

Minute of Meeting



Planning Committee

Date	Time	Venue
6 June 2017	2.00pm	Council Chambers, Midlothian House, Buccleuch Street, Dalkeith

Present:

Councillor Alexander	Councillor Baird
Councillor Cassidy	Councillor Curran
Councillor Hackett	Councillor Imrie
Councillor Johnstone	Councillor Lay-Douglas
Councillor McCall	Councillor Milligan
Councillor Montgomery	Councillor Muirhead
Councillor Munro	Councillor Parry
Councillor Russell	Councillor Smaill
Councillor Winchester	

1. Election of Chair

In terms of Standing Order 7, the Committee was invited to elect a Chair.

Councillor Hackett, seconded by Councillor Muirhead, moved the appointment of Councillor Imrie as Chair.

Councillor Parry, seconded by Councillor Johnstone, moved the appointment of Councillor Cassidy as Chair.

On a vote being taken 5 members voted for Councillor Cassidy and 10 for Councillor Imrie.

Councillor Imrie was duly elected as Chair of the Planning Committee.

2. Apologies

Apologies received from Councillor Hardie.

3. Order of Business

The order of business was confirmed as outlined in the agenda that had been circulated with the following amendments:

- The 'To Follow' paper in relation to agenda item 5.11 – Application for Planning Permission for Residential Development on Land North of Dalhousie Dairy, Bonnyrigg 16/00712/PPP had been circulated to Members under separate cover on Wednesday 30 May 2017.
- The Chair had agreed to accept as an urgent item of additional business a report by the Head of Communities and Economy - Application for Planning Permission for Erection of three Office/Laboratory Buildings; Formation of Access Roads, Car Parking and Associated Works, at Edinburgh Technopole, Bush Farm Road, Roslin - for reasons that the Council required to act quickly in the best interests of the economy of Midlothian, most particularly in the retention and expansion of existing, as well as the location of major new, businesses in Midlothian.

4. Declarations of interest

Councillor Baird declared a non pecuniary interest in agenda item 5.9 - Pre-Application Consultation Report regarding proposed residential development at land east of Lawfield Road and north of Ash Grove, Mayfield (17/00296/PAC) – on the ground that the proposed development site was visible from his property. He indicated that he felt the nature of his interest was such that he did not feel it necessary to withdraw and he would remain in attendance during the debate, and contribute to any discussion of this item.

Councillors Muirhead and Johnstone both declared non pecuniary interests in agenda item 5.12 - Application for Planning Permission for the Erection of 11 flatted dwellings and five dwellinghouses formation of Car Park and Access Road and Associated Works on land at the junction of Bryans Road and Morris Road, Newtongrange 16/00809/DPP – on the grounds that they had been approached by the applicant and an objector respectively, albeit neither had offered an opinion on the application. Both Members indicated that they felt the nature of their respective interest was such that they did not feel the need to withdraw and they would remain in attendance during the debate, and contribute to the consideration of this item.

5. Reports

Agenda No	Report Title	Presented by:
5.2	Overview of the Committee – Membership and Terms of Reference	Mike Broadway

Executive Summary of Report

The Clerk gave an overview of the Planning Committee highlighting in particular the membership and terms of reference as detailed in the Scheme of Administration (relative to Standing Order 7).

Decision

The Committee noted the overview.

Agenda No	Report Title	Presented by:
5.3	The Planning System in Scotland: An Introduction for Elected Members	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 23 May 2017, by the Head of Communities and Economy, providing an introduction to the Planning System for elected Members.

Appended to the report was a copy of a Guide prepared by The Improvement Service for elected Members entitled '*The Planning System in Scotland: An Introduction for elected Members*', which provided information/guidance on:-

- Planning – purpose and significance;
- The planning process – summary;
- Development plans;
- Development management;
- Appeals and reviews;
- Enforcement;
- Code of Conduct; and
- Planning a councillor's perspective.

Summary of Discussion

The Committee, having heard from the Planning Manager, welcomed the Improvement Service guide.

Decision

After further discussion, the Committee noted the contents of the report.

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.4	Midlothian Local Development Plan Update	Peter Arnsdorf

Executive Summary of Report

With reference to paragraph 5.2 of the Minutes of 19 April 2016, there was submitted report dated 23 May 2016, by the Head of Communities and Economy providing an update on current progress in the preparation of the Midlothian Local Development Plan (MLDP), and advising on the remaining stages to the point of final adoption by the Council.

