

Notice of Review: The Old Mill House, 40 Newmills Road, Dalkeith

Determination Report

Report by Dr Mary Smith Director of Education, 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' for the change of use from dwellinghouse to a mixed use of dwellinghouse and temporary events venue and associated erection of marquee at the Old Mill House, 40 Newmills Road, Dalkeith.

2 Background

- 2.1 Planning application 19/00884/DPP for the change of use from dwellinghouse to a mixed use of dwellinghouse and temporary events venue and associated erection of marquee at the Old Mill House, 40 Newmills Road, Dalkeith was refused planning permission on 5 December 2019; a copy of the decision is attached to this report.
- 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 5 December 2019 (Appendix D); and
 - A copy of the relevant plans (Appendix E).
- 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. All consultation responses, representations and any additional comments made in response to the notice of review can be viewed on this case file.

4 Procedures

- 4.1 In accordance with procedures agreed by the LRB, the LRB by agreement of the Chair have:
- scheduled a site visit for Tuesday 18 February 2020; and
 - determined to progress the review by way of written submissions.
- 4.2 The case officer's report identified that four consultations and one representation objecting to the application have been received. As part of the review process the interested parties were notified of the review. One additional comment has been received from a representor reaffirming their objection to the proposal. All the comments can be viewed online on the electronic planning application/review case file.
- 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 In accordance with the procedures agreed by the LRB at its meeting of 13 June 2017, and without prejudice to the determination of the review, the following conditions have been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.
1. Consent is hereby granted for a period of 24 months from the date of this permission.
 2. The number of events to be held at the application site shall be restricted to 12 events in a calendar year.

Reason for conditions 1 and 2: To allow the Planning Authority the opportunity to monitor the proposal's impact on the amenity of local residents.

3. The maximum footprint of any marquee erected shall not exceed 108 square metres. No more than one marquee shall be erected within the application site at any one time.

Reason: To restrict the scale of events that could be accommodated.

6 Recommendations

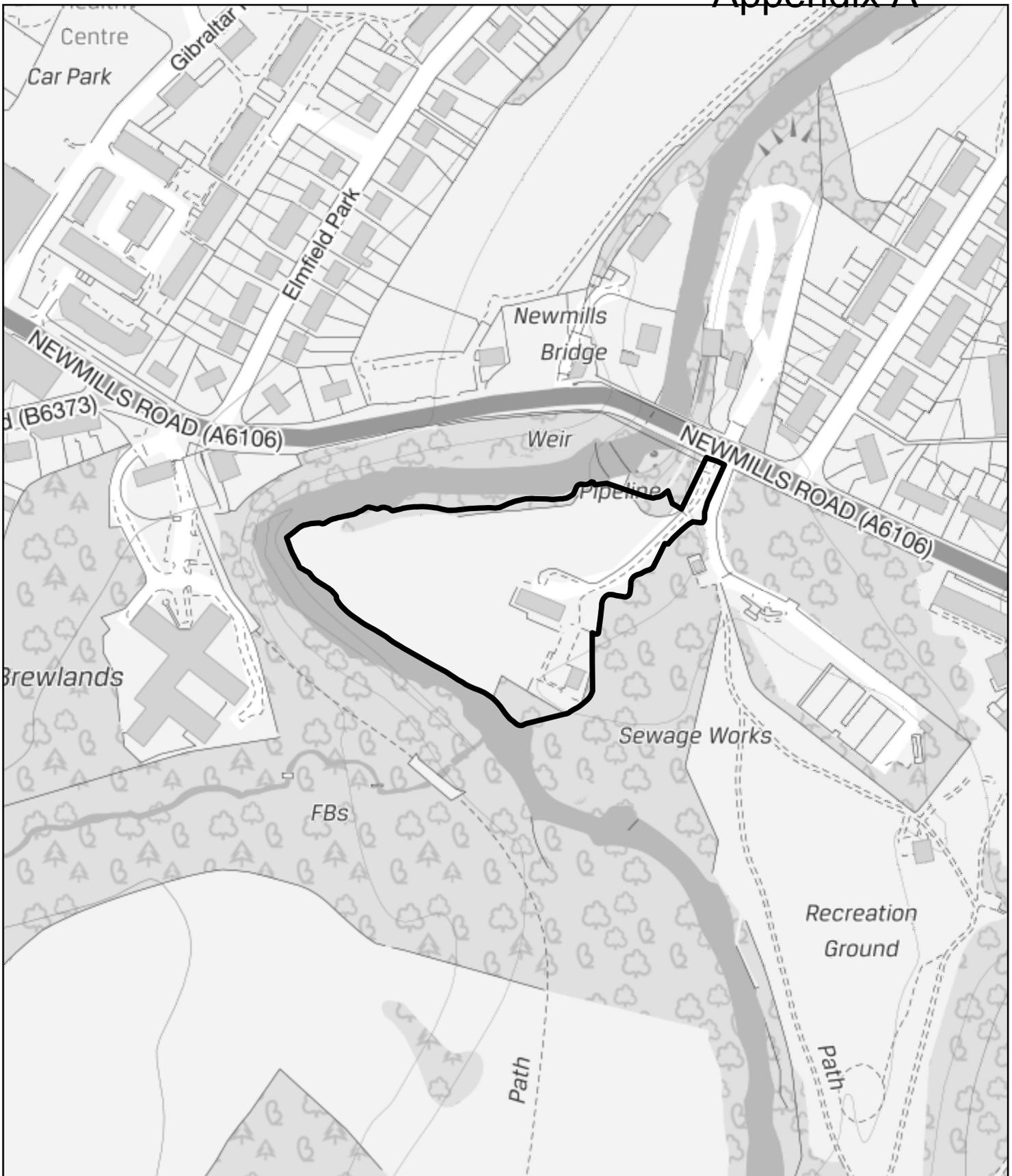
- 6.1 It is recommended that the LRB:
 - a) determine the review; and
 - b) instruct the planning advisor to draft and issue the decision of the LRB through the Chair

