

**MINUTES of MEETING of the MIDLOTHIAN COUNCIL PLANNING COMMITTEE** held in the Council Chambers, Midlothian House, Buccleuch Street, Dalkeith on Tuesday 7 October 2014 at 2.00 pm.

**Present:-** Councillors Bryant (Chair), Baxter, Bennett, Coventry, de Vink, Johnstone, Milligan, Pottinger, Russell and Thompson.

**Apologies for Absence:-** Councillors Beattie, Constable, Montgomery, Muirhead, Rosie and Wallace.

## **1 Declarations of Interest**

Councillor de Vink declared an interest in item no.7 hereof (Erection of Wind Turbines – Mount Lothian Moss, Penicuik) and indicated that he would take no part in the consideration of the report relative thereto.

## **2 Minutes**

The Minutes of Meeting of 26 August 2014 were submitted and approved as a correct record.

## **3 Guidance on the Role of Councillors in Pre – Application Procedures**

With reference to paragraph 5 of the Minutes of 27 May 2014, there was submitted report, dated 1 October 2014, by the by Head of Communities and Economy, advising the Committee of the recommended procedures for Councillors in the pre-application process. The report explained that the Councillor's Code of Conduct, as it related to major planning application proposals, accepted that it was reasonable for constituents to expect their local elected representatives to have a provisional view. The report therefore contained further guidance and recommended procedures to enable Members to be confident about expressing a provisional view whilst being safeguarded from challenge on grounds of partiality, in the determination of a planning application.

Thereafter, the Committee debated the proposals, and in particular noted that in relation to consultation by way of a public event organised by prospective applicants, the Standards Commission considered that it was reasonable for an Elected Member to attend such a public event without a Council planning officer present, but the Member should not offer views, as the forum for doing so would be a meeting of the Planning Committee. The Committee were of the view that this proscription in effect negated the earlier advice allowing Elected Members to reach and express a provisional view.

## **Decision**

To seek further clarification from the Standards Commission.

(Action: Head of Communities and Economy).

#### **4 Planning Performance Framework Annual Reports for 2012/13 and 2013/14**

There was submitted report, dated 30 September 2014, by the by Head of Communities and Economy, providing an update on the progress of work undertaken on the Planning Performance Framework for Midlothian. Specifically, the report summarised the comments of Scottish Government on the Council's submitted Planning Performance Framework (PPF) for 2012/13, and the content of the recently submitted PPF for 2013/14. The report detailed the feedback on the Planning Performance Framework (PPF) for 2012/13 and advised that in respect of the 15 performance related areas, four had been rated as "green" i.e. there was no cause for concern; eight were rated "amber" i.e. where areas of improvement had been identified; and three had been rated "red" i.e. where specific attention was required. In respect of those areas rated "red", the report provided details of the remedial actions taken or gave explanations how these ratings had been determined. The report also incorporated the executive summary of the PPF for 2013/14 which had been submitted to Scottish Government on 26 September 2014.

##### **Decision**

- (a) To note the report;
- (b) To refer the report to the Performance, Review and Scrutiny Committee for its interest.

(Action: (b) Legal and Secretariat Manager)

#### **5 Major Developments: Applications Currently Being Assessed and Other Developments at Pre-Application Consultation Stage**

There was submitted report, dated 1 October 2014 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.

##### **Decision**

To note the report.

#### **6. Appeal and Local Review Body Decisions**

There was submitted report, dated 1 October 2014, by the Head of Communities and Economy, detailing the notices of reviews determined by the Local Review Body (LRB) at its meeting on 2 September 2014.

##### **Decision**

To note the report.

##### **Sederunt**

Councillor de Vink left the meeting at this stage (2.20pm).

