

PLANNING LOCAL REVIEW BODY (PLRB)

Minutes of meeting held in Committee Room 5, Council Offices, Almada Street, Hamilton on 5 September 2011

Chair:

Councillor Graham Scott

Councillors Present:

Hugh Dunsmuir, Lynn Filshie, Bill Holman, Patrick Ross-Taylor (Depute), Chris Thompson, Jim Wardhaugh

Attending:**Finance and Corporate Resources**

C Canning, Legal Adviser to the Planning Local Review Body; P MacRae, Administration Officer

Enterprise Resources

L Campbell, Planning Adviser to the Planning Local Review Body

1 Declaration of Interests

No interests were declared.

2 Minutes of Previous Meeting

The minutes of the meeting of the PLRB held on 16 May 2011 were submitted for approval as a correct record.

The PLRB decided: that the minutes be approved as a correct record.

3 Review of Case - Application CL/08/0054 - Conversion of Coach House at Moat House, Hawksland Road, Hawksland

A report dated 25 August 2011 by the Executive Director (Corporate Resources) was submitted on a request for a review of the decision taken by officers, in terms of the Scheme of Delegation, to refuse planning permission for planning application CL/08/0054 by Mr and Mrs Burns for the conversion of and alterations to an outhouse to form a house at the Coach House, Moat House, Hawksland Road, Hawksland.

To assist the PLRB in its review, copies of the following information had been appended to the report:-

- ◆ planning application form
- ◆ report of handling by the planning officer under the Scheme of Delegation together with representations and responses from statutory consultees
- ◆ site photographs and location plan
- ◆ decision notice
- ◆ original notice of review, statement of observations and applicants' response to the statement of observations
- ◆ second notice of review including statement of reasons for requiring the review
- ◆ further submissions from interested parties following the second notification of the request for the review of the case
- ◆ comments from the applicant on the further submissions received from interested parties

The relevant drawings in relation to the review were available for inspection prior to and at the meeting of the PLRB.

The list of interested parties initially contacted in respect of the review of the case was incomplete. As a result, it had been considered necessary to recommence the review process. In their second notice of review, the applicants had indicated that they were introducing information relating to the original notice of review. The PLRB concluded that this information could be accepted on the basis that it related to current matters.

On the basis of the above, the PLRB considered that it had sufficient information to allow it to proceed to determine the review. The options available to the PLRB were to uphold, reverse or vary the decision taken in respect of the application under review.

In reviewing the case, the PLRB considered:-

- ◆ the information submitted by all parties
- ◆ the relevant policies contained in the Adopted South Lanarkshire Local Plan:-
 - ◆ Policy STRAT4 – accessible rural area
 - ◆ Policy CRE1 – housing in the countryside

Following its review of the information, the PLRB concluded that the proposed development did not satisfy the terms of the Development Plan policies and that there were no material considerations that warranted granting permission for the conversion of and alterations to an outhouse to form a house at the Coach House, Moat House, Hawksland Road, Hawksland contrary to those policies. In addition, the PLRB concluded that the applicant had failed to obtain the necessary control to implement the junction improvements required for road safety.

The PLRB decided: that the decision taken by officers, in terms of the Scheme of Delegation, to refuse planning permission for planning application CL/08/0054 by Mr and Mrs Burns for the conversion of and alterations to an outhouse to form a house at the Coach House, Moat House, Hawksland Road, Hawksland be upheld.

4 Review of Case - Application HM/11/0042 - Change of Use of Retail Unit to Hot Food Takeaway and Erection of Flue to Rear of Property at 2 Clarkwell Road, Hillhouse, Hamilton

A report dated 15 August 2011 by the Executive Director (Corporate Resources) was submitted on a request for a review of the decision taken by officers, in terms of the Scheme of Delegation, to refuse planning permission for planning application HM/11/0042 by S H Allah for the change of use of a retail unit to a hot food takeaway and the erection of a flue to the rear of the property at 2 Clarkwell Road, Hillhouse, Hamilton.

To assist the PLRB in its review, copies of the following information had been appended to the report:-

- ◆ planning application form
- ◆ report of handling by the planning officer under the Scheme of Delegation together with responses from statutory consultees
- ◆ site photographs and location plan
- ◆ decision notice
- ◆ notice of review, including the applicant's statement of reasons for requiring the review
- ◆ a further submission from an interested party following notification of the request for the review of the case

The applicant had been given the opportunity to comment on the further submission received, however, no comments had been submitted for the PLRB's consideration.

The relevant drawings in relation to the review were available for inspection prior to and at the meeting of the PLRB.

In the notice of review, the applicant had indicated that he was introducing new information in relation to the use of other units within the locality. The PLRB concluded that this information could be accepted on the basis that it related to matters which had previously been raised.

On the basis of the above, the PLRB considered that it had sufficient information to allow it to proceed to determine the review. The options available to the PLRB were to uphold, reverse or vary the decision taken in respect of the application under review.

In reviewing the case, the PLRB considered:-

- ◆ the information submitted by all parties
- ◆ the relevant policies contained in the Adopted South Lanarkshire Local Plan:-
 - ◆ Policy RES6 – residential land use
 - ◆ Policy DM1 – development management
 - ◆ Policy DM10 – hot food shops

Following its review of the information, the PLRB concluded that, while the proposal was contrary to the above policies, a departure from the Development Plan could be justified for the following reasons:-

- ◆ given the distance from the nearest residential properties, the proposed use would not materially or significantly affect the established amenity of the area
- ◆ sufficient car parking was available within the vicinity to accommodate the proposal
- ◆ the unit was currently vacant and the proposal would bring it back into use

The PLRB decided:

that the decision taken by officers, in terms of the Scheme of Delegation, to refuse planning permission for planning application HM/11/0042 by S H Allah for the change of use of a retail unit to a hot food takeaway and the erection of a flue to the rear of the property at 2 Clarkwell Road, Hillhouse, Hamilton be reversed and that planning permission be granted for the proposal subject to the conditions specified by the PLRB, attached as an appendix to this minute.

