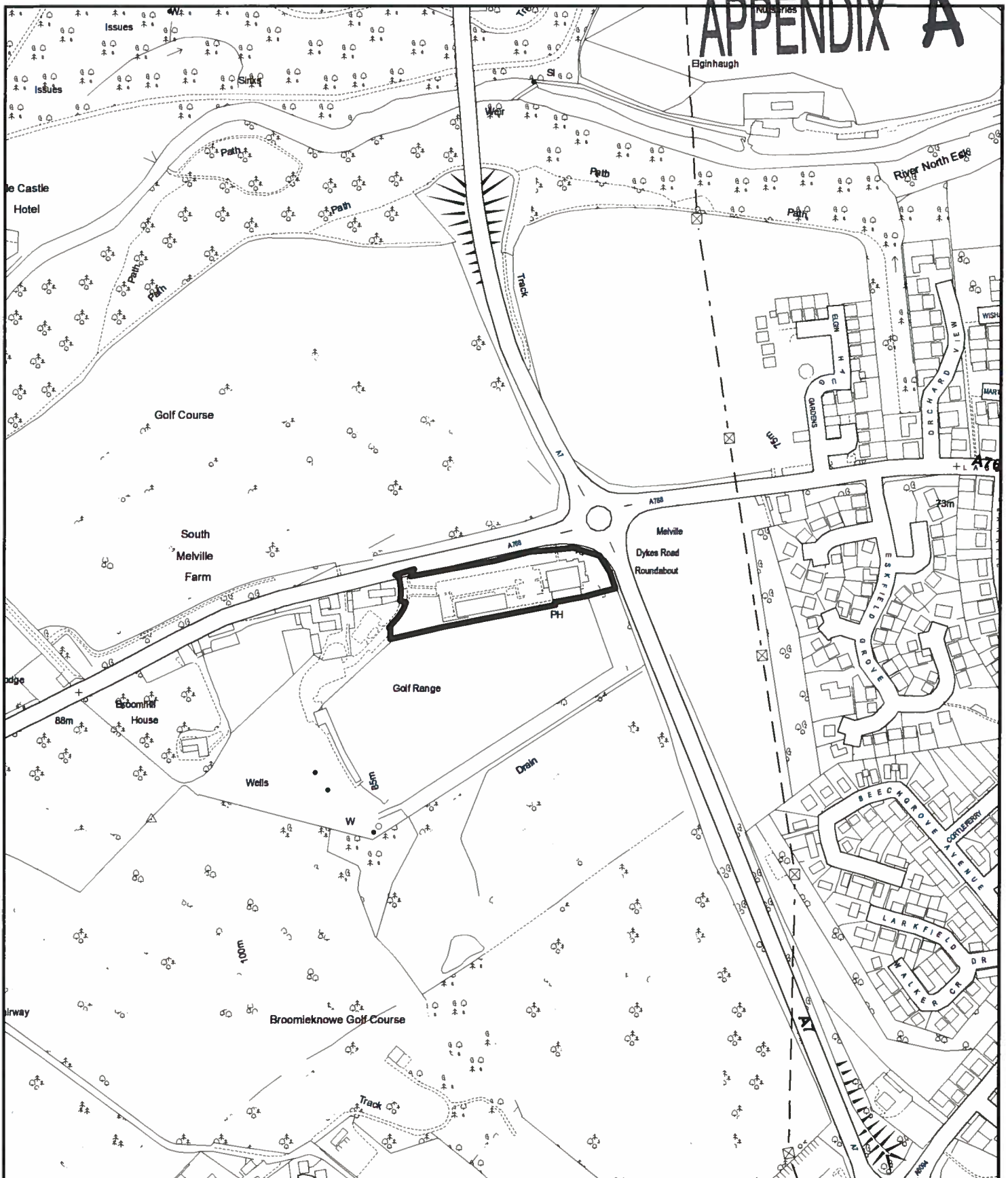


APPENDIX A



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

Erection of 20 metre high fence at Premier Inn, Lasswade

File No. 13/00725/DPP

Scale: 1:5,000

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Midlothian Council Licence No. 100023416 (2014)



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 necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 000077878-001

The online ref number 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:

Ref. Number:

First Name: *

Last Name: *

Telephone Number: *

Extension Number:

Mobile Number:

Fax Number:

Email Address: *

You must enter a Building Name or Number, or both:*

Building Name:

Building Number:

Address 1 (Street): *

Address 2:

Town/City: *

Country: *

Postcode: *

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

☐ Individual ☒ Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:

Other Title:

First Name:

Last Name:

Company/Organisation: *

Telephone Number:

Extension Number:

Mobile Number:

Fax Number:

Email Address:

You must enter a Building Name or Number, or both:*

Building Name:

Whitbread Court

Building Number:

Address 1 (Street): *

Houghton Hall Business Park

Address 2:

Porz Avenue

Town/City: *

Dunstable

Country: *

Dunstable

Postcode: *

LU5 5XE

Site Address Details

Planning Authority:

Midlothian Council

Full postal address of the site (including postcode where available):

Address 1:

PREMIER INN

Address 5:

Address 2:

MELVILLE DYKES ROAD

Town/City/Settlement:

LASSWADE

Address 3:

Post Code:

EH18 1AH

Address 4:

Please identify/describe the location of the site or sites.

Northing

666605

Easting

331561

Description of the Proposal

Please provide a description of the 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)

Increase height of golf ball stop fencing from 15 metres to 20 metres.

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 of 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.

Please see Supporting Review Statement

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 now be considered in your review: * (Max 500 characters)

The new information is fully explained within the Review Statement.

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)

Review Statement

Application Details

Please provide details of the application and decision.

What is the application reference number? *

13/00725/DPP

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

09/10/13

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

03/12/13

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

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: Emma Whitney

Declaration Date: 26/02/2014

Submission Date: 26/02/2014

**Premier Inn and Table Table Restaurant
Melville Dykes Road, Dalkeith**

REVIEW STATEMENT

February 2014

Issue	Date	Status	Issued by	Checked by
1	05/02/2014	1 st Draft	EW	MK
	25/02/2014	2 nd Draft	EW	MK
2	25/02//2014	Final	EW	MK



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Appendix 1 – Photos and plan of photos of site and surroundings

Appendix 2 – images from google street view

Appendix 3 – Mike Copson

Appendix 4 –Appeal Decision, Birds Hill Golf Centre

Appendix 5 – Updated incident log

Appendix 6 – Photo of damage to car

Appendix 7 –Environmental Health memo

1 INTRODUCTION

1.1 This Statement seeks to clearly outline the reasons for seeking a review by the Midlothian Review Body. In this respect it sets out all the matters which should be taken into account in determining the review.

1.2 A planning application was submitted on 9 October 2013 to:

"Increase height of golf ball stop fencing from 15 metres to 20 metres".

1.3 Contrary to the assertion made in the Planning Officer's delegated report the application is not retrospective as the proposed extension to the fence has not yet been erected.

1.4 The application was refused on 3 December 2013. The reason for the Council's decision was stated on the Refusal Notice as :

"The proposed development will be incongruous in the local landscape and will have a significant detrimental impact on the visual amenity and landscape setting of the Green Belt, area of countryside, area of great landscape value and nearby designated landscape. Therefore the proposed development is contrary to the aims of policies RP1, RP2, RP6, RP7 and RP25 of the adopted Midlothian Local Plan, which aim to protect and enhance the landscape character of the Midlothian area."

1.5 The applicant, Whitbread Plc, feel strongly that important health and safety concerns were not properly taken into consideration when balancing the issues and formulating a decision on the application. Moreover, that the health and safety concerns should outweigh any alleged harm to the Green Belt and the landscape setting of the site.

1.6 The applicant therefore seeks a formal review by the Midlothian Review Body.

1.7 In addition to the documents previously submitted to the Council in support of the application, this Statement seeks to outline the reasons why the application should be approved by the Review Body.

- 1.8 Section 2 provides a detailed description of the site and surroundings. Section 3 outlines the planning history of the site and the pre-application discussions which have taken place regarding the proposals. Section 4 sets out the relevant planning policies relating to the proposal. Section 5 reviews the reason for refusal and provides further justification as to why the applicant wishes a review to be conducted. Section 6 provides clear conclusions as to why Planning Permission should be granted.

2 BACKGROUND

Site and Surroundings

- 2.1 The application site consists of the Premier Inn hotel and Esk Valley Table Table restaurant with car parking. The site is adjacent to the Melville Golf Centre and driving range. The driving range and the hotel/restaurant site are currently separated by a golf ball stop fence which measures 6m high to the west of the boundary rising to 15m towards the east of the boundary.



- 2.2 The hotel building is situated in the southern half of the application site, with the restaurant building approximately 40m to the east in the eastern corner of the site, fronting the roundabout.
- 2.3 Access to the site is taken from Melville Dykes Road to the north. The access is shared with the golf driving range.
- 2.4 The site is bounded to the north and east by a mature planting strip which contains a number of trees that screen the site from the road.
- 2.5 To the west of the hotel site is the Melville Golf clubhouse and associated buildings and car parking. To the north, across Melville Dykes Road, is a 9 hole pay and play course also owned by the Melville Golf Centre.

- 2.6 To the east are open fields punctuated with large electricity pylons and the new Cala Homes development is situated approximately 300m beyond to the north east. The boundary of the Eskfield Grove development is approximately 250m to the south east.
- 2.7 Photographs of the site and surroundings are provided in Appendix 1.
- 2.8 In the wider vicinity the surrounding area is open in nature and is characterised by golf courses. Melville golf driving range is located immediately to the south, with the Broomieknowe Golf Course further beyond to the south and Kings Acre Golf Course is situated to the west of Melville Castle Hotel 1.2km from the site. Newbattle Golf Club is situated 1.5km to the east of the site.
- 2.9 The site is located to the west of the A7 and the City of Edinburgh Bypass (A720) runs approximately 1.3km to the north of the site.

The Proposal

- 2.10 The application proposes to increase the height of the 16m long section of the golf stop fence which currently measures 15m high to the maximum height of 20m.
- 2.11 The six existing, 15m high fence 'posts' were originally designed to be able to be extended to 20m if required. As such the existing fence posts would remain in place with 5m extensions added to support the additional 5m of netting to create a total of 20m high fencing.
- 2.12 The application drawings prepared by Lawrence McPherson Associates comprise:
- Site Location Plan
 - Site Plan, Elevations and Sections -1493L(2-)003A
- 2.13 The proposed fence is of lightweight mesh construction and the 6 fence 'posts' are triangular metal structures with slimline metal cross supports to provide rigidity. The structures have connectors every 5m to allow them to be extended as necessary. The maximum height of the structure will be 20m.

- 2.14 The fence runs along the boundary of the hotel site and is actually located outside of the land which is within Whitbread's ownership.
- 2.15 The fence is situated approximately 60m to the south of Melville Dykes Road. Existing landscaping and tree and shrub planting borders the site to the north and east.

3 PLANNING HISTORY & PRE-APPLICATION DISCUSSIONS

Planning History

- 3.1 The Whitbread hotel and restaurant, with associated car parking and landscaping, was originally granted planning permission by Midlothian Council in April 2010 under reference 08/00510/FUL.
- 3.2 This development was on land which was formerly owned and in use as the Melville Golf Centre. The approved plans included the relocation of the existing 6m high fence which ran along the former boundary of the Melville Golf Centre. However, it was soon clear once construction works started that the repositioned 6m high fence was not adequate in stopping balls landing within the hotel/restaurant site and given the risks in terms of damage to property and also the health and safety risk to construction staff.
- 3.3 Therefore a further application for an increase to the fence height to 9m was submitted in April 2011 and the fence was approved on 25 May 2011 under reference 11/00246/DPP.
- 3.4 Thereafter the 9m high fence was also found to be deficient in stopping the balls from travelling over the fence and damaging both property and endangering people visiting the hotel and restaurant and so, amid growing concerns regarding the safety of both staff and visitors, the height of the fence was increased and a retrospective application for a fence up to 15m submitted and subsequently approved under reference number 12/00131/DPP.

Pre-Application Discussions

- 3.5 A request for a pre-application meeting was originally rejected by Planning Officers and advice was given over the phone on 10 June 2013 that they would not support further increases to the height of the fencing.

- 3.6 However at the request of the applicant and Local Councillors, a pre-application meeting was held on site on the 6 August 2013. Discussions at the meeting centred on the wide range of alternative measures that both the applicants and the neighbouring Melville Golf Range had already taken to reduce the health and safety hazard of golf balls coming over the fence onto the Whitbread site.
- 3.7 The discussions revealed the number of incidents where property and cars had been damaged and people harmed by the golf balls hitting them or very near misses and it was explained that Whitbread kept a log of incidents which could be provided as part of the planning application.
- 3.8 The applicants also clearly explained that there were no financial gains to Whitbread as a result increasing the height of the fence. In fact the extension to the fence would involve significant investment by Whitbread, however they have a responsibility to provide a safe environment for their guests and their staff.
- 3.9 Details of Mike Copson, a golfing design expert who Whitbread had previously consulted, were passed to the Local Authority to allow them to have direct discussions about any alternative measures to reduce the health and safety risk on the site.
- 3.10 Following the meeting a written response was received from the Council stating that they would not be supportive of the application to increase the height of the fence due to the "*significant and adverse impact on the character and appearance of the area*" and they asked that other options be considered instead of increasing the fence height.

4 RELEVANT PLANNING POLICY

- 4.1 The current development plan for Midlothian comprises the Strategic Development Plan for Edinburgh and South-East Scotland and the Midlothian Local Plan. The emerging replacement Local Plan is still at very early stages of preparation.

Strategic Development Plan for Edinburgh and South East Scotland – June 2013

- 4.2 The Review site is located within area 9 in the Midlothian / Borders region. Paragraph 72 states that economic growth will be achieved through the promotion of sectors which includes tourism.
- 4.3 Policy 12 relates to Green Belts and states they will be defined and maintained for purposes which include providing opportunities for access to open space and the countryside.

The Midlothian Local Plan – December 2008

- 4.4 Relevant policies in the adopted Local Plan against which the proposal for fencing have been assessed include Policy RP1 Protection of the Countryside; Policy RP2 Protection of the Green Belt; RP6 Areas of Great Landscape Value; RP7 Landscape Character and RP25 Nationally Important Gardens and Designed Landscapes.
- 4.5 Policy RP1 of the adopted plan seeks to protect the countryside and states development will only be permitted in the countryside if it is *"required for the furtherance of uses which include recreation and tourism"*.
- 4.6 Paragraph 2.1.9 relating to Policy RP2 states that there is a general presumption against intrusion into the Green Belt, except where there are very special circumstances which includes outdoor recreation and other uses appropriate to the rural character of the area. Criterion C of Policy RP2 states that proposals which are related to other uses appropriate to the rural character of the area will be permitted.
- 4.7 Policy RP6 states that development which adversely affects the special scenic qualities and integrity of the AGLVs will not be permitted. In determining the impact of

proposals "*consideration will be given to the scale, siting, design, form and materials*".

- 4.8 Policy RP7 seeks to prevent development which will adversely affect the quality of the local landscape. Where development is acceptable it will respect the local landscape character and contribute towards its maintenance and enhancement.
- 4.9 Policy RP25 prevents development which would harm the character, appearance or setting of a garden or designed landscape which is included in the Inventory of Historic Gardens and Designed Landscapes.

5 EVALUATION OF PROPOSAL

Reason for refusal

- 5.1 Midlothian Council as Planning Authority put forward one reason for refusing the proposal for the 20 metre high fence.

"The proposed development will be incongruous in the local landscape and will have a significant detrimental impact on the visual amenity and landscape setting of the Green Belt, area of countryside, area of great landscape value and nearby designed landscape. Therefore the proposed development is contrary to the aims of policies RP1, RP2, RP6, RP7 and RP25 of the adopted Midlothian Local Plan, which aim to protect and enhance the landscape character of the Midlothian area.

- 5.2 In this section we set out the planning case for the development.
- 5.3 The Melville Golf Centre and driving range, Premier Inn Hotel, Table Table restaurant, and the existing 15m high fence are already in existence and are established uses in the Green Belt. The principle of a golf stop fence in this location has been established, the development does not propose an entirely new fence, but an extension to add 5m of mesh netting for a 16m length and extend the existing 6 'posts' by a further 5m.
- 5.4 The Planning decision as to whether a further increase to its height is justified must balance the visual impact of the mesh and fence posts with the health and safety risks involved if the fence remains 15m high. The issue to be considered is therefore whether an increase in height to improve health and safety is, on balance, acceptable.

The Local Landscape

- 5.5 The first part of the reason for refusal given is that *"the development will be incongruous within the local landscape"*.
- 5.6 The site is within an area of defined countryside and within the Green Belt. It is also close to an area of great landscape value as defined by Policy RP25. However the

existing 15m high fence does not adversely impact on this neighbouring area and immediately opposite the site is further golf course. A heavy band of trees along the North Esk River separates and screens the existing fence from view from Melville Castle and the lightweight nature of the proposed fence extension would mean that it is not visible from long distances.

5.7 In addition, as described within Section 2 of this Statement, within a two mile radius of the Premier Inn hotel and restaurant site there are four separate golf courses:

- Melville Golf Centre;
- Broomieknowe Golf Course;
- Kings Acre Golf Course; and
- Newbattle Golf Course.

5.8 Golf courses therefore play a large part in forming the character of the local area. One would expect to see mesh fencing associated with a golf course and indeed mesh fencing is used along the border of the Broomieknowe Golf Course and the A7.

5.9 The existing mesh, golf stop fencing is already in place, therefore a proposed 5m extension is not incongruous within the local landscape.

Visual Amenity

5.10 The second part of the reason for refusal states that there is a significant detrimental impact on the visual amenity.

5.11 The fence is situated at the rear of the hotel and restaurant site and contrary to the assertions of the Council Officers it is not a dominant feature in the area and as such the proposed increase in height would not adversely affect the quality of the local landscape.

5.12 The 20 metre high fence would stand 10 metres taller than the existing height of the hotel and restaurant building. However due to the topography of the area it is only visible from a very limited number of vantage points.

