1  INTRODUCTION

1.1 This report informs the Committee of the recent history of the site of the former Dalkeith High School premises in Newmills Road, Dalkeith since the closure and relocation of the School in September 2003: and provides an update on the progress of the Council’s current application to Historic Scotland for listed building consent to demolish all of the buildings on the site, these being statutory Grade B listed as of particular architectural or historic interest.

2  BACKGROUND

2.1 The buildings which are the subject of the Council’s listed building application for demolition comprise a school building dating from 1938 at the front (Newmills Road) end of the site, a later (1959 design by Reid and Forbes Architects) school building set further back into the site, and a low link building between them.

2.2 The following is a summary of events since the closure and relocation of the School:

   September 2003: School closes and relocates to Dalkeith Campus;
   April 2004: Council approves a Development Brief for the site and which is predicated on the conversion of the listed buildings to new use(s);
   June 2004: Council, as owners of the site and buildings, market them with the Development Brief forming part of the sale particulars;
   August 2004: at the closure of an extended marketing period a total of six offers had been received, the successful bidder being Taylor Wimpey;
   May 2006: Taylor Wimpey submits a planning application (and associated listed building consent application) to convert the listed buildings to residential use (63 flats) together with a further 110 new flats on the remainder of the site;
   December 2007: Council’s Planning Committee resolves to approve the planning application subject to the prior completion of a Section 75 legal agreement, primarily relating to developer contributions;
February 2008: following detailed condition surveys, the results of which showed the main (1959) building to be severely contaminated with asbestos, Taylor Wimpey withdrew their planning application; and

March 2008: Taylor Wimpey formally resiled from their arrangement to purchase the site from the Council, citing the contamination as the determining factor.

2.3 Having exhausted the possibility of retaining the listed buildings on the site for conversion to a new use(s), and with no clear prospect of another purchaser being found who would be willing to acquire (even at minimal cost of purchase) the buildings and achieve a successful conversion, the Council agreed to pursue demolition of the buildings.

May 2008: Cabinet agrees to demolition of the former Dalkeith High School buildings;

July 2008: Council submits application for listed building consent to demolish the buildings comprising the former Dalkeith High School, 23 Newmills Road, Dalkeith;

December 2008: following the required consideration by the local planning authority the application was formally submitted to Historic Scotland for its consideration and decision: the application was accompanied by a substantial body of supporting documentary information on the condition of the buildings and the efforts of the Council to secure the successful conversion of them to new uses;

August 2009: following a progress meeting with Historic Scotland in April 2009, and on the advice of Historic Scotland the Council prepared and submitted further information, viz:

(a) a ‘Case for Demolition’ report commissioned from expert consultants (Simpson and Brown Architects) setting out in a comprehensive document the history and significance of the buildings, and explaining the basis, having regard to circumstances, for their demolition;

(b) a detailed commentary on the extent of rot and asbestos contamination in the buildings, having specific regard on those parts of the buildings which are cited in the formal listing descriptions: this being in addition to the full asbestos contamination report submitted along with the application for listed building consent in December 2008; and

(c) a summary statement in support of the application drawing together the key elements of the Council’s case (a copy of which forms the Appendix to this report).

September 2009: letter received from Historic Scotland advising that they are not yet convinced of the case for demolition of the
1959 Reid and Forbes building, although they accept the potential loss of the 1938 and link buildings, particularly if this could assist in securing the 1959 building. In the case of that 1959 building Historic Scotland considers that the building is capable of extensive repair to remove the asbestos whilst retaining its listable qualities;

November 2009: Council officers met with the Deputy Chief Inspector of Historic Scotland to explain why the Council, had, in their opinion, provided all of the necessary information sought by Historic Scotland and that a convincing case for demolition had been made. The Deputy Chief Inspector did not agree, and advised that on the basis of the currently submitted information, Historic Scotland would be minded to refuse the Council’s application for listed building consent, on the basis that the case for demolition of the 1959 building had not been proven. He recommended that, in order to further support its case the Council should submit a statement in respect of the 1959 building which:

(a) defines the state of the building and the extent of renovation, repair and remediation required;

(b) itemises the schedule of works required to achieve this restoration; and

(c) provides an inventory of possible future uses of the building, once restored; and on the basis of that information the Council’s statement should identify:

(d) the value of the building in its present state;

(e) the costs of the schedule of restoration works; and

(f) the value of the building in terms of its future use.

