

**MINUTES of MEETING of the MIDLOTHIAN COUNCIL PLANNING COMMITTEE** held in the Council Chambers, Midlothian House, Buccleuch Street, Dalkeith on Tuesday 21 April 2015 at 2.00 pm.

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

**Apologies for Absence:** - Councillors Montgomery, Thompson and Young.

**1. Declarations of Interest**

No declarations of interest were intimated.

**2. Minutes**

The Minutes of Meeting of 3 March 2015 were submitted and approved as a correct record.

**3. Planning Performance Framework Annual Report 2013/14**

There was submitted report, dated 14 April 2015, by the by Head of Communities and Economy, providing an update on the progress of work undertaken on the Planning Performance Framework (PPF) for Midlothian and advising of the outcome of the Scottish Government's consideration of Midlothian Council's Planning Performance Framework report for 2013-14.

The report advised that the feedback report (a copy of which was appended to the report) provided a helpful independent 'audit' of performance and progress, as well as some clear indications of areas for improvement. In respect of the 15 performance related areas, five had been rated as "green" i.e. there was no cause for concern; eight were rated "amber" i.e. where areas of improvement had been identified; and two had been rated "red" i.e. where specific attention was required.

The Committee, having heard from the Planning Manager who responded to Members' questions, considered that in respect of those areas rated "red", the observations made regarding the Midlothian Local Development Plan were a little harsh given that the MLDP was dependent upon the Strategic Development Plan (SDP) for South East Scotland, which although it had received Scottish Ministers' approval in June 2013 had been subject to a requirement that the six SESplan Councils jointly prepare supplementary guidance on housing land, and this process had only been concluded in Summer 2014. Notwithstanding this delay the MLDP had been taken to an advanced 'Proposed Plan' stage and would be published for consultation in May 2015.

**Decision**

After further discussion, the Committee noted the feedback received from Scottish Government to the Council's submitted Planning Performance Framework 2013/14.

#### **4 Planning Performance Report for 2014/15**

There was submitted report, dated 20 August 2013, by the Head of Communities and Economy, updating the Committee on planning application, planning appeals and reviews, enforcement and planning customer service performance against key outcome indicators for the period 2014/15.

The report identified that the improvement in overall performance which had been achieved in 2013/14 had been maintained through 2014/15 with 84% of planning applications being determined within target. This compared to 84% in 2013/14, 73% in 2012/13, 70% in 2011/12, 65% in 2010/11 and 55% in 2009/10. In addition to the handling of planning applications, the report also highlighted the work undertaken by the Planning team in relation to planning appeals/reviews, enforcement of planning control, the preparation of development/design briefs and responding to a wide range of associated enquiries giving planning advice to the public and others.

##### **Decision**

The Committee, having heard from the Planning Manager:-

- (a) noted the content of the report;
- (b) agreed to continue to receive further planning performance reports on an annual basis.

(Action: Head of Communities and Economy)

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

There was submitted report, dated 14 April 2015 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 to the Committee.

##### **Decision**

The Committee, having heard from the Planning Manager, agreed:-

- (a) To note the current position in relation to major planning application proposals which were likely to be considered by the Committee in 2015; and
- (b) To receive further updated information on the procedural progress of major applications on a regular basis.

(Action: Head of Communities and Economy)

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

There was submitted report, dated 14 April 2015, by the Head of Communities and Economy, detailing the notices of reviews determined by the Local Review Body (LRB) at its meeting in March 2015 and advising that there were no appeals determined by Scottish Ministers to report.

### **Decision**

The Committee, having heard from the Planning Manager, noted the decisions made by the Local Review Body at its meeting on 10 March 2015.

## **7. Pre Application Consultation - Proposed Infilling of Middleton Lower Quarry: Reinstatement to Recreational Use (15/00157/PAC)**

There was submitted report, dated 14 April 2015, by the Head of Communities and Economy advising that a pre application consultation had been submitted regarding the proposed infilling of Middleton Lower Quarry (15/00157/PAC).

The report advised that in accordance with the pre application consultation procedures approved by the Committee at its meeting on 7 October 2014 (paragraph 3, Page 4-199 refers) the pre application consultation was being reported to Committee to enable Members to express a provisional view on the proposed major development. The report outlined the proposal, identified the key development plan policies and material considerations and stated a provisional without prejudice planning view regarding the principle of development for the Committee's consideration.

