

Minute of Meeting

Planning Committee
Tuesday 22 November 2022
Item No: 4.1



Planning Committee

Date	Time	Venue
Tuesday 11 October 2022	1.00 pm	Council Chambers

Present:

Councillor Imrie (Chair)	Councillor Alexander
Councillor Bowen	Councillor Cassidy
Councillor Curran	Councillor Drummond
Councillor McEwan	Councillor McKenzie
Councillor McManus	Councillor Milligan
Councillor Parry	Councillor Pottinger
Councillor Russell	Councillor Scott
Councillor Smail	Councillor Virgo
Councillor Winchester	

In Attendance:

Peter Arnsdorf	Planning, Sustainable Growth and Investment Manager
Janet Ritchie	Democratic Services Officer

1. Apologies

Apologies were received from Councillor McCall.

2. Order of Business

The order of business was as set out in the Agenda.

3. Declarations of interest

Councillor Scott declared an interest with regards to item 5.4 advising that she had previously objected to a similar application regarding this item in 2017 therefore would take no part in this discussion and would leave the meeting at this point.

Councillor Cassidy declared an interest with regards to Item 6.1 advising that he knew someone involved therefore would take no part in this discussion and would leave the meeting at this point.

4. Minutes of Previous Meetings

The minute of the meeting of 30 August 2022 was submitted and approved as a correct record.

5. Reports

Agenda No	Report Title	Submitted by:
5.1	Midlothian Planning Enforcement Charter and Update Report on Planning Enforcement activity for Approval	Chief Officer Place
Outline of report and summary of discussion		
<p>The purpose of this report was to advise the Committee of the Scottish Planning Enforcement regime, provide statistical details of complaints received, closed and notices served in the period 2019-2022 and to seek approval of an updated Planning Enforcement Charter which identifies priorities and targets for planning enforcement activity.</p> <p>The Planning, Sustainable Growth and Investment Manager presented this report highlighting the background, legal framework and investigation process as contained within the report and attached Planning Enforcement Charter.</p> <p>In response to various questions regarding complaints the Planning, Sustainable Growth and Investment Manager provided a brief explanation with regards to the difference in the figures in the complaints received and closed and the reasons for why they are recorded in this manner, he also confirmed that there was details on the Council's website where action has been taken and the link to this would be circulated to Councillors.</p> <p>In responding to a question regarding road construction and lighting columns he advised on the regulation processes in place and confirmed he would also follow up with colleagues on the controls in place regarding the lighting used.</p>		

Following further discussion he advised on the various actions which can be taken regarding unkempt sites or where works have not been undertaken in compliance with an enforcement notice. The Chair highlighted the importance of this Charter and the recommendations outlined in the report were approved.

Decision

The Planning Committee:

- a) Noted the report on Planning Enforcement Matters;
- b) Approved the attached Midlothian Planning Enforcement Charter 2022 and agree to its publication;
- c) Delegated to the Planning, Sustainable Growth and Investment Manager any formatting matters to enable the Planning Enforcement Charter to be uploaded onto the Council's website in a more attractive format with visual representations in line with the suite of other planning documents on the Council's website.

Action

The Planning, Sustainable Growth and Investment Manager

Agenda No	Report Title	Submitted by:
5.2	Update Regarding the use of Planning conditions to cover the duration of Planning Permissions.	Chief Officer Place
Outline of report and summary of discussion		
<p>The purpose of this report was to advise the Committee of new regulations which implement sections of the Town and Country Planning (Scotland) Act 2019 in relation to the requirement to use planning conditions to limit the duration of planning permissions (based on commencement of development, not completion of development).</p> <p>This report also provided advice to the Committee in relation to the determination of planning applications in respect to timescales limiting the duration of planning permissions and recommend a procedure in relation to applications for planning permission which have already been considered by the Committee but have not yet been issued (as they are subject to the legal processes associated with securing developer contributions).</p> <p>Mr Arnsdorf, The Planning, Sustainable Growth and Investment Manager provided clarity in response to questions and comments from the Members with regards to the commencement of developments, the timescales of planning applications and the time period for completion of a development. He also confirmed that he would put a section in the Enforcement Charter regarding the commencement of a development and what that means.</p>		

Decision
<p>The Planning Committee:</p> <ul style="list-style-type: none"> a) Noted that planning conditions relating to the duration of planning permission will be attached to planning decisions from the 1 October 2022; and, b) Agreed that planning applications which have been considered by the Committee at previous meetings and are to be approved, but the decision notice not yet issued, are to be subject to the planning conditions stated in paragraph 3.1 of this report.
Action
The Planning, Sustainable Growth and Investment Manager