Date: 7 February 2020

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

Tel No: 0131 271 3310

Background Papers: Planning application 19/00884/DPP available for inspection online.



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

Change of use from dwellinghouse to dwellinghouse and temporary events venue and associated erection of marquee at The Old Mill House, 40 Newmills Road, Dalkeith

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File No. 19/00884/DPP

Scale: 1:2,500

Midlothian Council Licence No. 100023416 (2019)



Midlothian 

Fairfield House 8 Lothian Road Dalkeith EH22 3ZN Tel: 0131 271 3302 Fax: 0131 271 3537 Email: planning-applications@midlothian.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100192086-003

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	<input type="text" value="Douglas Strachan"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="Douglas"/>	Building Name:	<input type="text"/>
Last Name: *	<input type="text" value="Strachan"/>	Building Number:	<input type="text" value="11"/>
Telephone Number: *	<input type="text" value="01316639735"/>	Address 1 (Street): *	<input type="text" value="South Street"/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value="Dalkeith"/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="United Kingdom"/>
		Postcode: *	<input type="text" value="EH22 1AH"/>
Email Address: *	<input type="text" value="douglas@douglasstrachan.com"/>		

Is the applicant an individual or an organisation/corporate entity? *

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Ms"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="The Old Millhouse"/>
First Name: *	<input type="text" value="Sally"/>	Building Number:	<input type="text" value="40"/>
Last Name: *	<input type="text" value="DeWaard"/>	Address 1 (Street): *	<input type="text" value="Newmills Road"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Dalkeith"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH22 2AQ"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="enquiries@oldmillhouse.co.uk"/>		

Site Address Details

Planning Authority:	<input type="text" value="Midlothian Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="THE OLD MILL HOUSE"/>
Address 2:	<input type="text" value="40 NEWMILLS ROAD"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="DALKEITH"/>
Post Code:	<input type="text" value="EH22 2AQ"/>

Please identify/describe the location of the site or sites

Northing

Easting

Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Change of use from dwellinghouse to dwellinghouse and temporary events venue and associated erection of marquee at The Old Mill House, 40 Newmills Road, Dalkeith, EH22 2AQ.

Type of Application

What type of application did you submit to the planning authority? *

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? *

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Concerns raised in a previous application have been addressed, with a full explanation of mitigation provided in the supporting statement. Noise concerns were mitigated by the suggestion of limited operation. Parking concerns were mitigated by means of a management policy whereby only guests sleeping in the accommodation would be permitted to park within the grounds and a shuttle service would run for others. Enhancement of this high quality business will have a net net benefit to the town.

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

Yes No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

Location Plan, Site Plan, Supporting Statement.

Application Details

Please provide details of the application and decision.

What is the application reference number? *

19/00884/DPP

What date was the application submitted to the planning authority? *

20/10/2019

What date was the decision issued by the planning authority? *

05/12/2019

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

Yes No

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may select more than one option if you wish the review to be a combination of procedures.

Please select a further procedure *

By means of inspection of the land to which the review relates

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

We would encourage a site visit to gain a better appreciation of the unique characteristics of this property and its contribution to the town.

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

Yes No

Is it possible for the site to be accessed safely and without barriers to entry? *

Yes No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant? *

Yes No

Have you provided the date and reference number of the application which is the subject of this review? *

Yes No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

Yes No N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

Yes No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

Yes No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Douglas Strachan

Declaration Date: 19/12/2019

Planning Application – Supporting Statement
The Old Mill House, 40 Newmills Road, Dalkeith, EH22 2AQ

Context

The site and house

The Old Mill House is a 1703 B-listed mill which sits in a large 1.3 hectares plot within a meander of the River South Esk, in Dalkeith. This traditional exposed rubble building has been carefully restored in 2012 after several years of laying empty and being left to decay. The site is located within the Newbattle Conservation Area and Newbattle House Designed Landscape.



