

WEST LOTHIAN COUNCIL LOCAL REVIEW BODY

MEMBERS' CHECKLIST

PART 1 – IDENTIFICATION OF RELEVANT DOCUMENTS, POLICIES AND OTHER CONSIDERATIONS

The purpose of the first meeting is to determine the review application if there is sufficient information available from the review papers, or, if not, to decide on the procedures to be followed in determining the application. This part of the LRB members' Checklist is designed to assist members to prepare for the LRB meeting and to ensure that at the meeting all the necessary and relevant factors are noted, and agreed, and considered before proceeding to make procedural decisions.

DATE OF MEETING	
APPLICATION No.	
ADDRESS/DESCRIPTION	

1	What is the Review asking for?
Grant where not determined by AP	
Grant where refused by AP	
Vary permission granted by AP	
What variation is asked for?	

2	Does the Clerk have any procedural issues from the processing of the Review?
What problems exist	
Cause	
Has any prejudice been caused?	
How can the issues be resolved?	

3	Has any matter been raised by any party which was not before the AP when the decision was made?
<p><i>... a party to the proceedings is not to raise any matter which was not before the appointed person at the time the determination reviewed was made unless that party can demonstrate—</i> <i>(a) that the matter could not have been raised before that time, or</i> <i>(b) that its not being raised before that time was a consequence of exceptional circumstances. (Section 43B)</i></p>	
No such matters raised	
If so, what has been raised?	

Who raised it?	
Why could it not have been raised before AP made decision?	
(or) Are there “exceptional circumstances” which led to it not being raised before AP made decision?	
Should it be allowed or excluded from the review?	

4	What does the Development Plan provide for the site?
<i>Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise. (Section25)</i>	
For what use(s) is the site allocated?	
From the Clerk's report, what policies in the DP are relevant?	
Are there other relevant development plan policies not mentioned in the Clerk's report?	

5	What relevant material considerations are to be taken into account?
<i>Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise. (Section 25)</i>	
Emerging development plan (date, stage reached, consultations, provisions)	
Other statutory plans and policies (date, provisions, consultations)	
WLC Supplementary Planning Guidance (date, provisions, consultations)	
National Government Planning Policy and Guidance	

Views of consultees (statutory, non-statutory)	
Objections and other representations	
Planning history	
Visual and spatial amenity	
Residential amenity	
Public fears/concerns (with a demonstrable and rational basis)	
Others	

6	What considerations are <u>not</u> to be taken into account?
Planning	
Immaterial	
Irrelevant	

7	Are there factual disputes to be resolved?
No factual disputes to be resolved	
If so, what needs to be resolved?	
How can it be resolved?	

8	Conditions
If the review is to be granted, will conditions be required?	
Are draft conditions available?	

Are draft conditions needed before proceeding further?	
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9	Legal agreements for developer contributions
<i>Decisions to grant planning permission will be subject to council policies in relation to developer contributions and the procedures for securing their payment</i>	
No developer contributions required	
If so, what contributions will be required?	
Is a section 75 or other legal agreement required?	
Are Heads of Agreement required before proceeding further?	

10	Other legal agreements
Is a section 75 agreement required for another planning purpose?	
If required, for what purpose?	
Are Heads of Agreement required before proceeding further?	

PART 2 – FIRST MEETING PROCEDURAL DECISIONS

The purpose of the first meeting is to determine the review application if there is sufficient information available from the review papers, or, if not, to decide on the procedures to be followed in determining the application. This part of the LRB members' Checklist is designed to assist members at the meeting to decide if further information is needed, or if the review can be determined without further procedural steps.

1	What are the legal and other factors to consider?
<i>Where the local review body considers that the review documents provide sufficient information to enable them to determine the review, they may determine the review without further procedure (Regulation 12).</i>	
Note regulation 12 – purpose is to look at potential further procedures and decide if there is sufficient information to determine the review	
<i>It is expected that the majority of cases coming before the local review body will be accompanied by sufficient information in order for the review to be determined quickly (Paragraph 35, 7/2009).</i>	
Note national guidance – majority expected to be determined quickly	

Note preference expressed in review application	
<p>(3) Where the local review body so determine, the review or a stage of the review is to be conducted by one of or by a combination of the procedures mentioned in paragraph (4).</p> <p>(4) The procedures are–</p> <p>(a) by means of written submissions;</p> <p>(b) by the holding of one or more hearing sessions; and</p> <p>(c) by means of an inspection of the land to which the review relates (Regulation 13).</p>	
Consider further procedures available – see 2-6, below	

2	Is a site visit required?
<p>(1) The local review body may at any time make–</p> <p>(a) an unaccompanied inspection of the land to which the review relates; or</p> <p>(b) an inspection of the land in the company of such of the persons notified under paragraph (3) as desire to do so (Regulation 16).</p>	
No site visit required	
If required, to see what?	
Any alternatives to site visit?	
Accompanied or unaccompanied?	
Arrangements?	
Timescales?	

3	Are written submissions required?
<p>(1) Where the local review body have determined that further representations should be made or further information should be provided by means of written submissions, the local review body may request such further representations or information and are to do so by written notice to that effect to–</p> <p>(a) the applicant; and</p> <p>(b) any other body or person from whom the local review body wish to receive further representations or information (Regulation 15).</p>	
No written submissions required	
If required, about what?	
From who?	
Any alternatives to written submissions?	

