



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

**TUESDAY 2 OCTOBER 2012
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Committee Members Present:

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

Council Officials Present:

Mr B Stalker, Development Management Manager
Ms M Ferguson, Corporate Legal Adviser
Ms C Molloy, Senior Solicitor
Mr K Dingwall, Principal Planner
Mr D Irving, Planner
Mr D Taylor, Planner (Enforcement)
Mr I McFarlane, Senior Planning Officer
Mr G McLeod, Transportation Planning Officer
Mr M Greenshields, Transportation Planning Officer
Mr R Sinclair, Communications Officer

Clerk:

Ms A Smith

Visitors Present:

Item 1 – Mr Masters, Mr Cooke
Item 2 – Mr McNally, Ms Charlton, Mr Cook
Item 3 – Mr Moyes, Mr Beck, Dr Greenhill, Mr Crossan

Apologies:

Councillor D Grant

1. PLANNING APPLICATION NO. 12/00577/P: PART CHANGE OF USE OF OPEN SPACE TO FORM VEHICULAR ACCESS, FORMATION OF HARDSTANDING AREAS AND ERECTION OF GARAGE (PART RETROSPECTIVE) AT 6 GARDINER'S PLACE AND COAL NEUK, TRANENT

A report on the application for planning permission had been submitted. The Development Management Manager, Brian Stalker, summarised the key points of the report.

Mr Masters of Gardiner's Place spoke against the application. He indicated that there were other options that could have been utilised. The applicant owned AC Taxis; he could park his vehicles on the site at Elphinstone Road. He informed Members that he had lived in the street for 10 years and had never seen a vehicle in the applicant's existing double garage. He queried why the applicant could not have access to the garage from Coal Neuk, which was a public highway. He added that the applicant seemed to have had untold assistance from the Planning Department and questioned what assistance had been given to objectors.

Mr Cooke, also of Gardiner's Place, spoke against the application. He stated that all residents of Gardiner's Place objected to this proposal; there was no support from the local community. He quoted from the East Lothian Local Plan 2008 (ELLP) in relation to residential and conservation areas. Residents wished to live in a pleasant residential area, not in the middle of a parking lot for commercial vehicles. He outlined the history of the applicant's planning requests. He referred to the current use of the site and to the regular complaints from residents. He expressed concern about the increased traffic/number of vehicles as a result of this new application. He queried how this would be policed and enforced. Gardiner's Place was a private road maintained by the residents; he asked why the Council should allow this proposal. He stated that the residential character of Gardiner's Place should be protected and safeguarded from uses other than housing; he urged refusal.

Local Member Councillor Gillies informed the Committee that he had called this application off the Scheme of Delegation List due to concerns about the impact of the change of use in relation to excess traffic in this part of the Conservation Area.

Councillor McMillan indicated that he had concerns about this application. His main concern was with regard to the extent of traffic; 4 cars had been visible during the site visit and there could potentially be 6/7 cars relating to this one house. There was a need to protect the nature of this settlement; this application was a step too far. He agreed with comments expressed by Councillor Gilles and the objectors; something had to be done about the parking in this area.

Councillor Innes remarked that it was unfortunate that the applicant was not present and disappointing that he had proceeded before applying for planning permission, which conveyed little regard for his neighbours. He was sympathetic to the objectors' concerns but there were no sound planning reasons to justifiably oppose this application. On balance, he would be supporting the officer's recommendation.

Councillor MacKenzie referred to the 17 grounds of objection as outlined in the report, commenting that although a number of these had been rebutted there was nonetheless a cumulative effect on the grounds of social concern that impinged on planning considerations. He had been persuaded by the objectors' arguments; there was a conflict between business and residential interests. Gardiner's Place was a private road and a very intimate development; this proposal should not be foisted

upon the residents. As stated by Mr Cooke there was no support for this application from the local community. He would not be supporting the report recommendation.

Councillor Veitch reiterated that there was no support from the local community for this application. The ELLP had been cited, which stated that Planning Authorities were obliged to enhance and protect the residential character of an area. He also made reference to the stated perception that the application area would not be used for residential parking. He concluded that he was inclined to go against the report recommendation.

Councillor Goodfellow expressed sympathy with Councillor Innes's comment that there had to be good planning grounds to refuse an application. He referred to comments made by the first objector that the applicant had received support from the Planning Department, stating that in his previous experience as an objector to planning applications, prior to becoming a Councillor, he had always found the Planning Department to be very even handed when dealing with applicants and objectors.

