



APPLICATION FOR PLANNING PERMISSION (12/00635/DPP) FOR AMENDMENT TO CONDITION 31 OF PLANNING PERMISSION 07/00303/FUL (MIXED USE DEVELOPMENT COMPRISING SUPERMARKET, CLASS 4 LEISURE/RESTAURANT/BAR/HEALTH AND FITNESS UNIT AND RETAIL/OFFICE/RESTAURANT UNIT, FORMATION OF SERVICE YARD AND CAR PARKING) TO EXTEND THE TIME FRAME IN WHICH TO IMPLEMENT THE APPROVED PERMISSION AT THE BUS GARAGE, ESKBANK ROAD, DALKEITH, MIDLOTHIAN

Report by Head of Planning and Development

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 This application is for the extension of time until 2015 of planning permission 07/00303/FUL for a mixed use development comprising supermarket, class 4 leisure/restaurant/bar/health and fitness unit and retail/office/restaurant unit, formation of service yard and car parking at the bus garage site, Eskbank Road, Dalkeith. There has been one letter of representation and no consultations were required. The relevant development plan policies are DP7, SHOP1, RP20, RP22, TRAN1, TRAN2 of the adopted Midlothian Local Plan and Policy RET1 of the Edinburgh and the Lothians Structure Plan 2015. The recommendation is to grant planning permission subject to conditions.

2 LOCATION AND SITE DESCRIPTION

- 2.1 The site is the building and car park of the former bus depot, located on the west side of Eskbank Road. The depot was used for storing and repairing buses. The building also contains five small shop units. It lies towards the western extent of Dalkeith Town Centre and is bounded to the northwest by the combination of a cemetery and a public car park and to the south east by Eskbank Road. The boundary to the north east is a combination of Ramsey Croft - the access road leading to the aforesaid public car park, and the service yard of Dalkeith sorting and delivery office at 10 Eskbank Road. It is bounded to the south west by the grounds of Dalkeith Rugby Club.
- 2.2 The site is about 1ha in size and is roughly rectangular in plan, stretching in a north-east to south west direction. The south eastern extremity of the site lies within Eskbank and Ironmills Conservation Area.

3 PROPOSAL

3.1 Planning permission 07/00303/FUL was granted on 5th February 2008 for a mixed use development comprising:

- Supermarket,
- Class 4/leisure/restaurant/bar/health and fitness unit,
- Retail/Office/restaurant unit,
- Formation of service yard and car parking.

3.2 Condition 31 of planning permission 07/00303/FUL states:

“The development hereby permitted shall be begun within five years from the date of this permission.

Reason: *To accord with the provisions of Section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning etc (Scotland) Act 2006).*

3.1 Planning permission is now sought to amend condition 31 of planning permission 07/00303/FUL to extend the time limit for commencement of the development for 3 years until November 2015.

4 BACKGROUND

4.1 Planning application 07/00303/FUL, the terms of which as noted above, was granted permission on 5th February 2008.

4.2 The applicant informs that the implementation of the development has relied on their tenant (First Bus) vacating the existing bus depot premises and terminating their lease. From 2008 First Bus considered a number of relocation proposals but were unable to find a suitable scheme that met their operational requirements. Earlier this year they confirmed their intention to terminate the lease with effect from 25th November 2012. Owing to the period of time that has elapsed, the legal agreement with the original operator (Sainsbury's) has lapsed and Forrest Developments is now discussing revised proposals with other potential operators. With the original planning permission due to expire in February 2013, it is necessary for Forrest Development to extend the period of the planning permission to allow the company to conclude these discussions. The process to achieve this is by submission of this current planning application to the Council under Section 42 of the Town & Country Planning (Scotland) Act 1997 to amend condition 31.

4.3 Pre Application Consultation 12/00418/PAC for the amendment of Condition 31 of Planning Permission 07/00303/FUL to extend the timeframe in which to commence development was received on 3rd July 2012.

5 CONSULTATIONS

- 5.1 No consultations were required.

