

# Minute of Meeting



## Planning Committee

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

### Present:

Councillor Imrie (Chair)	Councillor Alexander
Councillor Baird	Councillor Cassidy
Councillor Curran	Councillor Hackett
Councillor Hardie	Councillor Lay-Douglas
Councillor McCall	Councillor Milligan
Councillor Muirhead	Councillor Munro
Councillor Russell	Councillor Smail
Councillor Winchester	

## **1. Apologies**

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Apologies received from Councillor Johnstone, Parry and Wallace.

## **2. Order of Business**

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The Clerk confirmed that that order of business was as outlined in the agenda that had been previously circulated, with exception of agenda item 5.7 - .Application for Planning Permission for the Change of Use of Retail Unit to Hot Food Takeaway at 70 Lothian Road, Bonnyrigg (18/00654/DPP), which it was proposed should not be considered by Committee due to a procedural matter, and this was agreed.

## **3. Declarations of interest**

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Councillors Muirhead, Milligan, Lay-Douglas, Smaill, Cassidy and Alexander (non-pecuniary) all declared an interest in agenda item 5.5 - Application for Planning Permission in Principle, for Planning Permission and for Listed Building Consent for the Conversion of Listed Buildings to Dwellings and Residential and Commercial Development in the Grounds of the former Rosslynlee Hospital, Roslin (17/00980/PPP, 17/01001/DPP and 18/00061/LBC) – on the grounds that, at the invitation of the applicants, they had all visited the application site, but at no time had offer an opinion on the current applications before Members.

Councillors Hackett (non-pecuniary) and Baird (business) both declared an interest in agenda item 5.4 - Application for Planning Permission for the Erection of two Drive-Through Restaurants; Formation of Access and Car Parking; and Associated Works at Land South West of Tesco Superstore, Dalkeith (18/00181/DPP). Councillor Hackett on the grounds that he knew socially someone who was an employee of one of the companies that were prospective occupants of one of the units and Councillor Baird on the grounds that the application related to the food and drink industry.

Councillor Curran sought guidance regarding his participation in consideration of the foregoing agenda item, as at the previous meeting he had proposed a course of action based on the information available at that time. The Monitoring Officer in response advised that as long as Members felt confident that they could approach the issue with an open mind and had not pre-judged matters then in terms of the Councillors Code of Conduct they could participate in proceedings. Councillor Curran thanked the Monitoring Officer for the guidance, confirming that was indeed the case and that any decision he reached today would be based on the information currently available.

## **4. Minutes of Previous Meetings**

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The Minutes of Meeting of 9 October 2018 were submitted and approved as a correct record.

## 5. Reports

Agenda No	Report Title	Presented by:
5.1	Supplementary Guidance: Special Landscape Areas	Peter Arnsdorf
<b>Executive Summary of Report</b>		
<p>With reference to paragraph 5.2 of the Minutes of 19 June 2018, there was submitted report, dated 8 November 2018, by the Director, Education, Communities and Economy, advising the Committee of the responses received to the public consultation on the proposed supplementary guidance on 'Food and Drink and Other Non-Retail Uses in Town Centres' and seeking agreement to the adoption of the Midlothian Food and Drink and Other Non-Retail Uses in Town Centres Supplementary Guidance.</p> <p>The report explained that the consultation period had run for six weeks from 28 August to 10 October 2018 with responses being received from six external parties - two Community Councils, two individual members of the public, a private business and Scotland's Town Partnerships. A summary of the consultation responses, together with details of the Council's proposed response and a track change copy of the draft Supplementary Guidance document showing proposed deletions and additions (shown in red) to the document arising from the consultation were appended to the report.</p>		
<b>Summary of Discussion</b>		
<p>The Committee, having heard from the Planning Manager who clarified the process for approving the Supplementary Guidance and also it's standing in terms of considering any applications for planning permission, welcomed the comments received as a result of the public consultation on the proposed Supplementary Guidance.</p>		
<b>Decision</b>		
<p>After further discussion, the Committee agreed:-</p> <ol style="list-style-type: none"><li>a) to adopt the Midlothian Food and Drink and Other Non-Retail Uses in Town Centres Supplementary Guidance (as amended following the consultation process);</li><li>b) that the Midlothian Food and Drink and Other Non-Retail Uses in Town Centres Supplementary Guidance will not have a significant environmental impact triggering the need for a formal Strategic Environmental Assessment;</li><li>c) to instruct the Planning Manager to undertake the required notification/ advertisement advising that the Food and Drink and Other Non-Retail Uses in Town Centres Supplementary Guidance will not have a significant environmental impact triggering the need for a formal Strategic Environmental Assessment;</li></ol>		

- d) to instruct the Planning Manager to notify the Scottish Ministers of the Council's intention to adopt the Midlothian Food and Drink and Other Non-Retail Uses in Town Centres Supplementary Guidance; and
- e) to be advised of the outcome of the notification of the Scottish Ministers procedure.

