



**MINUTES OF THE MEETING OF THE
PLANNING COMMITTEE**

**TUESDAY 4 SEPTEMBER 2012
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Committee Members Present:

Councillor N Hampshire (Convener)
Councillor L Broun-Lindsay
Councillor T Day
Councillor A Forrest
Councillor J Gillies
Councillor J Goodfellow
Councillor D Grant
Councillor W Innes
Councillor P MacKenzie
Councillor J McMillan
Councillor J McNeil
Councillor T Trotter
Councillor J Williamson

Council Officials Present:

Mr R Jennings, Head of Housing and Environment
Mr B Stalker, Development Management Manager
Ms M Ferguson, Corporate Legal Adviser
Mr B Cooper, Senior Transportation Manager
Ms S Greaves, Planner
Ms E Taylor, Planner
Mr R Sinclair, Communications Officer

Clerk:

Ms A Smith

Visitors Present:

Item 1 – Mr I Brash, Mr D Allen, Ms G Galbraith, Mr D Reith
Item 2 – Mr S Harrison, Ms J Chrystal
Item 3 – Mr S McMaster, Mr P Cleland
Item 4 – Mr C MacKinnon, Ms L Hall, Mr D Midgley
Item 5 – Mr P Carrick, Ms L Morrison, Mr R Weir, Ms C Lindsay, Ms C Jackson
Item 6 – Mr G Forbes, Ms J Donaldson, Mr R Averbuch

Apologies:

Councillor D Berry
Councillor P McLennan
Councillor M Veitch

Declarations of Interest:

None

The Development Management Manager, Brian Stalker, informed Members that since the reports had been prepared it had been established that there was no longer a necessity for the Planning Authority to impose the standard time condition on the grant of planning permission as this control was implicit in the relevant planning legislation; therefore condition 1 as listed in the report recommendation to grant planning permission for applications 1 to 4 did not require to be included in the decision, if the Committee agreed with the officer's recommendation, on these applications.

1. PLANNING APPLICATION NO. 12/00327/P: ERECTION OF WIND TURBINE ON LAND AT WOODSIDE, GLADSMUIR

A report on the application for planning permission had been submitted. Mr Stalker summarised the key points of the report.

Mr Brash, the applicant, addressed the Committee. He made reference to the framework of Scottish Government and East Lothian Council policies that wind turbine applications were judged against. He stated there was no aspect where this application did not meet the requirements of these policies. In the Planning Authority's opinion an Environmental Impact Assessment (EIA) was unnecessary. He could not think of a single wind turbine in East Lothian that would be located in a more secluded site. With regard to the objections, he noted that these had been compiled online and were from across the UK; comparatively few were from the Gladsmuir area. He informed Members that Historic Scotland had not objected to the application, neither had numerous other national bodies. He outlined the operational requirement for his business and the value to the local economy. He pointed out that householders, under permitted development rights, could erect a wind turbine in their grounds, if the relevant criteria were met; this included properties in the Gladsmuir area. He asked Members to consider the application against this background and grant approval.

In response to a question from Councillor Grant, Mr Brash confirmed that the agricultural building, which already had approval, would be erected in parallel with the wind turbine.

Mr Allen spoke against the application on behalf of SABEL. The application raised a number of policy and material issues; he made reference to Scottish Planning Policy. Key issues set out in SABEL's objection had not been addressed. If SABEL's pro forma had been used by people who were not local, that did not invalidate their objections. The application had not been the subject of an EIA. The application failed the key test of Policy NRG3: it would change the landscape and character in an unacceptable way, it would have a visual impact on the landscape and it did not meet the alternative locations test. In addition, the application did not meet the Council's 2010 guidance on wind turbines nor the supplementary 2011 Landscape Capacity Study. The Council's approach to wind turbine applications had been generally supported by SABEL but the details of this application had not been considered thoroughly. This application should be refused; to do other than refuse would negate the public's confidence in the planning process.

Ms Galbraith spoke against the application on behalf of her mother, who had lived in Gladsmuir for over 56 years, on her own behalf, and also for the Gladsmuir petitioners. She wished to raise two matters; visual impact and wind turbine size. She referred to the number of objections to this application, stressing that there was not one letter of support; one of the petitions submitted had 77 signatures, all from local residents. The opinion of local voters was unanimous; this wind turbine would have a negative visual impact on the area. Its height would exceed the height of nearby trees and buildings. Simply because the application was located on agricultural ground was not enough.

Mr Reith, representing Woodside House and immediate neighbours, including the Dower House on the Elphinstone Estate, spoke against the application. He raised a number of issues. Location: this was not a suitable location for a wind turbine, the report stated that the house would not be affected; this was not true, it had an open aspect to the south and the site chosen by the applicant was directly in front of the house so it would have a significant affect. Scale: the turbine was not in scale with farm buildings and would not be located beside the agricultural shed. It would be a third higher than trees in the adjacent wood. Power supply: the turbine would produce ten times more power than needed; if electricity was required for the shed a generator could be used instead. Liberty Wood: location of pipistrelle bats, studies recommended that wind turbines be cited 200m from bats. Noise: maximum noise levels detailed in the report were disputed. He urged the Committee to reject this application.

Local Member Councillor McMillan commented that there was a need to look at wider issues including connection to, and cost of, the electricity grid. He stated that East Lothian was a huge exporter of power and the Council needed to look at policies for sustainability. He drew attention to the East Lothian Community Planning Partnership Single Outcome Agreement, highlighting a number of the Outcomes. He referred to the Climate Change (Scotland) Act, which was committed to balancing environmental, social and economic objectives. He stressed that all of the community was against this application. He stated that there was a need to stop and re-examine the Council's policy on wind turbines.

Local Member Councillor Trotter indicated that he had considered all the presentations made regarding this application. He referred to the points made by Councillor McMillan, which were essentially proposing policy changes, stating that the Committee had to make a decision today. He would be supporting the officer's recommendation to grant planning permission.

Councillor Day stated that given Scottish Planning Policy the Committee had to take a balanced view on renewable energy, but had also to protect the landscape which was the county's greatest asset. Councillor McMillan had raised some interesting points but this application had to be judged on its planning merits. Given the height of the wind turbine and its proximity to the nearby wooded area, it would be reasonably well concealed and therefore compliant with the Landscape Capacity Study and relevant Development Plan policy. He would be supporting the officer's recommendation.

