

Notice of Review: Land at 28 Eskbank Road, Bonnyrigg

Determination Report

Report by Ian Johnson, Head of Communities and Economy

1 Purpose of Report

- 1.1 The purpose of this report is to provide a framework for the Local Review Body (LRB) to consider a 'Notice of Review' to remove conditions 1, 2 and 3 of planning permission 14/00619/DPP for the change of use of communal land to private garden ground and erection of fence (Retrospective) at land at 28 Eskbank Road, Bonnyrigg.

2 Background

- 2.1 Planning application 14/00619/DPP for the change of use of communal land to private garden ground and erection of fence (Retrospective) at land at 28 Eskbank Road, Bonnyrigg was granted planning permission subject to conditions on 28 October 2014; a copy of the decision is attached to this report. Conditions 1, 2 and 3 on planning permission 14/00619/DPP are as follows:

1. Within three months of the date of this consent, the eastern section of the fence, outlined in green on the approved location plan, shall be repositioned so that it is no closer than 1 metre from the heel of the pavement.
2. Within three months of the date of this consent, a scheme of landscaping shall be submitted to and approved in writing by the planning authority for the area of land between the pavement and the fence. Details shall include a plan showing the number, size and species of all trees and shrubs that are proposed to be planted.

Reason: for conditions 1 and 2: To soften the impact of the fence at a prominent location in the interest of the visual amenity of the area.

3. The scheme of landscaping approved in accordance with condition 2 shall be carried out and completed within six months of the repositioning of the fence. Any landscaping removed, dying, severely damaged or becoming seriously diseased within five years of planting shall be replaced in the following planting season by trees of a size and species similar to those originally required.

Reason: To ensure the landscaping is carried out and becomes successfully established.

2.2 The review has progressed through the following stages:

- 1 Submission of Notice of Review by the applicant.
- 2 The Registration and Acknowledgement of the Notice of Review.
- 3 Carrying out Notification and Consultation.

3 Supporting Documents

3.1 Attached to this report are the following documents:

- A site location plan (Appendix A);
- A copy of the notice of review form and supporting statement (Appendix B). Any duplication of information is not attached;
- A copy of the case officer's report (Appendix C);
- A copy of the decision notice, excluding the standard advisor notes, issued on 28 October 2014 (Appendix D); and
- A copy of the relevant plans are include in the applicants supporting statement.

3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via www.midlothian.gov.uk

4 Procedures

4.1 In accordance with procedures agreed by the LRB, the LRB by agreement of the Chair:

- Have scheduled an unaccompanied site visit for Monday 9 March 2015; and
- Have determined to progress the review by way of written submissions.

4.2 The case officer's report identified that one consultation response and no representations have been received. As part of the review process the interested party was notified of the review. No additional comments have been received. All the comments can be viewed online on the electronic planning application case file via www.midlothian.gov.uk.

4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:

- Identify any provisions of the development plan which are relevant to the decision;
- Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
- Consider whether or not the proposal accords with the development plan;
- Identify and consider relevant material considerations for and against the proposal;
- Assess whether these considerations warrant a departure from the development plan; and

- State the reason/s for the decision and state any conditions required if planning permission is granted.
- 4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported to the next LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

5 Conditions

- 5.1 As a consequence of the works on the proposed development already taken place, it is considered that no conditions would be required if the LRB is minded to grant planning permission without condition 1, 2 and 3 as stated in paragraph 2.1 of this report.
- 5.2 If the LRB dismisses the review, those works which have already taken place without planning permission will have to be removed. In this case the applicant will be asked to relocate the boundary fence and plant a landscaping scheme within one month of the LRB decision. However the failure to carry out the required works will result in the Council having to consider issuing an enforcement notice to resolve the breach of planning control.

6 Recommendations

- 6.1 It is recommended that the LRB:
- a) determine the review; and
 - b) the planning advisor draft and issue the decision of the LRB through the Chair

Date: 3 March 2015

Report Contact: Peter Arnsdorf, Development Management Manager
peter.arnsdorf@midlothian.gov.uk

Tel No: 0131 271 3310

Background Papers: Planning application 14/00619/DPP available for inspection online.