

MINUTES of MEETING of the MIDLOTHIAN COUNCIL PLANNING COMMITTEE

held in the Council Chambers, Midlothian House, Buccleuch Street, Dalkeith on Tuesday 28 August 2012 at 11.00 am.

Present: - Councillors Thompson (Chair), Baxter, Beattie, Bennett, Bryant, Constable, de Vink, Imrie, Johnstone, Milligan, Muirhead, Pottinger, Rosie and Wallace.

Apologies for Absence: - Councillors Boyes, Coventry, Montgomery and Russell.

1. Declarations of Interest

Councillor Thompson, on behalf of the SNP Group, advised that in relation to agenda item 7(e) - Application for Planning Permission (12/00340/DPP) for Erection of Garage, Workshop and Studio on Land Adjacent to 3 Eskview Villas, Eskbank, Dalkeith, that all the SNP Group Members would be declaring a non pecuniary interest and withdrawing from the meeting for the duration of this particular item.

He explained that the reason for this course of action was that, having sought advice from the Monitoring Officer, it was felt on balance that there were sufficient grounds that any reasonable member of the public could call into question their impartiality given that the application was from a member of their group and her husband who was the sitting MSP and a member of the same party.

Councillor Milligan, on behalf of the Labour Group, advised that they had also sought advice from the Monitoring Officer, and that it had been left to individual Members to decide if they felt that they could participate in consideration of the application or not. On a personal level he felt that he could not and he would be declaring a non pecuniary interest and withdrawing from the meeting for the duration of this particular item.

Thereafter, Councillors Muirhead and Pottinger both indicated that they intended doing likewise.

At this point, Councillor Thompson asked for an indication from any Members not intending to declare an interest and withdraw; Councillors Baxter, Bennett and Imrie so indicated.

Councillor Thompson advised that as this fell short of the six Members required in terms of the Scheme of Administration, for the meeting to be quorate, the application would not be able to be considered and the applicants would be advised accordingly.

2. Minutes

The Minutes of Meeting of 12 June 2012 were submitted and approved as a correct record.

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

With reference to paragraph 5 of the Minutes of 12 June 2012, there was submitted report, dated 21 August 2012 by the Head of Planning and Development, updating the Committee on 'major' planning applications, formal pre-application consultations by prospective applicants and the expected programme of applications due for reporting.

The Committee, having heard from the Development Management Manager who responded to Members' questions, noted that the application for the proposed erection of a wind farm at Fala Moor was currently being assessed and that as part of the site extended in to Scottish Borders, discussions with Scottish Borders Council were ongoing. It was anticipated that the application report would be brought forward for determination by the Committee on its' relative merits in accordance with the prospective dates detailed in the report.

Decision

- (a) To note the current position in relation to major planning application proposals which were likely to be considered by the Committee in 2012; and
- (b) To agree to receive further updated information on the procedural progress of major applications on a regular basis.

(Action: Head of Planning and Development)

4. Appeal and Local Review Body Decisions

There was submitted report, dated 21 August 2012, by the Head of Planning and Development, detailing the notices of reviews determined by the Local Review Body (LRB), and the appeals determined by Scottish Ministers.

Appended to the report was an appeal decision notice, dated 20 July 2012, from the Scottish Government, Directorate for Planning and Environmental Appeals, dismissing an appeal by Ms Lesley Oddy against the decision to refuse listed building consent (12/00050/LBC, dated 31 January 2012) for the installation of replacement doors and windows at Mauldslie West Cottage, Mauldslie, Temple, Gorebridge and upholding refusal of listed building consent.

Decision

- (a) To note the decisions made by the Local Review Body at its meeting on 31 July 2012; and
- (b) To note the appeal decision regarding Mauldslie West Cottage, Temple, Gorebridge.

5. Applications for Planning Permission

Applications for planning permission were dealt with as shown in the **Appendix** hereto.

6. Conservation Area Regeneration Scheme Bid for Gorebridge

With reference to paragraph 8 of the Minutes of the Cabinet of 5 June 2012, there was submitted report, dated 8 August 2012 by the Head of Planning and Development, providing an update on the Conservation Area Regeneration Scheme (CARS) bid for Gorebridge, which was in the process of being finalised.

The Committee, having heard from the Head of Planning and Development, discussed the importance of ensuring that the in-kind contributions made by the Council through officer time and such like were not overlooked in preparing the bid submission. The eligibility of Gorebridge to meet the CARS criteria remained strong both in terms of the deprivation data and the potential for notable improvement in the Main Street. In addition, there was good local support for the Gorebridge CARS application and it fitted well within the proposed development plans for Gorebridge, especially with the planned and programmed implementation of the Borders Railway.

