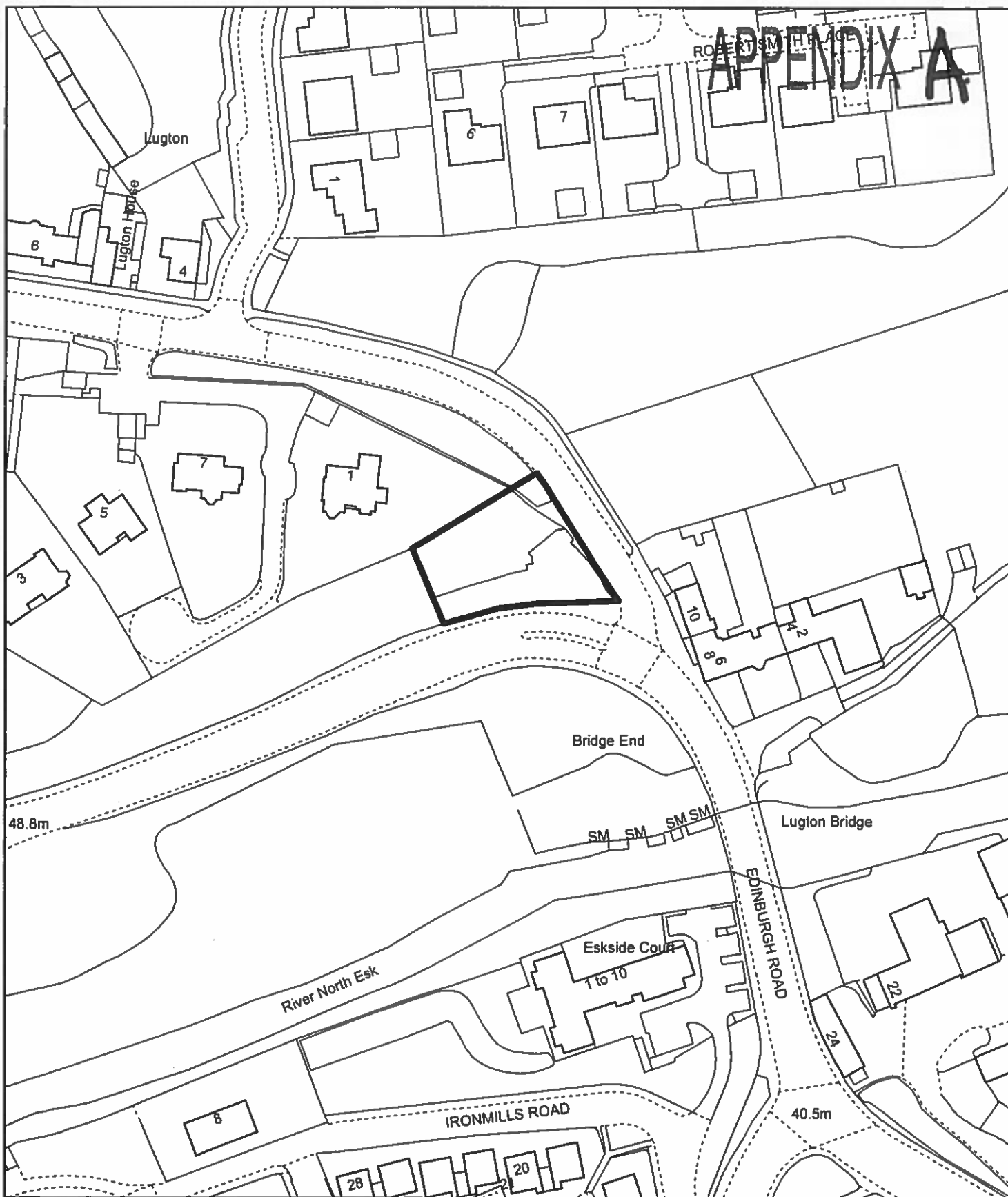


# APPENDIX A



Education, Economy  
& Communities  
Midlothian Council  
Fairfield House  
8 Lothian Road  
Dalkeith  
EH22 3AA

Former Lugton Inn site, Lugton Brae

28th January 2016

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File No. 15/00703/DPP

Scale: 1:1,250





## **MIDLOTHIAN COUNCIL LOCAL REVIEW BODY**

### **NOTICE OF REVIEW: SITE OF THE FORMER LUGTON INN, DALKEITH, MIDLOTHIAN.**

## **APPEAL STATEMENT**

**Section 43(A) (8) of the Town and Country Planning (Scotland) Act 1997 (As amended)  
in respect of Decisions on Local Developments**

**The Town and Country Planning (Schemes of Delegation and Local Review  
Procedure) Scotland Regulations 2013**

**The Town and Country Planning (Appeals) (Scotland) Regulations 2013**

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### Appendix 1 – Supporting Documents

# **1 Introduction**

## **Introduction**

- 1.1 This appeal to Midlothian Council Local Review Body (LRB), is on behalf Mr Jamie O' Rourke of Penicuik for a site 25m west of the junction with Lugton Brae, Old Dalkeith Road, Dalkeith.
- 1.2 The applicant proposes the development of 5 new dwellings at the site of the former Lugton Inn. It is lodged as the applicant is aggrieved with the decision made by the case office and disagrees with the Reasons for Refusal.

