

Notice of Review: Land at Camp Wood, 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 dwellinghouse and outbuildings; formation of access roads, paths, car parking, two ponds, coarse fishery and associated works at land south of Camp Wood, Dalkeith (land to the east of Gorebridge).

2 Background

- 2.1 Planning application 15/00591/DPP for the erection of dwellinghouse and outbuildings; formation of access roads, paths, car parking, two ponds, coarse fishery and associated works at land south of Camp Wood, Dalkeith was refused planning permission on 7 September 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 7 September 2015 (Appendix D); and
- Copies 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 18 January 2016; and
 - Have determined to progress the review by way of a hearing.
- 4.2 The case officer's report identified that 7 consultation responses and 1 representation have been received. As part of the review process the interested parties were notified of the review. No additional comments have been received. 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.
- 4.7 The site is within an identified area of high risk from previous coal workings. The applicant did not address this constraint during the planning application process and as such the application is subject to an outstanding objection from the Coal Authority. As the Coal Authority is a Scottish Government Agency, planning permission cannot be granted with the outstanding objection. If the LRB are minded to grant planning permission for the proposed development the applicant shall be required to undertake the required Coal Mining Risk Assessment and secure the removal of the objection from the Coal Authority prior to any decision being issued. Any mitigation measures proposed by the Coal Authority must be incorporated into the development. Mitigation measures can usually be secured by way of a planning condition; however in some cases an amended planning application may be required.

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 phasing plan has been submitted to and approved in writing by the Planning Authority. The phasing plan shall detail the timetable for the commencement of livestock rearing; the erection and operation of the fishery; and the erection and occupation of the dwellinghouse and associated outbuildings. Unless otherwise approved in writing by the Planning Authority development shall be undertaken in the order detailed in the approved phasing plan.

Reason: *To ensure that the agricultural and fishery operations which justify the erection of a dwellinghouse are commenced within an acceptable timeframe.*

2. Development shall not begin until a scheme of investigation and remediation to deal with previous mineral workings has been submitted to and approved in writing by the Planning Authority. The scheme shall include:
 - i. A remediation scheme to afford public safety and the stability of the proposed turbines from the risks posed by recorded mine entries (shafts);
 - ii. A scheme of intrusive site investigations;
 - iii. A report of findings arising from the intrusive site investigations; and
 - iv. A scheme of remedial works for approval by the Coal Authority.

Before any work starts onsite the investigation schemes and remediation works shall be fully implemented as approved by the Planning Authority and the Coal Authority.

Reason: *To ensure that any risks posed by the coal mining history of the area are identified and addressed prior to development commencing.*

3. Development shall not begin until a Woodland Management Plan, complying with current Forestry Commission Scotland guidance, has been submitted to and approved in writing by the Planning Authority. Unless otherwise approved in writing by the Planning Authority the woodland within the application site shall be managed in compliance with the approved plan.

Reason: *To ensure the development does not result in the loss or damage of trees which merit retention in accordance with policy RP5 of the Midlothian Local Plan and national planning guidance and advice.*

4. Development shall not begin until an Access Plan has been submitted to and approved in writing by the Planning Authority. The Access Plan shall provide details of measures to ensure that access complying with the Midlothian Core Paths Plan is maintained during and after development work. Unless otherwise approved in writing by the Planning Authority the Access Plan shall be implemented on commencement of development and shall remain in operation thereafter.

Reason: *To ensure that the development does not result in the loss of access to core path 7-35 and other paths that form part of the wider path network and to comply with policy RP32 of the Midlothian Local Plan.*

5. Development shall not begin until details of a scheme of hard and soft landscaping has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
- i existing and finished ground levels and floor levels for all buildings, open space and access tracks in relation to a fixed datum;
 - ii existing trees, landscaping features and vegetation to be retained; removed, protected during development and in the case of damage, restored;
 - iii boundary planting along the external boundaries of the application site;
 - iv location and design of any proposed walls, fences and gates, including those surrounding bin stores or any other ancillary structures;
 - v schedule of plants to comprise species, plant sizes and proposed numbers/density;
 - vi programme for completion and subsequent maintenance of the boundary planting. The boundary planting shall be completed prior to the house being occupied. Any tree felling or vegetation removal proposed as part of the landscaping scheme shall take place out with the bird breeding season (March-August);
 - vii drainage details and sustainable urban drainage systems to manage water runoff;
 - viii proposed car park configuration and surfacing; and
 - ix proposed footpaths and rights of way (designed to be unsuitable for motor bike use).

All hard and soft landscaping shall be carried out in accordance with the scheme approved in writing by the planning authority as the programme for completion and subsequent maintenance (vi). Thereafter any trees or shrubs removed, dying, becoming seriously diseased or damaged within five years of planting shall be replaced in the following planting season by trees/shrubs of a similar species to those originally required.

Reason: *To ensure the quality of the development is enhanced by landscaping to reflect its setting in accordance with policies RP1 and DP1 of the Midlothian Local Plan and national planning guidance and advice.*

6. Development shall not begin until samples of materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and ancillary structures have been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority.

Reason: *To ensure the quality of the development is enhanced by the use of quality materials to reflect its setting in accordance with policies RP1 and DP1 of the Midlothian Local Plan and national planning guidance and advice.*

7. Prior to work commencing on the formation of the ponds, fishery and associated bunding the following details shall be submitted to and approved in writing by the Planning Authority:
- i Scaled cross sections at a scale of 1:100 of the ponds and bunding;
 - ii Details of any landscaping associated with the ponds and bunding;
 - iii Details of a scheme to ensure that the design, construction and maintenance of the pond embankments will ensure the stability of the embankments.

Unless otherwise approved in writing by the Planning Authority the development of the ponds and bunding shall be undertaken in compliance with the approved details.

Reason: *To ensure that the proposed development does not adversely affect the water environment and to comply with policies RP8 and DP3 of the Midlothian Local Plan.*

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: 12 January 2016

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Background Papers: Planning application 15/00591/DPP available for inspection online.