The Convener brought the discussion to a close. He referred to the presentations given by the two objectors against this application, stressing that none of their reasons were planning arguments that the Committee could defend at appeal. He would be supporting the recommendation to grant planning permission as set out in the report and moved that this be put to the vote.

Decision

The recommendation that planning permission should be granted was put to the vote and received **9 votes for** and **6 votes against**; there were no abstentions. The Committee agreed to grant planning permission subject to the following conditions:

- 1 Prior to any use being made of the vehicular access driveway and garage hereby approved the two parking spaces serving 6 Gardiners Place shall be realigned as shown on docketed drawing no.1112/PL01 Revision B and thereafter the two parking spaces shall be retained in place for such parking use.

Reason:

In the interests of road safety.

- 2 The vehicular access driveway hereby approved shall at no time be used for the parking of vehicles and shall remain free from obstruction to use to access the garage hereby approved at all times, unless otherwise approved in writing by the Planning Authority.

Reason:

In the interests of road safety.

2. **PLANNING APPLICATION NO. 12/00263/PM: VARIATION OF CONDITION 5 OF PLANNING PERMISSION 08/00467/FUL TO EXTEND THE AREAS FROM WHERE WASTE CAN BE TRANSFERRED TO THE ENERGY FROM WASTE FACILITY AT CONSENTED ENERGY FROM WASTE FACILITY, OXWELLMAINS, DUNBAR**

A report on the application for planning permission had been submitted. The Development Management Manager, Brian Stalker, summarised the key points of the report.

Mr McNally of McNally Associates, Planning Consultants for Viridor, addressed the Committee. He indicated that at the outset Viridor's energy from waste with combined

heat and power facility (EfW) had faced opposition. He emphasised that planning permission for the EfW had already been granted. He stated that Viridor's solution remained at the heart of the Scottish Government's waste and renewable policies. He gave details of Viridor's future investment in the Oxwellmains facility. He outlined the employment opportunities the application would deliver. This application was rooted in policy and legal judgement and was in response to fresh guidance from the Scottish Government and the Scottish Environment Protection Agency (SEPA). Guidance Note 6, issued by SEPA, advised that it was now acceptable for waste arising from any location within Scotland to be treated in any waste management facility proposed within Scotland. Viridor therefore sought variation of Condition 5 to allow the transfer of waste to their approved EfW from any location within Scotland in line with this new guidance. He stated that the variation of Condition 5 would not increase the anticipated volume of road traffic. He gave details of the locally held pre-application public exhibitions. He concluded that for the circumstances outlined he commended this report to the Committee.

Mr McNally and representatives from Viridor answered a number of questions from Councillor Berry regarding road traffic issues including the frequency/type/tonnage of vehicles, transportation routes, road capacities and vehicle starting points. Clarification was also provided for Members in relation to the operational capacity at Oxwellmains, transportation of waste by rail, categories of waste, current and potential waste sorting facilities, recycling target requirements on local authorities, 3 elements of EfW, percentage of waste allowed to go to landfill and current EfW facilities in Scotland. In addition, the system for recording details in the written log, as described within Condition 5, was provided. Mr Stalker informed the Committee that the Planning Authority had the right to request this data.

Ms Charlton spoke against the application on behalf of East Lammermuir Community Council. She informed Members that the Community Council had addressed the Planning Committee in September 2009 in objection to the previous Viridor application. The local community had not changed its mind. She stated that the Council should be the voice of its people and their interests. Local people had to live in the shadow of the chimneys of this incinerator; it was not their responsibility to see the burning of rubbish from other parts of Scotland. She made reference to the Public Inquiry and to the Reporter's decision to approve the application. She referred to the proximity principle redirection and stated that delivering waste from all over Scotland to Dunbar did not make environmental sense. There was a real threat from increased road movements. She stated that there was no consensus on the health impacts to local residents. She asked the Committee to reject this application.

Mr Cook, a Dunbar resident, spoke against this application. He referred to the earlier planning application, stating that the people of East Lothian had rejected this but the Scottish Government had not listened. He stated that transporting waste from all over Scotland to the application site was hazardous and environmentally unfriendly. He stressed that this was the last chance for East Lothian, adding that councillors were voted in by the people to represent the people and opposing this application was the right thing to do.