- 5.13 The golf stop fencing is also screened from view in the surrounding area by the existing buildings and trees. At the points that it is visible, the lightweight nature and construction of the fence and when viewed in the context of surrounding development which includes street lamps, road signage, poles, pylons and buildings mean that the fence is not a dominant feature and its extension would not have an adverse effect on the appearance of the area which is characterised by golf courses..
- 5.14 In the Council's delegated report it is acknowledged that the nearby pylons, street lamps, road signage are all visible in the local landscape. The last paragraph of the report states; *"It is the case that these features, which are related to essential infrastructure, do add to the clutter of manmade structures in the area, but by raising the height of the fence it will further exacerbate the clutter and cumulative impact. In addition, the other structures are serving an important need to the benefit of all"*.
- 5.15 The above statement shows that the Planning Authority afford little or no weight to the important need to reduce the health and safety risk and consider that a 5m extension to the existing fence would not serve an important need. The contrary is true.
- 5.16 When viewed from within the hotel site itself the fence is obviously visible, but it is viewed in context with the neighbouring use. It is also important to note that no letters of objection were received from the public to the application, while two letters of support were received.
- 5.17 The site is actually located within the Bonnyrigg and Lasswade Community Council District who did not comment on the application. However the neighbouring Eskbank and Newbattle Community Council did raise an objection stating that they feel the fence is extremely visible and will have a detrimental impact on appearance of the landscape.
- 5.18 However as proven by the images within Appendix 2 the fence is barely visible from the Eskbank and Newbattle District boundary.
- 5.19 The images which are taken from google street view and which were originally sent to the Council in response to the comments from the Council's Landscape Officer provide a detailed view of the surrounding area and clearly conclude that the fence cannot actually be seen from many vantage points referred to. In instances where it

is visible, it is viewed in the wider context and is certainly not a dominant feature and does not or would not have a detrimental impact on the appearance of the landscape when viewed in its surroundings.

5.20 A copy of the images are included at Appendix 2. We also request that the Members of the Review Body visit both the site and the surrounding area to view the fence in context with the surrounding landscape.

5.21 In conclusion, whilst it is acknowledged that there is likely to be a small impact on the visual amenity of the area this is not considered to be "*significantly detrimental*" as the fence is made of a lightweight, see through, mesh material and the six fence 'posts' are also lightweight metal structures. Whilst the 'posts' may be visible from some vantage points, they are not overly dominant and are viewed in context with the surrounding street furniture and electricity pylons and are therefore not incongruous.

Setting within the Green Belt and Countryside

5.22 It is acknowledged that the site is within the designated countryside and Green Belt under policies RP1 and RP2 respectively. However there is policy support for the continuance of both the Premier Inn hotel and Table Table restaurant use and the Melville Golf Centre.

5.23 Policy RP1 states that development which is required for the furtherance of uses, including recreation and tourism, will be permitted. The fence is required to ensure the hotel and restaurant can continue to operate safely and the driving range continues to operate and the area does not lose an important facility.

5.24 Policy RP2 also offers support for the proposals if they provide opportunities for access to the open countryside, outdoor sport or outdoor recreation which reduce the need to travel further afield and / or proposals that are related to other uses appropriate to the rural character of the area.

5.25 The fence is related to the driving range which is an approved use within the Green Belt and therefore the proposal complies with criterion C of Policy RP2.

5.26 It is considered that the proposed development is supported by Local Plan Policy and is acceptable development within the Green Belt and Countryside.

Area of Landscape Value and Nearby Designed Landscape

- 5.27 The site is adjacent to but not within a designated 'Area of Landscape Value' and the Council maintains in their reason for refusal that the proposal would have a detrimental impact on the visual amenity of the area and the nearby designed landscape.
- 5.28 However neither the existing fence nor the proposed 5m extension to provide a 20m high fence would result in an adverse effect on amenity. It is contested that the fencing would be highly visible from either short, medium or long distance views.
- 5.29 Just as the nearby, very tall, electricity pylons measuring well in excess of 30m do not dominate the landscape when viewed from a distance, the very lightweight nature of the fence and the six support pylons will not be dominant in the local landscape, whether viewed in spring and summer when the trees are in leaf, or autumn and winter when they are not.

Alternative Measures

- 5.30 The Planning Officer's Delegated report states that despite having previously supported the development of this site as a hotel and supporting the erection of a 15m high fence, these decisions were made by balancing the health and safety risks and their perceived impact on visual appearance. Their conclusion when refusing the request to increase the height of the fence to 20m is that; *"a time must come where the balance tips, and that the impact on the landscape is so significant that the health and safety aspect is outweighed, particularly where there appear to be other options available which the applicant has failed to demonstrate have been adequately investigated"*.
- 5.31 The alternative measures already carried out by the owner of the golf driving range were discussed at the pre application meeting on the 6 August 2013. In addition, Section 4 of the Planning Statement submitted with the application is entitled 'Alternative Measures' and sets out the range of measures already considered and implemented by Melville Golf in conjunction with Whitbread.
- 5.32 To summarise, these alternative measures included:

- Erecting notices at the driving range setting out the rules and warning customers against hitting balls over the fence deliberately;
- Monitoring the range with CCTV cameras;
- Ejecting customers found to be breaking the rules and deliberately aiming balls over the fence;
- Re-positioning powertee mats southwards to prevent deliberate shots over the fence;
- Banning the use of orange tees, which are higher than the tees provided by Melville to prevent balls from going higher in the air;
- Closing off four driving bays closest to the hotel.

5.33 Since the application was made Melville Golf have also re-orientated and repositioned the driving bays. Works were carried out over the 2013 Christmas period when the range was quiet to ensure there was minimal disruption to the business.

5.34 The bays have now been repositioned to angle the driving range towards the south and the Broomieknowe Golf Course. The green netting stands have also been moved out into a position to seek to make it very difficult to hit balls towards the hotel.

5.35 In addition, the first bay which is closest to the hotel has been designated as a family driving bay and is therefore only in use by children to further minimise the risk of balls being hit over the fence.

5.36 It is acknowledged that this information regarding the repositioning of the bays was not before the Planning Officers at the time of the decision. This is because the decision to re-orientate the bays was only taken following the refusal of the permission as a further effort to reduce the health and safety risks which is the prime consideration to both the applicant and the operator of the driving range.

5.37 These actions may have decreased the risk of health and safety incidents and verbal reports from the ball collectors at the driving range has indicated that there are fewer balls located close to the fencing as a result. However despite these further

measures being actioned there have recently been two incidents logged by Whitbread on 4 February. The first reported was a ball which very narrowly missed hitting a van in the car park whilst passengers were inside. The second incident was a ball nearly hitting a guest's car driving in to the car park.

- 5.38 The works to move the bays have been carried out at considerable cost to the Melville Golf Driving Range (in excess of £60,000) and whilst they have been somewhat successful in reducing the number of golf balls over the fence, as previously advised they have not eliminated the risk.
- 5.39 Whitbread have previously consulted with Mike Copson a specialist in designing golf courses and driving ranges with over 23 years' experience. An extract from his website is included at Appendix 3 for reference.
- 5.40 Mike Copson has previously recommended to Whitbread the location of the golf stop fencing is the optimal location. The fencing that was erected was specifically designed to enable it to be extended in sections if it was necessary on any one section. His advice to Whitbread was and remains that the fencing at its maximum height of 20m would provide the necessary protection Whitbread need to provide in this situation.
- 5.41 In conclusion, all other options suggested by the Council have now been explored and / or implemented. However there are still incidents of balls being hit over the existing 15m high fence. The 5m increase to the height of the fence would, it is believed, remove the risk and the consequent health and safety issues.

Health and Safety Risks

- 5.42 The risk of serious injury by a golf ball hitting a person is very great. Health and safety is a material planning consideration to which significant weight should be attributed.

Appeal Decision

- 5.43 Health and Safety was considered to be the prime consideration by an Inspector dealing with an appeal to install golf stop fencing at the Bird Hills Golf Centre in Berkshire, England (Appeal reference APP/T0355/A/08/2080593). The Bird Hills site comprises a Golf Centre and driving range located within the Green Belt and the

case is very similar to the planning application made by Whitbread in that the appellant was seeking to reduce health and safety risks by installing a fence.

- 5.44 In deciding the appeal, the Inspector weighed up all the material considerations of the case including the visual impact of the fence and the health and safety impacts.
- 5.45 It was considered by the appellant that after a number of incidents had occurred whereby golf balls had caused risk to human health, that an increased height of fencing was required. The proposal was refused by the Local Planning Authority and at paragraph 6 of the decision the Inspector agreed with the LPA's conclusions that the fence would be *"readily visible in medium distance views, not least from level ground..."*.
- 5.46 An existing 10m fence was already in place but was not efficient at preventing golf balls from hitting cars and people. With regard to the existing and proposed fencing the Inspector concluded at paragraph 9 that it *"already has some impact on the openness of the area, but there can be very little doubt that the additional height and new towers would significantly add to the impact"*.
- 5.47 The Inspector was also unsure whether a fence height of 15m would actually be sufficient to prevent golf balls from being driven over the fence completely and concluded that the fence would harm the Green Belt. However he also concluded at paragraph 10 that the existing 10m fence was inadequate and *"there will always be some element of risk and **the higher the fence the greater the reduction in risk**"* (our emphasis).
- 5.48 With regard to the golf centre the Inspector stated at paragraph 10 that as an established business *"I consider it would be **unreasonable** to expect it to close or for the driving range building to be taken down and built on a different alignment"*.
- 5.49 The Inspector clearly understood that the operator of the driving range was already going to considerable lengths to introduce a range of alternative measures to reduce the health and safety risk from golf balls. These measures included the use of CCTV to identify rogue users of the driving range and preventing the use of high compression balls (It is clearly important to note that these measures, and more, have already been implemented by the Melville Golf Centre).

- 5.50 The Inspector also accepted the appellant's argument that *"the additional fencing is required solely for safety reasons and would necessitate significant capital investment with no financial benefit"*.
- 5.51 At paragraph 12 the Inspector concludes that *"the combination of the urgent need to improve safety at this site; the lack of any clear and reasonable alternative to meet the safety need; the potential to ameliorate the impact of the development by means of landscaping; and the opportunity that the development would provide to enable this established sports facility to continue operating in its present form, combine to represent the very special circumstances which clearly outweigh the harm that would be caused by reason of inappropriateness in the Green Belt together with the harm that the development would cause to the openness of the Green Belt and the appearance of the area"*.
- 5.52 The Inspector allowed the appeal as the opportunity to improve safety was of greater importance to the purported visual harm the fence would cause. A copy of the decision is included at Appendix 5.
- 5.53 While in the care of the Review proposals we consider the visual impact of the increased height of the fencing to not be as great as in the Birds Hill Case, we consider the Review Body should place similar weight to the health and safety issues and come to a similar balanced conclusion.

The risks if the fence height is not increased

- 5.54 Evidence has already been provided to the Council regarding the frequency and details of incidents that have occurred when golf balls have been hit over the existing 15m high fence. An updated incident log is provided at Appendix 5. It is by good fortune that so far nobody has been seriously injured by way of their person or their vehicle being struck by a golf ball.
- 5.55 The updated incident log shows there have been four more incidents since the planning application was lodged on 9 October 2013. A car was struck by a ball on 18 November 2013; another car was hit by a ball in early December; in February 2014 two balls were hit over the fence and these both involved very near misses with people in vehicles within the car park. The photo in Appendix 6, taken in August

2013, of damage to a passenger window of a car shows how serious it could be if someone was in the car at the time of the impact.

Consultations

- 5.56 Despite the health and safety risks surrounding this proposal, the Council did not formally approach the Midlothian Council's Health and Safety Officer as part of the formal consultation process for this application.
- 5.57 The applicant contacted the Council's Environmental Health Department in November 2013 to ask for views on the proposals from a health and safety perspective. In telephone discussions it was revealed that they were supportive of any actions to reduce the risk to human health.
- 5.58 A memo was then sent from the Environmental Health Department to the Planners dated 28 November 2013. A copy of the memo is included at Appendix 7. The memo was received by the Planners after their delegated report was circulated to elected Members and therefore no reference was made to their response within the delegated report.
- 5.59 The memo reveals that the Midlothian Council Environmental Health Officers are concerned that in other areas (including the Lothians and Fife) there have been high profile incidents where golf balls have caused serious injury and partially blinded people. If there is a proven risk to users of the car park then the Environmental Health Department have advised that it would be incumbent on the Midlothian Council to take actions to protect the health and safety of the public. By applying to increase the height of the fence the applicant is seeking to ensure that they, in partnership with the driving range and the Local Council, have undertaken all possible measures to prevent a serious incident from occurring.
- 5.60 The Council's Environmental Health Department therefore clearly recommends that any actions to reduce the risk of incidents which may result in serious injury to members of the public are supported by the Council and as such they "*strongly support the granting of the application*" proposal to increase the fencing to 20m.
- 5.61 It is unclear why the Council's Environmental Health Department was not consulted as part of the application process. It is acknowledged that their memo was only received on 28 November 2013 and this is why no reference was made to their

recommendations within the Delegated Report. However given it was received one week before the decision was due to be made on 5 December 2013, the Planning Officer's report should have been updated to reflect their comments, even if this had delayed the decision.

- 5.62 As such it is considered that the material planning considerations, of which health and safety is one of many, have not been properly or fairly balanced by the Planning Authority and that too much weight has been given to the comments from the Landscape Department with little or no value placed on the health and safety benefits which would help to reduce the risk of serious injury to the public and staff at the site.

Economic Benefits

- 5.63 The golf driving range employs 15 people from the local area. It provides a sporting facility for both local people and tourist visitors to the area. As such it is considered to be a valuable asset to the local economy. Likewise the hotel and restaurant employee over 40 full and part time staff.
- 5.64 If the increase to the height of the fence is not allowed there is a danger that a serious health and safety incident could occur which could potentially lead to the closure of the driving range, and the loss of 15 local jobs.
- 5.65 The cost of increasing the height of the fence is considerable (in excess of £20,000) and whilst there is no financial benefit to Whitbread from the significant capital investment required, they understand that to continue to operate the hotel and restaurant safely they need to make this investment.
- 5.66 Without the 5m extension to the fence height, the area could lose an important sporting and leisure facility.
- 5.67 In conclusion there are significant benefits to the local economy in increasing the fence which will help to reduce the health and safety risks.

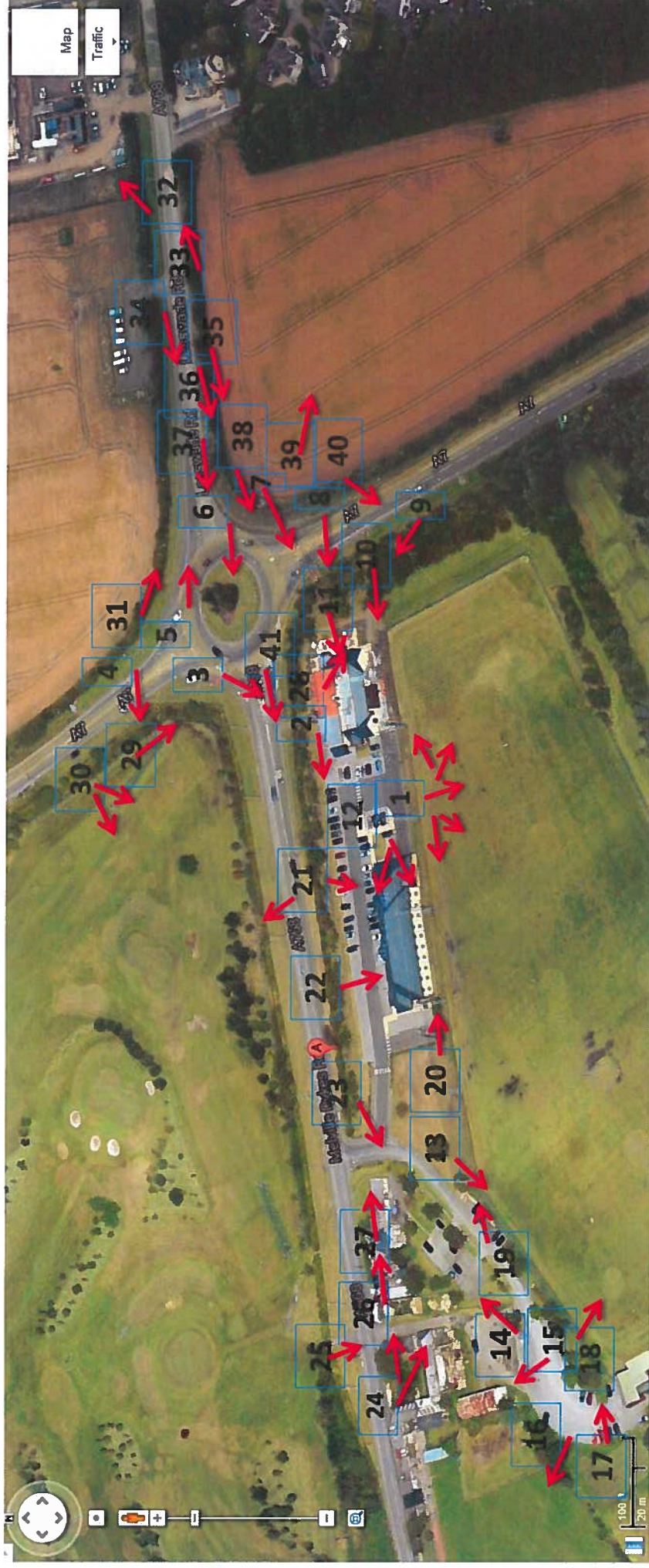
6 SUMMARY AND CONCLUSIONS

- 6.1 In the above Statement we have provided clear evidence as to why the applicant has requested a review of the Local Planning Authority's decision to refuse the proposal.
- 6.2 Great weight should be placed on the fact that the increase to the fence height would help to reduce the health and safety risk at the site whilst ensuring there is no adverse effect to local jobs and the local economy.
- 6.3 For the reasons outlined above, contrary to the Planning Authority's decision, the proposal is in accordance with the aims of the Strategic Development Plan and the Midlothian Local Plan as it will ensure both the driving range and hotel and restaurant can continue to trade successfully without risk to its employees or guests and also ensuring that the golf range can remain open.
- 6.4 It has been demonstrated that the proposal is of a lightweight design and is not incongruous within the local area in which there are several golf courses. Whilst the increase height fence would represent a scale of development which is twice the height of the existing buildings on site, the proposed materials are lightweight and will not be dominant or visible from either short or long distance vantage points.
- 6.5 The impact on the visual amenity of the landscape setting of the Green Belt, countryside, area of great landscape value and nearby designed landscape is minimal and is not significantly detrimental to the openness of the local area.
- 6.6 Policies RP1 and RP2 support the proposals for development associated with the existing tourism and recreation uses on and adjacent to the site. The fence would help to secure the longevity of those uses.
- 6.7 Whitbread have worked closely with the operator of the driving range Melville Golf Centre and all possible alternative measures to reduce the health and safety risk have already been implemented.
- 6.8 Elsewhere, in very similar circumstances, a Planning Inspector placed great weight on minimising health and safety risks, even where the development may cause harm to the Green Belt or the visual appearance of the area.