The house's current use

The Old Mill House is currently used as a private residence and a self-catering 5-star luxury accommodation, which can accommodate up to 10 people in its 5 sumptuous bedrooms. On average, The Old Mill House is rented out as a holiday accommodation 15 weeks per year. It is worth noting that so far, no revenue weddings have been held at the Old Mill House. More information about this high end country house can be found on the webpage <https://oldmillhouse.co.uk/>



Thanks to the support of Business Gateway and Midlothian & Borders Tourism Action Group (MBTAG), the applicant has grown a successful and renowned business, which won the Scottish Thistle Awards Best Self Catering Accommodation Experience in 2018 and is nominated again for this year's award. This rural retreat has also just been given a five-star rating by VisitScotland, which is a first for a self-catering property in Midlothian.

Planning history

While The Old Mill House dates back to 1703, it has undergone several alterations over the centuries. The original Mill has been raised to the current three-storey property, probably later in the 18th century. The Listed Building listing also mentions that the Old Mill House (formerly known as "Newmills House") originally formed part of a large complex of buildings, all of which have been removed since. This is supported by several successive OS Maps: the 1854 map shows a laide and a group of other buildings around the Mill House, whilst the 1894 map shows only the Mill House.

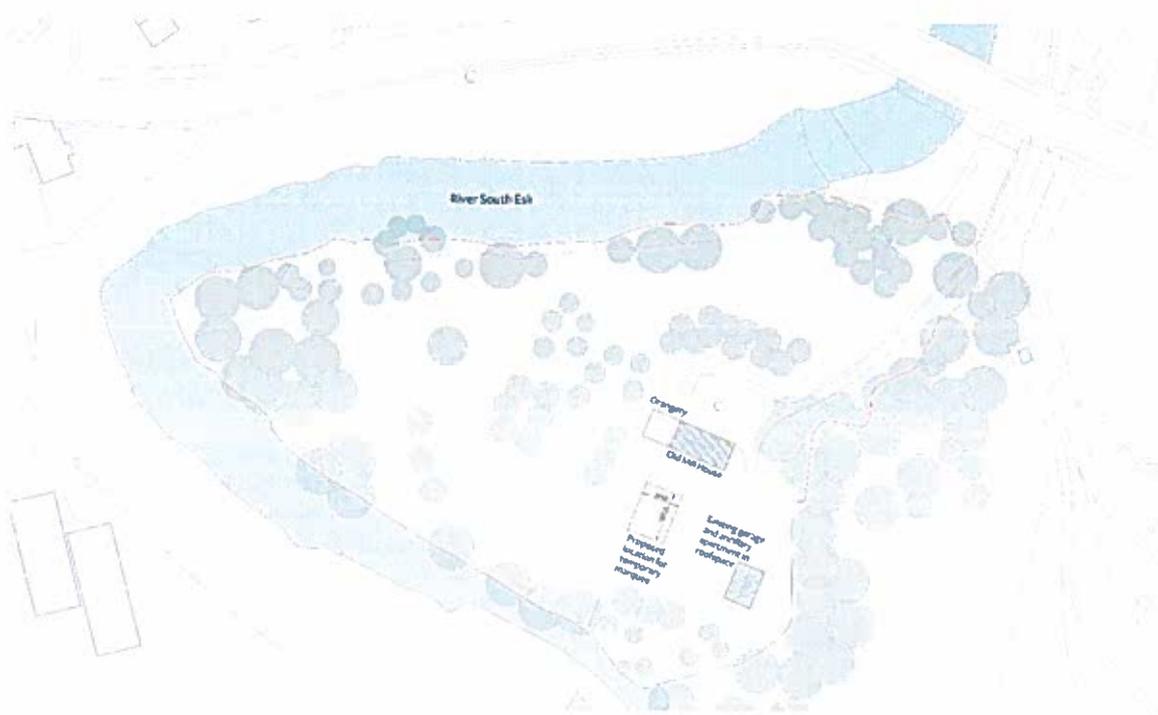
The more recent interventions can be tracked through the planning permissions which have been granted:

- 04/00821/LBC and 04/00809/FUL - Installation of five rooflights
- 07/00010/LBC and 07/00012/FUL - Installation of replacement windows, erection of boiler room and internal alterations
- 08/00592/LBC and 08/00590/FUL - Erection of metal railings on existing boundary wall and repair and replacement of stonework on dwellinghouse
- 11/00346/LBC and 11/00345/DPP - Installation of slate roof on existing dwellinghouse and existing detached garage and installation of rooflights on dwellinghouse
- 12/00513/LBC and 12/00512/DPP - Extension to dwellinghouse; installation of windows and doors; infilling of existing window opening; alterations to window cill to form french doors, installation of flue and erection of outbuilding
- 12/00563/WTT - Pruning of trees
- 12/00749/LBC and 12/00748/DPP - Reinstatement of chimney stacks
- 13/00742/LBC and 13/00741/DDP - Extension to dwellinghouse
- 14/00075/DPP - Erection of studio with residential accommodation, erection of garage with residential accommodation and erection of gates and gate posts
- 16/00576/WTT - Felling and pruning of trees

This planning history is a good track record of the extensive, careful restoration and maintenance works which the applicant proceeded with in order to save this property which is a valued part of the local heritage.