Local Member Councillor McLennan made reference to the previous application and to the debate at the Planning Committee 3 years ago but stressed that this application related solely to the variation of Condition 5. The key was the change to the proximity principle by the Scottish Government and SEPA; this change of policy had been supported by all parties in the Scottish Parliament. He made reference to the employment and apprenticeship opportunities and the investment into the local economy as outlined. He stated that SEPA's guidance was very clear; there were no

grounds to refuse this application. Members had to be pragmatic; if the application was refused that decision could not be defended at appeal. He would therefore be supporting the application.

Local Member Councillor Veitch referred to the presentation by the Community Council and to the level of opposition against this application. He noted that at the Public Inquiry Viridor had said that they would not need to import waste from outwith East Lothian. He also referred to the comment that the Public Inquiry and subsequent decision did not give faith in this system. He stated that the goalposts had now been moved by the Scottish Government and SEPA. The issue of transportation was important. Viridor's commitment to transportation by rail was commendable. It stated in the report that there was unlikely to be a significant increase in the number of vehicles accessing the facility from the A1; nonetheless he did have concerns in this regard. He stated that on balance, he would not be supporting this application.

Councillor Berry referred to the Public Inquiry and to Viridor's comment that they did not need to import waste from outwith this area. He understood that the proximity principle had been overturned, not in his opinion, for good reasons. If more vehicles from across Scotland were to transport waste to Oxwellmains this was surely counter to all green principles of this Council and the Scottish Government. He highlighted issues in relation to the A1/A720. He stated that outside of the Powderhall waste transfer station, which did not have a sorting facility there were no railheads elsewhere in Scotland to connect to Oxwellmains by rail. He commended Viridor for using the existing railhead but stated that, even with the best intentions, more waste would come by road. He referred to the variation to Condition 5 and suggested an amendment – the insertion behind the word *waste* of the additional words *arriving by rail*, plus additional points 3 and 4 to state that 3) *anything within the current catchment arriving by road would be permitted* 4) *anything outwith the area must arrive by rail*. He moved this amendment.

Mr Stalker outlined the tests required for placing a condition on the grant of planning permission. He advised Members that there was nothing in that grant of planning permission for the EfW stipulating that the waste must come by rail therefore there was nothing in that grant of planning permission to stop the operation of the facility if all the waste came by road.

Councillor Innes referred to the debate surrounding the earlier application 3 years ago, to the Public Inquiry and the Reporter's decision. He remarked that this variation request followed the decision by the Scottish Government regarding their directive on the proximity principle in 2011. Referring to comments by an objector, he stated that the decision of the Scottish Government on the proximity principle had been a democratic decision, taken by the elected government of Scotland. SEPA had then taken recognisance of this policy change by issuing new guidance. He indicated that the public expected the Council to act responsibly; there was no possibility of the Council being able to defend the decision at appeal if the Committee refused this application – the cost involved would be an irresponsible use of the Council's finances. He would be supporting the application and he advised other Members to also do so.

Councillor McMillan referred to Condition 5 and expressed concerns in relation to output. He echoed the comments expressed by some Members about being pragmatic, but remarked that equally, this could mean that potentially waste could be brought to the facility in Dunbar from all over the country.

The Convener outlined the history of the planning process for dealing with waste in Scotland, stating that this had been ongoing for some time. He made reference to the earlier application which the Council had refused, to the Public Inquiry and the Reporter's decision. He stated that the Council could not change that decision. The Committee's determination in relation to this application had to be limited to a decision on the variation of Condition 5. He referred to the Scottish Government's policy change in relation to the proximity principle and to SEPA's subsequent guidance and stressed that there were no reasons that the Planning Committee could cite to oppose this. He pointed out that waste would now go through a pre-treatment process and the majority of recyclable materials would be removed; waste to this facility would only be waste that could not be recycled. He indicated that as the Planning Authority this should be monitored. He concluded that for these reasons he would be supporting the application.

The Convener referred to the amendment proposed by Councillor Berry and asked for a seconder; no-one seconded this amendment, therefore it fell.

The Convener then 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 **13 votes for** and **2 votes against**; there were no abstentions. The Committee agreed to grant planning permission subject to the following conditions:

1 Condition 5:

Unless otherwise approved in writing by the Planning Authority, waste received and treated at the energy from waste facility shall arise within Scotland and be restricted to:

- (1) Non-hazardous residual municipal waste; and
- (2) Non-hazardous residual commercial and industrial waste.

