

# Minute of Meeting



## Planning Committee

Date	Time	Venue
3 April 2018	2.00 pm	Council Chambers, Midlothian House, Buccleuch Street, Dalkeith

### Present:

Councillor Imrie (Chair)	Councillor Alexander
Councillor Baird	Councillor Cassidy
Councillor Curran	Councillor Hackett
Councillor Hardie	Councillor Johnstone
Councillor Lay-Douglas	Councillor McCall
Councillor Milligan	Councillor Muirhead
Councillor Munro	Councillor Russell
Councillor Small	Councillor Wallace
Councillor Winchester	

## 1. Apologies

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No apologies were received

## 2. Order of Business

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The order of business was confirmed as outlined in the agenda.

## 3. Declarations of interest

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No declarations of interest were received.

## 4. Minutes of Previous Meetings

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With regards to the minutes of 20 February 2018, Councillor Smail raised a question regarding the decision of Agenda item 5.5 Application for Planning Permission in Principle for the Erection of a Retail Unit at Soutra Mains Farm, Pathhead (17/00951/PPP) and it was clarified that the minute was an accurate reflection of the conclusion of the discussion, however, it was confirmed that additional requirements could be secured by a planning condition and this was accepted by the Committee.

Thereafter the Minutes of Meeting of 20 February was approved as a correct record.

## 5. Reports

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Agenda No	Report Title	Presented by:
5.1	The Planning (Scotland) Bill on Reforms to the Planning System	Peter Arnsdorf
<b>Outline of report and summary of discussion</b>		
<p>There was submitted a report dated 27 March 2018 by the Head of Communities and Economy, updating the Committee with regard to the reforms to the Planning System proposed through the Planning (Scotland) Bill.</p> <p>The Planning Manager presented the report to the Committee providing the background on the review of the Scottish Planning System and the introduction of the Planning (Scotland) Bill to the Scottish Parliament on 4 December 2017. The report detailed the current stage of the Planning Bill and a summary of the main changes proposed by the Planning Bill were detailed in Appendix A to the Report.</p> <p>Thereafter the Planning Manager responded to questions raised by Members with regards to Development Plans and the issues around infrastructure and developer's contributions. It was agreed that after stage 1 of the Planning Bill a Member's Briefing would be arranged.</p>		
<b>Decision</b>		
<p>The Committee:</p> <ul style="list-style-type: none"><li>(a) Agreed that a Briefing would be arranged for Members once stage 1 of the Planning Bill was completed.</li><li>(b) To otherwise note the contents of the Report.</li></ul>		
<b>Action</b>		
Head of Communities and Economy		

Agenda No	Report Title	Presented by:
5.2	Development Plan Scheme for Midlothian Number 10 -	Peter Arnsdorf
<b>Outline of report and summary of discussion</b>		
<p>There was submitted a report dated 27 March 2018 by the Head of Communities and Economy seeking approval for the Development Plan Scheme for Midlothian No. 10 (DPSM10) which was required to be published annually to satisfy legislative requirements. Each year local planning authorities were required to prepare and submit a Development Plan Scheme (DPS) to Scottish Ministers setting out their intentions with respect to preparing, reviewing and consulting on the development plans for its area over the coming twelve months.</p>		
<b>Decision</b>		
<p>The Committee:</p> <ul style="list-style-type: none"> <li>(a) Approved the Development Plan Scheme for Midlothian No.10 (DPSM10) (appended to this report).</li> <li>(b) Agreed to the publication of the DPSM10, copies to be placed in all public libraries and to formally submit a copy to Scottish Ministers.</li> </ul>		
<b>Action</b>		
Head of Communities and Economy		

Agenda No	Report Title	Presented by:
5.3	Supplementary Guidance: Special Landscape Areas	Peter Arnsdorf
<b>Outline of report and summary of discussion</b>		
<p>There was submitted a report dated 27 March 2018 by the Head of Communities and Economy seeking the Committee's agreement to undertake a formal consultation on its proposed 'Special Landscape Areas' supplementary guidance. At its meeting of 7 November 2017 the Council adopted the Midlothian Local Development Plan 2017 (MLDP) which included a commitment to prepare Supplementary Guidance and Planning Guidance on a number of topic areas including special landscape areas.</p> <p>The draft guidance would be made publically available on the Council's website for period of no less than 28 days. The Community Councils, the Scottish Environment Protection Agency (SEPA), Scottish Wildlife Trust, Scottish Water, the Forestry Commission and Scottish Natural Heritage would be notified of the draft guidance and invited to make comment.</p>		
<b>Decision</b>		
<p>The Committee:</p> <ul style="list-style-type: none"> <li>(a) Approved the draft Special Landscape Areas Supplementary Guidance for consultation.</li> <li>(b) Considered a further report on the Special Landscape Areas Supplementary Guidance following the proposed consultation.</li> </ul>		
<b>Action</b>		
Head of Communities and Economy		