Proposal

In order to complement the existing business, the applicant is seeking to accommodate small occasional events. For instance, small weddings are to be held wholly within the house. Other occasional events would benefit from using the existing grounds as well as the facilities provided by the house. Thus, this application seeks to get permission for the erection of a temporary marquee on the south side of the garden.



The applicant is aware that previous applications for the erection of a marquee on this site have raised concerns relating to noise, access and traffic congestions in Dalkeith. This proposal hopes to remedy those concerns by introducing certain restrictions.

Permission is only sought for the erection of a marquee which will accommodate 40 guests maximum, for a limited number of events during the year. Furthermore, these events are to be limited to a specific time of day (i.e. events to finish by 11pm) in order to reduce the potential impact on neighbouring properties.

Noise

A previous sound report assessed the impact, at bridge level on Newmills Road, of loud music from the lawn in front of The Old Mill House (North side). The test results were as follow:

- a peak of 105dB was observed directly in front of the speakers (1m);
- this reduced to 99dB at a distance of (2m) away from the speakers;
- at the bridge, 75dB were measured, in the absence of traffic. This figure matches the lower range of ambient noise levels which were measured prior to the music being turned on for this test. The report states that *"there is 75dB - 90dB of ambient noise depending on what traffic is passing over the bridge at the time. A large amount of this noise appears to be coming from the waterfall in front of the house"*.

As a point of reference, the following objects have similar noise levels: car at 65 mph at 25 ft (77 dB); living room music (76 dB); dishwasher (75dB); radio or TV-audio, vacuum cleaner (70 dB). It is also worth noting that 70dB is half as loud as 80dB.

The following concerns were raised regarding this noise assessment:

- The noise report assessed the impact at road level but does not refer to noise at the lower (riverside) level. For instance, comments mention a direct line of sight from the proposed marquee on the North side of the lawn to properties on the other side of the bridge.

- The noise report does not consider the impact on Archview Lodge.
- The sound report relies on ambient noise from traffic and an existing water fall. It is however worth noting that the results as stated above mention a 75dB level of noise at bridge level, with the music turned on, at a moment of no traffic.
- In August 2017, an Occasional Licence for a wedding was granted. A marquee was erected on the North side of the lawn (in front of The Old Mill House). This resulted in complaints from nearby residents regarding music from the event.

This application proposes a certain amount of measures which should address these concerns. The main difference to all of the above is that this application is for a marquee on the South side of the lawn, rather than on the North side. The South side of the lawn is naturally more encased in the existing valley and sheltered away through the existing three storey house, the free standing garage to the side and extensive dense vegetation on the river's banks. This will have the following effects:

- The noise measured at bridge level will be reduced even further, thus rendering the discussions around noise created by the existing waterfall and/or traffic (ambient noise) moot.
- There is no direct line of sight from a marquee on the South side of the lawn to properties on the other side of the bridge.
- The only property which might be affected by this new location is Archview Lodge. There is however very dense vegetation on the banks of the River South Esk, as shown on the picture below. This should reduce the effects of the noise considerably. Furthermore, the closest point of Archview Lodge (the building) is roughly 120m away from the proposed location for a marquee.



Further measures are introduced to ensure that the noise is kept to a reasonable level. As previously mentioned, events are not only to be limited to a certain amount of times throughout the year, but also to a specific time of day (i.e. finished by 11pm).

Access and parking

As the current access to the site is a narrow unsurfaced driveway which does not accommodate two-way traffic, it is proposed to install a specific traffic management strategy along with this proposal. The applicant is aware that the existing junction with Newmills Roads has restricted visibility due to the presence of boundary walls on either side of the entrance. It is therefore proposed that only the guests staying in the Old Mill House's five bedrooms will be allowed to bring their cars to the event and park in the existing parking spaces.

It is suggested that for all the other guests, a pre-booked taxi only policy is put in place. Similar strategies are currently being implemented in other great houses which are occasionally used as wedding venues in Scotland. These measures ensure that there won't be any congestion or disruption caused by guests parking their cars in neighbouring streets in Dalkeith. Alternatively, a 16 seater coach can be used to bring people from nearby pick up points such as the Eskbank Train station. Similar vehicles are already occasionally being driven on the existing driveway.

The applicant is aware that concern was raised due to the fact that the existing driveway would not be able to accommodate two way traffic. The measures set out above would ensure that the level of traffic caused by an event housed in a 40 people marquee on the lawn won't be higher than some of the current traffic caused by large group booking the Old Mill House as an exclusive-use holiday accommodation or corporate retreat.