Councillor Innes shared the views expressed by Councillors Trotter and Day. He remarked that whilst sympathetic to Councillor McMillan's comments, the Council had refused a number of applications for wind turbines and he made reference to the policy guidance on wind turbines approved by Council in 2010. He added that, in future there may be further opportunities to revisit these matters, but in relation to this application the Committee had to deal with policies in place at present. He stated that

when an application had been considered against relevant policies and met the criteria, it had to be supported.

Councillor Grant indicated that Councillor Innes had succinctly described the Committee's position. He also referred to the 2010 wind turbine policy guidance and agreed that the application had to be tested against that most recent guidance. He stated that, regrettably for the objectors, he could see no planning reasons not to grant permission and would be supporting the application.

The Convener brought the discussion to a close. He referred to the large number of wind turbine applications, stating that the Planning Committee had refused quite a number which had then gone to appeal; the Council had been successful in these appeals to date. If the Committee went against its own guidance now it would weaken the Council's position. The Committee should support the recommendation to grant planning permission as set out in the report and he moved that this be put to the vote.

Decision

The recommendation that planning permission should be granted was put to the vote and received **11 votes for** and **1 vote against**; there were no abstentions. The Committee agreed to grant planning permission subject to the following conditions:

- 1 The external free-field noise levels associated with the operation of the wind turbine hereby approved shall not exceed 35dBLA90 10min at any wind speed up to 10m/s at any residential property.

Reason:
In the interests of the residential amenity of the wider locality and to protect noise sensitive properties.
- 2 No symbols, logos or any other markings shall be displayed on any part of the wind turbine hereby approved without the written consent of the Planning Authority, except for over-riding reasons of health and safety.

Reason:
In the interests of the visual amenity of the area.
- 3 In the event that the wind turbine installed on the application site fails to produce electricity for a continuous period of 6 months, then, unless otherwise approved in writing by the Planning Authority, it shall be deemed to have ceased to be required. If it is deemed to have ceased to be required the wind turbine shall be dismantled and removed from the site by the operator by no later than the date occurring 6 months after the end of the said continuous 6 months period, and the ground fully reinstated to the specification and approval of the Planning Authority.

Reason:
To prevent a redundant turbine remaining on the application site, in the interests of the landscape amenity of the area.

Sederunt: Councillor Broun-Lindsay entered the Chamber

2A. PLANNING APPLICATION NO. 11/00663/P: CONVERSION OF AGRICULTURAL BUILDINGS TO FORM 15 HOUSES, FORMATION OF VEHICULAR ACCESS AND ASSOCIATED WORKS AT BEGBIE FARM STEADING, BEGBIE

A report on the application for planning permission had been submitted. Mr Stalker summarised the key points of the report. He referred to issues raised at the site visit

regarding access through the steading and to suggestions for a gate instead of a wall at the northern end of the internal access road to the east side of the north range of the steading; he advised that this could be addressed through a condition of the grant of planning permission additional to those recommended in the application report.

Mr Harrison of BLUE Planning and Development spoke against the application on behalf of clients, Mr and Mrs Wright of Begbie Farmhouse. His clients wished to state that they were not unreasonable and not necessarily opposed to new developments. As members of a small community they felt very strongly that only a well thought through development should be allowed. The proposal was contrary to several Scottish Government and East Lothian Council policies. This steading did not satisfy the redundancy criteria as it was still in use. He raised several other issues. Number of units: Begbie was a hamlet, the addition of 15 units showed no respect to the existing community. Gardens: no formal garden area. Parking: provision inadequate and no public provision. He referred to the Bolton development, stating the parking provision there was insufficient. Amenities: Begbie had no local facilities. Road safety: dangerous road bend, increase in traffic, no facility for pedestrians. Agricultural vehicles: large vehicles accessing nearby roads. Bats: roosting activity had been noted. In conclusion, he stated that there was a strong case for refusal.

Mr Stalker responded that in relation to the matter of the redundancy of use of the steading buildings, a qualified position had been taken in the assessment of the application; although the buildings were used for storage at times, officers were satisfied that the steading was not suited to the needs of modernised agricultural practices. With reference to parking at Bolton he queried how this conclusion could be reached when a significant part of the development there had not yet been built or occupied. He questioned the need for large agricultural vehicles to go through the steading. In relation to bats, he referred to the advice from the Biodiversity Officer as detailed in the application report.

Ms Chrystal, who had lived in Begbie for 33 years, spoke against the application. She stated she was not against development in principle but was against this proposed development. The applicant sought to maximise rental income with little respect for the current occupiers. The proposal was an overdevelopment of the site. There was a significant lack of amenities on site and off site in Begbie. There were potentially serious traffic issues. The development did not meet the Community Planning Outcomes. The application would more than treble the size of the community. Lack of gardens and use of communal areas could lead to potential noise nuisance and neighbour conflict. The allocation of 23 parking spaces was inadequate. The only storage for bicycles would be indoors. The most serious issue concerned roads/traffic; the poor sight lines would have been noted at the site visit. Agricultural vehicles used these roads. The development was quite inappropriate and unsustainable in a hamlet with no amenities.

In response to a question from Councillor Goodfellow, Mr Stalker clarified that there was no recommended condition in relation to cycle storage provision. He added that there was however space on site to provide cycle storage facilities and that this matter could be addressed by a condition of the grant of planning permission additional to those listed in the application report.

Local Member Councillor McMillan referred to road safety concerns, particularly the road bend, junction, dangerous corner and narrow bridge. He stated that this was not a well thought through application. The local community would be adversely affected by this development. He agreed with Mrs Chrystal's comments on amenity and safety issues. The application was inappropriate and an overdevelopment. There was also

a wider issue regarding steading developments; if they became more popular they would have a wider effect on local communities. He would not be supporting this application.

Local Member Councillor Trotter echoed Councillor McMillan's comments. He would also not be supporting this application. It was an overdevelopment, the increase in traffic and the effect on the roads was not acceptable.