## **The Proposals**

- 1.3 It is proposed to erect a terrace of 5 townhouses. The houses are 5 storeys tall with garages at ground floor level and roof terraces at fourth floor level. To the rear the fourth and fifth storeys cantilever outwards by 3.3m; at the front there are projecting balconies at first floor level and projecting bays at second and third floor level.
- 1.4 A communal garden space to the rear, on an existing terrace, is located at third floor level. Each house has a garage plus 1 external parking space.
- 1.5 Design of the houses is contemporary with flat roofs and extensive glazing to the front. The proposed finish materials reflect the contemporary design and include natural stone cladding; white render; aluminium and zinc cladding panels; and cedar cladding panels.
- 1.6 The application (REF 15/00703/DPP) was lodged with the Council on the 27 August, 2015 with a decision made through delegated powers on the 21 November, 2015. The appellant now seeks resolution through the Council's LRB in order to reverse the decision, which does not take account of the unique nature of the site. The application made to the Council makes the best use of a constrained site and a departure from current policy is warranted.
- 1.7 A high quality infill housing development is being promoted on a vacant site within the urban area of Dalkeith, close to the town centre. It is a prominent and accessible location. The development is being promoted by a locally based developer bringing investment into Dalkeith.
- 1.8 Reasons for Refusal are based on issues relating to residential amenity and design. The impact on existing neighbours will be minimal and the new residents of these town houses will choose according to the market.
- 1.9 The development proposed is not perfect in terms of design standards and guidelines but is the most feasible and practical solution for the site in a decade. It is hoped that the members of

the LRB can apply a degree of pragmatism to land that is clearly brown-field in nature and offers significant betterment to the appearance and townscape of Dalkeith. The alternative is a prolonged period of continued blight.

- 1.10 If applicable we would respectively request that the LRB take a site visit. Furthermore, we request that representatives of the applicant are heard in terms of verbal evidence on this case.
- 1.11 Under S43A (12) of the Town and Country Planning (Scotland) Act 1997, and Regulation 21 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland ) Regulations 2008, we await the decision of the LRB and any reasons relating to the terms on how this was reached.
- 1.12 Supporting documentation for this appeal is listed in Appendix 1 and is also available on the Midlothian Planning Portal.

## **2 General Comments**

### **Site Description**

- 2.1 The appeal site is located at the junction of Old Dalkeith Road and Lugton Brae and was for many years occupied by the Lugton Inn, a pub and associated motel. The Inn and all the associated buildings have now been demolished and the site is now vacant.
- 2.2 The site is located on the edge of Dalkeith House and Park conservation area. While Lugton sits to the North of Dalkeith, with the river separating the 2 settlements it essentially forms part of the built-up area of Dalkeith.
- 2.3 It is bounded by Old Dalkeith Road to the south beyond which is grass and woodland sloping down to the banks of the River North Esk. To the East the site is bounded by Lugton Brae. To the West the site is bounded by woodland and to the North the site is bounded by the garden of the house at 1 Lugton Brae.
- 2.4 There site levels drop from north to south by approximately 11m and the previous development was terraced. This demonstrates the scale of physical challenge in achieving a feasible and viable development for this site, enabling a practical solution.

### **Site History**

- 2.5 As identified within the officers report. Please note that the site previously had a minded to grant consent for 15 flats.
- 2.6 It can be seen that many proposals have come forward on this site over the years and it has been difficult to find one that is acceptable in planning, economic and physical feasibility terms. This is primarily due to the site's topography and abnormal costs associated with future development.
- 2.7 Relaxation of standards acts as enabling development and addresses the re-development potential of the land.

### **Handling and Reporting**

- 2.8 We are concerned that this case has been determined without a balanced consideration of all material planning factors. The appellant undertook pre-application consultation and received advice from the previous case officer.
- 2.9 There is correspondence between the appellant and the Council to indicate that the application

would be recommended for approval subject to conditions.

- 2.10 No additional work or information was sought by the Council from the appellant through the development management process. In addition, many of the details questioned by the case officer are detailed matters that can adequately be conditioned.

### **Consultations**

- 2.11 It is understood that there is no objection from the Council's Transportation Policy and Road Safety department but advice and informatives were provided. The appellant is seeking a relaxation in parking requirements given the unique nature of this development site.
- 2.12 Likewise, educational provision is acceptable subject to developer contributions. The appellant is willing to finance these in accordance with the required contribution levels.
- 2.13 Issues raised by local residents relate to scale, character, privacy and amenity. It is considered that these matters have largely been satisfied through the supporting information, some of which can also be addressed through planning conditions (as indicated in the Planning Application Delegated Worksheet).



## 3 Reasons for Refusal

### The Development Plan

- 3.1 The Development Plan consists of the extant Midlothian Local Plan (2008), and the South East Scotland Strategic Development Plan Authority (SESplan), Strategic Development Plan (SDP) for the South East Scotland area (2013 as amended).
- 3.2 Section 25 of the Town and Country Planning Scotland Act 1997 (as amended), specifies that that determination of planning applications '*shall be made in accordance with the Development Plan unless material considerations indicate otherwise*'. It is supplemented by Section 37(2) which states that '*In dealing with an application the planning authority shall have regard to the provisions of the Development Plan as far as material to the application and any other material considerations*'.
- 3.3 Under S16 (6) of the Planning etc (Scotland) Act 2006 the Local Plan must conform to the Strategic Development Plan (SDP). The applicant does not consider that the provisions of the Act have been fully complied with by the Council in reaching its decision.
- 3.4 As the Local Plan is significantly out of date, both by nature of its timescale (older than 5 years) a significant material consideration should be placed on the presumption in favour of sustainable development (SPP para 32-35 and 123-125).

### Local Plan Policy

- 3.5 The key policies in the Midlothian Local Plan 2008 relate to
- **Policy RP20: Development within the Built-up Area** states that development will not be permitted within the built-up area where it is likely to detract materially from the existing character or amenity of the area.
  - **Policy RP22: Conservation Areas** seeks to prevent development which would have any adverse effect on the character and appearance of Conservation Areas.
  - **Policy RP24: Listed Buildings** states that development will not be permitted where it would adversely affect the setting of a Listed Building.
  - **Policy DP2: Development Guidelines** sets out Development Guidelines for residential developments. The policy indicates the standards that should be applied when considering applications for dwellings.
  - An additional material consideration is Midlothian Council's **Parking Standards 2014**.

