

**PLANNING COMMITTEE**

**5 MAY 2015**

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

**TUESDAY 31 MARCH 2015**  
**COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

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**Committee Members Present:**

Councillor N Hampshire (Convener)  
Councillor D Berry  
Provost L Broun-Lindsay  
Councillor S Brown  
Councillor J Caldwell  
Councillor S Currie  
Councillor J Gillies  
Councillor J Goodfellow  
Councillor D Grant  
Councillor W Innes  
Councillor P MacKenzie  
Councillor K McLeod  
Councillor J McMillan  
Councillor J McNeil  
Councillor T Trotter

**Council Officials Present:**

Mr I McFarlane, Service Manager – Planning  
Ms M Ferguson, Service Manager – Legal and Procurement  
Mr D Irving, Acting Senior Planner

**Clerk:**

Ms F Currie, Committees Assistant

**Visitors Present:**

Mr S Robb, GVA James Barr  
Mr P Hamilton

**Apologies:**

Councillor T Day  
Councillor A Forrest  
Councillor J Williamson

**Declarations of Interest:**

None

**1. MINUTE OF THE MEETING OF THE PLANNING COMMITTEE OF 3 MARCH 2015**

The minute of the Planning Committee of 3 March 2015 was approved.

**2. PLANNING APPLICATION NO. 14/00968/P: VARIATION IN CONDITION 7 OF PLANNING PERMISSION P/00696/92 TO CHANGE THE OPENING HOURS FROM 08.00 TO 20.00 MONDAY TO FRIDAY AND 08.00 TO 18.00 SATURDAY/SUNDAY TO 08.00 TO 22.00 MONDAY TO SATURDAY AND 09.00 TO 19.00 SUNDAYS AND REMOVAL OF DELIVERY/SERVICING RESTRICTIONS AT 48 - 52 DUNBAR ROAD, NORTH BERWICK**

A report was submitted in relation to Planning Application No. 14/00968/P Daryth Irving, Acting Senior Planner, presented the report, summarising the key points. The proposed decision set out in the report was to grant consent for the application.

In response to questions from Members Mr Irving confirmed that the proposed opening hours were 0800 to 2200 hours (Mon – Sat) and 0800 to 2100 hours (Sun). The references to 0700 to 2300 hours related to standard daytime hours.

Mr Steven Robb of GVA James Barr, agent for the applicant, addressed the Committee. He advised that the proposed changes were being sought to bring the store into line with Aldi's standard operating hours. A special loading dock and acoustic insulation had been installed and a noise survey had concluded that there would be no negative impact on surrounding homes. He pointed out that many Aldi stores with similar residential locations had no restrictions on delivery times.

Responding to questions from Members, Mr Robb advised that delivery times varied from site to site and it was important that Aldi had as much flexibility as possible to operate effectively. He confirmed that there would be no overnight parking of goods vehicles and the only delivery not controlled by Aldi was a small vehicle which brought milk in the early mornings.

Mr Peter Hamilton, representing the residents of Glenburn Road, spoke against the application. He argued that it was not appropriate to remove the restrictions on delivery times due to the potential for noise disturbance. While he was content with the delivery times as recommended in the report, he objected to the extended opening hours. He said that the noise survey had not taken account of traffic disturbance late at night which would affect residents' quality of life.

Local Member Councillor Goodfellow welcomed the creation of an Aldi store in North Berwick but expressed concern about the proposed delivery times. He suggested that deliveries be restricted to between 2100 – 0700 hours to safeguard the amenity of local residents and that there should be no overnight parking of goods vehicles at the site. Subject to these amendments, he would be supporting the application.

Local Member Councillor Berry concurred with Councillor Goodfellow. Although he welcomed the measures Aldi had taken to minimise noise, he agreed that 2300 hours was too late at night for deliveries. He would be supporting the proposed amendments to the application.

Councillor Currie acknowledged the views of his colleagues, however, he cautioned against additional restrictions which may prevent Aldi from operating effectively.

While he was not minded to further restrict delivery or opening times, he agreed with the restriction on parking overnight.

