

MINUTES of **MEETING** of the **LOCAL REVIEW BODY** held in the Council Chambers, Midlothian House, Buccleuch Street, Dalkeith on Tuesday 31 July 2012 at 2.00 pm.

Present: - Councillors Bryant (Chair), Constable, de Vink, Imrie, Milligan, Pottinger, Rosie and Russell.

Apologies for Absence: - Councillors Baxter and Beattie.

1. Declaration of Interest

No declarations of interest were intimated.

2. Minutes

The Minutes of Meeting of 19 June 2012 were submitted and approved as a correct record.

Arising from paragraph 6(a) of the foregoing Minutes, the LRB noted that, the application from Mr A Herdman, Sprayways, 1 Oxenfoord Home Farm, Pathhead, seeking a review of the refusal of planning permission (11/00857/DPP, refused on 8 February 2012) for the change of use from agricultural building and associated land to car wash and valeting business (retrospective) at that address, had been withdrawn at his request.

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

Land to South of Hilltown House, Woolmet, Dalkeith

There was submitted report, dated 24 July 2012, by the Head of Planning and Development regarding an application from Mr and Mrs P Spoors per RSM Tenon, Unit 1, Calder Close, Calder Park, Wakefield, seeking a review of the refusal of planning permission (12/00111/DPP, refused on 4 April 2012) for the erection of four dwellinghouses at Land to the South of Hilltown House, Woolmet, Dalkeith. Accompanying the Notice of Review Form, which was appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.

Decision

After discussion, the Local Review Body:-

- (i) agreed that there was sufficient information to allow the review to be considered;
- (ii) agreed that the review be dealt with by way of a hearing to supplement the written submissions;

- (iii) agreed that an accompanied site visit be made to the review site on Monday 3 September 2012; and
- (iv) agreed to otherwise continue consideration of the review to the next LRB meeting on Tuesday 4 September 2012.

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

Sederunt

Councillor Constable joined the meeting during consideration of the foregoing item of business at 2.02 pm.

4. Eligibility to Participate in Debate

In considering the following items of business, only those LRB Members who had attended the site visits the previous day participated in the review process, namely Councillors Bryant (Chair), Constable, Imrie, Milligan, Pottinger, Rosie and Russell.

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

5. Notice of Review Requests Considered at a Previous Meeting –

(a) 92 Burnbrae Road, Bonnyrigg

With reference to paragraph 6(b) of the Minutes of 19 June 2012, the Local Review Body resumed consideration of a Notice of Review Request in respect of an application from Mr MacDougal, 92 Burnbrae Road, Bonnyrigg, seeking a review of the refusal of planning permission (11/00799/DPP, refused on 27 January 2012) for the extension to dwellinghouse at that address.

In this regard, there was submitted report, dated 24 July 2012, by the Head of Planning and Development, which incorporated a copy of the report submitted to the Local Review Body on 19 June 2012 when the matter was first considered and which had accompanied the Notice of Review Form submitted by the applicant's agent along with a supporting statement and other documentation. The Local Review Body had made an accompanied visit to the site on 30 July 2012.

The Chair, Councillor Bryant, welcomed the applicant's agents, Mr Gary White, Invision to the meeting.

In accordance with the procedures for the Local Review Body, the Planning Advisor gave a brief overview of the review hearing procedures and outlined the background to the case.

Thereafter, oral representations were received from the applicant's agents and the local authority Planning Officer; following which they both responded to questions from members of the LRB.

The LRB then gave careful consideration to the merits of the case based on all the information provided both in writing and in person at the Hearing. In particular, consideration was given to the impact of the new householder permitted development regulations introduced by the Scottish Government on 6 February 2012, under which the applicant could have built a similar extension without the need for planning permission.

Decision

After discussion, the Local Review Body agreed to uphold the Review Request and grant planning permission subject to 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.

Reason: *To accord with Section 58 and 27A of the Town and Country Planning (Scotland) Act 1997 (as amended by Planning etc (Scotland) Act 2006).*

- 2 Development shall not begin until samples of materials to be used on the external surfaces of the extension have been 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.

