



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

**THURSDAY 10 MARCH 2021
VIA THE DIGITAL MEETINGS SYSTEM**

Committee Members Present:

Councillor N Hampshire (Chair)
Councillor J Findlay
Councillor N Gilbert

Advisers to the Local Review Body:

Mr C Grilli, Legal Adviser to the LRB
Ms J Squires, Planning Adviser to the LRB

Other Officers present:

Mr N Millar, Planner (observing)

Clerk:

Ms F Currie, Committees Officer

Apologies:

None

Declarations of Interest

None

Introductory Statement by the Legal Adviser

The Legal Adviser outlined the procedure for the meeting and the options available to the Local Review Body in reaching a decision on the planning applications before it.

The Legal Adviser then invited nominations to chair the meeting and Councillors Findlay and Gilbert proposed and seconded Councillor Hampshire. It was therefore agreed that Councillor Hampshire would chair the Local Review Body (LRB) on this occasion.

1. PLANNING APPLICATION NO. 20/00824/P: ERECTION OF HUT AND SHED (PART RETROSPECTIVE) BOLTON MUIR WOOD, GIFFORD, EAST LOTHIAN EH41 4JH

The Chair invited the Planning Adviser, who had had no involvement in the original decision, to present a summary of the planning policy considerations in this case.

The Planning Adviser outlined the background and detailed proposals contained in planning application no. 20/00824/P, a part retrospective planning application for a hut and shed at Bolton Muir Wood. The wood was designated as countryside within the LDP, and was a Local Biodiversity Site as well as being included in NatureScots Inventory of Ancient Woodland. She also reminded Members that this was an appeal against non-determination of the application.

The Planning Adviser summarised the content of the Planning Statement and Ecological Report submitted with the application. The Planning Statement described hutting policy and how the proposal accorded with this. The applicant had confirmed that the proposed hut would be used for leisure and recreational purposes only. The submitted Ecological Report contained a Phase 1 habitat survey and found no harm to protected species including the badger setts on site.

The applicant stated that Bolton Muir Wood was extremely accessible from the main road network, and the family lived 18 miles away and intended to cycle there wherever possible. The materials used were as sustainable as possible. In terms of services, water was not piped. The running of businesses (of any kind) was strictly prohibited within any hutting site. The applicant intended to ensure that all the habitats on their land were protected. They considered the proposal was in line with Scottish Planning Policy on hutting.

The Planning Adviser reminded Members that planning applications should be determined in accordance with the development plan for the area unless material considerations indicate otherwise. The Development Plan for this area was the South East Scotland Strategic Development Plan (known as SESPLAN) and the adopted East Lothian Local Development Plan (LDP) 2018. In his submission, the Council's appointed officer noted that there were no relevant SESPLAN policies. He also noted that the LDP was silent on hutting development specifically. However, Scottish Planning Policy was material to the application as it contained the definition of a 'hut'. The Planning Adviser outlined this definition to the Members. Also material was Reforesting Scotland's good practice guidance 'New Hutting Developments'. This guidance set out the low impact, ecologically sustainable and affordable ethos of hutting and how development should respect this.

It was noted that the appointed officer considered that neither the hut nor the shed would appear as a harmfully dominant, intrusive or incongruous feature within the landscape setting and not harmful to the landscape character and visual amenity of the area, and the buildings could be removed without trace.

The Planning Adviser summarised the consultation responses received. The Councils Policy and Projects Manager highlighted the wording of national planning policy on rural hutting development and noted that the principle of the development did not conflict with LDP policy DC1. He also suggested that a condition could be imposed securing use of the shed solely for recreational use and not as a house or holiday let and to restrict the length of stay.

The Council's Roads and Environmental Health Services were consulted and did not object to the proposal. Forestry Commission Scotland were also consulted and did not object. The Council's Biodiversity Officer noted that Bolton Muir Wood Local Biodiversity Site was designated due to habitat connectivity and ancient woodland indicator species. While she did not object to the proposal she did recommend conditions. Subject to these conditions the appointed officer considered the proposals did not conflict with LDP policies NH3 or NH5, which aimed to protect biodiversity.

