



APPLICATION FOR PLANNING PERMISSION (13/00226/DPP) FOR THE ERECTION OF A SUPERMARKET AND FORMATION OF ASSOCIATED ACCESS, SERVICE AREA AND CAR PARKING AT THE FORMER FIRST BUS DEPOT AND CAR PARK, ESKBANK ROAD, DALKEITH, MIDLOTHIAN

Report by Head of Planning and Development

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1** The application is for the erection of a supermarket (class 1 food retail store) and the formation of a vehicular access, service area and car parking on the grounds of the former Firstbus depot, located on the west side of Eskbank Road, Dalkeith. Six letters of representation and consultation responses from the Dalkeith and District Community Council, the Council's Environmental Health Manager, Consultant Archaeologist and Policy and Road Safety Manager have been received. The relevant development plan policies are RP20, RP22, RP24, SHOP2 and TRAN1 of the Midlothian Local Plan and Policies RET1 and RET2 of Edinburgh and the Lothians Structure Plan 2015. The recommendation is to grant planning permission subject to conditions.

2 LOCATION AND SITE DESCRIPTION

- 2.1** The site is the land that was until recently occupied by the former bus depot; which contained the bus depot building, five small vacant shop units and the car park of the bus garage. The depot is no longer operational, the building has been demolished, and the site is being cleared. Additionally, the site includes a public car park. Also, there are currently two lay-bys adjacent to the carriageway of Eskbank Road which provide for drop off, short term parking and a bus stop. The site lies towards the southern extent of Dalkeith Town Centre and is bounded to the northwest by the combination of a cemetery and a public car park and to the south east by Eskbank Road. The boundary to the north east consists of the access road leading to the aforesaid public car park and the service yard of the Dalkeith sorting office and delivery office at 10 Eskbank Road. The site is bound to the south west by the grounds of Dalkeith Rugby Club clubhouse.
- 2.2** The site is approximately 1.34ha in size, roughly rectangular in plan, stretching in a north-east to south west direction and is generally level. There are three existing vehicular accesses to the site from Eskbank Road.

- 2.3 The south eastern extremity of the site lies within Eskbank and Ironmills Conservation Area.

3 PROPOSAL

- 3.1 A two-storey flat roofed building with a footprint of approximately 3716sqm is proposed on the site of the now demolished bus depot building. The ground floor of the proposed building contains 3,256sqm of floorspace comprising of 2 entrance lobbies, a 1,973sqm retail sales area, a warehouse, preparation areas, a 52 seat cafe, a kitchen, a sales kiosk, public toilets and circulation areas. Its upper floor contains a 341sqm floor of staff facilities associated with the supermarket and a separate 213sqm plant room. The upper floor is positioned towards the front of the building. The cafe is orientated onto Eskbank Road.
- 3.2 The proposed building fronts obliquely onto Eskbank Road. It is stepped back from the road to between 6 metres and 12 metres. The building is to be finished in a combination of buff coloured facing brick, dark green and pearl coloured cladding panels, curtain wall glazing with dark green coloured framing and a single ply roof membrane.
- 3.3 The proposed building has two public entrances. One is at a point on the northern end of the east elevation of the building and the other is from the entrance lobby in the south east corner of the building.
- 3.4 A car park is provided on the south western part of the site. It provides 244 spaces including 14 disabled spaces and 14 parent and toddler spaces. The parking spaces would be subject to a management strategy limiting parking to 3 hours maximum. Vehicular access to the car park from Eskbank Road is proposed at a point near to the southern end of the east boundary of the site.
- 3.5 Nine Sheffield type cycle stands providing parking for up to 18 bicycles are to be provided adjacent to the south east elevation of the building.
- 3.6 The lay-by arrangement outside the store on Eskbank Road will be simplified to a single drop off bus stop lay-by.
- 3.7 A service yard is provided on the northern extremity of the site in place of the public car park, which currently contains 44 unrestricted parking spaces. It would continue to be accessed via Ramsey Croft. Vehicles using the post office sorting office service yard, would as is the case presently, share the access to the yard. A sprinkler tank and a pump house are to be erected/sited on the southern part of the service yard.
- 3.8 A planning statement, a design and access statement and a transport statement accompany the application.

