East Lothian Council

MINUTES OF THE MEETING OF THE LOCAL REVIEW BODY

THURSDAY 30 AUGUST 2012
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON

Committee Members Present:
Councillor N Hampshire (Convener)
Councillor T Day
Councillor J Gillies

Advisers to the Local Review Body:
Mr P McLean, Planning Adviser to the LRB
Mrs M Ferguson, Clerk and Legal Adviser to the LRB

Others Present:
Ms C Molloy, Senior Solicitor
Mr D Irving, Planner
Mr R Sinclair, Communications Officer

Committee Clerk:
Mrs F Stewart

Declarations of Interest
None

Apologies
Councillor P McLennan

The Convener, Councillor Hampshire, welcomed everyone to today's East Lothian Local Review Body (ELLRB) hearing.

The Clerk outlined the procedure for today's meeting where Members would review the decision of the Planning Officer on three planning applications. She advised that a site visit had been carried out for each application prior to the meeting. At the hearing today, the Planning Adviser would present a short summary of the issues relevant to each application and Members would then indicate if they had sufficient information before them to reach a decision. If they did not, the meeting would adjourn for further written representations or for a full hearing. Should Members decide they have sufficient information before them, the papers will be discussed and a decision reached on whether to uphold or overturn the decision of the Planning Officer. If an application was granted, Members had the right to attach Conditions to the consent.

1. REVIEW AGAINST DECISION (REFUSAL)
PLANNING APPLICATION No: 11/00469/P - ERECTION OF 2 SMALL SCALE WIND TURBINES and ASSOCIATED WORKS at OVERHAILES FARM, TRAPRAIN, EAST LINTON

The Convener introduced the application and invited the Planning Adviser to present a summary of the planning issues concerning this application.

The Planning Adviser stated that the application site was in a countryside location approximately 1.5 miles to the west of East Linton. The application was for two 50kW wind turbines with a blade diameter of 19.2m, giving a total height to blade tip of 46m. The application had been registered on 22 July 2011 and had been refused under delegated powers on 13 April 2012.

He advised that the broad policy context for development in the countryside was provided by Structure Plan policy ENV3 and Local Plan policy DC1 which sought to restrict development in the countryside in order to protect its character, while allowing some limited forms of appropriate development. The development plan policy on renewable energy development was also relevant as it sought to weigh the benefits of renewable energy generation against the impact on the local environment and features of interest. Other key policies relevant to this application included Structure Plan policy ENV6 and Local Plan policy NRG3. In addition, documents such as the Scottish Planning Policy, the Council's Wind Turbine Planning Guidance Document, the 2005 Landscape Capacity Study and the 2011 Supplementary Landscape Capacity Study were material to this application.

He confirmed that the appointed officer had refused the application for a single reason, finding that the proposals would have a harmful impact on the landscape and were therefore contrary to the relevant development plan policies and planning guidance. The applicant's agent had provided a statement to the review arguing that the proposals would be economically beneficial to the landowner and that they were acceptable in terms of visual and landscape impact. A total of 95 representations had been received on the application and several further representations were submitted following the Notice of Review. A summary of comments received from Consultees to the application included observations from the Council's Landscape and Archaeology Officers and Historic Scotland.

Finally, the Planning Adviser reminded Members that they had the option of seeking further information, if necessary, before making a decision, either through further written submissions, a hearing session, or a combination of these procedures.

The Clerk advised that it was now for Members to decide if they had sufficient information before them to reach a decision today.

The Convener, Councillor Day and Councillor Gillies all indicated that they had sufficient information.

Summary of Discussion

Councillor Hampshire described the site visit as useful and stated that each application had to be taken on its own merit. However, in his view, this application had ignored the advice of the Council's development plan policies. He therefore intended to support the recommendation made by the Planning Officer.