Decision

- (a) Agreed that the Council submit an application to Historic Scotland for a Conservation Area Regeneration Scheme in Gorebridge in line with the approach outlined in the Head of Planning and Development's report;
- (b) Agreed that the Director Corporate Resources be instructed to prepare and finalise the details of the submission, which will identify £45,000 of developers contributions as a contribution from Midlothian Council to the project;
- (c) Agreed that the potential to increase that level of Council contributory funding from existing allocated budgets and through the inclusion of in-kind support be examined; and
- (d) Agreed that a further report be submitted to the Committee to inform of the outcome of the bid.

The meeting terminated at 11.43 pm.

APPENDIX**(relative to paragraph 5)****1. Application for Planning Permission (12/00219/DPP) by West Register (Realisations) Limited, 24-25 St Andrew Square, Edinburgh for the Erection of 110 Dwellings and 30 Flatted Dwellings; Formation of Access Roads and Car Parking; and Associated Works at Former Jewel and Esk Valley College, Dalhousie Road, Eskbank, Dalkeith.**

There was submitted report, dated 21 August 2012, by the Head of Planning and Development concerning the above application.

The Committee, heard from the Development Management Manager who in responded to their questions, sought to reassure Members' that concerns regarding the likely impact the proposed development might have on the adjoining road network had been addressed and that the recommended conditions included provision relating to the movement of construction traffic. With regards, the wider issue of the ability of the transport network in Midlothian to accommodate the sustained levels of growth in housing this was a matter which would be picked up as part of the Local Plan discussions.

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

The development lies within the built up area of Eskbank where there is a presumption in favour of development. The principle of the redevelopment of the site for dwellings has been established by previous planning permissions. The currently proposed scheme of development broadly complies with the policies of the approved Edinburgh and the Lothian Local Plan and the adopted Midlothian Local Plan. There are design reasons that justify a relaxation in the size of the rear gardens required by adopted Midlothian Local Plan Policy DP2. The presumption for development is not outweighed by any other material consideration.

subject to:-

- (i) the prior signing of a legal agreement to secure the provision of affordable housing and contributions towards education provision, children's play provision, town centre improvements and the Borders Rail Line; and
- (ii) the following conditions:
 1. The development hereby permitted shall be begun within three years from the date of this permission. Prior to the development commencing the planning authority shall be notified in writing of the expected commencement of work date and once development on site has been completed the planning authority shall be notified of the completion of works date in writing.

2. Development shall not begin until details of the phasing of the development have 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 open space, the SUDS provision, transportation infrastructure etc. Development shall thereafter be carried out in accordance with the approved phasing unless agreed in writing with the planning authority.
3. Notwithstanding that delineated on docketed drawings the houses/flats on plots 43-51, plots 88-96, plots 80-87 and plots 134-140 shall comprise the 'area of improved quality' for this development with an added emphasis on quality of materials. Prior to works commencing of development, samples of external finishing materials for those plots shall be submitted for the prior approval of the Planning Authority. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority.
4. Notwithstanding that delineated on docketed drawings the proposed external finishing material and colours proposed for the buildings and boundary treatments out with the area of improved quality as defined by condition 3, shall be made available for the prior approval of the Planning Authority. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority.
5. Notwithstanding that delineated/specified on application drawing samples of the hard ground cover surface materials shall be submitted to and approved in writing by the planning authority. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority.
6. No development shall take place until the following information has been submitted to and approved in writing by the Planning Authority:
 - (i) a full site survey showing:
 - a. the datum used to calibrate the site levels,
 - b. levels along all site boundaries,
 - c. levels across the site at regular intervals,
 - d. floor levels of adjoining buildings.
 - (ii) full details of the proposed finished floor levels of all buildings and hard surfaces.
7. The development shall be carried out only in accordance with the approved details. No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor(s) of the proposed building(s), in relation to existing ground levels have been submitted to and approved by the Planning Authority. The development shall be carried out in strict accordance with the levels approved.

8. Development shall not begin until details of the scheme of hard and soft landscaping works have 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, SUDS features 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, hedging, 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 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;
 - x proposed children's play equipment;
 - xi proposed cycle parking facilities;
 - xii details of existing and proposed services; water, gas, electric and telephone.

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 the same or a similar species to those originally required.

9. No trees or shrubs on the site shall be lopped, topped or pruned without the prior written approval of the Planning Authority.
10. All trees and shrubs to be retained shall be protected during periods of construction with a temporary protected fencing in accordance with the recommendations of the British Standard BS 5837: 20125 'Trees in Relation to Design, Demolition and Construction' and in accordance with details to be submitted for the prior approval of the Planning Authority. The temporary protective fencing so approved shall be erected prior to work commencing on site and shall be retained for the duration of construction works. Within the areas enclosed by fencing there shall be no excavation, no removal of soil, no placing of additional soil, no storage of any kind, or disposal

of any waste or fires lit, all in accordance with the above names British Standards.