Technical details:

The proposed temporary marquee would typically be erected 2 or 3 days prior to the event and removed 2 or 3 days after. Most vendors estimate that the footprint of the marquee would be 9x12m maximum to cater for dining and dancing for 40 guests plus support staff.

A wide variety of marquee styles and sizes can be found on the market: clear span marquees, pagoda-like marquees, frames on the interior or exterior, white or off-white canvas, PVC windows or opening on the sides and/or on the roof, etc. Most of these marquees are under 3m to the eaves and 6m to the ridge.



The proposed marquee is to sit on the South side of the lawn. No trees are to be removed for this proposal and the gardens will remain as existing. Some temporary decking boards might be laid on the grass as required.

Should any heating be required, temporary mobile heating will be provided in the marquee, independently of any existing arrangements. It is however most likely that no events will be held during the colder months of the year.

The existing sanitary facilities are sufficient for occasional events held in the existing house and in a marquee for 40 people maximum. There is one toilet on the ground floor of the existing house, as well as 5 ensuite shower or bathrooms on the upper floors. There is one additional toilet in the garage building on the East side of the property.



Example of a 6x6m marquee which can accommodate a sit-down meal for 40 people

Due to the temporary aspect of this proposal, no adverse effects are expected regarding the following policies:

- Policy ENV3: Newbattle Strategic Greenspace Safeguard
- Policy ENV8: Protection of River Valleys
- Policy ENV11: Woodland Trees and Hedges
- Policy ENV14: Regionally and Locally Important Nature Conservation Sites
- Policy ENV19: Conservation Areas
- Policy ENV20: Nationally Important Gardens and Designed Landscapes
- Policy ENV22: Listed Buildings

Conclusion

The Old Mill House in the heart of Dalkeith is a thriving part of Scotland's tourism offer. This proposal seeks to enhance this valued local business by offering the possibility to expand. Holding events for up to 40 people will increase business not only for the applicant but also for local accommodation providers and restaurants. Thus, occasional events such as proportionally small weddings, which are increasingly popular, will allow a more widespread enjoyment of a major asset of the area, while respecting the existing grounds as well as Dalkeith.

Previous concerns have been taken on board and the proposal has been adjusted accordingly: limitation in numbers of events throughout the year, limitation of number of people, new suggestions for traffic management strategies and better size and location of proposed marquee. To sum up, this new proposal won't adversely affect the surrounding residential amenities and is respectful of the natural landscape that is the valley of the River South Esk.

MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Case Officer: Graeme King **Site Visit Date:** 04/11/2019

Planning Application Reference: 19/00884/DPP

Site Address: The Old Mill House, 40 Newmills Road, Dalkeith

Site Description: Old Mill House is a three-storey 3-bay early 18th Century Category B listed former mill which is now used as a single dwellinghouse. The walls are formed from stone; the doors and windows are timber framed and the roof is finished with slate. There is a modern single storey orangery extension attached to the West elevation of the building. There is an existing modern timber clad 3 car garage, with ancillary residential accommodation in the roofspace, situated to the rear of the house. The applicants own the house and use it as their primary place of residence; the house is available for holiday lets (typically around 15 times per annum) and when the house is occupied the ancillary accommodation is used by the applicants.

The house sits in a large plot of 1.3 hectares; the plot is situated within a meander of the River South Esk and sits below the level of Newmills Road. The surrounding land to the North, West and East is predominantly residential; the land to the South forms part of a countryside corridor that separates Dalkeith, Eskbank and Bonnyrigg from Mayfield, Easthouses and Newtongrange. The site is located within Newbattle Conservation Area and Newbattle House Designed Landscape.

Proposed Development: Change of use from dwellinghouse to dwellinghouse and temporary events venue and associated erection of marquee

Proposed Development Details: The proposal seeks to gain consent for the use of house and garden as a venue for weddings. A marquee with capacity for 40 guests would be erected on the lawn to the South (rear) of the house. The proposed site plan states that the footprint of the marquee would measure 12m by 9m. The wedding party would be accommodated within the house.

Background (Previous Applications, Supporting Documents, Development Briefs): Previous applications at the site:
19/00884/DPP - Change of use from dwellinghouse to dwellinghouse and temporary events venue including erection of marquee and extension to garage to form ancillary accommodation. Refused.

The indicative dimensions of marquee in this application were 12m by 15m and the capacity was 60 guests. The marquee would have been sited on the lawn to the South (rear) of the house. The reasons for refusal were:

- 1. It has not been satisfactorily demonstrated that the proposed use as a temporary events venue can operate without damaging residential amenity or disturbing noise sensitive uses. The proposal is therefore contrary to policies RD1, ENV3 and ENV18 of the Midlothian Local Development Plan.*
- 2. The site has insufficient parking; a narrow access that does not accommodate two-way traffic flow; a junction with limited visibility; and no separate pedestrian access. The proposed use raises road safety concerns and the proposal is therefore contrary to policies RD1 and ENV3 of the Midlothian Local Development Plan.*
- 3. The proposed use cannot be considered as ancillary development relevant to an existing use and therefore the principle of the development is contrary to policies RD1, ENV3 and ENV8 of the Midlothian Local Development Plan.*

17/00281/DPP - Change of use of dwellinghouse to dwellinghouse and temporary events venue including erection of marquee and erection of studio building.
Application withdrawn

The application include 2 possible locations for marquees: a site for a 12m by 30m marquee on the lawn to the North of the house; and a site for a 12m by 15m marquee on the lawn to the South of the house. The total capacity would have been 180 guests. The application was the subject of objections from SEPA and Transportation; Environmental Health advised the case officer of their intention to object, however the application was withdrawn prior to the consultation response being provided.

