

**MINUTES** of **MEETING** of the **LOCAL REVIEW BODY** held in the Council Chambers, Midlothian House, Buccleuch Street, Dalkeith on Tuesday 21 January 2014 at 2.00 pm.

**Present:** - Councillors Bryant (Chair), Constable, de Vink, Imrie, Milligan and Pottinger.

**Apologies for Absence:** - Councillors Baxter, Beattie, Rosie and Russell.

**1. Declarations of Interest**

No declarations of interest were intimated.

**2. Minutes**

The Minutes of Meeting of 26 November 2013 were submitted and approved as a correct record.

**3. Decision Notices –**

**(a) Land at 2 and 4 Crichton Avenue, Pathhead**

With reference to paragraph 6(a) of the Minutes of 26 November 2013, there was submitted a copy of the Local Review Body decision notice dismissing a review request from Pearson Planning, PO Box 28606, Edinburgh, seeking on behalf of their client Mr D McGuiness, a review of the decision of the Planning Authority to refuse planning permission (13/00448/DPP, refused on 15 August 2013) for the erection of a dwellinghouse at land at 2 and 4 Crichton Avenue, Pathhead and refusing planning permission.

**Decision**

To note the LRB decision notice.

**(b) Braidlaw Farmhouse, Penicuik**

With reference to paragraph 6(b) of the Minutes of 26 November 2013, there was submitted a copy of the Local Review Body decision notice upholding a review request from Rapleys, Caledonian Exchange, 19A Canning Street, Edinburgh, seeking on behalf of their client Mr I McLeish, a review of the decision of the Planning Authority to refuse planning permission (13/00348/DPP, refused on 29 July 2013) and agreeing to remove condition 7 of planning permission 02/00864/FUL, for the erection of a dwellinghouse at Braidlaw Farmhouse (formerly known as Lansik Stud), Penicuik.

**Decision**

To note the LRB decision notice.

## **Eligibility to Participate in Debate**

In considering the following items of business, only those LRB Members who had attended the site visits on 20 January 2014 participated in the review process, namely Councillors Bryant (Chair), de Vink, Imrie, Milligan and Pottinger in respect of Soutra Mains Farm, Blackshiels, Fala, Pathhead (paragraph 4(a)) and Councillors Bryant (Chair), Imrie, Milligan and Pottinger in respect of 33 Mayburn Terrace, Loanhead (paragraph 4(b)).

Councillor Constable whilst present during the debates for both Reviews had been unable to attend the site visits and accordingly did not actively participate in the proceedings.

### **4. Notice of Review Requests –**

#### **(a) Soutra Mains Farm, Blackshiels, Fala, Pathhead**

There was submitted report, dated 14 January 2014, by the Head of Communities and Economy regarding an application from McLean Bell Consultants Ltd, Miller Park, Polmont, seeking on behalf of their client Mr G Russell, a review of the decision of the Planning Authority to refuse planning permission (13/00370/DPP, refused on 6 September 2013) for the erection of four retail units (part retrospective) at Soutra Mains Farm, Blackshiels, Fala, Pathhead. Accompanying the Notice of Review Form and supporting statement, which were appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.

The Local Review Body had made an accompanied visit to the site on Monday 20 January 2014.

The Chair, Councillor Bryant, welcomed the applicant, Mr George Russell and his agent, Mr Alastair Bell, McLean Bell Consultants Ltd 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. He also explained that as the Edinburgh and the Lothians Structure Plan was no longer extant, references to it in the decision notice required to be removed.

Thereafter, oral representations were received from the applicant's agent 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 noting the particular circumstance that had led to the current application, the LRB debated the present policy position and whether there were sufficient grounds to justify a departure. The LRB also discussed the potential impact on road safety and issues of precedent if consent were to be granted for the proposed development.

In response to further questions from Members regarding the possibility of controls over the type of retailers going into the proposed retail units or if a retail element could be added to the cafe, the Planning Advisor confirmed that in the event that planning permission was granted for the proposed development then it would not be possible to control the type of retailers occupying the retail units. Also if a retail element were to be added to the cafe, depending on the nature and extent, planning consent may be required.

After further discussion, Councillor de Vink, seconded by Councillor Bryant moved that the Review Request be upheld and planning permission granted subject to the conditions outlined in the Head of Communities and Economy's report.

As an amendment, Councillor Milligan, seconded by Councillor Imrie, moved that the Review Request be dismissed and planning permission refused as the proposals were contrary to policy and would have an adverse impact on road safety.

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

### **Decision**

The Local Review Body agreed to dismiss the Review Request and uphold the decision to refuse planning permission on the grounds that:-

1. The proposed development would comprise a development in the countryside for which it has not been demonstrated that there is an operational requirement for a countryside location. Accordingly, the proposed development is contrary to the adopted Midlothian Local Plan (2008) policies RP1, SHOP5 and ECON8;
2. It has not been demonstrated to the satisfaction of the Planning Authority that the operation of the proposed retail complex would not undermine the vitality and viability of Midlothian's town centres, in particular Pathhead; and
3. It has not been demonstrated that the retail complex could operate successfully without having a significant and adverse impact on road safety on the trunk road.

(Action: Head of Communities and Economy)

### **Sederunt**

Councillor de Vink left the meeting at the conclusion of the foregoing item of business at 2.35pm.

### **(b) 33 Mayburn Terrace, Loanhead**

There was submitted report, dated 14 January 2014, by the Head of Communities and Economy regarding an application from Cockburn's

Planning and Development, Ryehill Terrace, Edinburgh, seeking on behalf of their client Mr J Ewen, a review of the decision of the Planning Authority to refuse planning permission (13/00508/DPP refused on 5 September 2013) for the sub-division of dwellinghouse to form 3 flatted dwellings; erection of extension; alterations to window opening to form door opening; and alterations to garden levels at 33 Mayburn Terrace, Loanhead. Accompanying the Notice of Review Form and supporting statement, which were appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.

The Local Review Body had made an unaccompanied visit to the site on Monday 20 January 2014.

The LRB then gave careful consideration to the merits of the case based on all the written information provided. Whilst it was acknowledged by the LRB that it would be desirable to see the property back in residential use, there were concerns that the current proposals would result in an over-development of the site.

The Planning Advisor, in response to Members' comments confirmed that the LRB could not suggest or recommend adjustments to the current proposals they simply had to judge them on their individual merits.

### **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 development will provide an inadequate level of amenity for future residents due to the fact that it will be overlooked by existing neighbouring residential properties and that it has not been demonstrated that there will be an adequate level of garden ground being provided for each dwelling within the application site;
2. The development will have a detrimental impact on the amenity and privacy of the occupants of the immediately adjacent residential properties due to the close proximity of the properties and the distances between the windows on neighbouring flatted dwellings;
3. The proposed development in having no off-street parking provision means that it does not comply with the Council's parking standards and will result in cars being parked on the street to the significant detriment of traffic and pedestrian safety on this busy public transport corridor; and
4. For the above reasons, the proposal is contrary to policies RP20 and DP2 of the adopted Midlothian Local Plan 2008.

(Action: Head of Communities and Economy)

The meeting terminated at 2.41pm.