

Minute of Meeting

Local Review Body
Tuesday 27 November 2018
Item No 4.1



Local Review Body

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

Present:

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

1 Apologies

Apologies for absence were received from Councillor Muirhead

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 4 September 2018 was submitted and approved as a correct record.

5 Reports

Agenda No	Report Title	Presented by:
5.1	Decision Notice – Land South East of the Old School House, Lasswade [18/00180/DPP].	Peter Arnsdorf
Executive Summary of Report		
With reference to paragraph 5.6 of the Minutes of 4 September 2018, there was submitted a copy of the Local Review Body decision notice upholding a review request from Mr Stuart Armstrong, 19 Polton Terrace, Lasswade seeking a review of the decision of the Planning Authority to refuse planning permission (18/00180/DPP, refused on 24 May 2018) for the erection of dwellinghouse; erection of fencing and retaining walls; formation of access and associated works on land south east of the Old School House, School Green, Lasswade and granting planning permission subject to conditions.		
Decision		
To note the LRB decision notice.		

Agenda No	Report Title	Presented by:
5.2	Decision Notice – 15 Pendreich Terrace, Bonnyrigg [18/00312/DPP].	Peter Arnsdorf

Executive Summary of Report

With reference to paragraph 5.7 of the Minutes of 4 September 2018, there was submitted a copy of the Local Review Body decision notice upholding a review request from Mr and Mrs J Millar, Bowling Green Cottage, Murderdean Road, Newtongrange seeking a review of the decision of the Planning Authority to refuse planning permission (18/00312/DPP, refused on 26 June 2018) for the erection of a two storey extension at 15 Pendreich Terrace, Bonnyrigg and granting 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 October 2018 participated in the review process, namely Councillors Imrie, Alexander, Baird, Cassidy, Lay-Douglas, Milligan, Munro and Smail.

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

Order of Business

At the invitation of the Chair, the Planning Advisor explained that whilst there were two review requests before today's LRB meeting relating to two different planning applications, they were both by the same applicant, related to properties that were geographically very close to each other and dealt with similar issues relating to change of use. Under the circumstances it might be that in conducting the Hearing for the first Review, Members may find that the similarity in issues meant that rather than go through the process of hearing the same arguments twice, they might wish to dispense with the formality of a second Hearing.

The Chair thanked the Planning Advisor for clarifying the position and suggested that the Committee might want to come to a view on this once they had dealt with the first review.

Agenda No	Report Title	Presented by:
5.3	Notice of Review Request Considered for the First Time – Unit 1, 40 Hardengreen Business Park, Dalhousie Road, Dalkeith [18/00369/DPP] – Determination Report by Head of Communities and Economy	Peter Arnsdorf

Executive Summary of Report

There was submitted report dated 9 October 2018 by the Head of Communities and Economy regarding an application from Mrs Janice Paterson, Premier Pilates and Fitness Studio Ltd, 40/1 Hardengreen Industrial Estate, Dalhousie Road, Eskbank seeking a review of the decision of the Planning Authority to refuse planning permission (18/00369/DPP, refused on 25 July 2018) for the change of use from office/light industry (class 4) to a fitness studio (class 11) at Unit 1, 40 Hardengreen Business Park, Dalhousie Road, 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.

The Local Review Body had made an accompanied visit to the site on Monday 15 October 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.

Thereafter, oral representations were received firstly from the applicant Janice Paterson, and then from Duncan Robertson, the local authority Planning Officer; following which they both responded to Members' questions/comments.

The LRB, in giving consideration to the merits of the case based on all of the information provided both in writing and in person at the Hearing, discussed the proposed change of use, in particular the potential impact it would have in terms of the loss of an office/light industry (class 4) unit. Whilst it was acknowledged that there were already a wide range of differing uses evident within the Business Park, concerns were expressed regarding the loss of an office/light industry (class 4) unit, given the current levels of demand for such units and also regarding issues of precedent, with the difficulties this could potentially create if other applications for similar changes of use were received. Notwithstanding these issues, this was an established local business that was looking to remain in the area and to expand.

After further discussion, Councillor Baird, seconded by Councillor Cassidy, moved that on balance given the particular circumstance involved in this case, to uphold the review request, and grant planning permission subject to the proposed conditions contained in the Head of Communities and Economy's report.

As an amendment, Councillor Milligan, seconded by Councillor Imrie, moved to dismiss the review request, and uphold the decision to refuse planning permission for the reasons detailed in the case officer's report.