Local Member Councillor Broun-Lindsay remarked that steadings changed character as farm machinery developed and without question this steading had reached that stage. This particular steading was unusual in that it was bounded by a frequently used road; the right angled bend did slow traffic down but the problems pointed out by objectors would remain no matter how many housing units were built. He had concerns about lack of differentiation between vehicles and pedestrians but cited results of experiments in Europe regarding lack of road demarcations. He also had concerns about young children playing in the extended courtyard area, suggesting, not just in relation to this application, that bollards needed looked at from a safety aspect. He fully understood the arguments put forward by the objectors and noted his local colleagues' views, but he had not yet made a decision on this application.

Mr Stalker, in response to Councillor Broun-Lindsay's point about bollards, advised that these were promoted as a barrier for vehicular access, however if they were thought not to address a serious hazard potentially to children at that existing access and that a more substantial barrier was considered necessary, a wall or gate could be erected instead.

Councillor Innes commented that steading developments had been taking place in East Lothian for some time and the Committee had previously granted applications to similar developments without gardens. He did have some concerns about the traffic but the Transportation Officers stated that these issues could be managed. He agreed with Councillor Broun-Lindsay's comments regarding bollards. He agreed that access arrangements for existing residents should be kept. He stated that cycle storage and other issues raised could be addressed in the conditions. He did not think there were enough reasons to refuse the application and he would, on balance, be supporting the report recommendation.

Councillor McNeil referred to concerns expressed by residents, including the road access to the steading, access to fields and width of road to the development. He noted that the applicant had not spoken but was present and may wish to respond to points raised by Members.

The applicant agreed that the bollards could be replaced with another form of barrier. In terms of amenity, he commented that there was a field adjacent to the proposed development that could be allocated to the steading development for the benefit of residents. Mr Stalker informed Members that the land referred to did not form part of the application site and could not be the subject of a decision taken on this application.

Councillor McMillan added that it was important not to lose sight of objectors' concerns. This was an overdevelopment, the road was dangerous and the local community was concerned. There were many planning issues and more conditions were being considered; he urged the Committee to consider the wider issues.

Councillor Goodfellow remarked that he was not totally convinced that the steading was redundant yet, there appeared still to be some use of it. Mr Stalker repeated his

advice that the steading was able to be used for storage but was not suitable for modern agricultural use. Policy DC1 supported conversion of steading buildings where there was no reasonable prospect of the building being fully utilised. Councillor Goodfellow then added that he did not feel he could support this application unless cycle storage provision was made.

The Convener brought the discussion to a close. He stated that the proposal before the Committee would significantly change the steading but the quality of the development would be good for the area. There were several issues that needed to be addressed if planning permission for the proposed steading conversion was to be approved: the provision of a fixed barrier (including a gate) rather than bollards at the existing access in the southeast corner of the site, the on-site provision of a cycle storage facility, the provision of a gate rather than a wall at the north end of the access road on the east side of the north range and the provision of on-site traffic calming facilities in the vicinity of the proposed new site access. He moved that with these amendments to the recommendation of the application report that the report recommendation should be put to the vote.

Decision

Accordingly, the recommendation that planning permission should be granted was put to the vote and received **9 votes for, 3 votes against and 1 abstention**. The Committee agreed to grant planning permission subject to the recommended conditions listed at the end of the application report and to part (ii) of recommended Condition 16 being amended to require the closing off of the existing access to the site from the C67 public road at the southeast of the site with a fixed barrier (including a gate) rather than with bollards and that the grant of planning permission should be subject to additional controls to secure the provision of an on-site cycle storage facility, the installation of an access gate rather than a wall at the north end of the access road that would be to the east side of the north range of the steading and the provision of a traffic calming facility at the west end of the access road that would be on the north side of the south range and at the south end of the access road that would be on the western part of the site:

- 1 No development shall take place on site unless and until final site setting out details have been submitted to and approved by the Planning Authority.

The above mentioned details shall include a final site setting-out drawing to a scale of not less than 1:200, giving:

- a. the position within the application site of all elements of the proposed development and position of adjoining land and buildings;
- b. finished ground and floor levels of the new build biomass boiler building element of the development relative to existing ground levels of the site and of adjoining land and building(s). The levels shall be shown in relation to an Ordnance Bench Mark or Temporary Bench Mark from which the Planning Authority can take measurements and shall be shown on the drawing; and
- c. the ridge height of the proposed new build element of the proposal; shown in relation to the finished ground and floor levels on the site.

Reason:

To enable the Planning Authority to control the development of the site in the interests of the amenity of the area and to protect the setting of the buildings listed as being of special architectural or historical interest.

- 2 No development shall take place until there has been submitted to and approved in writing by the Planning Authority a scheme of landscaping. The scheme shall include full details of:

- (i) tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting, including hedgerow planting to the northern and western boundaries of the site and standard trees on the grassed areas of the site;

(ii) details of all surfacing treatment within the site, including for the gardens and communal areas for the houses, access roads and turning areas, car parking spaces, footpaths, and of any new means of enclosure or delineation of boundaries.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the new houses or the completion of the development, whichever is the sooner, and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

Reason:

In order to ensure the implementation of a landscaping scheme to enhance the appearance of the development in the interests of the amenity of the area and to protect the setting of the buildings listed as being of special architectural or historic interest.

- 3 No development shall take place until details of roof ventilation measures have been submitted to and approved by the Planning Authority and the ventilation measures used shall accord with the details so approved.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest and the character and visual amenity of the area.

- 4 All new and replacement stone to be used in the development shall be natural stone to match as closely as possible the existing stonework of the buildings, in accordance with a sample to be submitted to and approved by the Planning Authority prior to its use in the development and the stone used shall accord with the sample so approved.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest and the character and visual amenity of the area.

- 5 All new stonework, including infill stonework for the existing steading buildings shall match as closely as possible the existing stonework of the walls of the existing steading buildings and all the pointing or re-pointing of that stonework shall comprise a lime-based mortar, which shall match, as closely as possible, the existing lime pointing.

Prior to commencement of limework a detailed specification for limework together with details of the lime specialist contractor to be used, shall be submitted to and approved by the Planning Authority. The specification shall include a timetable for the limework; and also details of the masonry preparation; lime mortar mix, showing type of lime, aggregate and proportions and protective measures for the limework during and after the work being carried out. The specification shall be based on a lime specialists analysis of and report on the building, and a copy of this analysis and report shall be included with the detailed submission for this condition.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest and the character and visual amenity of the area.

