

Minute of Meeting

Planning Committee
Tuesday 16 May 2023
Item No: 4.1



Planning Committee

Date	Time	Venue
Tuesday 28 March 2023	1.00 pm	Council Chambers, Midlothian House

Present:

Councillor Imrie (Chair)	Councillor Alexander
Councillor Bowen	Councillor Cassidy
Councillor McEwan	Councillor McKenzie
Councillor McManus	Councillor Milligan
Councillor Parry	Councillor Pottinger
Councillor Russell	Councillor Scott
Councillor Small	Councillor Virgo
Councillor Winchester	

In Attendance:

Derek Oliver	Chief Officer Place
Peter Arnsdorf	Planning, Sustainable Growth and Investment Manager
Alan Turpie	Legal and Governance Manager
Andrew Henderson	Democratic Services Officer

1. Apologies

Apologies for absence were received from Councillor Curran, Councillor McCall, Councillor McManus and Councillor Winchester.

2. Order of Business

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

3. Declarations of interest

None

4. Minutes of Previous Meetings

The minute of the meeting of 28 February 2023 was submitted and approved as a correct record.

Councillor Pottinger made reference to the decision to reinstate the footpath at Easthouses Primary School. Peter Arnsdorf confirmed that this had been included as part of the plan to reinstate the school.

5. Reports

Agenda No	Report Title	Submitted by:
5.1	Tree Preservation Order, Bilston	Chief Officer Place
Outline of report and summary of discussion		
<p>This report seeks the Committee's approval to confirm a Tree Preservation Order (TPO) 1 of 2022 issued on 1 December 2022 for eight individual trees (T1 - T8) and two groups of trees (G1 and G2) at Pentland Lea and The Firs, Seafield Road, Bilston.</p> <p>A brief discussion ensued in relation to Tree Preservation Orders in which the Planning, Sustainable Growth and Investment Manager clarified matters in relation to procedural issues and confirmed it is the land owners responsibility to maintain trees on their land and to also comply with a Tree Preservation Order.</p>		
Decision		
The Committee agreed the recommendations as detailed in the Report.		
Action		
Planning, Sustainable Growth and Investment Service Manager		

Agenda No	Report Title	Submitted by:
5.2	Prosecution for non-compliance with Enforcement Notice, 1 Laurel Bank Road, Mayfeild	Chief Officer Place
Outline of report and summary of discussion		
This report relates to the non-compliance with the requirements of an enforcement notice served by the Council pursuant to Section S127 of the Town and Country Planning (Scotland) Act 1997, as amended, with regard the erection of a building comprising a garage and sun room at 1 Laurel Bank Road, Mayfeild.		
Decision		
<ul style="list-style-type: none"> a) Planning Committee noted the contents of the report; and b) Instructed Council Officers to take Direct Action to refer the case to the Crown Office and Procurator Fiscal Service for consideration to be given to prosecutorial action in relation to the parties who have breached the enforcement notice, pursuant to Section 136 of the Town and Country Planning (Scotland) Act 1997. The maximum penalty on successful prosecution is a fine of up to £50,000 per offence. 		
Action		
Planning, Sustainable Growth and Investment Manager		

Agenda No	Report Title	Submitted by:
5.3	Prosecution for non-compliance with Enforcement Notice, Edgehead Farmhouse, Pathhead	Chief Officer Place
Outline of report and summary of discussion		
This report relates to the non-compliance with the requirements of an enforcement notice served by the Council pursuant to Section 127 of the Town and Country Planning (Scotland) Act 1997, as amended, with regard the use of clear glazing rather than opaque glazing in windows forming part of an approved extension at Edgehead Farmhouse, Edgehead Road, Edgehead, Pathhead.		
Decision		
After careful consideration Planning Committee agreed;		
<ul style="list-style-type: none"> a) To note the contents of the report; and b) Instructed Council Officers to take Direct Action to refer the case to the Crown Office and Procurator Fiscal Service for consideration to be given to prosecutorial action in relation to the parties who have breached the enforcement notice, pursuant to Section 136 of the Town and Country 		

Planning (Scotland) Act 1997. The maximum penalty on successful prosecution is a fine of up to £50,000 per offence.

Action

Planning, Sustainable Growth and Investment Manager

Agenda No	Report Title	Submitted by:
5.4	Listed Building Enforcement Notice, 130 High Street, Dalkeith	Chief Officer Place
Outline of report and summary of discussion		
<p>The purpose of this report is to advise the Committee of a listed building enforcement notice appeal decision with regard the removal of sixteen singled glazed, timber framed, sash and case windows, and the installation of sixteen double glazed, uPVC framed, tilt and turn windows in the front, rear and side facades at 130 High Street.</p>		
Decision		
<p>Planning Committee noted the enforcement notice appeal decision with regard to the removal of sixteen singled glazed, timber framed, sash and case windows, and the installation of sixteen double glazed, uPVC framed, tilt and turn windows in the front, rear and side facades at 130 High Street, Dalkeith.</p>		
Action		
Planning, Sustainable Growth and Investment Manager		

Agenda No	Report Title	Submitted by:
5.5	NPF4 Impact on Outstanding Planning Applications.	Chief Officer Place
Outline of report and summary of discussion		
<p>The purpose of this report is to seek the Committee's agreement that planning applications, considered prior to the adoption of National Planning Framework No. 4 (NPF4), that have a 'minded to grant' decision and are subject to the completion of a planning obligation are progressed to conclusion without referral back to the Committee or Local Review Body (LRB).</p> <p>A brief discussion ensued in relation to the report, Peter Arnsdorf clarified that all new applications would be subject to NPF4 and confirmed that should developers wish to remix a development it the application would be assessed under NPF4.</p>		
Decision		
<p>Planning Committee agreed that those planning applications, considered prior to the adoption of NPF4, that have a 'minded to grant' decision as set out in tables 1</p>		

and 2 of the report are progressed to conclusion without being referred back to the Committee or the Local Review Body.