- 6.9 Compelling evidence has therefore been put forward to indicate that the proposed development should be granted. The material considerations outweigh any perceived adverse visual impacts that would be caused by the proposed development.
- 6.10 Consequently on the basis of the above evidence the applicant respectfully requests that the Review Body grants permission for this scheme.

Appendix 1

Location and Direction of Photographs



Photographs of site and surroundings



1a



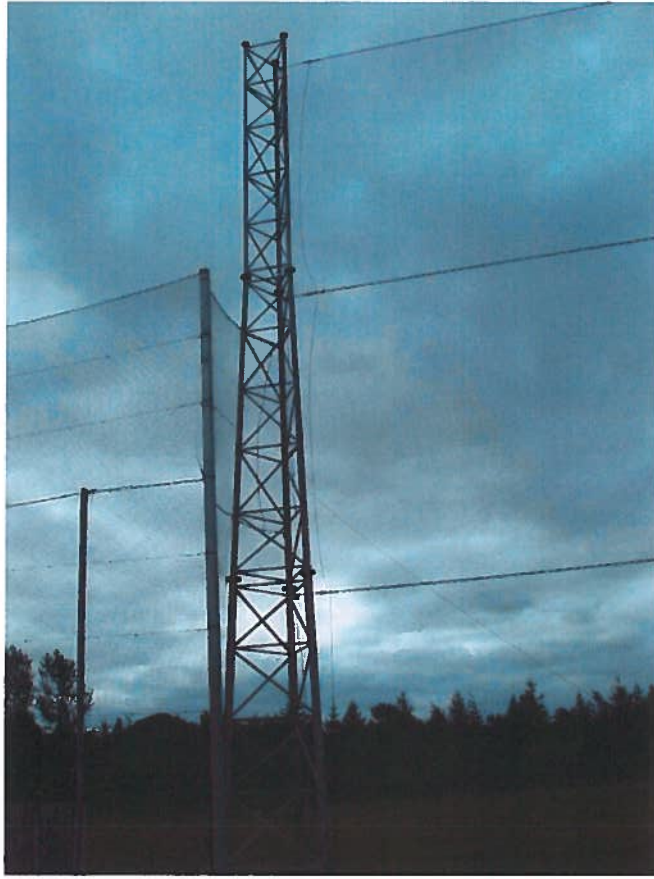
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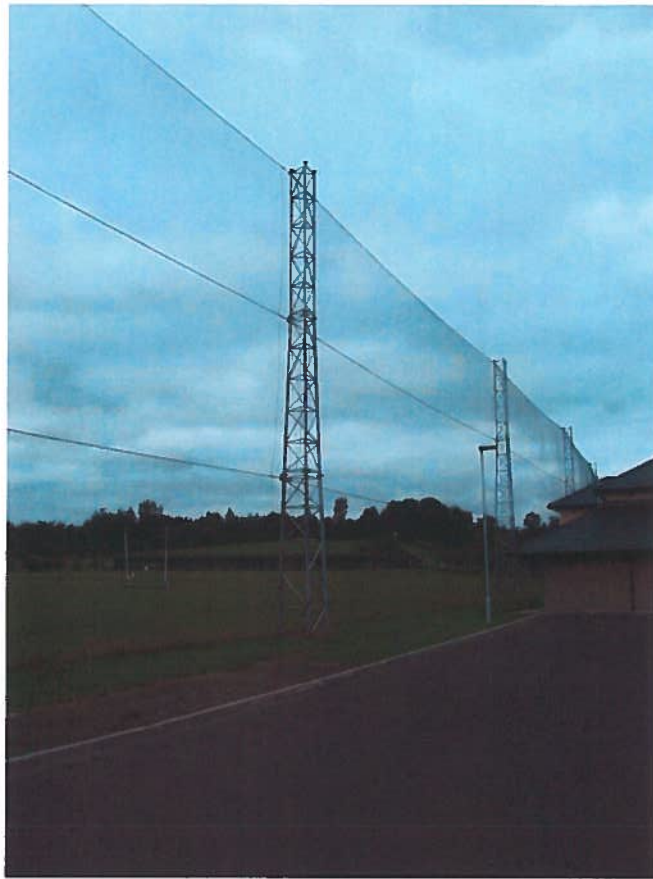
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1d



1e



1f



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3a



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12b



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28a



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29c



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29e



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Appendix 2

Views approaching the Premier Inn hotel and restaurant, Melville Dykes Road

Approaching from the south



The mesh golf stop fencing visible through the full tree cover borders the Broomieknowe Golf Course and is clearly visible when travelling along the A7. It demonstrates that mesh fencing is not uncommon in the area.

Approaching from the south



The existing 15m high fencing is not visible from this distance due to the topography of the land and existing tree cover. The proposed extension totalling 20m would also not be visible from this distance.

Approaching from the south



At a distance of 100m the existing 15m high fencing is not visible. The 20m high fence would not be visible from this distance.

Approaching from the south



When looking directly towards the hotel site from a distance of 60m, the 15m high fence is visible but it is not a dominant feature as there are lamp posts and street signage. It is considered that the 20m high fence would also not be a dominant feature.

Approach from the north



When passing nearby the Edinburgh Insect and Butterfly World at a distance of 600m neither the site, nor fence is visible. The band of tree planting along the river North Esk screens any long distance views. It is not considered that a 5m extension to the height of the fence would make it any more visible from this long distance view.

Approach from the north



When travelling over the bridge at a distance of 450m the red roof of the Table Table restaurant is visible in the far distance, however the fence is too lightweight to be prominent or visible. The proposed extension would also be of lightweight materials and construction and so despite an additional 5m it is considered it would not be either visible, or a dominant feature, particularly given the number of street lamps visible.

Approach from the north



When viewing the surrounding area it is clear that golf courses are part of the landscape. In this view it can be seen that there are telegraph poles on the golf course.

Approach from the north



View from 350m, the existing fencing cannot be seen above the roof of the restaurant, the distances involved mean that the proposed extension would also not be visible due to its lightweight materials and construction.

Approach from the north



View from 300m, the existing fencing cannot be seen above the roof of the restaurant, the distances involved mean that the proposed extension would also not be visible due to its lightweight materials and construction. Other large structures such as the 35m high electricity pylons are visible but even despite their height they are not considered to be either incongruous, nor a dominant feature that adversely affects the local landscape character.



At a distance of 200m the roof of the hotel is just visible in the far distance. One of the six fence 'posts' is also just visible above the roof, but it is light and the mesh fencing does not stand out in the landscape. It is considered that the 20m high fence would also be visible but again this important safety feature could not be considered to be either incongruous, nor a dominant feature which would adversely affect the landscape character of the area.

Approach from the north



At a distance of 150m both the hotel and restaurant buildings are visible in the distance. The 6m high mesh fence next to the Melville Golf Centre is visible and due to perspective and the topography of the land blocks any views of the 15m high fence. The 20m high fence may be more visible from this approach at this distance, however Along with the golf course and golf mesh views to the right, numerous lamp posts and pylons viewed in the landscape an extension to 20m could not be considered to be incongruous or a visually detrimental feature.

Approach from the north



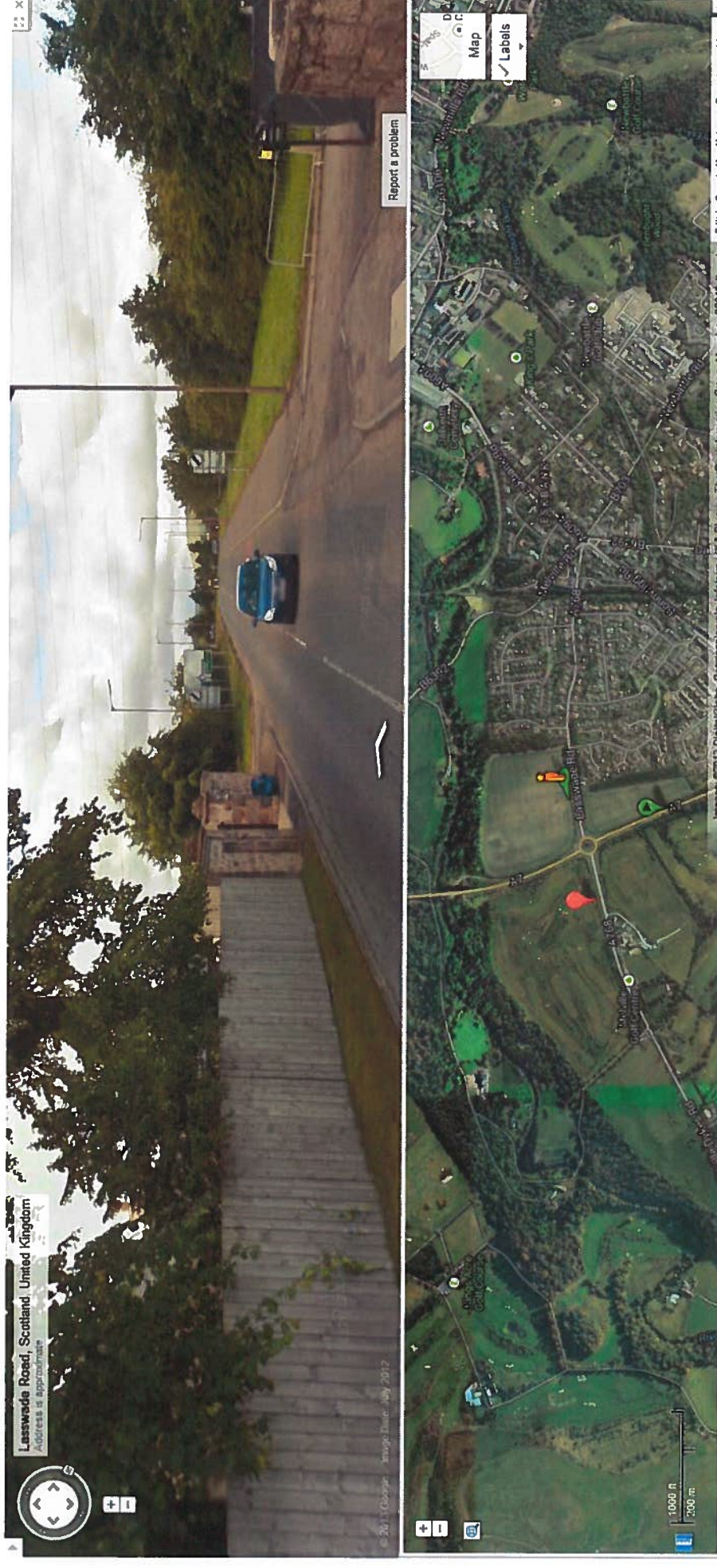
At a distance of 80m the existing fence is barely visible above the roof of the hotel/restaurant. It is acknowledged that an extension would make this more visible, but not detrimentally so. Again given the numerous fences, posts and pylons in the street scene the proposed 20m high fence would not appear to be incongruous or visually detrimental to the area.

Approach from the west



At a distance of 350m, when approaching from Lasswade Road the curve and incline of the road mean that the hotel site is not visible.

Approach from the west



At a distance of 250m the hotel / restaurant site, nor the fence is visible.

Approach from the west



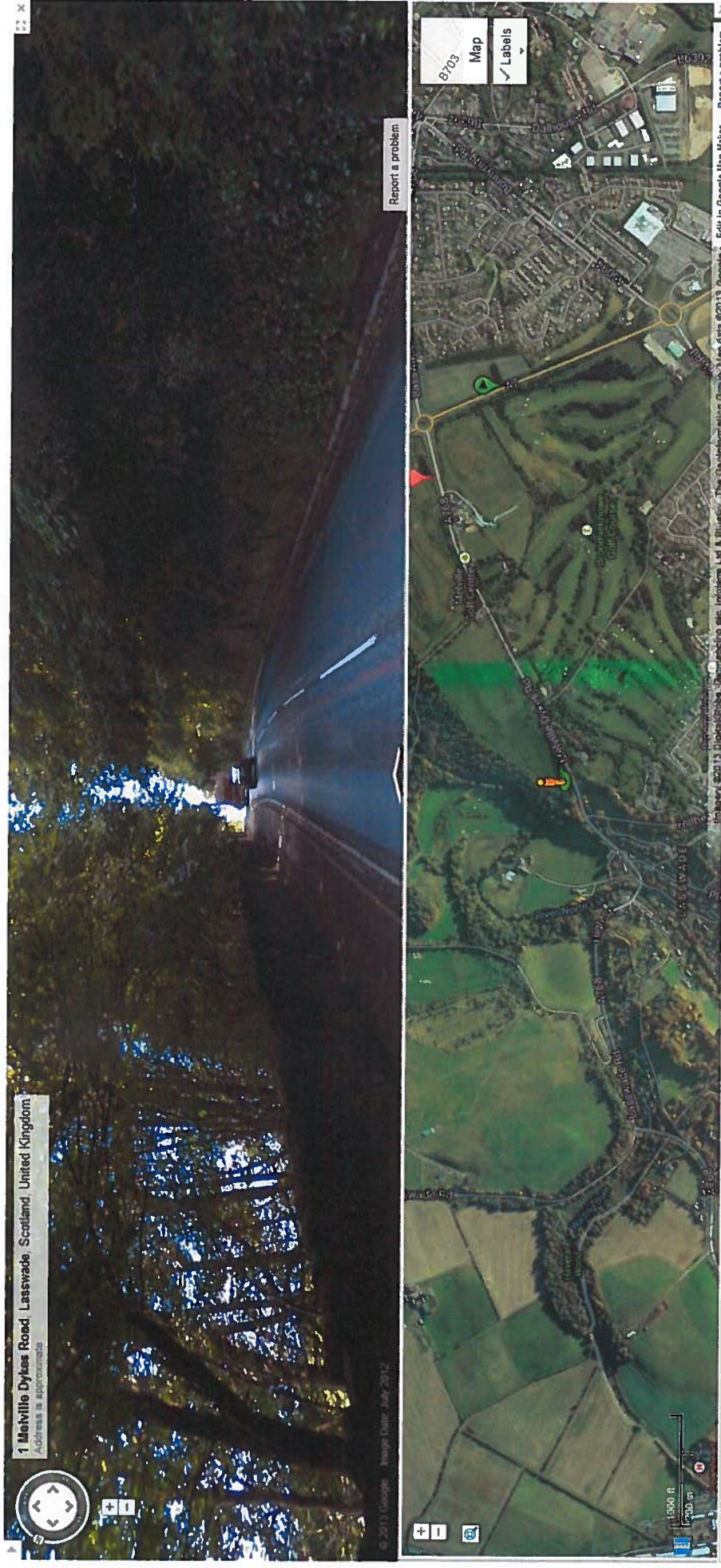
At 150m the site, nor the fence are visible.

Approach from the west



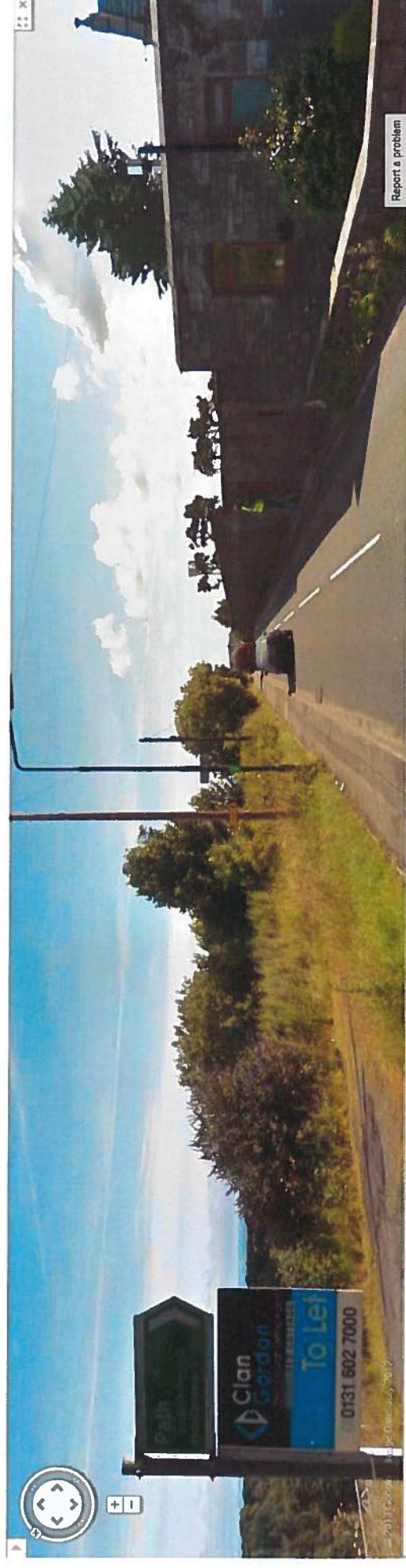
At 75m on the roundabout, the hotel and restaurant buildings are visible. One 15m high fence post is visible from this distance but as it is so lightweight it is not prominently viewed. An extension to 20m would also be visible, but again viewed in context with the road signage, lamp posts and golf mesh fencing on the right it is not considered to be incongruous or dominate views, or adversely visually affect the local landscape.

Approach from the east



At 650m the site is not visible.

Approach from the east



At 600m the site is not visible.

Approach from the east



At 550m the site nor fencing is visible.

Approach from the east



At 500m the site, nor fencing is visible.

