

MINUTES of **MEETING** of the **LOCAL REVIEW BODY** held in the Council Chambers, Midlothian House, Buccleuch Street, Dalkeith on Tuesday 20 October 2015 at 2.00 pm.

Present: - Councillors Bryant (Chair), Baxter, Bennett, Constable, de Vink, Imrie, Milligan, and Montgomery.

Apologies for Absence: - Councillors Beattie and Rosie.

1. Declarations of Interest

Councillor Constable declared an interest in Agenda Item No 7(b) Notice of Review Request – Springfield Farm, Polton Road West, Lasswade.

Councillor Milligan advised that with regards to Agenda Item No 7(a) Notice of Review Request – Former Arniston Gas Works, Gorebridge, he may know one of the applicant and he would therefore be declaring an interest and taking no part in the consideration thereof. He would however remain during the discussion as he did not believe his presence would interfere with the LRB ability to come to an objective decision on the Review Request.

2. Minutes

The Minutes of Meeting of 1 September 2015 were submitted and approved as a correct record.

3. Decision Notices – (a) Honeysuckle Cottage, Nine Mile Burn, Penicuik (15/00034/DPP)

With reference to paragraph 4(e) of the Minutes of 1 September 2015, there was submitted a copy of the Local Review Body decision notice upholding a review request from Mr S Harper, Honeysuckle Cottage, Nine Mile Burn, Penicuik, seeking a review of the decision of the Planning Authority to refuse planning permission (15/00034/DPP, refused on 6 March 2015) for the erection of upper floor extension above existing flat roof extension and alterations to existing conservatory at that address and granting planning permission subject to conditions.

Decision

To note the LRB decision notice.

(b) Land adjacent to 103 Lothian Street, Bonnyrigg (15/00222/DPP)

With reference to paragraph 4(a) of the Minutes of 1 September 2015, there was submitted a copy of the Local Review Body decision notice dismissing a review request from D2 Architectural Design Ltd, 9 Eskbank Road, Dalkeith seeking on behalf of their client Mr L Pia a review of the decision of the Planning Authority to refuse planning permission (15/00222/DPP, refused on

29 April 2015) for the formation of car park at land adjacent 103 Lothian Street, Bonnyrigg. and upholding the decision to refuse planning permission for the reasons stated in the original decision notice.

Decision

To note the LRB decision notice.

(c) Land at 86 Main Street, Newtongrange (15/00185/DPP)

With reference to paragraph 4(b) of the Minutes of 1 September 2015, there was submitted a copy of the Local Review Body decision notice dismissing a review request from Domestic Architecture Development, 97 Dryburgh Avenue, Rutherglen, Glasgow seeking on behalf of their client Ms A Bardens a review of the decision of the Planning Authority to refuse planning permission (15/00185/DPP, refused on 4 May 2015) for the erection of a dwellinghouse at land at 86 Main Street, Newtongrange and upholding the decision to refuse planning permission for the reasons stated in the original decision notice.

Decision

To note the LRB decision notice.

(d) 205 Main Street, Pathhead (15/00325/DPP)

With reference to paragraph 4(d) of the Minutes of 1 September 2015, there was submitted a copy of the Local Review Body decision notice dismissing a review request from John Gordon Associates Ltd, 3 Dean Acres, Comrie, Dunfermline seeking, on behalf of their client Mr P McGonigle, removal of Condition 1 of planning permission 15/00325/DPP, granted on and upholding the decision to refuse planning permission for the reasons stated in the original decision notice.

Decision

To note the LRB decision notice.

Eligibility to Participate in Debate

In considering the following item of business, only those LRB Members who had attended the site visits on 31 August 2015 and had attended the LRB meeting on 1 September 2015 participated in the review process, namely Councillors Bryant (Chair), Baxter, Imrie, Milligan and Milligan.

4. Notice of Review Request Considered at a Previous Meeting - Land at Stone Place, Mayfield (15/00199/DPP)

With reference to paragraph 4(d) of the Minutes of 1 September 2015, there was submitted report, dated 13 October 2015, by the Head of Communities and Economy regarding an application from Mr R Mackay, Rightway Property Ltd, 2A Stone Place, Mayfield seeking a review of the decision of the Planning Authority to refuse planning permission (15/00199/DPP, refused on 14 April 2015) for the change of use of vacant ground to allow the siting of site huts for

the use as a builders welfare facility (retrospective) on land at Stone Place, Mayfield. Accompanying the Notice of Review Form and supporting statement, which were appended to the report, was a copy of the original determination report, dated 25 August 2015, the report of handling thereon, together with a copy of the decision notice.

The Local Review Body had made an unaccompanied visit to the site on Monday 31 August 2015.