The report explained that following submission of the Proposed MLDP to Scottish Ministers on 9 September 2016, a Reporter had been appointed by the Scottish Government's Department of Planning and Environmental Appeals (DPEA) to conduct an Examination in Public into the unresolved objections. The examination had now reached an advanced stage and the DPEA had set a target date of 9 July 2017 to conclude the examination and submit the report of the Examination to the Council. Assuming the examination was concluded by the target date then it was anticipated that a report would be presented to Council around September/October seeking approval to undertake the necessary steps to adopt the Proposed MLDP as may be modified by the Reporter's recommendations.

Decision

Having heard from the Planning Manager, the Committee noted the update on the Midlothian Local Development Plan.

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.5	Planning Performance Report	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 23 May 2017, by the Head of Communities and Economy, updating the Committee on planning applications, planning appeals and reviews, enforcement and planning customer service performance against key outcome indicators for the period 2016/17.

The report identified that overall performance continued to be maintained at a high level through 2016/17 with 81% of planning applications being determined within target. This compared to 81% in 2015/16, 82% in 2014/15, 84% in 2013/14, 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 Planning 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.

Summary of Discussion

Having heard from the Planning Manager, the Committee discussed the report. In response to a question regarding whether it was possible to apply for planning permission for a site that you didn't own, the Planning Manager confirmed that it was possible to do so however there was a requirement as part of the application process to notify the landowner. Third party landownership issues were a common source of complications when it came to planning applications.

Decision

- (a) noted the contents of the report; and
- (b) agreed to continue to receive annual Planning performance reports.

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.6	Major Developments: Applications Currently Being Assessed and Other Developments at Pre-Application Consultation Stage	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 23 May 2017, 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.

Summary of Discussion

The Committee, heard from the Planning Manager who explained that the primary purpose of the report was to keep Members informed on the procedural progress of major applications. With respect to a suggestion regarding an expanded commentary on each application, the Planning Manager agreed to take this on board.

Decision

- (a) To note the current position in relation to major planning application proposals which were likely to be considered by the Committee in 2017; and
- (b) To note the updates for each of the applications.

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.7	Appeal and Local Review Body Decisions	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 23 March 2017, by the Head of Communities and Economy, detailing the notices of review determined by the Local Review Body (LRB) at its meeting in March 2017, and advising of the outcome of an appeal determined by Scottish Ministers.

Appended to the report was a copy of the appeal decision notice from the Scottish Government, Planning and Environmental Appeals Division, dated 3 April 2017, upholding an appeal by PSL Land Ltd against non determination for planning permission in principle for a mixed use development comprising film and TV studio including backlot complex, mixed employment uses retail/office/commercial, hotel, gas and heat power plant/energy centre, film school and student accommodation, studio tour building, earth station antenna and associated infrastructure (15/00364/PPP) subject to securing developer contributions and conditions, most notable being the safeguarding of the proposed realignment of the A701 identified in the proposed Midlothian Local Development Plan.

Summary of Discussion

The Committee, having heard from the Planning Manager, welcomed the Ministers' decision, in particular the safeguarding of the proposed realignment of the A701.

Decision

- (a) To note the decisions made by the Local Review Body at its meetings on 7 March 2017; and

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| (b) To note the outcome of the appeal determined by Scottish Ministers |
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Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.8	Guidance on the role of Councillors in the consideration of Pre-Application Consultations for Major Developments	Peter Arnsdorf

Executive Summary of Report

With reference to paragraph 3 of the Minutes of 7 October 2014, there was submitted report, dated 23 May 2017, by the Head of Communities and Economy, advising the Committee of the recommended procedures for Councillors in the pre-application process. Appended to the report was a copy of 'Guidance on the Role of Councillors in Pre-Application Procedures' published by the Scottish Government in conjunction with the Commissioner for Ethical Standards in Public Life in Scotland and COSLA.

The report explained that the Guidance was designed to enable Councillors to be confident about expressing a provisional 'without prejudice' view and to raise material considerations with regard to a major application that they wish the applicant and/or officers to consider, whilst being safeguarded from challenge on grounds of partiality.

Summary of Discussion

The Committee, having heard from the Planning Manager, acknowledged the challenges and pitfalls posed by constituents and/or developers expecting their local elected representatives to have a provisional view on a major planning application proposal within their locality.

Decision

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| (a) noted the established guidance and Committee procedures set out in the report; and |
| (b) agreed to receive regular reports regarding any formal pre-application consultations by prospective applicants. |

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.9	Pre-Application Consultation: Proposed Residential Development at Land East of Lawfield Road and North of Ash Grove, Mayfield (17/00296/PAC)	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 23 May 2017, by the Head of Communities and Economy advising that a pre application consultation had been submitted regarding a proposed residential development at land to the east of Lawfield Road and to the north of Ash Grove, Mayfield (17/00296/PAC).

