

**MINUTES** of **MEETING** of the **LOCAL REVIEW BODY** held in the Council Chambers, Midlothian House, Buccleuch Street, Dalkeith on Tuesday 3 September 2013 at 2.00 pm.

**Present:** - Councillors Bryant (Chair), Baxter, Beattie, Imrie, Milligan, Pottinger and Russell.

**Apology for Absence:** - Councillor Constable, de Vink and Rosie.

**1. Minutes**

The Minutes of Meeting of 4 June 2013 were submitted and approved as a correct record.

**2. Decision Notices –**

**(a) Land to South West of Mosshouses, Penicuik**

With reference to paragraph 6(a) of the Minutes of 4 June 2013, there was submitted a copy of the Local Review Body decision notice upholding a review request from Miss Caroline Wilson, Eskvalley Stud, 23 Broomhill Avenue, Penicuik seeking a review of the refusal of planning permission (12/00654/PPP, refused on 30 November 2012) for planning permission in principle for the erection of a dwellinghouse at Land to South West of Mosshouses, Penicuik and granting planning permission subject to conditions.

**Decision**

To note the LRB decision notice.

**(b) Eldin Industrial Estate, Loanhead**

With reference to paragraph 6(b) of the Minutes of 4 June 2013, there was submitted a copy of the Local Review Body decision notice upholding a review request from Format Design, 146 Duddingston Road West, Edinburgh seeking a review of the refusal of planning permission (12/00390/DPP, refused on 12 December 2012) for the amendment to condition 10 of planning permission 08/00680/FUL (Permanent use of land for waste transfer station, change of use of agricultural land to industrial use and erection of ancillary buildings, part retrospective) to amend hours of starting operation from 7.00am to 6.00am, 7 days a week (retrospective) at Caleco Waste, Eldin Industrial Estate, Loanhead and granting planning permission subject to conditions.

**Decision**

To note the LRB decision notice.

**(c) Land to the North of Edgefield Toll Farm, Edgefield Road, Loanhead**

With reference to paragraph 6(c) of the Minutes of 4 June 2013, there was submitted a copy of the Local Review Body decision notice upholding a review request from Format Design, 146 Duddingston Road West, Edinburgh, seeking a review of the refusal of planning permission (12/00796/DPP, refused on 19 March 2013) for the temporary change of use of agricultural land to open storage at Land to the North of Edgefield Toll Farm, Edgefield Road, Loanhead and granting planning permission subject to conditions.

**Decision**

To note the LRB decision notice.

**Sederunt**

Councillor Beattie joined the meeting during the foregoing items of business at 2.03 pm.

**3. Notice of Review Requests Considered at a Previous Meeting –**

**(a) 30/3 Hardengreen Industrial Estate, Dalkeith**

With reference to paragraph 5(d) of the Minutes of 4 June 2013, the Local Review Body resumed consideration of a Notice of Review Request in respect of an application from Sorrell Associates, The Green House, 41 St Bernard's Crescent, Edinburgh seeking a review of the refusal of planning permission (13/00161/DPP, refused on 7 May 2013) for the change of use from office/light industry (class 4) to fitness studio (class 11) at 30/3 Hardengreen Industrial Estate, Eskbank, Dalkeith.

In this regard, there was submitted report, dated 2 September 2013, by the Head of Planning and Development. The Local Review Body had made an accompanied visit to the site on Monday 2 September 2013.

The Chair, Councillor Bryant, welcomed the applicant, Ms Janice Paterson 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; 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. Whilst it was acknowledged that the loss of a business unit was regrettable, the opportunity to bring the unit, which had not been occupied on a regular basis since Nov 2011, back into use, was welcomed. It was also accepted that the applicant's business had out grown its existing

accommodation in the centre of Dalkeith, which in any event wasn't ideally located, being on the third floor of Jarnac Court.

In response to Members concerns regarding the potential implications of a permanent change to Class 11 use, the Planning Advisor indicated that if the LRB was minded to uphold the review request they could be specific in terms of the type of Class 11 use that would be accommodated, in this case fitness and pilates. With regards the more general issue of a lack of provision within the Local Plan for such Class uses, this was a matter that could be picked up as part of the current LDP review process.

### **Decision**

After further discussion, the Local Review Body upheld the Review Request for the following reason:-

*The proposed use of the building will be complementary to the existing business park and will not undermine the primary economic land use of the business park, which is Class 4, office and industrial uses. Furthermore, the LRB wishes to support a local business which is servicing the growing interest and demand for fitness and pilates activities. For these reasons, and because of the desire to bring a vacant building back into use, the material considerations of the application outweigh any policy objection to the development.*

and agreed to grant planning permission subject to the following conditions

1. No amplified music or sound reproduction equipment used in association with the unit hereby permitted shall be audible at the boundary of any noise sensitive property (residential dwellinghouse) during the hours of 9.00pm to 7.00am.

***Reason:*** *To ensure a satisfactory standard of amenity in nearby residential properties.*

2. The use of the building shall be for fitness and pilates related uses and for no other purpose unless otherwise agreed in writing by the local planning authority. This grant of planning permission does not permit any other use within Class 11: Assembly and Leisure of The Town and Country Planning (Use Classes) (Scotland) Order 1997 or any subsequent amending or replacement order.