Councillor Gillies was content with the proposed changes to both delivery and opening hours. He would be supporting the report recommendation.

Councillor Grant also supported the proposed opening and delivery hours. He considered them to be a fair compromise and pointed out that residents could raise any issues regarding enforcement with Environmental Health officers.

The Convener brought the discussion to a close. He noted that the original Aldi application had sought 24 hour deliveries but that officers had recommended a compromise of 0700 – 2300 hours. He would be supporting the recommendation to grant planning permission as set out in the report.

Councillor Goodfellow proposed, and Councillor Berry seconded, the following amendments to the conditions set out in the report:

1. No goods delivery vehicles to remain parked within the site between 2300 – 0700 hours.
2. Delivery hours to be between 0700 – 2100 hours Monday to Sunday.

The Convener moved to vote on amendment 1 and this was unanimously approved.

The Convener moved to vote on amendment 2:

For: 2  
Against: 13  
Abstentions: 0

This amendment was not approved.

Lastly, the Convener moved to vote on the report recommendations and these were unanimously approved.

**Decision**

The Committee agreed to grant planning permission subject to the following amended conditions:

- 1 Condition 7

The supermarket will not be open to trading outwith the hours of 0800 to 2200 Monday to Saturday and 0800 to 1900 hours on Sundays.

No goods delivery vehicles will enter or leave the site or remain parked within the site between 2300 to 0700 hours Mondays to Sundays. No offloading or loading of goods or refuse to or from vehicles or containers will take place to or from the premises during those hours.

Reason:  
To safeguard the amenity of the occupants of nearby residential properties.

Signed .....

Councillor Norman Hampshire  
Convener of the Planning Committee



**REPORT TO:** Planning Committee  
**MEETING DATE:** Tuesday 5 May 2015  
**BY:** Depute Chief Executive  
(Partnerships and Community Services)  
**SUBJECT:** Application for Planning Permission for Consideration

**2**

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***Note** - this application was called off the Scheme of Delegation List by Councillor Berry for the following reasons: We have just passed permission for Aldi in Dunbar Road with a 0700 to 2300 restriction in a similar residential area and should consider in Committee whether this should not also apply here.*

Application No. **14/00951/P**

Proposal Variation of condition 5 of planning permission 05/00928/FUL to allow for deliveries to the store between the hours of 06:00 to 23:00 on Mondays to Saturdays inclusive and erection of acoustic panels on service yard fence

Location **Tesco Stores Limited  
Tantallon Road  
North Berwick  
East Lothian  
EH39 5NF**

Applicant Tesco Stores Limited

Per Mackay Planning

RECOMMENDATION Consent Granted

#### PLANNING ASSESSMENT

This planning application relates to the Tesco store in North Berwick. It is located to the south of Tantallon Road, at the eastern side of the town.

The service yard for the store is located immediately to the north of part of the store building. To the north of part of the service yard are the residential properties of Horsecrook. The existing boundary between the service yard and the residential properties of Horsecrook is enclosed by a 3.0 metres high solid timber acoustic fence, on top of which is a 1.5 metres high timber trellis fence. The remainder of the northern boundary of the service yard is enclosed by a 3.0 metres high solid timber acoustic fence.

Planning permission (Ref: 05/00928/FUL) was granted in October 2006 for the erection of the store and for a petrol filling station and associated works, subject to 22 conditions. Of these, condition 5 stipulates that:

“No delivery vehicle shall either access or egress the site nor be loaded or unloaded within the site outwith the hours of 07:00 to 23:00 on Mondays to Saturdays inclusive and 08:00 to 19:00 on Sundays and bank holidays.

Reason:

To ensure that the amenity of the occupiers of nearby houses is safeguarded”.

In November 2013 planning permission (Ref: 13/00942/P) was sought for a variation of condition 5 of planning permission 05/00928/FUL to allow for deliveries to the store between the hours of 06:00 to 23:00 on Mondays to Saturdays inclusive. That application was subsequently withdrawn prior to its determination.