The report advised that in accordance with the pre-application consultation procedures noted by the Committee at its meeting today (paragraph 5.8 above refers) the pre application consultation was being reported to Committee to enable Members to express a provisional 'without prejudice' 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 for the Committee's consideration.

Summary of Discussion

Having heard from the Planning Manager, the Committee in discussing the proposals questioned the ability of local infrastructure to support a residential development at this location, in particular the ability of the local road network to adequately support the additional traffic movements likely to be generated; access to the site itself; pressure on health facilities and education; and also the loss of countryside, the site being designated in both the existing and emerging Local Plans as countryside.

Decision

- (a) To note the provisional planning position set out in the report;
- (b) To note the comments made by Members; and
- (c) To note that the expression of a provisional view did not fetter the Committee in its consideration of any subsequent formal planning application.

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.10	Application for Planning Permission in Principle (13/00780/PPP) for the Erection of 60 Dwellinghouses; Erection of Warehouse; Extension to Existing Petrol Filling Station Kiosk and Associated Works at Land at Fordel, Dalkeith	Peter Arnsdorf

Executive Summary of Report

With reference to paragraph 1 of the Appendix to the Minutes of 27 May 2014, there was submitted report, dated 23 May 2017, by the Head of Communities and Economy providing an update with regards to the above application.

The report reminded Members that the Committee had previously agreed to grant planning permission in principle, subject to suitable conditions, and the prior signing of a legal agreement to secure developer contributions towards essential infrastructure and the provision of affordable housing. Following the agreement of Heads of Terms with the applicants a draft legal agreement had been prepared, however despite repeated attempts it unfortunately remained unsigned by the applicants and as a consequence planning permission had not yet been issued.

Summary of Discussion

Having heard from the Planning Manager, the Committee discussed the need to progress the legal agreement given the clear directions from Scottish Ministers to Councils to resolve legacy cases (Planning applications which remain undetermined after more than a year).

Decision

- (a) Agreed that unless there was a satisfactory planning obligation completed and registered by 6 September 2017 then the application be refused due to the absence of the required planning obligation to meet the needs and consequences of the proposed residential development and as such the development would be contrary to policies IMP1, IMP2 and HOUS4 of the Midlothian Local Development Plan 2008 and Policies IMP1,IMP2 and DEV3 of the Proposed Midlothian Local Development Plan; and
- (b) Agreed that the Committee be kept informed of progress and advised of the final outcome in respect of this application.

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.11	Application for Planning Permission (16/00712/PPP) for the Residential Development of Land at Dalhousie Dairy, Bonnyrigg	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 25 May 2017, by the Head of Communities and Economy concerning the above application.

The report advised that an appeal against the non determination of the planning application within the statutory time period (4 months) had been lodged by the applicants and set out the Council's proposed case at appeal.

Summary of Discussion

The Committee, having heard from the Planning Manager, discussed the actions of the applicants in appealing the application to the Scottish Minister, which after the encouragingly responsive approach they had earlier demonstrated with regards to the proposed access arrangements to the site, was considered disappointing. The status of the site in terms of it being an allocated housing site in the emerging Midlothian Local Development Plan was acknowledged. However it was felt that there were still a number of issues that required to be resolved before any further development could proceed, not the least of which was the provision for education. Other matters include the need to address the impact on health and social care services, the possible provision of a roundabout at the main access point onto the B6392, and also design/ layout issues arising from the submitted Masterplan.

Decision

- (a) That Planning Permission in Principle be refused for the following reasons:
1. There does not exist at this present time a committed education solution to accommodate all of the school children that would arise from the residential development of the site, in particular non-denominational primary school children. Until there is a committed education solution it would be premature to grant planning permission in principle for this application.
 2. For the following reasons the proposed development does not accord with the approved Edinburgh and South East Scotland strategic Development Plan, specifically it is contrary to Policy 7 of the Plan in that: (i) there does not exist at this present time a committed education solution to accommodate all of the school children that would arise from the residential development of the site; (ii) the amount of education contribution the applicant would be required to contribute towards to ensure the delivery of a yet unknown education solution; including land acquisition costs, is unknown; and (iii) until there is a committed education solution the Council cannot seek to secure a binding agreement with the applicant to fund their proportionate contribution towards the delivery of that solution.

