

Minute of Meeting



Local Review Body

Date	Time	Venue
26 April 2016	2.00pm	Council Chambers, Midlothian House, Buccleuch Street, Dalkeith

Present:

Councillor Bryant (Chair)	Councillor Baxter
Councillor Beattie	Councillor de Vink
Councillor Imrie	Councillor Milligan
Councillor Rosie	

1 Apologies

Apologies received from Councillors Bennett, Constable and Montgomery.

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 8 March 2016 were submitted and approved as a correct record.

5 Reports

Agenda No	Report Title	Presented by:
5.1	Decision Notice – St Mary’s Lodge, Rosewell [15/00767/DPP]	Peter Arnsdorf

Executive Summary of Report

With reference to paragraph 5.3 of the Minutes of 8 March 2016, there was submitted a copy of the Local Review Body decision notice upholding a review request from Dr L Collins, Capielaw Cottage, Rosewell, seeking a review of the decision of the Planning Authority to refuse planning permission (15/00767/DPP, refused on 12 November 2015) for the erection of an extension to dwellinghouse at St Mary’s Lodge, Rosewell and granting planning permission subject to conditions.

Decision

To note the LRB decision notice.

Agenda No	Report Title	Presented by:
5.2	Decision Notice – 42 Station Road, Roslin [15/00762/DPP]	Peter Arnsdorf

Executive Summary of Report

With reference to paragraph 5.4 of the Minutes of 8 March 2016, there was submitted a copy of the Local Review Body decision notice upholding a review request from Bergmark Architects, 3 Walker Street, Edinburgh, seeking on behalf of their client Mr A Cormack, a review of the decision of the Planning Authority to refuse planning permission (15/00762/DPP, refused on 30 October 2015) for the erection of an extension to dwellinghouse at 42 Station Road, Roslin and granting planning permission subject to conditions.

Decision

To note the LRB decision notice.

Agenda No	Report Title	Presented by:
5.3	Decision Notice – 4 Newmills Road, Dalkeith [15/00740/DPP]	Peter Arnsdorf

Executive Summary of Report

With reference to paragraph 5.5 of the Minutes of 8 March 2016, there was submitted a copy of the Local Review Body decision notice upholding a review request from Hardies Property and Construction Consultants, London House, 20-22 East London Street, Edinburgh, seeking on behalf of their client Ms S Ballantyne, a review of the decision of the Planning Authority to refuse planning permission (15/00740/DPP, refused on 26 October 2015) for the change of use from office (class 4) to residential (class 9) at 4 Newmills Road, Dalkeith and granting planning permission subject to conditions.

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 18 January 2016 and had attended the subsequent LRB meeting on 19 January 2016 participated in the review process, namely Councillors Bryant (Chair), Baxter, Beattie Imrie and Rosie.

Councillors de Vink and Milligan whilst present during the debate had been unable to attend the site visit/previous meeting and accordingly did not actively participate in the proceedings.

Agenda No	Report Title	Presented by:
5.4	Notice of Review Request Considered at a Previous Meeting – Shewington, Rosewell [15/00158/DPP]	Peter Arnsdorf

Executive Summary of Report

With reference to paragraph 4 of the Minutes of 19 January 2016, there was submitted report, dated 19 April 2016, by the Head of Communities and Economy providing an update regarding the review request from Mainstream Renewable Power, 2 West Regent Street, Glasgow, on behalf of their clients Neart na Gaoithe Offshore Wind Ltd, for the formation of a temporary test piling facility, associated car parking, access road and buildings at Shewington, Rosewell.

The report reminded Members that the LRB had agreed to uphold the review request and where minded to grant planning permission, subject to suitable conditions, and also evidence of the provision of a suitable bond to cover any damage that might be caused as a result of the works.

The report detailed the proposed conditions and advised that with the exception of the condition relating to the restoration of the site, the applicants were in general agreement with them.

In addition, the report also advised that the applicants had stated that they were “not in a position to offer financial security” prior to the issuing of consent and that the “internal governance” of the applicant was such that consent with conditions was required to initiate the work necessary to secure restoration funds. They had suggested that in place of a bond/bank guarantee that a condition be attached to the consent to secure restoration funds prior to development commencing.

Summary of Discussion

Having heard from the Planning Adviser, the LRB discussed the position that had been reached giving particular consideration to the concerns that had belatedly been raised by SEPA and the weight that should be given to them and also to the issue of the lack of the required bond/bank guarantee.

In this particular instance, the LRB acknowledged the concerns being raised by SEPA regarding the proximity of the reservoir to the proposed development, but felt that this issue had already been taken into account in determined the review, however given SEPA’s position as a statutory consultee on planning matters, it was agreed to seek further clarification on the matter.

With regards the issue of the bond/bank guarantee, as this had been put in place to safeguard the local residents, the LRB were firmly of the view that the proposed development could not proceed until this had been put in place.

