

Notice of Review: Shewington, Rosewell

Determination Report

Report by Ian Johnson, Head of Communities and Economy

1 Purpose of Report

- 1.1 The purpose of this report is to provide an update for the Local Review Body (LRB) regarding an application for planning permission for the formation of a temporary test piling facility, associated car parking, access road and buildings at Shewington, Rosewell.

2 Background

- 2.1 Planning application 15/00158/DPP for the formation of a temporary test piling facility, associated car parking, access road and buildings at Shewington, Rosewell was refused planning permission on 30 June 2015 for the following reasons:
1. The application does not relate to the furtherance of an existing acceptable countryside use; the proposal is therefore contrary to policy RP1 of the Midlothian Local Plan.
 2. The use of the site as a piling test facility is not supported by any policies in the Midlothian Local Plan; the proposal is therefore contrary to the aims of the Midlothian Local Plan.
 3. The noise associated with the piling activities will have a significant detrimental impact on the amenity of the occupants and users of Rosslynlee Fishery and Reservoir Cottage.
 4. The vibration associated with the piling activities will have a significant detrimental impact on the amenity of the occupants and users of Rosslynlee Fishery and Reservoir Cottage.
- 2.2 A Notice of Review has been submitted by the applicants and at its meeting of 19 January 2016 the LRB were minded to uphold the review and grant planning permission subject to conditions and a bond/bank guarantee to secure a financial arrangement to protect local homes and businesses from any potential damage from the test piling operations and flooding (if the nearby dam was damaged). The LRB determined to consider the conditions and the details of the bond/bank guarantee prior to a decision being issued.
- #### **3 Conditions**
- 3.1 The following conditions have been prepared for the consideration of the LRB

1. Planning permission is granted for a period of 2 years from the date of this permission.

Reason: *To reflect the temporary nature of the development.*

2. Development shall not begin until an Environmental Management Plan detailing mitigation measures for noise, lighting and vibration at properties within 500m of the boundary of the application site; and a timetable for implementation and operation of the measures, has been submitted to and approved in writing by the Planning Authority. The scheme shall be implemented as approved unless otherwise agreed in writing with the Planning Authority.

Reason: *To safeguard the amenity of local residents.*

3. Development shall not begin until a scheme of structural monitoring of the dam, reservoir, fishing lodge and residential property at Rosslynlee Trout Fishery and of Reservoir Cottage has been submitted to and approved in writing by the Planning Authority, following consultation with the supervising engineer of the reservoir (as defined by the Reservoirs (Scotland) Act 2011) to the extent that the scheme relates to the dam and reservoir. The scheme shall contain details of the proposals to monitor the structural integrity of the dam, reservoir and properties and include:
 - i. A survey of the structural condition of the dam, reservoir and properties prior to development commencing at the application site;
 - ii. A scheme of vibration monitoring during the period of test piling activities; and
 - iii. A scheme of surveys to be undertaken once test piling activities have ceased.

Unless otherwise approved in writing by the Planning Authority the structural monitoring scheme shall be implemented as approved.

Reason: *In the interests on flood risk management and monitoring the structural integrity of nearby residential properties.*

4. Prior to test piling activities commencing the scheme of drainage detailed in Environmental Appraisal Appendix 7: Groundwater, Surface Water, Private Water Supplies and Soil Assessment as amended by the Response to Objection from SEPA dated 10 June 2015 shall be implemented, unless otherwise agreed in writing by the Planning Authority in consultation with SEPA; and shall remain in operation for the duration of the relevant activities.

Reason: *To protect water quality.*

5. Development shall not begin until a restoration plan has been submitted to and approved in writing by the Planning Authority. The restoration plan shall include:
- i. Details of the removal of all areas of hardstanding within the application site;
 - ii. Details of the removal of temporary above ground level structures placed on the application site as part of the development;
 - iii. A scheme for monitoring the waste implications of the remainder test piling;
 - iv. A scaled site plan showing existing pre-development ground levels and proposed post-restoration ground levels;
 - v. Details and specifications of seeding within the application site; and
 - vi. The location and details of all new fences and walls to be erected, or hedges to be planted, within or around the boundaries of the site.

Unless otherwise approved in writing by the Planning Authority the approved restoration plan shall be implemented within 6 months of the cessation of the use and shall be completed within 6 months of implementation. Thereafter any planting or seeding removed, dying, becoming seriously diseased or damaged within five years of planting or seeding shall be replaced in the following planting season by planting or seeding of a similar species to those originally required.

Reason: *To ensure that all parts of the site are properly restored to agriculture or other approved after-use.*

6. Pile installation works shall only take place between 08:00 and 18:00 Monday to Friday. Site set up and demobilisation/reinstatement works shall only take place between 08:00 and 18:00. Unless otherwise approved in writing by the Planning Authority in advance no works (other than pile testing) shall take place out with these hours.

Reason: *To reduce the impact of the development on the amenity of residents living in the vicinity of the site.*

7. Unless otherwise approved in writing by the Planning Authority noise from plant and machinery, including generators and vehicle movements, shall be such that the combined noise level (except from pile driving activities) shall not exceed NR 30 daytime (07:00 to 23:00 hrs) and NR25 night-time (23:00 to 07:00 hrs) as measured from within any living apartment in any noise-sensitive premises. For the purposes of this condition the assessment position shall be as identified by BS 7445 in relation to internal noise measurements.

Reason: To ensure that noise emanating from the site is within acceptable levels.

- 3.2 The applicants have agreed these conditions, with the exception of condition 5 which seeks to restore the site. The applicants are of the opinion that the site should not be restored because of the condition of the site and its previous open cast use. The applicants advise that the site should be left in the condition that it is prior to works commencing.

4 Financial Bond/Bank Guarantee

- 4.1 The applicants have stated that they are "not in a position to offer financial security" prior to the issuing of consent and that the "internal governance" of the applicant is such that consent with conditions is required to initiate the work necessary to secure restoration funds. In addition the applicant "is not in a position to spend money until they are confident" of obtaining the necessary consent. In place of a bond/bank guarantee the applicant has suggested that a condition be attached to the consent to secure restoration funds prior to development commencing.

5 Recommendations

- 5.1 At its meeting of 19 January 2016 the LRB were minded to uphold the review and grant planning permission subject to conditions and a bond/bank guarantee to secure a financial arrangement to protect local homes and businesses from any potential damage from the test piling operations and flooding. The LRB determined to consider the conditions and the details of the bond/bank guarantee prior to a decision being issued. However, as the applicants are unable to offer financial security prior to the issuing of consent the LRB needs to determine to follow one of the following courses of action, or an alternative course of action as may be stated by the LRB:

Options:

- a) uphold the review and grant planning permission subject to conditions, but not subject to a bond/bank guarantee; or
- b) dismiss the review and refuse planning permission for the reasons outlined in the planning officers decision on the basis that the applicant has not secured a bond/bank guarantee to mitigate the potential impact of the proposed development; or
- c) defer the review and reinforce the LRB's original decision only to grant planning permission if a bond/bank guarantee to mitigate the potential impact of the proposed development is secured and that the review will be held in abeyance until such time a bond/bank guarantee has been agreed.

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Background Papers: Planning application 15/00158/DPP available for inspection online.