

Minute of Meeting

Planning Committee
Tuesday 28 November 2023
Item No 4.1



Planning Committee

Date	Time	Venue
Tuesday, 31 October 2023	13:00	Council Chambers, Midlothian House/Hybrid

Present:

Councillor Imrie (Chair)	Councillor McEwan
Councillor McCall (Attended virtually)	Councillor McManus
Councillor Parry (Attended virtually)	Councillor Winchester (Attended virtually)
Councillor Smaill	Councillor Virgo
Councillor Alexander	Councillor McKenzie (Attended virtually)
Councillor Pottinger	Councillor Russell
Councillor Cassidy	Councillor Curran
Councillor Scott	Councillor Bowen

In Attendance:

Kevin Anderson	Executive Director Place
Derek Oliver	Chief Officer Place
Peter Arnsdorf	Planning, Sustainable Growth and Investment Manager
Alan Turpie	Legal Services Manager
Morag Barrow	Director of Health & Social Care: Midlothian HSCP / Chief Officer to Midlothian IJB (Attended virtually)
Lucy Roddie	Democratic Services Officer
Janet Ritchie	Democratic Services Officer

1. Apologies

Apologies for absence were received on behalf of Councillor Drummond and Councillor Milligan.

2. Order of Business

The order of business was as set out in the Agenda.

3. Declarations of interest

Councillor McManus declared an interest in Item 5.6 and would leave the meeting during the discussion.

Councillor Parry made a declaration of transparency for Item 5.6 and noted that during the pre-planning process she had met with the applicant but had not expressed a view. Councillor Parry had also been contacted by objectors but no view had been expressed that would prejudice her involvement in discussions. Councillor Winchester made a declaration of transparency for Item 5.6 and noted that she had been approached by both applicant and objectors.

4. Minutes of Previous Meetings

The minute of the meeting of 12 September 2023 was submitted and approved as a correct record.

5. Reports

Agenda No	Report Title	Submitted by:
5.1	MLDP Engagement/Elected Member Workshops and MLDP2 Timetable	Chief Officer, Place
Outline of Report and Summary of Discussion		
<p>Peter Arnsdorf, Planning, Sustainable Growth and Investment Manager, introduced the report. The purpose of the report is to set out the dates for the upcoming elected member workshops on the Midlothian Local Development Plan 2 (MLDP2) and to provide an updated MLDP2 timetable.</p> <p>Since the Committee considered a report on NPF4 and a review of its local plan at its meeting in February 2023, Officers have undertaken widespread engagement with interested parties including formally inviting local communities to prepare local place plans, meeting key agencies and developers, holding drop-in sessions for local residents and holding workshops with elected members. The November set of workshops are being held at 2.00pm on 14 November 2023 for Midlothian West, Midlothian South and Penicuik Ward elected members and 2.00pm on 22 November 2023 for Dalkeith, Midlothian East and Bonnyrigg Ward elected members. Elected</p>		

members can also expect further workshops in 2024 and 2025 as MLDP2 progresses to the plan preparation stage.

It is recommended that the Committee note the details of the November elected member workshops and the updated indicative timescale for the production of MLDP2.

Councillor Imrie, the Chair, thanked Mr Arnsdorf for the report and opened it up to questions.

Councillor Smaill asked if Councillors were permitted to have open conversations with all parties about the progress of the development plan. Mr Arnsdorf confirmed that Elected Members were encouraged to have open discussions within their local communities about the development plan at this stage.

Councillor Smaill raised a concern that the Council was in discussions with developers about securing additional sites, yet construction of many of the houses predicted 5 years ago remains outstanding. Mr Arnsdorf responded that although conversations with potential stakeholders were ongoing, no commitments had been made and reassured the committee that decisions will be for Elected Members to take. The Chair referred to Items 6, 7 and 8 of the timetable within the report and noted that Elected Members would have full opportunity to make their views known.

Councillor Smaill noted that there may be a conflict with the Standards Commission's view that Councillors are permitted to discuss any planning issues at any time. The Chair agreed with this comment.

The Chair noted that Elected Members are now able to comment on applications coming to the Planning Committee in advance of the committee.

Decision

The Planning Committee agreed to note the details of the November elected member workshops and the updated indicative timescale for the production of MLDP2.

Action

All

Agenda No	Report Title	Submitted by:
5.2	2023 Housing Land Audit – 908 units built in 2022/23	Chief Officer, Place
Outline of Report and Summary of Discussion		
Peter Arnsdorf, Planning, Sustainable Growth and Investment Manager, introduced the report. The purpose of the report is to present the 2023 Housing Land Audit (HLA) and to update the Committee on the state of the housing land supply in Midlothian.		

Mr Arnsdorf summarised the report. It is recommended that the Committee note the 2023 Housing Land Audit for Midlothian and agree to its publication.

The Chair thanked Mr Arnsdorf for the report and opened it up to questions.

Councillor Scott noted that figures for Mayfield and Newtongrange were combined and asked if they could be separated as they are two separate wards. Mr Arnsdorf agreed to review this for the next local plan.