Councillor Day stated that East Lothian benefited from both an iconic and beautiful landscape which was important to those who lived here in addition to attracting visitors to the county. Whilst he accepted the need to develop renewable energy, the merits of such developments needed to be balanced against the protection of East Lothian's landscape, amenity and communities. Given the height, form and scale of the proposed wind turbines, Councillor Day did not believe that they would be successfully integrated into the surrounding landscape, and therefore would be contrary to policy DC 1 of the adopted East Lothian Local Plan (2008). He also believed that the proposals would harm the distinctive public views from the nearby historic monument of Hailes Castle. In addition, the application did not comply with the guidance contained in the Council's Supplementary Landscape Capacity Study for Smaller Wind Turbines 2011. He would therefore not be supporting this application.

Councillor Gillies considered that the application was contrary to the Council's planning policies and he too was therefore minded to uphold the decision of the Planning Officer.

Decision
The ELLRB unanimously agreed to reject the review and uphold the decision of the Planning Officer to refuse this application for the reason set out in the original Decision Notice. The Clerk advised that a formal Decision Notice would be issued within 21 days.

2. REVIEW AGAINST DECISION (REFUSAL)
PLANNING APPLICATION No 11/00833/P – ERECTION OF A WIND TURBINE at ST CLEMENTS WELLS, TRANENT

The Convener introduced the application and invited the Planning Adviser to present a summary of the issues relating to this application.

The Planning Adviser stated that the application site was in a countryside and greenbelt location to the south east of Wallyford. The application was for a single 11kW wind turbine with a blade diameter of 13m, giving a total height to the blade tip of 25m. The application had been registered on 20 September 2011 and was refused under delegated powers on 18 May 2012.

As the broad policy context for this application was similar to the previous application, the Planning Adviser briefly summarised the planning policies relevant to this application, highlighting Structure Plan policy ENV2 and Local Plan policy DC2 which seek to restrict development in the green belt to protect the landscape setting of Edinburgh and neighbouring towns, and to avoid coalescence. Policy DC2 allowed development in the green belt where it would not harm the rural character of the area. The Planning Adviser provided details of the other relevant policy documents, including the 2011 Supplementary Landscape Capacity Study.

He confirmed that the Planning Officer had refused the application for a single reason, considering that the proposals would have a harmful impact on the landscape of the green belt and were therefore contrary to the relevant development plan policies and planning guidance. The applicant's agent had provided a statement to the review arguing that the proposals would contribute to the viability of the farm business and that they would be acceptable in terms of visual and landscape impact. Two public objections had been received on the application and a summary of the Consultee comments was given, including those of the Archaeology and Landscape Officers.

The Convener, Councillor Day and Councillor Gillies agreed that they had sufficient information to proceed with the hearing today.

Summary of Discussion

Councillor Hampshire commented that this application, like the previous application, was contrary to the Council's policies and, on the site visit, it had been clear to see the impact these proposals would have in this location. While he would normally wish to support local business enterprises, in his view, it should not be at the expense of destroying the countryside. He was therefore minded to uphold the decision of the Planning Officer.

Councillor Day stated that the Council's Supplementary Landscape Capacity Study 2011 explicitly stated that there was no capacity to accommodate this category of turbine within this location. In addition, he believed a turbine of this scale would be incongruous and obtrusive in this location and dominate the landscape, contrary to policy NRG3 of the adopted East Lothian Local Plan 2008. He would therefore not be supporting this application.

Councillor Gillies agreed with the views of his colleagues. He understood the applicant wanting to increase the viability of his farm, but could not support proposals which would have a detrimental impact on the countryside.

Decision
The ELLRB agreed to reject the review and uphold the decision of the Planning Officer to refuse this application for the reasons set out in the original decision notice. The Clerk advised that a formal decision Notice would be issued within 21 days.

3. REVIEW AGAINST DECISION (REFUSAL)
PLANNING APPLICATION No 11/00704/P – DERELICT CHURCH CONVERTED TO A 5 BEDROOM HOUSE and WALLED GARDEN at ABBEY CHURCH, DUNBAR

The Clerk introduced the application and drew Members' attention to certain procedural matters. In the course of this, she pointed out that this application had

been submitted along with an application for Listed Building Consent, which had been refused. To the best of her knowledge, the applicant had not appealed the decision on his Listed Building Consent application, which appeal would have to be directed to the DPEA.