Agenda No	Report Title	Presented by:
5.4	Major Applications: Applications Currently Being Assessed and Other Developments at Pre-Application Consultation Stage	Peter Arnsdorf
<b>Outline of report and summary of discussion</b>		
<p>There was submitted a report dated 27 March 2018 by the Head of Communities and Economy updating the Committee with regard to 'major' planning applications, formal pre-application consultations by prospective applicants, and the expected programme of applications due for reporting to the Committee.</p> <p>The current position with regard to 'major' planning applications and formal pre-application consultations by prospective applicants was outlined in Appendices A and B attached to this report.</p>		
<b>Decision</b>		
<p>The Committee noted the major planning application proposals which were likely to be considered by the Committee in 2018 and the updates for each of the applications.</p>		

Agenda No	Report Title	Presented by:
5.5	Appeals and Local Review Body Decisions	
<b>Outline of report and summary of discussion</b>		
<p>There was submitted a report dated 27 March 2018 by the Head of Communities and Economy informing the Committee of the notices of review determined by the Local Review Body (LRB) at its meeting in February 2018 and two appeal decisions received from Scottish Ministers.</p> <p>Appended to the report were copies of the following appeal decision notices from the Scottish Government, Planning and Environmental Appeals Division:-</p> <ul style="list-style-type: none"> <li>• Dated 20 February 2018, an appeal against a refusal to issue a High Hedge Notice regarding a hedge at 41 Newmills Road, Dalkeith had been upheld and a High Hedge Notice had been issued requiring a reduction in the height of a section of hedge.</li> <li>• Dated 27 February 2018, an appeal against non-determination of planning application for residential development on land north of Dalhousie Dairy, Bonnyrigg (allocated housing site Hs10) had been upheld subject to conditions. The Reporter appointed by the Scottish Ministers issued a decision advising the Council of the intention to grant planning permission subject to the conclusion of a legal agreement to secure developer contributions in October 2017. A copy of this decision was reported to the Committee at its meeting in October 2017. A decision had now been issued following the conclusion of the legal agreement securing developer contributions.</li> </ul> <p>Councillor Milligan raised concerns with regards to the decision notice on the land North of Dalhousie Dairy, Bonnyrigg, Midlothian, EH19 3NZ and the wider ramifications of this, as well as the financial impact on the Council to provide Education. It was agreed that an urgent meeting would be set up with Education</p>		

and Planning to brief the 3 local Elected Members fully on the impact of this decision.

#### Decision

The Committee:

- (c) Agreed that an urgent meeting would be arranged for the 3 local Elected Members with Education and Planning.
- (d) To otherwise note the decision made by the Local Review Body at its meeting in February 2018 and the appeal decisions by Scottish Ministers.

#### Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.6	Proposed Residential Development Comprising 79 Dwellings at Land South West of Newbattle Community High School, Morris Road, Newtongrange (18/00102/PAC)	Peter Arnsdorf

#### Outline of report and summary of discussion

There was submitted a report dated 27 March 2018 by the Head of Communities and Economy advising that a pre-application consultation had been submitted regarding residential development comprising of 79 dwellings at land south west of Newbattle Community High School, Morris Road, Newtongrange.

The pre-application consultation had been reported to Committee to enable Councillors 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.

The Planning Manager highlighted the main sections as detailed in the Report and responded to a question raised by Councillor Johnstone with regards to the two storey and three storey flats and the entrance to the site. The Planning Manager confirmed he would report back to the applicant on the issues raised.

#### Decision

The Committee noted:

- (a) The provisional planning position set out in this report
- (b) That any comments made by Members would form part of the minute of the Committee meeting.
- (c) That the expression of a provisional view did not fetter the Committee in its consideration of any subsequent formal planning application.
- (d) The Planning Manager would raise the Committee's concerns with the Applicant.

#### Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.7	Application for Planning Permission for the Erection of Dwelling house; Garage and Stable Block; Formation of Access; Areas of Hard Standing and Associated Works on Land North Of Crichton Village Pathhead (17/00939/DPP).	Peter Arnsdorf

#### Outline of report and summary of discussion

With reference to paragraph 5.7 of the Minutes of 20 February 2018 the Committee having heard from the Chair, agreed to continue consideration of the application to allow for a site inspection visit to take place. Following a site visit on 2 April 2018, the report dated 8 February was re-submitted by the Head of Communities and Economy concerning the above application.