Councillors Dunsmuir, Filshie, Thompson and Wardhaugh left the meeting following consideration of this item

5 Review of Case - Application CL/09/0238 - Erection of House (Planning Permission in Principle) at Plot at Dunalastair Road, Crawford

A report dated 12 July 2011 by the Executive Director (Corporate Resources) was submitted on the review of the decision taken by officers, in terms of the Scheme of Delegation, to refuse planning permission in principle for planning application CL/09/0238 by Mr and Mrs Thomson for the erection of a house at a plot at Dunalastair Road, Crawford.

The review had previously been considered by the PLRB at its meeting on 8 March 2010 when further information had been requested and at its meeting on 12 April 2010 following receipt of that information. At the latter meeting, the PLRB had agreed that the decision taken by officers be reversed and that planning permission in principle be granted for the proposal subject to:-

- ◆ the conditions specified by the PLRB
- ◆ prior conclusion of a Section 75 Agreement between the applicants, the Council and Crawford Bowling Club to ensure that the money from the sale of the plot was invested in the Bowling Club
- ◆ completion of the Section 75 Agreement within 9 months of the date of the PLRB's determination of the review
- ◆ the applicants meeting the Council's legal costs associated with the Section 75 Agreement

All of the papers previously issued in respect of the review were appended to the report and copies of the relevant drawings in relation to the review were available for inspection prior to and at the meeting of the PLRB.

The time specified for completion of the Section 75 Agreement had expired and the applicants had indicated that they had been unable to reach an agreement with Crawford Bowling Club. As a result, they had been unable to progress the Section 75 Agreement. The PLRB had previously concluded that the application be granted subject to a Section 75 Agreement being completed within 9 months of the date of its determination of the review. This requirement had not been met by the applicants and, therefore, the review had been remitted back to the PLRB for a formal decision. The options available to the PLRB were to uphold, reverse or vary the decision taken in respect of the application under review.

In reviewing the case, the PLRB considered:-

- ◆ the information submitted by all parties
- ◆ the relevant policies contained in the Adopted South Lanarkshire Local Plan:-
 - ◆ Policy STRAT5 – rural investment area
 - ◆ Policy CRE1 – housing in the countryside
 - ◆ Policy ENV25 – regional scenic area
 - ◆ Policy ENV4 – protection of the natural and built environment

On the basis that the applicant had not been able to progress the Section 75 Agreement and that, consequently, there was no prospect of social or economic benefit being generated by the proposal, the PLRB concluded that the proposed development did not satisfy the terms of Policy STRAT5 of the Adopted South Lanarkshire Local Plan. It also concluded there were no material considerations that warranted granting planning permission in principle for the proposal contrary to this policy.

The PLRB decided: that the decision taken by officers, in terms of the Scheme of Delegation, to refuse planning permission in principle for planning application CL/09/0238 by Mr and Mrs Thompson for the erection of a house at a plot at Dunalastair Road, Crawford be varied and that planning permission in principle be refused for the reasons specified by the PLRB, attached as an appendix to this minute.

[Reference: Minutes of 12 April 2010 (Paragraph 3)]

6 Urgent Business

There were no items of urgent business.

Application Number HM/11/0042

Change of use of retail unit to hot food takeaway and erection of flue to the rear of the property at 2 Clarkwell Road, Hillhouse, Hamilton

Conditions

- 1 The consent shall be carried out strictly in accordance with drawing numbers:

Drawing 1
Drawing 2
Drawing 3
Drawing 4
- 2 The use hereby permitted shall not operate outwith the hours of:

Monday to Sunday: 11.00am until 11.00pm
- 3 Before the development is brought into use, the proposed method of ventilation shall be submitted to and approved in writing by the Council as Planning Authority. The development shall not be brought into use until the ventilation systems are operational in accordance with the approved details. All odours, fumes and vapours generated on the premises shall be controlled by best practicable means to prevent them causing nuisance to occupants of nearby dwellings or premises.
The ventilation system shall:
 - a) Incorporate systems to reduce the emission of odours and pollutants and shall thereafter be maintained as necessary.
 - b) Be constructed by employing best practical means to minimise noise and vibration transmission via plant and the building structure.Noise associated with the business shall not give rise to a noise level, assessed with the windows closed, within any dwelling or noise sensitive building, in excess of the equivalent to Noise Rating Curve 35, between 07:00 and 20:00 hours, and Noise Rating Curve 25 at all other times.
- 4 Prior to the development being brought into use, details of the storage of waste arising from the commercial activity shall be submitted to and approved in writing by the Council as Planning Authority. The agreed details shall be in place prior to the development being brought into use.

Reasons

- 1 For the avoidance of doubt and to specify the drawings upon which the decision was made.
- 2 To minimise noise disturbance to adjacent occupants.
- 3 To minimise nuisance to occupants of nearby buildings as a result of cooking smells, vapours, airborne pollutants or noise from the premises.
4. To minimise nuisance, littering and pest problems to nearby occupants.

Application Number CL/09/0238

Erection of house (planning permission in principle) at plot at Dunalastair Road, Crawford

Reasons for Refusal

- 1 This decision relates to drawing numbers: No 1 Block Plan Scale 1:500, No 2 Location Plan Scale 1:1250.
- 2 The development is contrary to Policy STRAT5 of the adopted South Lanarkshire Local Plan in that it constitutes development outwith the settlement boundary which does not consolidate an existing building group and which has not been shown to be capable of supporting or benefiting the economic or social development of the area.