

Notice of Review: Land west of the junction of Lugton Brae and Old Dalkeith Road (the former Lugton Inn site), Dalkeith

Update 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 the erection of 5 dwellinghouses on land west of the junction of Lugton Brae and Old Dalkeith Road (the former Lugton Inn site), Dalkeith.

2 Background

- 2.1 Planning application 15/00703/DPP for the erection of 5 dwellinghouses on land west of the junction of Lugton Brae and Old Dalkeith Road (the former Lugton Inn site), Dalkeith was refused planning permission on 21 October 2015 for the following reasons:

1. The proposed parking provision is significantly below the minimum standard specified in Midlothian Council's Parking Standards 2014. The proposed parking provision would have a detrimental impact on road safety and on the amenity of both local residents and potential occupants. The proposal is therefore contrary to policy RP20 of the Midlothian Local Plan.
2. The proposed outdoor space provision is significantly below the minimum standard specified in policy DP2 of the Midlothian Local Plan. The amenity of potential occupants would be below expected standards. The proposal is therefore contrary to policies RP20 and DP2 of the Midlothian Local Plan.
3. The width and height of the building would result in a bulky addition to the streetscape that would be overbearing to neighbours at Bridgend. The proposal is therefore contrary to policy RP20 of the Midlothian Local Plan.
4. The width and height of the building would result in a bulky addition to the streetscape that would have a significant detrimental impact on the character and appearance of the Dalkeith House and Park Conservation Area. The proposal is therefore contrary to policy RP22 of the Midlothian Local Plan.

- 2.2 A Notice of Review was submitted by the applicants and at its meeting of 8 March 2016 the LRB resolved to uphold the review and grant planning permission subject to conditions and the prior signing of a legal agreement to secure developer contributions towards, education provision, children's play provision, the Borders Rail Line and town

centre improvements. A copy of the original report (excluding the attachments which can be viewed online via www.midlothian.gov.uk) to the LRB is appended to this report.