- 6 Samples of replacement pantiles to be used in the development shall be provided for the prior inspection and approval of the Planning Authority and the replacement pantiles used shall accord with the samples so approved.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest and the character and visual amenity of the area.

- 7 The following shall be finished in a colour to be approved in advance by the Planning Authority and the colour of the finish applied shall accord with the details so approved:

1. the external face of all new and replacement exterior timber boarded doors, walls and timber boarded infill panels;
2. the external face of the frames of all new and replacement glazed doors, screens and infill panels;
3. the external face of the frames of all new and replacement windows.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest and the character and visual amenity of the area.

- 8 Samples of the new and replacement windows to be used in the development shall be provided for the inspection and approval of the Planning Authority prior to them being installed on the buildings.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest and the character and visual amenity of the area.

- 9 The glazed doors and windows to be installed in existing door, cart arch and other large openings of the steading buildings shown on the approved drawings docketed to this planning permission shall be installed as far back within those openings as possible, to a detail to be submitted to and approved in writing in advance by the Planning Authority.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest and the character and visual amenity of the area.

- 10 All roof windows shall be 'conservation type' roof windows and shall be installed as near to a flush fitting as possible with the roof surface and with minimum required flashing.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest and the character and visual amenity of the area.

- 11 Prior to their installation on the buildings, details of any flue and vent outlets shall be submitted to and approved by the Planning Authority. Details shall include scale 1:5 or 1:10 section drawings and brochures showing the size, design and numbers of the proposed flue and vent outlets. The details shall show the flue and vent outlets concealed as much as possible and for visible parts to match as closely as possible the colour and materials of the part of the buildings to which they would adjoin.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest and the character and visual amenity of the area.

- 12 All new and replacement cast iron rainwater goods shall be painted a colour to be approved in advance by the Planning Authority and the colour of the paint applied to them shall accord with the detail so approved.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest and the character and visual amenity of the area.

- 13 No fascia boards shall be installed behind the gutters on the buildings. All new and replacement sections of guttering shall only be attached to the steading buildings using sarking straps.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest and the character and visual amenity of the area.

- 14 Prior to their use in the development a schedule and samples of the materials and finishes for the biomass boiler building hereby approved shall be submitted to and approved in writing by the Planning Authority and the materials and finishes of the biomass boiler building shall be in accordance with the schedule and samples so approved.

Reason:

To enable the Planning Authority to control the materials, finishes and colour to be used to achieve a development of good quality and appearance to safeguard the character and appearance of the buildings listed as being of special architectural or historic interest and the character and visual amenity of the area.

- 15 Prior to the occupation of any of the houses hereby approved:

- (i) a visibility splay of 4.5 metres by 70 metres shall be formed at the west side of the junction of the site access with the C67 public road and a visibility splay of 2.5 metres by 90 metres shall be formed at the east side of that junction. The visibility splays so formed shall be maintained such that no obstruction shall lie within the splay above a height of 1.05 metre measured from the adjacent carriageway surface;
- (ii) bollards to close off the existing access to the site from the C67 public road at the southeast of the site shall be installed. They shall be of a type and in positions to be agreed in advance with the Planning Authority and shall be retained in their approved positions thereafter, unless otherwise agreed in writing by the Planning Authority; and
- (iii) road marking shall have been carried out and a road sign denoting the access shall have been erected, in positions agreed in advance with the Planning Authority.

Reason:

In the interests of road safety.

- 16 Prior to the occupation of any of the houses hereby approved the private access road within the site, of which the first 10 metres from its junction with the C67 public road shall be hard formed, the 23 car parking spaces, vehicular manoeuvring areas, and all footpaths all as delineated on drawing no. 626/104 docketed to this planning permission shall have been formed and made available for use and thereafter shall remain available for use unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of road safety and the residential and visual amenity of the development.

- 17 None of the fifteen houses to be created from the conversion of the group of steading buildings hereby approved shall be occupied unless the two utilitarian agricultural buildings positioned to the southwest of the group of listed steading buildings and the three utilitarian agricultural buildings positioned to the northeast of the group of listed steading buildings and which are stated to be demolished on the drawings docketed to this planning permission have been demolished and the materials of them completely removed from the site.

Reason:

To ensure that the fifteen houses benefit from an acceptable amount of residential amenity and in the interests of road safety.

- 18 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended, no development of the types specified in Part 1 and Part 2 of Schedule 1 of the Order or in any statutory instrument revoking and/or re-enacting those Parts of the Order shall be undertaken on the houses to be formed from the conversion of the steading buildings hereby approved, or on any part of the application site, other than the development shown on the drawings docketed to this planning permission, unless with the prior approval of the Planning Authority.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interests and the character and visual amenity of the area.

2B. PLANNING APPLICATION NO. 11/00663/LBC: ALTERATIONS TO BUILDINGS, ERECTION OF WALLS, PART DEMOLITION OF BUILDINGS AND WALLS AT BEGBIE FARM STEADING, BEGBIE

A report on the application for listed building consent had been submitted.

Decision

The Committee agreed to grant listed building consent subject to the following conditions:

- 1 No development shall take place until details of roof ventilation measures have been submitted to and approved by the Planning Authority and the ventilation measures used shall accord with the details so approved.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest.

- 2 All new and replacement stone to be used in the development shall be natural stone to match as closely as possible the existing stonework of the buildings, in accordance with a sample to be submitted to and approved by the Planning Authority prior to its use in the development and the stone used shall accord with the sample so approved.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest.

- 3 All new stonework, including infill stonework for the existing steading buildings shall match as closely as possible the existing stonework of the walls of the existing steading buildings and all the pointing or re-pointing of that stonework shall comprise a lime-based mortar, which shall match, as closely as possible, the existing lime pointing.

Prior to commencement of limework a detailed specification for limework together with details of the lime specialist contractor to be used, shall be submitted to and approved by the Planning Authority. The specification shall include a timetable for the limework; and also details of the masonry preparation; lime mortar mix, showing type of lime, aggregate and proportions and protective measures for the limework during and after the work being carried out. The specification shall be based on a lime specialists analysis of and report on the building, and a copy of this analysis and report shall be included with the detailed submission for this condition.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest.

