



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

**TUESDAY 7 MARCH 2023
VIA A DIGITAL MEETING FACILITY**

Committee Members Present:

Councillor N Hampshire (Convener)
Councillor L Allan
Councillor D Collins
Councillor A Forrest
Councillor N Gilbert
Councillor C McGinn
Councillor S McIntosh
Councillor K McLeod
Councillor J McMillan
Councillor C Yorkston

Other Councillors Present:

Councillor C McFarlane

Council Officials Present:

Mr K Dingwall, Service Manager – Planning
Ms E Taylor, Team Manager – Planning Delivery
Ms S McQueen, Planner
Mr C Grilli, Service Manager – Governance
Ms P Gray, Communications Officer

Clerk:

Ms B Crichton

Visitors Present/Addressing the Committee:

Item 2: Mr S Stewart

Apologies:

Councillor C Cassini
Councillor J Findlay

Declarations of Interest:

Item 2: Councillor McMillan on the basis of having had contact with The Rocketeer in his role as Economic Development Spokesperson

1. MINUTES OF PLANNING COMMITTEE MEETING, 10 JANUARY 2023

The minutes were agreed as an accurate record of the meeting.

Sederunt: Councillor McMillan left the meeting.

2. PLANNING APPLICATION NO. 22/00757/P: INSTALLATION OF LIGHTING (RETROSPECTIVE), 26 VICTORIA ROAD, NORTH BERWICK

A report was submitted in relation to Planning Application No. 22/00757/P. Stephanie McQueen, Planner, highlighted that National Planning Framework 4 (NPF4) had been adopted in February and now formed part of the East Lothian Development Plan 2018. She then presented the report, summarising the key points. The report recommendation was to refuse consent.

Ms McQueen responded to questions from Councillors McLeod and Allan. She confirmed that the gables were illuminated. She advised that the sign on the west gable did not have advertisement consent or approval to be illuminated, but understood that this was being investigated. The lights would be on for the hours of darkness while the restaurant was in operation, and understood that the restaurant had permission to be open until 10pm.

Responding to questions from Councillor McIntosh, Ms McQueen advised that the application was in contravention of NPF4 Policy 4 due to being situated within the North Berwick to Seton Sands Special Landscape Area. She advised that the effect of light pollution on sea bird populations had not been assessed, and the application had not been assessed against NPF4 Policy 3, which related to developments improving the natural habitat or the mitigation of any adverse effects.

Responding to questions from Councillor McGinn, Ms McQueen advised that the council's Senior Environmental Health Officer had provided the applicant's agent with advice on how a lighting assessment would be undertaken, but the applicant had decided not to submit the report.

Councillor Hampshire asked about Historic Environment Scotland's (HES) response to the application. Ms McQueen advised that their interest would have been in the monument to the north of the building. She highlighted that although HES had provided no comment, their response stated that this should not be taken to mean HES were either in support of, or objected to, the application. She acknowledged that consultation on the application had been undertaken before NPF4 had been formally adopted.

Stirling Stewart, applicant, spoke in support of the application. He had thought that the lighting had been part of a planning application made six years ago, and apologised for this oversight. He said that the lighting comprised of thin LED strips which were fitted to the gutters of the eaves, and were not apparent to the passer-by when unlit. He noted that the building was already illuminated in part. He highlighted that the lighting was illuminated only when the building was open during the hours of darkness, and said it was lit at a level so as to feature the shape of the building but to avoid causing any nuisance. He noted the building's position within an area of North Berwick popular with tourists, and described the lighting as a subtle enhancement of the building. He provided information on the history of the former coastguard building and development into its use as a restaurant 11 years previously. He noted that there had been no comment from North Berwick Community Council or HES, and no objection from near neighbours. He referenced the lighting survey which had been requested by officers; he had been informed that the survey would not affect

the recommendation for refusal, and he had therefore decided against commissioning the survey on economic grounds. He also confirmed that the restaurant was open in the winter months from 9am-5pm from Sunday-Thursday, and on Fridays and Saturdays stayed open until 8pm. In the summer the restaurant was open until about 8pm every evening. He stated that the lights remained off for 7-8 months of the year.

Responding to a question from Councillor McGinn, Mr Stewart explained that he understood that submission of a lighting assessment would not have made a difference to the officer recommendation for refusal, but would have incurred significant expense. He highlighted the difficulties for the hospitality industry caused by the pandemic; he felt the lighting was not garish and said that it was important for potential customers to be aware that the restaurant was open.

Responding to a question from Councillor Collins, Mr Stewart said that the lights had been in operation for six years. The issue had come to light when someone had reported the breach of planning permission. He noted that the surrounding buildings seemed to be happy with the lighting.

Councillor Allan, Local Member, voiced her support for the application due to the lighting having been in place for six years without causing any problem. Councillor McLeod noted the significant investment in the building and felt that the applicant had carried out the development considerably. He would support the application.

Councillor McFarlane, Local Member, felt that The Rocketeer provided vitality to the harbour area, and considered the reasons for refusal to be overstated. She noted that when not illuminated, the light strips were only visible on close inspection, and felt the lighting was subtle, unobtrusive, and the impact was less than that of the neighbouring Seabird Centre and street lighting. She also noted that the community council and HES had not commented on the application.

Councillor Gilbert would support the officer recommendation for refusal due to the applicant's decision not to provide a lighting assessment, which meant that Members could not fully understand the impact of the lighting. Councillor McIntosh commented that the applicant had been convincing in his submission, but highlighted that due process had not been followed to allow Members to make an informed decision. She felt that issues that were not material planning considerations had been discussed; the landscape character of the area still had to be taken into account despite there being a thriving business in operation. She also felt that NPF4 Policy 3 should have been considered in the assessment of the application.

Councillor McGinn had visited the site and felt that the lighting was neither intrusive nor problematic. He would vote against the officer recommendation for refusal, but held some reservations due to the applicant's decision not to submit a lighting assessment.

Councillor Hampshire commented on the success made of the once-derelict building and the need to find uses for other such historic buildings across the county. He highlighted that the lighting was on for only part of the year, and felt it did not detract from the character of the building. He would have liked for the applicant to have provided all of the requested information, but judged the lighting not to have a significant impact. He noted the lack of community objections, and would therefore vote against the officer recommendation for refusal.

Keith Dingwall, Service Manager – Planning, suggested a condition be attached relating to the hours of use of the lighting being in line with when the building was in operation, and proposed a form of words. Councillors Hampshire and Collins formally proposed and seconded the condition respectively.

The Convener then moved to a roll call on the officer recommendation to refuse consent.

Support: 4 (Councillors Forrest, Gilbert, McIntosh, and Yorkston)
Against: 5 (Councillors Hampshire, Allan, Collins, McGinn, and McLeod)
Abstentions: 0

Mr Dingwall asked the Planning Committee to confirm their reasons for voting against the officer recommendation. The Convener confirmed that this could be taken as a reversal of the reasons stated in the report, i.e. because the Planning Committee believed that the lighting, in its physical form and when illuminated, did not have a harmful impact on the character and appearance of the conservation area and setting of the special landscape area.

DECISION

The Planning Committee granted permission, subject to the following condition:

- 1 The lighting hereby approved shall not be used between the hours of 2000 to 0900 on any day.

Reason

In the interests of the amenity of the area including the character and appearance of the North Berwick Conservation Area.

Signed

Councillor Norman Hampshire
Convener of the Planning Committee