The Convener invited the Planning Adviser to present a summary of the planning issues concerning this application.

The Planning Adviser advised that the application site was a former church building on the High Street, within the Dunbar Conservation Area and that the application was for alterations to the building and formation of a dwelling within it. A detailed description of the proposed works was contained within the Officer's report. He pointed out that some of the works were described in the Officer's report as not requiring planning permission in themselves, however, in his view, these works were structural alterations and would require planning permission. The planning application was registered on 26 August 2011 and was refused under delegated powers on 23 March 2012.

He stated that the Planning Act required decisions on planning applications to be taken in accordance with development plan policy unless material considerations indicated otherwise. The key policies in relation to this were Structure Plan policies ENV1D and ENV1G and Local Plan policies ENV4, DP1 and DP2. The building was listed at Category B and Development Plan policy stated that development which would harm the character, appearance or setting of listed buildings would be resisted. Also, changes of use to residential would only be allowed where the Council was satisfied that the premises had been suitably marketed for all other uses acceptable in principle within a town centre area and no reasonable offers had been received.

Members were asked to note that listed building consent would also be required for the proposed works. However, this was a separate consent process and was not before the ELLRB today.

The Planning Adviser confirmed that the Planning Officer had refused the application for two reasons; she had considered that the proposals would be harmful to the special architectural or historic interest of the listed building and would be harmful to the character and appearance of the Conservation Area. The applicant's agent had provided a statement to the review in which it was argued that inadequate consultation had been carried out, a survey from 2007 was not taken into account and that the well-being of the building and the High Street had not been considered. He also claimed that the impact of the proposals would be minimal.

The Planning Adviser stated that 4 public representations had been received on the application, 3 of which were from local residents who expressed support for the proposals. The other representation was an objection from the Architectural Heritage Society of Scotland. He summarised the Consultation responses and advised that Members might wish to note that Historic Scotland had been consulted on the proposals but their comments had been treated by the case officer as relating to the listed building consent application. However, in his view, the comments were material to the application and he suggested that it was appropriate for Members to take them into account. Historic Scotland had stated that the principle of dissecting the building and building a house within its exposed shell would be a retrograde conservation step, stripping the building of much of its fabric, character and meaning.

The Convener, Councillor Day and Councillor Gillies indicated that they had sufficient information to proceed with the hearing today.

Summary of Discussion

The Convener considered that this application was very different to the two previous applications. In his view, this building had been an eyesore for a long time. He acknowledged that the fabric of the building was deteriorating badly and that the interior was now in a poor condition. However, on the site visit, he had had concerns over a number of the applicant's proposals. In particular, the wooden columns which would become external and, through time, could become dangerous and need to be removed. Should this situation arise, he did not believe that the remainder of the building could be maintained. He was disappointed, but considered that he therefore had to support the decision of the Planning Officer.

Councillor Day was minded to support this application. Whilst he accepted that the subject of the application was a category B listed building, he believed that there needed to be a realistic and balanced approach to any planning application brought forward. As this building had been vacant for 40 years and had fallen into a considerable state of disrepair, its future use and viability in its present state were extremely limited. Therefore, within this context, he welcomed the innovative application before him today. He noted that the Architectural Heritage Society had raised concerns. However, he would argue that the most important aspect of this building was the front elevation which would be retained in this scheme. In his view, the church, as it stood, was neither a building of great beauty or of significant design in itself, so he believed that the incorporation of a modern design would enhance its architectural merit.

Councillor Gillies stated that, whilst he was generally supportive of the aims of Historic Scotland to safeguard the historic environment, he was minded, in this case, to agree with the views of Councillor Day and he would therefore vote to overturn the decision of the Planning Officer.

A copy of the recommended Conditions attached to this application was circulated to Members for perusal.

Decision

The ELLRB decided to overturn the decision of the Planning Officer and grant this scheme by a majority of 2 to 1 subject to the Conditions as provided by the Planning Officer and with a reminder that the Listed Building Consent would have to be sought before any work could be carried out. A formal Decision Notice would be issued within 21 days.