- 4 Samples of replacement pantiles to be used in the development shall be provided for the prior inspection and approval of the Planning Authority and the replacement pantiles used shall accord with the samples so approved.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest.

- 5 The following shall be finished in a colour to be approved in advance by the Planning Authority and the colour of the finish applied shall accord with the details so approved:

1. the external face of all new and replacement exterior timber boarded doors, walls and timber boarded infill panels;
2. the external face of the frames of all new and replacement glazed doors, screens and infill panels;
3. the external face of the frames of all new and replacement windows.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest.

- 6 Samples of the new and replacement windows to be used in the development shall be provided for the inspection and approval of the Planning Authority prior to them being installed on the buildings.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest.

- 7 The glazed doors and windows to be installed in existing door, cart arch and other large openings of the steading buildings shown on the approved drawings docketed to this listed building consent shall be installed as far back within those openings as possible, to a detail to be submitted to and approved in writing in advance by the Planning Authority.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest.

- 8 All roof windows shall be 'conservation type' roof windows and shall be installed as near to a flush fitting as possible with the roof surface and with minimum required flashing.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest.

- 9 Prior to their installation on the buildings, details of any flue and vent outlets shall be submitted to and approved by the Planning Authority. Details shall include scale 1:5 or 1:10 section drawings and brochures showing the size, design and numbers of the proposed flue and vent outlets. The details shall show the flue and vent outlets concealed as much as possible and for visible parts to match as closely as possible the colour and materials of the part of the buildings to which they would adjoin.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest.

- 10 All new and replacement cast iron rainwater goods shall be painted a colour to be approved in advance by the Planning Authority and the colour of the paint applied to them shall accord with the detail so approved.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest.

- 11 No fascia boards shall be installed behind the gutters on the buildings. All new and replacement sections of guttering shall only be attached to the existing buildings using sarking straps.

Reason:

To safeguard the character and appearance of the buildings listed as being of special architectural or historic interest.

- 12 Prior to their use in the development a schedule and samples of the materials and finishes for the biomass boiler building hereby approved shall be submitted to and approved in writing by the Planning Authority and the materials and finishes of the biomass boiler building shall be in accordance with the schedule and samples so approved.

Reason:

To enable the Planning Authority to control the materials, finishes and colour to be used to achieve a development of good quality and appearance to safeguard the character and appearance of the buildings listed as being of special architectural or historic interest.

Sederunt: Councillor Trotter left the meeting

3. PLANNING APPLICATION NO. 12/00313/P: ALTERATIONS, EXTENSION TO HOUSE AND ASSOCIATED WORKS AT FAIR WAY, 8 CROMWELL ROAD, NORTH BERWICK

A report on the application for planning permission had been submitted. Mr Stalker summarised the key points of the report.

Mr McMaster, the applicant, addressed the Committee. He informed Members that in considering the extension he had tried to ensure that it would be sympathetic to the original building and have the least impact possible on neighbouring properties. A number of plans had been considered but he had settled on a modest style of

extension, which would use traditional materials and blend in with the other houses. He had, at every stage, consulted with the Council's Planners who had guided him through the process to ensure that the proposals met the relevant policies. He fully understood that change equalled compromise. He hoped that the application would be acceptable to the Committee.

Mr Cleland, resident of a flat within the same building, spoke against the application. He stated that the Community Council and residents of 10, 12, 14 and 16 Cromwell Road all objected to this application. The proposal was for a modern, rectangular sun room. There was nothing remotely similar in the street, all the houses had traditional stone bays; the extension would appear incongruous and not in keeping with the area and would set a precedent. Cromwell Road was part of the North Berwick Conservation Area and well known as a public view from the golf course. The extension would be adjacent to his boundary and occupants of the sun room would be able to look into his living room; it would be very overbearing. He urged the Committee to refuse the application.

Local Member Councillor Goodfellow commented that he was pleased the applicant would be using traditional materials; however he had issues with the window construction. Cromwell Road provided panoramic views of North Berwick and was widely viewed from the golf course and the dunes. All the houses in this road had stone mullions; the proposed sun room would have lightweight windows and no stone mullions. He would not be supporting this application.

Local Member Councillor Day expressed support for the officer's recommendation. He acknowledged that the property was in the Conservation Area but felt the proposed extension was not inconsistent with the surrounding architecture. The proposal was of a substantial design, with a stone base and a slated roof with timber framed windows. In relation to design, extensions did not necessarily have to follow the architecture of the existing building; in this case he believed the proposal would be complementary. He did not consider overlooking to be an issue; the erection of a 2.2m fence and the position and angle of windows would negate these issues. There was no material planning reasons not to grant planning permission.

Councillor McNeil referred to the site visit and to the extension to the Marine Hotel, which had been visible from the application site. He commented that not all buildings in the vicinity had stone mullions therefore a precedent had already been set. He agreed with the report recommendation.

Councillor Grant indicated that it had been useful at the site visit to view the rear of the houses and see the various styles. He noted Councillor Goodfellow's comment regarding stone columns but given the variety of design in the area he did not see the need for the applicant to alter what was proposed. This was a good design and worthy of support. He understood the objector's concerns but would be supporting the report recommendation.

The Convener brought the discussion to a close and moved that the recommendation to grant planning permission as set out in the report be put the vote.

Decision

The recommendation that planning permission should be granted was put to the vote and received **10 votes for** and **2 votes against**; there were no abstentions. The Committee agreed to grant planning permission subject to the following conditions:

- 1 The extension hereby approved shall not be used unless the 2.2 metres high close boarded timber fence also hereby approved is in place on part of the west boundary of the north garden of the house of Fair Way as shown on docketed drawing 1104/2. Thereafter the screen fence shall remain in place unless otherwise approved by the Planning Authority.

Reason:

In order to protect the residential amenity of the neighbouring residential property to the west.

4A. PLANNING APPLICATION NO. 12/00288/P: ALTERATIONS, EXTENSION TO HOUSE, FORMATION OF HARDSTANDING AREAS, ERECTION OF WALL, SEATING AND GATE AT 36 ST ANDREW STREET, NORTH BERWICK

A report on the application for planning permission had been submitted. Mr Stalker summarised the key points of the report.