For the avoidance of doubt, waste generated outwith Scotland but transferred to the facility via transfer stations (or some other form of intermediate treatment or handling facility) within Scotland, is not to be classed as arising within Scotland and shall not be treated at the facility, unless otherwise approved in writing by the Planning Authority.

To this end, the operator of the energy from waste facility shall maintain a written log recording the nature and source of the waste entering the facility. If waste is delivered via a transfer station (or some other form of intermediate treatment or handling facility) the log must detail the primary geographic source of the waste. The log shall be made available to the Planning Authority on request.

Reason:

To ensure that waste is not being transported for treatment at the plant from outwith Scotland, in accordance with the guidance given in Annex B of the Zero Waste Plan.

Sederunt: Councillor Goodfellow left the meeting

3. PLANNING APPLICATION NO. 11/00914/P: ERECTION OF 7 HOUSES, 10 FLATS AND ASSOCIATED WORKS AT UNDER BOLTON FARM, BOLTON

A report on the application for planning permission had been submitted. The Development Management Manager, Brian Stalker, summarised the key points of the report.

Mr Moyes of Ogilvie Homes, the applicant, addressed the Committee. He informed Members that this had been a difficult site for Ogilvie Homes. Planning consent had been granted in 2007 and sales had started well when the market had been strong; however, due to national circumstances, new house sales had since collapsed. An alternative strategy had to be considered for this site. This proposal was on the same footprint. A net gain of 7 units could be achieved by putting in smaller flatted units. In relation to affordable housing he referred to the Scottish Government's initiative, the New Supply Shared Equity with Developers Scheme (NSSE). He stated that the application by Ogilvie Homes to participate in this scheme had been approved, subject to planning permission being granted. Under this scheme 6 units would be made available for purchase on a shared equity basis and he advised that the intention was to implement this by March 2013. He referred to other issues, including the parking provision and stated that Ogilvie Homes met the Council's standards and was not departing in any way from the application of existing planning permission by working in the same footprint. He stressed that this was probably the last viable strategy to develop this site and urged Members to support the application.

Mr Beck spoke against the application on behalf of Humble, East and West Saltoun and Bolton Community Council. He made reference to requirements and decisions regarding land designated for housing in Bolton during preparation of the ELLP. He informed Members that the Community Council had objected to the first application. Bolton was not an appropriate site; 31 new houses would triple the size of the village. Parking on site was insufficient. The density and urban style was not suitable to the area's rural character. It had been five years since the original application had been granted; Bolton Steading was an eyesore, dominated by the unfinished development. Issues were raised at every Community Council meeting. The applicant had cited the current financial market as the reason for the alterations. Of more significance was that the size/scale of the development was wrong for this location. He raised issues of garden and bin storage. Referring to the array of conditions he stated that the local community did not have confidence that these would be upheld, citing the Council's failure to uphold the original conditions. He stated that the proposals would not enhance the development or increase its marketability; he urged refusal.

Dr Greenhill spoke against the application on behalf of Bolton Community Association. The Association objected to this planning application; it was an overdevelopment, it was suburbanisation of a small rural village. The application would compound existing difficulties. It was contrary to Scottish Planning Policy (SPP): February 2010, which, referring to development in rural areas stated that small settlements should not lose their identity and all new developments should accord with the rural character of the particular environment. Flats were for an urban setting and not in the character of a small village. She drew attention to SPP guidance regarding traffic matters. She stated that the 1.5 car parking spaces per unit were insufficient. With regard to public transport there were only 3 direct buses to/from Haddington per day. She referred again to SPP, paragraph 72, highlighting the 6 key indicators for development in the countryside. She reiterated that Bolton Community Association objected to this application.

Mr Crossan spoke against the application on behalf of the residents of Bolton Steading. He enjoyed living in Bolton and had a long association with East Lothian. He outlined the concerns of residents: lack of storage, bin, shed and general storage; poor parking provision, some residents had to park on the main road and the poor state of repair of the steading access road. He stated that building a block of flats in this rural area did not make economic sense and would, in addition, exacerbate the existing concerns of residents.

