



MINUTES OF THE MEETING OF THE LOCAL REVIEW BODY

**THURSDAY 29 MAY 2025
COUNCIL CHAMBER, TOWNHOUSE, HADDINGTON
AND DIGITAL HYBRID SYSTEM**

Committee Members Present:

Councillor D Collins, Chair
Councillor A Forrest
Councillor J McMillan

Advisers to the Local Review Body:

Mr C Grilli, Legal Adviser to the LRB
Mr M Mackowiak, Planning Adviser to the LRB

Clerk:

Ms F Currie, Committees Officer

Other Officers Present:

Ms E Barclay, Committees Assistant (meeting administrator)

Apologies:

Councillor Cassini

Declarations of Interest

None

The clerk advised that this meeting was being held as a hybrid meeting. It was being recorded and webcast live via the Council's website in order to allow the public access to the democratic process in East Lothian. East Lothian Council was the data controller under the Data Protection Act 2018. Data collected as part of the recording would be retained in accordance with the Council's policy on record retention.

Introductory Statement by the Legal Adviser

The Legal Adviser asked Members to confirm that they had had access to all the information. Confirm reviewed applicant's submission He outlined the procedure for the Local Review Body to reach a decision on the planning application before it and reminded them that further advice would be provided on procedure, should they conclude they did not have enough information to determine the application today.

On this occasion it was agreed that Councillor Collins would chair the Local Review Body (LRB).

1. PLANNING APPLICATION NO. 24/00868P: ERECTION OF 2 HOUSES AND ASSOCIATED WORKS, PRIMROSE COTTAGE GARDEN, INNERWICK, EAST Lothian

The Chair invited the Planning Adviser, who had not been involved in the original decision, to present a summary of the planning policy considerations in this case.

The Planning Adviser provided details of the application site, surroundings, access and summarised the proposed development. He confirmed that the site lay within an area defined as woodland within the adopted Tree and Woodland Strategy (TWS) for East Lothian. The application site was within the countryside as defined by Policy DC1 of the adopted East Lothian Local Development Plan 2018 and also fell within the Thurston Manor Walled Garden Local Garden and Designed Landscape area.

Section 25 of the Town and Country Planning (Scotland) Act 1997 required that the application for planning permission be determined in accordance with the development plan, unless material considerations indicated otherwise. The development plan was the adopted National Planning Framework 4 (NPF4) and the adopted East Lothian Local Development Plan 2018.

The Planning Adviser confirmed that the case officer's report had correctly listed all policies of NPF4 and LDP that were relevant to the application, including: NPF4 Policies 3 (Biodiversity), 6 (Forestry), 13 (Sustainable Transport), 15 (Local Living and 20 Minute Neighbourhoods), 17 (Rural Homes); and LDP Policies DC1 (Rural Diversification), DC4 (New Build Housing in the Countryside), NH4 (European Protected Species), NH8 (Tress and Development), T1 (Development Location and Accessibility) and T2 (General Transport Impact); and Policy 1 of the Tree and Woodland Strategy. He then summarised the case officer's original assessment of the application against planning policy, including consideration of the responses from statutory consultees and comments from members of the public. He also outlined the reasons for refusal of the application, as set out in the original decision notice.

The Planning Adviser then moved to the submission made by the applicant's agent in support of the appeal. This included additional information, planning correspondence between the agent and the ELC Planning Service, as well as a rebuttal against reasons for refusal of planning permission. He highlighted the key points of the submission and its assessment of the proposals against relevant planning policy.

The Planning Adviser concluded his presentation by reminding Members that it was open to them to seek further information, if necessary.

The Planning Adviser replied to questions from Councillor Forrest confirming that the wall around the site was included in the curtilage of the Category C listed building opposite the site (East Lodge). He also advised that not all trees on the site were native species.

Councillor McMillan asked about the definition of 'countryside and rural' and the Planning Adviser explained that the adopted LDP 2018 included policy DC1 and a proposals map. Within the map was an allocation of policy DC1 and anything included in this allocation was, in planning terms, considered to be countryside.

Replying to a question on the status of the adopted LDP 2018, the Planning Adviser confirmed that this was still the current development plan. The Legal Adviser reiterated that, until revoked or replaced by LDP2, the LDP 2018 was the development plan. He added that it was possible for NPF4 to take precedence over the LDP in certain circumstances. However, having taken full account of NPF4 in his assessment, no such circumstance had been identified in this case by the Planning Adviser.

The Planning Adviser confirmed that he had not previously been involved in the determination or planning process for this application. The Legal Adviser confirmed that this Local Review Body was following the process set out in statute. He added that while each local authority adopted a slightly different approach depending on their requirements, however, the general process remained the same and was considered good practice.

In response to final questions from Councillor McMillan, the Planning Adviser confirmed that there was a site allocated for housing in the village of Innerwick and that development in the countryside for people working from home or hybrid working was not supported by policy DC1 or DC4, unless it could be shown that this work was essential to a rural business.

The Chair asked her colleagues to confirm that 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 views on the application.

On the site visit, Councillor Forrest had noted that the woodland within the site included a lot of mature trees and that the small wall around the site would have to be partially removed to create access. He also felt that the erection of a fence up would not be in keeping with its surroundings. The most significant issue for him was the loss of woodland which currently provided a wildlife corridor, and, for these reasons, he would be supporting the case officer's decision.

Councillor McMillan commented on the challenges of assessing planning policy against the desire of people to live in the countryside. He referred to the beauty of the location where the site had become part of the landscape with the woodland area merging into the tree boundary of the field. He said that reading all of the appeal documents had raised questions for him around his understanding of countryside and appropriate development. However, he was conscious of the dangers presented by the road scape, including limited visibility and extra traffic. Furthermore, he felt that having a house opposite East Lodge and near the entrance to the cemetery would be inappropriate and incongruent. He noted that addressing the housing crisis was not just about providing houses but doing so in the right places. He felt he had sufficient competent and reliable evidence to reach a decision, and he would be supporting the case officer's original decision, especially in relation to policies DC1 and DC4.

The Chair also thanked the Planning Adviser and agent for their submissions and noted the usefulness of the site visit. She addressed each point of refusal of the original application. She noted that the proposals would not reuse any redundant or existing buildings as there was nothing there other than an old wooden structure. Similarly, there was nothing to support a rural business, recreation, leisure or tourism and therefore the proposals constituted new development in the countryside. Secondly, she felt that the proposed development would result in an increase in traffic movement, and this would be added to the increase in heavy traffic related to the new windfarm development. In her experience, funeral traffic leaving the cemetery often required a banksman to facilitate safe exit onto the road. Referring to the dimensions of the visual splay, she said there was clearly a safety issue. Thirdly, there was little public transport so it would be difficult to reduce car use. Lastly, she advised that there had been an established woodland at the site for at least 200 years with ash, sycamores, poplars and, hazel and that the proposals would result in a loss of established woodland. She also noted that any garden that had been there was a small allotment and not the whole site, and that the area was boggy and subject to flooding. For all of these reasons, she agreed with her fellow councillors to support the original decision of the case officer.

The LRB members confirmed their decision via roll call vote. They agreed, unanimously, to confirm the original decision of the planning case officer to refuse planning permission for the reasons set out in the original decision notice.

Decision

The ELLRB agreed, unanimously, to confirm the original decision of the planning case officer to refuse planning permission for the reasons set out in the original decision notice.

Signed

Councillor Donna Collins
Chair of Local Review Body (Planning)