Having heard from the Planning Manager, some Members expressed concern regarding the frequency of vehicular movements and the ability of the local network to cope with volume and type of vehicles likely to be used. Whilst the Committee generally agreed that infilling of the site would be welcome, some Members had reservations about the proposed return of the land to recreational rather than agricultural use, which it was felt could be achieved depending on the infill and finishing materials that were used. There was also felt to be a need for the applicants to take particular account of the views expressed at the well attended public meeting held in North Middleton Village Hall as part of the pre-application consultation process.

### **Decision**

- (i) To note the provisional planning position set out in the report;
- (ii) To note the comments made by Members; and
- (iii) To note that the expression of a provisional view did not fetter the Committee in its consideration of any subsequent formal planning application.

(Action: Head of Communities and Economy).

**8. Application for Planning Permission (14/00518/DPP) by Bett Homes Limited for the Erection of 290 Dwellinghouses, Provision of Land for Business Park, Formation of Associated Access Roads and Sustainable Urban Drainage at Land to the South of Gorton Loan, Rosewell.**

With reference to paragraph 7 of the Minutes of 3 March 2015, there was submitted report, dated 14 April 2015, by the Head of Communities and Economy concerning the above application.

The Committee, having heard from the Planning Manager, noted advice from the Head of Communities and Economy who, in responding to a question from Councillor Muirhead, confirmed that those Members who had not been present at the previous meeting when the application had first been considered could still contribute to the determination of the application if they so wished as all the relevant information had once again been made available to Members.

With regards the issue of education provision, the Committee heard from Resource Planning Manager regarding the need to augment non-denominational primary and secondary provision capacity, regardless of which educational strategy was ultimately decided upon, in order to accommodate the additional pupils likely to be generated through the development of the already agreed Midlothian Local Plan sites, such as the application site, within the area.

Whilst it was acknowledged that the anticipated rollout of fibre optic services in the Rosewell area was due to take place in 2015/16, Members remained concerned that in order to access the digital technology, each individual household would require to replace the copper cabling provided by the developers with fibre optic cabling. This was particularly frustrating as it was understood that the required fibre optic cabling could be provided instead of copper cabling at very little extra cost to the developers for a development of this size. In discussing how this could best be addressed, the Committee received advice from the Planning Manager that the developers, who were in attendance at the meeting, had indicated a willingness to take this matter on board in the event that planning permission was granted.

**Decision**

After further discussion, the Committee, having welcomed the undertaking by the applicants to take on board the provision of fibre optic broadband cabling to all properties within the development, agreed that planning permission be granted for the following reason:

*The proposed development site is identified as being part of the Council's safeguarded/committed housing land supply and economic land supply within the adopted Midlothian Local Plan 2008 and accords with policies COMD1 and RP20. Furthermore, the development, subject to the recommended planning conditions, accords with good design principles and with Policies DP2, IMP1, IMP2 and IMP3 of the adopted Midlothian Local Plan 2008. The presumption for development is not outweighed by any other material consideration*

subject to:

- (a) the prior signing of a legal agreement to secure the provision of affordable housing and securing developer contributions towards education provision, the Borders Rail Line, children's play provision and community/leisure facilities: and
- (b) the following conditions:
  1. Development shall not begin until details of a scheme of hard and soft landscaping has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
    - i notwithstanding that delineated on docketed drawings, existing and finished ground levels and floor levels for all buildings, open spaces, SUDS and roads 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 in communal areas and open space, 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 programme for completion and subsequent maintenance of all soft and hard landscaping. The landscaping in the open spaces shall be completed prior to the houses/buildings on adjoining plots are occupied. Any tree felling or vegetation removal proposed as part of the landscaping scheme shall take place out with the bird breeding season (March-August);
    - vii drainage details, watercourse diversions, flood prevention measures and sustainable urban drainage systems to manage water runoff;
    - viii proposed car park configuration and surfacing;
    - ix proposed footpaths and cycle paths (designed to be unsuitable for motor bike use);
    - x proposed cycle parking facilities;
    - xi proposed area of improved quality; and,
    - xii proposed play equipment.

All hard and soft landscaping shall be carried out in accordance with the scheme approved in writing by the planning authority as the programme for completion and subsequent maintenance (vi). 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 policies RP20 and DP2 of the Midlothian Local Plan and national planning guidance and advice.

2. No trees within the site shall be lopped, topped or felled unless otherwise agreed in writing with the local planning authority.