4 BACKGROUND

- 4.1 In February 2008 planning permission 07/00303/FUL was granted for a mixed use development comprising supermarket, class 4/leisure/restaurant/bar/health and fitness unit and retail/office/restaurant unit, formation of service yard and car parking on the site. Condition 31 of that planning permission required that the development approved be begun within 5 years from the date of the grant of planning permission.
- 4.2 In November 2012 planning permission 12/00635/DPP was granted for the amendment to condition 31 of planning permission 07/00303/FUL (mixed use development comprising supermarket, class 4 leisure/restaurant/bar/health and fitness unit and retail/office/restaurant unit, formation of service yard and car parking) to extend the timeframe in which to implement permission to 8 years. Therefore planning permission 07/00303/FUL is extant and the development approved could still be implemented.
- 4.3 Part of the site (the car park to the rear of the Royal Mail sorting office) is owned by Midlothian Council and as such the Council is considered to have a financial interest in the application. Regulation 3 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008 requires applications which relate to land which is owned by the Planning Authority or in which they have a financial interest to be considered by the Planning Committee.

5. CONSULTATIONS

- 5.1 In a consultation response on planning application 07/00303/FUL the Council's **Consultant Archaeologist** informed that the site is regarded as being of archaeological potential. Finds in the area suggest that archaeological remains may be encountered during ground breaking operations. He recommended a programme of archaeological works be carried out comprising of a historic building appraisal, a watching brief during demolition, and a targeted 5% evaluation of the site to be affected by groundbreaking.
- 5.2 The **Council's Environmental Health Manager** raises concerns over the proposed unrestricted hours of delivery to the service yard and advises that it could be better located on the site to reduce the impact of noise disturbance to nearby residences from early morning deliveries. If however the delivery yard is to be sited as is currently proposed, it is considered that the hours of deliveries be restricted to between 0700 hours and 1900 hours. In addition, it is recommended that delivery vehicles be fitted with reversing beepers. Furthermore to safeguard the amenity of nearby residences it is recommended that there be controls over: (i) the hours of construction; (ii) the noise emissions from plant and machinery installed on the building; (iii) amplified music and speech emitting from within the building; and, (iv) the elimination of odours for the kitchen/cafe area within the building.

- 5.3 The Council's **Policy and Road Safety Manager** advises that the proposed level of parking, the access arrangements, alterations to Eskbank Road and service yard arrangements are acceptable subject to conditions.
- 5.4 **Dalkeith and District Community Council** confirm that they support the planning application but have concerns regarding the following: (i) cars exiting the car park will have limited view of traffic coming from either direction on the main road; and, (ii) delivery vehicles accessing the service yard will have a tight turn into it from the traffic light controlled junction and there appears to be limited space within the service yard for the manoeuvring of service vehicles. Furthermore they note the loss of the 40 space car park and express a desire that the future operator of the supermarket allow a generous parking period to allow their customers time to also shop within the High Street.

6. REPRESENTATIONS

- 6.1 Six letters of representation have been received; one of the letters contains a petition, against the loss of trees, with 41 signatures. The main points raised in the letters are as follows:
- The poor architectural style of the building;
 - The proposed development is inferior to the approved scheme of development;
 - The sprinkler tank is ugly;
 - The condensers on the roof of the building should be screened;
 - The west elevation of the building delineates existing trees being bigger than they actually are;
 - The building will be imposing;
 - The building should have a mansard roof or sloping sections of roof;
 - The green line on the elevations is ugly;
 - Additional trees should be planted in the planters within the proposed service yard;
 - The proposed 2-3 metre high wall around the service yard should be increased to 5 metres;
 - Delivery times should be restricted;
 - The times when roller doors are operated should be restricted and they should incorporate nylon runners to minimise noise;
 - Noise emissions from the condensers on the roof should be restricted;
 - There should be no mechanical plant positioned on the northern part of the building or site;
 - Noise nuisance from the alarms of vehicles being reversed within the service yard;
 - The times and noise emission from any waste compactor on site should be limited;

- Noise emissions from trolleys being used to load and unload to service vehicles should be restricted;
- The surface material of the ramp at the loading bay should be chosen so that there is minimum noise from trolley wheels;
- The operating hours should be restricted;
- Dust nuisance during periods of demolition including asbestos dust
- Nuisance of smoke emissions from a previous fire on site;
- The 'considerate contractors scheme' should be used;
- Noise screens should be erected on site;
- Vibrations during construction;
- Concern about a construction access being taken off Ramsey Croft;
- Concern about where the site office and compound will be located on the site;
- Concern about the rear lane and pedestrian access gates being used by people other than customers accessing the proposed supermarket;
- The design should adhere to 'secure by design' principles;
- CCTV should be used to control crime and anti-social behaviour;
- Cooking odours and fumes from the in-store bakery should be appropriately vented to prevent wind-blown odours towards neighbouring properties;
- The application drawings are not sufficiently detailed to show the exact nature of the proposed development;
- The design should reflect the fact that the site is bounded by a conservation area;
- Road safety concerns with the manoeuvring of delivery vehicles at the junction of Ramsay Croft and Old Edinburgh Road;
- Concern about the scale of the proposed sprinkler tank and pump house; and
- Conflicts between vehicles servicing the supermarket and vehicles accessing the Royal Mail sorting depot.

