

Minute of Meeting



Local Review Body

Date	Time	Venue
16 January 2018	2.00pm	Council Chambers, Midlothian House, Buccleuch Street, Dalkeith

Present:

Councillor Imrie (Chair)	Councillor Alexander
Councillor Baird	Councillor Cassidy
Councillor Lay-Douglas	Councillor Milligan
Councillor Muirhead	Councillor Munro

1 Apologies

Apologies received from Councillor Smaill.

2 Order of Business

The order of business was confirmed as outlined in the agenda that had been previously circulated.

3 Declarations of interest

No declarations of interest were received.

4 Minutes of Previous Meetings

The Minutes of Meeting of 21 November 2017 were submitted and approved as a correct record.

5 Reports

Agenda No	Report Title	Presented by:
5.1	Decision Notice – 61A Clerk Street, Loanhead [17/00363/DPP].	Peter Arnsdorf
Executive Summary of Report		
With reference to paragraph 5.3 of the Minutes of 21 November 2017, there was submitted a copy of the Local Review Body decision notice upholding a review request from Mr C Allmond, DM Hall, 27 Canmore Street, Dunfermline seeking on behalf of their client, Mr N Sneddon, Full Speed Ahead Finance a review of the decision of the Planning Authority to refuse planning permission (17/00363/DPP, refused on 18 September 2017) for the Change of Use from Chiropodist (class 2) to Dwellinghouse (class 9) at 61A Clerk Street, Loanhead and granting planning permission.		
Decision		
To note the LRB decision notice.		

Agenda No	Report Title	Presented by:
5.2	Decision Notice – 29 Waverley Road, Bonnyrigg [17/00440/DPP].	Peter Arnsdorf

Executive Summary of Report

With reference to paragraph 5.5 of the Minutes of 21 November 2017, there was submitted a copy of the Local Review Body decision notice dismissing a review request from Mr T Ferguson, Ferguson Planning, Shiel House, 54 Island Street, Galashiels seeking on behalf of their client Mr L Pia, a review of the decision of the Planning Authority to refuse planning permission (17/00440/DPP, refused on 31 July 2017) for the change of use of a flatted dwellinghouse to house of multiple occupation at 29 Waverley Road, Bonnyrigg and refusing planning permission.

Decision

To note the LRB decision notice.

Eligibility to Participate in Debate

In considering the following items of business, only those LRB Members who had attended the site visits on Monday 15 January 2018 participated in the review process, namely Councillors Imrie, Alexander, Baird, Cassidy, Lay-Douglas, Milligan and Muirhead.

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

Agenda No	Report Title	Presented by:
5.3	Notice of Review Request Considered for the First Time – 2A Nivensknowe Road, Loanhead [17/00404/S42].	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 5 January 2018, by the Head of Communities and Economy regarding an application from Mr J Sorrell, Sorrell Associates, The Green House, 41 St Bernard's Crescent, Edinburgh seeking on behalf of their client, Mr S Greenhorn, 911 Rescue & Recovery Ltd a review of the decision of the Planning Authority to refuse planning permission (17/00404/S42, refused on 7 July 2017) for the removal of Conditions 3 and 4 of Planning Permission 16/00497/DPP (Alterations to and change of use of building from warehouse to vehicle maintenance and service depot, erection of gatehouse, fencing, gates, formation of hardstanding, car parking and truck wash bay (retrospective)) at 2A Nivensknowe Road, Loanhead.

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 15 January 2018.

Summary of Discussion

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 Mr Jim Sorrell, Sorrell Associates (the applicant's agent) and Mr David Christie, 911 Rescue & Recovery Ltd (the applicants)

Thereafter, oral representations were received firstly from Mr Sorrell on behalf of the applicants, then from Mr Robertson, the local authority Planning Officer; following which they both responded to Members' questions/comments.

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. Whilst noting the reasons for refusal, the LRB considered that the proposed change of use and alterations were compatible to its location and that whilst it was more normal to expect the boundary fence and access gate to be set back from the heel of the pavement to allow for landscaping, in this instance the nature of the applicant's business justified a departure; these being viewed as material considerations. The LRB welcomed the applicant's offer to paint the fence and access gates and discussed the possibility of some sort of planting although concerns were raised about the upkeep and maintenance of any planting and also possible encroaching onto the footpath. The retrospective nature of the application drew some criticism of the applicant, it being emphasised by the LRB that their initial failure to engage had undoubtedly contributed to the current situation.