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 DP6 of the Midlothian Local Plan and national planning guidance and advice.*

(Action: Head of Planning and Development)

(b) 37 Belwood Road, Milton Bridge, Penicuik

With reference to paragraph 6(d) of the Minutes of 19 June 2012, the Local Review Body resumed consideration of a Notice of Review Request in respect of an application from Mr A Mason, 2 Livesey Terrace, Penicuik seeking a review of the refusal of planning permission (12/00143/DPP, refused on 8 May 2012) for the erection of one and a half storey extension to dwellinghouse at 37 Belwood Road, Milton Bridge, Penicuik.

In this regard, there was submitted report, dated 24 July 2012, by the Head of Planning and Development, which incorporated a letter, dated 6 July 2012, from Mr H Hay confirming his objection to the proposed development; and a copy of the report submitted to the Local Review Body on 19 June 2012 when the matter was first considered and which had accompanied the Notice of Review Form submitted by the applicants agent along with a supporting statement and other documentation. The Local Review Body had made an accompanied visit to the site on 30 July 2012.

The Chair, Councillor Bryant, welcomed the applicants Mr Alan and Mrs Jacqui Mason, their agent, Mr Graham Watson, and Mr Harry Hay, an interested third party who had made representations against the proposed development, to the meeting.

In accordance with the procedures for the Local Review Body, the Planning Advisor gave a brief overview of the review hearing procedures and outlined the background to the case.

Thereafter, oral representations were received from the applicants and their agent, the interested third party and the local authority Planning Officer; following which they responded to questions from members of the LRB.

The LRB then gave careful consideration to the merits of the case based on all the information provided both in writing and in person at the Hearing. In particular, consideration was given to relationship of the proposed extension to the existing property and the likely impact it might have on the neighbouring properties.

Decision

After discussion, the Local Review Body agreed to uphold the Review Request and grant planning permission subject to 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.

Reason: To accord with Section 58 and 27A of the Town and Country Planning (Scotland) Act 1997 (as amended by Planning etc (Scotland) Act 2006).

2. Development shall not begin until samples of materials to be used on the external surfaces of the extension have been 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.

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 DP6 of the Midlothian Local Plan and national planning guidance and advice.

(Action: Head of Planning and Development)

Declaration of Interest

Councillor Milligan declared a non pecuniary interest in the following item of business on the grounds that he had made an accompanied visit to the review site. However, as at no time had he offered a view on the particular review request now before the Local Review Body, he considered that the nature of

his interest was such that he did not need to withdraw, and he therefore intended to remain and participate in consideration thereof.

(c) Lyndean, St Leonards, Lasswade

With reference to paragraph 6(c) of the Minutes of 19 June 2012, the Local Review Body resumed consideration of a Notice of Review Request in respect of an application from Dr W MacKenzie, Lyndean, St Leonards, Lasswade seeking a review of the refusal of planning permission (12/00153/DPP, refused on 16 April 2012) for the installation of replacement windows at that address.

The LRB, having noted that the review was originally to have been dealt with by way of a Hearing, were informed that, as the change of meeting dates meant the applicants were unable to attend, they had requested that, so as not to delay matters further, the review should proceed and be dealt with by way of written submissions in their absence.

Having agreed to accede to the applicants' request, the LRB then gave consideration to report, dated 24 July 2012, by the Head of Planning and Development, which incorporated emails, dated 28 June 2012, from Mrs S Barker confirming her support for the proposed development and dated 18 June 2012, from Mrs R MacKenzie providing additional information concerning the proposed development; and a copy of the report submitted to the Local Review Body on 19 June 2012 when the matter was first considered and which had accompanied the Notice of Review Form submitted by the applicants agent along with a supporting statement and other documentation. The Local Review Body had made a visit to the site on 30 July 2012.

Decision

After giving careful consideration to the merits of the case based on all the written information provided, in particular, having discussed the likely impact of the proposed replacement windows given the nature and location of the application site, the Local Review Body agreed to uphold the Review Request and grant planning permission subject to the following condition:-

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.

Reason: *To accord with Section 58 and 27A of the Town and Country Planning (Scotland) Act 1997 (as amended by Planning etc (Scotland) Act 2006).*

(Action: Head of Planning and Development)

Sederunt

Councillor de Vink left the meeting at the conclusion of the foregoing item of business at 2.39 pm.

(d) 16 Temple, Gorebridge

With reference to paragraph 6(e) of the Minutes of 19 June 2012, the Local Review Body resumed consideration of a Notice of Review Request in respect of an application from Mr L Porteous, 5 Station Road, Gorebridge seeking a review of the refusal of planning permission (11/00748/DPP, refused on 13 December 2011) for the installation of rooflights and installation of window to replace existing door (part retrospective) at 16 Temple, Gorebridge.