The Council, using this information, would then draw its conclusions on the economic viability of restoration of the 1959 building, which may well be negative. Even if that were the case Historic Scotland would also expect the Council to demonstrate that it had taken action to seek grant funding from reputable bodies who might have an interest in restoring the building; and had also undertaken a further marketing exercise to see if there is a genuine and credible restoring purchaser who is willing to acquire and renovate the building.

December 2009: Director, Strategic Services writes to Deputy Chief Inspector of Historic Scotland to confirm his
understanding of what Historic Scotland further requires from the Council as set out by the Deputy Chief Inspector at the November 2009 meeting: response currently awaited, and will be reported at the meeting if received by then.

3 CONTACT WITH HISTORIC SCOTLAND

3.1 After the withdrawal of Taylor Wimpey in March 2008 a small working group of officers from the Estates, Planning and Commercial Services parts of the Council was formed in order to drive forward the process of securing listed building consent to demolish the buildings. Contact with officers of Historic Scotland was made at an early date, and has been maintained throughout. As part of that regular liaison a full site visit and tour of the buildings took place on 15 April 2009 and was attended by the Chief Executive of this Council and of Historic Scotland together with relevant staff. That was followed up by a meeting on 23 April 2009 at which officers discussed the way forward. The clear understanding of the Council officers who attended that meeting is that Historic Scotland were of the view that the case for demolition had been convincingly made by the Council but that the information needed to be more focussed and that a ‘statement of significance’ required to be submitted: and that on receipt of these, it could be expected that listed building consent would be granted by Historic Scotland to the Council for demolition of all the buildings. As noted in paragraph 2.3 above all of the required documentation was submitted in August 2009. It was therefore a matter of both surprise and disappointment to receive Historic Scotland’s response on 11 September the terms of which have been outlined in paragraph 2.3 above.

3.2 Following receipt of that letter Council officers sought an urgent further meeting with officers in Historic Scotland, although this did not ultimately take place until 19 November 2009. In discussion, Historic Scotland agreed that to some extent they could have provided clearer guidance and advice at an earlier stage in their handling of the Council’s application. Nevertheless, the situation remained that until further evidence was submitted by the Council to support its application, Historic Scotland would be minded to refuse it.

3.3 In terms of what is now being asked for by Historic Scotland (see notes of meeting with Historic Scotland in November 2009, at paragraph 2.3 above) I would offer the following comment:

(a) The Council has already supplied a statement of the state of the building together with full reports on the extent of rot and asbestos contamination, and has shown that the extent of remediation required would be so intrusive as to substantially destroy the heritage value of the building.

(b) If required, the Council could prepare a fully costed schedule of works to remediate the 1959 building; it has not done so to date as the previous extensive marketing exercise and subsequent withdrawal of the successful bidder has demonstrated the economic unviability of conversion to another (even higher value) use.
(c) The Council has already identified its view on alternative use of the building by granting planning consent in December 2007 for residential use; it could expand on this to possibly include retail, although it is probably unlikely that the building would be attractive to potential retail developers; the essential point is that despite consent being granted for the high value use as residential, conversion of the building to that use remains demonstrably unviable.

(d) If the economic unviability of the conversion has already been demonstrated by the Council there then remains two further requirements from Historic Scotland; these being to see if there is any potential grant funding from reputable bodies, and to remarket the site to see if there is a genuine and credible restoring purchaser willing to take on restoration of the building. Although it is my view that a full marketing exercise was previously carried out it would be relatively straightforward to remarket the properties, and to check on the availability of any grant funding of a scale likely to make a difference. In undertaking this work, Historic Scotland have stated that the Council should give consideration to advising potential bidders that they can assume that demolition of the 1938 and link buildings would be possible, and that the redevelopment value of this part of the site can be factored into the economic viability assessment of the conversion of the 1959 building.