Councillor McLennan, referring to comments made by objectors, asked Mr Stalker to provide clarification regarding SPP. Mr Stalker stated that in relation to SPP design advice on development in the countryside the conversion of the buildings and the new buildings erected on the site had been carried out as per the SPP advice. The character and appearance of the area had been conserved; great care had been taken to ensure that the design of the new build elements was appropriate for its place. He advised that nothing significant was going to change; design alterations to the buildings were only to those elements already approved. In all respects what was proposed was not contrary to SPP Advice.

Local Member Councillor McMillan referred to the objectors' presentations and stressed that Members had to consider the effect of steading developments on local communities. He expressed concerns about play facilities, the scale of the development, privacy issues, traffic issues including the narrow access road and the limited parking provision. He had concerns that the character of the development was alien to the village of Bolton; it would change the nature of the village. He also raised issues regarding landscaping, lack of bin storage, prohibition on sheds and lack of storage generally. He remarked that having listened to the concerns expressed by both the objectors and the applicant, there was a real need for the applicant, objectors and residents to get together to discuss all the issues. He would not be supporting this application.

Local Member Councillor Trotter indicated that along with Councillor McMillan he had called this application off the Scheme of Delegation List. He stated that the objectors had all put forward their case well and had raised a number of points that he agreed with. He noted that this issue had been raised at every Community Council meeting for a number of years. He would not be supporting this application.

Local Member Councillor Broun-Lindsay made reference to the original application in 2007. He wished to correct a general perception; this was not a steading development, it was a steading development plus 3 terraces of new build. However, the earlier argument had been lost and the application granted. Whether the properties were built or not depended on market conditions. He fully understood the concerns in the community. He indicated however that the Committee would not be doing a service to the residents of the buildings already there to leave them with a building site so therefore he would be supporting this alteration. He noted the points made regarding bin storage and indicated that the issue of garden sheds also had to be looked at.

Councillor Innes reiterated that planning permission was already in place and these alterations, for some flats and smaller, more affordable accommodation, were broadly in the same area/footprint. He stated that affordable housing in the countryside was important and should be welcomed by the community; it assisted people brought up in the countryside but not able to afford to stay there. He referred to comments made regarding particular issues, including bin storage and shed provision. He indicated that he could not support this application unless these issues were addressed. If these were addressed he would be prepared to support the application.

Councillor Veitch indicated that this was a difficult application to determine. The applicant and objectors had been informative. The Committee had heard from the applicant that smaller units were easier to sell. Members had also heard about the Scottish Government's new scheme for affordable housing provision. He made reference to comments from objectors that this was an overdevelopment of the

hamlet of Bolton. He stated that the Council should be preserving communities like Bolton. He would not be supporting this application.

Councillor Berry agreed this was a difficult application. He remarked that an increase in these types of applications was likely but there was a lack of guidance in the ELLP. There had been many statements made about the aesthetics of the development. Members had to consider if the development was appropriate. The principle of having something on the footprint of the development had already been established. He referred to Councillor Innes's comments about affordable housing. He stated that with very limited public transport to/from Bolton a car would be essential. He pointed out that many farm cottages were occupied by people who could not afford to live in towns. He questioned why affordable housing units were being put in here. He stated that now adding in another 17 units was wholly inappropriate. This was an exacerbation of an already congested situation in this area. He would not be supporting this application.

Mr Stalker clarified a number of issues for Members regarding the listed dovecot, bin storage, other storage, sheds and general landscape matters. He advised that recommended condition 10 to the grant of planning permission could be altered with regards to bin and other storage but could not be applied retrospectively. Also, the space on site had to be adequate for the purpose.

Councillor McMillan asked that local community representatives should be offered the opportunity to be consulted on any changes which were to be proposed by the developers.

The Convener brought the discussion to a close. He referred to the number of Members who had expressed concerns about aspects of this application. He remarked that this was a quality, attractive development and there were implications if the development was not completed. The application before the Committee proposed to increase the number of units on site. However, for basic day to day living on site the storage was not practicable; this had to be made liveable for the residents. Landscaping of the site was still ongoing with the developer; this should have been addressed earlier and had to be resolved. He concluded that given the number of concerns expressed about the inadequacies of the storage provision he moved that this application be continued so that the issues of storage provision raised by local residents and others could be addressed. Councillor McNeil seconded the motion.

Decision

The motion that this application be continued was put to the vote and received **13 votes for, no votes against and 1 abstention**. The Committee therefore agreed to continue this application.

Signed

Councillor Norman Hampshire
Convener of the Planning Committee