Mr MacKinnon, the applicant, addressed the Committee. He informed Members that the design had been submitted after careful examination of the site and its context and after consultation with the Council's Planning Officers and neighbours. In contrast with the existing conservatory, the new extension would actually improve the privacy of neighbours. The aim was to build a high quality extension with appropriate materials. Zinc had been selected to replace the roofing material as it complemented the existing style of the property. The design was appropriate to the site and complied with all the relevant planning policy guidelines and would improve the immediate surroundings.

Ms Hall, representing North Berwick Community Council, spoke against the application. The Community Council contested the statement that Policies ENV4 and DP6 of the adopted East Lothian Local Plan 2008 had been complied with. The fact that the property was in the North Berwick Conservation Area but the proposed extension could not be seen by the general public did not mean that relevant policies should not be complied with. The design bore no relation to that of the original property and there was a difference in the levels of the properties; in addition the extension gave the impression of a "lean to". The extension would replace and be higher than the existing fence at the west side boundary. She added that objectors had rights; the right to enjoy the privacy of their home without the invasion of a white, box like structure.

Mr Midgley of 11 Westgate, North Berwick, spoke against the application. He stated that his house and back garden were overlooked by the application property. At the site visit it would have been noted that 36 St Andrew Street sat in a raised position due to sloping ground; there was a difference of one whole storey height. His house had obviously been affected by the existing conservatory and what was now proposed would, due to its size and position, have an overlooking effect on his amenities and be an overdevelopment of the site. The design and materials proposed were out of character with the North Berwick Conservation Area. The proposed structure would be built right up to the mutual boundary of his property and its west elevation wall would be much higher than the existing timber fence that that presently enclosed that boundary. He added that private as well as public views should be considered. He asked the Committee to reject this application.

Local Member Councillor Goodfellow indicated that he had two areas of concern. Firstly, the fundamental issue regarding conservation areas and applications open to public view - if an extension was not seen by the general public this did not mean that appropriate policies did not need to be complied with. Secondly, this extension, with

its zinc roof and aluminium windows – if this had been applied for under the original building it would not have been allowed; it was only because it applied to an extension that permission had been recommended. He could not support this application.

Local Member Councillor Day indicated that he would be supporting the officer's recommendation. With reference to location within the North Berwick Conservation Area, he stated that the proposed extension was to the rear of the property, well concealed and not viewed by the public. The design and materials proposed were appropriate for the setting and would not be detrimental to the Conservation Area. With regard to overlooking, the proposed extension would not have any openings on the west elevation, the window on the north side looked onto a restaurant garden and the openings on the east side were either of frosted glass or of such a height that overlooking would be precluded by the proposed wall. There was no material planning reasons to refuse this application.

Mr Stalker informed Members that the use of zinc was very common to conservation areas in relation to roof flashings; zinc did have a shine when first used but weathered to a dull finish.

Councillor McNeil agreed with the comments made by Councillor Day and indicated that he would be supporting the report recommendation to grant planning permission. The building was of a modern style, the extension would be adjacent to the garage of the objector and the rear of the applicant's ground looked into the restaurant. He saw no issue to refuse the application.

Councillor Grant also expressed agreement with the Councillor Day's comments. The view from this area from the front of the property showed various types of extensions. He did not think the proposal constituted an overdevelopment, there would be sufficient use of the garden ground left and he also felt there was enough protection regarding any overlooking concerns. He agreed with the report recommendation.

The Convener brought the discussion to a close and moved that the recommendation to grant planning permission as set out in the report be put to the vote.

Decision

The recommendation that planning permission should be granted was put to the vote and received **10 votes for** and **2 votes against**; there were no abstentions. The Committee agreed to grant planning permission subject to the following conditions:

- 1 No use shall be made of the extension hereby approved unless the 1.6 metres high wall shown on the docketed drawings to be positioned on the east boundary of the rear garden of the house has been fully built and thereafter that wall shall remain in place unless otherwise approved by the Planning Authority.

Reason:

To safeguard the privacy and residential amenity of the neighbouring property to the east.

- 2 No use shall be made of the extension hereby approved unless the upper window to be formed in the east elevation of the proposed extension has been fitted with obscure glazing and hereafter that window shall remain obscure glazed unless otherwise approved by the Planning Authority.

Reason:

To safeguard the privacy and residential amenity of the neighbouring property to the east.

4B. PLANNING APPLICATION NO. 12/00288/CAC: DEMOLITION OF FENCING AND GATE AT 36 ST ANDREW STREET, NORTH BERWICK

A report on the application for conservation area consent had been submitted.

Decision

The Committee agreed to grant conservation area consent.

Sederunt: Councillor Day left the meeting

5. PLANNING APPLICATION NO. 11/01045/P: ERECTION OF 5 HOUSES AND ASSOCIATED WORKS AT CARBERRY CANDLES, CARBERRY

A report on the application for planning permission had been submitted. Mr Stalker summarised the key points of the report.

Mr Carrick, the applicant, addressed the Committee. He responded to grounds 1 and 2 for refusal as outlined in the report, stating that the proposed new development was not contrary to the East Lothian Local Plan (ELLP) policies. The report accepted that the application site was a brownfield site. He stated that the ELLP, adopted in October 2008, did not respond to national guidance issued after that date, specifically Scottish Planning Policy (SPP) of February 2010, which was a material consideration for all new planning applications. This focused on sustainability; regeneration, reducing the need to travel, promoting development of mixed communities and promoting rural development. Carberry was a rural community with over 30 houses, a hotel, a nursing home and a waste recycling facility. He argued that it was a sustainable location as per SPP definition and the development would improve the quality of the built environment. SPP was a material consideration that directed planning authorities that applications such as this should be prioritised for development. The Carberry site met the relevant criteria within SPP and the application had the support of the local community.

Mr Stalker stated that the application site was a brownfield site. He advised that there had been no change to SPP of February 2010. He informed the Committee that on the matter of new build housing development in the countryside the former Chief Planner of the Scottish Government had sent a letter to all planning authorities in Scotland saying that consideration be given to a more permissive approach to new build housing development in the countryside. However, that was specifically stated in respect of remote or rural areas where there was a need for people to live in the countryside and in order to support the rural economy of those areas. Otherwise, it was stated in the letter that in areas, including greenbelts, where due to commuter or other pressures, there was a danger of suburbanisation of the countryside there was a sound case for a more restrictive approach. The countryside of East Lothian was subject to such pressures. He stressed that Council's planning policies were designed to address need, not desire, to live in the East Lothian countryside.

