



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

**TUESDAY 5 FEBRUARY 2013
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Committee Members Present:

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

Council Officials Present:

Mr B Stalker, Development Management Manager
Ms M Ferguson, Corporate Legal Adviser
Mr F Mackay, Environmental Protection Manager
Mr K Dingwall, Principal Planner
Mr D Irving, Planner
Mr M Greenshields, Transportation Planning Officer
Mr R Sinclair, Communications Officer

Clerk:

Ms A Smith

Visitors Present:

Item 1 – Mr Macdonald
Item 3 – Mr Campbell

Apologies:

Councillor P MacKenzie
Councillor M Veitch

Declarations of Interest:

Item 2 – Provost Broun-Lindsay indicated he would leave the Chamber for this item as he may be perceived to have a conflict of interest.

Item 3 – Councillor Gillies stated he was a member of the Co-operative Regional Board and would therefore leave the Chamber for this item.

1A. PLANNING APPLICATION NO 12/00728/P: ERECTION OF 16 FLATS AND ASSOCIATED WORKS AT BASS ROCK GARAGE, 5-17 STATION HILL, NORTH BERWICK

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 Stalker and Marshall Greenshields, Transportation Planning Officer, answered a number of questions from Members regarding the proposed new pend access, visibility splays/sight lines, traffic speeds, stopping distances, junction/road bend, possible alert signage and construction period issues.

Mr Macdonald of Somner Macdonald Architects, the agent, addressed the Committee. He informed Members that this application was a revised design to the one approved by the Planning Committee in 2011; he added that his company had not been the architects for the original application. He outlined details of the design, emphasising those aspects that were different to the original application. He stated that sight lines were the maximum they could possibly be and were constrained only by the corners of the buildings to either side of the development; visibility would be improved. The new access would be at the centre point of the street frontage; it would be wide enough to allow vehicles to enter/exit the development at the same time so there would be no delay for traffic on the main road. The proposal was for a single block development, as opposed to the 2 blocks previously proposed; in addition the development would be positioned further away from the neighbouring residential properties. Feedback to this design had been significantly more favourable and positive comments had been received from residents of the Royal Apartments. He asked Members to support the report recommendation.

Local Member Councillor Berry outlined his reasons for calling this application off the Scheme of Delegation List. He stated that transportation issues had been covered but he remained concerned. The proposal was however an improvement on the design of the previous application. The impact on the Royal Apartments would be reduced; the proposed building would not interfere significantly with the residents view. There had been questions regarding the integrity of the embankment on which Craigleith View was built however he did not give much credence to this. He would, on balance, be supporting the application.

Local Member Councillor Day stated that he would be supporting the officer's recommendation. This was a good scheme which would architecturally enhance the area. He was aware of the contentious nature of the previous application. He had carefully considered the proposal and felt the design changes ameliorated matters. He accepted the conclusions reached by Transportation officers as detailed in the report. He felt the proposed scheme did address issues of road safety to an extent.

Local Member Councillor Goodfellow indicated that he had spoken against the previous application in 2011 as a community councillor. This proposal was an improvement but he still had some concerns; he had three issues to raise. He questioned the classification of the site as brownfield land and remarked that,

irrespective of this application, the issue of allocating additional industrial land in compensation for the Bass Rock Garage site being put to residential use would need to be addressed in the Local Plan. Bin collection - there would be 16 bins out on Station Hill on collection day, this was not an acceptable form of refuse collection; in addition there would be 32 recycling boxes. Access - he disagreed that traffic speeds reduced at the road bend; adding that the Council should not be lowering its normally applied standards. He was disappointed that the applicant had not moved the access further to the west and allowed space for refuse lorries to enter the site. He was in opposition to his colleagues and would not be supporting this application.

The Convener brought the discussion to a close. He referred to Councillor Goodfellow's comments regarding bin collection, stating this was an issue with flatted developments in all town centres however, this was Waste Services' preferred type of collection. Nonetheless this was an issue the Council needed to look at. With regards to the entrance Members had heard from their North Berwick ward colleagues about concerns regarding the speed of vehicles at the road bend; however the applicant, in negotiation with Transportation officers, had arrived at the best possible solution to this, the sight line was adequate. 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 **13 votes for** and **1 vote against**; there were no abstentions. The Committee agreed to grant planning permission subject to the following conditions:

- 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 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 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.