Approach from the east



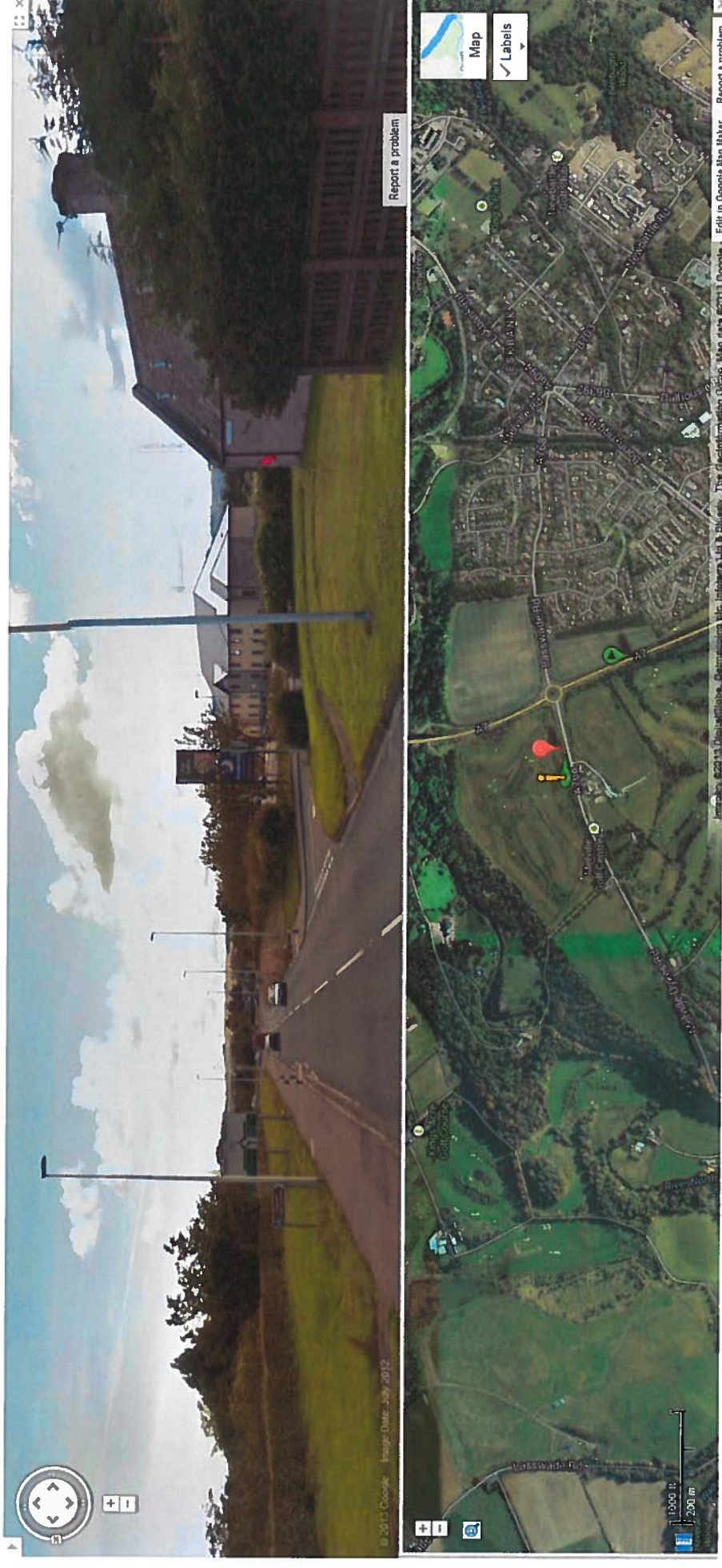
At 300m the site, nor fence are clearly visible.

Approach from the east



At 230m the Premier Inn sign is visible in the distance, one fence 'post' is visible, but is cannot be considered to be highly detrimental or a dominant feature.

Approach from the east



At the entrance to the site, the hotel and three fence 'posts' are visible, but they are not incongruous, nor do they dominate the views. They are lightweight structures which are viewed in context.

Approach from the east



Perspective means that when viewed from outside the 15m high fencing is screened by the building, signage and existing tree planting. The 20m high fence would likely be more visible but it could not be considered to be incongruous, dominant or to adversely affect the local landscape character.

Approach from the east



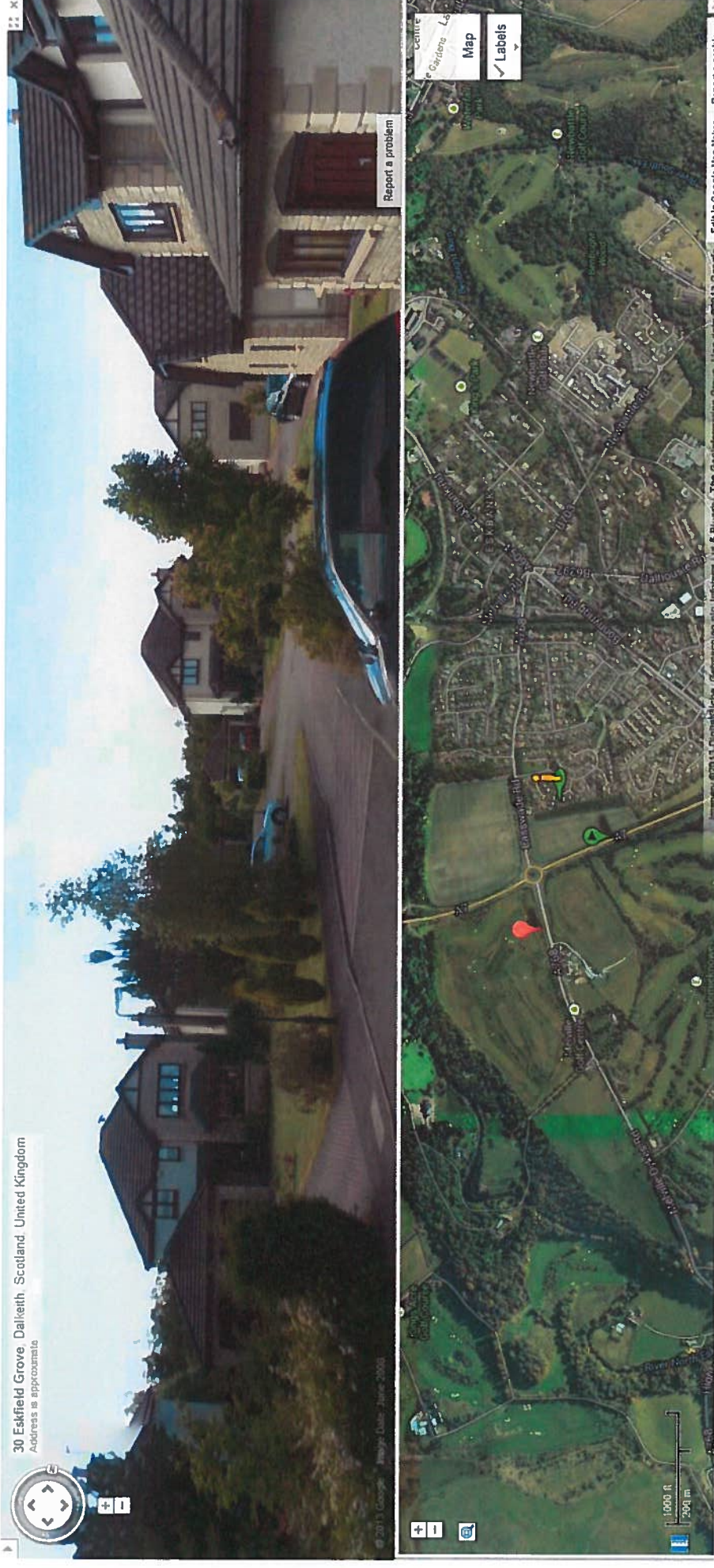
The fence post structures are lightweight and although tall, the mesh fencing is see through and they clearly do not dominate views.

View from Orchard View



Orchard View is situated over 400m from the fence and although this image is dated 2009 the topography and thick line of trees demonstrate that the Premier Inn will not be highly visible, if at all visible from this vantage point.

View from Eskfield Grove



Eskfield Grove is over 300m from the fence location and although this image is dated from 2008 it is clear that given the topography and the existing thick line of trees the Premier Inn will not be highly visible, if at all visible from this vantage point.

Appendix 3

GOLF COURSE ARCHITECTURE

NEWS AND VIEWS ON GOLF DESIGN AND DEVELOPMENT

THOMSON PERRETT & LOB

golf course architect

HOME ARTICLES SUPPLIER DIRECTORY MAGAZINE SUBSCRIBE

Mike Copson Associates

3 Land Oak House
411 Chester Road
North Kidderminster
Worcester
DY10 1TB
United Kingdom

Contact: Mike Copson



Mike Copson Associates has 23 years of experience in design and construction of golf driving ranges in the UK. During this period we have completed over 70 major projects including The PGA National Golf Academy at The Belfry. Other clients include Marriott Hotels, DeVere Hotels, Crown Golf, Burhill Group and many private golf clubs.

Other services offered are:

- Site surveys
- Feasibility studies
- Planning and building regulation applications
- Consultancy
- Budget costings
- Projected cash flow forecasts for new ranges
- Ball stop fencing design and erection
- Floodlighting design and installation
- Refurbishment and upgrading existing ranges
- Golf range equipment
- Project management

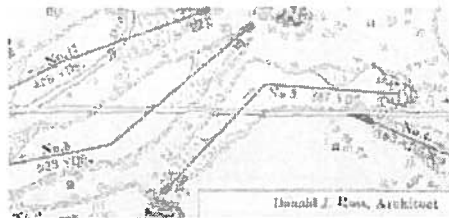
Our aim is to provide clients with a complete package from design to completion, including any of the above individual services based on our many years of experience in this field. We have built up very good and reliable working relationship with various types of sub contractors within the construction industry all over the UK, and thus can deliver quality projects within set budgets and on programme.

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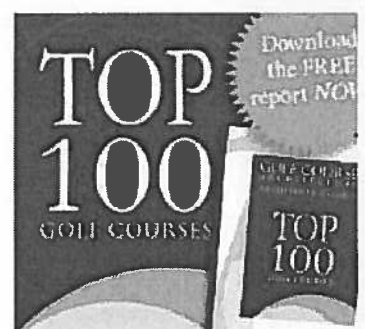
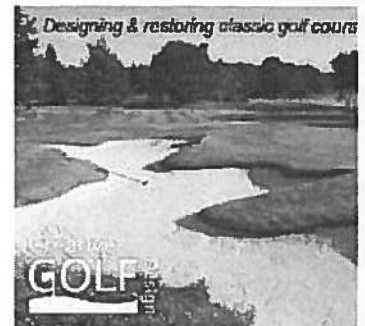
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BY ADAM LAWRENCE | 30 FEBRUARY 2014



BY ADAM LAWRENCE | 25 FEBRUARY 2014



Supplier Directory

Appendix 4



Appeal Decision

Site visit made on 10 November 2008

by **M P Hill** BSc MSc CEng MICE FGS

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gov.uk
ov.uk

Decision date:
19 November 2008

Appeal Ref: APP/T0355/A/08/2080593

**Bird Hills Golf Centre, Drift Road, Hawthorn Hill, Nr Maidenhead, Berkshire
SL6 3ST.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Bird Hills (UK) Ltd against the decision of Council of the Royal Borough of Windsor and Maidenhead.
- The application Ref 07/03109, dated 22 November 2007, was refused by notice dated 11 March 2008.
- The development proposed is to replace and extend the existing line of fencing to the driving range area with 15 metre high fencing and posts along the Ascot Road boundary.

Decision

1. I allow the appeal, and grant planning permission to replace and extend the existing line of fencing to the driving range area with 15 metre high fencing and posts along the Ascot Road boundary at Bird Hills Golf Centre, Drift Road, Hawthorn Hill, Nr Maidenhead, Berkshire SL6 3ST in accordance with the terms of the application, Ref 07/03109, dated 22 November 2007, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.
 - 3) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

Main issue

2. I consider that the main issue in this case is whether the proposal is inappropriate development in the Green Belt, and if so, whether the harm by



WR100-059-097

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reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

3. Bird Hills Golf Centre has a driving range sited at the corner of Drift Road and Ascot Road. The driving range faces Ascot Road and stray balls are kept within the boundaries of the range by an existing black net fence. Along the side of the driving area this fence is 15 metres high for about one third of its length before giving way to a section which is said to be 11 metres high. A similar section of 11 metre high fence runs close to the boundary with Ascot Road. There seems to be some confusion over the exact height of the existing fence along Ascot Road. The planning officer's report refers to the height as being 8 metres and the appellant's drawing of the existing elevation along this section shows a fence which scales significantly less than 11 metres in height. In their representations the parties have not commented on this apparent discrepancy. At my site visit, it was estimated that the fence is about 10 metres in height.
4. One of the main reasons, if not the prime reason, for the presence of the fence along the Ascot Road boundary is to protect the users of that highway from stray golf balls. I note that there is a bus stop along this length of highway and I am mindful that a number of incidents have arisen where golf balls have been driven over the existing fence and caused injury. In the 12 months before the planning application was submitted there were apparently 3 injuries caused by such incidents. One of these involved a golf ball smashing the side window of car and causing injury to the driver. Clearly this situation has the potential to cause a serious road accident.
5. The appeal site lies within the Green Belt. Planning Policy Guidance 2 (PPG2) makes it clear that there is a general presumption against inappropriate development in the Green Belt and that such development should not be approved except in very special circumstances. This approach is reflected in development plan policies. Paragraph 30 of PPG17: Planning for Open Space, Sport and Recreation indicates that planning permission should be granted in Green Belts for proposals to establish or modernise essential facilities for outdoor sport and recreation where the openness of the Green Belt is maintained. However, it points out that development should be the minimum necessary and non-essential facilities should be treated as inappropriate development.
6. I agree with the Council that the proposed length of 15 metre high fencing and lattice posts would be harmful to the openness of the Green Belt. Being close to Ascot Road such high fencing would create a marked sense of enclosure along the highway and it would be readily visible in medium distance views, not least from level ground to the east along Drift Road. Moreover, I am not convinced that it has been clearly demonstrated that the proposed fencing is the minimum amount of development necessary. It is unclear whether 15 metres is the minimum height of fence necessary to prevent golf balls being driven onto Ascot Road other than in extremely rare circumstances.
7. It is arguable that the driving range could be re-orientated away from the highway, although I appreciate that this could create dangers for users of the

golf course unless high fencing was erected elsewhere. Moreover, a repositioned driving range nearer the road could be more harmful to the openness of the Green Belt than the existing building. It is also arguable that the appellant could undertake additional checks, over and above those already undertaken, to ensure that high compression golf balls are not loaded by mistake into the dispensers for use at the driving range.

8. For the reasons set out in the above two paragraphs, I conclude that the proposal represents inappropriate development in the Green Belt. In my judgment, the development would harm the openness of the Green Belt and would be detrimental to the attractive rural appearance of the area as it would be readily visible from a variety of public viewpoints. I appreciate that there is an existing fence at this location, which already has some impact on the openness of the area, but there can be little doubt that the additional height and new towers would significantly add to the impact.
9. Nevertheless, I must bear in mind that continued use of the driving range in its existing form presents a significant danger to users of Ascot Road. The incidents that have occurred in the past, the presence of the bus stop, the volume of traffic, and the fact that this length of road is used by horse riders from time to time, demonstrate that there is significant potential for a serious and life threatening incident to occur.
10. Whether or not a 15 metre high fence is essential, there seems to be little doubt that the existing fence of around 10 metres in height is inadequate. Moreover, a length of 15 metre high fence has already been permitted along a section of the side boundary of the driving range. Presumably there will always be some element of risk and the higher the fence the greater the reduction in risk. The golf centre is a well established facility that is open to the public. Under the circumstances, I consider that it would be unreasonable to expect it to close or for the driving range building to be taken down and built on a different alignment. I understand that the appellant is investing in CCTV cameras to identify rogue users of the driving range and note the argument that the additional fencing is required solely for safety reasons and would necessitate significant capital investment with no financial benefit. I accept that the appellant cannot prevent entirely the use of high compression golf balls or other circumstances arising which could lead to golf balls being driven onto Ascot Road. The evidence indicates that the appellant goes to considerable lengths to warn users of the driving range of the dangers of using high compression balls and various measures are taken to help prevent such use.
11. The proposed fence posts, although much larger structures than the present posts, would have a significantly greater spacing. Moreover, the appellant proposes to undertake further screen planting which would help to ameliorate the impact of the development.
12. In my judgment, the combination of the urgent need to improve safety at this site; the lack of any clear and reasonable alternative to meet the safety need; the potential to ameliorate the impact of the development by means of landscaping; and the opportunity that the development would provide to enable this established sports facility to continue operating in its present form, combine to represent the very special circumstances which clearly outweigh the

harm that would be caused by reason of inappropriateness in the Green Belt together with the harm that the development would cause to the openness of the Green Belt and the appearance of the area. For this reason, I consider that the proposal would not conflict with national and local planning policies designed to protect the Green Belt.

13. The Council has not suggested any planning conditions, other than the standard time limit for commencement. However, in the interests of the visual amenities of the area, I consider that a landscaping scheme should be implemented in conjunction with the appeal proposal and that a condition should be imposed accordingly which also seeks to ensure that existing planting is adequately protected during construction.
14. I have taken account of all other matters raised in the representations, including the submission that the fence could cause a dangerous distraction to motorists. However, it seems to me that the proposal would help to improve safety for road users rather than the opposite. I consider that this and the other matters raised do not outweigh the factors that have led to my conclusions on the main issue in this case.