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

Decision

The LRB agreed to grant planning permission for the following reason:

The proposed Class 11 use is compatible with the existing business park and will not be detrimental to the neighbouring Class 4 business uses and nearby residential properties. Furthermore, the LRB wish to support a local business which is servicing the growing interest and demand for fitness and wellbeing activities and provides employment. For these reasons the material considerations of the application outweigh any policy objection to the development. In general terms Class 11 uses are considered to be appropriate at Hardengreen Business Park.

subject to the following conditions:

1. No amplified music or sound reproduction equipment used in association with the unit hereby permitted shall be audible at the boundary of any noise sensitive property (residential dwellinghouse) during the hours of 9.00pm to 7.00am.

Reason: *To ensure a satisfactory standard of amenity in nearby residential properties.*

2. The use of the site shall be as a fitness studio and beauty salon only and for no other purpose unless otherwise agreed in writing by the Planning Authority. This grant of planning permission does not permit any other use within Class 11: Assembly and Leisure or Class 2: Financial, Professional or Other Services respectively of The Town and Country Planning (Use Classes) (Scotland) Order 1997 or any subsequent amending or replacement order.

Reason: *To enable the Planning Authority to retain effective control over the future use of the site and to ensure that it is able to assess any such proposals in terms of their traffic generation, parking requirements and overall impact on the amenity of the area; the application has been assessed for this specific use only and no other uses within Classes 11 or 2 of the above mentioned legislation.*

Agenda No	Report Title	Presented by:
5.4	Notice of Review Request Considered for the First Time – Units 7 and 8, 40 Hardengreen Business Park, Dalhousie Road, Dalkeith [18/00402/DPP] – Determination Report by Head of Communities and Economy	Peter Arnsdorf
Executive Summary of Report		
There was submitted report dated 9 October 2018 by the Head of Communities and Economy regarding an application from Mrs Janice Paterson, Mind Body and Beauty Ltd, Hardengreen Business Park, 7 Dalhousie Road, Eskbank seeking a review of the decision of the Planning Authority to refuse planning permission (18/00402/DPP, refused on 25 July 2018) for the change of use from office (class 4) to a mixed use of fitness studio (class 11) and beauty salon (class 2) at Units 7 and 8, 40 Hardengreen Business Park, Dalhousie Road, 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.

The Local Review Body had made an accompanied visit to the site on Monday 15 October 2018.

Summary of Discussion

In accordance with the procedures for the Local Review Body, consideration was given to advice received from the Planning Advisor earlier, it being agreed that in view of the similarities between this and the previous Review to dispense with the need for a Hearing and move straight to a decision.

Thereafter, Councillor Baird, seconded by Councillor Cassidy, moved that on balance given the particular circumstance involved in this case, to uphold the review request, and grant planning permission subject to the proposed conditions contained in the Head of Communities and Economy's report.

As an amendment, Councillor Milligan, seconded by Councillor Imrie, moved to dismiss the review request, and uphold the decision to refuse planning permission for the reasons detailed in the case officer's report.

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

Decision

The LRB agreed to grant planning permission for the following reason:

The proposed mixed use (Class 11 and Class 2) is compatible with the existing business park and will not be detrimental to the neighbouring Class 4 business uses and nearby residential properties. Furthermore, the LRB wish to support a local business which is servicing the growing interest and demand for fitness and wellbeing activities and provides employment. For these reasons the material considerations of the application outweigh any policy objection to the development. In general terms Class 11 uses are considered to be appropriate at Hardengreen Business Park.

subject to the following conditions:

1. No amplified music or sound reproduction equipment used in association with the unit hereby permitted shall be audible at the boundary of any noise sensitive property (residential dwellinghouse) during the hours of 9.00pm to 7.00am.

Reason: *To ensure a satisfactory standard of amenity in nearby residential properties.*

2. The use of the site shall be as a fitness studio and beauty salon only and for no other purpose unless otherwise agreed in writing by the Planning Authority. This grant of planning permission does not permit any other use within Class 11: Assembly and Leisure or Class 2: Financial, Professional or Other Services respectively of The Town and Country Planning (Use

Classes) (Scotland) Order 1997 or any subsequent amending or replacement order.

Reason: *To enable the Planning Authority to retain effective control over the future use of the site and to ensure that it is able to assess any such proposals in terms of their traffic generation, parking requirements and overall impact on the amenity of the area; the application has been assessed for this specific use only and no other uses within Classes 11 or 2 of the above mentioned legislation.*

The meeting terminated at 2.27 pm.