

# Minute of Meeting



## Planning Committee

Date	Time	Venue
Tuesday 11 January 2022	1.00 pm	Via MS Teams

### Present:

Councillor Alexander	Councillor Cassidy
Councillor Curran	Councillor Hackett
Councillor Hardie	Councillor Lay-Douglas
Councillor McCall	Councillor McKenzie
Councillor Milligan	Councillor Muirhead
Councillor Munro	Councillor Parry
Councillor Russell	Councillor Smail
Councillor Wallace	Councillor Winchester

### In Attendance:

Derek Oliver	Chief Officer Place
Peter Arnsdorf	Planning, Sustainable Growth and Investment Manager
Alan Turpie	Legal Services Manager/Monitoring Officer
William Venters	Principal Solicitor
James Gilfillan	Consultant Policy and Planning
Mike Broadway	Democratic Services Officer

## 1. Apologies

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Apologies for absence were intimated on behalf of Councillors Imrie (Chair) and Johnstone.

In the absence of the Chair, Councillor Milligan was appointed by the Committee and took the Chair for the meeting.

## 2. Order of Business

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

## 3. Declarations of interest

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No declarations of interest were intimated at this stage of the proceedings.

Councillor McCall asked that it be recorded that whenever discussion of the former Wellington School site had arisen at Howgate Community Council meetings she had not participated in any of those discussions, nor at any time had she offered a view on the matter. The Committee noted the position.

## 4. Minutes of Previous Meetings

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The Minute of Meeting of 23 November 2021 was submitted and approved as a correct record.

With regards item 5.3, and in response to a question from Councillor McCall regarding the circumstances which had led to the decision to cancel the previously agreed site visit, the Planning Manager explained that following the announcement on Tuesday 21 December by the First Minister of additional protections to help try and stop the spread of coronavirus, it had been agreed following discussion with the Chair, Councillor Imrie, to cancel the site visit and to offer Members visuals of the application site instead. Whilst it was accepted that this in itself could not replace the site visit, given the particular circumstances that prevailed at the time it was considered to offer the next best alternative. The Committee noted the position.

With regards item 5.1, Councillor Hackett emphasised the need for a more formal process of assistance to be offer to Community Councils in order to help them to better understand how to contribute on planning related matters. The Committee were supportive of this suggestion and the Planning Manager agreed to take it on board the possibility of organising something appropriate.

## 5. Reports

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Agenda No	Report Title	Presented by:
5.1	Planning (Scotland) Act 2019 (PSA19) – The Fourth National Planning Framework (NPF4) Public Consultation	Peter Arnsdorf
<b>Outline of report and summary of discussion</b>		
The purpose of this report was to inform the Committee of the publication of the fourth National Planning Framework (NPF4) and provide a brief overview of the key		

issues and current consultation process. The report also advised that it was intended that a further report be submitted to the Committee in March 2022 setting out a proposed formal response to the consultation.

Having heard from the Planning Manager who responded to Members' questions and comments, the Committee discussed the need for greater investment in supporting infrastructure in order to sustain the substantial levels of growth being experienced in Midlothian, and also the need to involve, and consult, existing communities as part of that process.

#### Decision

The Committee:

- a) Noted the update on the draft NPF4 set out in this report;
- b) Noted that a further report will be submitted to the March Committee seeking approval to submit a formal response to public consultation on draft NPF4; and
- c) Agreed that in advance of the further report coming to Committee that a Seminar be arranged for elected Members.

#### Action

Planning, Sustainable Growth and Investment Manager/Democratic Services

Agenda No	Report Title	Presented by:
5.2	Planning Performance Framework Annual Report 2020-21	Peter Arnsdorf

#### Outline of report and summary of discussion

The purpose of this report was to provide an update on the progress of work undertaken on the Planning Performance Framework (PPF) for Midlothian and advise of the feedback received from the Scottish Government on the Council's submitted Planning Performance Framework for 2020/21.

The report advised that in the feedback report on the fifteen 'performance markers' (a copy of which was appended to the report), ten had been rated as "green" giving no cause for concern and the remaining five were rated as "amber" where areas for improvement had been identified. None were rated "red" where specific attention was required. The ratings demonstrated a comparable level of performance with the previous two years and showed a consistency of good service.

#### Decision

The Committee, having heard from the Planning Manager who responded to Members' questions, noted the feedback from Scottish Government on the Council's submitted Planning Performance Framework (PPF) for 2020/21.