Decision

After further discussion, the LRB agreed to uphold the review request, and grant planning permission for the following reason:

The proposed change of use and alterations are in keeping with the character of the surrounding industrial estate, would not detract from the amenity of the surrounding area and is likely to improve the economic activity and employment levels at the site and so complies with policies DEV2 and STRAT1 of the Midlothian Local Development Plan 2017. The fence and access gate erected along Nivensknowe Road on the southern boundary and south west corner of the site are required for the operation of the business and do not have a detrimental impact on amenity as to require their removal or relocation.

subject to:-

1. The metal and timber fence and access gate erected along Nivensknowe Road on the southern boundary and south west corner of the site shall be painted green within 2 months from this grant of planning permission and maintained as such thereafter.

Reason: *In the interest of visual amenity*

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.4	Notice of Review Request Considered for the First Time – 14 High Street, Lasswade [17/00636/DPP]	Peter Arnsdorf
Executive Summary of Report		
<p>There was submitted report, dated 5 January 2018, by the Head of Communities and Economy regarding an application from Mr A Hird, Cundall, 4th floor Partnership House, Regent Farm Road, Gosford, Newcastle upon Tyne seeking on behalf of their client Mrs L Toye, a review of the decision of the Planning Authority to refuse planning permission (17/00636/DPP, refused on 13 October 2017) for the change of use of office building (class 4) to restaurant (class 3) and installation of roof vent at 14 High Street, Lasswade.</p> <p>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.</p> <p>The Local Review Body had made an accompanied visit to the site on Monday 15 January 2018.</p>		
Summary of Discussion		
<p>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 Mrs Louise Toye (the applicant), Ms Rebecca Taylor, Cundall (applicant's agent), Mr Pete Toye (representations in favour of the application) and Mr Keith Chapman (representation against the application).</p> <p>Thereafter, oral representations were received firstly from Mrs Toye, then from Ms Taylor, Mr Toye, Mr Chapman and finally from Mr King, the local authority Planning Officer; following which they responded to Members' questions and comments.</p> <p>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 reasons for refusal, the LRB considered that the proposed use was compatible to its location, that it provided employment benefits and would see a vacant commercial unit brought back into use; these being viewed as material considerations. The LRB discussed at some length the issue of car parking, in particular considering various ways in which it might potentially be managed so as to minimise any detrimental impact, including the possibility of a developer contribution towards improvements to the local public car park.</p> <p>During the course of these discussions the LRB noted an intimation from Councillor Milligan that he knew both Mrs Toye the applicant and also Mr Chapman who had made representations against the application.</p>		

Decision

After further discussion, the LRB agreed to uphold the review request, and grant planning permission for the following reason:-

The proposed restaurant would contribute to the local economy, create jobs and bring a vacant commercial building back into use. These economic benefits along with mitigation measures to limit any impact on residential amenity outweigh concerns with regard on-site parking provision, subject to the effective management of the business with regard customer and staff parking.

subject to:-

1. The kitchen of the restaurant shall be ventilated by an extraction ventilation system which shall:
 - a) be designed to achieve 30 air changes per hour;
 - b) provide adequate ventilation to the cooking area to eliminate the need to leave doors and windows open;
 - c) prevent the emission of cooking odours likely to cause nuisance to neighbouring commercial units and surrounding residential properties; and
 - d) terminate at sufficient height to permit the free disposal of exhaust fumes.
2. No amplified music or sound reproduction equipment used in association with the unit hereby permitted shall be audible within any nearby living apartment.
3. The design and installation of any plant, machinery or equipment shall be such that any associated noise complies with NR25 (an acceptable noise rating level based on an international standard) when measured within any nearby living apartment and no structure borne vibration is perceptible within any living apartment.