## Reasons for Refusal

3.6 The four reasons for Refusal on the Decision Notice issued by the Council are as follows:

1. *The proposed parking provision is significantly below the minimum standard specified in Midlothian Council's Parking Standards 2014. The proposed parking provision would have a detrimental impact on road safety and on the amenity of both local residents and potential occupants. The proposal is therefore contrary to policy RP20 of the Midlothian Local Plan.*
2. *The proposed outdoor space provision is significantly below the minimum standard specified in policy DP2 of the Midlothian Local Plan. The amenity of potential occupants would be below expected standards. The proposal is therefore contrary to policies RP20 and DP2 of the Midlothian Local Plan.*
3. *The width and height of the building would result in a bulky addition to the streetscape that would be overbearing to neighbours at Bridgend. The proposal is therefore contrary to policy RP20 of the Midlothian Local Plan.*
4. *The width and height of the building would result in a bulky addition to the streetscape that would have a significant detrimental impact on the character and appearance of the Dalkeith House and Park Conservation Area. The proposal is therefore contrary to policy RP22 of the Midlothian Local Plan.*

## Planning Issues

- 3.7 Development Management Regulations specify that decisions must be taken in accordance with the development plan unless material considerations indicate otherwise. The adopted Midlothian Local Plan is now significantly out of date and is related to the previous Structure Plan and revoked Scottish Planning Policy.
- 3.8 Material considerations to be used in any planning application decision are defined by the Act and specified in the Development Management Procedures. They must relate to the site and the particular application as well as being properly evidenced in terms of a good decision. Evidence for the assertions made as part of the planning appraisal and policy justification are not adequate in this case.
- 3.9 Planning decisions need to be properly justified and evidenced under the Act and the relevant Development Management Procedures. Reasons need to be intelligible and adequate (ref Wordie Property Co Ltd v Secretary of State for Scotland 1984 SLT). The planning appraisal within the Officer's Recommendation Report provides a very rigid interpretation of the guidance and does not allow any latitude to the applicant.

## 4 Grounds of Appeal

### Reason 1

*"The proposed parking provision is significantly below the minimum standard specified in Midlothian Council's Parking Standards 2014. The proposed parking provision would have a detrimental impact on road safety and on the amenity of both local residents and potential occupants. The proposal is therefore contrary to policy RP20 of the Midlothian Local Plan."*

- 4.1 **Policy RP20 Development Within the Built Up Area** states that *'Development will not be permitted within existing and future built-up areas, and in particular within residential areas, where it is likely to detract materially from the existing character or amenity of the area'*.
- 4.2 The stated purpose of the policy is to ensure that new development does not damage or blight land uses which are already established in the neighbourhood, particularly where residential amenity will be affected. This is a vacant and unused brownfield site which is already significantly adversely affecting some views and appearance of Dalkieth.
- 4.3 Due to the age of the Local Plan the Midlothian Parking Standards were issued following the adoption of RP20. These are advisory and need to be taken with discretion given the significant changes in policy direction since the Local Plan was adopted.
- 4.4 The minimum standard is a broad brush measure and it is disputed that 13 spaces are needed in this location given the potential for local parking and dedicated garaging. The proposed layout includes 1 space per house with ground floor plans allowing cars to be parked within the garage areas.
- It is not accepted that the level of parking proposed will adversely affect the safe and efficient movement of traffic on the surrounding road network. Parking in the area will become self regulating. Informal parking already occurs on Lugton Brae and Old Dalkeith Road. The Council's transport consultant made no objection on safety grounds, or on the efficiency of traffic movements.
  - There is no evidence to suggest that the parking provision would lead to unsafe parking that obstructs free movement of traffic and creates a dangerous environment for pedestrians. The Council's transport consultant made no objection on safety grounds, or on the efficiency of traffic movements.
  - In addition the proposed level of parking provision would have a positive impact on the amenity of existing residents and future occupants.
- 4.5 It is considered that given the location and accessibility of Lugton Brae to public transport and the town centre that parking standards can be relaxed. This takes account of local services

within walking distance (circa 100m to closes bus stop) and the provision of public transport that the site benefits from.

- 4.6 The appellant does not accept that proposed parking provision is significantly below the acceptable standard and that given this the granting of consent would have an adverse impact on the amenity of local residents, with potential for vehicles parking on local roads to the detriment of highway safety.
- 4.7 There is no credibility in the view that the proposals would affect road safety. The amenity of existing residents would be unaffected.

## **Reason 2**

*"The proposed outdoor space provision is significantly below the minimum standard specified in policy DP2 of the Midlothian Local Plan. The amenity of potential occupants would be below expected standards. The proposal is therefore contrary to policies RP20 and DP2 of the Midlothian Local Plan."*

- 4.8 **Policy RP20 Development Within the Built Up Area** states that development will not be permitted within existing and future built-up areas, and in particular within residential areas, where it is likely to detract materially from the existing character or amenity of the area.
- 4.9 The Local Plan goes on to say that the case for modification of the private open space standards may be accepted by the Council within the Local Plan area where the sites proposed to be developed are brownfield, infill, involve less than three houses, lie within Conservation Areas, or windfall. In such cases, a determining factor will be the existing character of the area surrounding the site.
- 4.10 Policy DP2 recognises that houses for family use should be provided with adequate levels of private outdoor space. The nature of this development begs that there should be a compromise on the level of private open space.
- 4.11 The outdoor space proposed is useable. And has acceptable levels of daylight and sunlight. It is disputed that the communal outdoor space would be permanently overshadowed and would be an unpleasant and unwelcoming space.
- 4.12 In order to compensate for the relaxation of open space provision each of the houses all have roof top terraces at fourth floor level. The terraces are on the front elevation of the building and can be considered to be private outdoor space.
- 4.13 Whilst the proposed open space provision is below the minimum expected standards for family houses, it would not necessarily provide an unacceptable level of amenity for future occupants, who would purchase the property in full knowledge of the level of private open space provided.