The Landscape Officer advised that the proposal was designed to fit within and retain the existing woodland. Subject to conditions on transport of materials of construction within the plot and positioning of the chimney flue, she raised no objection.

The Planning Adviser then considered the assessment of the application provided by the appointed officer. The officer noted Bolton Muir Wood contained 18 individual woodlots, each with a hardcore area big enough for more than one car. Vehicular access to the woodlot was via an existing gated forestry track leading from the B6368, with an area of hardcore at the entrance to the woodlot. He considered the combined amount of cars that could be parked within each of the woodlots could harmfully impact on the character and appearance of the wood as well as being likely to result in conflict between car users and walkers and cyclists. He submitted that if permission was granted, a condition requiring submission and approval of car parking details showing no more than one space be imposed. The appointed officer considered that, subject to conditions listed in the schedule supplied, the proposals did not conflict with LDP policy.

The Planning Adviser concluded her presentation by outlining an objection submitted by Humble, East and West Saltoun and Bolton Community Council. The Community Council had stated that the proposal was not in keeping with the Council's ambition to protect East Lothian's biodiversity and countryside designations, would have adverse impact on ancient woodland, and the potential restriction of public access to Bolton Muir Woods, given the size of developments proposed and the likelihood that many other developments would follow on neighbouring plots. If permission was granted, they requested conditions preventing car parking in the forest for the safety of walkers and for the benefit of wildlife; no fences; no additional sheds or facilities; restrictions on connections to utilities; restrictions on the usage of huts in particular for overnight stays; and controls on removal of trees. They also noted that hut sites were usually managed by a community trust or club to manage disposal of waste, control vehicle movements, minimise the impact of development and to develop and implement a biodiversity management plan for the woodland as a whole.

The Chair thanked the Planning Adviser for her summary.

The Planning Adviser responded to questions from Members on the content and scope of conditions which could be applied to any planning permission. She advised that a condition which prevented the property being run as a business would apply to lettings. That restrictions on the type of vehicles used to transport materials within the woodland would be possible but that vehicles would likely be required to bring materials to the boundary of the woodland. In respect of a condition restricting vehicle access, the Planning Adviser reminded Members that any condition should be reasonable in the circumstance and, notwithstanding the applicant's legal right of access to their plot, she could see no reason why a condition could not be imposed on the basis of safety for other woodland users.

In response to a further question, the Planning Adviser confirmed that, in the case officer's opinion, the hut was to be used for the purposes of leisure and recreation and therefore the proposal was not contrary to policy DC1.

The Members discussed concerns about vehicle access and parking and the potential impacts resulting from further, similar planning applications for this woodland. They were reminded of the option for them to request additional information from the applicant. They were also advised that this application could only be considered on its own merits and any future applications would need to be determined on their own merits should such applications come forward.

The Chair asked his colleagues to confirm if they were satisfied that they had sufficient information before them to determine the application. They noted that they would have liked more details from the applicant on car parking arrangements at the site but notwithstanding this felt they had sufficient information to proceed.

The Chair then invited Members to give their opinions.

Councillor Gilbert noted that, as the proposed hut was for recreation purposes, it was not viewed as 'development in the countryside' and was not therefore considered contrary to policy DC1. For those reasons, he could not see any grounds for refusing the application subject to conditions including a limit of one car per plot. He said that, based on the information before him, he would be supporting the planning officer's recommendation.

Councillor Findlay stated that he had no objection to the hut but he was concerned about car parking and vehicular access. He suggested that the owners of the land should have addressed these issues before selling plots. He did not wish to see lots of cars or other vehicles moving around within the woodland while people were walking in the area. As the applicant had not addressed these issues, he said he could not support the officer's recommendation and was minded to refuse the application.

The Chair commented that the application was, in his opinion, detrimental to the countryside and the wildlife within it. Furthermore, the proposal was unacceptable and contrary to policy DC1. He added that while on the site visit he had noted that there was evidence of ancillary development alongside the hut which was also a concern. For these reasons, he was minded to refuse the application.

The Chair noted that Members had voted by a majority of 2:1 to refuse planning permission.

Decision

The ELLRB agreed by a majority to refuse planning permission for the following reason:

The proposed hut and associated shed, by virtue of its impact on biodiversity and on vehicle movements within Bolton Muir Wood, would be harmful to the countryside, contrary to Policy DC1 of the adopted East Lothian Local Development Plan 2018.