16/00576/WTT - Felling and pruning of trees within the Newbattle conservation area.
Permitted

15/00865/DPP - Change of use of dwellinghouse to dwellinghouse and temporary events venue including erection of marquee. Application never validated – withdrawn

14/00075/DPP - Erection of studio with residential accommodation, erection of garage with residential accommodation and erection of gates and gate posts.
Consent with conditions

13/00742/LBC – Extension to building. Consent with conditions

13/00741/DPP – Extension to dwellinghouse. Consent with conditions

12/00834/LBC – Installation of windows and doors. Application withdrawn

12/00833/DPP - Installation of windows and doors (amendment to design approved by Planning Permission 12/00512/DPP). Application withdrawn

12/00749/LBC - Reinstatement of chimney stacks. Consent with conditions

12/00748/DPP - Reinstatement of chimney stacks. Consent with conditions

12/00563/WTT - Pruning of trees in Newbattle Conservation Area. Permitted

12/00513/LBC - Extension to dwellinghouse; erection of detached garage; formation of roof; installation of windows and doors, infilling of existing window opening; alterations to window cill to form french doors; installation of flue and associated internal alterations. Consent with conditions

12/00512/DPP - Extension to dwellinghouse; installation of windows and doors; infilling of existing window opening; alterations to window cill to form french doors; installation of flue and erection of outbuilding. Consent with conditions

11/00346/LBC - Installation of slate roof and rooflights and internal alterations. Consent with applications

11/00345/DPP - Installation of slate roof on existing dwellinghouse and existing detached garage and installation of rooflights on dwellinghouse. Consent with conditions

08/00592/LBC - Erection of metal railings on existing boundary wall and repair and replacement of stonework on dwellinghouse. Consent with conditions

08/00590/FUL - Erection of metal railings on existing boundary wall. Consent with conditions

08/00495/LBC - Erection of conservatory and extension to dwellinghouse to provide ancillary guest accommodation. Application withdrawn

08/00494/FUL - Erection of conservatory and extension to dwellinghouse to provide ancillary guest accommodation. Application withdrawn

07/00012/FUL - Installation of replacement windows and erection of boiler house. Consent with conditions

07/00010/LBC - Installation of replacement windows, erection of boiler room and internal alterations. Consent with conditions

04/00821/LBC - Installation of 5 rooflights. Consent with conditions

04/00809/FUL - Installation of 5 rooflights. Consent with conditions

Consultations: Historic Environment Scotland has no comment to make on the proposal. The response notes that the proposal has the potential to affect the garden and designed landscape associated with Newbattle Abbey.

The Council's **Biodiversity** screening process has identified the biodiversity protections that apply to the site. Due to the nature of the application the proposal will not have any effect on the biodiversity issues highlighted.

The Council's **Environmental Health** manager has concerns regarding the application and recommends refusal of the application. The response notes that the site is in close proximity to residential uses and to Archview Lodge residential care home; it is anticipated that the proposed use would result in disturbance to residents of houses and the nursing home from noise generated by weddings.

With regard to the supporting statement submitted with the application the response states the following:

The applicants supporting statement makes reference to the noise report submitted in April 2018 with a previous similar application. This report omits the information that a report from a competent noise consultant would be expected to contain. Some of this information is essential to validate the results, while the rest is required during interpretation of the results to allow reasonable conclusions to be drawn. The name of the author, the qualifications of the author, the make, model and class of sound meter used, the calibration status of the meter, pre-measurement and post-measurement calibration drift, the date and time that the measurements were taken, wind speed and direction during the measurement period, precipitation and whether or not the road was wet during measurements and the parameters measured are all omitted. Therefore, there is little that can be concluded on the impact of noise on existing and prospective residents from the results reported.

No further noise assessment has been submitted with this application.

The response also notes that an Occasional Licence was granted for a wedding in a marquee on 12 August 2017. The wedding resulted in complaints to Licencing and Environmental Health from local residents complaining about noise from music. There were also complaints regarding congestion caused by guests parking on local streets and noise generated when guests left the wedding and returned to their cars.