11. Any excavations within the canopy spread of trees to be retained shall be hand dug and any roots exposed shall be bridged.
12. 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 or it has been confirmed in writing to the planning authority that there is no contamination/ground conditions requiring remediation. 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.

13. No building shall have an under-building that exceeds 0.5 metres in height above ground level unless otherwise agreed in writing by the planning authority.
14. No house shall be occupied unless and until the driveway of the house, no flat shall be occupied until the parking space associate with it and no house or flat shall be occupied until the visitor parking spaces within the same phase of development as it has been formed and made available for use.
15. Details of the following shall be submitted for the prior approval of the planning authority:
 - i. the service vehicle parking area at the new sub-station;
 - ii. the proposed road narrowing immediately to the north east of plot 1;
 - iii. the design and location of street lighting;
 - iv. a cross section through the filter trenches them delineating how they will be constructed and their surface treatment.
16. The application is approved subject to the following changes or requirements in accordance with an amended layout plan to be submitted for the prior approval of the Planning Authority:

- (a) The back to back distance between the house on plot 9 and the house on plot 12 shall be no less than 25 metres;
 - (b) The front to front distance between the house on plot 13 and the house on plot 14 shall be no less than 22 metres; and,
 - (c) The front to front distance between the houses on plot 8-15 and the houses on plots 34-42 shall be no less than 22 metres.
17. Prior to any of the residences served by the Dalhousie Road access first coming into use the visibility splays of 4.5 metres x 70 metres delineated on the docketed site layout plan shall be provided and thereafter shall continue to be provided.
 18. Notwithstanding that delineated on application drawings the substation shall be housed in a pitched roofed building and finished in materials to be approved in advance by the Planning Authority. There shall be no variation therefrom unless with the prior approval of the Planning Authority.
 19. The trees planted within the site near to underground services and which roots will have the potential to damage those services shall incorporate a root management system comprising rootcells, root directors and an irrigation system in accordance with an installation specification to be submitted for the prior approval of the Planning Authority.
 20. Notwithstanding that delineated on docketed drawings a natural rubble stonework lime-pointed wall between 1.8 and 2.5 metres high shall be erected along the length of the west boundary of the site and set back 2 metres from the heel of the existing pavement along the east side of Dalhousie Road. A sample of the natural stone to be used for the wall shall be made available for the prior approval of the Planning Authority.
 21. The bin and cycle stores hereby approved shall be erected and made available for use prior to the occupation of the flats that they will serve.
 22. All new trees along Dalhousie Road shall be planted so that they are behind the visibility splays of the new vehicular access. Any shrubs or plants planted within the visibility splays shall only be low level planting.
 23. None of the houses on plots 1-7, plots 43-51, plots 88-96 or plots 97- 106 shall be occupied unless and until the section of the 1.8-2.5 metre high stone wall to be erected on the west roadside boundary of their plot has been erected in its entirety. The wall shall thereafter be retained at a height of 1.8-2.5 metres along its length unless otherwise approved by the Planning Authority.
 24. Development shall not begin until detail, including a timetable of implementation, of 'Percent for Art' has been submitted to and approved in writing by the planning authority. The 'Percent for Art' shall be implemented as per the approved details.

25. Construction vehicles associated with the development shall only access and egress the site from the new access off Dalhousie Road via the A7 Trunk Road. No construction vehicles shall access the site via Abbey Road or the Eskbank Toll Roundabout.

(Action: Head of Planning and Development)

Sederunt – Councillor de Vink joined the meeting towards the conclusion of the foregoing item of business

2. Application for Planning Permission (12/00355/DPP) by Rolling Haggis Ltd, 17 Bellevue Street, Edinburgh for the Erection of Timber Platform, Reception Cabin and Fencing; Formation of Bunding and Access Track Associated with proposed Zorbing Facility on Land East of Midlothian Snow Sports Centre, Biggar Road, Edinburgh.

There was submitted report, dated 21 August 2012, by the Head of Planning and Development concerning the above application.

The Committee, having heard from the Development Management Manager, agreed that planning permission be granted for the following reason:

The proposed development will be complementary and ancillary to the Snow Sports Centre and will contribute to its continued operation. Subject to the recommended conditions the proposed development will not harm the landscape character and amenity of the area, including the Pentland Hills Regional Park and the Area of Great landscape Value in which the site is located. Therefore, the proposed development complies with the relevant provisions of the Structure Plan and with adopted Midlothian Local Plan Policies RP1, RP2, RP6, RP7, RP16, DP4, and COMF7.