M P Hill

INSPECTOR

Appendix 5

Incident Log

Date	Guests Name	Incident	Reported/spoken with at golf range
Dec 11/ Jan 12		Guest was hit on shoulder with golf ball	yes
Sep-11		Golf Ball smashed car windscreen (sqa) Car window smashed (small side window), guest drove away and didn't report it until day after	yes yes
13/04/2012		Window in premier Inn Smashed (fire exit stairs top window)	yes
05/05/2012	Mr Coyne	Car windscreen smashed due to golf ball coming over fence, Guest was given 1 nights stay at hotel for a later date	yes
07/09/2012	Mrs Briggs	Car Windscreen was smashed due to golf ball coming over fence. Mrs Briggs went to Melville Driving Range with Lynn DGM to speak with them. We paid £50 excess for her car windscreen (sqa)	yes
		Golf balls collected for car park daily that have come over and landed on the grass	yes
		Golf Ball hit previous DGM car window	yes
Sep-11		Golf Ball hit tiles on roof and broke, caused water leak in room 101	yes
11/09/2012	Rachael Green	Receptionists car been hit by golf ball, windscreen smashed	
07/10/2012	David	David in kitchen car window smashed by golf ball, side window	yes
16/10/2012	car park	Golf ball came over fence hit hotel roof and just missed car parked at front door of hotel	
17/11/2012	Car Park	Golf ball came over the fence and just missed a guests face. Hayley reported to golf range straight away.	yes
29/11/2012	Car Park	2 x Golf Balls came over the fence, nothing damaged but did land in the car park near cars.	yes

Incident Log

12/03/2013	Andrew Barr	Golf Ball smashed through back window. Guest was dining at Table Table. Reported to Mr MacFarlane at Golfing Range by Rachael. Guest was told it was Premier Inn's responsibility. Picture of damages is saved in my documents, Table Table completed an incident report. - Rachael	
20/03/2013	Jim Young	Golf ball came over denting front right wing of guests car *noticeable golfball sized dent - 3 golf balls then came over straight over landing in the car park. Golfball only just missed wife's face - Hayley	yes
23/03/2013	Car Park	Golf ball came over around 5pm denting the bonnet of a Fiat Punto, noticeable golfball sized dent. - Rachael Picture saved in my documents.	Yes
09/04/2013	car park	Guest reported golf ball came over and bounced of car (no damage noticeable) just missing hitting the guest.	Yes
15/04/2013	car park	Four golf balls bounced off van roof (NJ11 TMY), one straight after another, reported to golfing range. Dents on roof	yes
15-Apr	car park	Guest handed golf balls into table table, complained of near miss guests head, found 5 balls in car park reported to Marion	yes
15/04/2013	car park	On the 16th a member of reception team found a golf ball sized dent in side of her car, not guaranteed when it happened however reasonable explanation would be on the 15/04/13 when all the golf balls dented the van roof. staff car was parked next to damaged van.	
25/04/2013	car park	sarah found three golf balls in car park. Made driving range aware. Pictures saved in documents.	yes
26/04/2013	hotel roof	Heard ball hit roof but could not find it in car park	No
01/05/2013	car park	Man from golf range in car park picking up golf balls - not authorised by PI or TT	
03/05/2013	hotel roof	Ball bounced off roof, found it between 2 cars in car park.	Yes phoned golf range
08/05/2013	Car Park	Man from golf range picking up golf balls - photos	
07/05/2013	Hotel Roof	2 balls hit of our roof and landed in car park. Picked up off grass.	Yes

Incident Log

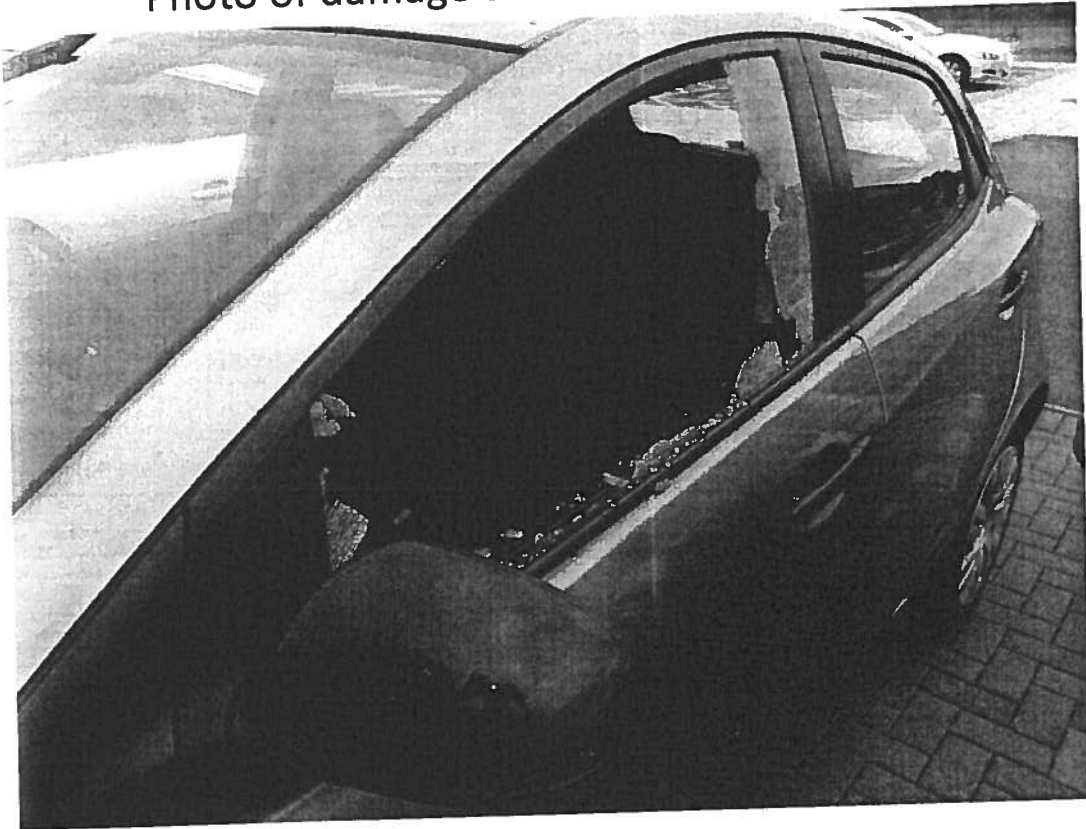
12/05/2013	Hotel Roof	Heard a ball hit off the roof while standing outside, got a terrible fright, could not find the ball.	No
16/05/2013	Car	Windscreen on car registration number SA13 DYJ cracked with golf ball during evening of 15 May 2013. paid excess for guest £75	Yes
17/05/2013	Hotel Grounds	Found 3 Balls at the back of hotel.	No
23/05/2013	Hotel Grounds	Found 1 ball at side of hotel on grass	No
	Hotel Grounds	Ball at back of hotel	No
12/06/2013	Hotel Grounds	Ball found at back of hotel	No
12/06/2013	Hotel Grounds	Man from golfing range collecting balls in car park (picture)	No
02/08/2013	Hotel Grounds	Alan brought six golf balls in, saying that they had been lying in the car park,	No
08/08/2013	Car	A Table Table guest's green Mazda passenger windscreen was smashed at roughly 3.30pm. The owner of the car is Margaret Lucchesi. Contact her on 660 6770 or 07877122981.	Yes
15/09/2013	Hotel Grounds	Golfball found by Alan Leishman in car park, handed into reception.	No (middle of the night)
21/09/2013	Next to TT	Golfball found on grass next to table table by Liam Bunting. Picture saved in pictures as "golf ball 123"	Yes
25/09/2013	Hotel Grounds	Standing outside between Linen Room Door and rear of hotel - 21.00 hrs - ball came over net and landed in car park just in front of me. Bounced across car park towards TT. Unable to find it as too dark - Sarah	Yes to Golf Range
27/09/2013	car park	car hit by golf ball coming over roof approx 6.30pm, guests of TT so did not come into hotel but went straight up to range	Yes, phoned Range

Incident Log

18/11/2013	Car Park	Car hit by golf ball around 8pm , called the range.	Yes
08/12/2013	Car Park	Golf Ball came over fence and hit car at side of hotel	Yes
04/02/2014	car park	Golf ball came over fence and just missed three guys in a van. They brought it into reception.	Yes
04/02/2014	car park	20minutes after previous ^^ another two guests came in and said they just about got hit with a golfball whilst driving in.	Yes

Appendix 6

Photo of damage to car on 8 August 2013



Appendix 7

MEMORANDUM

To: Duncan Robertson, Planning Officer
From: Willie Stobie, Environmental Health
Our Ref: 13/01986/FS_13 WSCSpremier
Your Ref:
Date: 28 November 2013
Subject: Planning Application No. 13/00725/DPP
Erection of 20m Fence at Edinburgh Dalkeith Premier Inn

The Food, Health & Safety Team have become aware of the above application and would like to make the following comments.

1. There have been several high profile incidents in the Lothians & Fife during the last few years where people have been partially blinded after being struck by a golf ball. The golf range reports that even after taking measures to reduce the risk of golf balls landing in the Premier Inn car park, and the erection of a 15 metre fence, balls still occasionally land in the car park. The consultant employed by Whitbread to assess the problem recommends that the current fence is extended to a height of 20m.
2. If there is a proven risk to users of the car park it will probably be incumbent on Midlothian Council to take formal action to protect the health and safety of member of the public. Examples could be the prohibition of the use of the golf range, or even prosecution of one or other, or both of the businesses.
3. The golf range operated for many years without incident or complaint before the hotel was given planning consent.

Given the possible consequence of a member of the public being struck with a golf ball, and the likely economic and employment impact of not granting the application, Environmental Health would strongly support the granting of this application.

APPENDIX C

MIDLOTHIAN COUNCIL

DEVELOPMENT MANAGEMENT PLANNING APPLICATION DELEGATED WORKSHEET:

Planning Application Reference:

13/00725/DPP

Site Address:

Premier Inn, Melville Dykes Road, Lasswade

Site Description:

The application site is located immediately to the south-west of the Melville Dykes Road roundabout on the A7. Melville Dykes Road runs along the northern boundary of the application site, with a nine hole golf course beyond. The main A7 route from the city bypass to the Borders runs along the eastern boundary. To the west of the site lies a small group of buildings, which includes residential properties and structures linked to the nearby golf facilities.

The application site contains a hotel and restaurant buildings. The site previously formed part of the adjacent driving range. The rest of the driving range occupies the land to the south and south-west of the application site. The golf driving bays are at the western end of the field and face towards the application site.

A 15m high fence is sited along the southern boundary of the site, between the hotel and restaurant buildings and the golf driving range.

Proposed Development:

Erection of 20 metre high fence (retrospective).

Proposed Development Details:

The applicant is seeking planning permission to extend the height of the ball-stop fence from 15m high to 20m high. The applicant states that the additional height is required in order to protect hotel customers, vehicles and the buildings from golf balls from the neighbouring golf driving range.

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

08/00510/DPP – erection of hotel and restaurant/public house. This application was granted by the planning committee.

11/00246/DPP – erection of 9m high fence - granted

12/00131DPP – retrospective application to replace 9m fence with 15m fence – granted.

Consultations:

Eskbank and Newbattle Community Council have objected to the planning application. They feel that the proposal will have a detrimental impact on the appearance of the landscape. They consider that the fence is already extremely visible and that the proposed fence will tower over the surrounding buildings. They suggest that all other means of preventing balls going over the fence be utilised before the height of the fence is increased.

Representations:

There have been two letters of support for the planning application.

A patron of the restaurant has submitted a letter of support. He states that his car was hit by a golf ball when he visited the site. He states that it is absurd to suggest that the fence will detract from the beauty of the area and that the fence should be built as high as possible.

The operator of the neighbouring golf centre and driving range has also submitted a letter of support. He states that heightening the fence will reduce the chance of a serious incident. He states that he has implemented all other options available and that the golf expert's report clearly recommends the fence be increased to 20m. He highlights that there are other structures in the area, which are higher than the proposed fence. He insists that the Council should take responsibility for previous planning decisions.

(In relation to the last point, it is worth noting that the Golf Centre originally sold the land to the hotel operator. It was stated in the application for the hotel that the land was no longer required in connection with driving range. This is obviously now debatable given that golf balls are still landing in the site. When assessing the application for the hotel the Council were assured by the applicant that the 6m high fence would offer sufficient protection. The application was granted by the planning committee.)

Relevant Planning Policies:

SPP – Scottish Planning Policy: Landscape and Natural Heritage
Green Belts

Midlothian Local Plan policies:

RP1 – Protection of the countryside

RP2 – Protection of the green belt

RP6 – Areas of great landscape value

RP7 – Landscape character

RP25 – Nationally important gardens and designed landscapes

PAN 43 – Golf Courses and Associated Development

Planning Issues:

The main planning issue to be considered is whether or not the proposal complies with the development plan policies and, if not, whether there are any material planning considerations

which would otherwise justify approval. The application site is located within an area covered by the Midlothian Local Plan.

Policy RP1 of the local plan seeks to protect the character, appearance and amenity of Midlothian's countryside areas. In particular the policy states that development in the countryside must be of a scale and character appropriate to the rural area and must be well integrated in to the rural landscape.

Policy RP2 seeks to protect the green belt. It looks to maintain the landscape setting of the city and Midlothian towns.

Policies RP6 and RP7 seek to protect the special scenic and landscape qualities of the area. Policy RP6 states that the scale, siting, design, form, materials and impact on important landscape features are all aspects of a proposal that could have an adverse effect on the Area of Great Landscape Value. RP7 states that where development is acceptable it will respect the local landscape character and contribute towards its maintenance and enhancement.

Policy RP25 states that development will not be permitted which would harm the character, appearance or setting of a designed landscape.

Originally, there was a 6m high ball stop fence erected along the boundary between the hotel site and the golf driving range. Planning permission was subsequently granted to increase the height of the fence by 3m, so that it would be 9m high. The applicant stated that the increase in the size of the fence was required to ensure that golf balls did not hit any people, cars or buildings within the hotel and restaurant site. It was considered, by the Planning Authority, that at 9m, and with a light-weight fence, the increase in the height would not have a significant adverse impact on the character and appearance of the area.

The 9m high fence did not stop the golf balls from coming in to the Premier Inn site. The operator of the hotel decided to erect a new fence, which was 15m high. This fence was erected without first obtaining planning permission. Retrospective planning permission for the increase in height of the fence was sought in 2012. During the assessment of this application the Planning Authority considered that the 15m high fence had an adverse impact on the appearance of the landscape. However, it was also considered that the health and safety aspect was a material consideration, and on balance the increase in fence height was supported. It is important to note that, at the time of assessing this application, the Planning Authority stated that a 20m fence would have a very serious impact on the landscape and that it would be very unlikely that a higher fence would be supported. At 20m high the fence would be twice the height of the hotel building.

The above advice was conveyed again to the site operator during pre-application discussions earlier in 2013, when the applicant was enquiring regarding the possibility of increasing the height of the fence to 20m. During pre-application discussions the Planning Authority requested that other options be investigated. Despite the pre-application advice and previous assurances that the 6m, 9m and latterly the 15m fences would provide sufficient protection from stray golf balls from the driving range the applicant has submitted the current proposal, for the increase in the height of the fence from 15m to 20m.

The applicant states that the justification for submitting this application is on health and safety and economic grounds. In addition, the applicant argues that the fence will not have an

adverse impact on the appearance of the area. In support of the application the applicant has submitted a letter from Mr Copson, who they describe as a golf expert. This is the same letter that was originally submitted to support the previous application, for the increase in fence height from 9m to 15m. However, on this occasion the applicant has not submitted the drawings referred to in Mr Copson's letter.

Whilst Mr Copson advises that erecting a 20m fence will reduce the risk of balls hitting people and property he does not state that this is the only option.

The applicant has submitted details of incidents which have been reported to them in relation to golf balls coming from the driving range in to the site. They state that since December 2011 there have been around 40 incidents where golf balls have been hit into the application site. The applicant states that there have been 27 serious incidents since the erection of the 15m high fence in February 2012. The applicant states that a 20m high fence will reduce the risk of balls, from the driving range, hitting people or property. In addition, the driving range operator states that when the fence was 6m high there were 100 balls a week being hit over the fence, at 15m around 6 balls are hit over each week. He estimates that at 20m perhaps there will only be one ball hit over the fence each fortnight. There is no evidence to support these figures. However, it is significant that the driving range operator, golf expert and applicant all suggest that even at 20m high the fence will not stop all golf balls.

The applicant has advised that there are economic reasons for wanting the fence raised in height. However, these reasons are generally linked to the health and safety concerns. At present the driving range have restricted the use of four driving bays closest to the hotel. The applicant argues that there is a loss in revenue for the golf business, which could be recouped should the fence be heightened.

The applicant states that as the Council has previously supported a 15m high fence on health and safety grounds this has established a principle for accepting a higher fence for similar reasons. The inference is that a fence of any height should be accepted in this position if a case can be made on health and safety grounds. A planning decision was arrived at, on balance, during the consideration of the previous application for the 15m fence, where health and safety was given some weight as a material consideration, despite the adverse impact on the visual amenity of the area. Each application is judged on its merits and logic dictates that a time must come where the balance tips, and that the impact on the landscape is so significant that the health and safety aspect is outweighed, particularly where there appear to be other options available which the applicant has failed to demonstrate have been adequately investigated. Otherwise areas will be designed with only health and safety requirements being taken in to account. The applicant's assertions regarding the principle of the development are inaccurate and are not relevant to the assessment of this case.

It is clear that the ongoing risk to public health and safety is unacceptable. However, the Planning Authority remain convinced that options, other than extending the height of the fence, require to be properly investigated before selecting the most visually intrusive option. Indeed, when the Planning Authority questioned the applicant's golf expert he agreed that raising the height of the fence was not the only option that might prevent the continuing issue of golf ball encroachment. It is accepted that the raising of the fence may be of least inconvenience to the applicant and neighbouring golf business but the other options must be investigated to the satisfaction of the Planning Authority.

The owner of the driving range must take some responsibility for the continuing issue. The applicant's golf expert explained to the Planning Authority that with the majority of golfers being right handed this would mean that the most common miss-hit golf ball, a slice, would take a trajectory which would carry it away from the hotel. Therefore, in all likelihood the continuing golf ball problem is mainly a behavioural issue. It is not acceptable to reach a solution, which will have an adverse impact on the appearance of the area, to the detriment of all, as a result of the malicious and dangerous actions of a small number of inconsiderate people. The operator of the driving range states that *whether the balls are hit deliberately or because of the prevailing wind has no bearing on an accident taking place*. This is obviously not correct, should a golf ball be hit deliberately it, by definition, is not an accident. The golfer would be culpable for damage caused.