**7 Application for Planning Permission 14/00044/DPP, for the Erection of 9 Wind Turbines (up to 102M Tip Height) and Associated Transformers; Erection of Switchgear Building; Erection of Anemometer; Formation of Access Tracks; and Associated Works on Land at Mount Lothian Moss, Penicuik.**

With reference to paragraph 3 of the Minutes of 26 August 2014, there was submitted report, dated 22 September 2014, by the Head of Communities and Economy, seeking the (a) Committee's approval for a recommendation to the Reporter that the appeal against a deemed refusal should be dismissed; and (b) the Committee's endorsement of (i) a draft wind energy policy framework being brought forward as part of the forthcoming Midlothian Local Development Plan Proposed Plan, and (ii) a consultative draft *Supplementary Guidance on Wind Energy Development in Midlothian*. The report therefore incorporated (1) a report dated 23 September 2014 (including details of the report handling ) recommending refusal of the application, which would have been submitted, had the applicants not exercised their rights to refer the application to Scottish Ministers as an appeal against a non – determination; (2) draft policies (including wind energy spatial framework) and supporting text for the Midlothian Local Development Plan (MLDP) proposed plan; and (3) Draft Supplementary Guidance in respect of Wind Energy Development in Midlothian. The emerging policy framework and Supplementary Guidance would therefore be material considerations in relation to planning applications/appeals.

**Decision**

- (a) To approve the report of handling relating to the Mount Lothian Moss wind farm application and to adopt the recommendation to the Reporter that the application be refused and the appeal dismissed, for the reasons detailed in the report;
- (b) To endorse the proposed Midlothian Local Development Plan (MLDP) policies NRG1 and NRG2 with supporting text, including the spatial framework for wind energy and additional guidance, all as set out in Appendix 2 to the report and to incorporate these into the MLDP Proposed Plan in early course;
- (c) To endorse the draft *Supplementary Guidance on Wind Energy in Midlothian*, as set out in Appendix 3 to the report, for consultation purposes; and
- (d) To note that the proposed policy framework and draft Supplementary Guidance would be a material consideration in relation to planning applications and appeals.

(Action; Head of Communities and Economy)

**Sederunt**

Councillor de Vink rejoined the meeting at this stage (2.35 pm)

## **8. Application for Planning Permission**

An application for planning permission was dealt with as shown in the **Appendix** hereto.

### **Sederunt**

Councillor de Vink left the meeting at this stage (2.45 pm)

## **9 Exclusion of Members of the Public**

In view of the nature of the business to be transacted, the Cabinet agreed that the public be excluded from the meeting during discussion of the undernoted items, as contained in the Addendum hereto, as there might be disclosed exempt information as defined in paragraph 13 of Part I of Schedule 7A to the Local Government (Scotland) Act 1973:-

- Proposed Tree Preservation Order – Penicuik – Order Approved;
- Proposed Tree Preservation Order – Dalkeith – Order Approved.

The meeting terminated at 2.57 pm.

## APPENDIX

(relative to paragraph 8)

### APPLICATION FOR PLANNING PERMISSION 14/00251/DPP FOR THE ERECTION OF 349 DWELLINGHOUSES AND ASSOCIATED WORKS ON AREA A, ON PART OF AREA B AND ON PART OF AREA C OF HOUSING SITE S, LAND TO THE EAST AND WEST OF HUNTERFIELD ROAD, GOREBRIDGE

There was submitted report, dated 1 October 2014, concerning the above noted application.

Following question from Elected Members in respect of Coal Authority Consultations; applicable Building Standards Regulations; the drainage of surface water; and the adequacy of the vehicular access being provided, the Committee agreed that Planning Permission be granted for the following reason, viz:-

*The proposed development site is identified as being part of the Council's safeguarded housing land supply within the adopted Midlothian Local Plan, and accords with policies COMD1, RP20 and DP2. The presumption for development is not outweighed by other material considerations.*

and subject to

- (a) the prior signing of a legal agreement; securing developer contributions towards education provision, community facilities (Gorebridge Hub) and off site highway improvements (a section of Engine Road is to be resurfaced for pedestrian and cycle use) and securing the provision of affordable housing; and

- (b) the following conditions:

1. 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 affordable housing, the provision of open space, the SUDS provision and transportation infrastructure. Development shall thereafter be carried out in accordance with the approved phasing unless agreed in writing with the planning authority.

**Reason:** *To ensure the development is implemented in a manner which mitigates the impact of the development process on the future occupants of the development and occupants of dwellings on the wider development area.*

2. 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, shrubs, hedging, wildflowers 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/buildings 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 (designed to be unsuitable for motor bike use);
- x proposed play equipment;
- xi proposed cycle parking facilities; and
- xii proposed area of improved quality (20% of the proposed dwellings).