4 SUMMARY OF OPTIONS

4.1 It is particularly unfortunate that a position has been reached after a period of 21 months of contact with Historic Scotland (and 12 months since submission of the Council’s formal application for listed building consent), where Historic Scotland is seeking yet further supporting information from the Council and stating that, unless it receives and accepts that information, it is minded to refuse the application. This is despite the Council maintaining regular liaison with Historic Scotland at officer level during that period, including an extensive joint site visit and tour of the buildings, and a clear indication being given in April 2009 by Historic Scotland that consent was likely to be granted subject to the submission by the Council of further information (such information being subsequently submitted in August 2009). However, having regard to the current position the Council’s options are as follows.

Option 1: Undertake the further action advised by Historic Scotland at the meeting in November 2009 (see paragraph 2.3 above). This would not present any particular technical difficulties but would probably take about six months to complete, although this assumes a relatively short remarketing period with no genuine response. It represents probably the best chance of achieving listed building consent to demolish all of the buildings, but it does not guarantee such success. In resource terms it would involve extensive officer time from staff in the Commercial and Strategic Services Divisions, but minimal, if any, consultancy or other costs. It also means, however, that the Council would continue to incur a notable level of expenditure maintaining security cover at the premises, this being in order for the Council to meet its statutory duty as owner of a listed building.
Option 2: Seek a decision now from Historic Scotland on the application. On the basis of the most recent contact with Historic Scotland this is likely to be a refusal. In that eventuality the Council, as applicant, would have a right of appeal to Scottish Ministers who would, in all likelihood, appoint a Reporter to hold a public local inquiry. In terms of timescale this option has little advantage, if any, over Option 1 as the arranging and holding of an inquiry, the preparation of the Reporter’s report to Ministers and the Ministers’ consideration of it would take many months. In terms of resources the costs of preparing and presenting the Council’s case at inquiry could be substantial: and there is no guarantee that the Council’s appeal would be successful.

Option 2A: The legislation provides the opportunity for the Council to seek an inquiry in advance of any decision being made on its application. As this is only a minor variation of Option 2 the comments above are also relevant here.

Option 3: Withdraw or vary the current application so as to seek demolition of the 1938 and link buildings together with parts of the 1959 building but also to maintain the significant part of the 1959 building for conversion to a new use. Given the state of the 1959 building with its extensive asbestos contamination, and the impact this has been clearly demonstrated to have on its potential for conversion to an alternative use there is no evidence to suggest that this building can be successfully renovated and converted. Therefore, whilst this option may be preferred by Historic Scotland it is not an economically viable solution and, accordingly, would severely impede the proper future redevelopment and use of the whole site to maximise the benefits of such to the local community, Dalkeith town and Midlothian as a whole.

4.2 In summary, although all of the options have adverse elements, Option 1 probably represents the best way forward in seeking to achieve the objective of the Council.

5 REPORT IMPLICATIONS

5.1 Resources

The Council has already spent significant sums on treating wet and dry rot and various other works including surveys, and ongoing on-site security.

The current ongoing costs of providing security for the premises is about £11,000 per month. The consultant’s costs for preparation of the statement of significance requested by Historic Scotland were in the order of £3,000. In terms of the options for further action as set out in paragraph 4.1 above, if Option 3 is discounted as unacceptable, then Option 1 is likely to be the least costly as well as the most likely to achieve success and thereby bring to an end the ongoing monthly security costs.
However, there is no dedicated revenue budget for any additional works which would have to be met by reprioritising work within the Council and potentially involve external consultants. If consultants were to be used then a further report would be prepared seeking appropriate funding approval.

Risk

The key risk is that by failing to secure listed building consent for demolition of all the buildings on the site, the Council cannot achieve its aim to properly redevelop the site so as to contribute to meeting the needs of Dalkeith and the greater part of Midlothian. Pursuit of Option 1 as outlined above is probably the most effective measure in seeking to avoid this eventuality.

Policy and Strategy

Clearance of the buildings on the site which have been proven to have no future, and appropriate and sensitive redevelopment would have environmental, economic and community benefit: all in accordance with the Council’s corporate objectives and, at a land use level, with the Council’s Local Plan for Midlothian.

Consultation

Other than liaison with Historic Scotland no consultations were specifically undertaken in the preparation of this report.

Equalities

There are no equalities issues relevant to this report.

Sustainability

In terms of environmental sustainability there is no basis for retention of the listed buildings currently on the site, and redevelopment of the site would provide for a more effectively sustainable use of the site: in terms of operational sustainability the ongoing expenditure of resources to provide security cover for buildings which have no further use is wasteful of public resources.