The applicant states that the driving range has taken steps to try and stop golfers hitting balls over the fence, including the installation of CCTV, erecting warning signs, banning golfers, repositioning mats, banning certain tees and closing specific bays. These steps have obviously not been adequate and how the driving range is operated should be reviewed. After all, should a person be injured or property damaged it is the responsibility of the golfer and the golf course, not the Planning Authority as the operator of the driving range suggests.

At pre-application stage the Planning Authority suggested three options that should be considered, there may be other options beyond these:

- move the fence closer to the north side of the driving bays and manage the operation of the bays so that longer hitting clubs cannot be used in the bays at the south end of the site and provide more enticing targets within the range area;
- re-orientate the golf driving bays and use CCTV to identify those golfers maliciously hitting balls in to the hotel site; or
- move the driving bays.

The applicant has only, very briefly, addressed the suggestions. In response to the first suggestion the applicant states that *the type of shots that can be taken from each bay have been changed so that there are restrictions on the bays closer to the fence* and that *moving the fence will involve significant work*. Other supporting statements suggest that the bays closest to the hotel have been closed. There is some ambiguity about this aspect. In any event, if this club restriction is not paired with a net closer to the bays it is unlikely to be successful.

In response to the second suggestion the applicant states that *these measures are already in place*. With a good CCTV system it should be clear, to the driving range operator, which customers are deliberately aiming balls towards the hotel. Should proof of identification be requested before customers visit the range it may dissuade anti-social behaviour. In addition, should charges be brought against the culprits, rather than just banning them, then this may also stop the errant balls from being hit. In general, a more attentive management of the driving bays would help reduce the number of deliberately hit balls over the existing fence.

The applicant states that moving the driving bays would not cease the problem. They have looked at moving the driving bays *up the hill*, which is obviously not going to solve the problem, or moved to the other end of the range, which they state would *increase the number of balls over the fence* without explaining why. Another response from the applicant states that moving the bays to the other end of the range does not suit the range.

Planning Advice Note (PAN) 43, *Golf courses and associated developments*, states that *driving ranges in green belts should only be sited where they do not make an unacceptable impact on landscape setting*. It is clear that the Scottish Government are concerned that driving ranges could adversely impact on the landscape setting of green belts.

The applicant states that *the area is already heavily characterised by golfing uses* and as a result *one expects to see safety fencing/netting in the area*. Whilst golf courses are commonplace in the countryside it is not accepted that high fences are inherently linked to these and should be considered acceptable ancillary development.

The applicant states that *fencing is not an unusual or detrimental feature within the Green Belt*. The Planning Authority contest this. Fencing of the type and size proposed is highly incongruous in this landscape setting. The Midlothian Local Plan states that one of the key objectives of the Green Belt is to protect and enhance the character, landscape setting and identity of towns and cities. The proposed fence will not enhance or protect the character or landscape setting of the area, it will significantly degrade it.

The applicant has carried out a landscape assessment based on the perspective of a road user, for example they state that *as motorists are approaching the roundabout from the A7 from the north or the A768 Lasswade Road from the east they are unlikely to notice the fencing, which is over 115m in distance from the roundabout, until they are actually close to or on the roundabout, at which point the fence will be viewed in the context of the surrounding directional signage, street lighting, existing buildings and trees. The fence will not be unduly prominent or obtrusive from this approach*. In addition the applicant has submitted a range of photographs to support the application, stating that *the attached images taken from google street view seek to reinforce that the fence is not at all dominant and there are in fact only limited occasions when it can be viewed*.

In addition, they have based the landscape assessment on a time of year when the trees are in full leaf, ignoring the five months of the year when views of the site are opened up considerably.

In reality, the fencing, when viewed in its landscape context, will dominate the surrounding buildings. As mentioned earlier in this report the proposed fence will be twice the height of the existing hotel building. There is a difference between carrying out an assessment based on the street scene and one based on the impact on the landscape. The existing 15m high fence is very visible from short and longer views in to the site and the proposed 20m high fence would be highly visible, to the significant detriment of the Area of Great Landscape Value, Designed Landscape and local landscape character.

The Scottish Planning Policy (SPP) states that *there will be occasions where the sensitivity of the site or the nature or scale of development is such that the development should not be permitted*. This is one such case, where the individual impact and cumulative impact of incremental development will have a significant detrimental impact on the visual amenity of an area and on a natural heritage designation.

The applicant and driving range operator have both made reference to nearby pylons, street lamps, road signage, etc, which are all also visible in the landscape. It is the case that these

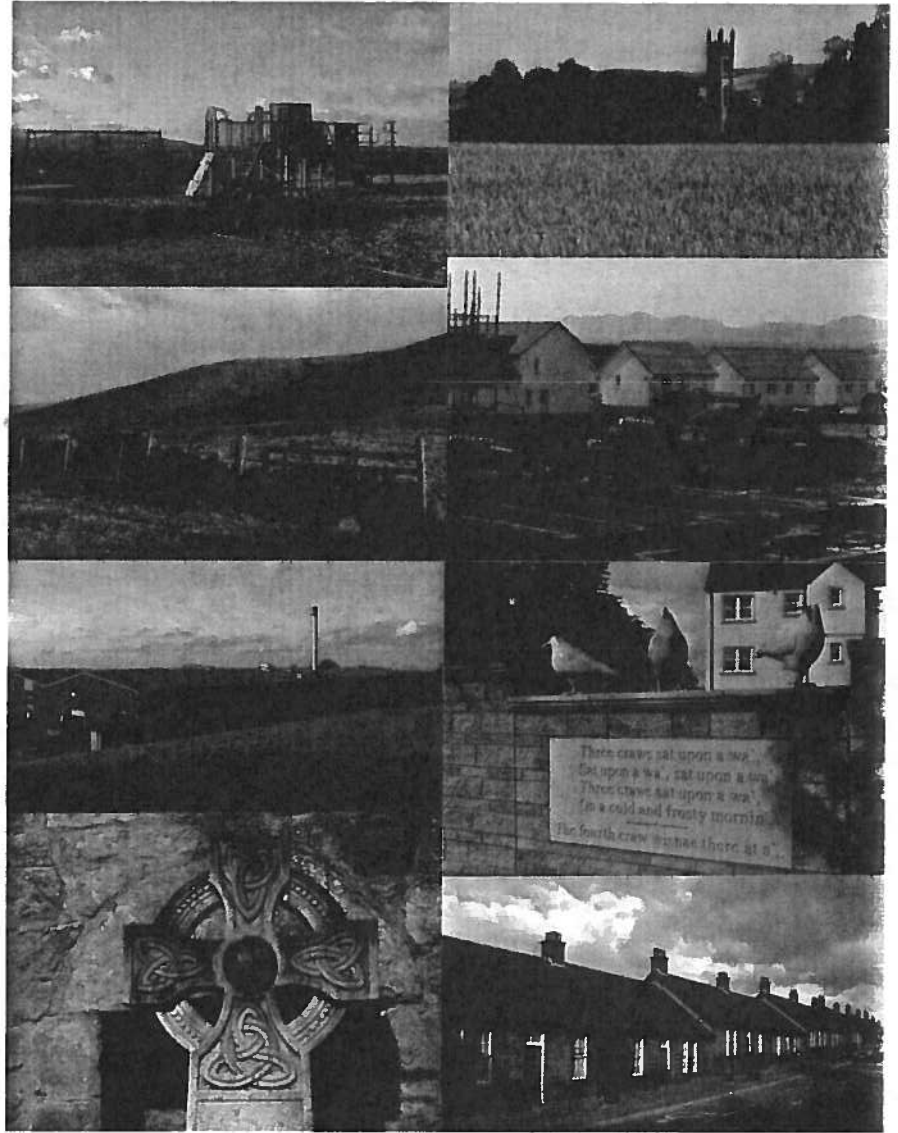
features, which are related to essential infrastructure, do add to the clutter of man made structures in the area, but by raising the height of the fence it will further exacerbate the clutter and cumulative impact. In addition, the other structures are serving an important need, to the benefit of all.

Recommendation:

Refuse

Midlothian

APPENDIX D Midlothian Local Plan



Midlothian



2.1 The Natural Heritage

Policy Title

RP1 PROTECTION OF THE COUNTRYSIDE

2.1.1 National Planning Policy National policy on development in the countryside is set out in SPP 3 *Planning for Housing* (now replaced by SPP3 *Planning for Homes* – refer to para. 3.2.6) and SPP 15 *Planning for Rural Development*. SPP 3 *Planning for Housing* stipulates that, in general, rural housing should be provided in accessible locations, within or adjacent to existing settlements. This promotes a more sustainable pattern of development, making efficient use of land and buildings, safeguarding environmental resources and offering opportunities to reduce travel. Traditionally, planning policies have sought to restrict new houses in the countryside, to maintain rural character and amenity and safeguard agricultural production. SPP 3 sets out the case for some small-scale housing in rural areas to assist in the regeneration of the rural economy where this can be justified through local plans.

2.1.2 SPP 15 *Planning for Rural Development* confirms that most development will continue to be met within or adjacent to existing settlements in the more accessible and densely populated areas. Once again, it suggests that there may be scope in rural areas for some small-scale housing development and for businesses to diversify where there is access to public transport and services, or where these may be provided at reasonable cost.

2.1.3 SPP 3 and SPP 15 highlight the need for high quality development that fits in the landscape and further guidance is provided in PAN 72 *Housing in the Countryside*. Advice on rural diversification is set out in PAN 73 *Rural Diversification* which addresses issues such as sustainable diversification, accessibility, infrastructure, scale and design, and the need to respond to individual circumstances.

2.1.4 Structure Plan Policy The Structure Plan strategy for countryside areas is to strike a balance between protecting the character of the countryside from development pressures whilst allowing some limited and appropriate development. Midlothian's countryside falls within the Areas of Restraint referred to in para.1.2.19. ELSP policy ENV3 allows for acceptable development in the countryside where it has an operational requirement for such a location that cannot be met on a site within an urban area or land allocated for that purpose, and is compatible with the rural character of the area. Acceptable countryside

development includes agriculture, horticulture, forestry and countryside recreation. Other types of development may be allowed including tourism and other recreational uses, the reuse of redundant rural buildings that make a positive contribution to the landscape, and agricultural diversification of an appropriate scale and character. Such developments must be justified in local plans and must:

- ❖ be well integrated into the rural landscape;
- ❖ reflect its character and quality of place; and
- ❖ not result in a significant loss of prime agricultural land.

Any additional infrastructure required as a result of such development must be either committed through the ELSP Action Plan or funded by the developer.

2.1.5 Local Plan Policy Local Plan policy for protecting Midlothian's countryside follows both national and Structure Plan guidance and makes provision for acceptable countryside development. It allows some scope for rural development opportunities related to specific countryside activities including farm diversification, tourism and waste disposal (where this is essential as a method of site restoration). Provision is made for appropriate development within the areas identified as non-conforming land uses in the Green Belt, where such development satisfies policy RP3, and for development in accordance with the detailed provisions for development in the countryside as set out in policy DP1.

2.1.6 In all such cases development must demonstrate the need for a countryside location; have due regard to scale, character, landscape fit, accessibility to public transport and services; and avoid the significant loss of prime quality agricultural land.

2.1.7 In certain locations some limited and controlled development related to low density housing, new or expanded businesses, the winning of mineral resources, renewable energy and tourist accommodation may be acceptable and specific provisions are set out in proposal ECON1 and policies HOU55, ECON7, ECON8, MIN1 and NRG1. In such circumstances, these policies take precedence over the provisions of policy RP1. For countryside areas that are also Green Belt, policy RP2 takes precedence. Additional limited development may be acceptable where it satisfies the particular provisions of policy DP1, for example, in respect of the reuse of redundant non-residential buildings in the countryside.

RP1 PROTECTION OF THE COUNTRYSIDE

Development in the countryside will only be permitted if:

- A.** it is required for the furtherance of agriculture, including farm related diversification, horticulture, forestry, countryside recreation, tourism, or waste disposal (where this is shown to be essential as a method of site restoration); or
- B.** it is within a designated non-conforming use in the Green Belt; or
- C.** it accords with policy DP1.

All such development will need to:

- A.** demonstrate a requirement for a countryside location;
- B.** be of a scale and character appropriate to the rural area;
- C.** be well integrated into the rural landscape;
- D.** avoid a significant permanent loss of prime quality agricultural land; and
- E.** take account of accessibility to public transport and services (where appropriate).

In certain locations, new or expanded business development, low density rural housing, the winning of mineral resources or renewable energy developments may be appropriate (refer to proposal ECON1, policies ECON7, ECON8, HOUS5, MIN1 and NRG1).

Policy Titles

RP2 PROTECTION OF THE GREEN BELT

RP3 MAJOR NON-CONFORMING LAND USES IN THE GREEN BELT

2.1.8 National Planning Policy Government policy on green belts is provided by SPP 21 *Green Belts*. This 2006 revision of green belt policy has taken account of changes in Scotland's population, pattern of households and economic base, and the resulting pressures for the expansion of some towns and cities. The aim is to strengthen and enhance the role of green belts and encourage greater stability in order to increase their effectiveness. The SPP emphasises the need for green belts to provide long-term certainty and proposes a timeframe of at least 20 years. Inner boundaries should not be drawn too tightly in order to allow an area between the settlement boundary and the green belt to be reserved for settlement expansion. Proposals to release green belt land should be considered as part of development plan strategy, rather than through individual planning applications. The SPP sets out three key objectives for green belt policy:

- ❖ to direct planned growth to the most appropriate locations and support regeneration;
- ❖ to protect and enhance the character, landscape setting and identity of towns and cities; and
- ❖ to protect and give access to open space within and around towns and cities, as part of a wider structure of green space.

2.1.9 There should be a general presumption against intrusion into designated green belts. In particular, approval should not be given, except in very special circumstances, for development other than that relating to agriculture, horticulture, forestry, outdoor recreation and other uses appropriate to the rural character of the area. SPP 21 recognises that existing institutions in large grounds may be redeveloped if no longer required for their original purpose; where possible, development plans should identify such opportunities. SPP 21 also supports the reuse of buildings of architectural and historic merit.

2.1.10 Structure Plan Policy The Edinburgh Green Belt was established in 1957 and has been successful in limiting the expansion of the city, preserving its identity and landscape setting, and directing new development to urban areas within the city and to the landward towns. The Green Belt boundary has been modified on a number of occasions as development plans have sought the balance between containment and urban growth.

The ELSP 2015 continues to give support for a green belt around Edinburgh, but acknowledges that modifications may be required to the boundaries, where justified in local plans, to accommodate the strategic land allocations defined in ELSP policies ECON2, ECON3 and HOU3. However, in identifying land releases, the Structure Plan makes it clear that these should be limited in extent and confined to locations where the impact on Green Belt objectives is least. The aim is to secure long-term, robust boundaries. The principle of a continuous green belt should not be undermined.

2.1.11 Structure Plan policy ENV2 requires local plans to define the boundaries of the Green Belt, which will be maintained for the following main purposes:

- ❖ to maintain the identity of the city by clearly establishing its physical boundaries and preventing coalescence;
- ❖ to provide countryside for recreation;
- ❖ to maintain the landscape setting of the city; and
- ❖ to protect the setting of neighbouring towns.

The policy seeks to control development and changes of use more strictly than elsewhere in the countryside unless this is necessary for the purposes of agriculture, horticulture, forestry, countryside recreation, or other use appropriate to the rural character of the area. Development associated with the established (non-conforming) uses at the Bush Estate and Roslin Institute in the A701 corridor, as well as their expansion (covered by ELSP policy ECON3), is also supported.

2.1.12 The introduction of SPP 21, and its advice to provide green belt boundaries that allow for longer-term expansion, cannot be applied through this Local Plan. Consideration of such a fundamental review of the Edinburgh Green Belt in order to establish a long-term boundary will require a change in direction through the Structure Plan. A local plan must conform to the current approved structure plan and therefore the changes proposed in the MLP must be compliant with the ELSP 2015.

2.1.13 Local Plan Policy The Local Plan modifies the Green Belt boundary in a number of locations, principally where minor rationalisation is required or to increase protection in areas which are vulnerable to development pressures and whose contribution to the landscape and setting of Midlothian settlements is considered particularly important. The changes are as follows:

RP2 PROTECTION OF THE GREEN BELT

Development will not be permitted in the Green Belt except for proposals that:

- A. are necessary to agriculture, horticulture or forestry; or
- B. provide for opportunities for access to the open countryside, outdoor sport or outdoor recreation which reduce the need to travel further afield or, in exceptional circumstances, community facilities (where no suitable alternative location exists); or
- C. are related to other uses appropriate to the rural character of the area; or
- D. accord with policy RP3, proposal ECON1, policy ECON7 or are permitted through policy DP1.

Any development proposal will be required to show that it does not conflict with the overall objectives of the Green Belt to:

- ❖ maintain the identity of the city and Midlothian towns by clearly establishing their physical boundaries and preventing coalescence;
- ❖ provide countryside for recreation and institutional purposes of various kinds; and
- ❖ maintain the landscape setting of the city and Midlothian towns.

RP3 MAJOR NON-CONFORMING LAND USES IN THE GREEN BELT

Planned development of established activity at the following 'non-conforming' sites will be permitted: the Bush Estate and the Roslin Institute.



Policy Titles

RP6 AREAS OF GREAT LANDSCAPE VALUE**RP7 LANDSCAPE CHARACTER**

2.1.29 National Planning Policy SDD Circular 2/1962 introduced the concept of Areas of Great Landscape Value (AGLVs), requiring local authorities to define their boundaries and to exercise careful control over development proposals in order to safeguard these areas. Particular reference was made to their importance as a tourist resource. In addition, Scottish Natural Heritage (SNH) and Historic Scotland have produced *Guidance on Local Landscape Designations* which promotes the adoption of an 'all-landscapes' approach, within which landscapes of particular value that warrant safeguarding are designated. NPPG 14 *Natural Heritage* requires that policies be included in local plans for the conservation and enhancement of landscape character. In addition, SNH has produced *The Lothians Landscape Character Assessment*, which provides valuable local guidance on the character of Midlothian's landscape and its capacity to accommodate new development. The Conservation (Natural Habitats and Conservation) Regulations 1994 also expect policies to encourage the management of features of the landscape, which are of importance for wild flora and fauna, by maintaining their function in assisting the migration, dispersal and genetic exchange of wild species.