3 Current Position

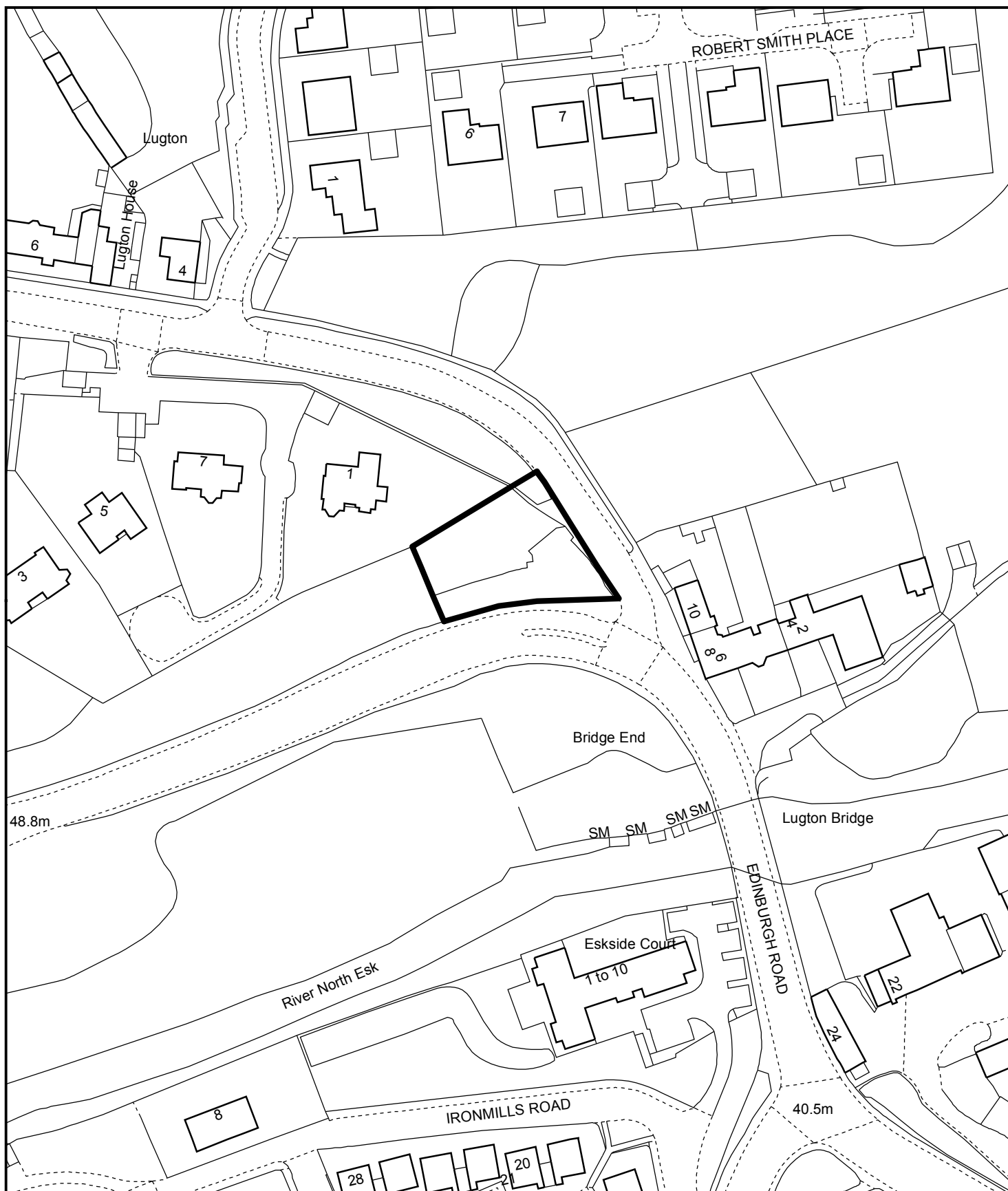
- 3.1 To date the applicants have not concluded the legal agreement despite the planning authority's continued and consistent best efforts since March 2016 to reasonably engage with them. The view of the planning authority throughout that extended period is that there is no significant impediment to the completion of the legal agreement. However, there is no clear indication that the applicants will conclude the agreement within a reasonable timescale. All planning authorities in Scotland are consistently advised by Scottish Government to determine planning applications without undue delay, and to eliminate what are referred to as 'legacy' cases of applications remaining undetermined due to lack of progress on the conclusion of legal agreements. Having regard to these matters this application is being reported further to this meeting of the LRB.
- 3.2 The applicants have been advised that this application is being referred back to the LRB.
- 3.3 At its meeting of 8 March 2016 the LRB resolved to uphold the review and grant planning permission subject to conditions and the prior signing of a legal agreement to secure developer contributions towards, education provision, children's play provision, the Borders Rail Line and town centre improvements. However, as the application remains undetermined due to the required legal agreement not being concluded it is appropriate for the LRB to consider the progress of the review.

4 Recommendations

- 4.1 It is recommended that:
- a) the LRB write to the applicant expressing its disappointment with progress and expressing a desire to conclude the legal agreement timeously; and
 - b) provide a further 2 months for the applicants to conclude the legal agreement, failing which, the LRB will revisit the site and review the application afresh.

Date: 15 August 2017
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Background Papers: Planning application 15/00703/PPP available for inspection online.



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Former Lugton Inn site, Lugton Brae

28th January 2016

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File No. 15/00703/DPP

Scale: **1:1,250**



Notice of Review: Land west of the junction of Lugton Brae and Old Dalkeith Road (the former Lugton Inn site), Dalkeith

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 a framework for the Local Review Body (LRB) to consider a 'Notice of Review' for the erection of 5 dwellinghouses on land west of the junction of Lugton Brae and Old Dalkeith Road (the former Lugton Inn site), Dalkeith.

2 Background

- 2.1 Planning application 15/00703/DPP for the erection of 5 dwellinghouses on land west of the junction of Lugton Brae and Old Dalkeith Road (the former Lugton Inn site), Dalkeith was refused planning permission on 21 October 2015; a copy of the decision is attached to this report.

- 2.2 The review has progressed through the following stages:

- 1 Submission of Notice of Review by the applicant.
- 2 The Registration and Acknowledgement of the Notice of Review.
- 3 Carrying out Notification and Consultation.