**Action**

Planning Manager

Agenda No	Report Title	Presented by:
5.2	Major Developments: Applications Currently Being Assessed and Other Developments at Pre-Application Consultation Stage	Peter Arnsdorf

**Executive Summary of Report**

There was submitted report, dated 8 November 2018, by the Director, Education, Communities and Economy, updating the Committee with regard to 'major' planning applications, formal pre-application consultations by prospective applicants, and the expected programme of applications due for reporting to the Committee.

The current position with regard to 'major' planning applications and formal pre-application consultations by prospective applicants was outlined in the Appendices to the report.

**Decision**

The Committee agreed:-

- (a) To note the current position in relation to major planning application proposals which were likely to be considered by the Committee in 2019; and
- (b) To note the updates for each of the applications.

**Action**

Planning Manager

Agenda No	Report Title	Presented by:
5.3	Appeal and Local Review Body Decisions	Peter Arnsdorf

**Executive Summary of Report**

There was submitted report, dated 8 November 2018, by the Director, Education, Communities and Economy, detailing the notices of review determined by the Local Review Body (LRB) at its meeting in October 2018, and one appeal decision received from Scottish Ministers.

Appended to the report was a copy of the following appeal decision notice from the Scottish Government, Planning and Environmental Appeals Division:-

- Dated 17 October 2018, dismissing an appeal by EG Group Ltd/Buccleuch Property against refusal of planning permission for the erection of petrol filling station and shop; restaurant with drive thru, café with drive thru and associated works at land at Sheriffhall South, Melville Gate Road, Dalkeith (17/00537/DPP, dated 14 July 2017, refused by notice dated 18 May 2018).

#### Decision

The Committee:

- (a) Noted the decisions made by the Local Review Body at its meeting on 16 October 2018; and
- (b) Noted the outcome of the Appeal determined by the Scottish Ministers.

#### Action

Planning Manager

#### Sederunt

With reference to item 3 above, Councillor Baird, having declared an interest in the following item of business, left the meeting at 2.13 pm, taking no part in the consideration thereof.

Agenda No	Report Title	Presented by:
5.4	Application for Planning Permission for the Erection of two Drive Through Restaurants; Formation of Access and Car Parking; and Associated Works at Land South West of Tesco Superstore, Dalkeith (18/00181/DPP).	Peter Arnsdorf

#### Executive summary of report

With reference to paragraph 5.8 of the Minutes of 9 October 2018, there was submitted report, dated 8 November 2018, by the Director, Education, Communities and Economy concerning the above application.

#### Summary of Discussion

Having heard from the Planning Manager, who responded to Members' questions/ comments, the Committee discussed at length the likely impact that the proposed development could potentially have on neighbouring town centres, most notably Bonnyrigg and Dalkeith, having particular regard to the supplementary guidance on 'Food and Drink and Other Non-retail Uses in Town Centres' which had been approved earlier (paragraph 5.1 above refers). The possible impact on the adjoining road network was also discussed, with volume of traffic and road safety issues being of particular concern and drawing a number of comments.

After further discussion, Councillor Milligan, seconded by Councillor Hackett, moved that in light of the concerns regarding the potentially detrimental impact on Bonnyrigg and Dalkeith town centres, and also the potentially adverse effect on the adjoining road network that planning permission be refused.

As an amendment, Councillor Hardie, seconded by Councillor Winchester, moved that planning permission be granted for the reasons, and subject to the conditions, detailed in the Director's report.

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

#### Decision

The Committee agreed to refuse planning permission for the following reasons:-

1. The impact of development on the vitality and viability of local town centres is a material consideration in the assessment of the application. The Planning Authority considers that the mix of uses, for the sale of food and drink for consumption on the premises and off the premises, is detrimental to Bonnyrigg and Dalkeith town centres; and is contrary to the aim of the "town centre first" approach to town centres set out in Scottish Planning Policy.
2. Road safety is a material consideration in the assessment of the proposal. Additional traffic, over and above traffic associated with existing uses and further consented development, entering and exiting the Tesco arm of Eskbank roundabout will result in queuing traffic and threaten the safe and effective operation of the roundabout.

#### Action

Planning Manager

#### Sederunt/Declaration of Interest

Councillor Baird re-joined the meeting at the conclusion of the foregoing item of business at 2.44 pm.

Thereafter, Councillor Milligan explained that as a Member of the NHS Lothian Board he was unsure if he required to declare an interest in the following item of business with the application site being a former NHS property. Having heard from the Monitoring Officer, Councillor Milligan declared a non-pecuniary interest and withdrew from the meeting at 2.45pm, taking no part in the consideration thereof.