3. The Masterplan/Design and Access Statement and Masterplan report are not acceptable in planning terms for the following reasons:
- i. The phasing of the development delineated in the Masterplan is not acceptable in terms of the phase of the delivery of structural landscaping, affordable housing and safe routes to school and other pedestrian and cycling connections through the site.
 - ii. The Masterplan does not include a proposal for childrens play on the southern part of the site, to the detriment of the residential amenity of the future occupants of the houses on that part of the site;
 - iii. The landscape strategy detailed in the Masterplan is too broad in scope to guide an appropriate landscape scheme for the site;
 - iv. The Masterplan delineates house plots in close proximity to the burn crossing which; if formed and buildings erected on them, could thwart the formation/erection of the burn crossing;
 - v. The Masterplan delineates a development layout that is uniform in terms of density. In addition, owing to the proliferation of double driveways across the whole site the layout would be car dominated to the detriment of residential amenity. Furthermore, other than the spine road/linear park, the scheme has no discernible character zones. If built out accordingly it would result in a uniform, harsh development that is not distinctive in character and would be detrimental to the amenity of the area. Moreover, the layout of the development located on the south side of the Pittendreich Burn does not provide a strong frontage onto the principal access road; but instead, houses have blank gables facing onto the road, which is unacceptable in urban design terms.
 - vi. The Masterplan report does not detail how low and zero-carbon generating technology and also community heating would be delivered and incorporated into the proposed development.
 - vii. The materials section of the Masterplan does not specify materials to be used in the different parts of the site, including the Area of Improved Quality. Therefore, it is too general to be relied upon to guide the future development in the site;
 - viii. The Masterplan report does not detail how the proposed development will have regard to principles of sustainability set down in MLDP Policy DEV5.
 - ix. The Masterplan does not detail how the development of the site shall be carried out in a manner to safeguard the existing Green Networks in the area or how it will contribute to components of Midlothian Green Network.
 - x. The Masterplan report does not include details of 'percent for art' for the development.

4.	Given reasons for refusal 3 above the proposed development is contrary to adopted Midlothian Local Plan Policies RP7, RP31, NRG3, IMP1, IMP2 & DP2; and, Proposed Midlothian Local Plan 2014 Policies DEV2, DEV5, DEV6, DEV7, DEV8, DEV9, ENV2, ENV7, NRG3, NRG4, NRG6, IMP1 & IMP2.
b)	Authorisation is given by the Committee for the Planning Authority to write to the Scottish Government Department of Planning and Environmental Appeals Division (DPEA) to request that the appeal against the non determination of the planning application within the statutory time period (4 months) is dismissed.

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.12	Application for Planning Permission (16/00809/DPP) for the Erection of 11 Flatted Dwellings and Five Dwellinghouses, Formation of Car Park and Access Road and Associated Works on Land at the Junction of Bryans Road and Morris Road, Newtongrange.	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 23 May 2017, by the Head of Communities and Economy concerning the above application.

Summary of Discussion

Having heard from the Planning Manager, the Committee discussed the proposed development in particular consideration was given to the proposed roof design, the positioning, scale and height of the proposed flatted block; the potential impact of any overspill on-street car parking on the adjoining road network; the ability of service and emergency vehicles to access the site through the proposed access pend, the safety of the access arrangements and whether or not there was sufficient garden ground. Members were not necessarily opposed to the redevelopment of the site, however they did feel that the current scheme would result in an overdevelopment of the site to the detriment of the character and amenity of the neighbouring area.

Decision

The Committee agreed that planning permission be refused for the following reasons:

1. The proposed development by means of: the number of residential units proposed, the massing and bulk of the flatted block, the below policy standard of the gardens sizes of the dwellinghouses and the design of the flatted block, results in an overdevelopment of the site to the detriment of the character of the area and the amenity of neighbours and future occupants of the proposed dwellinghouses contrary to policy RP20 of the Midlothian Local Development Plan (2008) and policy DEV2 of the Proposed Midlothian Local Development Plan.
2. The size, form and design of the proposed flatted block in terms of its: three storey height, massing and bulk and flat roof, conflicts with the two storey pitched roof style of nearby buildings to the detriment of the character and amenity of the area contrary to policies RP20 and HOUS3 of the Midlothian Local Development Plan (2008) and policy DEV2 of the Proposed Midlothian Local Development Plan.
3. The gardens of the proposed dwellinghouses are below the required spatial standard, as set out by policy, to the detriment of the amenity of the future occupants of the dwellinghouses contrary to policy DP2 of the Midlothian Local Development Plan (2008).
4. The proposed developments design in terms of a vehicular access via a pend, with reduced visibility, would increase the risk of an accident as vehicles enter and exit the site.