**Reason:** *To ensure the development does not result in the loss or damage of a tree which merits retention in accordance with policies RP5 and RP20 of the Midlothian Local Plan and national planning guidance and advice.*

3. Development shall not begin until temporary protective fencing is erected around all trees on the site to be retained and the trees overhanging the site including those within the neighbouring former Rosewell Mains site in accordance with the recommendations of the British Standard BS 5837: 2012 'Trees in Relation to Design, Demolition and Construction'. The fencing shall be positioned in circumference to the trunk at a distance from it which correlates to the trees canopy unless otherwise agreed in writing with the local planning authority. No excavation, soil removal or storage shall take place within the enclosed area.

**Reason:** *To ensure the development does not result in the loss or damage of a tree which merits retention in accordance with policies RP5 and RP20 of the Midlothian Local Plan and national planning guidance and advice.*

4. Notwithstanding the material specified on drawings docketed to this planning permission, development shall not begin until samples of materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and ancillary structures have been submitted to and approved in writing by the planning authority. An enhanced quality of materials shall be used in the area of improved quality which shall include the following plots: 001, 006, 010, 011, 012, 037, 038, 039, 040, 041, 042, 043, 044, 061, 062, 078, 079, 080, 081, 082, 094, 095, 096, 100, 101, 102, 103, 104, 118, 123, 124, 125, 126, 135, 151, 152, 162, 163, 164, 171, 176, 177, 183, 184, 185, 186, 187, 196, 209, 210, 227, 228, 229, 230, 231, 233, 234, 235, 236, 237 and 244. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority.

**Reason:** *To ensure the quality of the development is enhanced by the use of quality materials to reflect its setting in accordance with policies RP20 and DP2 of the Midlothian Local Plan and national planning guidance and advice.*

5. Development shall not begin until details, including a timetable of implementation, of 'Percent for Art' have been submitted to and approved in writing by the planning authority. The 'Percent for Art' shall be implemented as per the approved details.

**Reason:** *To ensure the quality of the development is enhanced by the use of art to reflect its setting in accordance with policies IMP1 and DP2 of the Midlothian Local Plan and national planning guidance and advice.*

6. Development shall not begin until details of the site access, roads, footpaths, cycle ways and transportation movements 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 roads and cycle ways in relation to a fixed datum;
  - ii proposed vehicular, cycle and pedestrian access;
  - iii proposed roads (including turning facilities), footpaths and cycle ways;
  - iv proposed visibility splays, traffic calming measures, lighting and signage;
  - v a green transport plan designed to minimise the use of private transport and to promote walking, cycling, safe routes to school and the use of public transport;
  - vi proposed car parking arrangements;
  - vii a programme for completion for the construction of access, roads, footpaths and cycle paths.

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:*** *To ensure the future users of the buildings, existing local residents and those visiting the development site during the construction process have safe and convenient access to and from the site.*

7. Development shall not begin until a scheme to deal with any contamination of the site and/or previous mineral workings has been submitted to and approved by the planning authority. The scheme shall contain details of the proposals to deal with any contamination and/or previous mineral workings and include:
  - i. the nature, extent and types of contamination and/or previous mineral workings on the site;
  - ii measures to treat or remove contamination and/or previous mineral workings to ensure that the site is fit for the uses hereby approved, and that there is no risk to the wider environment from contamination and/or previous mineral workings originating within the site;
  - iii measures to deal with contamination and/or previous mineral workings encountered during construction work; and,
  - iv the condition of the site on completion of the specified decontamination measures.

Before any part of the site is occupied for residential purposes, the measures to decontaminate the site shall be fully implemented as approved by the planning authority.

**Reason:** *To ensure that any contamination on the site is adequately identified and that appropriate decontamination measures are undertaken to mitigate the identified risk to site users and construction workers, built development on the site, landscaped areas, and the wider environment.*

8. No house shall have an under-building that exceeds 0.5 metres in height above ground level unless otherwise agreed in writing by the planning authority.

**Reason:** *Under-building exceeding this height is likely to have a materially adverse effect on the appearance of a house.*

9. Development shall not begin until details of the access arrangements and haulage routes for construction traffic accessing and leaving the site have been submitted to and approved in writing by the planning authority. Thereafter all construction traffic shall access and leave the site in accords with the approved details.

**Reason:** *To ensure the safety and convenience of existing local residents and those visiting the development site during the construction process.*

10. The buildings permitted shall not be occupied or brought into use until vehicular, cycle and pedestrian access details and routes have been constructed in accordance with plans to be submitted and approved in writing. The plans shall include details of construction, visibility, traffic calming measures, lighting and signage.