The Planning Manager presented the report to the Committee highlighting the main sections from within the report and the recommendation to grant planning permission subject to conditions.

Councillor Smaill declared an interest as being directly and indirectly interested in 25 acres within the conservation area mostly in Borthwick area, a Trustee of Crichton Kirk and a Trustee of Scottish Civic Trust which was engaged in place making and also supporting conservation areas.

Thereafter a lengthy discussion followed with regards to the proposed modern dwelling house within a Conservation area and various Members highlighted their reasons for and against this new build.

Councillor Smaill, seconded by Councillor Milligan moved that the planning application be refused on the grounds of this being a modern dwelling house within a conservation area.

As an amendment Councillor Cassidy, seconded by Councillor Baird moved that planning permission be granted for the reasons detailed in the report.

On a vote being taken, five Members voted for the Motion and 10 Members voted for the amendment which accordingly became the decision of the meeting.

#### Decision

The Committee agreed that planning permission was granted for the reasons and conditions as detailed in the recommendation within the report.

#### Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.8	Application for Planning Permission for the Erection of Two Storey Drive Through Restaurant; Alterations to Existing Car Park and Access Roads at Land At Tesco Car Park, Hardengreen, Dalkeith (17/00944/DPP).	Peter Arnsdorf

#### Outline of report and summary of discussion

With reference to paragraph 5.6 of the Minutes of 20 February 2018 the Committee deferred consideration of the application to enable the applicant to provide additional information. The applicant was asked to provide to additional information on the measures taken to minimise litter; the frequency with which litter picks will occur; the areas that will be covered by the litter picks; what litter will be picked; and the location of any litter bins that will be provided. Additional information was also requested to demonstrate that the development would not create queuing on Eskbank Roundabout or the approaches to the roundabout (including the internal road network within the Tesco site).

There was a report submitted dated 27 March 2018 by the Head of Communities and Economy updating the Committee on the additional information provided. The Planning Manager presented the report to the Committee summarising the application, highlighting the additional information provided by the applicant and the consultation responses and representations received.

Thereafter the Planning Manager responded to questions and comments raised by Members regarding the additional information provided and various Members raised concerns for and against granting planning permission.

Councillor Milligan, seconded by Councillor Russell moved to refuse the planning application on the grounds that applications of this nature i.e. restaurant should be located in Town Centres.

As an amendment Councillor Hackett, seconded by Councillor Hardie moved that planning permission be granted for the reasons detailed in the report.

On a vote being taken, five Members voted for the motion and 9 Members voted for the amendment which accordingly became the decision of the meeting.

#### Decision

The Committee agreed that planning permission was granted for the reasons and conditions as detailed in the recommendation within the report.

#### Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.9	Section 42 Application to Amend Condition 4, to change the Process by which The Masterplan can be Amended, imposed on a Grant of Outline Planning Permission (02/00660/OUT) for Residential, Industrial and Commercial Floor Space, Community Facilities (including New Primary Schools), Associated Landscaping with the Provision for Sport and Recreation and New Transport Facilities at Land Bounded by A720, Old Dalkeith Road And The Wisp, Millerhill (17/00650/S42).	Peter Arnsdorf

## Outline of report and summary of discussion

There was submitted a report dated 27 March 2018 by the Head of Communities and Economy detailing a Section 42 Application as detailed above. The Planning Manager presented the report to the Committee explaining how the Section 42 is implemented.

The masterplan setting out the development strategy for Shawfair was approved as part of the outline application and the supplementary guidance. The current application made under Section 42 of the Planning Act was to change the process by which the Shawfair masterplan could be amended. The applicant was seeking a means in which the masterplan could be amended by a matters specified in condition application rather than a planning application. This meant that the applicant could make changes to the masterplan without going through the 12 week public consultation process every time a change regardless of the scale was required as part of the development over the next 15 – 20 years.

A Section 42 application, was in itself a planning application - a particular kind of planning application for development without complying with a condition/s previously imposed on an earlier grant of planning permission. A grant of planning permission under Section 42 resulted in an entirely new planning permission which would supersede the original permission if implemented. The principle, layout and form of development were not subject to assessment, however as a new planning application it should be subject to a new/amended legal agreement to secure developer contributions. The recommendation was to grant planning permission subject to developer's contributions and conditions.

Councillor Curran with agreement of the Chair distributed a letter of objection received and asked for clarification on the concerns within the letter and confirmation that in approving this application it would not remove significant planning control from Midlothian Council. The Planning Manager confirmed in approving this application it approved a change to the process in removing the 12 week pre consultation process when a change to the Masterplan was required but did not remove the level of scrutiny and assessment the Council had and any changes to the Masterplan would still require a formal planning application.