### **Reason 3.**

*"The width and height of the building would result in a bulky addition to the streetscape that would be overbearing to neighbours at Bridgend. The proposal is therefore contrary to policy RP20 of the Midlothian Local Plan."*

- 4.14 This policy is based on old Structure Plan policy, to encourage the redevelopment of brownfield land to promote a high quality of design in new development. The Local Plan indicates that the purpose of policy RP20 is to ensure that new development does not damage or blight land uses which are already established in the neighbourhood, particularly where residential amenity will be affected.
- 4.15 To suggest that the proposals are contrary to this policy indicates the Council feels that:
- 1) The proposals blight existing land uses; and/or
  - 2) Residential amenity will be affected.
- 4.16 It is clear that through careful re-development of this brownfield site there would not be a case to suggest existing land uses in the area would be blighted. There was no evidence provided by the Council to suggest there was a case of blight.
- 4.17 It is therefore considered that the Council firmly believes that residential amenity will be affected by the proposals, to a significant enough level to warrant refusal. Residential amenity can be affected by factors such as noise, disturbance, overlooking, loss of privacy, overshadowing. The Reason for Refusal suggests the proposals would appear 'overbearing' to neighbours at Bridgend. The applicant assumes that 'Bridgend' relates to the two properties closest to the site on Lugton Brae, only one of which has any outlook onto the site.
- 4.18 The proposed building is no wider than the previous building that accommodated the site. Any view afforded of this gable from the properties on Lugton Brae is at a very oblique angle and is certainly not a 'natural' viewing angle from the properties. The proposed building is indeed taller when viewed from Old Dalkeith Road, but this design complies with all relevant standards and guidance associated with residential amenity.
- 4.19 The applicant does not accept that the proposals would be 'overbearing' within this location, or that the proposals would warrant unacceptable impact on the amenity of the single property that, at an oblique angle, overlooks the site. The proposals comply with all design requirements in relation to privacy, overshadowing, noise etc and this is clearly demonstrated within the drawings and Design and Access Statement.

#### **Reason 4.**

*"The width and height of the building would result in a bulky addition to the streetscape that would have a significant detrimental impact on the character and appearance of the Dalkeith House and Park Conservation Area. The proposal is therefore contrary to policy RP22 of the Midlothian Local Plan."*

- 4.20 The site was not part of the Dalkeith House and Park Conservation Area until 2013 when the boundary was changed to include this area on Lugton Brae.
- 4.21 The Reason for Refusal indicates that the scale of the proposals (not the design or finishes) would have a significant impact on the character and appearance of the Dalkeith House and Park Conservation Area.
- 4.22 The Conservation Area Appraisal indicates that there are important views of the town of Dalkeith from the hamlet of Lugton and Lugton Brae to the north-west. The Dalkeith House and Park Conservation Area comprises two main sections. The first is Dalkeith House and its surrounding policies. The second is the adjoining, although visually separate, urban centre of the burgh of Dalkeith, the area of Lugton is included within this area. The cottages at Bridgend are specifically mentioned in the Area Appraisal and it is stated that 'nothing should be done to compromise the buildings [of Lugton] or their settings'.
- 4.23 Finally, the Area Appraisal specifically mentions the former Lugton Inn and states that it *"is to be redeveloped. Redevelopment should be to a high standard on this prominent site which is proposed for inclusion within the conservation area."*
- 4.24 Clearly, the Council recognises the prominence of this location and wishes this brownfield and derelict site to be redeveloped to a high standard. It has been demonstrated earlier in this Appeal Statement that many proposals have come forward on this site over the years and it has been difficult to find one that is acceptable in planning, economic and physical feasibility terms. This is primarily due to the site's topography and the abnormal costs associated with future development. Relaxation of planning guidance and standards is the only way to enable a high quality, viable and feasible development to be realised at this location.
- 4.25 The development as proposed will not have a significant impact on the setting of the nearby listed buildings. It can clearly be demonstrated that the surroundings and setting of nearby listed buildings and the Conservation Area will not be significantly impacted to such an extent as to change how these assets are experienced, understood and appreciated.

#### **Planning Policy Context**

- 4.26 The Development Plan in this instance relates to the Strategic Development Plan (SESplan, 2013) and the Midlothian Local Plan 2008 which is now substantially out of date and relates to

the previous Edinburgh and Lothians Structure Plan. The Finalised Midlothian Local Development Plan (MLDP) is a material consideration but only limited weight can be given to it in respect of any decision.

4.27 Given that there is no reference to the NPF, SPP or SDP we are assuming that the application is in compliance with these policy documents. It therefore complies with the SDP in relation to Policies 1 A (Development Areas) and 1B (Development Principles).

4.28 In particular we would draw the LRBs attention to the definition of brown-field land within the SDP and its relevance in terms of importance regarding housing land release.

4.29 Reference to Scottish Planning Policy (SPP), re-enforces the priority given to sustainability and place-making with specific importance given to the utilisation of brown-field land. In addition, it recognises the need to provide a range and variety of housing sites in order to meet overall requirements.