Councillor Pottinger commented on the importance of working in partnership with service providers to accommodate development and subsequent population growth and asked if there were any consultation regulations in place. Mr Arnsdorf commented that the audit was intended to make relevant bodies aware of build programmes and promote forward planning. Key agency meetings are held regularly to facilitate engagement and consultation.

Councillor Curran commented on the importance of ensuring appropriate infrastructure and services are in place to support development and subsequent population growth. Mr Arnsdorf commented that the Council was focused on proactive engagement with relevant bodies. The Chair reported that the planning directorate within Scottish Government are developing infrastructure first guidance. Councillor Alexander queried whether houses being built at the moment will be fit for purpose in the future, and suggested that there should be measures in place to prevent the need to retrofit. In response, the Chair commented that new housing stock will be required to meet certain standards. Retrofitting older housing stock is the challenge.

Councillor Virgo sought clarity on the figures cited in the report which suggest the target number of houses is lower than demand. In response, Mr Arnsdorf acknowledged that a range of variables made predictions challenging.

Councillor McEwan asked if any legal clauses are included within contracts to safeguard against late delivery of developments. Mr Arnsdorf reported that since the introduction of MPF4, the Council is required to allocate sufficient land to deliver housing. The Council is not penalised if the target is not met as long as sufficient land has been allocated. Councillor McEwan asked if the Council is compensated for late delivery of developments. Alan Turpie, Legal Services Manager, confirmed that no contractual obligations exist between the Council as a planning authority and private sector developers.

Decision

The Planning Committee noted the 2023 Housing Land Audit for Midlothian and agree to its publication.

Action

The Planning, Sustainable Growth and Investment Manager

Agenda No	Report Title	Submitted by:
5.3	Siting of unauthorised advertisement on land adjacent A68 and A720 City Bypass	Chief Officer, Place

Outline of Report and Summary of Discussion

Peter Arnsdorf, Planning, Sustainable Growth and Investment Manager, introduced the report. The report relates to the display of an unauthorised hoarding advertisement on land adjoining the A68/A720 (on) slip road.

At its meeting of 12 September 2023 the Committee determined to instruct the Planning, Sustainable Growth and Investment Manager to refer the case to the COPFS for consideration of prosecutorial action pursuant to Section 186 of the Town and Country Planning (Scotland) Act 1997 as amended. Following the Committee meeting the unauthorised advertisement was removed and as a consequence the breach of planning control has been resolved, yet the Committee instruction remains and as such it is appropriate to seek the Committee's authority to no longer take prosecutorial action unless the advertisement returns to the site.

It is recommended that the Committee determine to instruct the Planning, Sustainable Growth and Investment Manager to no longer refer the case to the Crown Office and Procurator Fiscal Service for consideration of prosecutorial action as originally instructed by Committee at its meeting of 12 September 2023.

The Chair thanked Mr Arnsdorf for the report and opened it up to questions.

Councillor Virgo moved to instruct the Planning, Sustainable Growth and Investment Manager to no longer refer the case to the Crown Office and Procurator Fiscal Service for consideration of prosecutorial action as original instructed by Committee at its meeting of 12 September 2023. Seconded by Councillor Smail.

Decision

The Planning Committee agreed to instruct the Planning, Sustainable Growth and Investment Manager to no longer refer the case to the Crown Office and Procurator Fiscal Service for consideration of prosecutorial action as originally instructed by Committee at its meeting of 12 September 2023.

Action

The Planning, Sustainable Growth and Investment Manager

Agenda No	Report Title	Submitted by:
5.4	23/00465/S42 – Amendment to conditions associated with the access arrangements at land at Calderstones, Biggar Road, Hillend	Chief Officer, Place

Outline of Report and Summary of Discussion

Peter Arnsdorf, Planning, Sustainable Growth and Investment Manager, introduced the report. The report is a Section 42 application to amend planning conditions 9, 10 and 12 imposed on a grant of planning permission approved by the Committee at its meeting of 9 June 2020. The planning permission in principle is for the demolition of existing dwellinghouses, erection of hotel, erection of replacement house plot, formation of three house plots, formation of access roads, car parking and associated works at land at Calderstones, Biggar road, Hillend. Mr Arnsdorf reported that a Section 42 application is in itself a planning application which will supersede the original if implemented. Mr Arnsdorf noted that no representations had been received.

It is recommended that the Committee grant planning permission subject to the conditions as set out in the report.

The Chair thanked Mr Arnsdorf for the report and opened it up to questions.

Councillor Cassidy moved to grant planning permission subject to the conditions as set out in the report, seconded by Councillor Virgo.

Decision

The Planning Committee approved the planning permission subject to the conditions as set out in the report.