- 2 Details and samples of materials and finishes to be used in the development shall be submitted for the prior inspection and approval in writing by the Planning Authority for the walls, roofs, windows, doors, boundary treatments and ground surfaces. The development shall be thereafter undertaken in accordance with the details 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 in the interest of the visual amenity of the Conservation Area.

- 3 Prior to the commencement of development, details of the how the pedetsrian access part of the pend access is to be demarcated shall be submitted to and approved in writing by the Planning Authority.

Prior to the occupation of any of the flats hereby approved (i) the pedetsrian access part of the pend access shall be demarcated in accordance with the details so approved and the vehicular access arrangements; (ii) the vehicular access from Station Hill shall be taken over a reinforced footway crossing in accordance with East Lothian Council's Standards for Development Roads;

and (iii) the 24 on-site car parking spaces, and turning area delineated on drawing number 1251-11-A docketed to this planning permission shall have been formed and made available for use.

The demarcated pedestrian access, reinforced footway crossing, vehicular access arrangements, 24 car parking spaces, and turning area shall thereafter remain available for such use unless otherwise approved by the Planning Authority.

Reason:

To ensure the provision of adequate access and parking provision in the interests of pedestrian and road safety.

- 4 No residential unit shall be occupied unless and until details of artwork to be provided on the site or at an alternative location away from the site have been submitted to and approved by the Planning Authority and the artwork as approved shall be provided prior to the occupation of the final residential unit approved for erection on the site.

Reason:

To ensure that artwork is provided in the interest of the visual amenity of the locality or the wider area.

- 5 Development shall not begin until a scheme to deal with contamination on the site has been submitted to and approved in writing by the Planning Authority. The scheme shall contain details of the proposals to deal with contamination to include:

- 1 the nature, extent and type(s) of contamination on the site,
- 2 measures to treat/remove contamination to ensure the site is fit for the use proposed,
- 3 measures to deal with contamination during construction works,
- 4 condition of the site on completion of decontamination measures.

Before any of the flats are occupied the measures to decontaminate the site shall be fully implemented as approved by the Planning Authority.

Reason:

To ensure that the site is clear of contamination prior to the occupation of any of the flats.

- 6 Prior to the commencement of development details of the bin and cycle storage facilities for the flatted properties shall be submitted to and approved in advance by the Planning Authority. The details shall show at least 1 cycle space per flat to be provided in a secure lockable area. Prior to the occupation of any of the flats the bin and cycle storage facilities shall have been formed in accordance with the approved details and made available for use. Thereafter, the storage facilities shall be retained in use solely as bin and cycle storage areas.

Reason:

To ensure the provision of adequate bin and cycle storage in the interest of the residential amenity of the future occupants of the flats hereby approved and the visual amenity of the locality.

1B. PLANNING APPLICATION NO. 12/00728/CAC: DEMOLITION OF BUILDING, WALL AND RAILINGS AT BASS ROCK GARAGE, 5-17 STATION HILL, NORTH BERWICK

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

Decision

In light of the decision taken at Item 1A the Committee unanimously agreed to grant conservation area consent subject to the following conditions:

- 1 The works to implement this conservation area consent shall begin before the expiration of 3 years from the date of this grant of conservation area consent.

Reason:

Pursuant to Section 16 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

- 2 No works for the demolition of the building, wall and railings shall be carried out unless written evidence that a contract has been entered into for the carrying out of the works authorised by planning permission 12/00728/P, or by some other detailed planning permission for the development of the site granted by the Planning Authority, has been submitted to and agreed by the Planning Authority.

Reason:

In order to safeguard the character and appearance of the Conservation Area.

Sederunt: Provost Broun-Lindsay left the Chamber.