7. PLANNING POLICY

- 7.1 The development plan is comprised of the Edinburgh and the Lothians Structure Plan (ELSP) 2015, approved in June 2004, and the Midlothian Local Plan (MLP), adopted in December 2008. The following policies are relevant to the proposal:
- 7.2 Edinburgh and the Lothians Structure Plan 2015 Policy **RET1** refers to the sequential approach to new retail and leisure development. It states that new retail, commercial, leisure and other development appropriate to town centres should be located in accordance with priorities, depending on the availability of suitable opportunities within the expected catchment area of the proposed development. The top priority identified is within a town centre;

- 7.3 Edinburgh and the Lothians Structure Plan 2015 Policy **RET2** outlines the other considerations to be satisfied under the sequential approach. With regards to development within or on the edge of a town centre it states that developments referred to in RET1 would only be acceptable where it does not, either individually or cumulatively within other development, pose a significant threat to the vitality or viability of any other town centre, or jeopardise the development plan strategy in support of such a town centre;
- 7.4 Midlothian Local Plan Policy **RP20** states that development would not be permitted within the built-up area, and in particular within the residential area, where it is likely to detract materially from the existing character or amenity of the area;
- 7.5 The southern extremity of the site is also subject to Midlothian Local Plan Policy **RP22** (Conservation Areas) which seeks to prevent development which would have any adverse effect on the character and appearance of Conservation Areas;
- 7.6 Midlothian Local Plan Policy **RP24: Listed Buildings** states that development will not be permitted where it would adversely affect the setting of a listed building;
- 7.7 Midlothian Local Plan Policy **SHOP2: Major Retail Developments** states that within or on the edge of existing town centres, proposals for new retail development or extension to existing facilities would be permitted provided they do not undermine the vitality and viability of other town centres;
- 7.8 Midlothian Local Plan Policy **TRAN1: Sustainable Modes of Transport** states that major travel-generating uses will only be permitted where they are well located in relation to existing or proposed public transport services, are accessible by safe and direct routes for pedestrians and cyclists, and accord with the Council's Local Transport Strategy. All major travel-generating developments shall be accompanied by a Transport Assessment and a Green Travel Plan, setting out what provisions or measures shall be taken to provide for, and encourage the use of, alternative forms of travel to the private car.

8. PLANNING ISSUES

- 8.1 The main issue to be determined is whether the proposal accords with the development plan unless material planning considerations indicate otherwise. The representations and consultation responses received are material considerations.

The Principle of Development

- 8.2 The site is located on a brownfield site within the town centre where there is a presumption in favour of development. The principle of the redevelopment of the site with a supermarket has already been established by the grant of planning permissions 07/00303/DPP and 12/00635/DPP. The proposed development does not conflict with development plan policies.
- 8.3 Visual and pedestrian links to the town centre are important, and need to be maximised. Whilst the present design of the building turns its back to the town centre with the principal supermarket entrance facing away from the town centre, a secondary public access to the supermarket has been provided in the northern end of the Eskbank Road elevation. This together with the cafe on the eastern part of the building and the resultant glazing at ground floor level will encourage satisfactory levels of pedestrian flow between the supermarket and the town centre.
- 8.4 The use is compatible with the other uses within the town centre.

Service Yard

- 8.5 The currently proposed delivery yard is in the same location on the site as the delivery yard approved in the previous planning permission, which permission is extant and could still be implemented. Royal Mail presently has a right of access over the application site via Ramsay Croft to access the Dalkeith delivery office and they have raised a concern about access for Royal Mail vehicles which are larger than transit vans. The matter of right of access is a legal matter and not a material consideration in the determination of this application. Although there is no justification in planning terms for the Council to insist that the applicant make allowances for large Royal Mail vehicles, in response to the concern raised by Royal Mail the applicant's agent has submitted an auto-track demonstrating how a 7.5 tonne Royal Mail vehicle; can continue to access the Royal Mail yard once the supermarket service yard comes into operation and the proposed new screen wall has been erected. In order to accommodate these larger Royal Mail vehicles the applicant's agent has modified the access into the site off Ramsay Croft.
- 8.6 The applicant's agent has confirmed that the intended store opening hours are to be 07:00 to 22:00 seven days a week. Owing to the close juxtaposition of the delivery yard to neighbouring residences, delivery times should be programmed to avoid early morning or late night noise and disturbance to residents in the area. There are two residences near the delivery yard which are The Old Manse, Old Edinburgh Road and The Manse, 12 Old Edinburgh Road. When it was operating, the bus depot operated a fleet of approximately 40 buses from the depot. The depot opened between 4.30am and 5pm and closed at between

