

**MINUTES** of **MEETING** of the **LOCAL REVIEW BODY** held in the Council Chambers, Midlothian House, Buccleuch Street, Dalkeith on Tuesday 23 April 2013 at 2.00 pm.

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

**Apology for Absence:** - Councillor Constable.

**1. Declaration of Interest**

No declarations of interest were intimated.

**2. Minutes**

The Minutes of Meeting of 5 March 2013 were submitted and approved as a correct record.

**3. Notice of Review Requests Considered for the First Time –**

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

There was submitted report, dated 16 April 2013, by the Head of Planning and Development regarding 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. Accompanying the Notice of Review Request Form, which was appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.

**Decision**

After discussion, the Local Review Body:-

- (i) agreed that there was sufficient information to allow the review to be considered;
- (ii) agreed that the review should be dealt with by way of written submissions;
- (iii) agreed that an unaccompanied site visit be made to the review site on Monday 3 June 2013; and
- (iv) agreed to otherwise continue consideration of the review to the next LRB meeting on Tuesday 4 June 2013.

(Action: Head of Planning and Development/Legal and Secretariat Manager)

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

There was submitted report, dated 19 April 2013, by the Head of Planning and Development regarding 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. Accompanying the Notice of Review Request Form, which was appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.

**Decision**

After discussion, the Local Review Body:-

- (i) agreed that there was sufficient information to allow the review to be considered;
- (ii) agreed that the review should be dealt with by way of written submissions;
- (iii) agreed that an unaccompanied site visit be made to the review site on Monday 3 June 2013; and
- (iv) agreed to otherwise continue consideration of the review to the next LRB meeting on Tuesday 4 June 2013.

(Action: Head of Planning and Development/Legal and Secretariat Manager)

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

There was submitted report, dated 16 April 2013, by the Head of Planning and Development regarding 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. Accompanying the Notice of Review Request Form, which was appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.

**Decision**

After discussion, the Local Review Body:-

- (i) agreed that there was sufficient information to allow the review to be considered;

- (ii) agreed that the review should be dealt with by way of written submissions;
- (iii) agreed that an unaccompanied site visit be made to the review site on Monday 3 June 2013; and
- (iv) agreed to otherwise continue consideration of the review to the next LRB meeting on Tuesday 4 June 2013.

(Action: Head of Planning and Development/Legal and Secretariat Manager)

### **Eligibility to Participate in Debate**

In considering the following items of business, only those LRB Members who had attended the site visits on 22 April 2013 participated in the review process, namely Councillors Bryant (Chair), Baxter, Beattie, Imrie, Milligan, Pottinger and Rosie.

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

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

### **(a) 15 Main Street, Gorebridge**

With reference to paragraph 4(b) of the Minutes of 5 March 2013, the Local Review Body resumed consideration of a Notice of Review Request in respect of an application from Format Design, 146 Duddingston Road West, Edinburgh, seeking a review of the refusal of planning permission (12/00795/DPP, refused on 4 February 2013) for the change of use from shop (class 1) to hot food takeaway (sui generis) and installation of flue at 15 Main Street, Gorebridge.

In this regard, there was submitted report, dated 16 April 2013, by the Head of Planning and Development, which incorporated a further written submission from Mr A Beattie, reiterating his families' objections to the proposed development. The Local Review Body had made an accompanied visit to the site on 22 April 2013.

The Chair, Councillor Bryant, welcomed the applicant's agents, Mr Bob Tait, Format Design and the applicant, Mr Roberto Morelli to the meeting.

In accordance with the procedures for the Local Review Body, oral representations were then received from the applicant's agent; Mr Tait; 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 there were already a number of hot food takeaways in Gorebridge town centre, the potential loss of a retail unit and addition of another hot food takeaway, had to be viewed in the context of

a long standing empty and somewhat run down unit being brought back into use. The possibility of this happening anyway with the soon to start Conservation Area Regeneration Scheme (CARS) and construction of the Borders Railway was debated at length although no firm conclusions were reached as it was not possible to tell what effect these events might have on empty units within the town centre.

With regard the proposed developments likely impact on highway safety and the local road network, there was considerable debate as to the potential effects that it might have. The LRB felt that as no adverse comments had been received from the Council's Policy and Road Safety Manager that on balance it should be possible to accommodate the proposed development.

### **Decision**

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

*The proposed hot food takeaway would benefit the town centre by bringing a vacant unit back into commercial use. This material consideration outweighs concerns with regard overprovision and the loss of a retail unit.*

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

1. The use hereby approved shall not commence operating until an extraction system has been installed and is operational. The system shall be in accordance with details to be submitted to, and approved by the Local Planning Authority. The extract ventilation system shall:
  - a) Provide adequate ventilation to the cooking area to eliminate the need to leave doors and windows open;
  - b) Prevent the emission of cooking odours likely to cause nuisance to neighbouring commercial units and surrounding residential properties;
  - c) Be inaudible at the boundary of any noise sensitive properties; and
  - d) Terminate at sufficient height to permit the free disposal of exhaust fumes.
  