After further discussion, the LRB acceded to a request from Councillor Beattie that her motion to dismiss the review request and refuse planning permission for the reasons outlined in the planning officers decision on the basis that the applicant had not secured a bond/bank guarantee to mitigate the potential impact of the proposed development, which had failed to find a seconder and had thereby fallen, be recorded in the minutes.

Decision

Thereafter, the LRB agreed to

- (a) defer the review and reinforce the LRB's original decision only to grant planning permission if a bond/bank guarantee to mitigate the potential impact of the proposed development was secured and that the review be held in abeyance until such time as a bond/bank guarantee had been agreed; and
- (b) seek clarification of the procedural options available when additional information was received.

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.5	Notice of Review Requests Considered for the First Time – (a) Land at 22 Tipperwell Way, Howgate, Penicuik [15/00794/DPP]	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 19 April 2016, by the Head of Communities and Economy regarding an application from Mrs Hilary Larkins, 22 Tipperwell Way, Howgate, Penicuik seeking, a review of the decision of the Planning Authority to refuse planning permission (15/00794/DPP, refused on 26 November 2015) for the change of use from agricultural land to private garden ground (retrospective) at land north of 22 Tipperwell Way, Howgate, Penicuik.

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 25 April 2016.

Summary of Discussion

Having heard from the Planning Adviser, 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 acknowledged concerns regarding the potential impact of overlooking on the neighbouring properties but were of the view that the measures proposed by the applicant should help to mitigate matters. In addition, if the boundaries were realigned to match the existing boundaries between the adjoining properties then this would also assist in addressing any issues of overlooking.

Decision

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

The proposed development does not undermine the aims and objectives of the countryside subject to appropriate conditions to mitigate the potential impact of overlooking on the neighbouring properties.

subject to the following conditions:-

1. Within 3 months of this grant of planning permission:
 - i) The northeast boundary fence shall be removed and reinstated in alignment with the existing boundary between 22 and 23 Tipperwell Way;
 - ii) The southwest boundary fence shall be removed and reinstated in alignment with the existing boundary between 22 and 21 Tipperwell Way;
 - iii) The northwest boundary fence shall be reduced in length to align with the new positions of the northeast and southwest fences as stated in i and ii above; and
 - iv) No additional fencing shall be erected (with the exception of i – iii) unless otherwise approved in writing by the planning authority.

Reason: *To safeguard the amenity of neighbouring properties*

2. Within 3 months of this grant of planning permission details of a scheme of tree planting shall be submitted to and approved in writing by the planning authority. Details of the scheme shall include the location, species and size of trees proposed to mitigate the potential impact of overlooking of neighbouring properties and to soften the impact of the development into the landscape. A programme for completion and subsequent maintenance shall also be submitted. The tree planting shall be carried out in accordance with the scheme approved in writing by the planning authority. Thereafter any trees removed, dying, becoming seriously diseased or damaged shall be replaced in the following planting season by trees 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 RP1 and protect the amenity of neighbouring properties.*

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.6	(b) Land at Rosebank North Cottage, Roslin [15/00948/DPP]	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 19 April 2016, by the Head of Communities and Economy regarding an application from Ms Fiona Macaulay, Rosebank Cottage, Chapel Loan, Roslin seeking a review of the decision of the Planning Authority to refuse planning permission (15/00948/DPP, refused on 8 February 2016) for the demolition of derelict outbuildings and erection of replacement outbuilding at Land at Rosebank North Cottage, Roslin.

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 25 April 2016.

Summary of Discussion

Having heard from the Planning Adviser, 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 expressed concern that the application site although adjacent to the applicant's property, was not within their ownership, and therefore did not form part of their garden ground or planning unit. Although a legal agreement did appear to exist between the landowners and the applicant, how robust it was, was not very clear and it only appeared to last for a year. What was not in dispute, however, was the unkempt state of the application site and surrounding land, which the LRB felt would benefit greatly from some attention.

Decision

To agreed to uphold the review request, and grant planning permission for the following reason:

The proposed development by means of its size, design and location does not distract from its rural location and as such could be supported.

subject to the following conditions:-

1. Prior to the commencement of development, details and samples of the proposed external materials of the outbuilding shall be submitted to and approved by the Planning Authority. The development shall comprise all natural materials which are sympathetic to its rural setting.

Reason: *These details were not submitted with the original application: to ensure that the development is in keeping with and does not detract from the surrounding countryside, Green Belt, Area of Great Landscape Value, Conservation Area and listed building.*

In reaching this decision, the LRB also agreed to requested that the land was tidied up and that any disused materials, paraphernalia or articles stored on the site in association with the neighbouring residential use were removed. In addition, it should also be made clear to the applicant that the proposed building could only be used for agricultural/horticultural purposes as per the permitted land use of the site. A separate planning application would be required to use the land for any other purposes associated with, or incidental to, Rosebank North Cottage.

Action
Head of Communities and Economy

The meeting terminated at 2.56pm.