Reason for conditions 1 to 3: To safeguard nearby residential amenity

4. Prior to the hereby approved restaurant coming into use a customer and staff parking management plan shall be submitted to and approved in writing by the local planning authority. The strategy shall outline details of; how customers will be notified of the limited parking provision at the site and the location of alternative car parking provision, the promotion of non-private car travel to and from the site, staff travel arrangements and monitoring of parking arrangements to ensure there is no detrimental impact on highway safety. The approved business shall operate in accordance with the approved parking strategy.

Reason for condition 4: In the interests of highway safety

Action

Head of Communities and Economy

Sederunt/Declaration of Interest

Councillors Alexander Baird and Milligan all declared non-pecuniary interests in the following item of business, on the grounds that they knew the applicant and left the meeting at 3.14 pm and 3.16 pm respectively, taking no part in the discussion thereof.

Agenda No	Report Title	Presented by:
5.5	Notice of Review Request Considered for the First Time – 31A Eldindean Road, Bonnyrigg [17/00758/DPP].	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 5 January 2018, by the Head of Communities and Economy regarding an application from Mrs M Anderson, 31a Eldindean Road, Bonnyrigg seeking a review of the decision of the Planning Authority to refuse planning permission (17/00758/DPP, refused on 14 November 2017) for the erection of an extension 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 15 January 2017.

Summary of Discussion

Having heard from the Planning Advisor, the LRB then gave careful consideration to the merits of the case based on all the written information provided. In particular, consideration was given to the likely impact of the proposed development on the useable garden area which would be significantly reduced as a result. It could also lead to the potential removal of the existing off-street parking provision to compensate for the loss of the garden ground. The LRB acknowledged that whilst the choice of having a garden, or not, was very much a personal one, policy DP2 required that houses suitable for families should be provided with adequate useable private gardens.

Decision

To dismiss the review request, and uphold the decision to refuse planning permission for the following reasons:-

1. *The proposed extension constitutes overdevelopment resulting in a very restricted private useable garden of limited use to the detriment of the occupiers of the property, including future occupiers and could result in the removal of off-street parking at the site.*
2. *For the above reason the proposal is contrary to policy DEV2 of the adopted 2017 Midlothian Local Development Plan which seeks to protect the character and amenity of the built-up area.*

Action
Head of Communities and Economy

Sederunt
Councillors Alexander and Milligan both rejoined the meeting at the conclusion of the foregoing item of business at 3.23 pm.

Agenda No	Report Title	Presented by:
5.6	Notice of Review Request Considered for the First Time – Land west of Roanshead Crescent, Easthouses [17/00690/PPP].	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 5 January 2018, by the Head of Communities and Economy regarding an application from Mr R McQueenie, REM Associates, 21 Young Street, Edinburgh seeking on behalf of their client Mr B McBride, a review of the decision of the Planning Authority to refuse planning permission in principle (17/00690/PPP, refused on 17 October 2017) for the erection of three dwellinghouse at land west of Roanshead Crescent, Easthouses, Dalkeith.

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 15 January 2018.

Summary of Discussion

Having heard from the Planning Advisor, the LRB then gave careful consideration to the merits of the case based on all the written information provided. In particular, consideration was given to the sloping nature of the application site which was likely to require significant engineering works in order to enable development to take place and also the likely impact of the proposed development on the character and amenity of the surrounding area.

Decision

To dismiss the review request, and uphold the decision to refuse planning permission for the following reason:-

1. *The proposed development would have an adverse impact on the amenity of the existing residential area, as a result of increased vehicle numbers and construction traffic on unsuitable roads.*

2. *It has not been demonstrated that access can be provided to the proposed dwellinghouses; in the absence of an access to the dwellinghouses there would be additional on-street parking which would have an adverse impact on the amenity of the area and have an adverse impact on vehicle and pedestrian safety in the area.*
3. *The proposed development would have an adverse impact on the character and appearance of the area and adjacent conservation area as a result of significant engineering works to change the levels of the site.*
4. *For the above reasons the proposal does not comply with policies RP20 and RP22 of the Midlothian Local Plan and policies DEV2 and ENV19 of the proposed Midlothian Local Development Plan.*

Action
Head of Communities and Economy

The meeting terminated at 3.27 pm.