1.30am and 2am each day. The Post Office Sorting Office is open 24 hours a day and has a number of vehicle movements early in the morning. Thus, there are/was until recently a number of vehicle movements both early in the morning and late at night. The Council's Environmental Health Manager confirms that they had not received any complaints of noise and disturbance from the neighbouring residences in respect of the bus depot and they have received none in respect of the Post Office sorting office.

- 8.7 Imposing restrictions on delivery hours could hamper the operation of the supermarket. It was made a condition of a grant of the previous planning permission that deliveries should involve the delivery truck 'docking' within the store building to mitigate the noise of unloading delivery vehicles. This installation provides a noise seal around the back of the delivery truck and allows goods to be unloaded in a sealed environment directly from the truck into the building. This methodology ensures that there is limited noise produced by the deliveries and that the service yard is not used for delivery storage. The same condition can be imposed on a grant of planning permission for the currently proposed development. Further mitigation against potential noise nuisance, involves fitting delivery vehicles with broadband/white reversing beepers to restrict the disturbance from beeping delivery vehicles. Subject to the proposed mitigation measures; there will be no significant early morning or late night noise and disturbance to residents when compared to the previous/existing uses within the town centre and as such there is considered to be no requirement to impose controls over delivery times.
- 8.8 Through an amendment made to the current application the proposed sprinkler tank and pump house have been moved from the northern part of the service yard; where they would be prominent in public views, to the southern part of the service yard, where they would be less obtrusive. In such a location on site they would not appear unduly intrusive and thus would not harm the character and amenity of the streetscene. A high wall is to be erected along part of the north boundary of the service yard. This new wall together with the existing trees immediately to the north of the service yard would partly screen views and soften the visual impact of the service yard, including the sprinkler tank and pump house.

Design and Form

- 8.9 The bus garage building that occupied the site until recently was utilitarian in character and of no particular architectural merit, and it made little contribution to the character and visual amenity of the area. The proposed new building is of a contemporary utilitarian architectural form. Although it will have a smaller footprint than the bus garage building, it will be higher. In terms of its size and height and owing to it being stepped back from Eskbank Road, it will not be unduly visually dominant relative to the existing neighbouring buildings, including the

buildings immediately opposite the site, which apart from the Category B listed King's Park Church, are fairly domestic in scale. Its height is acceptable when viewed from all directions.

- 8.10 The east elevation of the building; which is orientated to Eskbank Road incorporates a public entrance at either end of it, ground floor glazing to the cafe and upper floor glazing to the staff accommodation. Given this it will present a dynamic street elevation. To the cemetery there is a blank façade. This is acceptable given that the recently demolished building that occupied the site had a blank façade to the cemetery and the trees within the graveyard that screened it are to be retained. From the north its façade will appear prominent. The careful use of materials and design detailing to create articulation will reduce its prominence.
- 8.11 The proposed external finishing materials and colours are acceptable and appropriate to the streetscene and thus will not harm the character, appearance and setting of Eskbank and Ironmills Conservation Area in which the southern extremity of the site is located.
- 8.12 Subject to the proposed external plant and equipment installed on the building being enclosed in accordance with details to be approved in advance by the Planning Authority, they will not harm the integrity of the building or the character and visual amenity of the area.
- 8.13 The proposed development would not harm the setting of any neighbouring listed buildings.
- 8.14 The proposed building and associated works would not result in significant loss of sunlight or daylight to any neighbouring residential property, including at Ramsay Croft, Old Edinburgh Road.

Access and Transportation Issues

- 8.15 The proposed access and parking arrangements detailed in the application accord with recommendations made in the transport assessment submitted with the application, including the implementation of a parking management system to ensure efficient and effective use of the car park. The development is capable of being safely and conveniently accessed by customer and delivery vehicles. Adequate parking, including disabled parking and mother and toddler parking is provided. By being within the town centre the site is well served by public transport and is located in close proximity to well established pedestrian routes and to a major national cycle route. There is insufficient justification for the Planning Authority to insist that the applicant provide a pedestrian/cycle link from the site to the adjoining graveyard.
- 8.16 Parking provision accords with the nationally recommended maximum standards. The parking spaces should be subject to a management strategy and a number of measures to enhance the accessibility of the

site. This can be secured by a planning condition. The transport assessment recommends a Green Travel Plan with steps to be taken to minimise the use of private cars by staff. Inadequate implementation of a Travel Plan is likely to exacerbate the effects on the surrounding road network of the additional traffic generated by the proposed development.