2.1.30 Structure Plan Policy ELSP policy ENVID continues to safeguard AGLVs or other local landscape designations from inappropriate development. The extent of the areas of landscape interest should

be defined in local plans, and policies included for their protection and enhancement. In addition, ELSP policy ENV4 requires local plans to take account of landscape designations in accordance with new guidance produced by SNH.

2.1.31 Local Plan Policy It is essential not only to maintain the distinctiveness of Midlothian's landscape character, and its diversity as a whole, but also to recognise that there is a need to give particular protection to certain areas considered to be of outstanding local landscape value and attractiveness. These are identified as AGLVs which are areas sensitive to any developments that could potentially damage their special scenic attraction. For example, the widespread planting of conifers would be considered inappropriate within AGLVs, especially in open moorland or in "wild" landscapes.

2.1.32 The Local Plan Proposals Map identifies the following areas as AGLVs:

- ❖ the rolling hill country of the Pentlands, Moorfoots and Lammermuirs;
- ❖ the incised river valleys of the North and South Esk and the Tyne;
- ❖ the estate landscapes of Penicuik, Arncliffe and Vogrie; and
- ❖ Gladhouse, Edgelaw, Glencorse, Rosebery, Loganlea and North Esk reservoirs.

2.1.33 In addition, many localities contain areas of a diverse yet distinctive landscape character which enhance the attractiveness of Midlothian as a whole. Policy RP7 aims to afford protection to these local landscape character areas and to provide support for landscape planning and management.

RP6 AREAS OF GREAT LANDSCAPE VALUE

Development will not be permitted where it may adversely affect the special scenic qualities and integrity of the Areas of Great Landscape Value (AGLVs).

The scale, siting, design, form, materials and impact on important landscape features are all aspects of a proposal that could have an adverse effect on the AGLV. These considerations will apply to developments to be located either within or affecting the setting of areas designated as AGLVs.

RP7 LANDSCAPE CHARACTER

Development will not be permitted where it may adversely affect the quality of the local landscape. Where development is acceptable, it will respect the local landscape character and contribute towards its maintenance and enhancement.

New developments will incorporate proposals to:

- A.** maintain the local diversity and distinctiveness of landscape character including natural and built heritage features of landscape value such as woodland, hedges, ponds, stone walls and historical sites; and
- B.** enhance landscape characteristics where they have been weakened and need improvement and create new landscapes where there are few existing features.

Policy Title

**RP25 NATIONALLY IMPORTANT GARDENS
AND DESIGNED LANDSCAPES**

2.2.16 National Planning Policy SNH and Historic Scotland compiled a national *Inventory of Historic Gardens and Designed Landscapes* in 1987, which was updated in 2001. Sites are assessed on the basis of aesthetic and historic value, horticultural, arboricultural or archaeological value, scenic value or nature conservation value. This is a national designation and development affecting these sites is subject to statutory consultation with these bodies. Historic Scotland has consulted on changes to procedures for the designation, management and protection of gardens and landscapes in the Inventory.

2.2.17 Structure Plan Policy The ELSP 2015 values the contribution of planned landscapes to the scenic quality of the Lothians and policy ENV1C requires local plans to identify and protect historic gardens and designed landscapes of particular merit.

2.2.18 Local Plan Policy Landed estates with their extensive areas of policy parkland are very significant features of Midlothian's countryside. Several of these have been identified as having particular importance in the Inventory. Shown on the Local Plan Proposals

Map, these estates are at Arniston, Dalkeith House, Dalhousie Castle, Mavisbank, Melville Castle, Newbattle Abbey, Newhall House, Newton House, Oxenfoord Castle, Penicuik House, Prestonhall, and Roslin Glen and Hawthornden. There is a need to protect the special qualities and character of these gardens and planned landscapes and to encourage their sensitive management. Additional localities may be proposed for inclusion in the Inventory from time to time, and once incorporated, they will become subject to policy RP25.

2.2.19 Any development proposals affecting a garden or designed landscape in the Inventory must include sufficient detail to allow the full extent, impact and quality of the proposals to be examined. Where an outline application is made, the proposals must include enough information to indicate the layout, height and massing of the new development. Proposals should be accompanied by an historical landscape appraisal to allow full consideration to be given to the detailed sensitivities of the site in determining the application. There may be opportunities to benefit the conservation and management of these sites through appropriate development. Planning conditions and agreements may be used to achieve repair, restoration and management of the planned landscape as part of the development proposals.

RP25 NATIONALLY IMPORTANT GARDENS AND DESIGNED LANDSCAPES

Development will not be permitted which would harm the character, appearance or setting of a garden or designed landscape which is included in the Inventory of Historic Gardens and Designed Landscapes.

SCOTTISH PLANNING POLICY

LANDSCAPE AND NATURAL HERITAGE

125. Scotland's landscape and natural heritage are internationally renowned and important, underpinning significant industries such as the food, drink and tourism industries, and are a key component of the high environmental quality which makes Scotland an attractive place in which to live, do business and invest. Improving the natural environment and the sustainable use and enjoyment of it is one of the Government's national outcomes. Planning authorities should therefore support opportunities for enjoyment and understanding of the natural heritage¹⁸.
126. Planning authorities should take a broader approach to landscape and natural heritage than just conserving designated or protected sites and species, taking into account the ecosystems and natural processes in their area. A strategic approach to natural heritage in which wildlife sites and corridors, landscape features, watercourses, and areas of open space are linked together in integrated habitat networks can make an important contribution to the maintenance and enhancement of biodiversity and to allowing ecosystems and natural processes to adapt and respond to changes in the climate. Planning authorities should seek to prevent further fragmentation or isolation of habitats and identify opportunities to restore links which have been broken. Where possible, planning authorities should seek benefits for species and habitats from new development including the restoration of degraded habitats.
127. Landscape in both the countryside and urban areas is constantly changing and the aim is to facilitate positive change whilst maintaining and enhancing distinctive character. The European Landscape Convention defines landscape as an area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors, and makes it clear that all landscapes require consideration and care. Different landscapes will have a different capacity to accommodate new development, and the siting and design of development should be informed by local landscape character. The natural and cultural components of the landscape should be considered together, and opportunities for enhancement or restoration of degraded landscapes, particularly those affecting communities, should be promoted through the development plan where relevant.
128. The most sensitive landscapes may have little or no capacity to accept new development. Areas of wild land character in some of Scotland's remoter upland, mountain and coastal areas are very sensitive to any form of development or intrusive human activity and planning authorities should safeguard the character of these areas in the development plan.
129. All public bodies, including planning authorities, have a duty to further the conservation of biodiversity under the Nature Conservation (Scotland) Act 2004, and this should be reflected in development plans and development management decisions. Biodiversity is important because it provides natural services and products that we rely on, is an important element of sustainable development and makes an essential contribution to Scotland's economy and cultural heritage.
130. Linking greenspaces in and around settlements through green networks can deliver benefits for people and nature. By encouraging connectivity between habitats, green networks can improve the viability of species and the health and viability of previously isolated habitats and ecosystems, supporting adaptation to climate change. Development plans should identify and promote green networks where this will add value to the provision, protection, enhancement and connectivity of open space and habitats in the city regions and in and around other towns and cities. Lochs, ponds, watercourses and wetlands also form valuable landscape features, recreational resources and wildlife habitats and should be protected and enhanced wherever possible both as part of developments and green networks.
131. Landscapes and the natural heritage are sensitive to inappropriate development and planning authorities should ensure that potential effects, including the cumulative effect of incremental

¹⁸ The natural heritage of Scotland includes flora, fauna, geological and physiographical features, its natural beauty and its amenity (Natural Heritage (Scotland) Act 1991)

changes, are considered when preparing development plans and deciding planning applications. While the protection of the landscape and natural heritage may sometimes impose constraints on development, with careful planning and design the potential for conflict can be minimised and the potential for enhancement maximised. However there will be occasions where the sensitivity of the site or the nature or scale of the proposed development is such that the development should not be permitted. Statutory natural heritage designations are important considerations where they are directly or indirectly affected by a development proposal. However, designation does not necessarily imply a prohibition on development.

132. Planning authorities should apply the precautionary principle where the impacts of a proposed development on nationally or internationally significant landscape or natural heritage resources are uncertain but there is sound evidence for believing that significant irreversible damage could occur. Where the precautionary principle is justified, modifications to the proposal which would eliminate the risk of irreversible damage should be considered. The precautionary principle should not be used to impede development unnecessarily. Where development is constrained on the grounds of uncertainty, the potential for research, surveys or assessments to remove or reduce uncertainty should be considered.
133. The disturbance of some soils, particularly peat, may lead to the release of stored carbon, contributing to greenhouse gas emissions. Where peat and other carbon rich soils are present, applicants should assess the likely effects associated with any development work.

International Designations

134. Sites classified as Special Protection Areas (SPA) under the Birds Directive¹⁹ and designated as Special Areas of Conservation (SAC) under the Habitats Directive²⁰ form an EU-wide network of protected areas known as Natura 2000. Any development plan or development proposal which is likely to have a significant effect on a Natura site and is not directly connected with or necessary to the conservation management of that site must be subject to an appropriate assessment by the planning authority of the implications for the site's conservation objectives. Development which could have a significant effect on a Natura site can only be permitted where:
 - an appropriate assessment has demonstrated that it will not adversely affect the integrity of the site, or
 - there are no alternative solutions, and
 - there are imperative reasons of overriding public interest, including those of a social or economic nature.
135. Where, in the absence of any alternatives, an authority proposes to approve a plan or project which could adversely affect the integrity of a Natura site for reasons of overriding public interest, Scottish Ministers must be notified and compensatory measures necessary to ensure the overall coherence of the Natura network is protected must be provided. For plans or projects affecting a Natura site where a priority habitat or species (as defined in Article 1 of the Habitats Directive) would be affected, prior consultation with the European Commission via Scottish Ministers is required unless the proposal is necessary for public health or safety reasons or will have beneficial consequences of primary importance to the environment. The Scottish Government accords the same level of protection to proposed SACs and SPAs which have been approved by Scottish Ministers for formal consultation.
136. Ramsar sites are wetlands designated under the Ramsar Convention on Wetlands of International Importance, especially as waterfowl habitat. All Ramsar sites are also Natura sites and/or Sites of Special Scientific Interest and are protected under the relevant statutory regimes.

¹⁹ Directive 79/409/EEC on the conservation of wild birds

²⁰ Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora

Playing Fields

156. Playing fields are an important resource for sport and should be provided in sufficient quantity, quality and accessibility to satisfy current and likely future community demand. Local authorities are expected to develop a playing fields strategy in consultation with sportscotland as part of the wider open space strategy. Playing fields, including those within educational establishments, which are required to meet existing or future needs should be identified in the local development plan. Playing fields and sports pitches should not be redeveloped except where:
- the proposed development is ancillary to the principal use of the site as a playing field,
 - the proposed development involves a minor part of the playing field which would not affect its use and potential for sport and training,
 - the playing field which would be lost would be replaced by a new playing field of comparable or greater benefit for sport and in a location which is convenient for its users, or by the upgrading of an existing playing field to provide a better quality facility either within the same site or at another location which is convenient for its users and which maintains or improves the overall playing capacity in the area, or
 - a playing field strategy prepared in consultation with sportscotland has demonstrated that there is a clear excess of sports pitches to meet current and anticipated future demand in the area, and that the site could be developed without detriment to the overall quality of provision.
157. Where a playing field is no longer required for formal sports use, planning authorities should consider whether the site has other recreational, amenity, landscape or biodiversity value which would warrant its retention as open space. Circular 7/2007 sets out the circumstances under which SportScotland should be consulted on planning applications.
158. Where, through a local facility strategy or playing field strategy, a need has been identified for new indoor or outdoor sports or recreation facilities in an area, the local development plan should identify sites where they can be located. For many sports and recreation developments locations within or close to residential areas will be the most appropriate.

GREEN BELTS

159. The purpose of green belt designation in the development plan as part of the settlement strategy for an area is to:
- direct planned growth to the most appropriate locations and support regeneration,
 - protect and enhance the quality, character, landscape setting and identity of towns and cities, and
 - protect and give access to open space within and around towns and cities.

Green belt designation should provide clarity and certainty on where development will and will not take place, and can have particular benefit where a co-ordinated approach to settlement planning is required across local authority boundaries. Green belt designation should be used to direct development to suitable locations, not to prevent development from happening. For towns and cities with a distinct character and identity that could be harmed by unplanned growth, the use of green belt designation and relevant policies may help to manage that growth more effectively.

160. Green belts can encircle settlements but can also take other forms including buffers, corridors, coastal strips or wedges. Land should only be designated by a planning authority as green belt where it will contribute to the settlement strategy for an area. Not all greenfield land will be designated as green belt. Most settlements do not have or need green belts because other policies or designations, such as countryside policies, provide an appropriate context for decision making. Green belt designation can be used to prevent the coalescence of settlements;

however there may be circumstances where coalescence would create a more sustainable settlement pattern. Careful consideration should be given to the impact of a green belt on settlements beyond its boundaries as designation may have the effect of transferring pressure for development to locations which may be less sustainable. Green belt designation is not intended to be used to protect natural heritage or safeguard land for major uses such as airports.

161. In city regions, the strategic development plan should establish the need for a green belt, identify its broad area and set the policy for future development within it. Local development plans should establish the detailed boundaries of the green belt and identify types of development which are appropriate within the green belt. Outwith the city regions, the local development plan should establish the need for a green belt, identify specific boundaries and set out the policy for future development within it including the identification of appropriate uses. Where it is considered necessary, the proposed release of land previously designated as green belt should be identified as part of the settlement strategy set out in the development plan.
162. Green belt boundaries identified in local development plans should reflect the long term settlement strategy and ensure that settlements are able to accommodate planned growth. Inner boundaries should not be drawn too tightly around the urban edge, but where appropriate should create an area suitable for planned development between the existing settlement edge and green belt boundary. Boundaries should also take into account the need for development in smaller settlements within the green belt, and where appropriate leave room for expansion. Green belt boundaries should be clearly identifiable on the ground, using strong visual or physical landscape features such as rivers, tree belts, railways or main roads. Hedges and field enclosures will rarely provide a sufficiently robust boundary. Existing settlements should be excluded from green belt designations in development plans, as should existing major educational and research uses, major business and industrial operations, airports and Ministry of Defence establishments.
163. Certain types and scales of development may be appropriate within a green belt, particularly where it will support diversification of the rural economy. These may include:
 - development associated with agriculture, including the re-use of historic agricultural buildings,
 - woodland and forestry, including community woodlands,
 - horticulture, including market gardening and directly connected retailing,
 - recreational uses that are compatible with an agricultural or natural setting, and
 - essential infrastructure such as electronic communications infrastructure and electricity grid connections.

Where a proposal would not normally be consistent with green belt policy, it may still be considered appropriate either as a national priority or to meet an established need if no other suitable site is available. Development in a designated green belt should be of a high design quality and a suitable scale and form. Intensification of established uses may be appropriate subject to new development being of a suitable scale and form. Many uses will only be appropriate at a low intensity and where any built elements are ancillary to the main use. Public transport and access by walking and cycling will be required for uses that will attract a significant number of visitors. The cumulative erosion of a green belt's integrity through the granting of individual planning permissions should be avoided.

164. In addition to supporting the management of the long term growth of a settlement, an effectively managed green belt can be an important resource for access to the countryside, providing a range of opportunities for outdoor recreation, education and tourism, and for protecting and enhancing biodiversity, the landscape and the historic environment. However, it is not a designation designed to safeguard natural heritage resources. Wherever possible, green networks within settlements should extend into the green belt.



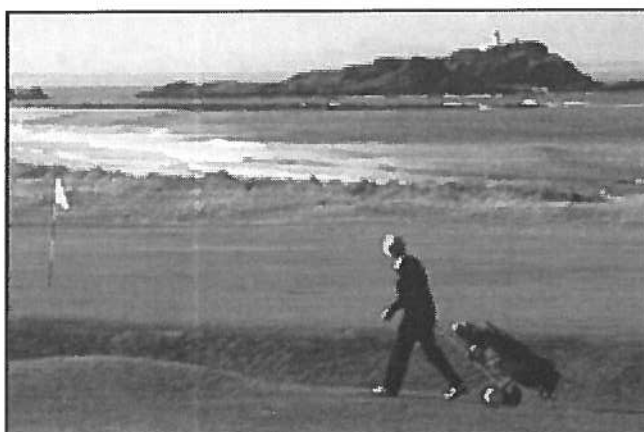
THE SCOTTISH OFFICE

Environment Department

Planning Advice Note

PAN 43

GOLF COURSES AND ASSOCIATED DEVELOPMENTS



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24. NPPG3: Land for Housing, supersedes Circular 24/1985 in relation to housing in the countryside although the overall policy remains similar. The NPPG states that the Government's policy on new housing in the countryside continues to be based on the principle that it should be encouraged on suitable sites in existing settlements unless particular circumstances are clearly identified in development plans or there are special needs.

25. Government policy attaches particular importance to the maintenance and protection of green belts around our towns and cities. Development within green belts approved in development plans continues to be strictly controlled. One of the purposes of green belts is to provide for recreation and they may in some circumstances be suitable locations for golf courses, bearing in mind their relationship to the SSC priority areas for development. Golf courses using existing buildings or with no associated development other than a clubhouse and equipment storage, are likely to cause the least impact and could remove uncertainty about the development potential of the inner and most critical parts of green belts. Associated development such as new housing is however likely to be incompatible with green belt policy unless such sites can be justified as part of an overall strategic appraisal of housing land requirements in a structure plan and where they do not undermine the continued overall effectiveness of the green belt. In some cases, where sensitively designed, there may be appropriate locations for driving ranges within green belts but sites within urban areas, closer to the unmet demand should also be examined.