Planning permission is now sought through this application for a variation of condition 5 of planning permission 05/00928/FUL to the following:

“No delivery vehicle shall either access or egress the site nor be loaded or unloaded within the site outwith the hours of 06:00 to 23:00 on Mondays to Saturdays inclusive and 08:00 to 19:00 on Sundays and bank holidays.

Reason:

To ensure that the amenity of the occupiers of nearby houses is safeguarded”.

Thus the proposed variation of condition 5 is seeking permission for delivery vehicles to access or egress the site or be loaded or unloaded within the site for one extra hour on Mondays to Saturdays inclusive, that being between the hours of 06:00 to 07:00.

Planning permission is additionally sought for the erection of a 1.5 metres high acoustic panel on top of the existing 3.0 metres high solid timber acoustic fence that encloses the northern boundary of the service yard. The proposed acoustic panel would be positioned immediately behind the existing 1.5 metres high timber trellis fence.

As it was originally proposed, the acoustic panel would have been of a solid timber construction to match the existing 3.0 metres high solid timber acoustic fence. However, as an amendment to the planning application, the applicant is now proposing that the acoustic panel would instead consist of a transparent “Plexiglas Soundstop” acoustic panel.

A noise assessment has been submitted by the applicant. It assesses how noise that may be generated as a result of delivery activity between 06:00 and 23:00 on Mondays to Saturdays inclusive would affect the amenity of nearby residents. Subject to the erection of the proposed acoustic panel, the assessment concludes that there would be no significant adverse impact from the proposed delivery hours.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Plan 2008.

There are no policies of the approved South East Scotland Strategic Development Plan



(SESplan) relevant to the determination of this application.

Relevant to the determination of the application is Policy DP2 (Design) of the adopted East Lothian Local Plan 2008.

Four written objections to the application have been received. Of these, two are from the same person and are made on behalf of the residents of Nos. 1 and 4 Horsecrook.

One of those two objections was made in respect of the solid timber acoustic panels, which were originally proposed. As stated above, solid timber acoustic panels are no longer proposed.

The other objection submitted on behalf of the residents of Nos. 1 and 4 Horsecrook is made on the following main grounds:

- \* Objector's garden area would receive less sunlight as clear panels discolour and age (with light coming through the panels not being natural outdoor light);
- \* Objector's garden would become damper and not dry out as it would not be getting natural sunlight but a filtered light through the screens;
- \* Ventilation and air movement to the objector's garden area would be restricted/shielded and create dampness;
- \* The safety issue with respect to high winds would be increased and the panels would act as a sail;
- \* View or what is left of it will be further infringed when the clear screens age and will look unsightly and turn opaque, and prior to this ageing the view (or that which is left) will be distorted by the panels;
- \* The extended hours for delivery are not acceptable as they would result in noise and light pollution; and
- \* The ivy that Tesco previously planted to disguise the acoustic fence has caused a great deal of distress to the residents at the crook.

The other two objections are made on the grounds that the earlier deliveries would cause an unacceptable increase in noise levels at the objector's property, particularly on Sunday mornings, and would adversely affect the objector's sleep and possibly their health.

The loss of a private view is not a material consideration in the determination of a planning application. The ivy that the objector states was previously planted by Tesco is not a material consideration in the determination of this planning application.

North Berwick Community Council raise no objection to the proposed development. They advise that the applicant's noise assessment seems to take all necessary precautions against noise. They further advise that only one member of the public had raised concerns with them about the proposal on the basis that she would lose light by the erection of acoustic boards.

The determination of this application rests on the planning considerations of the impact of the proposed acoustic panel and on the likely additional impacts the proposed one hour extension (i.e. between 06:00 and 07:00 on Mondays to Saturdays inclusive) for

delivery vehicles either accessing or egressing the site or being loaded or unloaded within the site, would have on the amenity of any neighbouring use, including neighbouring residential properties.

With regard to these considerations Policy DP2 of the adopted East Lothian Local Plan 2008 requires that the designs of all new development must be appropriate to their location in terms of their positioning, size, form, massing, proportion and scale, and must ensure privacy and amenity, with particular regard to levels of sunlight, daylight and overlooking.

"Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice" by P.J. Littlefair gives guidance on the impact of a proposed development on the daylight and sunlight received by neighbouring properties.

The Guide states that no more than two-fifths of a main back garden of a neighbouring residential property should be prevented from receiving any sunlight on the 21st of March due to overshadowing from new development.

Application of the sunlight test demonstrates that the existing timber acoustic fence casts a shadow onto the garden of 1 Horsecrook that overshadows just under 40% of that garden for most of the day (the 21st of March). This is within the parameters set by P.J. Littlefair, which states that no more than two-fifths of a main back garden of a neighbouring residential property should be prevented from receiving any sunlight on the 21st of March due to overshadowing from new development.

However application of the sunlight test further showed that with an additional 1.5 metre solid acoustic panel being installed on top of the existing timber acoustic fence, as was originally proposed, more than 40% of the garden of 1 Horsecrook would be overshadowed for most of the day. Thus the additional 1.5 metre solid acoustic panel that was originally proposed failed the sunlight test.

It was for this reason that the applicant is now proposing a transparent "Plexiglas Soundstop" acoustic panel.

By being transparent, the acoustic panel now proposed would not result in any loss of sunlight to the neighbouring garden of 1 Horsecrook. On this consideration the proposed acoustic panel is consistent with Policy DP2 of the adopted East Lothian Local Plan 2008.

To ensure that the acoustic panel remains transparent, it would be prudent to require that a maintenance strategy for the panel should be submitted to and approved by the Planning Authority. This can be secured by a conditional grant of planning permission.

Subject to the imposition of this condition the proposed acoustic panel would not be harmful to the amenity of the residents of the neighbouring garden of 1 Horsecrook.

Due to its transparent nature and in its position behind the existing timber trellis fence, the proposed acoustic panel would be appropriate to its location and would not be harmful to the character or appearance of the area. On this consideration the proposed acoustic panel is consistent with Policy DP2 of the adopted East Lothian Local Plan 2008.

There is no evidence to suggest that the acoustic panel would constitute a risk to health or safety.

With respect to the proposal to permit delivery vehicles to access or egress the Tesco site or be loaded or unloaded within the site between the hours of 06:00 to 07:00 on Mondays to Saturdays inclusive, the Environmental Protection Manager advises that, subject to the proposed acoustic panel being installed, additional noise from this activity should not exceed LAmax 60dB between the hours of 2300-0700, that being the maximum night time noise level considered acceptable by the World Health Organisation.

Notwithstanding this, the Environmental Protection Manager recommends that a condition should be imposed to ensure that noise levels during night time hours do not exceed LAmax 60dB between the hours of 0600-0700. She further recommends that the service yard noise reduction measures specified in the applicant's noise assessment should be complied with at all times during deliveries between 0600-0700 hours. These recommended controls can be secured by a conditional grant of planning permission.

Subject to the imposition of the recommended controls, and subject to the proposed acoustic panel being erected prior to delivery vehicles accessing or egressing the Tesco site or being loaded or unloaded within the site between the hours of 06:00 to 07:00 on Mondays to Saturdays inclusive, the proposed variation of condition 5 would not harmfully impact on the amenity of neighbouring and nearby residential properties.

Given that this application is seeking only to vary condition 5 of planning permission 05/00928/FUL, all other conditions imposed on the grant of planning permission 05/00928/FUL would otherwise remain unaltered and in force. It would be prudent to confirm this in an advisory note on the decision notice.

