

**MINUTES of MEETING of the MIDLOTHIAN COUNCIL PLANNING COMMITTEE** held in the Council Chambers, Midlothian House, Buccleuch Street, Dalkeith on Tuesday 22 April 2014 at 2.00 pm.

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

**Apologies for Absence:** - Councillors Beattie, Boyes and Johnstone.

**1. Declarations of Interest**

No declarations of interest were intimated.

**2. Minutes**

The Minutes of Meeting of 25 February 2014 were submitted and approved as a correct record.

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

There was submitted report, dated 15 April 2014 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.

**Decision**

The Committee, having heard from the Development Management 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 2014; and
- (b) To receive further updated information on the procedural progress of major applications on a regular basis.

(Action: Head of Communities and Economy)

**4. Appeal and Local Review Body Decisions**

There was submitted report, dated 15 April 2014, by the Head of Communities and Economy, detailing the notices of reviews determined by the Local Review Body (LRB) at its meeting in March 2014 and advising that there were no appeals determined by Scottish Ministers to report.

## **Decision**

To note the decisions made by the Local Review Body at its meeting on 4 March 2014.

### **5. High Hedges Legislation**

There was submitted report, dated 15 April 2014, by the Head of Communities and Economy providing an update regarding the introduction of the High Hedges (Scotland) Act 2013 which had come into force on 1 April 2014 having been passed by the Scottish Parliament on 28 March 2013 and received Royal Assent on 2 May 2013.

The report explained that the Act aimed to provide a solution to the problem of high hedges, where neighbours had not been able to resolve the issue amicably, by providing an effective means of resolving disputes over the effects of high hedges that interfered with the reasonable enjoyment of residential properties. The Scottish Government had issued guidance to local authorities outlining the procedures with regard the assessment of a request from an applicant to resolve a high hedge dispute.

The report also outlined that any application for a high hedge notice must be accompanied by an appropriate fee. The Act allowed local authorities to set the fee levels for applications and allowed different fees to be fixed for different types of applications. The Act did require however that the implementation of the high hedges legislation to be cost neutral to the local authority. The fee must therefore not exceed the amount which the Council considered to represent the reasonable costs incurred in deciding the application. The Act also enabled the local authority to refund an applicant if the fee exceeds the cost of determination. Taking all this into account it was therefore proposed to set the fee at £300 as this would cover all the administrative costs including the hourly rates for officers involved in the process.

The Committee, having heard from the Development Management Manager, discussed the procedural arrangements and proposed fee. It being noted that in setting the proposed fee regard had been taken of the fact that the Act conferred powers allowing refunds to be made and not for additional fees to be levied.

## **Decision**

- (a) To note the terms of the High Hedges (Scotland) Act 2013 and the associated statutory obligations on the Council;
- (b) To agree that the implementation and enforcement of the Act should be undertaken by the Director of Education, Communities and Economy;
- (c) To recommend that the Council's Scheme of Delegation be amended to delegate to officers the determination of any application arising under the Act; and
- (d) To agree an initial fee of £300 per application subject to annual review.

(Action: Head of Communities and Economy)

## 6. Development Management Performance Report

With reference to paragraph 4 of the Minutes of 27 August 2013, there was submitted report, dated 15 April 2014, by the Head of Communities and Economy, updating the Committee on Development Management Performance against key outcome indicators for the period 2013/14.

The report identified that the improvement in overall performance which had been achieved in 2012/13 had been maintained through 2013/14 with 84% of planning applications being determined within target. This compared to 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 Development Management 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 Development Management Manager:-

- (a) noted the content of the report;
- (b) agreed to receive further development management performance reports on a six-monthly basis; and
- (c) agreed to refer the report to the Performance, Review and Scrutiny Committee for its interest.

(Action: Head of Communities and Economy /Legal & Secretariat Manager).

## 7. Application for Planning Permission

An application for planning permission was dealt with as shown in the **Appendix** hereto.

The meeting terminated at 2.25 pm.



## APPENDIX

(relative to paragraph 7)

**Application for Planning Permission (13/00752/DPP) by Banks Property Development Limited and Miller Homes Limited for the Erection of 63 Dwellinghouses and the Formation of Associated Access Roads and Sustainable Urban Drainage (SUDS) at Land to the South West of Cemetery Road, Rosewell**

There was submitted report, dated 15 April 2014, by the Head of Communities and Economy concerning the above application.

The Committee, having heard from the Development Management Manager, discussed the Green Travel Plan and in particular the provisions made for cyclists. Consideration was also given to the provision within the developer contributions for community/leisure facilities and whether this could be channelled towards the future provision of a community hub in Rosewell.

After further discussion, the Committee agreed that planning permission be granted for the following reason:

*The site is allocated for housing in the adopted Midlothian Local Plan (2008). The proposed scheme of development by means of its siting, form and design also accords with the provisions of the adopted Midlothian Local Plan. 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 an application for approval of matters specified in conditions regarding the phasing of the development has been submitted to and approved in writing by the planning authority. The phasing schedule shall include the construction of each residential phase of the development, the provision of affordable housing, the provision of open space, the SUDS provision and transportation infrastructure. Development shall thereafter be carried out in accordance with the approved phasing unless agreed in writing with the planning authority.

**Reason:** *To ensure the development is implemented in a manner which mitigates the impact of the development process on existing land users and the future occupants of the development.*

2. 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 existing and finished ground levels and floor levels for all buildings, open space 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; and
  - xi proposed area of improved quality.

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.

3. Development shall not begin until temporary protective fencing is erected around all trees on the site to be retained. 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. 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. 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 an internal road layout which facilitates buses entering and leaving the site in a forward facing direction; and
- viii 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. Development shall not begin until a scheme of archaeological investigation has been undertaken in accordance with details submitted to and approved in writing by the planning authority. The investigation shall include an archive assessment and an evaluation of no less than 5% of the total site area.

**Reason:** *To ensure this development does not result in the unnecessary loss of archaeological material in accordance with Policy RP28 of the Adopted Midlothian Local Plan.*

9. 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.*



10. All construction, HGV and delivery vehicles associated with the development or visiting the site shall only access and egress the site from the new accesses, to be formed off Cemetery Road, hereby approved, via the A6094 Rosewell Bypass entrance onto Carnethie Street (northern junction travelling towards Bonnyrigg). No construction, HGV and delivery vehicles associated with the development or visiting the site shall travel south through the village along Carnethie Street.

***Reason:*** *in the interests of road safety and the amenity of the existing residents of Rosewell.*

(Action: Head of Communities and Economy)