The LRB recalled that having briefly discussed the merits of the case based on the written information provided consideration of the review request had been continued, in order that there could be further dialogue with the applicants regarding the appearance of the units, which were being used to provide temporary welfare facilities for staff working on an insulation programme currently underway in the Mayfield area.

The Planning Advisor confirmed that in response to the LRB's request, the applicants proposed to remove the advertisements from the building, paint the structure a uniform colour and plant a hedge in front of the structure fronting onto Stone Place.

Decision

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

1. The use hereby approved shall cease within two years of the date of this permission and the land returned to its condition prior to the development commencing within one month of the cessation of the use. All storage containers, material, structures and equipment brought onto the land in association with the temporary use shall also be removed within one month of the cessation of the use.

Reason: *The proposed use does not accord with development plan policies; however the material considerations of the application mean a temporary use is considered acceptable and enables the local planning authority to consider the environmental impacts of the development in the future.*

2. Within 42 days of this grant of planning permission the advertisements positioned on, attached to and/or adjacent to the temporary building/structure shall be removed from the site.
3. Within 42 days of this grant of planning permission the temporary building/structure shall be painted a single colour in accordance with details to be submitted to and approved in writing by the local planning authority.
4. Within 42 days of this grant of planning permission a hedge shall be planted on the grass verge between the temporary building/structure and footpath running along Stone Place in accordance with details to be submitted to and approved in writing by the local planning authority. The hedge shall run the length of the temporary building/structure and the length of the adjoining building (2A Stone Place, Mayfield).

Reason for condition 2, 3 and 4: To mitigate the detrimental impact the proposed development has on the local streetscape.

(Action: Head of Communities and Economy)

Eligibility to Participate in Debate

With reference to item 1 above, in considering the following items of business, only those LRB Members who had attended the site visits on 19 October 2015 participated in the review process, namely Councillors Bryant (Chair), Baxter, Bennett, Constable (Item No 5(a) only), de Vink, Imrie, Milligan (Item No 5(b) only), and Montgomery

5. Notice of Review Requests Considered for the First Time - (a) Former Arniston Gas Works, Gorebridge (15/00335/PPP)

There was submitted report, dated 13 October 2015, by the Head of Communities and Economy regarding an application from RFA Ltd, 3 Walker Street, Edinburgh, seeking on behalf of their client Mr A McCulloch, a review of the decision of the Planning Authority to refuse planning permission in principle (15/00335/PPP, refused on 30 June 2015) for the erection of 10 dwellinghouses, formation of access and associated works at the Former Arniston Gas Works, Gorebridge. Accompanying the Notice of Review Form and supporting statement, which were appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.

The Local Review Body had made an accompanied visit to the site on Monday 19 October 2015.

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. He then introduced the applicant's agent, Mr Richard Finc, RFA Ltd, and Mr Tom Hobbs, Forestry Commission Scotland to the meeting.

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

Thereafter, the LRB gave careful consideration to the merits of the case based on all the information provided both in writing and in person at the Hearing. Whilst noting the present and emerging development plan policies, the LRB debated whether there were material planning considerations that justified a departure. The LRB also discussed the potential impact given other already consented developments planned or already taking place in the area and also possible issues of precedent if consent were to be granted for the proposed development.

Decision

After further discussion, the Local Review Body agreed to uphold the review request, and grant planning permission, subject to:

- (a) the prior signing of a legal agreement to secure the provision of appropriate developer contributions; and
- (b) the following conditions:
 1. Development shall not commence until an application for approval of matters specified in conditions for a scheme of hard and soft landscaping has 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 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;
 - v. schedule of plants to comprise species, plant sizes and proposed numbers/density;
 - vi. a 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); and,
 - vii. drainage details and details of sustainable urban drainage systems to manage water runoff.

All hard and soft landscaping shall be carried out in accordance with the scheme approved in writing by the Planning Authority as per 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 RP7, RP22, RP25 and DP2 of the adopted Midlothian Local Plan and national planning guidance and advice. To ensure that there is no adverse impact on the operation of the adjacent railway.*

2. Development shall not commence until an application for approval of matters specified in conditions for the siting, design and external appearance of all residential units and other structures has been submitted to and approved in writing by the Planning Authority. The application shall include samples of

materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and ancillary structures. 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 RP7, RP22, RP25 and DP2 of the Midlothian Local Plan and national planning guidance and advice.*

3. Development shall not commence until an application for approval of matters specified in conditions for details of a scheme for 'Percent for Art', including a timetable for implementation, have been submitted to and approved in writing by the Planning Authority. The scheme of 'Percent for Art' shall be implemented as per the approved details.