6 REPRESENTATIONS

- 6.1 One letter of representation has been received raising concerns about the application. The issues raised are as follows:
- Concern about noise from deliveries, the waste compactor and from roof plant;
 - Unsuitable design for the Dalkeith and Eskbank Conservation Area;
 - The sprinkler tank, pump will appear unsightly;
 - Odour nuisance from cooking fumes from the in-store bakery; and
 - Concerns about dust nuisance during periods of construction.

7 PLANNING POLICY

- 7.1 The development plan is comprised of the Edinburgh and the Lothians Structure Plan 2015, approved in June 2004, and the Midlothian Local Plan, adopted in December 2008. The following policies are relevant to the proposal:
- 7.2 Edinburgh and the Lothians Structure Plan 2015 Policy **RET1: (Sequential Approach to the Location of Retail and Commercial Leisure Developments)** sets out a hierarchy of priority, within which retail, commercial leisure and other developments appropriate to town centres should be located.
- 7.3 Midlothian Local Plan Policy **SHOP1: Town Centres** states that development proposals which bring about an improvement to the range and quality of retail and commercial leisure facilities provided in the town centres will be considered favourably.
- 7.4 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.
- 7.5 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.
- 7.6 Midlothian Local Plan Policy **DP7: Control of Class 3 (Food and Drink) Uses and Hot Food Takeaway Shops** states that if the proposed restaurant includes a hot food takeaway element, it will be considered in terms of the section of this policy relating to hot food takeaways and restaurants with ancillary hot food takeaway elements. The policy states that appropriate locations for hot food takeaways would be within a town centre, local or neighbourhood shopping centre or a predominantly commercial or business area.

- 7.7 Midlothian Local Plan Policy **TRAN1: Sustainable Modes of Transport** states that major travel-generating uses will only be permitted where they are well located in relation to existing or proposed public transport services, are accessible by safe and direct routes for pedestrians and cyclists, and accord with the Council's Local Transport Strategy.
- 7.8 Midlothian Local Plan Policy **TRAN2: Waverley Rail Line (Proposal)** supports the early implementation of the Waverley railway (since renamed Borders Rail Line) and related infrastructure;

8 PLANNING ISSUES

- 8.1 The main issue to be determined is whether the proposal accords with the development plan unless material planning considerations indicate otherwise. The representation received is a material consideration.
- 8.2 The nature of the proposed development remains the same as was originally granted planning permission 07/00303/FUL. Since planning permission was granted the current Midlothian Local Plan (2008) has been adopted. The policies of the current local plan relevant to the determination of this application generally replicate the policies against which application 07/00303/FUL was assessed. There are no environmental or amenity issues arising from the current application which would warrant refusal.
- 8.3 All of the matters raised in the letter of representation were addressed in the report on the previous planning application 07/00303/FUL, and there have been no changes of circumstance of such significance which would change that assessment of those issues.

9 Recommendation:

- 9.1 It is recommended that planning permission be granted for the following reason:

The proposal to extend the timeframe for the implementation of this development would not result in significant harm to the character and amenity of the area or the amenity of any neighbouring property. It accords with the relevant provisions of the Development Plan; and this is not outweighed by any other material considerations.

Subject to the following condition:

1. The development hereby permitted shall be begun within eight years from the date of this permission.

Reason: *To accord with the provisions of Section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning etc (Scotland) Act 2006).*

2. This permission relates solely to the amendment of condition 31 of planning permission 07/00303/FUL, dated 5th February 2008 and does not affect any other outstanding conditions related to that planning permission.

Reason: *In order that other outstanding conditions remain in force.*

Ian Johnson
Head of Planning and Development

Date: 12 November 2012

Application No:	12/00635/DPP (Available online)
Applicant:	Forrest Developments, 7 Seaward Street, Glasgow, G41 1HJ
Validation Date:	13th November 2012
Contact Person:	Adam Thomson
Tel No:	0131 271 3346
Background Papers:	07/00303/FUL & 12/00418/PAC.