Likely timescale	
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4	Is a Hearing Session required?
<p>(1) Where the local review body have determined that a hearing session should be held the local review body are to give written notice to that effect to–</p> <p>(a) the applicant; and</p> <p>(b) any interested party who made representations in relation to specified matters;</p> <p>(c) any other body or person from whom the local review body wish to receive further representations or to provide further information on specified matters at a hearing session.</p> <p>(2) The notice given under paragraph (1) is to set out the matters which are to be considered at the hearing session.</p> <p>(3) Only specified matters are to be considered at the hearing session (Schedule 1, paragraph 1).</p>	
No Hearing Session required	
If required, why necessary?	
What issues?	
Who to ask?	
Any alternatives to Hearing Session?	
Appoint an assessor?	
Date for lodging hearing Statements, etc	
<p>(5) Where the local review body considers that such further representations should be made or information should be made available or provided by means of ... a hearing session, the Hearing Session Rules apply (Regulation 13).</p>	
Hearing arrangements and procedures	

5	Pre-examination meeting
<p>(1) The local review body may hold a meeting (“a pre-examination meeting”) to consider the manner in which the review or any stage of the review is to be conducted with a view to securing that the review or any stage of the review is conducted efficiently and expeditiously (Regulation 14).</p>	
No pre-examination meeting required	
If required, reason for meeting?	
About what?	

Alternatives to pre-examination meeting?	
Who to ask?	
Procedures to be followed	
Likely timescales	
Arrangements	

6	Other reasons for adjourned first meeting	
	Are there reasons to adjourn the first meeting other than the adoption of further formal procedures set out above?	
	If so, purposes and reasons for adjournment	
	Likely timescale	

7	Is there sufficient information to allow the LRB to determine the application, or is an adjourned First Meeting require?	
	Can the application be determined now?	
	If not, adjourn case to future meeting, if yes, proceed to Part 4	

PART 3 – ADJOURNED FIRST MEETING PROCEDURAL DECISIONS

If further procedures are adopted at the first meeting, then it will be adjourned until those procedures have been completed. At the adjourned meeting, the LRB again has to decide if there is sufficient information to allow the review to be determined, or whether more information or further procedures are needed. This part of the LRB members' Checklist is designed to assist members at the adjourned meeting to decide if further information is needed, or if the review can be determined without further procedural steps.

1	Procedures decided on at first meeting	
	What procedures did the LRB at the first meeting decide should be followed?	
	Have they been fully completed?	
	If not, what steps require to be taken to complete them?	

2	New evidence
<p><i>(1) If after the conclusion of any further procedure conducted by virtue of regulation 13, the local review body propose to take into consideration any new evidence which is material to the determination of the review, the local review body must not reach a decision on the review without first affording the applicant and any other relevant party an opportunity of making representations on such new evidence (Regulation 17).</i></p>	
Has any new evidence come to light following the adoption of further procedures?	
No new evidence	
If so, is it material to the determination of the review?	
Who should be asked for comment?	
Purposes and reasons	
Procedures	
Likely timescales	

3	Is the LRB now able to determine the review?
<p><i>(2) The local review body may determine at any stage of the review that further representations should be made or further information should be provided to enable them to determine the review (Regulation 13).</i></p>	
Following the further procedures adopted, does the LRB have sufficient information to determine the review now?	
If yes, proceed to decision (see Part 4, below)	
If not, consider what further procedures should be followed (see Part 2, above)	

PART 4 – DETERMINATION OF THE REVIEW

Once the LRB has decided that it has sufficient information to allow the review to be determined it must proceed to make that determination. That can happen at the first meeting itself or at an adjourned meeting. It should take into account all of the information before it from the review documents and other documents and information obtained during the earlier procedures it decided to adopt (if any).

1	Is the development in accordance with the development plan?
<p><i>Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise. (Section 25).</i></p>	

Development is in accordance with development plan	
If not, with what policies does it not conform?	

2	Does the development accord with national and local planning guidance?
Development is in accordance with national guidance	
If not, with what national guidance does it not comply?	
Development is in accordance with council Supplementary Planning Guidance	
If not, with what council Supplementary Planning Guidance does it not comply?	

3	If <u>not</u> in accordance with the development plan, are there material considerations which indicate that it should nevertheless be granted?
<i>Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise. (Section 25).</i>	
No such considerations	
Material considerations which indicate it should be granted contrary to development plan (see Part 2, above)	

4	What is the LRB's decision?
<i>(15) The planning authority may uphold, reverse or vary a determination reviewed by them by virtue of subsection (8) (Section 43A).</i>	
Uphold the decision of the Appointed Person	
Reverse the decision of the Appointed Person	

Vary the decision of the Appointed Person	
If varied, what variations are to be made?	
In non-determination cases:- <ul style="list-style-type: none"> - Refuse PP - Grant PP - Conditions - Legal agreements 	
Is a "minded to grant/vary" decision required due to completion of legal agreements?	
Timescale for completion of section 75 agreements, (WLC policy from February 2011 is six months for "substantial completion")	
Reasons for decision	