Thereafter the Planning Manager responded to various questions raised by Members providing further assurances that this did not remove the control and scrutiny from Midlothian Council and there was no financial risk to the Council. It was agreed that a presentation on the Shawfair Masterplan would be provided to update Members on this development.

## Decision

The Committee agreed:

- (a) That a presentation would be arranged to update Members on the Shawfair Masterplan.
- (b) To grant the planning permission for the reasons as set out in the report.

## Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.10	Application for Planning Permission for the Erection of 155 Dwelling houses and 36 Flatted Dwellings, Formation of Access Roads, SUDS and Car Parking and Associated Works at Land 470 metres West of Corby Craig Terrace, Bilston (17/00968/DPP).	Peter Arnsdorf
<b>Outline of report and summary of discussion</b>		
<p>There was submitted a report, dated 3 April 2018 by the Head of Communities and Economy advising that an application had been submitted for the erection of 155 dwelling houses and 36 flatted dwellings, formation of access roads, suds and car parking and associated works at land 470 metres west of Corby Craig Terrace, Bilston. The Planning Manager presented the report highlighting the main sections from within the report.</p> <p>The application was accompanied by an indicative masterplan for the whole of site HS16. It illustrated how the proposed 'block' layout for the site fitted with the wider area. It was stated that there had been 11 representations received objecting to the application and consultation responses from Scottish Environment Protection Agency (SEPA), The Coal Authority, Transport Scotland, Damhead and District Community Council, Council's Archaeology Adviser; Policy and Road Safety Manager; Land Resources Manager; Housing Strategy and Performance Group Manager; Head of Education and Environmental Health Manager. Details of the consultations and objections were contained within section 5 and 6 of the report. The recommendation was to grant planning permission subject to conditions and prior signing of a legal agreement within 6 months to secure developer's contributions.</p> <p>Thereafter the Chair and the Planning Manager responded to a question raised by Councillor Hackett with regards to the objections to the application received from the Community Council. The processes in place to engage with Community Councils and the public was confirmed and further discussion took place regarding the issues around Community Council boundaries.</p>		
<b>Decision</b>		
The Committee agreed to grant the planning permission for the reasons as set out in the report.		
<b>Action</b>		
Head of Communities and Economy		

Agenda No	Report Title	Presented by:
5.11	Application For Planning Permission for the Erection of Screening Fencing; Erection of Shed and Re Painting of Existing Fencing (Part Retrospective) at Dalkeith Tennis Club, 5 Cemetery Road, Dalkeith (17/00747/DPP).	Peter Arnsdorf

## Outline of report and summary of discussion

There was submitted a report dated 27 March 2018 by the Head of Communities and Economy advising that an application had been submitted for the erection of windbreak netting on existing chain link fences; the re-painting of a corrugated steel fence; the erection of a timber storage shed; the erection of a timber lean-to store; and the installation of a gate at Dalkeith Tennis Club, 5 Cemetery Road, Dalkeith.

The Planning Manager presented the report advising the Committee that there were 6 elements to the report and these were set out in section 3 in the report. There had been one representation objecting to the application and the details were set out in section 6 of the report. The recommendation was to grant planning permission subject to conditions.

The current application had been called in to Committee for determination by Councillor Russell. The reason for the call-in was that the views of the objector warrant deliberation and debate by the Committee. Thereafter Councillor Russell advised the Committee of her visit to the site and difference from the light green and dark green netting and the difference in the weave of the netting which makes a big difference in the sunlight coming through and this was the reasons for the call-in. Councillor Russell then went on to declare an interest as previously she had no preference but after visiting the site her opinion had changed.

Councillor Hackett declared an interest in knowing both the objectors in community organisations but confirmed he was confident in having an impartial view on this application.

Councillor Cassidy also declared an interest in knowing both the objectors.

Councillor Smail also declared that he had also met the objectors in the context of the Community Council.

Thereafter the Planning Manager responded to various questions raised by members in providing some clarity on the reasons for granting the planning permission.

Following a lengthy discussion regarding the objections outlined in the report a motion was put forward by Councillor Smail, seconded by Councillor Russell to accept the recommendation with a condition that the netting used was the light green semi-translucent netting and as no objections were received this accordingly became the decision of the Committee.

## Decision

The Committee approved the recommendation to grant the planning permission with the reasons as set out in the report with an amendment to the condition that that the netting specified was light green semi-translucent netting.

## Action

Head of Communities and Economy

The meeting terminated at 4.06 pm.