2. The use hereby permitted will not open to the public outwith the following hours:
 

Mondays to Saturdays inclusive: 8am to 11pm  
Sundays: 9am to 10pm: and
  
3. 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.

***Reason for conditions 1, 2 and 3: To ensure a satisfactory standard of amenity in nearby residential properties.***

(Action: Head of Planning and Development)

**(b) 27 The Square, Penicuik**

With reference to paragraph 4(c) of the Minutes of 5 March 2013, the Local Review Body resumed consideration of a Notice of Review Request in respect of an application from Format Design, 146 Duddingston Road West, Edinburgh, seeking a review of the refusal of planning permission (12/00693/DPP, refused on 17 December 2012) for the change of use from shop (class 1) to cafe/hot food takeaway (sui generis) (retrospective) at 27 The Square, Penicuik.

In this regard, there was submitted report, dated 16 April 2013, by the Head of Planning and Development. The Local Review Body had made an accompanied visit to the site on 22 April 2013.

The Chair, Councillor Bryant, welcomed the applicant's agents, Mr Bob Tait, Format Design, the applicant, Ms Salsa Porteous and Mr E Grindlay, an interested third party who had made representations against the proposed development, to the meeting.

In accordance with the procedures for the Local Review Body, oral representations were then received from the applicant's agent, Mr Tait; Mr Grindlay and the local authority Planning Officer; following which they 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 there were already a number of hot food takeaways in Penicuik town centre, the potential loss of a retail unit and addition of another hot food takeaway, had to be viewed in the context of a long standing empty unit being brought back into use.

With regards other similar proposed developments that had been refused by the LRB, it was noted that each review request had to be determined on its own merits, but that these units had been in a much more prominent locations in the High Street itself, where the retention of retail units was considered to be of greater importance. The LRB felt that on balance given its location it should be possible to accommodate the proposed development.

**Decision**

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

*The proposed hot food takeaway benefits the town centre by bringing a vacant unit back into commercial use. This material consideration outweighs concerns with regard overprovision and the loss of a retail unit.*

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

1. The use hereby approved shall not commence operating until an extraction system has been installed and is operational. The system shall be in accordance with details to be submitted to, and approved by the Local Planning Authority. The extract ventilation system shall:

- a) Provide adequate ventilation to the cooking area to eliminate the need to leave doors and windows open;
  - b) Prevent the emission of cooking odours likely to cause nuisance to neighbouring commercial units and surrounding residential properties;
  - c) Be inaudible at the boundary of any noise sensitive properties; and
  - d) Terminate at sufficient height to permit the free disposal of exhaust fumes.
2. The use hereby permitted will not open to the public outwith the following hours:
- Mondays to Saturdays inclusive: 7am to 10pm  
Sundays: 9am to 10pm
3. 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.

***Reason for conditions 1, 2 and 3:*** *To ensure a satisfactory standard of amenity in nearby residential properties.*

(Action: Head of Planning and Development)

**(c) 10A Lower Broomieknowe, Lasswade**

With reference to paragraph 4(a) of the Minutes of 5 March 2013, the Local Review Body resumed consideration of a Notice of Review Request in respect of an application from Robert Bruce Design, 11 Wardie Square, Edinburgh seeking removal of condition 2 of planning permission 12/00750/DPP for the erection of detached garage at 10A Lower Broomieknowe, Lasswade.

In this regard, there was submitted report, dated 16 April 2013, by the Head of Planning and Development. The Local Review Body had made an unaccompanied visit to the site on 22 April 2013.

The LRB then gave careful considered to the merits of the case based on all the written information provided. In particular the LRB were supportive of the applicant's assertions that the proposed materials were more in keeping with the Conservation Area and also of the offer to use a similar cast stone solution to the currently exposed brick course which characterised the perimeter of the house, albeit it was acknowledged that this would possible require to be the subject of a further planning application.

**Decision**

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

*The proposed use of stone as a facing material on the approved garage does not have a detrimental impact on local amenity or the Broomieknowe Conservation Area and as such is in accordance with policies RP20, RP22 and DP5 of the Midlothian Local Plan.*

and agreed to:-

- (i) remove Condition 2 attached to the grant of planning permission 12/00750/DPP, dated 14 January 2013; and
- (ii) grant planning permission subject to the following condition:-
  - 1. The rooflights on the north-west elevation of the garage drawing number 133.2/PL07 are hereby not approved.

***Reason:*** *In order to minimise overlooking and protect the privacy of the occupants of the adjoining property.*

(Action: Head of Planning and Development)

The meeting terminated at 3.02 pm.