In this regard, there was submitted report, dated 24 July 2012, by the Head of Planning and Development, which incorporated a copy of the report submitted to the Local Review Body on 19 June 2012 when the matter was first considered and which had accompanied the Notice of Review Form submitted by the applicants agent along with a supporting statement and other documentation. The Local Review Body had made an unaccompanied visit to the site on 30 July 2012.

The LRB then gave careful considered to the merits of the case based on all the written information provided.

Decision

After discussion, the Local Review Body agreed to dismiss the Review Request and uphold the decision to refuse planning permission for the installation of the rooflights on the front elevation and installation of window to replace existing door (part retrospective) on the grounds that:-

The installation of the proposed rooflights and full height window on the front elevation of the property would have a detrimental impact on the character and appearance of the surrounding Conservation Area and as such the proposal is contrary to Policies RP20 and RP22 of the adopted Midlothian Local Plan.

The LRB in reaching this decision were not opposed in principle to the installation of the rooflights on the rear elevation or to the replacement of the existing door, particularly if a more appropriate means could be found of achieving it.

Additionally, the LRB also agreed that, if required, the Director, Corporate Resources be authorised to take any necessary enforcement action.

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

(e) 74 Newbattle Abbey Crescent, Eskbank, Dalkeith

With reference to paragraph 6(f) of the Minutes of 19 June 2012, the Local Review Body resumed consideration of a Notice of Review Request in respect of an application from Mr H Macdonald, 74 Newbattle Abbey Crescent, Eskbank, Dalkeith seeking the amendment/removal of Conditions 1 and 2 of planning permission 11/00864/DPP for the erection of boundary fence and decking area at that address.

In this regard, there was submitted report, dated 24 July 2012, by the Head of Planning and Development, which incorporated a copy of the report submitted to the Local Review Body on 19 June 2012 when the matter was first considered and which had accompanied the Notice of Review Form submitted by the applicants agent along with a supporting statement and other documentation. The Local Review Body had made an unaccompanied visit to the site on 30 July 2012.

The LRB then gave careful considered to the merits of the case based on all the written information provided. In particular, consideration was given to the likely impact of the fence to the rear of the property being 2 metres in height as opposed to 1.8 metres and also the compatibility of the proposed enclosure of part of the front garden, with the adjoining rear boundary fence of the neighbouring property.

Decision

After discussion, the Local Review Body agreed to uphold the Review Request and grant planning permission subject to the following conditions:-

1. The fence identified in purple on the approved location plan dated 27 February 2012 shall be erected to a height of no more than 1.8 metres.

Reason: *This section of proposed fence would be detrimental to the visual amenity of this part of the conservation area which is characterised by open plan front gardens.*

2. The fence identified in green on the approved location plan dated 27 February 2012 shall be erected to a height of no more than 2.0 metres.

Reason: *To safeguard the character of the surrounding area which is within the conservation area.*

3. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason: *To accord with the provisions of Section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning etc (Scotland) Act 2006.*

(Action: Head of Planning and Development)

(f) Land Adjacent to 7 Westfield Park, Eskbank, Dalkeith

With reference to paragraph 6(g) of the Minutes of 19 June 2012, the Local Review Body resumed consideration of a Notice of Review Request in respect of an application from Mr F Watson, 5 Hawk Crescent, Dalkeith seeking a review of the refusal of planning permission (11/00780/DPP, refused on 20 January 2012) for the erection of a dwellinghouse on Land Adjacent to 7 Westfield Park, Eskbank, Dalkeith. Accompanying the Notice of Review Form, which was appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.

In this regard, there was submitted report, dated 24 July 2012, by the Head of Planning and Development, which incorporated a copy of the report submitted to the Local Review Body on 19 June 2012 when the matter was first considered and which had accompanied the Notice of Review Form submitted by the applicants agent along with a supporting statement and other documentation. The Local Review Body had made an unaccompanied visit to the site on 30 July 2012.

The LRB then gave careful considered to the merits of the case based on all the written information provided.

Decision

After discussion, the Local Review Body agreed to continue consideration of the review to the next LRB meeting on Tuesday 4 September 2012.

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

The meeting terminated at 3.00 pm.