4.30 Our response for the reasons for refusal and grounds of appeal is concluded in the following section.

## 5 Conclusions

- 5.1 The Former Lugton Inn site presents the Council with a difficult decision in planning terms. This is a brown-field site with an established use and planning history. Achieving feasible and viable development that meets all of the Local Plan standards and guidance is difficult.
- 5.2 Given the benefits that approval of the proposals would bring it would be counter-productive to resist development on this site. Approval of housing would facilitate a range of improvements to this entrance to Dalkeith.
- 5.3 The character and appearance of the Park Conservation Area would clearly be enhanced by high quality housing. The case officer agreed that previous development, of its time and design, was acceptable in the area and this proposal is no different in its nature. The visual appearance of the area and views into Dalkeith will be improved by this proposed development.
- 5.4 The site is within a prominent and sustainable location and situated within a Strategic Development Area as defined in SESplan (A7 / A68). The appellant does not accept that the proposed development would impact on the character of the Conservation Area or the amenity of adjoining residents.
- 5.5 The proposals are clearly in line with sustainable development principles, as defined by SPP (para 28). As the Local Plan is significantly out of date, both by nature of its timescale and that the Council does not possess an effective 5 year housing land supply, a significant material consideration should be placed on the presumption in favour of sustainable development (SPP para 32-35 and 123-125).
- 5.6 Furthermore, given the Local Plan is significantly out of date it cannot adequately deal with development proposals such as this which rely on the discretion of the LRB. In particular we believe that there are compelling reasons to approve the proposals and that the relevant material considerations outweigh any policy restrictions that the planning officials may have in this regard.
- 5.7 Car parking and open space standards require to be relaxed to achieve a sensible development solution.
- 5.8 Objection from local neighbours or consultees are expected in a development such as this. It is not considered that there is any greater loss of amenity from the appeal proposals in respect of the previous motel scheme. The applicant does not accept that the proposals would be 'overbearing' within this location, or that the proposals would warrant unacceptable impact on the amenity of the single property that, at an oblique angle, overlooks the site. The proposals comply with all design requirements in relation to privacy, overshadowing, noise etc and this is



clearly demonstrated within the drawings and Design and Access Statement.

- 5.9 Accordingly, and for the arguments specified above, the appellant respectfully request that the LRB reverses the decision of the Director of Planning and permits Planning Permission for residential development as proposed on this site.

## **Appendix 1: Supporting Documentation**

1. Application Form
2. Location and Layout Plans
3. Design and Access Statement
4. Officers Handling Report
5. Decision Notice
6. LRB Notice Forms
7. Appeal Statement

## MIDLOTHIAN COUNCIL

### DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

**Case Officer:** Graeme King    **Site Visit Date:** 14/09/2015

**Planning Application Reference:** 15/00703/DPP

**Site Address:** Land 25m West of junction with Lugton Brae, Old Dalkeith Road, Dalkeith

**Site Description:** The application site is located at the junction of Old Dalkeith Road and Lugton Brae and was for many years occupied by the Lugton Inn, a pub and associated motel. The Inn and all the associated buildings have now been demolished and the site is now vacant. To the South the site is bounded by Old Dalkeith Road beyond which is grass and woodland sloping down to the banks of the River North Esk. To the East the site is bounded by Lugton Brae, on the opposite side of which are the predominantly 2 storey houses at Bridgend. To the West the site is bounded by woodland and to the North the site is bounded by the garden of the house at 1 Lugton Brae.

There are very significant level changes within the site; the Southern boundary is approximately 11m lower than the Northern boundary. To accommodate the level changes the previous development on the site made significant use of terracing. The motel element of the business was located on a terrace on the Northern half of the plot; the terrace was at approximately the same height as the eaves level of the 2 storey pub at the front of the plot. The site is located within Dalkeith House and Park conservation area. While Lugton sits to the North of Dalkeith, with the river separating the 2 settlements, for the purposes of the Midlothian Local Plan it forms part of the built-up area of Dalkeith.

**Proposed Development:** Erection of 5 dwellinghouses; formation of access and associated works.

**Proposed Development Details:** It is proposed to erect a terrace of 5 townhouses. The terrace is 34.7m wide, 18m deep and 15.1m tall. The houses are 5 storeys tall with garages at ground floor level and roof terraces at fourth floor level. To the rear the fourth and fifth storeys cantilever outwards by 3.3m; at the front there are projecting balconies at first floor level and projecting bays at second and third floor level. A communal garden space to the rear, on an existing terrace, is located at third floor level. Each house has a garage plus 1 external parking space.

The design of the houses is contemporary with flat roofs and extensive glazing to the front. The proposed finish materials reflect the contemporary design and include natural stone cladding; white render; aluminium and zinc cladding panels; and cedar cladding panels.

**Background (Previous Applications, Supporting Documents, Development Briefs):**

13/00887/DPP – Erection of dwellinghouse; alterations to ground levels; and erection of retaining walls (Amendment to design and levels approved by Planning Permission 13/00395/DPP) at Land 25M West Of Junction With Lugton Brae, Old Dalkeith Road. Decision – Consent with conditions

13/00843/DPP – Change of use from vacant ground to temporary overspill car park (retrospective) at Land 25M West Of Junction With Lugton Brae, Old Dalkeith Road. Decision – Refuse

13/00395/DPP – Erection of dwellinghouse; alterations to ground levels; and erection of retaining walls at Land 25M West Of Junction With Lugton Brae, Old Dalkeith Road. Decision – Consent with conditions

06/00193/FUL - Demolition of existing inn and motel and erection of 15 flats with associated parking at Lugton Inn, 16-18 Bridgend, Dalkeith. Decision - withdrawn

**Consultations:** The Council's **Transportation Policy and Road Safety** consultant raises concerns over aspects of the proposal. Particular reference is made to the fact that the proposal provides only 5 parking spaces as opposed to the 13 required by the Council's parking standards; and to the fact that details need to be provided of the proposed one way entrance and exit to the plot.

The Council's **Education** section has provided comments on education capacity in the Dalkeith area and the levels of developer contributions required to ensure that the development does not reduce capacity.

