



**MINUTES OF THE MEETING OF THE
LOCAL REVIEW BODY**

**THURSDAY 18 APRIL 2013
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Committee Members Present:

Provost L Broun-Lindsay (Chair)
Councillor J Goodfellow
Councillor J Williamson
Councillor J McMillan

Advisers to the Local Review Body:

Mr P McLean, Planning Adviser to the LRB
Mrs M Ferguson, Legal Adviser/Clerk to the LRB

Others Present:

Mr R Holder, Agent for the application
Mr A Hamilton, Applicant
Mr D Hamilton, Applicant
Ms C Molloy, ELC Senior Solicitor

Committee Clerk:

Mrs F Stewart

Declarations of Interest

None

The Convener welcomed all present to today's East Lothian Local Review Body (ELLRB).

**1. REVIEW AGAINST DECISION (REFUSAL)
PLANNING APPLICATION No: 11/00851/PP – Erection of a Class 1 retail store with car parking, servicing, landscaping and associated works on land at Mid Road Industrial Estate, Prestonpans**

The Clerk introduced the Members on today's Local Review Body. She also introduced herself, the independent Planning Adviser, who had not been involved in the original decision, and the Committee Clerk. She advised that all of the Members had carried out a site visit and outlined the procedures which would be followed at today's meeting.

The Clerk advised that Members first had to decide if they had sufficient information before them in the Review documents to determine the application today. To assist them in their deliberations, the Planning Adviser would make a statement on the application. Should Members consider that any matter was not addressed adequately in the documents, they could request further written submissions. Alternatively, they could adjourn today's meeting and request a Hearing Session, specifying what further information they required and from whom.

The Clerk advised Members that it was open to them to uphold the decision of the Case Officer for the original reason, or for another reason. If they were minded to overturn the Case Officer's decision, she would circulate a Schedule of Conditions for discussion.

The Planning Adviser presented a brief summary of the proposals and relevant issues, stating that this was a particularly complex application for the Local Review Body. He advised that Members had been provided with copies of the key Local Plan and Structure Plan policies and that the application drawings had been included in the papers.

The Planning Adviser stated that this application was for planning permission in principle for a class 1 retail store plus associated works and the existing building was to be demolished to make way for the development. The application had been originally validated on 26 September 2011 and had been refused under delegated powers on 10 December 2012. He advised that the Planning Act required decisions on planning applications to be taken in accordance with development plan policy unless material considerations indicated otherwise. The part of the site containing the access and junction improvements was within a Conservation Area and, therefore, special attention had to be paid to the desirability of preserving or enhancing the character or appearance of the area. He also explained the relevance of the development plan policies and referred to other policy documents material to the application. He then summarised the consultation responses received on the application, copies of which were in the review papers, and advised that no public representation had been made.

Finally, the Planning Adviser turned to the arguments presented by the parties to the Review. He stated that the application had been refused by the appointed officer on the basis that the proposed retail use of the site was contrary to policies BUS1 and R1 of the adopted Local Plan, which seeks to retain the land for business or general industrial use. A brief summary of the officer's assessment was also given. The

applicant's request for a review had argued that the case officer considered the proposals acceptable in all respects other than loss of employment land and had pointed out that no public objections had been received. The main point of disagreement between the parties was claimed by the applicant to be the viability of subdividing and redeveloping the site for smaller units, the applicant arguing that it would be economically unviable to refurbish or redevelop the site for business or industrial use and therefore no scheme complying with development plan policies could proceed. It was also suggested by the applicant that Council officers had misinterpreted the evidence presented on the matter of viability.

The Chair invited questions from Members.

Councillor McMillan, Cabinet Spokesperson for Economic Development, requested clarification on a number of matters and was advised by the Planning Adviser that viability of re-using the site for employment purposes was a key area of dispute. The Adviser also confirmed that only a relatively small number of properties near the application site required to be given notice of the planning application and advised that there was no evidence of a named operator for the retail unit.

Councillor McMillan enquired if there was a definition of the word 'viability' contained in the Review documents and was advised by the Planning Adviser that there might not be a definitive explanation in planning terms, with financial appraisals being put forward by the applicant and comments being made on these by other parties, Members had to make their own assessment on this issue based on the evidence before them. If any issue was not clear, Members could request further information.

Both Councillor Goodfellow and Councillor Williamson considered that they had sufficient information before them to reach a decision today.

Councillor McMillan indicated that he would like to explore the subject of viability further. Having visited the site, there were still issues for him about whether it could be developed in any other way. He therefore requested further information from the Case Officer, the Senior Estates Officer who was the consultee on this point and the applicant or agent. He also stated that he would like to question all parties on points of viability at a future Hearing Session.

Decision

The ELLRB agreed to adjourn today's meeting for a Hearing Session on a future date which Hearing will specifically explore further information on the following matters:

1. The financial viability or otherwise of possible alternative uses of the site, in particular business or industrial use.
2. The financial viability or otherwise of possible sub-division of the existing building for alternative uses, in particular business or industrial use.

Post Meeting Note: The date for Hearing Session was set for Tuesday 21 May 2013