Agenda No	Report Title	Submitted by:
5.3	Appeal Decision with regard to an Application for Planning Permission in Principle for a Residential Development at Land at Stobs Farm, Lady Brae, Gorebridge. (21/00252/PPP)	Chief Officer Place
Outline of report and summary of discussion		
<p>The purpose of this report was to advise the Committee of an appeal decision with regard an application (21/00252/PPP) for planning permission in principle for residential development, formation of access roads and car parking, a sustainable urban drainage system (SUDS) and associated works on land at Stobs Farm, Lady Brae, Gorebridge.</p> <p>The stated planning application was subject to an appeal for non-determination as it had not been determined by the local planning authority within the statutory period of time as set out in the application report presented to the Committee at its meeting of 15 March 2022. At its meeting of 15 March 2022 the Committee determined to invite the Scottish Government Reporter appointed to determine the appeal to refuse planning permission – the Reporter dismissed the appeal and refused planning permission. A copy of the appeal decision is attached to this report.</p> <p>In presenting this report the Planning, Sustainable Growth and Investment Manager advised on the Scottish Reporter's decision and the two other significant conclusions with regards to effective housing land supply and meeting the demands on education capacity.</p> <p>Councillor Milligan raised concerns with regards to the Reporter's decision on the significant conclusions regarding the housing land supply and meeting the demands on Education capacity and highlighted some of the concerns this raises and whether this would merit a judicial review. The Chair also raised his concerns regarding the Reporter advising that this Council does not have adequate land supply. The Planning, Sustainable Growth and Investment Manager advised that when NPF4 is published this will give the Council new targets and will address these concerns and protect the Council.</p>		

It was agreed that The Planning, Sustainable Growth and Investment Manager would discuss these issues further with legal and he would also draft a letter to the Planning Minister in the Chair's name.

Decision

The Planning Committee:

- a) Noted the Planning Appeal Decision with regard to the Residential Development and associated works at land at Stobs Farm, Lady Brae, Gorebridge.
- b) The Planning, Sustainable Growth and Investment Manager would discuss any legal challenges regarding the issues raised by the Reporter with Legal and report back to the Committee.
- c) The Planning, Sustainable Growth and Investment Manager would draft a letter to the Planning Minister in the Chair's name regarding the concerns raised.

Councillor Scott left the meeting prior the following report being discussed.

Agenda No	Report Title	Submitted by:
5.4	Application for Planning Permission - Land at Newbyres, Site B, River Gore Road Gorebridge (22/00066/DPP)	Chief Officer Place

Outline of report and summary of discussion

The Application was for the erection of 96 dwellings, the formation of access road, car parking, sustainable urban drainage system (SUDS), landscaping and associated works on the land at Newbyres Site B, River Gore Road, Gorebridge.

The Planning, Sustainable Growth and Investment Manager outlined the main sections contained within the report highlighting the proposal set out in section 3, the background, the consultations and representations received as detailed within section 4, 5 and 6 of the report and advised that the recommendation is to grant planning permission for the reasons detailed in Section 9 of the report.

The Planning, Sustainable Growth and Investment Manager responded to several Members concerns regarding Education and Section 75 payments and advised that consideration is given to Education when approving planning applications and provided a brief explanation on how this is assessed. He further advised that a meeting was arranged to address the issues raised with the community. It was also noted that the Planning, Sustainable Growth and Investment Manager would provide further details regarding the contributions paid to Borders Rail and this would be appended to the minute (please see below)

Borders Rail Contributions Table

November 2022

		Level of Contributions	Comment
1	Total developer contributions required towards Borders Rail	£8,464,000	

2	Developer contributions received	£4,070,610	
3	Developer contributions secured in a Section 75 agreement but not yet received	£2,929,390	These are payments 'locked in' to planning obligations but not yet received because the current phase of the related development hasn't triggered the payment.
4	Developer contributions still to be secured to reach the target	£1,464,000	The Council will seek to over secure contributions in case some contributions are not forth coming as a result of stalled development.

It was noted in the near future there would be a catchment review and also the Learning Estate Strategy and the benefit in deferring this application to the next cycle. It was agreed that further information was required prior to making a decision on this application.

A Motion by Councillor Kelly, seconded by Councillor Drummond was moved to defer consideration of the application until the Learning Estate Strategy had been addressed.

As an amendment, Councillor McEwan, seconded by Councillor Winchester moved to grant planning permission.

On a vote being taken, 9 Members voted for the Motion and 6 for the Amendment, the Motion accordingly became the decision of the Committee.

The Planning, Sustainable Growth and Investment Manger advised that he would approach the Developers to explain the situation and advise on the decision to defer the application.

Decision

The Committee agreed to defer consideration of the application until the Learning Estate Strategy had been addressed.

Action

The Planning, Sustainable Growth and Investment Manager

Councillor Cassidy left the meeting prior to the private report being discussed and Councillor Scott returned to the meeting.

Exclusion of Members of the Public

In view of the nature of the business to be transacted, the 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:-

Agenda No	Report Title	Submitted by:
6.1	Outstanding High Hedge Notice requirements within garden of Ancrum House, 9A Ancrum Bank, Dalkeith	Chief Officer Place
Decision		
The Committee agreed to instruct Council Officers to take Direct Action to remedy the outstanding High Hedge Notice requirements and recover the associated costs.		
Action		
The Planning, Sustainable Growth and Investment Manager/Democratic Services		

6. Date of Next Meeting

The next meeting will be held on Tuesday 22 November 2022 at 1.00pm

The meeting terminated at 14.09 pm