retrospective nature of the original planning application and the reasons for its refusal, the LRB considered the current development plan policies and whether there were any material planning considerations which would justify a departure in order to allow planning permission to be granted.

### Decision

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

*The residential caravans are sited in the countryside, where there is a presumption against establishing new residential units/accommodation, without justification contrary to policy RD1 of the Midlothian Local Development Plan 2017. It has not been demonstrated to the satisfaction of the Planning Authority that the caravans are required for the furtherance of an acceptable countryside activity (including security requirements). Furthermore, there are alternative locations to accommodate workers in the surrounding local area which are served by good public transport links.*

### Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
4.5	Notice of Review Request Considered for the First Time – 17-29 Engine Road, Loanhead, [18/00065/DPP].	Peter Arnsdorf

### Executive Summary of Report

There was submitted report, dated 13 June 2018, by the Head of Communities and Economy regarding an application from Mrs Louise McVay, Ace Car Disposal & Spares Ltd, Yard 1, Camps Yard, Camps Industrial Estate, East Calder, seeking a review of the decision of the Planning Authority to refuse planning permission (18/00065/DPP, refused on 24 April 2018) for the change of use of coach depot and garage to a car breakers yard (end of life vehicle recycling centre) at 17-29 Engine Road, Loanhead.

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 Wednesday 20 June 2018.

### Summary of Discussion

Having heard from the Planning Advisor, the LRB then 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 the potential impact that the proposed development might have on the neighbouring area, which was predominately industrial; it being felt that suitable conditions would allow any impacts to be mitigate.

### Decision

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

*The change of use of the former coach depot and garage to a car breakers is acceptable, subject to conditions mitigating the impacts of the development on neighbouring residential properties, considering the previous uses that have taken place on the site and its established industrial use.*

subject to the following conditions:

1. Prior to the commencement of this use, the following details shall be submitted to and approved in writing by the Planning Authority:
  - a) details of all proposed walls, fences, gates or other means of enclosure, including boundary treatments;
  - b) details of any proposed lighting, including flood lighting and security lighting, including position; and
  - c) Details of a dust management plan to prevent nearby residential and commercial properties being affected.

Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be agreed in writing with the Planning Authority.

**Reason:** *These details were not submitted with the original application; to protect the amenity of neighbouring residents.*

2. The use hereby approved shall not operate outwith the following hours:

Monday to Fridays: 8am to 5pm  
Saturdays: 8am to 1pm

3. The boundary treatments approved in condition 1a) shall be close boarded and/or solid, no lower than 2 metres high.

4. Any stored vehicles within the site shall be stacked no more than 2 vehicles high.
5. There shall be no crushing/breaking up of vehicles within the site.
6. There shall be no vehicle grabber or car crushing machinery on site.
7. Unless otherwise approved in writing by the Planning Authority, the lighting details approved in condition 1b) shall include details of their position. The lights hereby approved shall only be in use between the hours of operation approved in condition 2 and the floodlighting system installed shall be fitted with an automatic cut out to ensure these do not operate after 17.30 on Mondays to Friday and 1.30pm on Saturdays. The floodlights shall be installed and operated so that there is not direct illumination of any neighbouring sensitive property and the lamp design such that the actual lamps and inner surface of the reflectors will not be visible from the neighbouring sensitive receptors' properties.
8. Prior to the use commencing, the applicant must demonstrate to the satisfaction of the Planning Authority that noise from the development when rated in accordance with BS 4142: 2014 shall be less than +5dB above a representative LA90 (as determined by the Environmental Health Manager) at neighbouring residential use. The use shall operate in line with these restrictions hereafter.
9. The design and construction of any plant shall be such that associated noise shall not exceed noise rating curve NR25 (or NR 20 if tonal) between the hours of 2300-0700 and noise rating curve NR30 (or NR 25) between the hours of 0700-2300 within any nearby residential property (window open standard).
10. In terms of vibration from the use hereby approved movements, the vibration dose value in terms of BS 6472-1:2008 Guide to Evaluation of Human Exposure to Vibration in Buildings shall not exceed the low probability of adverse comment day and night-time values of 0.2 to 0.4 m.s-1.75 and 0.1 to 0.2 m.s-1.75 respectively.