Action

The Planning, Sustainable Growth and Investment Manager

Agenda No	Report Title	Submitted by:
5.5	23/00521/S42 – Amendment to condition related to the temporary storage of soils at Site F, Shawfair	Chief Officer, Place
Outline of Report and Summary of Discussion		
<p>Peter Arnsdorf, Planning, Sustainable Growth and Investment Manager, introduced the report. The report is a Section 42 application to amend condition 1 imposed on a grant of planning permission for the storage of soil at Shawfair site F, Monktonhall Colliery road, Dalkeith, approved by the Committee at its meeting of 9 October 2018. The current application seeks to amend condition 1, which restricts the use to a temporary period of 5 years, in order to allow the storage use to continue for a further 5 years. Mr Arnsdorf noted that no representations had been received.</p> <p>It is recommended that the Committee grant planning permission subject to the conditions as set out in the report.</p> <p>The Chair thanked Mr Arnsdorf for the report and opened it up to questions.</p>		

Councillor Scott asked if the Council has a mechanism for ensuring the soil is cared for and stored appropriately. In response, Mr Arnsdorf reported that developers are seeking to retain the soil on site in order to manage it appropriately and enable its re-use within the site.

Councillor Smaill moved to grant planning permission subject to the conditions as set out in the report, seconded by Councillor Virgo.

Decision

The Planning Committee approved the planning permission subject to the conditions as set out in the report.

Action

The Planning, Sustainable Growth and Investment Manager

Councillor McManus and Kevin Anderson left the Chamber at 13.43.

Agenda No	Report Title	Submitted by:
5.6	23/00289/DPP – Erection of care home and retail unit at land at Greenlaw Mains, Mauricewood Road, Penicuik	Chief Officer, Place

Outline of Report and Summary of Discussion

Given his declaration of interest, Councillor McManus left the Planning Committee meeting for this Item.

Peter Arnsdorf, Planning, Sustainable Growth and Investment Manager, introduced the report as an application for planning permission (23/00289/DPP) for the erection of a care home with ancillary accommodation and erection of retail unit; formation of car parking, landscaping; and associated works at land at Greenlaw Mains, Mauricewood road, Penicuik. Mr Arnsdorf noted that 71 representations had been received.

It is recommended that the Committee grants planning permission subject to the conditions as set out in the report.

The Chair thanked Mr Arnsdorf for the report and opened it up to questions.

In relation to a representation within the report commenting that the submissions were inaccurate and misleading, Peter Arnsdorf confirmed no inaccuracies had been identified. Mr Arnsdorf explained that modifications were made throughout the planning process and so it was possible that misunderstandings may arise. The Chair noted that he had called-in this application for Committee decision due to the significant number of objections received. The Chair commented that it was his view that there were no grounds to object to this application, in planning terms. In response, Mr Arnsdorf confirmed that the application had been suitably assessed and deemed acceptable.

Mr Arnsdorf reported that the construction of a care home is compatible with the requirement for a local centre to provide local facilities, and the development is in accordance with development plan policies. The care home will have a café, hair salon, cinema and function room as well as an adjacent single retail unit, which will be available for the general public to use. It was noted that the care home would potentially provide accommodation for members of the community who no longer can live independently in their own home.

Mr Arnsdorf noted that the proposed building is three storeys high and therefore larger in scale than some of the surrounding buildings. This had prompted concern raised by representors but Mr Arnsdorf noted that the height variation would provide an urban design point of focus. Representors had raised concerns around the 24 hour nature of the operation, but it was noted that the development was relatively small scale and thus deemed to be low impact. The Committee acknowledged that the proposed development would place further demand on healthcare services.

The Chair raised a concern that developers do not always deliver the indicative plan and this can damage relationships with local residents.

Councillor Bowen asked if there was demand for places in care homes. Morag Barrow, Director of Health & Social Care: Midlothian HSCP / Chief Officer to Midlothian IJB, reported that there is a shortage of care home beds within Midlothian. Ms Barrow commented that she was supportive of the provision of additional care home beds, but the risk to health services being able to operate sustainably needs to be carefully considered. Ms Barrow further noted the significant pressure on health services within this particular area.

Councillor Bowen commented that it would be important to ensure that the care home allows local residents to use its facilities. Mr Arnsdorf reported that this was part of the applicant's business model. If deemed necessary by Elected Members, a condition could be included to safeguard access.

Councillors Bowen and Pottinger raised a concern around parking and queried whether the allocation was adequate. In response, Mr Arnsdorf reported that the allocation had been assessed and deemed appropriate, and noted that additional visitor parking was available if required. Mr Arnsdorf further noted that public transport options and active travel connections were available and as such the site is considered to be in a sustainable location. Councillor McKenzie noted that deliveries and waste uplift would be required and queried whether there was suitable ingress and egress for heavy goods vehicles. Mr Arnsdorf reported that access had been assessed and deemed suitable.

Councillor McKenzie asked if there had been any previous applications from retailers, as the representations suggest residents were expecting a collection of retail units. Mr Arnsdorf commented that the developer had struggled to secure a collection of interested retailers.

Councillor Cassidy moved to grant planning permission subject to the conditions as set out in the report and subject to the addition of a condition to safeguard local resident access to the amenities within the care home. Seconded by Councillor Virgo.

Decision

The Planning Committee approved the planning permission subject to the conditions as set out in the report and subject to the addition of a condition to safeguard access to care home amenities for local residents.

Action

The Planning, Sustainable Growth and Investment Manager

6. Private Reports

No items for discussion

7. Date of Next Meeting

The next meeting will be held on Tuesday 28 November at 1:00pm.

The meeting terminated at 14:16.