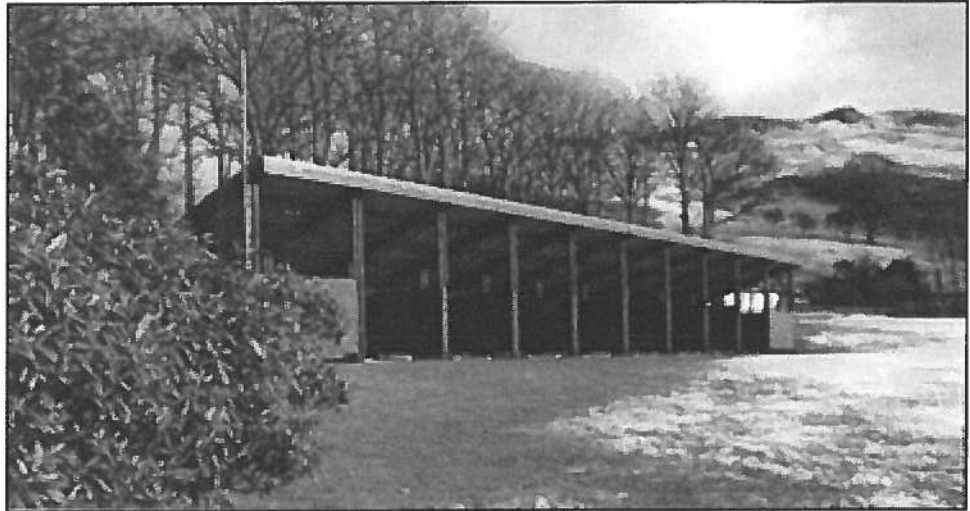
26. Development plans should indicate the locations which might be acceptable for new courses, golf related settlements and associated development in the terms set by Circular 24/1985 and NPPG 3, allowing for the construction, extension or change of use of existing buildings in connection with golf. They should also reaffirm the protection which is normally afforded to the countryside including measures to provide for any loss of access, for example footpaths and informal recreational opportunities, on land taken for golf courses.

Listed Buildings, Archaeology and The Inventory of Gardens and Designed Landscapes



27. The Government's policies give a high priority to conserving the nation's cultural heritage which includes historic buildings and scheduled monuments as well as the parks, gardens or landscapes in which they may be set. Golf course developers are often attracted to such locations and special care will be needed in considering the implications of new proposals alongside the continuing need to protect the historic, archaeological and visual qualities for which the cultural heritage is important. Golf courses may offer a use and a future for some historic buildings in the countryside but associated development such as new housing may well be incompatible with either the historic buildings or their designed landscape setting.

28. Statutory planning procedures exist to identify and protect listed buildings and scheduled monuments and to deal with the development proposals which may affect them. Reference should be made to Historic Scotland's Memorandum of Guidance on Listed Buildings and Conservation Areas (new edition 1993) on the statutory processes governing these designations, with guidelines for the detailed consideration of cases. Guidance and advice on the appropriate treatment of archaeological sites within development proposals, including the requirement to obtain scheduled monument consent, is contained in NPPG 5 and PAN 42 on Archaeology and Planning. In addition, the Town and Country Planning (General Development Procedure) (Scotland) Order 1992 (the GDPO) requires the



50. Driving ranges can also contribute to overall provision either operating independently or in association with new courses. They are normally more intensive land uses than golf courses with different visitor patterns and potentially higher levels of traffic generation. The additional buildings or the galleries, especially if they are 2-tier, can appear intrusive unless sensitively sited. Ranges may need high fencing and generally require floodlighting to permit evening use. Urban or urban fringe rather than open countryside sites may be preferable as they are closer to their markets and reduce the need for excessive travel, provided they satisfy other planning objectives. Driving ranges in green belts should only be sited where they do not make an unacceptable impact on landscape setting.

Transport and Parking

51. The capacity of the surrounding roads needs to be capable of accommodating anticipated flows. The standard of the rural road network varies widely and prior consultation with the appropriate roads authority may identify the best means of accommodating increased traffic. It would be desirable to locate driving ranges and golf courses close to bus routes. It is estimated that at the weekend peak hours (07.00-09.00, 12.00-13.00 and 16.00-17.00) as many as 50 cars per hour may leave and enter an 18-hole course but this is only a rough guide. Other surveys indicate that broadly half of all golfers have arrived by 10.00 but summer weekday peaks can be around 16.30-17.30. Over a third of people practising at driving ranges arrive after 18.00.



52. Parking provision for an 18-hole golf course should be between 100 and 120 spaces, based on a maximum peak summer day use of 250 golfers with each staying five and a half hours and each car arriving with an average 1.4 golfers. In many cases, and for most days of the year 100 parking spaces should be quite adequate. Where

new courses are likely to provide for tournaments, provision should be made at the planning application stage for the large number of cars likely to be attracted to the events in order to avoid local traffic congestion. Such occasional extra parking provision need not be surfaced. Additional parking will be required for any ancillary developments in accordance with the planning authorities' parking standards.

Refusal of Planning Permission

Town and Country Planning (Scotland) Act 1997

Reg. No. 13/00725/DPP

Walsingham Planning
Brandon House
King Street
Knutsford
WA16 6DX

Midlothian Council, as Planning Authority, having considered the application by Emma Whitney, C/O Walsingham Planning, Brandon House, King Street, Knutsford, which was registered on 10 October 2013 in pursuance of their powers under the above Acts, hereby **refuse** permission to carry out the following proposed development:

Erection of 20 metre high fence at Premier Inn, Lasswade, EH18 1AH

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

The proposed development will be incongruous in the local landscape and will have a significant detrimental impact on the visual amenity and landscape setting of the Green Belt, area of countryside, area of great landscape value and nearby designed landscape. Therefore the proposed development is contrary to the aims of policies RP1, RP2, RP6, RP7 and RP25 of the adopted Midlothian Local Plan, which aim to protect and enhance the landscape character of the Midlothian area.

Dated: 03/12/2013



.....
Peter Arnsdorf
Development Management Manager
Fairfield House, 8 Lothian Road, Dalkeith, EH22 3ZN

PLEASE NOTE

If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town & Country Planning (Scotland) Act 1997 within 3 months from the date of this notice. The notice of review should be addressed to The Development Manager, Development Management Section, Midlothian Council, Fairfield House, 8 Lothian Road, Dalkeith EH22 3ZN. A notice of review form is available from the same address and will also be made available online at www.midlothian.gov.uk

If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonable beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.

Prior to Commencement (Notice of Initiation of Development)

Prior to the development commencing the planning authority shall be notified in writing of the expected commencement of work date and once development on site has been completed the planning authority shall be notified of the completion of works date in writing. Failure to do so would be a breach of planning control under section 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning etc (Scotland) Act 2006). A copy of the Notice of Initiation of Development is available on the Council's web site www.midlothian.gov.uk

IMPORTANT NOTE REGARDING PUBLIC ACCESS TO INFORMATION

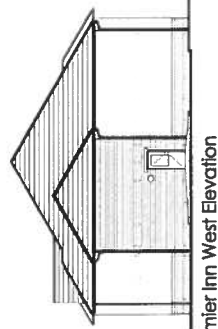
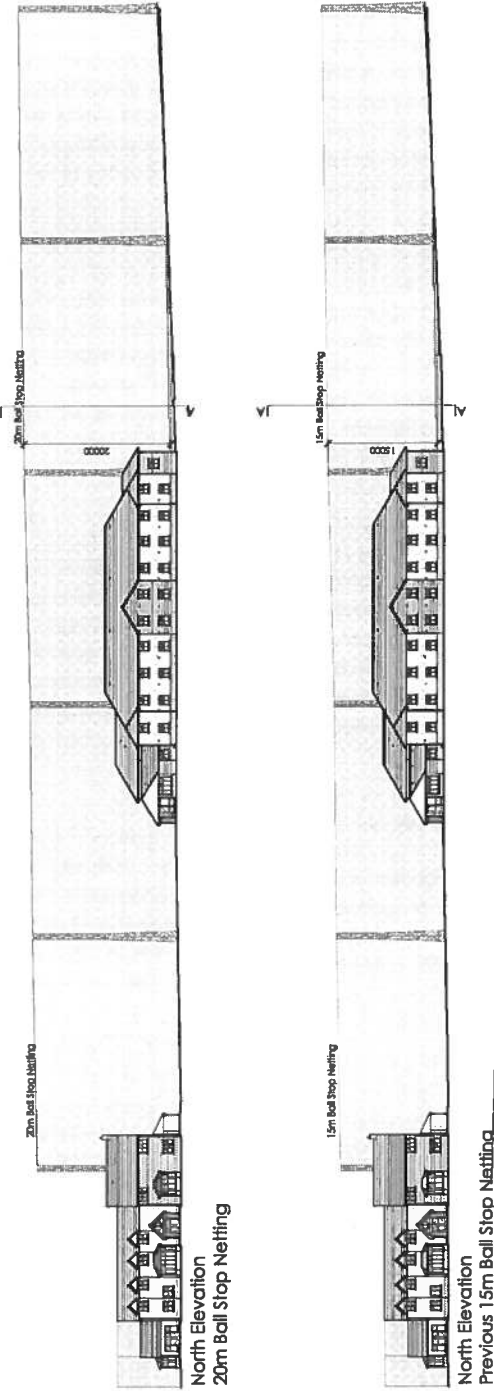
Making an application

Please note that when you submit a planning application, the information will appear on the Planning Register and the completed forms and any associated documentation will also be published on the Council's website.

Making comment on an application

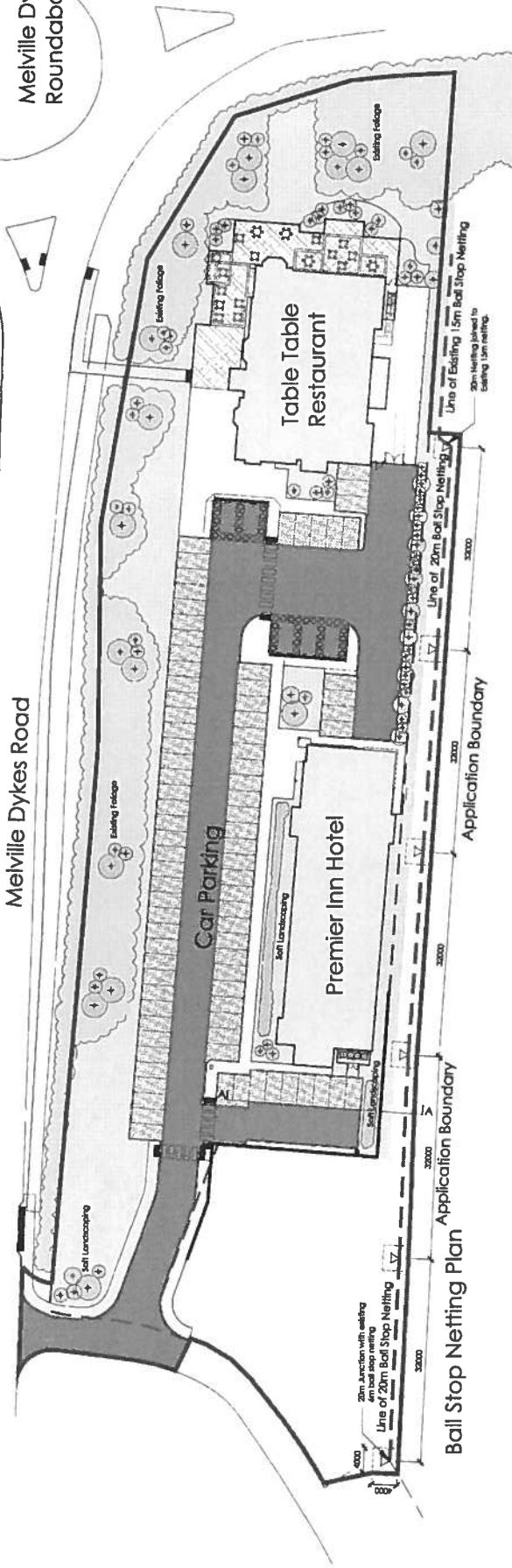
Please note that any information, consultation response, objection or supporting letters submitted in relation to a planning application, will be published on the Council's website.

The planning authority will redact personal information in accordance with its redaction policy and use its discretion to redact any comments or information it considers to be derogatory or offensive. However, it is important to note that the publishing of comments and views expressed in letters and reports submitted by applicants, consultees and representatives on the Council's website, does not mean that the planning authority agrees or endorses these views, or confirms any statements of fact to be correct.



Melville Dykes Road

Melville Dykes Roundabout



APPENDIX F

lawrencemcpherson
associates
the atrium
6 new road
ayr
KA8 8EX
t. 01292 611727
f. 01292 611515
mail@l-m-a.co.uk
www.l-m-a.co.uk

Do not scale from this drawing.
Use figured dimensions only.
Discrepancies to be reported to LMA.

Revisions :-
A 19.08.13 Ball stop fence height increased, AJL

Project
New 1.5m Ball Slop Netting
Premier Inn Hotel,
Melville Dykes Road, Dorking.

Drawing

Ball Stop Netting Plan
Elevations

Status

DRAWING

Date

Scale

1-500 & 1-200 @ A2 DEC 11

AMM

Drawing No.

1493(2)-003A



APPENDIX G

From: Alastair Macfarlane | Melville Golf [REDACTED]
Sent: 23 May 2014 15:28
To: Peter Arnsdorf
Cc: Duncan Robertson
Subject: LRB Hearing 13/00725/DPP

Peter

I've received your letter of 9th May referring to the hearing on 3rd June and can confirm my attendance. It would be good if you could provide me with reasonable notice of the place of the hearing as this has not been provided in the letter.

We support the application that the ball-stop fence be extended to 20 metres as recommended for the protection of the public on health and safety grounds and to help ensure the protection of tourism related employment in Midlothian

The documentation provided to the council clearly demonstrates the case for the fence to be heightened. My oral representation will be to confirm with elected members that ALL the relevant documentation will be considered by members.

Relevant documentation includes:

1. Copson's letter of 30 September 2011 as an expert in driving range and ball flight's recommendation that the fence be extended to 20 metres.
2. Walsingham Plannings Review Statement dated February 2014
3. Appeal decision at Braid Hills Golf Centre in November 2008
4. Midlothian Environmental Health Report dated 28 November 2013 strongly supporting the original application which came to light only following a FOI request to the Council.
5. Midlothian Tourism Forum support letter of April 2014
6. Midlothian and East Lothian Chamber of Commerce's support letter dated May 2014

kind regards

Alastair Macfarlane
www.melvillegolf.co.uk
Like us facebook.com/melvillegolf

Click [here](#) to report this email as spam.

Whitbread Hotels & Restaurants
Whitbread Court
Houghton Hall Business Park
Porz Ave
Dunstable
Bedfordshire
LU15. 5XE
FOR THE ATTENTION OF MR J FRANCIS

30TH September 2011

Dear Jim,

DALKEITH PREMIER INN BALL STOP FENCING REPORT

Further to my site visit on Tuesday 27th September, 2011, I confirm the following;

A new premier Inn has recently been built on land adjoining an existing golf driving range, (Melville Golf Course.) Due to its close proximity and angle that range balls are being hit from the driving range this is causing damage to the hotel, customers parked cars and putting customers visiting the hotel and adjoining Table Table public house, in danger of being hit by the these range balls from customers using the driving range.

The existing 6 metre ball stop fencing has recently been extended up to 9 metres to protect the car parking areas, hotel, public house and restaurant. The fence extends for approximately 190 metres long adjoining the above. However, the ball stop fencing is not providing the necessary protection to stop range balls from being hit onto the car park and roof of the hotel from the adjoining driving range. Hence parked cars are being damaged and roof tiles on the hotel being broken. Range balls are also bouncing several times on the hard tarmac car park surface until they come to a stop. Customers using the hotel and pub having parked their cars, have to walk up and down the car park to gain access to the hotel and public house, hence putting themselves in danger of being hit by range balls. This situation needs to be addressed as soon as possible to stop damage to these buildings and cars and more importantly to stop someone being injured which will result in a large insurance claim against Whitbreads.

On drawing **No1**, I have marked in red two extreme sight lines from the driving range to the car park areas and hotel that I consider are in danger from stray range balls. The area marked in yellow is within the flight of any stray shot from the driving range or any direct shot deliberately hit by a customer on the driving range to get a ball over the existing 9 metre high fence. The owner of the driving range admitted to me that some of his customers do try to hit balls over this fence. They do try to monitor this with CCTV and have caught some customers who have been banned.

Unfortunately, the ground level of the hotel block is approximately 4 to 5 metres below the playing area of the driving range. This on reflection means that the existing 9 metre ball stop fencing only has an effective height of four to five metres high. Some range balls can be hit up to 30 metres in height. The vulnerable areas of the hotel/car parking are between 160 metres and 230 metres. This is well within the hitting capabilities of some golfers. The wind direction unfortunately, in the main, generally blows across the driving range towards the hotel i.e. northerly wind which lifts range balls even more towards the hotel etc.

Having looked closely at the existing 9 metre high fencing structure, I am of the opinion that it is already at its maximum loadings for wind conditions in the area. Attaching wires and nets to it and fixing onto the hotel would not structurally be practical plus the fact that areas either side the hotel block fencing need fence protection.

On drawing **No 2**, I plotted a new proposed new fence line using 5 No lattice towers spaced at 37.5 metres apart, total length 150 metres. The position and new height of this fence should pick up the majority of range balls being hit from the driving range and thus reduce the present damage problem considerably and provide greater safety to customers of the hotel and public house. There can be no guarantee for any height of ball stop fencing to stop this problem one hundred percent. Human error and deliberate wayward shots are very difficult to control by any golf range operator. This proposed ball stop fencing system will provide Whitbreads with the duty of care needed to protect its customers and their property against damage or injury.

On drawing **No 3**, I have drawn a section/elevation of the existing driving range, existing ball stop fencing, hotel and the new proposed ball stop fencing. This should give you an idea of what this would generally look like. In designing this fence I suggest that it is designed structurally to be extended by another 3 metres in height should it be necessary on any one section. (i.e 12 metres to 15 metres and 15 metres to 20 metres).

I am of the opinion from my years of experience with many other very similar problems on driving ranges that my proposal would provide the degree of necessary protection Whitbreads need to provide in this situation.

The planning issue on this site may be a stumbling block but I think you need to present a very good case to the planners for their consideration on health and safety, otherwise it may mean pursuing the legal route to have the range closed down.

Yours sincerely,