(Action: Head of Planning and Development)

### **(b) 98/6 Eastfield Industrial Estate, Penicuik**

With reference to paragraph 5(c) of the Minutes of 4 June 2013, the Local Review Body resumed consideration of a Notice of Review Request in respect of a review request from Alex F Noble and Son, 1 Swinton Place, Straiton, Loanhead seeking a review of the refusal of planning permission (12/00835/DPP, refused on 8 March 2013) for the change of use from general industry (class 5) to dance and fitness studio (class 11) at 98/6 Eastfield Industrial Estate, Eastfield Drive, Penicuik.

In this regard, there was submitted report, dated 2 September 2013, by the Head of Planning and Development. The Local Review Body had made an unaccompanied visit to the site on Monday 2 September 2013.

The LRB then gave careful consideration to the merits of the case based on all the written information provided. Whilst it was acknowledged that there was a need to offer assistance to a business which clearly need to relocate to new premises, this particular Unit was considered to be unsuitable for such purposes, due to its design and location within the Industrial Estate, and also the potential for conflict that was likely to arise from the proposed introduction of a non-industrial activity into an industrial environment.

### **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:-

1. The proposal would result in the use of a modern purpose built industrial unit within the Eastfield Industrial Estate for a non-industrial activity. The industrial estate has been identified as part of the Established Economic Land Supply in the adopted Midlothian Local Plan and the proposal would therefore conflict with the objectives of policies COMD1 and ECON4 of that plan. Given the limited amount of economic development land in Penicuik, it is considered that the unit can be retained for development for industrial/business purposes.
2. The proposal is likely to have a significantly detrimental impact on the amenity of the occupiers of the dwellinghouses on Eastfield Park Road and neighbouring industrial units through the high amounts of users, both pedestrian and vehicular, accessing the application site, which would be contrary to policy RP20 of the adopted Midlothian Local Plan.

In addition, the LRB also agreed that further assistance should be offered to the applicants to assist in their efforts to find more suitable premises.

(Action: Head of Planning and Development)

### **(c) 38 Dewartown, Gorebridge**

With reference to paragraph 5(a) of the Minutes of 4 June 2013, the Local Review Body resumed consideration of a Notice of Review Request in respect of a review request from Jobs Worth Doing c/o Arkiplan Ltd, 28 Grahamsdyke Place, Bo'ness, West Lothian seeking a review of the refusal of planning permission (12/00792/DPP, refused on 1 February 2013) for planning permission for the installation of replacement windows at 38 Dewartown, Gorebridge.

In this regard, there was submitted report, dated 2 September 2013, by the Head of Planning and Development. The Local Review Body had made an unaccompanied visit to the site on Monday 2 September 2013.

The LRB then gave careful consideration to the merits of the case based on all the written information provided. In particular the LRB discussed the materials currently used in the manufacture of uPVC replacement windows and door, their design and general appearance, which had changed considerably in recent years, to the extent that it was sometime difficult to tell the difference. The need to protect Conservation Areas was acknowledged, however it was accepted that on occasion this had to be balanced against the use of more modern energy efficient materials, such as uPVC, where appropriate.

Thereafter, Councillor Beattie, seconded by Councillor Pottinger moved that the Review Request be upheld and that planning permission be granted subject to conditions.

As an amendment Councillor Milligan, seconded by Councillor Russell, moved that the Review Request be dismissed and the decision to refuse the application be upheld for the reasons given in the original decision letter.

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

## **Decision**

The Local Review Body thereby upheld the Review Request for the following reason:-

*The replacement of the existing brown stained timber windows with uPVC windows is acceptable if the design, means of opening and the size and scale of the frames are a like for like replacement. The presence of uPVC on a number of properties in the immediate vicinity and the continuing improvement in the design of uPVC windows means that the use of none traditional materials does not undermine the Conservation Area.*

and agreed to grant planning permission subject to the following conditions:-

- 1 The windows hereby approved shall be a like for like replacement in terms of their design, means of opening and the size and scale of the frames.

**Reason:** *The proposed use is within the countryside/green belt and a permanent change of use would be contrary to the development plan.*

(Action: Head of Planning and Development)

## **(d) 41 Easter Langside Medway, Dalkeith**

With reference to paragraph 5(b) of the Minutes of 4 June 2013, the Local Review Body resumed consideration of a Notice of Review Request in respect of a review request from Mr R Fryatt, 41 Easter Langside Medway, Dalkeith seeking a review of the refusal of planning permission (13/00002/DPP, refused on 6 February 2013) for planning permission for the extension to dwellinghouse at that address.

In this regard, there was submitted report, dated 2 September 2013, by the Head of Planning and Development. The Local Review Body had made an unaccompanied visit to the site on Monday 2 September 2013.

The LRB then gave careful considered to the merits of the case based on all the written information provided. In particular the LRB discussed the likely visual impact of the proposed extension, and whether it would have a detrimental effect on properties to the rear that were currently under construction.

### **Decision**

After further discussion, the Local Review Body upheld the Review Request for the following reason:-

*The proposed extension by means of its scale, siting and relationship to the proposed dwellinghouse to the rear will not result in an unacceptable loss of privacy, overlooking or a sense of overbearing to the future occupants of the property to the rear (under construction at the time of the LRB site visit) greater than any loss of amenity arising from the current relationship between the units.*

and agreed to grant planning permission subject to the following conditions:-

1. Development shall not begin until samples of materials to be used on the external surfaces of the extension have been submitted to and approved in writing by the planning authority. 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 DP6 of the Midlothian Local Plan and national planning guidance and advice.*

The meeting terminated at 2.16 pm.