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 a similar species to those originally required.

**Reason:** *To ensure the quality of the development is enhanced by landscaping to reflect its setting in accordance with policies RP20 and DP2 of the Midlothian Local Plan and national planning guidance and advice.*

3. Development shall not begin until samples of materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and ancillary structures have been submitted to and approved in writing by the planning authority. These materials will also include those proposed in the area of improved quality (20% of the proposed dwellings). Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority.

**Reason:** *To ensure the quality of the development is enhanced by the use of quality materials to reflect its setting in accordance with policies RP20 and DP2 of the Midlothian Local Plan and national planning guidance and advice.*

4. Development shall not begin until a scheme to deal with any contamination of the site has been submitted to and approved by the planning authority. The scheme shall contain details of the proposals to deal with any contamination and include:
  - i the nature, extent and types of contamination on the site;
  - ii measures to treat or remove contamination to ensure that the site is fit for the uses hereby approved, and that there is no risk to the wider environment from contamination originating within the site;
  - iii measures to deal with contamination 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.

**Reason:** *To ensure that any contamination on the site is adequately identified and that appropriate decontamination measures are undertaken to mitigate the identified risk to site users and construction workers, built development on the site, landscaped areas, and the wider environment.*

5. Development shall not begin until details of the site access, roads, footpaths, cycle ways and transportation movements has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
  - i existing and finished ground levels for all roads and cycle ways in relation to a fixed datum;
  - ii proposed vehicular, cycle and pedestrian access;
  - iii proposed roads (including turning facilities), footpaths and cycle ways;
  - iv proposed visibility splays, traffic calming measures, lighting and signage;
  - v proposed traffic light junctions off Barleyknowe Road/Greenhall Road and off New Hunterfield Road opposite Greenhall Crescent;
  - vi proposed pelican crossing on New Hunterfield Road linking development zones A and B;
  - vii a green transport plan designed to minimise the use of private transport and to promote walking, cycling, safe routes to school and the use of public transport;
  - viii proposed car parking arrangements;
  - ix proposed bus stop facilities; and
  - x a programme for completion for the construction of access, roads, footpaths, cycle paths and bus stops.

Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be agreed in writing with the planning authority.

**Reason:** *To ensure the future users of the buildings, existing local residents and those visiting the development site during the construction process have safe and convenient access to and from the site.*

6. Development shall not begin until details, including a timetable of implementation, of 'Percent for Art' have been submitted to and approved in writing by the planning authority. The 'Percent for Art' shall be implemented as per the approved details.

**Reason:** *To ensure the quality of the development is enhanced by the use of art to reflect its setting in accordance with policies IMP1 and DP2 of the Midlothian Local Plan and national planning guidance and advice.*

7. Development shall not begin until a scheme of archaeological investigation has been undertaken in accordance with details submitted to and approved in writing by the planning authority. The investigation shall include an archive assessment and an evaluation of 5% of the site.

**Reason:** *To ensure this development does not result in the unnecessary loss of archaeological material in accordance with Policy RP28 of the Adopted Midlothian Local Plan.*

8. No house shall have an under-building that exceeds 0.5 metres in height above ground level unless otherwise agreed in writing by the planning authority.

**Reason:** *Under-building exceeding this height is likely to have a materially adverse effect on the appearance of a house.*

9. Prior to any dwelling being occupied the over-head power lines on the site shall be diverted or put underground in accordance with details to be approved in advance by the Planning Authority and no overhead wires, cables or telecommunication masts shall be introduced onto the site without the prior written approval of the planning authority.

**Reason:** *To ensure that the appearance of the development is not spoiled by over-head power lines, wires and telecommunication masts in accordance with Policy UTIL2 of the Midlothian Local Plan.*

10. No construction, engineering or other works shall take place out with the hours of 8.00am to 7.00pm on Mondays to Fridays and 8.00am to 1.00pm on Saturdays unless otherwise agreed in writing with the planning authority.

**Reason:** *To minimise disturbance to nearby residential properties from noise, construction traffic and other pollution.*