#### Action

Planning, Sustainable Growth and Investment Manager

Agenda No	Report Title	Presented by:
5.3	Appeal Against Non-Determination: Application for Planning Permission for 46 Dwellinghouses, Formation of Access Roads and Car Parking and Associated Works at Land at the former Wellington School, Penicuik (20/00144/DPP)	Peter Arnsdorf
Outline of report and summary of discussion		
<p>With reference to paragraph 5.3 of the Minutes of 23 November 2021, this report related to an application for planning permission for the erection of 46 dwellinghouses, formation of access roads and car parking and associated works at land at the former Wellington School, Penicuik, consideration of which had been continued in order to allow a site visit to take place, but which was now the subject to an appeal for non-determination as it had not been determined by the local planning authority within the statutory period of time.</p> <p>The Committee, having acknowledged the issue raised earlier in the meeting by Councillor McCall regarding the decision to cancel the site visit following the announcement on 21 December 2021, by the First Minister, of additional protections to help try and stop the spread of coronavirus, debated whether it was possible to proceed in the absence of the site visit, and discussed if there was scope for a further continuation in order to allow one to be undertaken at the earliest possible opportunity.</p> <p>The Planning, Sustainable Growth and Investment Manager in response drew Members' attention to paragraph 2.3 of the report which highlighted that a request for an extension of time had already been rejected by the Scottish Government's Planning and Environmental Appeals Division, so it was considered highly unlikely that a further request would be viewed any more favourably.</p> <p>Councillor Parry recalled that at a previous Planning Committee meeting earlier in the pandemic the possible use of drones had been raised and asked if this could be revisited in the wake of what had happened. Councillor Milligan, added that it would also be helpful to benchmark what other Council's where doing in this regards. The Planning, Sustainable Growth and Investment Manager, having briefly highlighted some of the issues involved, undertook to report back to a future meeting of the Committee on the matter.</p> <p>After further discussion, and having sought clarity from the Planning, Sustainable Growth and Investment Manager that what the Committee was now being asked to do was to reach a position on the application in order to enable officers to represent it at the appeal, agreed to proceed to consider the application.</p> <p>Councillor McCall in opening the debate expressed her sadness regarding the applicant's actions in appealing, but felt the proposed development constituted an overdevelopment in terms of the scale of the increase in size of the immediate community around Milkhall Road. It also lacked any provision for basic infrastructure and was poorly served by any means of public transport, which in turn would place considerable pressure on the existing road infrastructure to the detriment of the existing road users and communities in the area. In this regard Councillor McCall questioned the timing of when the traffic survey had been conducted, as if it was carried out during the current pandemic it would be unlikely to be truly representative of traffic movements in the area.</p>		

These views were supported by Councillor Alexander who, having expressed concerns regarding the access arrangements, also remarked on the additional pressure that would be placed on the existing road network and also the potential environmental impacts through the loss of flora and fauna, potential damage to the peat bog and a potential for an increase in the incidence of flooding. Councillor Wallace added his concerns regarding any potential damage to the peatbog, stating that this should simply not be permitted. Councillor McKenzie also expressed concerns regarding the likely impact of the loss of trees from the tree belt currently the subject of a TPO.

At the invitation of the Chair, and in response to requests for clarity regarding the access arrangements and any trees subject to the TPO which it was proposed be removed, the Planning, Sustainable Growth and Investment Manager drew particular attention to section 8 in the original report of 12 November 2021 setting out the position in policy terms which supported development of 50-60 units at this site as an 'Additional Housing Development Opportunity', the site being in part brownfield land having formerly been a school. The outstanding constraints relating to this site were "access restrictions", however these were resolved by the proposed new access to the A701 to the west of the site. In order to achieve this new access 15 mature trees covered by the Tree Preservation Order (TPO) would be lost, however in order to mitigate this loss the applicants intended planting around 2,000 trees across the site. The likely presence of peat on the site was acknowledged, however initial indications were that it was minimal and limited to a strip on the boundary of the site well outwith the main area on which development would take place and as such, the applicants would be required by way of condition to prepare a Peat Management Plan. With regards the traffic assessment it was understood that this was carried out prior to the applications submission in March 2020 prior to the first Coronavirus lockdown.

The provision of a separate access off the A701 drew comments from Councillors Muirhead and Winchester. Councillor Winchester also remarked on the number of units being less than allocated and Councillor Muirhead on the fact that they were all single storey bungalow, which were highly sought after in Midlothian, and that the proposed development appeared to accord with the Local Plan. Councillor McCall countered that regardless of the separate access she was concerned that the Milkhall Road would potentially become a rat run.