6 RECOMMENDATION

6.1 It is recommended that the Committee:

(i) notes the current position in respect of the Council’s application to Historic Scotland for listed building consent to demolish all of the listed and other buildings comprising the former Dalkeith High School premises at Newmills Road, Dalkeith;

(ii) considers the options for further action as set out in the report and particularly given the circumstances presented by Historic Scotland, whether Option 1 is viable; and
(iii) any additional measures which it may wish to take in furtherance of the Council’s objectives for the site.

Ian L. Young
Director

5 January 2010

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Background Papers: (a) relevant correspondence between the Council and Historic Scotland
1 Introduction

1.1 This document provides a statement in support of the application by Midlothian Council for listed building consent to demolish buildings comprising the former Dalkeith High School at 23 Newmills Road, Dalkeith. It is accompanied by a ‘Case for Demolition’ report commissioned by the Council from Simpson and Brown, architects dated June 2009.

1.2 The application itself was registered by the Council on 24 July 2008, and formally submitted to Historic Scotland on 9 December 2008, together with supporting documentation. This current statement adds to, and draws upon, that information already submitted.

2 Recent Background

2.1 In summary, the complex of buildings at the site were in use as Dalkeith High School until September 2003 at which point the School relocated to new premises at Dalkeith Campus. In June 2004, the Council as landowners of the site marketed the premises, the details including the provision of a Development Brief for the site which the Council had prepared and approved in April 2004: and which was predicated on the conversion of the existing buildings to new use(s). The successful bidder, Taylor Wimpey, proposed conversion of the listed buildings to residential use (63 flats) in its planning application of 2006 for that, together with a further 110 new flats in five blocks in the undeveloped north-eastern part of the site. In December 2007 the Council’s Planning Committee resolved to approve the application, subject to the prior completion of a Section 75 Legal Agreement. As a result of further condition surveys in the early part of 2008, Taylor Wimpey decided not to proceed further, withdrew their planning application in February 2008 and formally resiled from the prospective purchase arrangement with the Council by letter of 27 March 2008.

3 Information in Support of the Council’s Case for Demolition

3.1 This section of the report provides information in a format that considers the criteria related to applications for demolition of listed buildings as set out at paragraph 3.46 of Historic Scotland’s Scottish Historic Environment Policy: October 2008”.

3.2 “the building is not of special interest”

The Council accepts that the building is correctly listed at Grade B as a building of special architectural interest. Information in respect of this criterion is provided in the document accompanying this report (“Case for Demolition”: Simpson and Brown: June 2009).
3.3 “the building is incapable of repair”

The Council commissioned surveys of both the 1940 and 1959 listed buildings for dry rot and asbestos contamination respectively. In the case of the 1940 building, the survey showed extensive attacks of True Dry Rot. In the case of the 1959 building, the asbestos survey found evidence throughout much of the building. A summary statement which refers to the survey results for those parts of the buildings which are specifically mentioned in the statutory listing description is attached as an Appendix to this document. Arising from this extensive survey work, it is evident that to remediate the rot and asbestos contamination will result in the loss of major elements of the buildings (most particular the 1959 building) which are an essential element of the listable heritage value. The conclusion of the Council is that the 1959 building in particular may be physically capable of repair, but the required level of intervention would be so intrusive that it would substantially destroy the heritage value of the building: the result being a replica or pastiche of virtually no historic value. It is important to emphasise that the Council has sought to maintain the building during its period of vacancy through the undertaking of remedial works amounting to around £86,000 and maintaining 24 hour security cover.

3.4 “the demolition of the building is essential to delivering significant benefits to economic growth or the wider community”

The site is located close to Dalkeith Town Centre. The Council is actively seeking to regenerate the Town Centre, not only through its adopted planning policies, but also most notably through the Dalkeith Townscape Heritage Initiative, for which substantial funding from the Heritage Lottery Fund has been secured; the Conservation Area Regeneration Scheme for Dalkeith, which has also secured major external funding; and the Council’s proposals for “Developing Dalkeith” in which it is currently seeking a private sector partner to undertake redevelopment of the central area. These initiatives can be regarded as benefitting not just the town of Dalkeith and its immediate environs, but Midlothian as a whole given the Town’s status in historic and administrative terms. Regeneration through redevelopment of the former Dalkeith High School would contribute notably to these overall improvement initiatives and programmes for Dalkeith Town Centre. In particular, the site could contribute to economic and community development in Dalkeith, there being a range of potential uses, including housing, employment, commercial/retail and community use. As noted above, the Council prepared a development brief for the site in 2004; and if consent to demolish the buildings were granted, the preparation of a new development brief would be a priority. The new brief would recognise the locational context of the site and promote uses which would support the objective of economic development and other development to provide associated and wider community benefit.