Ms Morrison, owner of the site, challenged the reasons for refusal stated in the officer's report. She stressed to Members that there were no objections to this proposed development; 10 neighbours, plus the Musselburgh Conversation Society, all supported the application. Rather than the proposed new buildings being detrimental they would actually improve the area. She wished to safeguard the historical building but had been unable to get funding. She appealed to the

Committee to grant permission to replace the warehouses and provide new family homes in this beautiful environment.

Mr Weir, of South Lodge, Carberry, spoke in support of the application. He outlined the history of the site, stating that he had addressed the Committee 2 years ago representing Carberry residents opposed to an application by Hamilton Waste for a recycling plant. That application had been approved and residents now endured non-stop industrial noise and traffic, into perpetuity. He informed Members that the local community supported this application, irrespective of any technical or esoteric issues. The Council had the opportunity to support development of the community that currently lived with an image of being nothing more than an assortment of houses beside a waste facility.

Ms Lindsay of Pentland View, a Category C listed house close to the application site, spoke in support of the application. She described the setting as mixed woodland. The industrial building had served its commercial purpose, it was an eyesore and it was difficult to see how it could be converted into viable residential units. She hoped Members would listen to the views of the community, adding that there could not be many occasions where the Committee had a local community that wanted a new development to go ahead. She urged approval of this application.

Ms Jackson, of Springfield Cottage, spoke in support of the application. She informed Members that she was the nearest neighbour to the application site and was keen to see the disused factory building brought back into use as family homes. She had concerns regarding the building in its present state in relation to squatters, unsound structure and potential fire risk; there was only 2m between the factory buildings and her home. She fully supported this planning application; it would be a much better environment for families, the proposals fitted well with Carberry and would remove the eyesore building. She asked Members to grant this application.

In response to questions from Councillor Innes, Mr Stalker clarified that within Policy DC1 the only provision that allowed for enabling housing development in the countryside was a) to enable a leisure or tourism development and b) to enable restoration of a listed building. Referring to statements made in relation to the financial situation regarding the proposed development, he advised that no evidence to support the case for the proposed 5 new build houses had been presented. He added that the prospect could be that if planning permission for the 5 new houses was granted then this might be used as a precedent to justify replacement of the older buildings of Carberry Candles with new build houses.

The Convener stated that Councillor Caldwell had called this application off the Scheme of Delegation. He was unfortunately not able to attend the meeting but his statement, in support of the application, had been circulated to all Members of the Committee.

Local Member Councillor Forrest referred to Mr Stalker's comments in relation to setting a precedent if planning permission was granted. He stated this was not a route he wished to take and he would therefore be supporting the officer's recommendation to refuse this application.

Local Member Councillor Williamson indicated that it had been useful at the site visit to see the 1970s building and illustrations of its replacement. He supported new build but would want some security, a Section 75 Agreement for example, as a form of assurance that the old buildings would be renovated. He would be supporting the application.

Councillor Innes commented that this was a difficult application. He referred to the Carberry area and the designed landscape and queried how Members might try to find a way forward with this development proposal. He stated that if no finance was available to convert these modern buildings then they would fall into disrepair. On balance, he would be prepared to support the proposed development of the 5 new houses, subject to a Section 75 Agreement as suggested by Councillor Williamson.

The Convener indicated that he was in a similar position to Councillor Innes. There were difficulties; the Committee had to consider the impact of their decision on other applications.

A number of issues were then discussed between Members, the applicant and Mr Stalker; including the current financial market, the associated impact on development, planning policies both local and national, implications for other communities if this application was approved and development on brownfield and greenfield sites. Mr Stalker reiterated that every application was determined on its merits or otherwise according to relevant planning policies. He also drew attention to new legislation applicable to Section 75 Agreements that enabled applicants to apply to have these modified or discharged at a future date.

Councillor Innes remarked that it was unusual to have people supporting a development to the extent of those who had made representation to this application. He stated that Members had to try to achieve what would be best for the area, the residents and the Council. He felt that approval, subject to a Section 75 Agreement, would be the best option and was prepared to formally propose this.

Councillor Grant agreed that the Planning Committee was taking a risk if it went down this route as it may open the door for other developers. However, taking everything into consideration, he concurred with Councillor Innes and would be prepared to support the application.

Councillor Broun-Lindsay urged caution in tampering with Policy DC1, however good the intentions. The problem was not what the Committee would like to see but how it got to that point; he referred to the Council's success in appeals to date. He stated he could not see a way out of this other than agreeing with the report recommendation and refusing permission. Without any linkage between the new houses and the renovation of the old buildings, the risk was too great, even with a Section 75 Agreement. He stressed again that the Committee needed to be very careful.

Councillor MacKenzie supported Councillor Broun-Lindsay's comments. He appreciated the comments from the supporters, however, if approval was given, it could set a dangerous precedent.

The Convener brought the discussion to a close. He referred to the proposal put forward by Councillor Innes, to grant planning permission subject to a Section 75 Agreement requiring that the older buildings of Carberry Candles have been fully converted into houses prior to any commencement of development of the proposed 5 new houses.

Mr Stalker advised that the Section 75 Agreement should consist of 3 elements:

- 1 Control the phasing of the proposed development of 5 new build houses such that there be no commencement of development unless and until the group of older Carberry Candles buildings had all been fully converted to houses in accordance with a planning permission granted for their conversion

- 2 Secure a developer contribution of £9,806.75 (i.e. £1,961.35 per each of the proposed 5 new build houses) towards the provision of additional secondary school accommodation at Musselburgh Grammar School
- 3 Secure the provision of 1 unit of affordable housing.

He added that in accordance with the Council's policy on time limits for completion of planning agreements the Section 75 Agreement would have to be completed within 6 months of the Committee's decision on this application, otherwise the application would have to be refused for the reasons that:

- Without the planning control over phasing the proposed 5 new build houses would be an unacceptable development for its place
- Without the required developer contributions the proposed 5 new build houses were unacceptable due to a lack of sufficient school capacity at Musselburgh Grammar School and a lack of provision of affordable housing, contrary to policies INF3 and H4 of the adopted East Lothian Local Plan 2008.