The Council's **Policy and Road Safety** manager has road safety concerns over the additional traffic the proposal will generate and recommends refusal of the application. The response notes that the current vehicle/pedestrian access to the site is narrow and cannot accommodate two-way traffic; the access does not have any separate pedestrian route; and the junction onto Newmills Road has limited visibility. The applicant has proposed a traffic management plan which would restrict vehicle access to guests staying in the house and direct the remaining visitors to use taxis or small coaches; it would not be possible to enforce this. Guests who choose not to use the taxi/coach may park in the local area thereby placing additional pressure on the limited number of on-street spaces available. Given the constraints of the site it is not considered as being suitable as an events venue.

Representations: One objection has been received from a local resident. The grounds for objection are:

- The noise test to which the supporting statement refers to caused significant disruption.
- The noise report submitted with previous applications was not prepared by a suitably qualified professional and did not constitute an adequate assessment.

- The noise generated by weddings within marquees means that the proposal is not suitable for a residential area.
- How could the proposed traffic management plan be enforced?
- The wedding in 2017 created excessive noise.
- The wedding in 2017 caused congestion and disruption on surrounding streets.
- A better solution to providing a venue for weddings would be the construction of a purpose designed building.

Relevant Planning Policies: The adopted development plan is the **Midlothian Local Development Plan 2017 (MLDP)**. The following policies are relevant to this application:

Policy ENV3: Newbattle Strategic Greenspace Safeguard states that development will not be permitted within the safeguarded area except for ancillary development relevant to existing uses; and/or other developments for the furtherance of agriculture (including farm-related diversification), horticulture, forestry, countryside recreation or tourism. Any proposals should accord with policy RD1.

Policy ENV8: Protection of River Valleys requires development within the river valley protection areas of the Rivers North Esk, South Esk and Tyne to have a specific locational need for the development, and where this is established, development must demonstrate that it will not have an adverse impact either on the landscape and conservation value of the valleys or impede potential public access opportunities.

Policy ENV11: Woodland Trees and Hedges does not permit development that would lead to the direct or indirect loss of woodland which has a particular value in terms of amenity, nature conservation, recreation, landscape character or shelter.

Policy ENV14: Regionally and Locally Important Nature Conservation Sites states that development will not be permitted where it could adversely affect the nature conservation interest of such sites, unless it can be demonstrated that appropriate mitigation measures are in place.

Policy ENV18: Noise states that the Council will seek to prevent noisy development from damaging residential amenity or disturbing noise sensitive uses. Where new development with the potential to create significant noise is proposed, it may be refused or be required to modify so that no unacceptable impact at sensitive receptors is generated.

Policy ENV19: Conservation Areas seeks to prevent development which would have any adverse effect on the character and appearance of Conservation Areas.

Policy ENV20: Nationally Important Gardens and Designed Landscapes states that development will not be permitted where it would harm character, appearance or setting of a garden or designed landscape which is included in the Inventory of Gardens and Designed Landscapes.

Policy ENV22: Listed Buildings states that development will not be permitted where it would adversely affect the character or appearance of a Listed Building; its setting; or any feature of special, architectural or historic interest.

Policy RD1: Development in the Countryside states that development opportunities that will enhance rural economic development opportunities will be permitted if:

- They are of a scale and character appropriate to the rural area and well integrated into the rural landscape; and
- They are capable of being serviced with an adequate and appropriate access; and
- They are capable of being provided with drainage and a public water supply at reasonable cost, or an acceptable private water supply, unacceptable discharge to watercourses; and
- They are accessible by public transport and services (where appropriate); and
- They are not primarily of a retail nature; and
- They do not harm the amenity of nearby residents through unacceptable levels of noise, light or traffic.

Policy VIS2: Tourist Accommodation states that developments for tourist accommodation will be supported, provided that the proposal:

- A. Is in scale and in keeping with the character of the local area;
- B. Is sited and designed to respect its setting and is located in an unobtrusive manner within the rural landscape (where applicable);
- C. Is well located in terms of the strategic road network and maximises public transport access; and
- D. Is in accordance with one of the sub-sections of policy VIS2.

The sub-section which applies to the application is **Self-catering tourist accommodation** which states that proposals will be permitted where:

- The proposal is not in the Green Belt;
- The proposal is of a character and scale in keeping with the rural setting and can be located in an unobtrusive manner; and
- The applicant can demonstrate that the proposal is for the furtherance of a viable long-term business.

Planning Issues: In dealing with a planning application the Planning Authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations. Any representations and consultation responses received are material considerations.

Principle of Development

While the site is accessed from the built-up area of Dalkeith the MLDP identifies the application site as being set in a countryside location. The application site is situated at the far Northern extremity of a distinctive corridor of countryside that separates Dalkeith, Eskbank and Bonnyrigg from Mayfield, Easthouses and Newtongrange.

This corridor of open space, woodland and farmland plays a key role in defining the character and extent of the various communities that border it and its importance is recognised by the inclusion within the MLDP of a specific policy that seeks to protect this valuable "green lung". While it is acknowledged that there is currently some commercial use of the site as self-catering tourist accommodation, the proposed use would result in a noticeable increase in commercial use of the site and cannot be considered to be ancillary to the existing use of the site. The principle of this type of development at this location is contrary to policies RD1, ENV3 and ENV8 of the MLDP.

