



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

**THURSDAY 21 FEBRUARY 2013
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Committee Members Present:

Councillor J Goodfellow (Chair)
Councillor T Day
Councillor J Williamson
Councillor W Innes

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 J Miller, Ironside Farrar Ltd (Agent)
Ms A Brown, Ironside Farrar Ltd
Mr J Heron, Applicant
Ms S Greaves, Planner
Ms C Molloy, Senior Solicitor

Clerk:

Mrs F Stewart

Declarations of Interest

None

The Convener welcomed all present to today's meeting of the East Lothian Local Review Body (ELLRB) and announced details of the planning application to be considered today.

All Members had attended a site visit which had been carried out on 14 February 2013.

**1. REVIEW AGAINST DECISION (REFUSAL)
PLANNING APPLICATION No: 12/00644/P – DEVELOPMENT OF A
RESIDENTIAL DWELLING AND WORKSHOP WITHIN AN ESTABLISHED
CLUSTER OF RESIDENTIAL AND BUSINESS PROPERTIES ON LAND AT
THE FORMER LIME KILN**

The Legal Adviser introduced the Members on today's Local Review Body and the Planning Adviser who had had no involvement in the original planning application. She also outlined the procedures the meeting would follow and advised that Members would firstly decide, on the basis of the written Review Documents, the Planning Adviser's summary and the site visit, if they had sufficient information before them to determine the application today. If they did not, they would specify what further information was required and a Hearing may be arranged for a future date, all in accordance with the regulations.

The Planning Adviser presented a brief summary of the issues relevant to the application. He stated that the application site was in a countryside location around 1km to the east of East Saltoun, adjacent to a small cluster of residential and commercial buildings, forming part of the site of a former lime kiln. The application proposed the erection of one detached house, a separate workshop building, and associated parking and driveway areas. The planning application was originally registered on 5 September 2012 and was refused under delegated powers on 2 November 2012. The Notice of Review was dated 19 December 2012.

The Planning Adviser advised that the Planning Act required decisions on planning applications to be taken in accordance with development plan policy unless material considerations indicated otherwise. This site was within an area designated as countryside under Local Plan policy DC1. The context for development in the countryside was provided by that policy and Structure Plan policy ENV3, both of which seek to restrict development in the countryside to protect its character. The Planning Adviser explained the terms of these policies and advised that other relevant policies included ENV1G and DP2 on design, and T2 and DP22 on access and parking. He also outlined other material considerations, including Scottish Planning Policy. The application had been refused by the Appointed Officer for three reasons; the proposals would represent sporadic new build housing in the countryside, the development would set a precedent for further houses or workshops in the East Lothian countryside and the proposed design of the dwelling was not considered to be designed for its place in the countryside. The reasoning for the original decision was set out in full in the case officer's report.

The Planning Adviser summarised the applicant's request for a review, which argued that the proposals represent rural diversification and the redevelopment of a brownfield site. It was stated that the proposals would benefit the applicant's business in terms of fuel costs, carbon footprint and security, and that they would allow for expansion of the business, working relationships with neighbouring businesses, and overall benefits to the rural economy. The application was therefore

considered by the applicant to be consistent with relevant development plan policy on rural development and with Scottish Planning Policy. The applicant had also argued that approval would not set a precedent, that the proposed design would be in keeping with the area, and that the case officer did not fully consider all potential material considerations. The full details of the applicant's case were set out in the review papers.

Finally, the Planning Adviser summarised the consultation responses received from Scottish Water, the Council's Transportation Department and the Council's Environmental Protection Service.

All Members indicated to the Chair that they had sufficient information to reach a decision on the application.

Councillor Day stated that this had been a difficult review as he had great sympathy for the applicant and his desire to build a house and workshop on the Lime Kiln site. In his view, the key test was whether this application complied with policy DC1 of the 2008 Local Plan which quite rightly set a very high bar for new developments in the countryside. Local Review Body Members also had to consider very carefully applications which had the potential to create a precedent. He noted that Part 1 (b) of DC1 allowed for a new build if it could be proved that the house was a direct operational requirement, but in terms of this application, he could not see that the applicant's need to build a house on this site constituted a direct operational requirement. Reluctantly, therefore, he was minded to uphold the Appointed Officer's decision to refuse this application, but suggested that the applicant may wish to engage in the developmental process for the next Local Development Plan.

Councillor Williamson believed that the application site was a brownfield site and not in the countryside as such and had some sympathy with the applicant for wanting to relocate his business to this area. He considered that it was an 'eyesore' at the moment and could not envisage what alternative use there could be for the site. He hoped that any issues with the design of the house could be overcome and considered that adjacent houses were of little design merit. He also noted that the Council's Transportation Department and Scottish Water had had no objection to the application. He therefore believed there was a strong case for overturning the decision of the Appointed Officer.

Councillor Innes agreed that this had been a difficult review. The principal consideration for him had been the Local Plan and policy DC1 was one of the most important policies in the Plan. This policy, designed specifically to protect the countryside, had designated the application site as countryside but he did not consider that this was necessarily the correct designation for this particular site. He also did not consider the proposed design was unreasonable for the site. He believed the site was appropriate for the proposals and that there was a need to change the Local Plan so that planners could assess the application against different criteria. However, policy DC1 currently applied to the site and he considered that it was thus appropriate to uphold the decision of the Appointed Officer and refuse this application.

The Chair concurred with Councillors Day and Innes. He agreed with the applicant that the site was not what was generally considered to be unspoiled countryside and perhaps should not have been designated as such under Local Plan policy DC1. However, this policy did apply at present, albeit that the Local Plan was currently under review and the area designated countryside could be subject to change. In terms of the design of the building, he was confident that any issues could be

addressed and he expected that the proposals would improve the appearance of the site.

Decision

The Chair announced that the ELLRB agreed by a majority of three to one to uphold the decision to refuse the application for the first two of the reasons given in the Appointed Officer's Decision Notice:

- 1) The building of a house and workshop on the application site would be sporadic new build housing development in the countryside of East Lothian for which a need to meet the operational requirements of an agricultural, horticultural, forestry or other employment use has not been demonstrated. The proposal is therefore contrary to policy ENV3 of the approved Edinburgh and the Lothians Structure Plan 2015, policy DC1 of the adopted East Lothian Local Plan 2008 and the Government policy guidance on housing and rural development given in Scottish Planning Policy: February 2010.
- 2) If approved, the proposed development of a house and workshop on the application site would set an undesirable precedent for the development of new houses or workshops anywhere in the East Lothian countryside, the cumulative effect of which would result in a detrimental impact on the rural character and amenity of East Lothian.

The Clerk advised that a formal Decision Notice would be issued within 21 days.