***Reason for conditions 2 to 10: In the interests of protecting the amenity of neighbouring residents; to mitigate for potential noise and amenity disturbance.***

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
4.6	Notice of Review Request Considered for the First Time – Mansfield, Mayfield, Dalkeith, [17/00864/DPP].	Peter Arnsdorf

## Executive Summary of Report

There was submitted report, dated 13 June 2018, by the Head of Communities and Economy regarding an application from Douglas Strachan, 79 High Street, Dalkeith seeking on behalf of their client Mrs L McKellar, a review of the decision of the Planning Authority to refuse planning permission (17/00864/DPP, refused on 7 March 2018) for the conversion of steading buildings into four dwellinghouses and associated works at Mansfield, Mayfield, 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 Wednesday 20 June 2018.

## Summary of Discussion

Having heard from the Planning Advisor, the LRB then 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 the potential impact that the proposed development would have as a result of its scale and design. The feeling being that it did not compliment the character of the surrounding area, with too many units squeezed into what was essentially a small, constrained site.

## Decision

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

- 1. The proposal involves the conversion of outbuildings to residential units which are sited in the countryside and are not redundant and so the proposal is contrary to policy RD1 of the adopted Midlothian Local Development Plan 2017.*
- 2. Inadequate private amenity space would be provided for the proposed houses, with one of the gardens outwith the application site boundary. Two of the gardens would be directly overlooked by the existing property adjacent to the site, resulting in a loss of privacy for both future and existing occupants. Overall the gardens of the proposed dwellings would not provide sufficient levels of amenity to the proposed dwellings.*
- 3. The proposed layout would result in a low standard of amenity for both the existing and proposed houses as a result of the proximity of the vehicular access, resulting in a lack of privacy and potential noise disturbance.*
- 4. For the above reasons, the proposal is an overdevelopment of the site, which is contrary to policy DEV6 of the adopted Midlothian Local Development Plan 2017.*
- 5. The proposal presents a significant threat to road safety given the poor vehicular and pedestrian access.*

Action
Head of Communities and Economy

Agenda No	Report Title	Presented by:
4.7	Notice of Review Request Considered for the First Time – Land Adjacent to Mansfield, Mayfield, Dalkeith, [17/00960/DPP].	Peter Arnsdorf

### Executive Summary of Report

There was submitted report, dated 13 June 2018, by the Head of Communities and Economy regarding an application from Douglas Strachan, 79 High Street, Dalkeith seeking on behalf of their client Mrs L McKellar, a review of the decision of the Planning Authority to refuse planning permission in principle (17/00960/PPP, refused on 19 February 2018) for the erection of three dwellinghouses and associated works at land adjacent to Mansfield, Mayfield, 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 Wednesday 20 June 2018.

### Summary of Discussion

Having heard from the Planning Advisor, the LRB then 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 the potential impact that the proposed development would have as a result of its scale and design. The feeling being that it did not compliment the character of the surrounding area and would potentially negatively impact on road safety as a result of the proposed access arrangements.

### Decision

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

- 1. The proposed development is sited outside the identified settlement boundary with no justification for residential development within the countryside and so the proposal is contrary to policy RD1 of the adopted Midlothian Local Development Plan 2017.*
- 2. The proposed layout and house type appear urban in character and do not reflect the rural surroundings or character of the site and are therefore contrary to policy DEV6 of the adopted Midlothian Local Development Plan 2017.*



3. *It has not been demonstrated to the satisfaction of the Planning Authority that the proposal would not result in the loss of a number of mature trees which contribute positively to the character and appearance of this countryside area, contrary to policies DEV7 and ENV7 of the adopted Midlothian Local Development Plan 2017.*
4. *It has not been demonstrated to the satisfaction of the Planning Authority that the proposal would provide adequate private garden ground for the occupants, contrary to policy DEV6 of the adopted Midlothian Local Development Plan 2017.*
5. *The proposal presents a significant threat to road safety given the poor vehicular and pedestrian access.*

#### Action

Head of Communities and Economy

#### Eligibility to Participate in Debate

In considering the following item of business, only those LRB Members who had attended the site visits on Monday 21 May 2018 participated in the review process, namely Councillors Imrie, Alexander, Baird, Cassidy, Lay-Douglas, Munro, Milligan and Smaill.

Councillor Curran whilst present during the debate had been unable to attend the site visit and accordingly did not actively participate in the proceedings.