Councillor Smail then raised whether it would be possible to limit development to the footprint of the former school buildings and perhaps accept a shift away from predominately single storey properties, a view which found favour with Councillor Cassidy, who remarked on the natural beauty of the location and concerns over setting a precedence leading to further similar applications.

The Planning, Sustainable Growth and Investment Manager cautioned that at this stage in the proceedings, the Reporter was very unlikely to consider amendments of the scale suggested to the existing proposals.

After further discussion, Councillor Winchester, seconded by Councillor Hardie, moved to grant planning permission subject to the terms and conditions set out in the report.

As an amendment, Councillor Parry, seconded by Councillor McCall, moved to refuse planning permission for the reasons referred to in the foregoing discussions.

On a vote being taken, four Members voted for the motion and eight for the amendment, which accordingly became the decision of the meeting.

#### Decision

The Committee agreed to recommend to the appointed Reporter determining the appeal to refuse planning permission for the following reason:

The proposed development is unacceptable in environmental terms, will have a detrimental impact on the local community and is not adequately serviced by local facilities or public transport. Furthermore, the development will; generate an unacceptable level of vehicular traffic that will use Milkhall Road to the detriment of highway safety; will result in the unacceptable loss of trees currently protected by a tree preservation order; will result in an unacceptable impact on the peat resource locate on/adjacent to the site; and will be an overdevelopment of the site as the built form of any development shall be concentrated on the footprint of the former school buildings only.

The Committee also agreed to express its' disappointment regarding the timescale set for the Council to respond, particularly as no allowance appeared to have been made for the Festive holiday period nor the restrictions in place as a result of the ongoing Coronavirus pandemic, forcing Members to have to come to a view without the benefit of having visited the site.

#### Action

Planning, Sustainable Growth and Investment Manager

Agenda No	Report Title	Presented by:
5.4	Application for Planning Permission for Residential Development Including Formation of Roads, Parking, Drainage, Open Space and Associated Works (Amendment to Design, Layout, Housetypes and Numbers Approved by Planning Permission 12/00745/DPP) at Land between Belwood Road and Mauricewood Road, Penicuik. (21/00446/DPP).	Peter Arnsdorf

#### Outline of report and summary of discussion

This application was for planning permission for the erection of 221 residential dwellings, including formation of roads, parking, drainage, open space and associated works (amendment to design, layout, house types and numbers approved by planning permission 12/00745/DPP) at land between Belwood Road and Mauricewood Road (Greenlaw), Penicuik.

The Committee in discussing the application, heard from the Planning Manager who in response to Members' questions and comments, advised that the removal of maturing vegetation from the site was in accordance with the extant planning permission and that the proposed landscape scheme sought to mitigate any impact of this; the site's north west boundary had required to be adjusted as a result of the requirement for a development standoff zone for the water mains; affordable housing provision had been addressed in the earlier phases although there were still a number included in this phase; and that the timing of the provision of the likes of safes routes to school was normally addressed as a priority, however if there

was an issue with this that he would happily take it, and any indeed other matters, up with the developers.

#### Decision

After further discussion, the Committee agreed that planning permission be granted or the following reason:

*By virtue of its scale, location, design and choice of materials the proposed development accords with policies STRAT1, DEV2, DEV3, DEV5, DEV6, DEV7, DEV9, TRAN1, TRAN2, TRAN5, IT1, ENV2, ENV7, ENV9, ENV10, ENV11, ENV15, ENV17, ENV18, ENV24, ENV25, NRG6, IMP1, IMP2 and IMP3 of the adopted Midlothian Local Development Plan 2017. The layout and detailed appearance of the development will add interest to the street scene and it will not have a significant adverse impact on the amenity of nearby properties. The presumption for development is not outweighed by any other material consideration.*

subject to:

(a). the completion of a minute of variation to the existing Section 75 legal agreement to secure;

- That the “original” number of dwellings provided in this permission are bound by the varied agreement;
- A financial contribution towards additional primary (including nursery) school capacity;
- A financial contribution towards additional secondary capacity;
- A financial contribution towards the A701 Relief Road;
- The provision of 2 additional affordable housing units; and,
- A contribution in relation to the Traffic Regulation Order.

The legal agreement shall be concluded within six months. If the agreement is not concluded timeously the application will be refused; and,

(b). the detailed conditions contained in the report.

#### Action

Planning, Sustainable Growth and Investment Manager

## 6. Private Reports

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No items for discussion

## 7. Date of Next Meeting

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The next meeting will be held on Tuesday 15 March 2022 at 1.00pm

The meeting terminated at 2.31 pm