**Reason:** *To ensure the future users of the buildings have safe and convenient access to and from the site.*

11. Prior to the first occupation of any dwelling on phase 3; or by a different date to be approved in writing by the planning authority, the following shall be formed and made available for use to the approval of the planning authority and thereafter shall be retained unless otherwise approved by the planning authority:

- i. A three metre wide hard surfaced and lit cycleway/footpath with a half meter verge either side of it on the area of land cross hatched in red on docketed plan titled: "14 0550 Annotated"; and,
- ii. A Zebra crossing or a different form of safe link from the three metre wide hard surfaced cycleway/footpath required by i. above to the footpath on the north side of Gorton Road.

There shall be no variation therefrom unless with the prior written approval of the planning authority.

**Reason:** *To ensure the provision of a safe and convenient pedestrian and cycle route from the site to the primary school in Rosewell in the interests of pedestrian safety and the amenity of the future occupants of the houses.*

12. Notwithstanding that stated on application drawings the uses on the business park on the northern part of the site shall not include any general industrial uses falling within Class 5 of the Town and Country Planning (Use Classes) (Scotland) Order 1997); but instead, they shall only be light industrial uses or office, research and development uses falling within class 4 of the aforesaid Use Classes Order and which can be carried out in any residential area without detriment to residential amenity.

**Reason:** *Owing to the close juxtaposition of existing houses and proposed houses on the site to the proposed business park, general industrial uses would have the potential to give rise to significant harm to the amenity of existing and proposed neighbouring residential properties by reason of noise, vibration, smell, fumes dust or grit etc. It is therefore necessary to restrict the uses to those that can be carried out in a residential area without significant harm to residential amenity.*

13. The noise insulation properties of the commercial buildings erected on the business park on the northern part of the site shall be such that no A weighted continuous equivalent noise level emitting from within or from equipment installed on the buildings, measured over any five minute period at any place on the site boundary. (LAeq(5min.)) shall cause an increase in the existing measured background noise level defined as the level exceeded for 90% of the time and A weighted (LA90).
14. The level of noise emitting from within the business park hereby approved shall comply with Noise Rating curve NR25 (window open standard) when measured within any neighbouring noise sensitive premises.

**Reason for 13 & 14:** *Owing to the close juxtaposition of existing houses and proposed houses on the site to the proposed business park, general industrial uses would have the potential to give rise to significant harm to the amenity of existing and proposed neighbouring residential properties by reason of noise. It is therefore necessary to restrict noise emissions from the business park in the interests of safeguarding the amenity of existing and proposed neighbouring noise sensitive properties.*

15. The play area and play equipment required by condition 1xii will include; inter alia: (i) two pieces of inclusive play equipment; (ii) a bench and litter bin located within the fenced off area; (iii) two sets of benches and a litter bin provided alongside the path out with the play area; and, (iv) an area of hardstanding at the pedestrian gate entrance where there will be higher wear.

**Reason:** *For the avoidance of doubt as to what is required for the provision of an acceptable play area.*

16. Once installed the play equipment required by condition 1xii & 15 will be retained and maintained in accordance with the specifications approved unless otherwise approved in writing by the local planning authority. Any damaged equipment, fencing or hard/soft surface shall be replaced every six months in accordance with a schedule of maintenance to be submitted and approved in writing by the local planning authority within 1 month from the date of installation.

**Reason:** *In the interests of the safety of the children playing in the play area and for ease of maintenance in the interests of safeguarding the amenity of the area.*

17. Measures shall be undertaken to ensure that the first occupants of any house fronting onto an open space containing a play area, play equipment or kick about pitch is aware of the proposed use of the space: evidence of the measures taken shall be provided to the planning authority in advance of the first occupation of the said houses.

**Reason:** *to ensure future residents are provided with information by the site developer of the location of formal play areas within the site, and to avoid future antagonism towards the provision of such facilities.*

18. No electricity substation shall be erected within the site unless details of its position and appearance have been submitted to and approved in writing by the Planning Authority and any substation which is required shall be so located, or have a means of enclosure, as to prevent it having an adverse impact on the design and appearance of any open space or adjoining property.

**Reason:** *To ensure that any substation is unobtrusive and not unduly close to any occupied building.*

19. Prior to any dwelling being occupied the over-head power lines on the site shall be diverted or put underground in accordance with details to be approved in advance by the Planning Authority and no overhead wires, cables or telecommunication masts shall be introduced onto the site without the prior written approval of the planning authority.

**Reason:** *To ensure that the appearance of the development is not spoiled by over-head power lines, wires and telecommunication masts in accordance with Policy UTIL2 of the Midlothian Local Plan.*

(Action: Head of Communities and Economy)

The meeting terminated at 2.47 pm.