2. PLANNING APPLICATION NO. 20/00892/P: INSTALLATION OF SECURITY SHUTTER, LIGHTING AND CCTV CAMERAS (RETROSPECTIVE) 147 HIGH STREET, PRESTONPANS, EH32 9AX

The Chair invited the Planning Adviser, who had had no involvement in the original decision, to present a summary of the planning policy considerations in this case.

The Planning Adviser outlined the background and detailed proposals contained in planning application no. 20/00892/P which was for retrospective permission for the installation of security shutter, lighting and CCTV cameras at 147 High, Street Prestonpans, a Category C Listed Building. The application had been granted with a condition to the effect that permission be refused for the security shutter. A related Listed Building Consent application had been granted with a similar condition imposed and an appeal to the Scottish Government on that application was currently in progress.

The Members were reminded that they must review the application and consider whether it or not they agreed with the conditional grant of permission. What was not for review was consent for those parts of the application that were granted, namely the lighting and CCTV cameras. The Local Review Body had been provided with supporting documentation including the appellant's case setting out their grounds for appeal and some new supporting evidence. No public letters of objection to the proposal had been received.

The Planning Adviser summarised the planning legislation and policy material to the consideration of the application: in this case, the South East Scotland Strategic Development Plan (known as SESPLAN) and the adopted East Lothian Local Development Plan (LDP) 2018 policies DP5 and CH1. Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and the Cultural Heritage SPG were also relevant.

She outlined the reason for refusal of the shutter - that when closed, it was considered harmful to the architectural or historic features of the listed building, not in keeping with the other parts of the listed building and out of harmony with it. She also noted that the planning officer considered the shutter visually incongruous and inappropriate for the front elevation of the listed building and therefore contrary to policies DP5 and CH1 of the LDP, as well as guidance in the Cultural Heritage and the Built Environment SPG, Scottish Planning Policy and guidance from Historic Environment Scotland.

The Planning Adviser then summarised the applicant's grounds for appeal which referred to the guidance in the Cultural Heritage and the Built Environment SPG and which included a letter from Police Scotland detailing targeted vandalism and giving their opinion that roller shutters were needed. The Planning Adviser noted that the case officer did not have this information at the time of determination but that this information had been deemed admissible within the appeal. It was also noted that the appellant had further considered that no unnecessary damage had been caused to the historic features by the installation of the shutters, and that the proposals were in keeping with

other parts of the building and harmonised with the streetscape, so meeting the terms of guidance in the SPG. The applicant had also pointed out that many buildings at High Street, Prestonpans, had external solid steel security shutters.

The Chair thanked the Planning Adviser for her summary.

The Planning Adviser responded to questions from Members. She confirmed that there had been no objections from the public or the community council and that the property, although listed, lay out with the conservation area.

The Chair asked his colleagues to confirm if they had attended the site visit and if they were satisfied that they had sufficient information before them to determine the application. They confirmed this to be the case.

The Chair then invited Members to give their opinions.

Councillor Gilbert said he was aware that the owner of the property had suffered vandalism and had been advised by the police that installing a security shutter would be a good option. He also noted that owner had been in contact with the community council, who were supportive of the proposal, and that there had been no public objections. While he accepted that the commercial property was within a listed building, considering the damage sustained and the fact that there were similar shutters in use on properties nearby, he felt that the shutter should be allowed to remain. He could not support the planning officer's original recommendation.

Councillor Findlay concurred with Councillor Gilbert's remarks and that the roller shutter should be allowed to remain in place. He could not support the planning officer's original recommendation.

The Chair held similar views. While he acknowledged the need to protect listed buildings, he did not think that the shutter interfered with the historical part of main building which was above the shop. He also noted that there were other, similar shutters on commercial properties in the street and he concluded that, in this location, the shutter should be allowed to remain in place. He supported the appeal.

The Chair noted that Members had agreed unanimously to uphold the appeal.

Decision

The ELLRB agreed unanimously to uphold the appeal and to remove Condition 1 from the planning permission granted for 20/00892/P.

Signed

Councillor Norman Hampshire
Chair of Local Review Body (Planning)