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.13	Application for Planning Permission (16/00727/DPP) for the Erection of 9 Dwellinghouses; Formation of New Access Road and Car Parking and Associated Works at Land West of the Laird and Dog Hotel, High Street, Lasswade.	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 23 May 2017, by the Head of Communities and Economy concerning the above application.

Summary of Discussion

Having heard from the Planning Manager, the Committee discussed the potential impact that the proposed development would have on the neighbouring area. Concerns were expressed regarding the height and size of the proposed building, the number and design of the units, and the access arrangements both during construction and in the longer term.

Decision

The Committee agreed that planning permission be refused for the following reasons:

1. The proposed development by means of: the number of residential units proposed, the massing and bulk of the residential units, the juxtaposition between the residential units and the design of the residential units, results in an overdevelopment of the site to the detriment of the character of the area contrary to policy RP20 of the Midlothian Local Development Plan (2008) and policy DEV2 of the Proposed Midlothian Local Development Plan.
2. The size, form and design of the proposed residential units in terms of their: three storey height, massing and bulk, flat roofs, use of contemporary materials and uniformity, conflicts with the traditional style of nearby buildings, the irregular roofscape and height of nearby buildings and irregular street pattern to the detriment of the conservation area contrary to policies RP22 and DP5 of the Midlothian Local Development Plan (2008) and policy ENV19 of the Proposed Midlothian Local Development Plan.
3. The proposed development would result in an increased use of an access which does not meet the required visibility standards and as such would increase the risk of an accident as vehicles enter and exit the site to join the High Street as it weaves its way through Lasswade with a high volumes of users. This detriment to highway safety will increase during the construction of the proposed residential development.

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.14	Application for Planning Permission (17/00219/DPP) for the Partial Change of Use of Land and Buildings for Wedding Events (Part Retrospective) at 32A Damhead, Lothianburn.	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 23 May 2017, by the Head of Communities and Economy concerning the above application.

Summary of Discussion

Having heard from the Planning Manager, the Committee acknowledged that the application had generated considerable comments both in support of, and opposition to, the proposals and that before taking a decision there would be merit in visiting the site.

Decision

The Committee agreed to continue consideration of the application to allow a site inspection visit to take place.

Action

Head of Communities and Economy/Democratic Services

Adjournment and Reconvention

At this point (3.28pm) the Committee adjourned for a short break to allow Members time to read the additional tabled report. When the meeting resumed at 3.40pm the following Members were in attendance:-

Councillors Imrie (Chair), Alexander, Baird, Cassidy, Curran, Hackett, Johnstone, Lay-Douglas, McCall, Milligan, Montgomery, Muirhead, Munro, Parry, Russell, Smaill and Winchester.

Agenda No	Report Title	Presented by:
5.15	Application for Planning Permission (16/00727/DPP) for the Erection of 3 Office/Laboratory Buildings; Formation of Access Roads and Car Parking; and Associated Works at Edinburgh Technopole, Bush Farm Road, Roslin.	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 5 June 2017, by the Head of Communities and Economy concerning the above application.

Summary of Discussion

Having heard from the Planning Manager, the Committee discussed the proposals and the importance of the Bush site as a major centre for academic teaching and research/business/commercial uses based around the life sciences. As the proposals accorded with the relevant provisions of the current and emerging MLDP, and given the economic development importance of the site, Members were of the view that there appeared to be no compelling reason not to approve the application. The fact that Transport Scotland had objected was a matter of some regret, however the need to address transport issues in the area was well documented and in light of the importance of the Bush, a phased programme of works to address essential road infrastructure needs was urgently required. In this regards, it was felt that an early all party meeting with the appropriate Ministers should be sought.

Decision

The Committee thereby agreed that planning permission be granted for the following reason:

By virtue of its scale, location, design and use the proposal complies with policies RP1, RP2, RP3, IMP1 and IMP2 of the Midlothian Local Plan and policies STRAT1, ECON2, IMP1 and IMP2 of the Proposed Midlothian Local Development Plan 2014.

subject to:

- (a) Referral of the application to Scottish Ministers; and
- (b) The prior signing of a legal agreement to secure the provision of developer contributions towards A701 Relief Road and A702 Link; and A701 public transport, walking and cycling improvements. The legal agreement shall be concluded prior to the issuing of the planning permission. The applicants will be given a 6 month time period to work with Midlothian Council to conclude the agreement with the sanction of the Council potentially refusing permission if the applicant does not conclude the agreement; and
- (c) A schedule of conditions which will be agreed with the Chair of the Planning Committee.

It was further agreed that an all party meeting with the appropriate Ministers should be sought as a matter of urgency.

Action

Head of Communities and Economy

The meeting terminated at 3.51pm.