**Representations:** Five objections have been received from local residents. The grounds for objection include:

- The scale of the building, in particular its height.
- The impact on the character of the surrounding area, in particular the listed buildings to the North and the East.
- Loss of privacy due to overlooking from balconies and roof terraces.
- Overshadowing.
- The lack of parking provision.
- The access arrangements from the A6106 (Old Dalkeith Road).
- The lack of outdoor amenity space for the houses.
- Possible damage to neighbouring properties during construction.

Four of the five objections suggest reducing the number and height of the houses.

**Relevant Planning Policies:**

Midlothian Local Plan Policy **RP20: Development within the Built-up Area** states that development will not be permitted within the built-up area where it is likely to detract materially from the existing character or amenity of the area.

Midlothian Local Plan Policy **RP22: Conservation Areas** seeks to prevent development which would have any adverse effect on the character and appearance of Conservation Areas.

Midlothian Local Plan Policy **RP24: Listed Buildings** states that development will not be permitted where it would adversely affect the setting of a Listed Building.

Midlothian Local Plan Policy **DP2: Development Guidelines** sets out Development Guidelines for residential developments. The policy indicates the standards that should be applied when considering applications for dwellings. With regard to usable private outdoor space for houses the policy recommends a minimum of 130sqm for houses of 4 apartments or more.

An additional material consideration are Midlothian Council's **Parking Standards 2014** which requires that houses with 4 bedrooms or more should have parking for 2 cars plus an additional 0.5 spaces for visitors. The document clearly states that garages do not count towards parking provision.

**Planning Issues:** Policy RP20 offers support for development of sites within the built-up area; in addition the Council has previously granted consent for the erection of a single house on the site and was minded to grant an earlier scheme for 15 flats. The principle of development on the site is acceptable and supportable; however it is vital that any such development is of a scale that is appropriate to the size of the plot.

Midlothian Council approved its current Parking Standards in 2014 and the standards came into force in May of 2015. It is expected that any application after that date will meet the standards. The provision of adequate parking within a development site is vital in ensuring the safe and efficient movement of traffic on the surrounding road network; inadequate parking provision can lead to inconsiderate and unsafe parking that obstructs free movement of traffic and creates a dangerous environment for pedestrians. In addition sub-standard parking provision can have a significant detrimental impact on the amenity of existing residents in the area and future occupants of a new development.

To comply with the Council's parking standards the proposed development would need to provide a minimum of 13 parking spaces; 2 per house plus an additional 3 visitor spaces outwith the curtilage of the individual houses. The proposed layout includes 1 space per house; while the ground floor plans show cars parked within the garage areas these spaces do not comply with the definition of a parking space set out in the parking standards. The provision of 5 parking spaces represents 38% of the recommended minimum standard. In some instances parking standards can be relaxed for town centre developments, taking account of the variety of local services within walking distance and the provision of public transport that town centres benefit from. In this instance the site is clearly not within the town centre and given the size of the houses it would be unrealistic for the Planning Authority to expect car usage to be less than the expected norm. The proposed parking provision is significantly below the acceptable standard and the granting of consent with such provision would have a significant detrimental impact on the amenity of local residents, with potential for vehicles parking on local roads to the serious detriment of highway safety.

Policy DP2 recognises that houses for family use should be provided with adequate levels of private outdoor space; while communal space is an acceptable solution for flats it is expected that houses will have individually allocated private space. For

such outdoor space to be considered as usable it must have reasonable provision of sunlight. The current proposal seeks to provide outdoor space via a communal space of 107sqm. The space would vary in depth from 1.7m to 5.9m and would be bounded to the South by the 6.7m tall 2 storey cantilevered section of the building and to the North by a 1.9m tall retaining wall with a 1.8m tall fence erected on top of it. It is clear that the communal outdoor space would be almost permanently overshadowed and would have such an overbearing outlook that it would be an unpleasant and unwelcoming space. The proposed space for all 5 houses is less than the recommended minimum for 1 house; it represents a provision of less than 17% of the recommended minimum standard for 5 houses of this size. While it is acknowledged that the houses all have roof top terraces at fourth floor level, varying in size from 28sqm to 51sqm; these terraces are on the front elevation of the building and cannot be considered to be private outdoor space. The proposed open space provision is significantly below the minimum expected standards for family houses and would provide an unacceptable level of amenity for any future occupants of the houses.

The site sits at a prominent location on one of the main routes into and out of Dalkeith; in addition local topography on both the Dalkeith and Lugton sides of the North Esk mean that the site is prominent in a number of views looking Northwards from Dalkeith. Any successful design for the site will need to embrace this prominence and adopt a design approach that significantly enhances this key approach to Dalkeith. Bold contemporary design can work well in such locations subject to the scale and detail being acceptable. There is no uniform building style or scale within Lugton; the settlement developed over hundreds of years and many of the later additions reflect prevailing trends at the time. The listed Arts and Craft style house immediately to the North of the application site is one such example of a design that would have appeared obviously different at the time of construction. However, the area has been designated as a conservation area since the construction of that house and a greater emphasis is now placed on development preserving or enhancing the character and appearance of the area.

The height combined with the width of the building creates a bulky frontage that would appear overly dominant when viewed from Southern approaches. In addition the proximity of the Eastern gable to Lugton Brae and the houses at Bridgend will ensure that this elevation will appear overbearing to the immediate neighbouring properties.

Reference has been made in 3 of the objections to the overshadowing that would be caused by the proposal; one of the objections received includes drawings prepared by an architect indicating overshadowing at the summer solstice. While it is acknowledged that there will be some overshadowing of gardens to the East of the site on summer evenings, the most widely accepted guidance on these matters is the BRE's Site Layout Planning for Daylight and Sunlight. This publication advises that overshadowing calculations should be calculated at the spring equinox and that amenity areas should receive a minimum of 2 hours of sunlight per day. As noted above there will be some loss of sunlight on summer evenings however the overall impact across the year would not be sufficient to warrant refusal of the application.