- 8.17 The intention of the application to allow vehicles to be parked within the proposed car park for up to 3 hours would give shoppers sufficient time to complete their shopping in the supermarket and also to do their shopping elsewhere in the town centre. Such 'medium' stay parking would therefore provide mitigation for the loss of the 44 unrestricted public parking spaces that the proposed service yard would replace. Furthermore, adequate implementation of the proposed parking management system and the Travel Plan would lessen the impact of the loss of the 44 space public car park.
- 8.17 A number of off-site transportation works are required to be carried out to facilitate the proposed development. These works can all be secured by conditions on a grant of planning permission.
- 8.18 Nine cycle stands are to be provided. No details of the proposed cycle parking racks have been provided. This could be secured by condition.
- 8.19 To minimise mud and deleterious material from the site being carried onto neighbouring roads from construction vehicles, if planning permission were granted, it should be subject to a condition requiring wheel washing facilities to be implemented during periods of construction and to the prior approval of the Planning Authority.

Landscaping Issues

- 8.20 There is an existing low random rubble stone wall on the southern part of the roadside boundary of the site. That wall is an established boundary feature that contributes to the street scene of Eskbank Road and therefore it should be retained or, if it is structurally unsound, rebuilt like for like where possible. This can be secured by a condition on a grant of planning permission. The removal of a section of the wall to facilitate the formation of the new vehicular and pedestrian accesses to the site would not harm the overall character and integrity of the wall.
- 8.21 The applicant confirms that sustainable urban drainage for the development shall be achieved using a combination of infiltration and attenuation. Infiltration measures to be used include rainwater harvesting, filter trenches, porous asphalt and below ground storage boxes. It can be made a condition on a grant of planning permission that full details of the drainage strategy for the development be submitted for the prior approval of the Planning Authority.

- 8.22 Through negotiations with the applicant's agent, except for one tree that will have to be felled to facilitate the formation of the access, the existing trees along the south boundary of the site are to be retained. The retention of these trees will provide an immediate landscape setting to the proposed development. The existing trees along the southern part of the eastern edge of the site would have to be felled to facilitate the formation of the proposed car park. These trees, have amenity value owing to them being prominent from Eskbank Road, albeit some of the trees are not in good condition. Along the southern part of the roadside boundary in place of the existing trees a new linear shrub bed is to be formed and new trees of a native species planted within it. It can be made a condition of a grant of planning permission that the new trees planted are extra heavy standard trees with a girth of 14-16cm in order to give an immediate landscape setting to the car park. Subject to this landscaping being carried out there would be no requirement for additional tree planting within the proposed car park.
- 8.23 There is a row of trees within the cemetery that overhang the west boundary of the site. These trees do not have to be felled to accommodate the proposed development. Some smaller branches on these trees may have to be lightly pruned to avoid being damaged by construction.

Conditions

- 8.24 At the time of drafting this report the applicant was finalising details in relation to landscaping, roads and infrastructure, materials and the service yard to mitigate the need for conditions requiring the submission of further details. The applicant wishes to progress with the development of the site on receiving planning permission and as such is keen to resolve any outstanding issues as soon as possible. It is proposed that conditions be applied to control the implementation of the permission. However, the exact phrasing of the conditions will depend upon the submission of further details and it is therefore requested that the exact wording of the conditions is delegated to the Head of Planning and Development in agreement with the Chair of the Planning Committee.

9. RECOMMENDATION

- 9.1 That planning permission be granted for the following reason:

The principle of the redevelopment of the site for a supermarket has been established by the grant of planning permission 07/00303/FUL. The proposed development can be safely and conveniently accessed and serviced and adequate parking has been provided for the use. The proposed development will preserve the character and visual amenity of the area and the character and amenity of the Conservation Area and, subject to conditions, it will not result in demonstrable harm

*to the amenity of neighbouring properties including residences.
Accordingly, the proposed development complies with development
plan policies.*

Subject to conditions to be drafted and agreed in consultation with the
Chair of the Planning Committee.

Ian Johnson
Head of Planning and Development

Date:	21 May 2012
Application No:	13/00226/DPP
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Validation Date:	25th March 2013
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Background Papers:	07/00303/FUL & 12/00635/DPP (Available online)