3 Supporting Documents

- 3.1 Attached to this report are the following documents:

- A site location plan (Appendix A);
- A copy of the notice of review form and supporting statement (Appendix B). Any duplication of information is not attached;
- A copy of the case officer's report (Appendix C);
- A copy of the decision notice, excluding the standard advisor notes, issued on 21 October 2015 (Appendix D); and
- A copy of the relevant plans (Appendix E).

- 3.2 The full planning application case file and the development plan policies referred to in the case officer's report can be viewed online via www.midlothian.gov.uk

4 Procedures

- 4.1 In accordance with procedures agreed by the LRB, the LRB by agreement of the Chair:

- Have scheduled an accompanied site visit for Monday 7 March 2016; and
 - Have determined to progress the review by way of a hearing.
- 4.2 The case officer's report identified that two consultation responses and five representations have been received. As part of the review process the interested parties were notified of the review. Five additional comments have been received and reinforce their original objections to the application. All the comments can be viewed online on the electronic planning application case file via www.midlothian.gov.uk.
- 4.3 The next stage in the process is for the LRB to determine the review in accordance with the agreed procedure:
- Identify any provisions of the development plan which are relevant to the decision;
 - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
 - Consider whether or not the proposal accords with the development plan;
 - Identify and consider relevant material considerations for and against the proposal;
 - Assess whether these considerations warrant a departure from the development plan; and
 - State the reason/s for the decision and state any conditions required if planning permission is granted.
- 4.4 In reaching a decision on the case the planning advisor can advise on appropriate phraseology and on appropriate planning reasons for reaching a decision.
- 4.5 Following the determination of the review the planning advisor will prepare a decision notice for issuing through the Chair of the LRB. A copy of the decision notice will be reported to the next LRB for noting.
- 4.6 A copy of the LRB decision will be placed on the planning authority's planning register and made available for inspection online.

5 Conditions

- 5.1 In accordance with the procedures agreed by the LRB at its meeting of 19 June 2012 and 26 November 2013, and without prejudice to the determination of the review, the following conditions have been prepared for the consideration of the LRB if it is minded to uphold the review and grant planning permission.
1. Development shall not begin until the following details have been submitted to and approved in writing by the planning authority:
 - a) Scaled site plan showing existing and finished ground levels and floor levels for all buildings, open space and access roads in relation to a fixed datum;
 - b) A revised ground floor plan showing 2 car parking spaces (in addition to any space within garages) per dwellinghouse;

- c) Details and samples of all external finishing materials on the dwellinghouses, areas of external hard surface and boundary walls;
- d) A detailed landscape plan, including schedule of plants to comprise species, plant sizes and proposed numbers/density; and
- e) Drawings of all walls, gates and fences to be erected on the site.

Development shall thereafter comply with the approved details unless otherwise approved in writing by the Planning Authority.

Reason: *These details are required in order to ensure that the proposed development does not have an adverse impact on the appearance of the Conservation Area and to ensure that the development is provided with an acceptable level of car parking.*

- 2. No boundary wall shall encroach on to the public footpath to the south nor shall it encroach on to the public highway to the east.

Reason: *In order to ensure that there is no adverse impact on vehicle and pedestrian safety.*

- 3. Any trees, shrubs or plants which are planted in terms of the approved landscape scheme which die, become diseased, are severely damaged or are removed within five years of being planted shall be replaced with a tree, hedge or plant of a similar size and species as may be agreed in writing by the planning authority.

Reason: *To ensure the quality of the development is enhanced by landscaping to reflect its setting in accordance with policies RP22 and DP2 of the Midlothian Local Plan and national planning guidance and advice.*

- 5.2 If the LRB is minded to uphold the review and grant planning permission for the proposed development it shall be subject to a legal agreement to secure developer contributions towards education provision, the Borders Railway, town centre improvements and children's play provision. The legal agreement shall be concluded prior to the issuing of the LRB decision.

6 Recommendations

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

Date: 1 March 2016

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Background Papers: Planning application 15/00703/DPP available for inspection online.