Subject to the following conditions:

1. The development hereby granted shall be begun within three years from the date of this permission. Prior to the development commencing the planning authority shall be notified in writing of the expected commencement of work date and once development on site has been completed the planning authority shall be notified of the completion of works date in writing.
2. Permission is granted solely for the works proposed in this application to facilitate the use of the land as a zorbing facility and not for any other development on or use of the land.
3. Prior to the zorbing facility first coming into use and within one month of them being erected; whichever is the sooner, the reception cabin, launch platform and post and wire fences shall be painted a colour(s) or finished with a timber preservative to be approved in advance by the Planning Authority and the colour(s) of paint/timber preservative applied shall accord with the sample so approved.

4. No trees shall be felled unless with the prior written approval of the Planning Authority.
5. Any woody vegetation removed shall only be done so out with September to March.
6. Within three months of the date when on site works commence the area of gorse immediately to the north of the zorbing facility shall be inter-planted with individual trees including Scots pine, birch, alder, rowan and whitebeam. If within 5 years of the planting of the trees any of them dies, becomes seriously diseased or damaged they shall be replaced in the following planting season by a tree of the same or of a similar species to those originally required, to the approval of the Planning Authority. There shall be no variation therefrom unless with the prior approval of the Planning Authority.
7. Prior to the reception cabin first coming into use its roof shall be finished as a 'green roof' vegetated with locally sourced seeds to the approval of the Planning Authority. There shall be no variation therefrom unless with the prior approval of the Planning Authority.
8. A sample of/a manufacturers brochure of the "grass road" paving system to be used for the tow path shall be made available for the prior approval of the Planning Authority.
9. Prior to the commencement of development the applicant shall provide evidence and assurance, for the prior approval of the Planning Authority, that within a specified time period following the ceasing of the facility the redundant structures and infrastructure are removed and the site restored to its condition prior to the erection/formation of them.

(Action: Head of Planning and Development)

3. Application for Planning Permission (12/00321/DPP) by Midlothian Council for Erection of 6 Floodlighting Columns at Easthouses Public Park, Easthouses Road, Easthouses, Dalkeith.

There was submitted report, dated 21 August 2012, by the Head of Planning and Development concerning the above application.

The Committee, having heard from the Development Management Manager, agreed that planning permission be granted for the following reason:

The proposed development is located within the built up area and does not conflict with Midlothian Local Plan policies RP20 and RP30. The presumption in favour of development is not outweighed by any other material considerations.

subject to the following conditions:

1. Unless otherwise approved in writing by the planning authority, the floodlights hereby approved shall not be used between the hours of 10pm and 7am.

2. The development hereby permitted shall be begun within three years from the date of this permission. Prior to the development commencing the planning authority shall be notified in writing of the expected commencement of work date and once development on site has been completed the planning authority shall be notified of the completion of works date in writing.

(Action: Head of Planning and Development)

4. Application for Planning Permission (12/00441/DPP) by Mr James Geddes, 8 Primrose Gardens, Carrington, Gorebridge for Formation of Driveway and Erection of Gates (Retrospective) at that address.

There was submitted report, dated 21 August 2012, by the Head of Planning and Development concerning the above application.

The Committee, having heard from the Development Management Manager, agreed that planning permission be granted for the following reason:

The proposed development by means of its scale, form and design will not detract materially from the existing character of the built-up area, the character and setting of the Conservation Area, or the setting of the Listed Building; and therefore does not conflict with Midlothian Local Plan Policies RP20, RP22 and RP24.

subject to the following conditions:

1. Within 1 month of the granting of this planning permission, details of an amended design of gates that open inwards shall be submitted to the Planning Authority for written approval. Prior to the driveway being brought into use the approved inward opening gates shall be installed.
2. Prior to the driveway being brought into use a dropped kerb footway crossing shall be constructed at the vehicle entrance.

(Action: Head of Planning and Development)

5. Application for Planning Permission (12/00340/DPP) by Mr C. and Dr. L. Beattie, 3 Eskview Villas, Eskbank, Dalkeith for Erection of Garage, Workshop and Studio on Land Adjacent to that address.

With reference to paragraph 1 above, there was submitted report, dated 21 August 2012, by the Head of Planning and Development concerning the above application.

In view of the fact that only three Members - Councillors Baxter, Bennett and Imrie – remained, which in terms of the Scheme of Administration, was insufficient for the meeting to be quorate, the application was not able to be considered and the applicants would be advised accordingly.

(Action: Head of Planning and Development)