The Council considers that, notwithstanding the content of paragraph 3.3 above, restoration of the building would at best only yield a much lower level of economic and community benefit, if at all.

The final point to make in respect of this criterion is that the Council has been mindful of any potential groundswell of local concerns for the retention of the
buildings. However, this has not been apparent. The listed building application which was advertised in the normal way attracted one local letter of objection. The proposal was also the subject of a major front page article in the local newspaper, The Advertiser, but no additional representations were received.

3.5 “the repair of the building is not economically viable and that it has been marketed at a price reflecting its location and condition to potential restoring purchasers for a reasonable period”

The Council marketed the school building for disposal in June 2004. Full colour advertisements were placed in national newspapers circulating in Scotland, with an extended period (to end of August 2004) for the receipt of offers. A total of six offers was received, five of which included conversion of the listed buildings within their proposals, the sixth seeking a cleared site. The offers received were considered in relation to their degree of compliance with the published development brief and also on the basis of the financial offer. The successful bid, accepted by the Council, was submitted by Taylor Wimpey who proposed conversion of the listed buildings to residential use. No price was included in the advertisement, the Council’s priority being to find a restoring purchaser. The arrangement with Taylor Wimpey ended following the outcome of the intrusive survey work undertaken early in 2008. In their letter resiling from the arrangement, the Company cites the costs of remediation of the asbestos contamination and the unsuitability of the building for residential conversion having regard to the impact of the substantial levels of such contamination on the marketability of flats. The letter, which forms Appendix 5 of the Council’s original submission to Historic Scotland, also suggests that this would be an issue for any prospective residential restoring purchaser.

At no time has the Council sought demolition of the building in order to maximise a receipt from sale of a cleared site. Its commitment to restoration of the building has been shown in the scale and nature of the essential remedial works it has undertaken, to the value of £86,000 and the continued 24 hour security cover it has provided at a cost of some £11,000 per month. There is no realistic prospect of the buildings being re-used as a school and despite the extensive marketing referred to above, no restoring purchaser seeking that use has come forward. Whilst repair of the buildings is physically possible, as noted in paragraph 3.3 above, the extent of the necessary works would substantially destroy their heritage value. In addition, from the information provided in this statement, it is evident that such repair is, in any case, not economically viable now or in the foreseeable future.

4 Summary

4.1 Since the buildings ceased their use as a school in 2003, they have lain vacant. The Council has, in the interim, maintained them and provided for their security. The Council is of the view that it has made every effort to find a long-term sustainable alternative use for the buildings. Indeed, by the end of 2007 and following comprehensive marketing, there was an excellent prospect of a successful housing conversion being achieved. However, further extensive survey work, most notably on the 1959 building has resulted in that
proposal not being realised, the extent of contamination effectively extinguishing any realistic chance of another potential restoring purchaser coming forward. Notwithstanding that, whilst the building may be physically capable of repair, the level of intervention required would be so intrusive that it would substantially destroy the heritage value of the building.

4.2 If there is, therefore, no prospect of successful restoration of the buildings and they have to be demolished, then it is accepted there will be some heritage loss. Whilst that is regrettable, it is also the case that it will result in a redevelopment opportunity close to Dalkeith Town Centre, which can be properly and carefully developed to assist greatly in promoting much needed economic development, and supporting and enhancing community well-being, not only in Dalkeith but more widely across Midlothian.

4.3 Accordingly, having regard to all of the material submitted on 9 December 2008, together with the “Case of Demolition” report commissioned by the Council from Simpson and Brown and this statement, the Council considers that consent should be granted for demolition of the listed buildings comprising the former Dalkeith High School, Newmills Road, Dalkeith.

Midlothian Council

24 July 2009