Agenda No	Report Title	Presented by:
5.5	Application for Planning Permission in Principle, for Planning Permission and for Listed Building Consent for the Conversion of Listed Buildings to Dwellings and Residential and Commercial Development in the Grounds of the former Rosslynlee Hospital, Roslin (17/00980/PPP, 17/01001/DPP and 18/00061/LBC).	Peter Arnsdorf

### Executive Summary of Report

There was submitted report, dated 8 November 2018, by the Director, Education, Communities and Economy concerning the above applications.

### Summary of Discussion

Having heard from the Planning Manager, who responded to Members' questions/ comments, the Committee discussed the position regarding the requirement for developer contributions towards infrastructure and affordable housing at length. With particular consideration being given to whether there was scope to potentially relax the current requirements in order to help secure the retention of the Grade C Listed former Rosslynlee Hospital building. The fact that additional land had been allocated for complementary enabling development was acknowledged, however, questions were raised regarding whether or not this was sufficient for the purpose for which it had been provided and also if, in the current financial climate, the Council was in a position not to secure the full developer contributions.

After further discussion, Councillor Hackett, seconded by Councillor Smail, moved that consideration of the matter be continued in order that further information could be circulated, in private if necessary, to Members addressing the foregoing issues.

In terms of Standing Order 11.3 (vii), the Chair directed that a vote be taken for and against the motion to continue consideration of the matter and if this was carried that would be the end of the matter. If however it fell then he would open the matter up for further more detailed discussion.

Thereafter, on a vote being taken, three Members voted against the motion and 10 for, which accordingly became the decision of the meeting.

### Decision

The Committee agreed that consideration of the matter be continued in order that further information could be circulated, in private if necessary, to Members addressing the above issues. At the suggestion of the Chair, Councillor Imrie, it was further agreed that should the appropriate opportunity arise a Special meeting of the Committee could be arranged to consider the matter, failing that it would be brought back to the next meeting on 22 January 2019.

### Action

Planning Manager/Democratic Services

### Sederunt

At the conclusion of the foregoing item of business Councillor Milligan re-joined the meeting at 3.06 pm, at which point Councillor Baird left.

Agenda No	Report Title	Presented by:
5.6	Application for Planning Permission for the Erection of 4 Dwellinghouses at Airybank, Quarrybank, Cousland (18/00582/DPP and 18/00593/DPP).	Peter Arnsdorf
<b>Executive Summary of Report</b>		
There was submitted report, dated 8 November 2018, by the Director, Education, Communities and Economy concerning the above application.		
<b>Summary of Discussion</b>		
<p>The Committee, having heard from the Planning Manager who responded to Members' questions and comments, discussed the planning history of the application site and also the current development plan policies. In particular, consideration was given to the proposed dwellinghouses, their design, layout and size and the potential impact that they would have on the area. The need to ensure that the bat roost identified within the application site was properly protected; bats being a European Protected Species, was also discussed.</p> <p>Thereafter, Councillor Smaill, seconded by Councillor Imrie moved that the planning application be granted subject to appropriate conditions.</p> <p>As an amendment Councillor McCall, seconded by Councillor Alexander moved that planning permission be refused for the reasons detailed in the Director's report.</p> <p>On a vote being taken, six Members voted for the Motion and 7 Members voted for the amendment which accordingly became the decision of the meeting.</p>		
<b>Decision</b>		
<p>The Committee agreed that planning permission be refused for the following reasons:</p> <ol style="list-style-type: none"> <li data-bbox="209 1384 1412 1608">1. The proposed dwellinghouses by means of their scale, massing, form and design are incompatible with their edge-of village setting and the wider settlement of Cousland and will therefore have a detrimental impact on the character and appearance of the area contrary to policies DEV2 and STRAT2 of the Midlothian Local Development Plan 2017 and Scottish Planning Policy.</li> <li data-bbox="209 1630 1412 1787">2. It has not been demonstrated to the satisfaction of the Planning Authority that the proposed development would not have a detrimental impact on European Protected Species and is therefore contrary to policy ENV15 of the adopted Midlothian Local Development Plan 2017.</li> </ol>		
<b>Action</b>		
Planning Manager		



## 6. Private Reports

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### Exclusion of Members of the Public

In view of the nature of the business to be transacted, the Planning Committee agreed that the public be excluded from the meeting during discussion of the undernoted item, as contained in the Addendum hereto, as there might be disclosed exempt information as defined in paragraph 13 of Part I of Schedule 7A to the Local Government (Scotland) Act 1973

Report No.	Report Title	Presented by:
6.1	Application for Planning Permission and Enforcement Considerations: Pathhead.	Peter Arnsdorf
Decision		
To approve the recommendations contained in the report.		

The meeting terminated at 3.20pm.