

MINUTE of MEETING of the LOCAL REVIEW BODY held within COUNCIL CHAMBERS, WEST LOTHIAN CIVIC CENTRE, LIVINGSTON, EH54 6FF, on 1 NOVEMBER 2023.

Present – Councillors Danny Logue (Chair), Tom Conn, Alison Adamson, Stuart Borrowman, Tony Boyle, William Boyle and Pauline Clark

1. DECLARATIONS OF INTEREST

Agenda Item 6 (Application No.0130/H/23) - Councillor Tony Boyle stated that he attended the Ecclesmachan and Threemiletown Community Council where this matter had been discussed. However, he had not participated in the discussion nor expressed an opinion and would, therefore, participate in the item of business.

Agenda Item 6 (Application No.0130/H/23) - Councillors Stuart Borrowman and Tom Conn both declared an interest in that they had not attended the August meeting of the Local Review Body when the review application was first discussed in detail therefore would not take part in the determination of the application.

2. MINUTE

The committee confirmed the draft Minute of its meeting held on 30 August 2023 as a correct record. The Minute was thereafter signed by the Chair

3. NOTICE OF REVIEW APPLICATION NO.0261/P/23

The committee considered a report (copies of which had been circulated) by the Clerk and Legal Adviser to the Local Review Body regarding an application to review refusal by the Appointed Person of planning permission in principle for the erection of house, 1 Marrfield Terrace, Uphall Station.

Attached to the report were the Notice of Review and other relevant documents including letters of representation. The documents identified the policies in the development plan and relevant guidance that had been referred to in the review documents.

The Planning Adviser to the Local Review Body advised committee that Policy 14 (Design, Quality & Place) of NPF4 should have also been considered by the Appointed Person when determining the application. The Clerk and Legal Adviser to the Local Review Body then advised that committee could either continue to determine the application based on the information before them, including information learnt from the site visit conducted prior to the meeting commencing or continue for further written procedure to seek the opinion of all interested parties with regards to Policy 14.

Motion

To continue consideration of the review application as there was sufficient information in conjunction with the site visit conducted beforehand for members to proceed without any further procedure.

- Moved by Councillor Willie Boyle and seconded by Councillor Clark

Councillor Tony Boyle who moved an alternative position which did not receive a seconder had his dissent to the decision recorded.

The committee then determined the review application in terms of the statutory test and to have regards to the development plan unless material consideration indicated otherwise.

The Local Review Body also took account of the views expressed in the Notice of Review documents.

Motion

To uphold the decision of the Appointed Person and refuse the review application

- Moved by Councillor Borrowman and seconded by Councillor Adamson

Amendment

To uphold the review application and be minded to grant planning permission in principle subject to the draft conditions and a S75 planning obligation

- Moved by Councillor W Boyle and seconded by Councillor T Boyle

An electronic vote was undertaken. The result was as follows :-

Motion

Alison Adamson
Stuart Borrowman
Pauline Clark
Tom Conn
Danny Logue

Amendment

Willie Boyle
Tony Boyle

Decision

Following a vote the motion was successful by 5 votes to 2 and it was agreed accordingly.

4. NOTICE OF REVIEW APPLICATION NO.0130/H/23

Having previously made a declaration of interest both Councillors Borrowman and Conn took no part in the following item of business.

The committee considered a report (copies of which had been circulated) by the Clerk and Legal Adviser to the Local Review Body regarding an application to review the refusal of planning permission by the Appointed Person for the erection of a 1.9m high timber fence and gates and formation of a gravel surfaced carpark (in retrospect), Threemiletown Farmhouse, Threemiletown, Linlithgow.

Attached to the report were the Notice of Review and other relevant documents, including letters of representation. The documents identified the policies in the development plan and relevant guidance that had been referred to in the review documents.

It was noted that the Local Review Body had first considered the review application at its meeting on 30 August 2023 and also undertaken a site inspection the same day. At that meeting the committee had also agreed to consider the submission of a late supporting statement from the applicant's representative. The Local Review Body had then agreed to continue consideration of the review application and issue a Procedure Note to all interested parties seeking further information to inform their deliberations on the review application. All information pertaining to the Procedure Note responses were attached to the committee report in a series of appendices.

The committee then determined the review application in terms of the statutory test and to have regards to the development plan unless material consideration indicated otherwise.

The Local Review Body also took account of the views expressed in the Notice of Review documents.

Motion

To uphold the review application and grant planning permission subject to the draft conditions attached to the committee report as the LRB considered that the proposal did accord with; DES1 of the Local Development Plan in that there was; 1) no adverse impact on adjacent buildings or the streetscape, as the gravel and fencing used were of the same materials as other examples found within Canal Court, and 2) there was also no overlooking or overshadowing, and policies 7, 14 and 16 of NPF4. The LRB also considered the requirements of the public sector equality duty under s149 of the Equality Act 2010 in determining the application for review. The LRB held that the protected characteristics of the occupants of the house were material considerations in support of approval of the development applied for as the fence was required to create a safe barrier for those children occupying and using the house between the garden and the adjoining public road, and also the gravel area that would be used for car parking by carers.

- Moved by Councillor Willie Boyle and seconded by Councillor Clark

Amendment

To uphold the decision of the Appointed Person and refuse the review application and therefore planning permission

- Moved by Councillor Tony Boyle and seconded by Councillor Adamson

An electronic vote was conducted. The result was as follows :-

Motion

Willie Boyle
Pauline Clark
Danny Logue

Amendment

Alison Adamson
Tony Boyle

Decision

Following a vote the motion was successful by 3 votes to 2 and it was agreed accordingly.