The proposed layout includes 2 large bedroom windows on the Eastern gable plus smaller high level windows. The bedroom windows are at first and second floor levels; of the 2 the second floor window offers some potential for a loss of privacy of the gardens at Bridgend. This matter could be addressed by condition if the Council was minded to grant consent. Similarly any overlooking from the Easternmost roof terrace could be resolved via screening or a relocation of the terrace boundary.

All but one of the objections received make reference to the unsuitability of the proposed entrance to the site being taken from the A6106 (Old Dalkeith Road) and the fact that historically this has been discouraged by the Council. The Council's Transportation section have not objected to the principle of access being taken from the A6106 and subject to the details of road markings and signage being agreed would be supportive of access to a one way vehicle access system being taken from the A6106.

Two final points have been raised in objections; the impact on views from 1 Lugton Brae and possible damage caused by piling works required for construction. With regard to the loss of the view it is acknowledged that the longstanding view of Dalkeith will be lost, however the loss of view is not a material planning consideration. At the closest point the Westernmost point of the rear elevation of the proposed block would be 15m from the side elevation of no.1 however the orientation of the 2 properties mean that the separation would increase to 45m at the Easternmost point. While the proposed building would be significantly taller than the house at no.1 the differences in levels between the 2 plots would mean that the full height would not be immediately obvious when viewed from the garden of no.1; this would ensure that the building would not be overbearing to when viewed from the garden of no.1.

Any damage caused by construction processes would be a private legal matter between the parties involved. Private legal matters such as this are not material planning considerations and would not be grounds on which to refuse a planning application.

It is clear from the obviously sub-standard parking provision and outdoor space provision that there is insufficient space on the plot to accommodate a development of this scale. The proposal represents a significant over-development of the plot and is contrary to policies RP20 and DP2 of the Midlothian Local Plan.

**Recommendation: Refuse Planning Permission**





## Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

**Reg. No. 15/00703/DPP**

Gray Macpherson Architects LLP  
Tigh-Na-Geat House  
1 Damhead Farm  
Lothianburn  
Edinburgh  
EH10 7DZ

Midlothian Council, as Planning Authority, having considered the application by Mr Jamie O'Rourke, 41 Eskbridge, Penicuik, EH26 8QR, which was registered on 27 August 2015 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

**Erection of 5 dwellinghouses; formation of access and associated works at Land 25M West Of Junction With Lugton Brae, Old Dalkeith Road, Dalkeith**

In accordance with the application and the following plans:

<u>Drawing Description.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	1:1250	27.08.2015
Site Plan	P10 1:200	27.08.2015
Proposed floor plan	P01 1:100	27.08.2015
Proposed floor plan	P02 1:100	27.08.2015
Proposed floor plan	P03 1:100	27.08.2015
Proposed floor plan	P04 1:100	27.08.2015
Proposed floor plan	P05 1:100	27.08.2015
Roof plan	P06 1:100	27.08.2015
Proposed cross section	P07 1:100	27.08.2015
Proposed cross section	P08 1:50	27.08.2015
Proposed elevations	P09	27.08.2015
Illustration/Photograph		27.08.2015
Design and Access Statement		27.08.2015

The reasons for the Council's decision are set out below:

1. *The proposed parking provision is significantly below the minimum standard specified in Midlothian Council's Parking Standards 2014. The proposed parking provision would have a detrimental impact on road safety and on the amenity of both local residents and potential occupants. The proposal is therefore contrary to policy RP20 of the Midlothian Local Plan.*
2. *The proposed outdoor space provision is significantly below the minimum standard specified in policy DP2 of the Midlothian Local Plan. The amenity of potential occupants would be below expected standards. The proposal is therefore contrary to policies RP20 and DP2 of the Midlothian Local Plan.*

3. *The width and height of the building would result in a bulky addition to the streetscape that would be overbearing to neighbours at Bridgend. The proposal is therefore contrary to policy RP20 of the Midlothian Local Plan.*
4. *The width and height of the building would result in a bulky addition to the streetscape that would have a significant detrimental impact on the character and appearance of the Dalkeith House and Park Conservation Area. The proposal is therefore contrary to policy RP22 of the Midlothian Local Plan.*

Dated 21 / 10 / 2015



.....  
Duncan Robertson  
Senior Planning Officer; Local Developments  
Fairfield House, 8 Lothian Road, Dalkeith, EH22 3ZN

# APPENDIX E





**Notes**  
The following notes are in roman form to protect the identity of the source.  
1. The following notes are in roman form to protect the identity of the source.  
2. The following notes are in roman form to protect the identity of the source.

**Basic Info • Church Logo Area**  
**Adults Only, 3-4pm (no picture taken)**  
**Confirmed Number: 11/11 / All males 18+**

**Visit [www.elsevier.com/locate/locate](http://www.elsevier.com/locate/locate/locate)**

1. **Project Name / Reference:** \_\_\_\_\_  
 2. **Project Lead / Manager:** \_\_\_\_\_  
 3. **Project Start Date:** \_\_\_\_\_  
 4. **Project End Date:** \_\_\_\_\_  
 5. **Project Status:** \_\_\_\_\_  
 6. **Project Budget:** \_\_\_\_\_  
 7. **Project Risk Level:** \_\_\_\_\_  
 8. **Project Complexity:** \_\_\_\_\_  
 9. **Project Scope:** \_\_\_\_\_  
 10. **Project Deliverables:** \_\_\_\_\_  
 11. **Project Stakeholders:** \_\_\_\_\_  
 12. **Project Sponsor:** \_\_\_\_\_  
 13. **Project Steering Committee:** \_\_\_\_\_  
 14. **Project Charter:** \_\_\_\_\_  
 15. **Project Plan:** \_\_\_\_\_  
 16. **Project Schedule:** \_\_\_\_\_  
 17. **Project Budget:** \_\_\_\_\_  
 18. **Project Risk Register:** \_\_\_\_\_  
 19. **Project Communication Plan:** \_\_\_\_\_  
 20. **Project Quality Management Plan:** \_\_\_\_\_  
 21. **Project Resource Management Plan:** \_\_\_\_\_  
 22. **Project Procurement Management Plan:** \_\_\_\_\_  
 23. **Project Stakeholder Management Plan:** \_\_\_\_\_  
 24. **Project Change Management Plan:** \_\_\_\_\_  
 25. **Project Closure Plan:** \_\_\_\_\_