Agenda No	Report Title	Presented by:
4.3	Notice of Review Request Considered for the First Time – Land North West of Melville Gate Road, Dalkeith, [17/00587/DPP].	Peter Arnsdorf

#### Executive Summary of Report

With reference to paragraph 5.4 of the Minutes of 22 May 2018, there was submitted update report, dated 12 June 2018, by the Head of Communities and Economy providing clarification regard the proposed use of the land subject to the 'Notice of Review' regarding the non-determination of planning application 17/00587/DPP for the erection of residential care home with associated access, car parking, landscaping and works at land northwest of Melville Gate Road, Dalkeith.

Appended to the report was (i) an agreed statement by Council officers and the applicant's agent regarding the proposed use of the site as a residential care home, not a hospital as referenced during the previous LRB meeting: and (ii) report, dated 15 May 2018, by the Head of Communities and Economy regarding an application from Jessica Powell, Colliers International, 1 Exchange Crescent, Conference Square, Edinburgh seeking on behalf of their clients, Montpelier Estates a review of planning application 17/00587/DPP for the erection of residential care home with

associated access, car parking, landscaping and works at land north-west of Melville Gate Road, Dalkeith, which had not been determined within the statutory time periods (2 months as extended by agreement).

Accompanying the Notice of Review Form and supporting statement, which were appended to the original report, was a copy of the report of handling thereon.

The Local Review Body had made an accompanied visit to the site on Monday 21 May 2018.

### Summary of Discussion

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 firstly from the applicant agent Meabhann Crowe, then from John Horsman on behalf of the applicants, and finally from Joyce Learmonth, the local authority Planning Officer; following which they all responded to Members' questions/comments.

The LRB, in giving consideration to the merits of the case based on all of the information provided both in writing and in person at the Hearing, also heard from the Head of Adult and Social Care, who at the request of the Chair, explained in response to comments made during the applicants presentation the Council's current position in regards to the provision of residential care services. The LRB then discussed the fact that the proposed application site was on land currently allocated in the Midlothian Local Development Plan (MLDP) 2017 for economic development Class 4 (business) uses as defined by the Town and Country Planning (Use Classes) Scotland Order 1997 (as amended), the way in which the site had been marketed for economic uses and also the options open to the land owners to seek a change in the allocation through the local development plan process. Consideration was also given to the likely impact that the proposed development would have particularly in terms of the Council's approach to the provision of such services, and the competing demands that would be placed on potential staff recruitment and resources, given the difficulties currently being experienced due to a shortage of suitably qualified staff in this field.

After further discussion, Councillor Milligan, seconded by Councillor Smaill, moved to uphold the review request, and grant planning permission subject to the proposed conditions contained in the Head of Communities and Economy's report.

As an amendment, Councillor Imrie, seconded by Councillor Baird, moved to dismiss the review request, and uphold the decision to refuse planning permission for the reasons detailed in the case officer's report and a further condition regarding the approach to, and likely pressure it would put on Health and Social Care services in Midlothian.

On a vote being taken, four Members voted for the amendment and four for the motion. There being an equality of votes, the Chair in terms of Standing Order 11.2(iv) exercised his casting vote in favour of the amendment, which accordingly became the decision of the meeting.

<b>Decision</b>
<p>The LRB agreed to dismiss the review request, and uphold the decision to refuse planning permission for the following reasons:</p> <ol style="list-style-type: none"><li>1. <i>The site is within the Green Belt and development for uses other than the Business Uses identified in the Midlothian Local Development Plan 2017 are contrary to local development plan policies STRAT1 Committed Development, ECON1 Existing Development Locations, ENV1 Protection of the Green Belt and ENV4 Prime Agricultural Land.</i></li><li>2. <i>The Strategic Development Plan (SDP) for Edinburgh and the South-East Scotland (approved in 2013) identifies the A7/A68/Borders Rail Corridor for economic growth. The proposal is contrary to Policy 2 Supply and Location of Employment Land which states that the Strategic Development Plan supports the development of a range of marketable sites of the size and quality to meet the requirements of business and industry within the SESplan area.</i></li><li>3. <i>There are no material considerations that are considered to be of sufficient weight to indicate that the proposed development should be supported despite its non-compliance with development plan policy.</i></li><li>4. <i>The proposed development conflicts with the Council's approach to Health and Social Care and as such has the potential of having a detrimental impact of the wider provision of those services in Midlothian.</i></li></ol>
<b>Action</b>
Head of Communities and Economy



The meeting terminated at 3.24 pm.