Noise

The previous 2 applications were supported by a 1 page document prepared by a PA hire company. The document detailed how noise was assessed from Newmills Road using a portable dB level meter. The consultation response from the Council's Environmental Health manager for application 18/00227/DPP detailed a number of failings in the methodology used and how the findings were presented. The document submitted fell significantly below the standards expected of a Noise Impact Assessment and no weight could be placed on the findings of the document. The current application does not include the noise assessment, however the supporting statement does make reference to it.

The noise complaints generated by the 2017 wedding and the 2017 noise assessment clearly demonstrates the constraints of the site and the proposal. While the current proposal relates to a different marquee location from the 2017 wedding, which was staged on the lawn to the North of the house; it remains the case that marquees offer limited scope for noise attenuation and any location within the garden will provide clear line of sight to noise sensitive properties. The proposed use would have significant detrimental impact on residential amenity and on the noise sensitive care home use at Archview Lodge. The topography of the surrounding area, the proximity of noise sensitive properties and the inherent failings of marquees in relation to noise attenuation mean that the site is not suitable for a wedding/events business relying on marquees.

Transportation

While the application subjects sits within a large plot it is a single dwellinghouse and its access and parking arrangements reflect the existing established use. The access to the site is via a narrow unsurfaced driveway that does not accommodate two-way traffic. The existing junction with Newmills Road has restricted visibility due to the presence of boundary walls on either side of the entrance. The house has large areas of gravel parking/circulation space to the front and rear; the current layout could potentially accommodate 10-15 cars.

The supporting statement submitted with the application acknowledges the restricted visibility of the junction and proposes that use of the junction is controlled by means of only allowing parking for guests staying within the 5 bedrooms of the house. The remaining wedding guests would be encouraged to use either taxis or coaches to access the wedding. No details have been supplied of how this could be enforced. The likelihood is that some guests would choose to park on surrounding streets; this

would put added pressure on the limited on-street parking within the surrounding residential area and may lead to inconsiderate and unsafe parking.

The Council's Policy and Road Safety Manager has considered the information provided and concluded that the proposed access and parking arrangements raise road safety concerns. The constraints of the site mean that it is not suitable for use as an events venue.

Flood Risk

The application site is a riverside location and portions of the site fall within the high risk areas identified on the SEPA flood risk map. The proposed location for the marquee is outwith the high risk areas. The application fell below SEPA's threshold for consultations and therefore SEPA were not consulted.

Recommendation: Refuse Planning Permission

Reasons for Refusal:

1. It has not been satisfactorily demonstrated that the proposed use as a temporary events venue can operate without damaging residential amenity or disturbing noise sensitive uses. The proposal is therefore contrary to policies RD1, ENV3 and ENV18 of the Midlothian Local Development Plan.
2. The site has insufficient parking; a narrow access that does not accommodate two-way traffic flow; a junction with limited visibility; and no separate pedestrian access. The proposed use raises road safety concerns and the proposal is therefore contrary to policies RD1 and ENV3 of the Midlothian Local Development Plan.
3. The proposed use cannot be considered as ancillary development relevant to an existing use and therefore the principle of the development is contrary to policy ENV3 of the Midlothian Local Development Plan.



Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 19/00884/DPP

Douglas Strachan
11 South Street
Dalkeith
EH22 1AH

Midlothian Council, as Planning Authority, having considered the application by Ms Sally DeWaard, The Old Millhouse, 40 Newmills Road, Dalkeith, EH22 2AQ, which was registered on 25 October 2019 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

Change of use from dwellinghouse to dwellinghouse and temporary events venue and associated erection of marquee at The Old Mill House, 40 Newmills Road, Dalkeith, EH22 2AQ

In accordance with the application and the following documents/drawings:

<u>Document/Drawing.</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	3.01 1:1250	25.10.2019
Site Plan	3.02 1:500	25.10.2019
Other Statement		25.10.2019

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

1. *It has not been satisfactorily demonstrated that the proposed use as a temporary events venue can operate without damaging residential amenity or disturbing noise sensitive uses. The proposal is therefore contrary to policies RD1, ENV3 and ENV18 of the Midlothian Local Development Plan.*
2. *The site has insufficient parking; a narrow access that does not accommodate two-way traffic flow; a junction with limited visibility; and no separate pedestrian access. The proposed use raises road safety concerns and the proposal is therefore contrary to policies RD1 and ENV3 of the Midlothian Local Development Plan.*
3. *The proposed use cannot be considered as ancillary development relevant to an existing use and therefore the principle of the development is contrary to policy ENV3 of the Midlothian Local Development Plan.*

Dated 5 / 12 / 2019

.....
Duncan Robertson
Lead Officer – Local Developments, Fairfield House, 8 Lothian Road, Dalkeith, EH22 3ZN