#### CONDITION:

1 Condition 5

The operation of the store shall comply with the following requirements:

- a) No delivery vehicle shall either access or egress the site nor be loaded or unloaded within the site outwith the hours of 06:00 to 23:00 on Mondays to Saturdays inclusive and 08:00 to 19:00 on Sundays and bank holidays;
- b) No delivery vehicle shall either access or egress the site nor be loaded or unloaded within the site outwith the hours of 06:00 to 07:00 on Mondays to Saturdays inclusive unless and until:
  - i) the accoustic panels hereby approved have been installed; and
  - ii) a strategy for the future maintenance of the accoustic panels has been submitted to and approved by the Planning Authority. The accoustic panels shall thereafter be maintained in accordance with the schedule so approved;
- c) Noise associated with deliveries vehicles within the application site, including delivery vehicle movements within the Service yard, shall not exceed LAmax 60dB between the hours of 06:00 to 07:00 on Mondays to Saturdays inclusive when measured in any neighbouring property with the noise measurement being taken with the window open at least 50mm; and
- d) The "Service yard noise reduction measures" docketed to this planning permission shall be complied with at all times during deliveries between the hours of 06:00 to 07:00 on Mondays to Saturdays inclusive.

Reason:

To ensure that the amenity of the occupiers of nearby houses is safeguarded.

*Please note that the remainder of pages relating to this item have been removed as they contain personal information (for example - names and addresses of people that have made representation)*

**REPORT TO:** Planning Committee

**MEETING DATE:** Tuesday 5 May 2015

**BY:** Depute Chief Executive  
(Partnerships and Community Services)

**SUBJECT:** Application for Planning Permission for Consideration

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*Note - this application was called off the Scheme of Delegation List by Councillor Berry for the following reasons: The proposed location is immediately outside a prominent listed building (Fire School) and highly visible as part of the gateway to the architecturally significant village of Gullane from the east.*

Application No. **14/00944/P**

Proposal Erection of telecommunications mast and associated works

Location **Main Street  
Gullane  
East Lothian**

Applicant Everything Everywhere

Per Wilkinson Helsby

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT:

The application site forms part of the public footpath and grass verge of the public road of Main Street.

The site is on the south side of the main carriageway of Main Street. It is part of the tarmac footpath and grass verge between the 1.5 metre high post and wire fence that is on the south side of the footpath and the main carriageway of Main Street that is on the north side of the grass verge.

The site is within a predominantly residential area as defined by Policy ENV1 of the adopted East Lothian Local Plan 2008.

Planning permission is sought for the erection on the site of a telecommunications monopole and associated works. The cabinets which have been included in the application are permitted development under Class 67(1)(a) of Part 20 of Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order

1992, (as amended), and therefore does not require assessment through this application.

The proposed telecommunications monopole would be some 17.50 metres in height. The monopole would be of a streetworks design. The 3 antennas would be contained within a GRP shroud at the top of the monopole, which would be some 485mm in width. The monopole including the GRP shroud would be coloured grey. The monopole would be positioned on the existing public footpath some 500mm away from the wire and post fence.

Supplementary information submitted with the application informs that the proposed telecommunications monopole is required to replace a previously nearby single operator (Orange) mast which was recently decommissioned. The mast that was decommissioned measured 11 metres in height to the top of the shroud.

The proposed telecommunications monopole would house H3G, Orange and T-Mobile equipment and would provide 3G network coverage in the area.

The applicant states that they have considered a number of other sites in a range of locations in the locality. Their conclusion is that those sites are unsuitable for various reasons and that the most suitable option is the erection of a new telecommunications streetworks monopole on the application site.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved South East Scotland Strategic Development Plan (SESPlan) and the adopted East Lothian Local Plan 2008.

Policies 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESPlan), Policy INF2 (Telecommunications Development), INF4 (The Scottish Fire Service Training School, Gullane), and T2 (General Transport Impact) of the adopted East Lothian Local Plan 2008 are relevant to this application.

Material to the determination of the application is the Scottish Government's policy on supporting digital connectivity given in Scottish Planning Policy: June 2014 and Planning Advice Note 62: Radio Telecommunications.

In paragraph 296 of Scottish Planning Policy it is stated that local authorities should provide a consistent basis for decision-making by setting out the criteria which will be applied when determining planning applications for communications equipment. They should ensure that options such as mast or site sharing are considered along with the size of the equipment and its appearance.