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5 Town Houses in  
Lugton Iron Sale

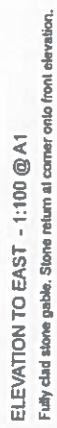
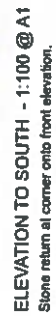
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High-Geest House,  
Lambourn Farm, Lambourn

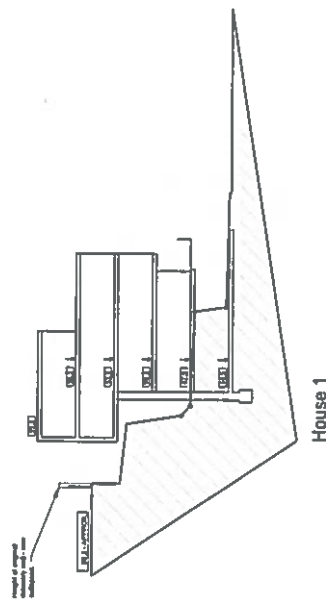
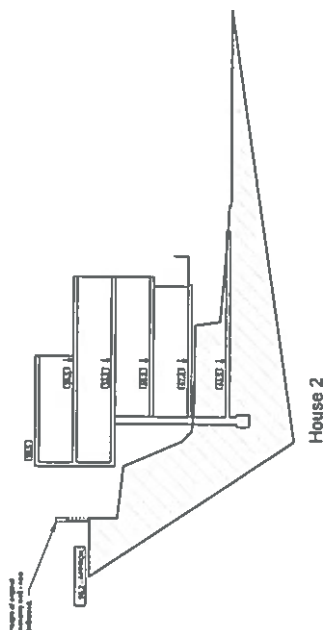
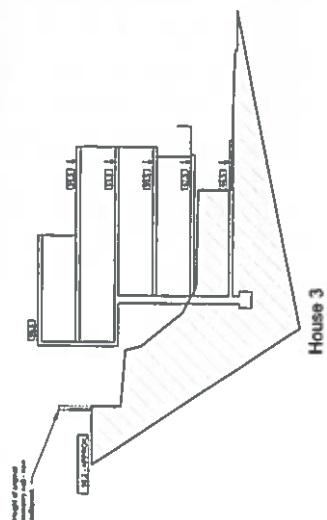
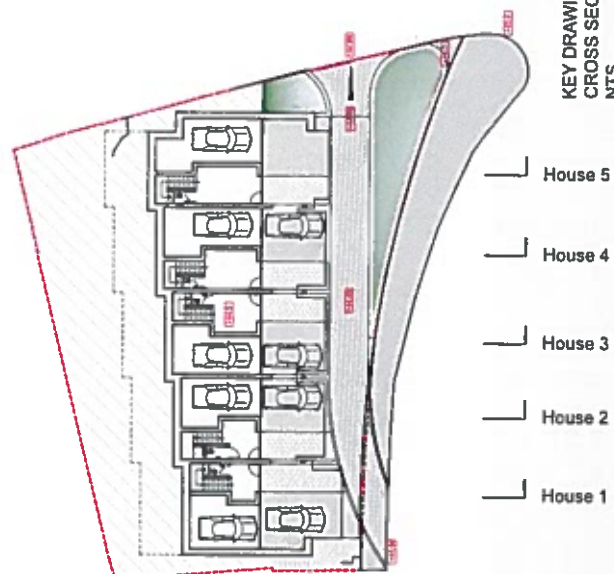
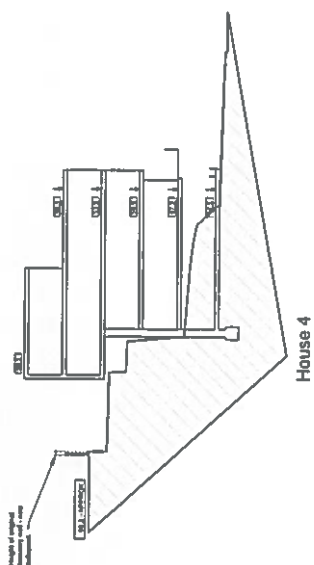
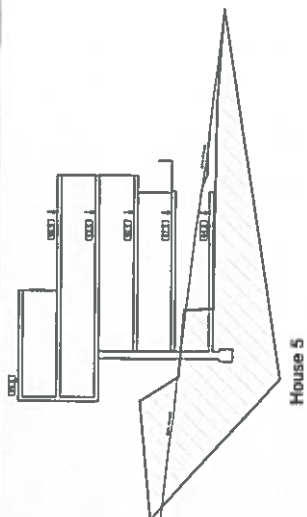
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**ELEVATION TO WEST - 1:100 @ A1**  
Fully clad stone gable. Stone return at corner onto front elevation.







**KEY DRAWING TO  
CROSS SECTIONS -  
NTS.**

**CROSS SECTIONS ACROSS SITE SHOWING LEVELS IN RELATION TO EXISTING BANK -1:200 @ A1**







**BLOCK PLAN - 1:200 @ A1**