Action

Planning, Sustainable Growth and Investment Manager

Agenda No	Report Title	Submitted by:
5.6	Land between Deanburn and Mauricewood Road, Penicuik (22.00253.DPP)	Chief Officer Place

Outline of report and summary of discussion

The planning application is for the erection of 35 dwellinghouses on land between Deanburn and Mauricewood Road Penicuik. The application proposes an amendment to the house types previously granted planning permission (17/00068/DPP) for part of the wider North West Penicuik development site.

Decision

After careful consideration Planning Committee agreed;

- a) That the Planning, Sustainable Growth and Investment Manager confirm that the sustainable drainage system would not impact local flooding; and
- b) That planning permission be granted for the following reason:

The proposed development site will contribute to the sustainable delivery of housing in compliance with the policies of National Planning Framework 4 and is allocated for housing in the Midlothian Local Development Plan 2017 (MLDP) where there is a presumption in favour of an appropriate form of development. Furthermore, the principle of residential development on the site has been established by the grant of planning permission 17/00068/DPP. The proposed detailed scheme of development in terms of its layout, form, design and landscape framework is acceptable and as such accords with development plan policies. The presumption for development is not outweighed by any other material considerations.

Subject to:

- a. The prior amendment/modification of the planning obligation associated with planning permission 17/00068/DPP (and any other amendment planning applications) to ensure it covers the development approved under this application (22/00253/DPP). and
- b. the conditions as set out in the report.

Action

Planning, Sustainable Growth and Investment Manager

Agenda No	Report Title	Submitted by:
5.7	Land East, North East of Auchendinny (22.00848.DPP)	Chief Officer Place
Outline of report and summary of discussion		
<p>The application is for the erection of 395 dwellings, formation of access road, car parking, landscaping and associated works on land east/north east of Auchendinny, The Brae, Auchendinny, Penicuik.</p> <p>A discussion ensued amongst members with regard to road access. The Planning, Sustainable Growth and Investment Manager confirmed that the northern access was for 345 units whilst the remaining 50 properties would be accessed from Firth Road. Members then took the opportunity to express concern in relation to paragraphs 8.8.3, 8.8.4 and 8.8.5 of the report. Peter Arnsdorf clarified that the local plan identified the site as local housing with a primary school and that when council approved the legal agreement it gave the council a year to take up the land for the school and that the council had not taken up this option, the second paragraph outlining that the land is vacant should the council wish to pursue this further. The Planning, Sustainable Growth and Investment Manager further clarified that with regard to active travel, developer contributions are being used to tie in with road infrastructure improvements in addition to discussions with bus companies to assess options.</p> <p>In response to comments regarding the possible use of modular housing for affordable developments, The Planning, Sustainable Growth and Investment Manager confirmed that this would be a possibility.</p> <p>After further discussions, Councillor Parry, seconded by Councillor Cassidy moved to reject the application due to the fact that under paragraph 8.8.3 the report referenced that the plan was part of the MLDP as site HS20 and that under section 8.8.5 reference was made to the use of the possible school site for landscaping, highlighting that no decision was taken by council to reject the building of a school on the site. After further discussion, Councillor Imrie, seconded by Councillor Small moved to accept the recommendations subject to the removal of paragraphs 8.8.4 and 8.8.5. Thereafter, Councillor Parry and Councillor Cassidy agreed to the amended the initial motion to reflect the removal of paragraphs 8.8.4 and 8.8.5 from the report with the caveat that sustainable public transport systems be taken into account.</p>		
Decision		
<p>After careful consideration Planning Committee agreed;</p> <p>a) Not to consider paragraphs 8.8.4 and 8.8.5 in assessing the planning application;</p> <p>That planning permission be granted for the following reason: <i>The proposed development site will contribute to the sustainable delivery of housing in compliance with the policies of National Planning Framework 4 and the vast majority of the site is allocated for housing in the Midlothian Local</i></p>		

Development Plan 2017 (MLDP) forming part of the Council's committed housing land supply and where there is a presumption in favour of an appropriate form of development. The remainder of the site is located within the Countryside where the complimentary recreational development proposed (multi user cycle path) is of a scale and nature appropriate to the character of this area. This presumption in favour of development is not outweighed by any other material conditions.

Subject to:

- a. The prior signing of a planning obligation to secure:
 - A financial contribution towards primary education capacity;
 - A financial contribution towards secondary education capacity;
 - A financial contribution towards the A701 realignment and A702 link road project/public transport;
 - A financial contribution towards off site children's play and open space improvements;
 - Long term maintenance arrangements for communal open space within the site; and
 - The provision of affordable housing (25%). The legal agreement shall be concluded within six months. If the agreement is not concluded timeously the application will be refused.
- b. The conditions as set out in the report.

Action

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 16 May 2023 at 1.00pm

The meeting terminated at 2.00 pm