2. PLANNING APPLICATION NO. 12/00934/P: ERECTION OF 2 WIND TURBINES AT BLACKDYKES, TANTALLON, NORTH BERWICK

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

Local Member Councillor Berry outlined his reasons for calling this application off the Scheme of Delegation List. He referred to the site visit, where it had been evident that the proposed location was quite secluded and tree cover would provide a good visual barrier. With regards to Leuchie House again visibility would be blocked by trees on the estate. He made reference to Blackdykes Farm, an unusually attractive piece of architecture, however he did not consider this to be a sufficient issue to warrant refusal of this application. He had increasing concerns generally about feed-in tariffs and wind turbine applications being submitted without any attendant benefits to the communities involved. He stated that technically the proposed turbines did not comply with Typology C and should not be sited at this location. It was marginal but he would not be supporting this application.

Local Member Councillor Goodfellow commented that this was an excellent application. He was not generally in favour of a proliferation of wind farms on the landscape but in this case the applicant had explained the need for the turbines and had worked very hard to mitigate their visual effect. He would be supporting this application.

Local Member Councillor Day stated that the Committee needed to take a balanced and consistent approach with these types of applications which should help the Council with any appeals. He made reference however to the recent decision at appeal to overturn one of the Planning Committee's previous decisions regarding a wind turbine application. He noted his colleague's point about Typology C wind turbines however the turbines proposed were at the lower end of the scale and if the tree belts were taken into consideration he felt, in this case, the turbines were acceptable. He would be supporting this application.

Councillor Innes expressed support for the application. This was a good example of the Planning Authority and the applicant working together to mitigate any negative visual effects of the proposal. He stated that farming was an important part of the local economy and if a farmer was looking to reduce energy costs by means of renewable energy then this should, where possible, be supported. He urged all Members to support the application.

Councillor Grant referred to Typology C and D wind turbines and remarked that the proposed turbines would only differ from Typology D by 1.9 metres. He added that given the site would be 850 metres away from the Leuchie estate and taking into account the tree screening then this application should be supported.

The Convener brought the discussion to a close. He stated that this application demonstrated how the Council had taken the time to work with applicants. It was unfortunate that when the Committee took the decision to refuse an application of this type that this was then overturned at appeal, particularly as the Council had very good policies in place to deal with these applications. In relation to this proposal careful consideration had been given to the location of the wind turbines. 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 **12 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 turbines 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 No development shall take place until the applicant has, through the employ of an archaeologist or archaeological organisation, secured the implementation of a programme of archaeological work (Archive Assessment and Monitored Strip) on the site of the proposed development in accordance with a written scheme of investigation which the applicant will submit to and have approved in advance by the Planning Authority.

Reason:
To facilitate an acceptable archaeological investigation of the site.
- 4 In the event that any 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 Gillies left the Chamber; Provost Broun-Lindsay returned.

3. PLANNING APPLICATION NO. 12/00641/P: VARIATION OF CONDITION 3 OF PLANNING PERMISSION P/1218/90 TO ALLOW DELIVERY AND COLLECTION OF GOODS BETWEEN THE HOURS OF 6AM AND 10PM SEVEN DAYS A WEEK AT 32 HOPETOUN DRIVE, HADDINGTON

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

Mr Campbell of GL Hearn Ltd, the agent, addressed the Committee. He informed Members that the Co-op recognised that residents had some concerns. The application was for an additional hour of opening for morning deliveries. He noted the

arguments against this but stated that there would only be two deliveries between 6am to 7am, one for bakery products and one for newspapers; both by transit van. He advised that the Co-op had already made some changes to their deliveries because of concerns expressed by local residents. A shop had been at this location for a long period of time; customers expected those types of products that had to be delivered daily to be available early in the trading day. He asked the Committee to support the officer's recommendation.

Local Member Councillor Trotter referred to the site visit, stating that he was aware before this of some concerns from neighbouring residents. He disagreed with the officers; allowing deliveries to the shop one hour earlier each morning, from 6am, would cause considerable disruption. He stated that deliveries were not currently being made according to the conditions attached to the previous grant of planning permission; this was one of the concerns expressed by the objectors. The Co-op was not adhering to the conditions and this needed addressed. The shop was a valuable asset, it was well used; it was however located within a predominantly residential area and the owners therefore had to consider their neighbours. He agreed with the objectors, allowing this one extra hour of opening in the morning would cause too much disruption and he would not be supporting this application.