Reason: *To ensure that 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 adopted Midlothian Local Plan and national planning guidance and advice.*

4. Development shall not commence until an application for approval of matters specified in conditions for 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 (including footpath lighting) and signage;
 - v. proposed construction traffic access and haulage routes;
 - vi. 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;
 - vii. proposed car parking arrangements;
 - viii. an AutoTrack, vehicle swept path analysis, to demonstrate that the site is suitable for HGVs (refuse and recycling vehicles) to enter and exit in a forward gear; and,
 - ix. a programme for the completion of the construction access, roads, footpaths and cycle paths.

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

5. Development shall not commence until an application for approval of matters specified in conditions for a scheme to deal with any contamination of the site has been submitted to and approved in writing by the Planning Authority. The scheme shall contain details of the proposals to deal with any contamination and include:
 - i. a site survey (including bore hole testing where necessary) to establish that the level of contamination within the site is acceptable in relation to the proposed development, or that remedial and/or protective measures could be undertaken to bring contamination to an acceptable level in relation to the proposed development; and
 - ii. a detailed schedule of any required remedial and/or protective measures, including their programming.

Prior to any part of the site being occupied for residential purposes, the measures to decontaminate/remediate the ground conditions of the site shall be fully implemented as approved by the Planning Authority.

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

6. Details of building levels on the site, to be submitted in terms of condition 1i above, shall show finished floor levels for buildings being raised above ground level.

Reason: *In order to prevent surface water runoff from surrounding roads from adversely impacting on the properties.*

7. Details of the means of drainage, to be submitted in terms of condition 1vii above, shall ensure that any SUDs system shall be located outwith 10metres of the adjacent railway infrastructure.

Reason: *In order to ensure that water from the proposed development does not drain on to the railway; in the interests of railway safety.*

8. Details of the siting of the buildings, to be submitted in terms of condition 2 above, shall ensure that no buildings are to be erected within 2m of the boundary with the railway.

Reason: *In the interests of railway safety.*

9. Details of the design of dwellinghouses, to be submitted in terms of condition 2 above, shall include measures to mitigate against noise and vibrations generated by the adjacent railway.

Reason: *In order to protect the amenity of future residents of the dwellings from noise and disturbance generated by the railway.*

10. Details of the materials to be used on the external surfaces of the buildings, to be submitted in terms of condition 2 above, shall comprise traditional materials, including natural slate, wet or smooth render, natural stone and timber.

Reason: *In order to ensure a high quality development which respects, and reflects, the character and appearance of buildings within the conservation area and designed landscape.*

11. Details of the means of enclosure, to be submitted in terms of condition 2 above, shall include a 1.8m high trespass proof fence along the boundary with the adjacent railway.

Reason: *In order to prevent unauthorised and unsafe access to the railway; in the interest of the safe operation of the railway.*

12. Details of the vehicular access, to be submitted in terms of condition 4ii above, shall ensure that the vehicular access shall measure 5.5m wide.

Reason: *To ensure the safe passage of pedestrians and vehicles in the interests of highway safety.*

13. Details of the proposed parking arrangements, to be submitted in terms of condition 4vii above, shall include space for five visitor parking spaces within the development site.

Reason: *In order to ensure that sufficient on-site parking is provided so that vehicles do not park in unsafe locations which would be potentially detrimental to highway safety.*

(Action: Head of Communities and Economy)

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Councillors Constable and de Vink left the meeting at the conclusion of the foregoing item of business at 2.30pm.

(b) Land at Springfield Farm, Lasswade (15/00120/DPP)

There was submitted report, dated 13 October 2015, by the Head of Communities and Economy regarding an application from Ms F Battey, Springfield Farm, Polton, Lasswade seeking a review of the decision of the Planning Authority to refuse planning permission (15/00120/DPP, refused on 29 April 2015) for the erection of fence and gate and formation of access track (part retrospective) at that address. Accompanying the Notice of Review Form and supporting statement, which were appended to the report, was a copy of the report of handling thereon, together with a copy of the decision notice.

The Local Review Body had made an unaccompanied visit to the site on Monday 19 October 2015.

The LRB then gave careful consideration to the merits of the case based on all the written information provided. In this particular instance, the LRB were in agreement that there was insufficient justification for another access track.

Decision

The Local Review Body agreed to dismiss the review request and uphold the decision to refuse planning permission for the following reason:-

It has not been demonstrated to the satisfaction of the Planning Authority that the proposed access track can be constructed without having a significant adverse impact on the character and appearance of the surrounding area and therefore the proposed access is contrary to policies, RP1, RP2 and RP6 of the adopted Midlothian Local Plan.

(Action: Head of Communities and Economy)

The meeting terminated at 2.45 pm.