Planning Advice Note 62 provides supplementary advice on the process of site selection and design for telecommunications development and illustrates how the equipment can be sensitively installed. In selecting the site and design of telecommunications development, operators and planning authorities must have regard to the cumulative effects when two or more masts are intervisible (i.e. simultaneously visible), but also when several base stations are seen in succession as people pass through an area. They also need to think beyond individual proposals and consider how future telecommunications equipment will be integrated into the landscape because one mast on a site may be acceptable but the cumulative effect of two or three might not.

To demonstrate to planning authorities that the known health effects have been properly addressed, applications for planning permission involving antennas must be accompanied by a declaration that the equipment and installation is designed to be in full compliance with the appropriate ICNIRP guidelines for public exposure to radiofrequency radiation.

The Applicant has confirmed in writing that the proposed installation would conform to the ICNIRP guidelines for public exposure to radio frequency radiation.

Also material to the determination of the application is the written objection which has been received. Objection is made on the grounds of the height of the mast and its visual impact on the Main Street frontage. It is also argued that the mast would hinder the development of land to the South.

In its position the proposed monopole would be readily visible in approaches to it along Main Street from the east and west and from the houses of Main Street to the north. There are a number of 8 metres high street lighting columns on both sides of the main carriageway of Main Street. At a height of some 17.5 metres the proposed monopole would be twice the height of the existing street lighting columns. Nonetheless it would be seen in the context of those existing street lighting columns that already give their verticality of form to the streetscape of Main Street. By virtue of its narrow streetworks form and the visual context given to it by the existing street lighting columns of Main Street the proposed monopole would not appear unduly prominent, intrusive, incongruous or exposed within its setting and would not have an adverse affect on the character and appearance of the area. It would not be inappropriate to its surroundings. A condition can be imposed on a grant of planning permission to ensure that the colour of the monopole matches the colour of the existing lighting columns. The use of the mast would also not impinge on the legitimate operational requirements of The Scottish Fire Service Training School, which in any case is closing.

Road Services have advised that UK Department of Transport guidance 'Inclusive Mobility' indicates that 1.5 metres footway width be provided to enable an ambulant person and a wheelchair user to pass or use the footway 'side by side'. As the distance of the cabinets to the edge of the footway would be less than 1.5 metres they have recommended refusal of the application. However, as these cabinets are permitted development under Class 67(1)(a) of Part 20 of Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, (as amended), they do not form part of this planning assessment. Road Services are responsible for issuing any permit for proposed works on the footway.

Road Services have made no written formal comment on the proposed telecommunications mast. The equipment layout plan indicates that the distance from the mast head to the footway wedge would be 1.4 metres. However, taking into the consideration the width of the base of the mast, which would measure 300mm in diameter, the proposal would meet the minimum distance requirements of Road Services. In addition to the above, a distance of less than 1.5 metres has been accepted by Road Services in past applications for street furniture, such as telecommunications cabinets. Examples of where a distance of less than 1.5 metres to the edge of the footway has been accepted can be seen through planning applications 13/00495/P and 13/00750/P. Furthermore, the proposed mast would not constrain the path to any greater degree than the decommissioned mast and equipment cabinet which were removed by the operator at this locus prior to this application. Considering all of the above, the proposed development is consistent with Policy T2 of the adopted East Lothian Local Plan 2008.

On all the above considerations, the proposed development is consistent with Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan), Policies INF2, INF4 and T2 of the adopted East Lothian Local Plan 2008 and Scottish Government guidance and advice given in Scottish Planning Policy: June 2014 and Planning Advice Note 62: Radio Telecommunications.

CONDITIONS:

- 1 The telecommunications monopole, including the GRP shroud at the top of it shall be coloured to match the colour of the existing street lighting columns that are positioned to each side of the main carriageway of Main Street unless otherwise approved by the Planning Authority.

Reason:

In the interests of safeguarding the character and appearance of the area

- 2 In the event that the telecommunications monopole hereby approved become obsolete or redundant it must be removed and the site reinstated to the satisfaction of the Planning Authority within 6 months of it ceasing to be operational.

Reason:

To minimise the level of visual intrusion, and ensure the reinstatement of the site to a satisfactory standard.



*Please note that the remainder of pages relating to this item have been removed as they contain personal information (for example - names and addresses of people that have made representation)*