Local Member Councillor McMillan agreed with his colleague and the objectors. He remarked that it was disappointing that a representative from the Co-op was not present. The Co-op was not complying with the conditions attached to the 1991 grant of planning permission; to quote from some of the objectors' letters "deliveries were being made to the shop at 3am/4am". This undoubtedly caused nuisance and discomfort to the neighbours. He proposed that the existing permission should stand, it should be monitored and ways of enforcing the conditions more rigorously should be looked at. In addition, the Co-op should be asked to explain how they were managing their current deliveries. He would not be supporting this application.

Local Member Provost Broun-Lindsay disagreed with his fellow ward councillors. He took all the comments on board but stated these were problems with the existing permissions. This was an application for an extension of one hour in the morning for deliveries; given the proportion of change to the existing permissions, were they adhered to, he did not feel that this change was sufficient to vote against the application. However, he was concerned to hear about deliveries during the night and some enforcement action should be taken against the shop and/or its third party suppliers. Nonetheless, he would be supporting the report recommendation.

Councillor Goodfellow agreed with Councillor Broun-Lindsay that the problem was not this application for the extension of an hour but rather enforcement of the existing conditions. He asked Mr Stalker to clarify the position. Mr Stalker informed the Committee that, until the site visit, officers had not received complaints about a breach of conditions regarding delivery time; it had been stated at the site visit that there were breaches however the Planning Authority had no evidence of this. He indicated that at the site visit there had been a delivery lorry outside the shop with its engine running but stressed that without evidence of further breaches it would be difficult to enforce. He added that it was his view, given comments by the objectors that the Council needed to take this matter up with the Co-op reminding them that they had conditions that should be complied with; this was the first step in enforcement action.

Councillor Innes commented that on balance, he shared Councillor Broun-Lindsay's viewpoint regarding this application. He would be supporting the application however it was alarming to hear that there had been serious breaches of the existing conditions; this should be raised with the Co-op.

Councillor Williamson agreed with comments about the breaches of existing conditions. With regard to this application for an extension of an hour he felt that if deliveries during this period were made by transit van, as specified, then this should help address concerns. He would be supporting the report recommendation.

The Convener referred to the site visit, stating it was clear that the current conditions were not being adhered to by the Co-op; the Council had to make sure the Co-op was informed of this. He would be supporting the application but stressed to officers that conditions attached to a grant of planning permission must be adhered to.

Councillor McNeil pointed out that monitoring would be done by neighbours; they would inform the Council if vehicles other than transit vans were being used between 6am to 7am or if there were deliveries outwith the set times. Mr Stalker stressed this was a very important and valid point; the monitoring role of neighbours was critical. He reiterated that until the site visit officers had not been aware that there were deliveries/collections outwith the set hours. If neighbours monitored the situation and contacted the Planning Authority and, if there was a case, then enforcement action would be taken.

In response to further concerns from Councillor Trotter regarding the number of transit vans required to deliver the equivalent of a typical lorry load Mr Stalker replied that it was his understanding that transit vans would be used for smaller load deliveries so there would not be a need for numerous transit vans in compensation for the amount of deliveries by a larger vehicle.

The Convener 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 **3 votes against**; there were no abstentions. The Committee agreed to grant planning permission subject to the following conditions:

1 Condition 3:

Between the hours of 10.00pm and 6.00am each day of the week no deliveries will be made to, and collections made from, the shop, no delivery goods will be deposited on its forecourt, and no delivery vehicles will be parked with their engines running on that forecourt. Between the hours of 6.00am and 7.00am deliveries made to, and collections made from, the shop shall only be made by vehicles having a maximum mass not exceeding 3.5 tonnes, no delivery goods will be deposited on its forecourt, and no delivery vehicles will be parked with their engines running on that forecourt.

Reason:

In the interests of safeguarding the amenity of neighbouring residential properties.

Signed

Councillor Norman Hampshire
Convener of the Planning Committee