In addition, he suggested that the Committee may wish to attach conditions, reflective of the following heads of terms, to the grant of planning permission:

- Submission of final site setting out details
- A land contamination investigation and report of findings
- Protection of adjacent trees during demolition/site construction works
- Submission of a schedule and samples of external materials and all hard surfaces of the development
- Formation of site access, parking and turning layout to serve the proposed 5 houses
- Provision of on-site bin storage facilities

The Convener asked that the proposal put forward by Councillor Innes, along with the conditions and Section 75 Agreement outlined by Mr Stalker, be put to the vote.

Decision

The proposal that planning permission should be granted subject to the conditions and Section 75 Agreement outlined above was put to the vote and received **8 votes for** and **3 votes against**; there were no abstentions. The Committee therefore agreed to grant planning permission subject to the conditions and Section 75 Agreement as outlined.

Sederunt: Councillor McNeil left the meeting

6. PLANNING APPLICATION NO. 12/00062/PCL: RESURFACING OF EXISTING FOOTPATHS, FORMATION OF NEW FOOTPATHS, CAR PARKING AREAS, ERECTION OF FENCING, GATES, WALL, INSTALLATION OF LIGHTING AND A CHANGE OF USE FROM DOMESTIC GROUND TO PUBLIC GROUND AND PUBLIC GROUND TO DOMESTIC GROUND (PART RETROSPECTIVE) AT PENCAITLAND PARISH CHURCH, THE COTTAGE AND PRIMARY SCHOOL, PENCAITLAND

A report on the application for planning permission had been submitted. Mr Stalker summarised the key points of the report. He referred to issues raised at the site visit

and indicated that if the Committee were to decide to grant planning permission it should be subject to conditions additional to those recommended requiring that a wire mesh fence be added to the south side of the barrier fence between a length of new footpath and the adjacent public road and that the opening of an existing unused pedestrian access to that public road be enclosed by a fixed barrier rather than the proposed gate and that the fixed barrier be designed to have the appearance of a gate.

Mr Forbes, resident of The Glebe, spoke against the application. He stated that this planning application was in response to the “Fatal Footpath” campaign and had expanded into a refurbishment of church grounds and extra car parking disguised as a safe footpath solution. He raised several issues; the necessity for this planning application, use of public money and lack of public consultation. An alternative safe route was already available used by most of the people in Pencaitland. If another alternative route was required he queried whether other options were available, adding that there were certainly other options that would cost less than the current proposals. He stated that this was not the most dangerous part of Pencaitland, the war memorial crossroads was more dangerous. He urged refusal of this application or, at the least that a decision should be delayed and a public meeting organised, as should have been done at the start of the process.

Ms Donaldson, also a resident of The Glebe, spoke against the application. She expressed concern over lack of communication with residents, but stated her main concern related to safety and access. In relation to the path through the church grounds to/from the school, on closer scrutiny this raised more issues and did not address any road safety issues on the main road. She queried access to the new footpath. She asked Members to consider the effect of the car park on residents of The Glebe; 20/30 cars were parked on or around the roundabout at the beginning/end of the school day. The proposal would do nothing to alleviate this. Residents near the school had been told that the car park would only be in use one hour per week on a Sunday. A number of issues had not been fully addressed; impact on the street, safety aspect, extra car parking created but only one access and when and how often the car park would be used.

The Senior Transportation Manager, Brian Cooper, advised that it was the intention that the extended car park at the school would remain for teachers’ use during school times but outwith school times it could be used by the community. In response to questions from the Convener he advised that there had been public consultation, which had started over 2 years ago and had included the community council and other interested parties. He detailed the consultation to date, which had included a report to Council in February 2011 where it had been agreed that discussion continue with Church Trustees.

Councillor Gillies stressed that when the last consultation had ended his understanding was that the matter would be taken back to the people of Pencaitland and that he had given this undertaking to the community.

Councillor Innes suggested, given this, that a further public meeting should be held and that the development proposal should be continued for a report to be taken to Cabinet for a decision on the best solution.

Mr Averbuch, local resident, addressed the Committee. He outlined the history of the “Fatal Footpath” campaign and the involvement of the various parties to date. Speaking from a personal perspective he stated that he felt the proposal was the least bad solution available. He was now Chair of Pencaitland Community Council

but the Community Council had not taken a view. He sympathised with residents of The Glebe, the traffic situation at school times was chaotic and he did not believe that the proposals before the Committee would address this. He stated however that the local community considered the footpath the main issue. He added that this had been an active issue since 2008, he would not like to see this delayed any further; it had been ongoing for 4 years and needed addressed. He accepted that there were deep concerns about the proposals, but the existing situation could not continue any longer.

Local Member Councillor Gillies reiterated his earlier comments regarding a public meeting. He added that there had been fatalities at the crossroads but not the footpath and the term fatal footpath was not correct.

Mr Stalker advised that as a Planning Committee, if the decision was to continue the application, there would need to be a referral to another body, i.e. Council/Cabinet, to decide how to go forward.

The Corporate Legal Adviser, Morag Ferguson, reiterated that under the powers delegated to the Planning Committee, the Committee could only grant or refuse planning applications, it could not take a view on whether the current proposal was the appropriate means of addressing the problems in Pencaitland and the Committee would need to refer this matter to be debated at Council/Cabinet. Or, if the Committee was satisfied on planning terms then the application could be granted but officers instructed not to implement the permission in the meantime until agreement was reached on whether this was the preferred solution.

The Convener indicated, given the discussion, that there should be a vote on continuing the application to enable, through other procedures, public consultation and thereafter the taking of a report to Cabinet to decide on the preferred solution.

Councillor Grant stated that he would oppose this; the Planning Committee should make a decision today. He added that it was regrettable that people felt that the consultation had not been sufficient and that more public consultation was required.

The Convener brought the discussion to a close. He asked that the proposal as outlined be put to the vote.

Decision

The proposal that this application should not be determined and that there be further public consultation and referral of the matter to Cabinet for review was put to the vote and received **7 votes for** and **3 votes against**; there were no abstentions. The Committee therefore agreed not to determine this application.

Signed

Councillor Norman Hampshire
Convener of the Planning Committee